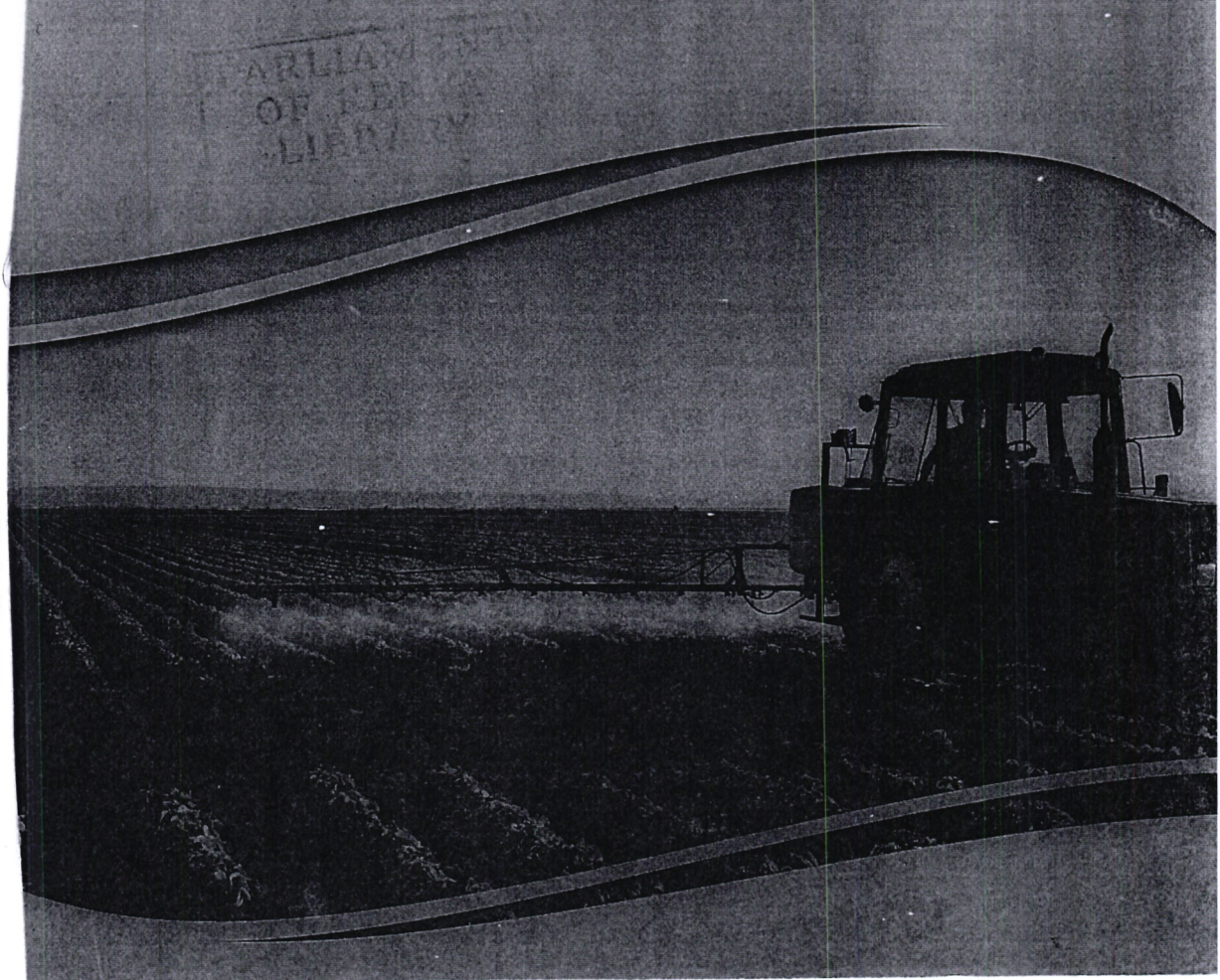





Council of Governors



**REPORT ON
THE AUDIT OF NATIONAL
AND
COUNTY POLICY AND LEGISLATION IN
THE AGRICULTURE SECTOR**



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AND
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AGRICULTURE SECTOR

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The Council of Governors (CoG)

Delta Corner, 2nd Floor, Opp PWC Chiromo Road, Off Waiyaki Way

P.O Box 40401 - 00100 Nairobi, Kenya

Email: info@cog.go.ke

Phone: +254 (020) 2403313/4

Mobile: +254729777281

<http://www.cog.go.ke>

Kenya Law Reform Commission (KLRC)

Address: Reinsurance Plaza, 3rd Floor, Taifa Road

P.O. Box 34999-00100 Nairobi, Kenya

Email: info@klrc.go.ke

Phone: (+254) 0799030716, (+254) 20 2241201

Fax: (+254) 20 2225786

Twitter: klrcKE **Facebook:** Kenya Law Reform Commission

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Foreword by Chairman, Council of Governors



In the year 2010, Kenya promulgated a new Constitution which introduced a two tier system of governance: the National Government and forty-seven (47) County Governments. The Fourth Schedule of the Constitution assigns thirty-five (35) functions to the National Government under part one (1) and fourteen (14) functions to County Governments under part two (2). Devolved functions primarily focus on service delivery to the citizens. County Governments have been bestowed with both legislative and executive authority to facilitate the performance of their functions and exercise of their powers.

It is however worth noting that despite the strides made in the country with respect to the devolved system of governance, existing and in force are still National laws that were enacted before the promulgation of the Constitution. Some of these laws undermine devolution by dint of the structures they had created and the powers they had conferred on various institutions, thereby impeding devolution's full implementation. On this premise, CoG and KLRC initiated the legal and policy audit aimed at scrutinizing National and County policies and laws with a view to establishing their alignment to the Constitution, specifically the devolved system of governance.

The study reveals that there are a myriad of National laws and policies that are not in tandem with the Constitution. Some of the key recommendations highlighted in the report are that some National laws need to be repealed while others require amendments in order to ensure conformity with the Constitution. For stakeholders to improve the policy and legislative environment that devolution operates in, they should read the report and collaborate in its implementation. This will ensure that both the National and County laws and policies conform to the letter and spirit of the Constitution, eventually leading to improved service delivery to the people of Kenya.

Thank you!

H.E. Hon. FCPA Wycliffe Ambetsa Oparanya, EGH, CGJ

Chairman, Council of Governors

Foreword by the Attorney General



This Report is the product of a study commissioned by the Council of Governors (CoG) and the Kenya Law Reform Commission (KLRC) across seven sectors, the key objectives of which were to audit the county government policies and legislation with the view of analysing their compliance with the Constitution, to audit all the national policy and legislation with a view of ascertaining the extent to which they conform to the devolved system of governance and to identify gaps and challenges and make recommendations for harmonization and alignment.

The sectors prioritized were Agriculture, Health, Natural Resource Management, Land and Physical Planning, Urban Development, Trade and Investment and Public Finance Management.

At this point in time, and while Kenya is still in transition from the old constitutional order to the new constitutional dispensation, it is clear from the Report that there are significant challenges around the extent of compliance with the laid down constitutional, legal and policy frameworks with respect to governance at both levels of government that need to be addressed. The Report provides the general trends that need to be tackled in the quest for compliance with the constitutional framework. Some of the notable findings include ambiguities in legislation, persistence of the old order in terms of laws, policies and practices across all sectors under review, inadequate consultation and cooperation between the two levels of government that can support and facilitate holistic development of laws and policies and a dearth of capacity to facilitate effective development of laws and policies that are clear, coherent, comprehensive and compliant with applicable constitutional provisions.

The Report has been enriched by the generous, earnest and thoughtful insights by sector experts through a peer review process. Further, the involvement of the stakeholders in reviewing the initial reports provided invaluable input in exploring together the serious topics that surround our common governance goal in addition to extensive discussion with the national and county government officials, civil society organizations, and representatives of the community-based organizations and networks that deal with sectoral governance issues.

As stated above, I wish to reiterate that this Report presents a comprehensive audit of the national and county legislation and policy approach and reveals the gaps and challenges that need immediate attention in the process of developing sufficient and responsive laws and policies that will actualize the devolved system of governance and the country's economic blue print, Vision 2030.

I wish to take this opportunity to sincerely thank the members of the team for their meritorious and sincere effort in writing this enlightening Report. My heartfelt gratitude also goes to the stakeholders and sector experts for their tireless efforts and enriching contribution and co-operation which led to the successful completion of the Report.

P. Kihara Kariuki

Attorney-General

Foreword By Chairperson, Kenya Law Reform Commission



Devolution is one of the hallmarks of the Constitution of Kenya, 2010. Devolution has not only improved the economic and social welfare of people in many places, (some of which were traditionally marginalised), but has, to a great extent, increased the democratic space in our country, since the people are now part of the decision-making processes. As a country, we have indeed overcome several challenges and milestones in a bid to make the devolution dream a reality.

