Climate Compatible Growth

COP27 POLICY BRIEF SERIES

Beyond devolution: unlocking county energy departments' policy capacity in Kenya

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Summary

In Kenya, the Energy Act (2019) authorizes the devolution and sharing of vital regulatory and policy functions between the national and county governments. The Act stipulates the county governments to identify and prioritize energy needs, develop energy plans, undertake feasibility studies, and make them available to investors. These devolved functions make county-level energy departments integral to Kenya's energy governance and well-placed to improve energy services delivery. However, county energy departments currently lack the analytical, operational, and political capacity necessary to carry out their mandate effectively. This brief discusses the factors that hinder counties from attaining these capabilities and offers policy recommendations on how to address these barriers.

Key Policy Recommendations

- Lack of technical capacity combined with limited operational resources and political influence prevents county-level energy departments from effectively carrying out their constitutional mandate. Thus, building their technical ability should be a priority.
- Establishing a formal platform of coordination and collaboration between national and county energy agencies is also critical to ensuring a streamlined decision-making process. Such efforts must also aim to address and resolve any residual ambiguities regarding the distribution of resources, functions and responsibilities between the various tiers of government.
- At the county administration level, raising awareness regarding the relevance of energy for development and securing political buy-in will be essential for resolving the technical and institutional challenges.

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Introduction

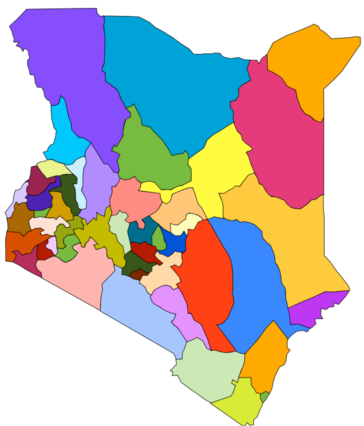
Energy planning is instrumental for identifying and meeting energy demands efficiently. In the past, planning efforts generally aimed at the energy and economic relationships and sought to identify the most efficient supply at a low cost. More recently, there is a growing awareness of the environmental impact of fossil fuels and preference for socially and environmentally sustainable futures. With sustainable development at its heart, there is also a growing call for a shift from a centralized to decentralized approach to energy planning.

Within this framework, the Kenya Energy Act (2019) [1] authorizes the devolution of key regulatory and policy functions to subnational authorities, also known as counties. In Kenya, there are 47 counties, and the devolved functions within the energy sector are aligned with the ideals enshrined in Kenya's Constitution (2010). This aims to promote the provision of near and easily accessible services throughout the country [2]. The devolved functions make county energy departments essential members of the broader network of actors involved in Kenya's energy sector. County energy officials are well placed to bring local energy agendas into the realm of national policy and to translate national priorities into everyday practice. They are also well positioned to influence political decisions relevant to energy planning and ensure communities' needs are considered.

However, energy departments need a combination of analytical, operational, and political capacities to carry out these tasks effectively, or what Wu et al. (2015) [3] call 'policy capacity'. Analytical capacity refers to an ability to ensure policies and plans are technically sound; operational capacity is about aligning resources with policy actions; and political capacity is the ability to obtain and sustain political support. At an organizational level, policy capacity relates to the availability and effectiveness of human and financial resources and the political legitimacy or support to carry out functions [3]. **This policy brief explores the policy capacity of county energy departments in Kenya and how it can be enhanced.**

Research approach

This brief draws its analysis from a qualitative study carried out in Kenya using a mixture of methods, including document reviews, interviews, and an assessment of a recently concluded energy planning project in Kitui[1]. Documents reviewed include policies, legislations, plans, and project reports[2]. In total, the authors reached out and interviewed twenty individuals for this study. Ten of the interviewees are energy officials and directors drawn from ten counties. The rest of the interviewees are comprised of energy experts, public officials and civil society representatives that are involved in supporting county-level energy planning.



Map of Kenya 47 counties © WWW.GEOCURRENTS.INFO

[1] Kitui County is one of the 47 counties in the South-East part of Kenya.
[2] Documents reviewed include the Energy Act (2019); the Energy Policy (2018); the Intergovernmental Relations Act (2012); Public Finance Management Act (2012); Kitui County Energy Plan (2021).