The Kenya Law Reform Commission (KLRC) is established by the Kenya Law Reform Commission Act, No. 19 of 2013 and is mandated to keep under review all the law and recommend its reform by undertaking research and comparative studies relating to law reform as well as related legislative impact assessments. The Commission also provides advice, technical assistance and information to the national and county governments with regard to the reform or amendment of any branch of law. The execution of this mandate includes undertaking a detailed audit of all the existing pieces of legislation, policies and administrative procedures and harmonizing them with the Constitution.

The Council of Governors (CoG) conducted a baseline survey which revealed that most of the laws in respect of key devolved functions were largely not compliant with the Constitution of Kenya, and key devolution Articles including Articles 173, 174 and the Fourth Schedule to the Constitution which demarcates the functions to be undertaken by the national and county governments. As a consequence of the survey findings, the Commission in partnership with COG undertook an audit of the national and county policies and law across seven devolved sectors. The purpose of the audit was to analyse national and county policies and legislation to determine their compliance with the Constitution with particular reference to devolution.

The Audit Report is one among the initiatives that we hope will help policymakers and relevant institutions in their efforts to entrench devolution. The Report focuses on seven devolved sectors namely: Health, Public Finance Management, Agriculture, Trade and Investments, Land and Physical Planning, Urban Development and Natural Resource Management as provided in the Fourth Schedule to the Constitution.

The Report documents the findings of the audit process in the identified seven sectors. It provides an analysis of the national and county policies and legislation and



identifies the gaps and challenges with these instruments of governance. It further outlines recommendations for harmonization and alignment which will inform the success of counties in implementing devolution and will ensure the achievement of the collective aspirations of Kenyans, given the critical role of devolution in our current dispensation. The publication of this Report is a culmination of a highly participatory and consultative process in line with the constitutional requirements of public and stakeholder participation and engagement.

Through this Report, the Commission and CoG will spearhead and undertake the proposed policy and legislative reforms in partnership with the relevant sector Ministries, Departments and Agencies (MDAs). The successful implementation of the Report therefore calls for a coherent and cross-sectoral approach and a coordinated response across all levels of government, private sector and other non-state actors. Towards this end, all MDAs at both levels of government are expected to work closely together to make the proposed recommendations a reality. Finally, in publishing this Report, the Commission and CoG reaffirm their unwavering commitment and support to ensure conformity with the Constitution and respect for devolution.

I would like to thank all those who contributed to the development of the Report and subsequent finalization in one way or the other.

Thank you very much.

Mbage Ng'ang'a

Chairman KLRC



Acknowledgements

The development and finalization of this Report benefited from the contribution of various institutions and individuals. Various stakeholders including Ministries, Departments and Agencies (MDAs) at both levels of Government, the Private Sector, Non-State Actors, Parliament and the Office of the Attorney-General were consulted and their views considered. The stakeholders interacted with the Draft Report and gave their practical position on the issues raised. We sincerely thank them all for their invaluable contribution.

The audit process that culminated into development and publication of this Report was made possible through the generous financial support of the United States International Development (USAID) through the Agile and Harmonized Assistance to devolved Institutions (AHADI) and the Danish International Development Agency (DANIDA) through the International Development Law Organization (IDLO), the United Nations Development Programme and the World Bank. We are forever grateful to Ms. Waceke Wachira, USAID-AHADI Chief of Party and Mr. Romualdo Mavedzenge, IDLO Kenya Country Director, and their respective committed teams for their patience especially during those times when processes slowed down.

We acknowledge the excellent work done by the core technical committee comprising Ms. Joan Onyango (KLRC), Ms. Rosemary Njaramba (CoG), Ms. Zipporah Muthama (CoG), Mr. Justice Gatuyu (KLRC), Ms. Mukami Kibaara (CoG) and Ms. Christabel Wekesa (KLRC) which laid the foundation for the development of this Report. The Technical Committee incorporated the Office of the Attorney General & Department of Justice, Senate, IGRTC and Ministry of Devolution and ASALs whose input we sincerely appreciate. It is through their enthusiasm, hard work and commitment that we credit the accomplishment of this mission. We especially thank the staff of KLRC and COG (the joint secretariat of the Technical Committee) for their dedication and tireless efforts in ensuring successful completion of this Report. Special mention must go to the KLRC Chairman, Mr. Mbage Ng'ang'a who at various points was personally involved in the audit process.

We commend Dr. Conrad Bosire and the team of sector consultants namely: Mr. Peter Wanyama and Mr. Gabriel Ndung'u for the exhaustive research in the policy and legal

frameworks. They worked tirelessly with the technical committee to constantly revise, edit and improve the contents of this publication. It is through this effort that we have this comprehensive Report.

Finally, we are indebted to the people of Kenya for according us the opportunity to serve and being the reason we continue to evaluate ourselves as a Country.

Thank you!

Ms. Jacqueline Mogeni, MBS

CEO, Council of Governors

Mr. Joash Dache, MBS

CEO/Secretary, KLRC

Council of County Governors

The Council of Governors (CoG) is a non-partisan organisation established under Section 19 of the Intergovernmental Relations Act (IGRA 2012). The Council of Governors comprises of the Governors of the forty-seven Counties. Main functions are the promotion of visionary leadership; sharing of best practices and; offer a collective voice on policy issues; promote inter-county consultations; encourage and initiate information sharing on the performance of county governments with regard to the execution of their functions; collective consultation on matters of interest to county governments.

CoG provides a mechanism for consultation amongst county governments, share information on performance of the counties in execution of their functions, facilitate capacity building for Governors, and consider reports from other intergovernmental forums on national and county interests amongst other functions. The vision of the Council of Governors is to have prosperous and democratic counties delivering services to every Kenyan.

Kenya Law Reform Commission

The Kenya Law Reform Commission (the Commission) is established by the Kenya Law Reform Commission Act, No. 19 of 2013 (the Act). Presidential assent was given on 14 January 2013 and the Act came into force on 25th January 2013. The Commission has a statutory and ongoing role of reviewing all the law of Kenya to ensure that it is modernized, relevant and harmonized with the Constitution of Kenya. Following the promulgation of the Constitution in 2010, the Commission has an additional mandate of preparing new legislation to give effect to the Constitution. The third mandate is found in the County Governments Act, No. 17 of 2012 which requires the Commission to assist the county governments in the development of their laws. This is also a requirement found in the Act.

The Act grants the Commission a body corporate status and the necessary autonomy to enable it discharge its mandate as envisaged under the Act. The Commission is wholly funded by the Government but welcomes support from its partners.

Before the enactment of the Act, the Commission operated as a Department within the Office of the Attorney-General before being moved administratively to the Ministry of Justice, National Cohesion and Constitutional Affairs in 2003.

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Abbreviations

AHADI	Agile and Harmonized Assistance for Devolved Institutions
CoG	Council of Governors
KLRC	Kenya Law Reform Commission
SAGA	Semi Autonomous Government Agency
NLP	National Land Policy
CIC	Commission for the Implementation of the Constitution
CS	Cabinet Secretary
IDLO	International Development Law Organization
IGR	Intergovernmental Relations
IGRA	Intergovernmental Relations Act
IGRTC	Intergovernmental Relations Technical Committee
KARLO	Kenya Agricultural Research and Livestock Organization
KEPHIS	Kenya Plant Health Inspectorate Service
KLRC	Kenya Law Reform Commission
NACADA	National Authority for the Campaign Against Drug Abuse
RDA	Regional Development Authority
UNDP	United Nations development Programme
MDA	Ministries Departments Agencies

AGRICULTURE

1. Introduction

Agriculture is the largest contributor to Kenya's Gross Domestic Product (GDP). According to the 2017 Economic Survey, the Agriculture sector (comprising Agriculture, livestock, fisheries, and the blue economy) contributed 31.3 percent of GDP in 2016, and has maintained an average of 27 percent through the years.¹ A vast majority of Kenya's population (over 50 percent) are based in rural areas across the country and rely on subsistence Agriculture to support their livelihoods, making the sector critical to Kenya's overall socio-economic progress.

The new constitution and the devolved system of government significantly affect the agricultural sector. The Constitution of Kenya 2010 allocated a number of functions that were initially performed by the National Government Departments, Ministries and Agencies, to the county governments. Indeed, the Agriculture is one of the few sectors (along sectors such as Health) that are most significantly impacted by the devolved system of government. Matters/ areas of policy/law that touch on Agriculture that were affected by the current constitutional include:

- » Land use and natural resource management
- » The legal and policy framework for the wider agricultural sector;
- » Governance and the implementation framework as well as critical agricultural institutions;
- » Improvement of delivery of agricultural services and research;
- » Increasing of productivity and production and promoting commercialization particularly for crops;

¹ National Treasury 'Agriculture, Rural and Urban Development (ARUD) Sector Report' (January 2018)

- » Market access and trade; and
- » Participation by the private sector and non-state actors, in adherence to the public participation principle, in virtually all aspects of agricultural development.

In each of the areas above, both levels of government have varied roles, as elaborated by the Fourth Schedule to the Constitution. The Fourth Schedule contains a list of functions allocated to the National Government and the County governments.² The Transition Authority elaborated on the functional areas that belong to the two levels of government via a gazette notice in August 2013, the summary of which is provided below.

² Parts I and II

Table 1 Division of functions and powers in the Agriculture Sector

Functional Area	National Government Exclusive Powers	County Government Exclusive Powers
Agriculture	<ul style="list-style-type: none"> » Agricultural policy » Support agricultural research and promote technology delivery <p>Regulation and quality control of inputs, produce and products from the agricultural sector</p> <ul style="list-style-type: none"> » Management of control of pests and disease in crops » Promote management and conservation of three natural resource base for agriculture » Promote market access and product development 	<ul style="list-style-type: none"> » Crop husbandry » Extension services and farmer advisory services » Programs on food security » Grain storage structures » Enforcement of regulations and standards on quality control of inputs » Farm inputs » Soil and water management conservation » Credit and insurance for farmers » Management of agricultural training centres and agricultural mechanization stations » Land development services – water pans » Formulation and review of county specific policies » Development and enactment of legislation and regulatory frameworks for county specific policies » Plant and animal disease control » Communal dipping and spraying operations and vaccination campaigns » Control of plant pests, diseases and noxious weed
Livestock	<ul style="list-style-type: none"> » Veterinary policy » Animal Husbandry » Vector control and Zoological services » Regulatory services (standards) » Foreign policy and facilitation of implementation of international trade 	<ul style="list-style-type: none"> » Animal husbandry » Livestock sale yards, county abattoirs » Livestock extension services to deliver husbandry technologies » Veterinary policies » Implementation of national veterinary policies » Formulation of relevant county policies

Functional Area	National Government Exclusive Powers	County Government Exclusive Powers
	<ul style="list-style-type: none"> » Consumer protection » Protection of animals and wildlife » Assurance of animal welfare » Disaster management » Capacity building » Regulation of veterinary profession » Veterinary extension services » Development of animal resource information and data system » Development of national livestock programmes and projects » Promotion of market access and product development » Oversight responsibility of state corporation and management of national institutions in the animal resource industry 	<ul style="list-style-type: none"> » Sanitary Measure » Management of county abattoirs » Primary preventive health care – vaccination » Veterinary Clinical services » Implement disease control programmes » Vector control » Vector surveillance and control including tick and tsetse fly control » Regulatory services » Control of animal movement (intra and inter county) » Development of relevant county veterinary laws (by-laws) » Foreign policy and implementation of international treaties » Implement international treaties for animal resource industry » Implement international standards on animal health, production and food safety » Assurance of animal welfare » Implementation of animal welfare standards across all species and sectors- transportation, humane slaughter » Humane animal control and welfare (beyond scope of assignment as it mainly deals with dog licensing and population control strategies). » Conservation and management of animal reproductive resources » Implementation of animal reproductive services including Artificial insemination » Animal resource information » Collection and synthesis for county planning and reporting to National Veterinary Services

Functional Area	National Government Exclusive Powers	County Government Exclusive Powers
		<ul style="list-style-type: none"> » Livestock programmes and projects » Development of county specific programmes and projects » Implementation of national livestock programmes and projects » Promotion of livestock Trade- market access and product development » Develop markets and value addition infrastructure » Licensing of premises that sell meat, milk, hides, skins and other products of animal origin » Veterinary technical responsibility for livestock sale yards, markets and association infrastructure » Hides and skins improvement services » Implement standards for value addition to animal products including meat, milk, eggs, hides, skins wool and feathers » Research and development <ul style="list-style-type: none"> » Participate in research agenda setting » Disaster Management- Implement national disaster management strategies » Export establishment and ports of entry veterinary services <ul style="list-style-type: none"> » Counties in collaboration with National Veterinary Services will monitor export establishments and ports of entry veterinary services in their areas of jurisdiction. » Collaboration with other institutions <ul style="list-style-type: none"> » Collaborate with department of Fisheries and Kenya Wildlife Services in matters of fish and wildlife health respectively <p>Collaborate with Ministry of Health in matters of zoonoses and one health approach</p>

Functional Area	National Government Exclusive Powers	County Government Exclusive Powers
Fisheries	<ul style="list-style-type: none"> » Nation Ocean & fisheries policy and legislation » National service guidelines » Skills development of extension officers » Coordinating international matters on protocols and conventions » Digitization of gazette fish breeding areas and landing sites » Deep sea fishing » Zoning of aquaculture county specific disease control » Promotion of fish quality assurance and national inspections » Collection and management of national fish database » Capacity building for county governments 	<ul style="list-style-type: none"> » Fisheries extension service » Up scaling sea weed » County fish seed bulking units » Fish health certification » Fish landing stations and jetties, fish landing fees » Demarcation of fish breeding areas » Fish trade licensing and movement permits » Fish production statistics » Enforcement of regulations and compliance with management measures » Implementation of fisheries policy » Fisheries mentoring, control and surveillance » Zoning of aquaculture county specific disease control and maintenance of fish auction centres

Source: Fourth Schedule, Constitution of Kenya, 2010 and Functional Analysis, Competency Assignment, Costing and Transfer of Functions by the Transition Authority

2. Agriculture Sector legislation

Prior to the passage of the Constitution in 2010, the government, through the then Ministry of Agriculture, engaged in an ambitious project of consolidating the 131 pieces of legislation that governed the Sector. The project was conceptualized in order to bring policy and legislative order and in particular remove contradictions and obsolete laws. The key output the amalgamation of all the pieces of legislations into four laws. The laws are now in place namely: The Agriculture, Livestock and Food Authority Act, 2013 (ALFA), Livestock and Fisheries, Act 2013, Crops Act 2013, and the Agricultural Research Act 2013.

While a number of sector laws were repealed, not all laws were consolidated in the four laws that were passed shortly before the entry of county governments. As a result, we have pre-2010 laws (most of the laws being much older) and laws that were passed after 2010. However, the main laws governing the Agriculture sector were passed without substantial input from county governments.

Furthermore, after the passing of the Constitution, a presidential taskforce was put in place to review the place and status of parastatals (including agricultural sector institutions). The Presidential Taskforce Report on Parastatal Reforms completed its work in October 2013.³ While the report has not been implemented, its contents and recommendations have a bearing on policy and legislative reforms in the Agriculture sector. Indeed, the report made specific recommendations for the agriculture sector institutions and this will be discussed.

The following list of Acts of Parliament touch on the provision of agricultural services in one way or another. The list is inclusive and not exhaustive. It includes Acts of Parliament enacted before and after the promulgation of the Constitution in 2010. They include the following:

- i. Agricultural Development Corporation (Cap. 444)
- ii. Agricultural Finance Corporation (Cap. 323)
- iii. Agricultural Produce Marketing Act
- iv. Agriculture Act

3 Republic of Kenya, Executive Office of the President, 'Report of the Presidential Taskforce on Parastatal Reform' (October 2013).

- v. Agriculture, and Food Authority (AFFA) Act 2013,
- vi. Animal Diseases (Cap. 364)
- vii. Animal Technicians (No. 10 Of 2010)
- viii. Biosafety (No. 2 Of 2009)
- ix. Branding Of Stock (Cap. 357)
- x. Bukura Agricultural College (No. 5 Of 1999)
- xi. Cattle Cleansing (Cap. 358)
- xii. Canning of Crops Act (Cap 328)
- xiii. Cereals and Sugar Finance Corporation Act, Cap 329
- xiv. Climate Change(No. 11 Of 2016)
- xv. Community Land Act
- xvi. Co-Operative Societies (Cap. 490)
- xvii. Crop Production And Livestock (Cap. 321)
- xviii. Dairy Industry (Cap. 336)
- xix. Ewaso Ng'iro North River Basin Development Authority (Cap. 448)
- xx. Ewaso Ng'iro South River Basin Development Authority (Cap. 447)
- xxi. Fertilizers And Animal Foodstuffs (Cap. 345)
- xxii. Fisheries Management And Development(No. 35 Of 2016)
- xxiii. Forest Conservation And Management(No. 34 Of 2016)
- xxiv. Forests (No. 7 Of 2005)
- xxv. Hide, Skin And Leather Trade (Cap. 359)
- xxvi. Irrigation (Cap. 347)
- xxvii. Kenya Meat Commission (Cap. 363)
- xxviii. Kenya Plant Health Inspectorate Service (No. 54 Of 2012)
- xxix. Kerio Valley Development Authority (Cap. 441)
- xxx. Lake Basin Development Authority (Cap. 442)
- xxxi. Land Act

- xxxii. Land Registration Act
- xxxiii. Meat Control (Cap. 356)
- xxxiv. National Cereals And Produce Board (Cap. 338)
- xxxv. National Drought Management Authority (No. 4 Of 2016)
- xxxvi. Pest Control Products (Cap. 346)
- xxxvii. Physical Planning Act
- xxxviii. Plant Protection (Cap. 324)
- xxxix. Price Control (Essential Goods) (No. 26 Of 2011)
 - xl. Protection of Traditional Knowledge And Cultural Expressions(No. 33 Of 2016)
 - xli. Pyrethrum (No. 22 Of 2013)
 - xlii. Rating (Cap. 267)
 - xlili. Sacco Societies (No. 14 Of 2008)
 - xliv. Seeds And Plant Varieties (Cap. 326)
 - xlv. Stock And Produce Theft (Cap. 355)
 - xlvi. Sugar (No. 10 Of 2001)
 - xlvii. Suppression of Noxious Weeds Act (Cap. 325)
 - xlviii. Tana And Athi Rivers Development Authority (Cap. 443)
 - xliv. The Crops Act 2013
 - i. The Kenya Agricultural And Livestock Research Act 2013
 - ii. Timber (Cap. 386)
 - iii. Tobacco Control (No. 4 Of 2007)
 - iv. Uplands Bacon Factory (Cap. 362)
 - v. Wildlife Conservation And Management (No. 47 Of 2013)

However, some of these Acts of Parliament have been repealed. The following Acts of Parliament have been repealed by the Crops Act.