Discussion and analysis of findings

Residual ambiguities of roles and responsibilities

The Energy Act (2019) authorizes county governments and energy departments to prepare energy plans; regulate biomass production and distribution; contextualize national energy efficiency codes; maintain energy data; and undertake feasibility studies to attract investors. By mandating counties to carry out these functions, the Act extends some decision- and policy-making authorities to the devolved units. However, currently, there is no provision for streamlined county-level decision-making as the national government holds all regulatory oversights. Most of the devolved functions are concurrently held by national agencies, and where responsibilities overlap, the Act does not specify who should lead. This lack of clarity is made worse because counties and national agencies do not have a formal collaborative working structure.

In recent years, national agencies (e.g., the rural electrification authority and the utility) have enhanced their activities at the county level, either by setting up regional offices or through well-funded flagship programmes. While this expansion benefits counties, with no formal framework for coordination, interactions between the county and national actors are irregular and arbitrary. Those interviewed for the study note that national agencies often involve county governments to rubber stamp projects and after decisions have been made and plans have been drawn out. The fact that the national agencies can continue to control project planning, decision-making, resource mobilization, and implementation processes with no input from counties undermines the political legitimacy of county energy departments.

Moreover, energy officials interviewed for this study observe that, within county governments, energy as a sector does not enjoy political support. Interviewees note that county officials l (county-level elected officials/politicians) lobby national agencies, as a whole, directly and informally. This undermines county energy departments' ability to serve as the point of entry for the planning and coordination of energy projects. One possible explanation for this is that county politicians' careers can depend on their ability to deliver development projects. Therefore, their interests are more aligned with national agencies than county energy departments that lack the operational capacity to attract mega infrastructural projects.

Limited operational and political capacities

County energy departments in Kenya are not stand-alone. As a directorate, energy is lumped together with other economic sectors such as the environment, natural resources, and transport. Interviewees observe that this arrangement affects energy officials' ability to fulfil their mandate. Some felt this hurts the sector, because energy as a policy area is overshadowed by other politically strategic sectors. In counties where energy is not seen as a political priority, energy directorates are under resourced and unable to draw political support. Inadequate and inconsistent budget allocation is also a concern. Others note that the amalgamation of complementary departments has created an opportunity for synergies. However, this is not the case for all; despite sharing departments, many operate in silos and compete for resources.

Finally, limited policy capacity also undermines county energy departments' ability to ensure energy plans are just and relevant to meet local needs. As noted, so far, in practice, with no formal coordination platform in place, county energy officials' have limited access to decision-making spaces. Thus, they are not in a position to ensure energy policies meet local needs equitably. On the one hand, the legal framework does provide a basis for a just system. On the other hand, energy is still not seen as a priority. This political norm is preventing county energy departments from planning and implementing just and inclusive projects, which is part of their constitutional mandate.

Conclusions

Devolution – the transfer of functions and resources from the central to local government –heralds an enabling atmosphere for citizens to realize their full potential for living fulfilling lives. In Kenya, the Energy Act (2019) [1] enables county energy departments to better account for local needs in energy planning and influence policies. However, our findings show that county energy departments lack the operational and political capacity to carry out their mandate effectively. Additionally, the ability of departments to get these capabilities is hindered by the web of complex asymmetrical relationships with different stakeholders at both county and national level. More specifically, we observe that departments' asymmetrical relationship with national agencies and weaker influence within the wider county administration means their role within the overall Kenya energy governance framework is limited.

What can be done to enhance county energy departments' policy capacity?
First, there is a need to **formalize county energy departments' relations with national agencies**. The lack of a formal and streamlined platform for engagement undermines the county government structure and the legitimacy of county energy departments. Establishing a formal engagement framework must also address residual ambiguities regarding key functions, responsibilities, and the distribution of resources between national and county-level entities.

Second, there is a need to work toward **building awareness and political buy-in for the sector at the county administration level**. The allocation of human and financial resources for energy departments indicates that the industry has a weak political profile at the county level. One possible perspective is that counties have a limited understanding of how energy enables development. In other words, the quality of local knowledge and perceived relevance of energy all have a bearing on whether county governments give political support to their energy departments.

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