- a. Agricultural Produce (Export) Act (Cap. 319);
- b. Agricultural Produce Marketing Act (Cap. 320);

- c. Canning Crops Act (Cap. 328);
- d. Cereals and Sugar Finance Corporation (Cap. 329);
- e. Coconut Industry Act (Cap. 331);
- f. Coconut Preservation Act (Cap. 332);
- g. Coffee Act (No. 9 of 2001); and
- h. Cotton Act (Cap. 335);
- i. Crop Production and Livestock Act (Cap. 321);
- j. Pyrethrum Act (Cap. 340);
- k. Sisal Industry Act (Cap. 341);
- l. Sugar Act (No. 10 of 2001).
- m. Tea Act (Cap. 343);

The Fisheries Management Act has repealed the following Acts of Parliament:

- a. The Fisheries Act, Cap. 378;
- b. The Trout Ordinance, Cap. 380;
- c. The Fisheries Protection Act, Cap. 379

The Agriculture, and Food Authority (AFFA) Act 201 has repealed the following Acts of Parliament:

- a. Agriculture Act (Cap. 318);
- b. Suppression of Noxious Weeds Act (Cap. 325);
- c. Grass Fires Act (Cap. 327).

Other repealed Acts of Parliament include the following:

- i. Canning of Crops Act (Cap 328)
- ii. Cereals and Sugar Finance Corporation Act, Cap 329
- iii. Coconut Industry Act (Cap 331)
- iiii. Coconut Preservation Act (Cap 332)
- lv. Development and Use of Land Act (Cap 303)
- lv. Factories Act (Cap 514)

lvi. Lakes and Rivers Act (Cap 409)

lvii. Water Act.

In that regard, the audit will limit itself to those Acts of Parliament that affect agriculture and have not yet been repealed by any other subsequent Act of Parliament. These Acts of Parliament are the following:

Categories:

2.1 Pre-2010 legislation

As mentioned earlier, there are a number of laws that pre-date the current Constitution. **The Agricultural Development Corporation Act, Cap. 444** was enacted back in 1965 and it established the ADC Corporation whose functions are listed under section 12 of the Act. The functions of the ADC include:

- (a) Promotion of the production of Kenya's essential agricultural inputs and this may include: seeds and pedigree and high grade livestock including, hybrid seed maize, cereal seed, potato seed, pasture seed, vegetable seed, pedigree and high grade cattle, sheep, goats, pigs, poultry and bees;
- (b) Developing agricultural production in specific areas or specific fields of production; and
- (c) Participation in activities in agricultural production which are related to the primary and secondary functions of the Corporation and which in the view of the Corporation are commercially viable.

These responsibilities are vested exclusively in the national government with the minister in charge of Agriculture exercising most powers. For instance, under section 12 (3), the national ministers of agriculture and finance can decide to expand the operational areas of the ADC.

Looking at the distribution of functions between the two levels under the Fourth Schedule, the bulk of functions performed by the ADC belong to county governments. The fact that this Act predates the Constitution by many years means that the county government functions and

powers have not been factored in the design and operations of the ADC.⁴ Accordingly, there is a need for a fundamental revision of this law (and the restructuring of the ADC) to reflect the new constitutional structures for devolved government.

The Constitution does provide that pre-2010 laws can be re-interpreted to accord with the Constitution. However, there is a need for a comprehensive review of this in order to provide specific clarity on the place and role of counties in the mandate of the ADC. Given that both levels of government have substantial roles in the agriculture sector, it is important that the representation of both levels of government is reflected in the structures and operations of the ADC. This, in itself requires a comprehensive review of the current legislation. The same (national and county collaboration) should also be reflected in the financing of the ADC.

The Agricultural Finance Corporation Act, cap. 323 laws of Kenya provides for the establishment of the AFC to assist in the development of agriculture and agricultural industries by making loans to farmers, co-operative societies, incorporated group representatives, private companies, public bodies, local authorities and other persons engaging in agriculture or agricultural industries. This is also one of the older laws that requires restructuring and realignment with the Constitution.

In the 2013 Parastatals Reform report, the taskforce recommended that the Agricultural Finance Corporation should, alongside other public financing institutions,⁵ be merged to create a multi-sector financial and lending institution.⁶ The main concern for recommending the merger in the report was to ensure that financing of planning is considered holistically in view of the Vision 2030 priorities.⁷ However, in addition to Vision 2030 focus, there is a need to consider and ensure that the functions performed by the AFC, which affect counties have a county representation. Accordingly, representation of counties in structures of representation is important. Indeed, a re-thinking of the AFC objectives is required as the bulk of AFC functions (subsidies, sector development

4 See section 5 of the Act on incorporation and composition of the ADC.

5 Kenya Industrial Estates (KIE), Industrial and Commercial Development Corporation (ICDC), Tourism and Finance Corporation (TFC).

6 *Parastatal Reform Report* (2013) 94-95.

7 As above.

through financing, etc.) are functions that fall squarely within the counties' mandate. Thus, the recommendations of the Parastatals have to be re-examined in the context of county functions. Of course, the National Government plays an important role in agriculture (national) policy, national infrastructure, supervision, etc. however, this does not justify the continuance of pre-2010 processes and institutions. The structures and operations of the AFC should incorporate the constitutional provisions on the role of counties in sector functioning.

The Animal Diseases Act (1965) is one of the older laws dealing with animal health; functions that are allocated to counties under the Fourth Schedule.⁸ Animal health belong to counties belong to the counties (except the regulation of veterinaries). The Act was passed before the counties came into place and therefore does not recognize the county level of government in its entirety.

The Branding of Stock Act (CAP. 357) vests the Ministry with the main duty of branding of animals and also vests the former local authorities with a role of maintenance of brands within their areas of jurisdiction. These functions have all been vested in the county governments and the Act should be re-aligned with the Constitution to ensure that national policy aspects are vested in the national government and the execution of branding, where relevant is left to county government departments dealing with animal husbandry. Furthermore, the **Cattle Cleansing Act (cap. 358)**, which is concerned with the cleansing of animals infected with parasites such as ticks and other animal disease causing parasites, is also obsolete. It vests the function in the defunct Provincial Agricultural Board. The Act should be repealed and implementation of this function left to county governments with the national level retaining the national policy-making arena.

Among the older laws, there are pieces of legislation that establish various institutions whose functions are still relevant but also cut across the two levels of government. In many of the institutions, the role of the national level is that of a broad policy-making role. For instance, the national government function of “national economic policy


8 Section 1 of Part II of the Fourth Schedule provides that the following functions, others inclusive, shall be functions of the county level of government. That is: crop and animal husbandry, livestock sale yards, county abattoirs, plant and animal disease control; and fisheries.

and planning” is broad enough to be reflected in these institutions. Accordingly, while some of the older laws should be completely repealed to pave way for new laws, this category of laws should not be completely repealed but institutions established under those laws should be reformed to include the county role.

The Dairy Industry Act (cap. 336), for instance, establishes the Dairy Board to ensure efficient production, marketing, distribution and supply of dairy produce, having regard to the various types of dairy produce required by different classes of consumers, improving the quality of dairy produce, securing reasonable and stable prices to producers of dairy produce, promoting market research in relation to dairy produce, among other roles. Since the Board plays a crosscutting role, the law should be revised to reflect the substantive role that both levels of government play in the mandate of the Board. The Hides, Skins and Leather Trade Act (cap 359) also regulates trade in the leather industry. There are national policy aspects and county aspects, where counties have the broad role of “animal husbandry” which includes regulation of trade in animal products, such as skins and leather. The Act should be amended to ensure the role and place of the two levels of government is reflected. In its current status, the content of the Act violates the institutional and functional integrity of the county level of government.

The Kenya Meat Commission Act, cap 363 establishes a commission, under the national government, to purchase cattle and small stock, and to acquire, establish and operate abattoirs, meat works, cold storage concerns and refrigerating works for the purpose of slaughtering cattle and small stock, processing by-products, preparing hides and chilling, freezing, canning and storing beef, mutton, poultry and other meat foods for export or for consumption within Kenya, and to confer certain exclusive rights upon the Commission.

The functions of the Kenya Meat Commission, as listed in the short title and under section 9 of the Kenya Meat Commission Act are similar to those provided to the county level of government under the Fourth Schedule of the Constitution. These include the function of “animal husbandry” and the construction of “abattoirs” which are part and parcel of the agriculture function. Being an old law, it does not recognize the role of county governments. Some of the functions



that the Commission carries out are functions under “agriculture” as apportioned to the county level of government under Part II of the Fourth Schedule. The law requires fundamental revisions in order to ensure that some of the components of the functions that belong to counties are left to county laws and policies while providing for joint processes in areas of concurrency between the two levels of government.

The Animal Technicians Act, No. 10 of 2010 provides for the training, registration and licensing of animal technicians, and the regulation of the standards and practice of the profession of animal technicians. The Act generally provides for professional regulation, which is a function that falls under the national government (section 7(b) of Part II of the Fourth Schedule).

The National Cereals and Produce Board Act, cap 338 provides for the regulation of the controlling of the collection, movement, storage, sale, purchase, transportation, marketing, processing, distribution, importation, exportation, disposal and supply of maize, wheat and scheduled agricultural produce. The NCPB, which is established under the Act is expected to regulate and oversee trade in cereals and ensure consumer requirements are met. The NCPB also has a role to advise the minister on cereal production. Counties have the function of “crop husbandry” under the Fourth Schedule and this involves production of maize, wheat and other scheduled crops, the processing and collection of these crops that fall within the definition of crop husbandry. Therefore, the NCPB Act is one of those laws that require fundamental revisions to ensure that the role of counties is recognised and incorporated in the provisions of the law.

The Pest Control Products Act, cap. 346 sought to regulate the importation, exportation, manufacture, distribution and use of products used for the control of pests and of the organic function of plants and animals and for any other connected purposes. As a result, the contents of the Act cut across the two levels of government: “international trade” and the national government regulation of the use of products used for the control of pests. The county governments have a role of “plant and animal disease control” and pest control is a component is a component of plant and animal disease control function. The Act should be revised to recognise the role of counties

in pest control and joint structures where the functions provided for under the Act intersect.


A related law, the Plant Protection Act, cap. 324 provides for the prevention of the introduction and spread of disease destructive to plants and vests the national ministers with powers to regulate this function. The county government function of “plant and animal disease control” is not recognised in the Act as this also belongs to the older (pre-2010) laws.

The Seeds and Plant Varieties Act, cap. 326 is an Act of Parliament similar to the Protection of Traditional Knowledge and Cultural Expressions Act (No. 33 of 2016) as it concerns itself with intellectual property rights relating to seeds in as far genetic selection is concerned among other things. It confers power to regulate transactions in seeds, including provision for the testing and certification of seeds; for the establishment of an index of names of plant varieties; to empower the imposition of restriction on the introduction of new varieties; to control the importation of seeds; to authorize measures to prevent injurious cross-pollination; to provide for the grant of proprietary rights to persons breeding or discovering and developing new varieties; to establish a national centre for plant genetic resources.

These have a bearing on the agriculture function of the county level of government. This is because crop husbandry relies on the seeds and plant varieties allowed by law to be propagated in farms. The function of regulating matters relating to intellectual property falls under the national government as provided for under section 12 of Part I of the Fourth Schedule.

Therefore, the Act does not violate the functional and institutional integrity of the county level of government because it concerns itself with intellectual property matters relating to seeds and plant varieties; function of the national level of government.

A good example of realigning laws on areas of concurrence is the **Fertilizers and Animal Foodstuffs Act cap 345**, which was amended to include the representation of counties in the Fertilizers and Animal Foodstuffs Board. The functions of the board include: regulating fertilizers and animal foodstuffs industry in Kenya including the



production, manufacture, packaging, importation and marketing of fertilizers and animal foodstuffs, and regulating the importation of raw materials for the manufacture of animal foodstuffs, among other roles. The Board also promotes cooperation among stakeholders and the inspecting of animal foodstuff and safety assurance. Accordingly, it is important that the body (which performs functions that cross national and county functions) is overseen by both levels of government.

The Meat Control Act is an Act of Parliament that enables control to be exercised over meat and meat products intended for human consumption, and over slaughterhouses and places where such meat is processed. It also provides for import and export control over such meat and meat products. The thrust of the Act is to provide policy regulation in the handling of meat meant for human consumption domestically as well as export. While issues such as health policy and international trade are mainly national government functions, it is inevitable that the two levels have inter-penetrating roles, whether it is implementation or enforcement of standards or even the actual provision of slaughterhouses and abattoirs. Therefore, the Act should also be revised to provide for the place and role of the two levels of government.

A related Act is the **Biosafety Act (no 2 of 2009)**, which regulates research into, and minimising the risks that may be posed by, genetically modified organisms and ensuring an adequate level of protection for the safe transfer, handling and use of genetically modified organisms that may have an adverse effect on the health of the people and the environment. The Act is also meant to establish a transparent, science-based and predictable process for reviewing and making decisions on the transfer, handling and use of genetically modified organisms and related activities.

While the Act largely provides for national government processes, such as, approvals of applications to introduce any genetically modified organism to the environment, these functions can only be performed well by recognising the role that counties play in human health. The Act should, thus, be amended to provide for representative structures for both levels and provide for means through which county functions related to biosafety can be implemented in collaboration with county governments.

Bukura Agricultural College Act (no. 5 of 1999) establishes Bukura Agricultural College for purposes of providing, in collaboration with other institutions of higher learning, facilities for education in agriculture and other ancillary subjects through the integration of teaching, research and effective application of extension services. The institution is meant to pursue research and innovation in Agriculture and provide training and certification in the area of agricultural education. There are 28 Agricultural Training Centres (like Bukura) that are established across the country.⁹ The pre-2010 Ministry of Agriculture established most of these institutions before 2010. There are seven others that were in the process of being established as at 2013. However, it is only Bukura Agricultural College that is established via legislation. The Transition Authority decided to transfer these institutions to counties via a gazette notice in 2013.

However, capacity development and higher education, which these institutions provide, is a national government function. Accordingly, there is a need for an overarching national and county legal framework that will not only bring all the institutions under one regulatory regime but also provide for the respective responsibilities (especially in shared areas) for the two levels of government.

This a number of other Acts of that establish regional development authorities and which seem to impact on the operations of the Agriculture Sector. These Acts, which are six in number, are:

- a. **Kerio Valley Development Authority (KVDA) Act, Cap 441**
- b. **Lake Basin Development Authority (LBDA) Act, Cap 442,**
- c. **Tana River and Athi River Development Authority (TARDA) Act, Cap 443,**
- d. **Ewaso Ngiro South River Basin Development Authority (ENSDA) Act, Cap 447**
- e. **Ewaso Ngiro North River Basin Development Authority (ENNDA) Act, Cap 448**
- f. **The Coast Development Authority (CDA) Act, Cap 449**

⁹ TA Gazette notice.



Regional development Authorities carry out functions such as the implementation of irrigation schemes, setting up of crop plantations as a means of lifting some regions out of poverty. Their activities run into the depths of the functional integrity of county governments. As such, they perform functions meant for county governments.


The reason that made it necessary for the creation of the Regional Development Authorities was to enhance the co-ordination and planning in the management and utilization of natural resources that are not confined to administrative boundaries but linked to drainage basins. The subdivision of regions along geographical lines is significant in terms of economic exploitation of natural resources across administrative boundaries in that it removes politics from the centre of economic development and thus allows for smooth planning and participation.¹⁰

Considering that such authorities perform their mandate in multiple counties, there is the need for these regional development authorities to adopt and assume the make-up of governance under the new constitutional dispensation. Specifically, the 47 county governments have entered into arrangements, which create regional blocs that generally align with these Regional Development Authorities (RDAs). The next step, therefore, is to identify functional and operational aspects of these RDAs that can be subsumed or performed in collaboration with the coordinating entities of the regional blocs of counties. This is necessary for two reasons. First, there are aspects of functions that the RDAs perform that are either concurrent or county functions. Secondly, the constitutional spirit of cooperation and collaboration should reflect in these institutions.

2.2 Post-2010 legislation

As earlier mentioned, the government had commenced a process of reviewing Agricultural sector legislation prior to the adoption of the new Constitution. This process led to the repeal of the Agriculture Act, cap. 318. Among the laws that were the products of these reforms

10 Alice Karanja and Dr. L.S. Mulongo 'Contribution of Regional Development Authorities in Rural Development in Kenya: The Case of Kerio Valley Development Authority' (2011) 3 *International Journal of Current Research* 178-179.



is the **Agriculture and Food Authority Act 2013**. The Act establishes the Agriculture and Food Authority, a body composed of national government representatives from the various ministries.¹¹ While section 4 seems to provide broad policy-making functions in the agriculture sector, which is the mandate of the national government under the Constitution, section 22 of the same Act seems to vest functions of county governments in the AFFA. The said section provides for “rules on preservation, utilization and development of agricultural land.” Under Part I of the Fourth Schedule, the national government is charged with the function of coming up with “agricultural policy” whereas under section 1 of Part II of the Fourth Schedule, the county level of government is granted the function of “agriculture” which includes: crop and animal husbandry, livestock sale yards, county abattoirs, plant and animal disease control; and fisheries.

In the case of *Council of County Governors v Attorney General & 4 others* [2015] eKLR, the court stated that a function allocated to a county government “must encompass all elements of the term” [143]. Thus, section 22 of the AFFA Act has to be revised to ensure that it does not infringe on the functions of the counties. Specifically, all aspects of implementation of rules meant to enhance crop husbandry should be a preserve of the county governments. Where there is a need for concurrency, the Act should reflect this.

The AFFA is one of the Acts that was developed in the process of enactment of the new Constitution. While it was enacted after the passing of the Constitution, counties did not participate in the development of the legislation. The Act should be revised to provide for county representation and functions assigned to counties in the Act should be moved to county legislation and policies.

The Fisheries Management and Development Act, No. 35 of 2016 provides for the protection, management, use and development of aquatic resources in a manner that is consistent with ecologically sustainable development. The Act also seeks to uplift the living standards of the fishing communities and to introduce fishing to

¹¹ Section 5, membership is composed of ministries of agriculture, lands, cooperatives, the National Land Commission, ministry of devolution, among other ministries.

traditionally non-fishing communities and to enhance food security. Specific goals of the Act are sustainable use of aquatic resources and enhancing economic activities of fishing. The Act establishes bodies to carry out various functions. These include: the Kenya Fisheries Advisory Council which includes a representative of the Council of Governors.

The Council's mandate is to review and advise the national Government on policies in relation to the co-ordination of fisheries management in relation to the aquatic environment and human dimensions and the allocation and access to fisheries resources. Other functions include intergovernmental agreements and arrangements related to fisheries, research, education, capacity development in fisheries and the management of fisheries resources, and management plans and resources for the development of the fisheries sector.

The Act also establishes the Kenya Fisheries Service whose main roles include: raising revenue through levies, fees, and investments, undertaking the development of appropriate fisheries infrastructure, that relates to its mandate under this Act and the Constitution, and facilitating investment in commercial fisheries, in collaboration with relevant agencies, persons or bodies, including Government departments. The Director-General of the Kenya Fisheries Service may, in consultation with County governments and other appropriate agencies provide a national framework of extension and training services, conduct research and surveys, and promote co-operation among fishers. The Fisheries Service may also engage in fish marketing, fish stocking, and alternative livelihoods among the fishers.

There is no denying that the national government has substantial roles in environmental protection and the economic activities of fishing communities. However, county governments have an even more direct role in promoting fishing as one of the local economic activities. Accordingly, there is no justification in infringing on the role of county governments. Counties that are host to fishing communities have a role of planning and national laws, as opposed to taking up the space, should facilitate facilitating the sustenance of such activities.

The Kenya Agricultural and Livestock Research Act 2013 establishes the Kenya Agricultural and Livestock Research Organization (KALRO) to provide for organs of the Organization and to provide for the co-

ordination of agricultural research. The purpose of KALRO is to promote, streamline, co-ordinate and regulate research in crops, livestock, genetic resources and biotechnology in Kenya. KALRO is also expected to promote, streamline, co-ordinate and regulate research in crops and animal diseases; and expedite equitable access to research information, resources and technology and promote the application of research findings and technology in the field of agriculture.

The national government has a duty to promote and enhance research and this law enables the government to pursue this function. However, given that counties perform extensive functions in livestock development, it is important to facilitate the involvement of counties in the development of the research agenda and collaboration in research with county governments as partners. Inevitably, county governments are the primary consumers of the products of KALRO and this has to be reflected in the structures and operations of the organisation.

The Kenya Plant Health Inspectorate Service establishes the Kenya Plant Health Inspectorate Service (KEPHIS) as a regulatory body for the protection of plants, seeds and plant varieties and agricultural produce. The functions of KEPHIS include: administration and enforcement of sanitary and phytosanitary measures, and the administration and enforcement of food safety measures. Specific areas of responsibility include: the setting up service laboratories to monitor the quality and levels of toxic residues in agro-inputs, irrigation water, plants, soils and produce and international obligations relating to plant variety protection. KEPHIS, thus, performs functions that are mainly related to the national government such as policy and research. However, given the heavier role of counties in agriculture, it is important to incorporate county representation and participation in KEPHIS structures and processes.

A similar case is that of the **National Drought Management Authority, Act No. 4 of 2016**. The Act concerns with ending drought related emergencies in the country. It has bearing in matters related to agriculture because Kenya relies on rainfed agriculture and any cases of prolonged drought have a bearing on the overall wellbeing of the county government on “agriculture” on crop and animal husbandry. The Act incorporates representation of the Council of Governors and this provides a basis for collaboration with counties in mitigating drought

related disasters, a concurrent function under the Fourth Schedule.

The Pyrethrum Act 2013 repealed the earlier Pyrethrum Act, Cap 340 and provides for the development, regulation and promotion of the pyrethrum industry, through the Pyrethrum Regulatory Authority. The regulatory function includes the development and promotion of the pyrethrum industry, registration of processors, formulators and persons running pyrethrum nurseries, co-ordination of the activities of stakeholders and organizations within the pyrethrum industry, and setting the required standards for pyrethrum products. Other functions covered in the law include ensuring equitable access of benefits, research, dispute resolution, etc. The functions are regulatory/ policy in nature and belong to the national government. However, counties play an important role in the planting and growing of pyrethrum and should, thus, be involved in the formulation and enforcement of these policies.

The Crops Act 2013 seeks to accelerate the growth and development of agriculture in general, enhance productivity and incomes of farmers and the rural population, improve investment climate and efficiency of agribusiness and develop agricultural crops as export crops that will augment the foreign exchange earnings of the country. This is to be achieved through promotion of the production, processing, marketing, and distribution of crops in suitable areas of the country. Specific ways provided for in the Act include: circumventing unnecessary regulatory bureaucracy in the crops subsector, reduction of unnecessary levies, taxes or other barriers to free movement of crop products and provide for a rationalized taxation system, and reducing unnecessary regulation in the crops sub-sector, among other means. Crops covered include: Sugarcane, Tea, Coffee, Rhodes grass, Irish potatoes, Cotton, soya beans, beans, barley, finger millet, Sunflower, maize, pearl millet, rice, sorghum, wheat and pasta wheat.

Section 6 of the Act provides for the role of national and county governments in development of crops. It states that pursuant to the Fourth schedule of the Constitution the Agriculture and Food Authority, on behalf of the national government, shall be responsible for licensing and charging of levies and breeder royalties on all scheduled crops on condition that the total sum of the levies charged by the Authority shall not exceed ten per centum of the gate value of the produce.


It goes ahead and states that county governments will implement the national government's policies to the extent that the policies relate to the county and in particular shall be responsible for—

- » development of crops grown within the county;
- » plant disease control;
- » markets;
- » cooperative societies within the county;
- » soil and water conservation.

The function of the national government is limited to the setting up agricultural policy. The Act recognizes that but goes ahead and provides that the national government shall be responsible for the licensing and charging of levies and breeder royalties on all scheduled crops.

This section conflicts with section 17 of the Act which provides that
Taxation of scheduled crops

- (1) Pursuant to Article 209 of the Constitution, only the national government may impose, in relation to a scheduled crop—
 - a. income tax;
 - b. value-added tax;
 - c. customs duties and other duties on import of agricultural and aquatic products; and
 - d. excise duty.
- (2) A county government may, pursuant to the Fourth Schedule of the Constitution, impose fees for—
 - a. development of agricultural crops within the county;
 - b. development and regulation of scheduled crop markets within the county;
 - c. issuance of trade licences to any person trading in scheduled crops within the county; and
 - d. issuance of licenses for cooperative societies dealing with scheduled crops within the county.

- 
- (3) The fees imposed by a county government under subsection (2) shall not in any way prejudice national economic policies, economic activities across county boundaries or national mobility of goods, services, capital or labour.

Therefore, in order to recognize the institutional and functional integrity of the county level of government, section 6 of the Act must be amended to reflect the fact that “agriculture” is a function of the county level of government and any charges and levies not related to income tax, import duty, excise duty and value added tax are imposed on the crops by the county level of government.

Table 2: Matrix audit of Agriculture Sector Legislation

Act/Policy	Issues	Rationale	Recommendations
<p>1. Agricultural Development Corporation (ADC) Act (Cap. 444)</p>	<p>Violates Article 6(2) which states: “The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation. It violates Article 186(4) on the functions of the county level of government.</p>	<p>Agriculture is a county government function and the Act does not recognize this. Section 5 of the Act provides for the membership of the Corporation’s Board but the county level of government is not recognized. Section 12(3) does not recognize the role that county governments play in the provision of agricultural services as stated in section 1 of Part II of the Fourth Schedule since it does not recognize the counties not representatives of the county governments by stating that the Minister of Agriculture in consultation with the minister in charge of finance shall instruct the Corporation to initiate, assist or expand any undertaking which it considers economically or otherwise unsound. It is also not clear on where the Development Corporation gets its funding. Considering that this a function of county governments, it is not clear whether the money apportioned to the corporation is a cut from the equitable share of money apportioned to county governments under Article 202 of the Constitution or if such funds, apportioned to the corporation, can be directly apportioned to county governments since agriculture is a county government function.</p>	<p>The Act should be amended to: Recognize the county level of government in the Corporation’s Board. State where its funding comes from that is, whether it comes from the Consolidated Fund or the equitable share given to either level of government. The Corporation’s function should be limited to capacity building for the county government’s agriculture function.</p>
<p>2. Agricultural Finance Corporation (AFC) Act (Cap. 323)</p>	<p>The Act violates that functional integrity of the county level of government.</p>	<p>Agriculture is a county government’s function but section 3(2) does not recognize the institutional and functional integrity as per Article 189 of the Constitution by failing to provide for county governments’ role in the Board of Directors of the Agricultural Finance Corporation. This is a creation and assignment of roles to an entity outside the structures of governance established under the Constitution is antithetical to the principles of the Constitution as it threatens to violate the functional competencies of county governments.</p>	<p>The Act should be repealed since it creates and assigns duties to an entity that is outside the established structures of governance under the Constitution. Alternatively, the Act can be amended so that it roles are limited to capacity building for the county governments in matters related to the agriculture function of the county level of government.</p>

Act/Policy	Issues	Rationale	Recommendations
<p>3. Agriculture, And Food Authority (AFFA) Act 2013</p>	<p>The Act violates the functional integrity of county governments.</p>	<p>it also violates the principle distinguished by courts that bodies such as AFC (which usurp the powers of county governments by duplicating functions apportioned to county governments by the Constitution) must be dissolved or wound up as the Constitution has rendered the roles that they were playing prior to the promulgation of the new Constitution redundant. It is also not clear on where the Finance Corporation gets its funding. Considering that this a function of county governments, it is not clear whether the money apportioned to the corporation is a cut from the equitable share of money apportioned to county governments under Article 202 of the Constitution or if such funds, apportioned to the corporation, can be directly apportioned to county governments since agriculture is a county government function</p>	
		<p>Under Part I of the Fourth Schedule, the national government is charged with the function of coming up with “agricultural policy” whereas under section 1 of Part II of the Fourth Schedule, the county level of government is granted the function of “agriculture” which includes: crop and animal husbandry, livestock sale yards, county abattoirs, plant and animal disease control; and fisheries. However, section 22 seeks to perform the functions of county governments as it seeks to give the national government the function of making rules on how agricultural land at the county level should be utilized thus going beyond the policy making function of the national level of government.</p>	<p>The Act should be amended by repealing section 22 of the Act as the section gives the national government powers to perform functions that are not “policy-making” in nature thus leading to a violation of the functional and institutional integrity of the county level of government.</p>

Act/Policy	Issues	Rationale	Recommendations
4. Animal Diseases Act (Cap. 364)	The Act does not recognize the county level of government in its entirety and nor does it recognize the institutions set up under the county level of government.	The Animal Diseases Act provides for matters relating to the diseases of animals. This is a function of the county level of government	The Act should be amended to reflect the fact that “animal disease control” is a function of the county level of government.
5. Animal Technicians Act (No. 10 of 2010)	No issue. The Act does not impeach on the functional and institutional integrity of the county level of government.	This is an Act of Parliament “to provide for the training, registration and licensing of animal technicians, to provide for the regulation of the standards and practice of the profession of animal technicians, excluding matters concerning animal health and food safety, and for connected purposes.” It is an Act of Parliament within the meaning of “veterinary policy” under section 30 of Part I of the Fourth Schedule. It is also an Act of Parliament within the meaning of section 7(b) of Part II of the Fourth Schedule which provides for the function of provision of “trade licences (excluding regulation of professions)” to the county level of government. Therefore, it provides for functions that are a preserve of the national level of government and therefore, adheres to the provisions of Article 186(1) of the Constitution as read with Part I and II of the Fourth Schedule to the Constitution.	N/A
7. Branding of Stock Act (Cap. 357)	The Act violates the institutional integrity of the county level of government.	The Act concerns itself with both the function of “veterinary policy” of the national government as provided for under section 30 of Part I of the Fourth Schedule as well as the “agriculture” function of county government under section 1 of Part II of the Fourth Schedule. The Act contravenes the provisions of the Constitution by not recognizing the existence of the county level of government.	The Act should be amended so that it refers to county governments as opposed to the now-defunct local governments and in effect recognizing the institutional integrity of the county level of government.

Act/Policy	Issues	Rationale	Recommendations
<p>8 Bukura Agricultural College Act (No. 5 of 1999)</p>	<p>The Act does not offend Article 6(2), Article 186 as well as the Fourth Schedule of the Constitution.</p>	<p>The Act does not offend Article 6(2), Article 186 as well as the Fourth Schedule of the Constitution. This is because it is an Act of Parliament that sets up a special college for the training of persons specialized in matters relating to agriculture and any other connected purposes.</p> <p>Section 16 of Part I of the Fourth Schedule provides that that the functions of “Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions” is a function of the national government. Since the Act establishes a special education institutions for matters relating to agriculture, it is in not in any direct conflict with the functions of the national or county levels of governments as listed under Part II of the Fourth Schedule.</p>	<p>N/A</p>
<p>9. Cattle Cleansing (Cap. 358)</p>	<p>The Act does not adhere to constitutional provisions on the functions of the national and county level of government. It also does not recognize the institutional integrity of the county level of government.</p>	<p>Section 4 of the Act provides for the establishment of the Provincial Agricultural Board. Such a board has no functional or institutional relevance in light of Article 6(2) of the Constitution which recognizes that Kenya is divided into two level of government that is, the national and the 47 county governments.</p> <p>Also, the Act concerns itself with the cleansing of animals infected with parasites such as ticks and other animal disease causing parasites. Under Section 1 of Part II of the Fourth Schedule, the function of “Agriculture” as apportioned to the county level of government includes “plant and animal disease control”. The failure of the Act to recognize both the functional and institutional integrity of the county level makes it unconstitutional.</p>	<p>The Act should be amended to reflect the existence of the county level of government as opposed to the now-defunct local government that it recognizes in its provisions.</p> <p>The Act should be amended to reflect the fact that plant and animal disease control is a function of the county level of government.</p>



Act/Policy	Issues	Rationale	Recommendations
<p>12. Dairy Industry Act (Cap. 336)</p>	<p>The Act violates the institutional integrity of the county level of government.</p>	<p>The Act established a Board whose functions generally relate to the function of the national government called "National economic policy and planning" provided for under section 9 of Part I of the Fourth Schedule. The Act seeks to increase the production of the dairy industry through encouraging privatization and by increasing overall efficiency in production. These are goals geared towards the enhancement of the dairy industry in general as a sector of the economy. However, considering that Article 6(2) of the Constitution provides for two levels of government, paragraph (f) of section 17 of the Dairy Industry Act should be amended to reflect that agriculture is a county governments' function and incorporate county governments as opposed to the now defunct "local authorities".</p>	<p>Section 5 of the Act provides for the membership of the Board. Considering that agriculture is a county government, the section should be amended so that the membership of Board incorporates representation from the county level of government. This will reflect and respect the institutional integrity of the county level of government.</p>
<p>13. Ewaso Ng'iro North River Basin Development Authority Act (Cap. 448), Kerio Valley Development Authority (KVDA) Act, Cap 441 Lake Basin Development Authority (LBDA) Act, Cap 442,</p>	<p>The Acts violate both the functional and institutional integrity of the county level of government.</p>	<p>The Regional Development Authorities violate the functional and institutional integrity of the county level of government since they perform functions that are a preserve of the county level of government such as functions relating to agriculture.</p>	<p>These Acts of Parliament can be amended so that their role is limited to capacity building. Since regional development authorities have wider mandate that runs through several counties, they can play a role in capacity building for the county governments in tandem with section 32 of Part I of the Fourth Schedule and assist and support county governments by co-ordinating policies as well as projects in the counties they operate in as provided for under Article 189(1) (b) and (c) of the Constitution.</p>

Act/Policy	Issues	Rationale	Recommendations
<p>Tana River and Athi River Development Authority (TARDA) Act, Cap 443, Ewaso Ngiro South River Basin Development Authority (ENSDA) Act, Cap 447 Ewaso Ngiro North River Basin Development Authority (ENNDA) Act, Cap 448 The Coast Development Authority (CDA) Act, Cap 449</p>			
<p>14. Fertilizers And Animal Foodstuffs Act (Cap. 345)</p>	<p>The Act does not violate the functional and institutional integrity of the county level of government.</p>	<p>The Act respects and recognizes the functional and institutional integrity of the county level of government. The Board established by the Act, whose membership includes a person nominated by the Council of County Governors, concerns itself with matters that are a preserve of the national government as provided for under Part I of the Fourth Schedule such as importation of goods into the country. It also concerns itself with agriculture which is a function of the county level of government but its role is only limited to advising the county government in matters relating to policy. As such, the Act does not violate Article 6(2), Article 186 of the Constitution as well as the Fourth Schedule of the Constitution</p>	<p>N/A</p>

Act/Policy	Issues	Rationale	Recommendations
<p>15. Fisheries Management And Development Act (No. 35 Of 2016)</p>	<p>The Act violates the functional integrity of the county level of government.</p>	<p>The Act is oriented towards the role of the national government in negligence of the county governments in fisheries development. Section 6(2) (b) relates to the allocation and access to fisheries resources which has a bearing on the exercise of the county level of government in its exercise of the function of agriculture but the section does not provide for the role of the Council in as far as county governments are concerned.</p> <p>The functions of the Fisheries Council under Section 7(1) (n), (o) and (p) encroach on the county level of government's function because the national government's function in relation to fisheries is limited to the protection of the environment which includes the sustainable utilization of fishery resources.</p>	<p>Section 7(1) (n), (o) and (p) should be deleted as the functions they provide for are functions of the county level of government.</p>
<p>18. Hide, Skin And Leather Trade Act (Cap 359)</p>	<p>The Act violates the functional integrity of the county level of government and thus unconstitutional.</p>	<p>The hide, skin and leather industry is a core part of the "Agriculture" function because it relates directly with the element of "animal husbandry" which is part of the "agriculture" function of the county level of government. The production of hides, skins and processing of leather are part and parcel of "animal husbandry" within the context of section 1 of Part II of the Fourth Schedule.</p> <p>The Act does not recognize this function of the county level of government as it does not provide for the role of the county level of government in matters relating to hides and skins as contemplated in section 1 of Part II of the Fourth Schedule. It only concerns itself with the "export" and "import" of hides, skins and leather in total disregard of the role of county government in "agriculture"</p>	<p>The Act should be amended so as to recognize that the hide, skin and leather industry is an agriculture function under section 1 of Part II of the Fourth Schedule and the role that counties can play in the development of the industry in matters relating to export of products emanating from this industry.</p>

Act/Policy	Issues	Rationale	Recommendations
19. The Irrigation Act (Cap. 347)	The Act does not recognize institutional integrity of county governments and therefore unconstitutional.	<p>The Act recognised the place of the former local governments as custodians of trust lands (community land) as the Minister cannot compulsorily acquire such land for the purposes of a national irrigation scheme.</p> <p>However, the role of county governments in making those irrigation schemes effective is not recognized as the Act does not recognize county governments. This is seen in section 3 as read with the Schedule which do not recognize the county level of government in the composition of the National Irrigation Board.</p>	Section 3 of the Act should be amended so that the county level of government is represented in the National Irrigation Council.
20. Kenya Meat Commission Act (Cap. 363)	The Act does not recognize the functional integrity of the county level of government.	<p>The functions of the Kenya Meat Commission, as listed in the short title and under section 9 of the Kenya Meat Commission Act are similar to those provided to the county level of government under the Fourth Schedule of the Constitution. These include the function of “animal husbandry” and the construction of “abattoirs” which are part and parcel of the agriculture function.</p> <p>The Act fails to recognize county governments despite the fact that some of the functions that the Commission carries out are functions under “agriculture” as apportioned to the county level of government under Part II of the Fourth Schedule.</p>	<p>The Act should be amended to recognize the county level of government and its role in animal husbandry including the construction of abattoirs.</p> <p>Section 9 of the Act should be amended so that the functions listed therein are limited to capacity building where the functions clash with those of the county level of government under section 1 of Part II of the Fourth Schedule.</p>
21. Kenya Plant Health Inspectorate Service Act (No. 54 Of 2012)	The Act does not offend the functional and institutional integrity of the county level of government	A casual reading of the functions of the Kenya Plant Health Inspectorate Service shows that the functions are related to the function of “agricultural policy”, international trade and foreign affairs which are functions of the national government. The functions of the service do not concern themselves with matters relating to crop husbandry.	

Act/Policy	Issues	Rationale	Recommendations
22. Meat Control Act (Cap. 356)	The Act does not impeach the functional and institutional integrity of the county level of government in matters relating to agriculture	It can be deduced that the Act, as much as it concerns itself with slaughterhouses (a function of the county level of government under "agriculture"), it is intended to enhance health policy in the manner in which meat meant for human consumption is handled in slaughterhouses and other places where such meat is to be processed. This are elements of health policy under section 28 of Part I of the Fourth Schedule. Also, it concerns itself with how meat is imported or exported. This is a matter concerning international trade and which is a function of the national government under section 1 of Part I of the Fourth Schedule.	N/A
23. National Cereals And Produce Board Act (Cap. 338)	The Act violates the functional and institutional integrity of county governments as it does not recognize the "agriculture" function of county governments relating to "crop husbandry".	The functions of the National Cereals and Produce Board fall within what is referred to as "crop husbandry" under section 1 of Part II of the Fourth Schedule. This is because the functions involve the production of maize, wheat and other scheduled crops, the processing and collection of these crops which fall within the definition of crop husbandry. However, considering that these functions fall within the meaning of section 1 of Part II of the Fourth Schedule, the Act does not recognize the role of the county level of government as seen from the composition of the Board under section 3(2) of the Act.	Section 3 of the Act should be amended to recognize the county level of government. Where the functions of the National Cereals and Produce Board clash with those of the county level of government in as far as crop husbandry is concerned, the Act should be amended so that NCPB plays a capacity building role.
25. Pest Control Products Act (Cap. 346)	The Act violates the functional integrity of the county level of government.	Section 1 of Part II of the Fourth Schedule provides for "plant and animal disease control" as part and parcel of the "agriculture" function of county government. Therefore, pest control is a part and parcel of plant and animal disease control function. However, the Act does not recognize this function of the county level of government. This is because it does not provide for any section that acknowledges the disease control aspect of section 1 of Part II of the Fourth Schedule of the Constitution.	The Act should be amended in its entirety to recognize that the function relating to plant and animal and disease control is a function of the county level of government.

Act/Policy	Issues	Rationale	Recommendations
27. Plant Protection Act (Cap. 324)	This Act violates the functional integrity of the county level of government	<p>This Act of Parliament does not recognize that the function of “agriculture” and specifically, the function of “plant and animal disease control” is a function of the county level of government. It bestows on the Minister of Agriculture all powers in matters relating to the prevention and control of attacks by or the spread of pests or diseases.</p> <p>The Act also violates the function of “plant and animal disease control” as provided for under section 1 of Part II of the Fourth Schedule since this is a function of the county level of government.</p>	The Act should be amended to reflect that agriculture function of the county level of government in “plant and animal disease” control and limit the powers of the Ministry of Agriculture to capacity building and policy making.
29. Pyrethrum Act (No. 22 of 2013)	The Act does not violate the functional and institutional integrity of the agriculture function of the county level of government.	The functions of Pyrethrum Regulatory Authority listed in section 4 of the Act are regulatory in nature and relate to the setting up of standards that must adhere to in the pyrethrum industry. These fall within the context of “agricultural policy” (a function of the national level of government) as provided for under section 29 of Part I of the Fourth Schedule. Therefore, as far as the Act is concerned to the regulation of standards in the pyrethrum sector, the Act does not violate the functional and institutional integrity of the county level of government.	N/A
30. Seeds And Plant Varieties Act (Cap. 326)	The Act does not violate the functional and institutional integrity of the county level of government on agriculture.	The Act does not violate the functional and institutional integrity of the county level of government because it concerns itself with intellectual property matters relating to seeds and plant varieties; function of the national level of government.	N/A

Act/Policy	Issues	Rationale	Recommendations
32. The Crops Act of 2013	The Act violates the functional integrity of the county level of government.	<p>The wording of the Act shows that it gives a greater leverage to the national government at the expense of the county level of government. Part I of the Fourth Schedule is clear as to the function of the national government is in as far as matters concerning agriculture are concerned.</p> <p>The function of the national government is limited to the setting up agricultural policy. The Act recognizes that but goes ahead and provides that the national government shall be responsible for the licensing and charging of levies and breeder royalties on all scheduled crops.</p>	In order to recognize the functional integrity of the county level of government, section 6 of the Act must be amended to reflect the fact that “agriculture” is a function of the county level of government and any charges and levies not related to income tax, import duty, excise duty and value added tax are imposed on the crops by the county level of government
34. The Kenya Agricultural And Livestock Research Act of 2013	The Act does not offend the institutional and functional integrity of the county level of government in as far as matters relating to the function of “agriculture” is concerned.	The Act concerns itself with research on matters relating to agriculture and livestock research. These are function of the national government as provided for under section 16 of Part I of the Fourth Schedule which apportions the function of “Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions” on the national level of government. The organisation falls within the ambit of what is referred to as “other institutions of research” under section 16.	N/A

3. Agricultural policies

In terms of policy documents for the agricultural sector two have been the most critical in steering the sector. These are, the **Strategy for Revitalizing Agriculture (SRA, 2004-2014)** and the **Agriculture Sector Development Strategy (ASDS, 2010-2020)**. The latter was developed from the viewpoint of revising the earlier document in order to harmonize and bring it to conformity with the Constitution, 2010. The other significant change of the revised development strategy is the paradigm shift of focusing on food security and prosperity from subsistence farming to agriculture as business.

The **Agriculture Sector Development Strategy** forms the overall national strategy document for agricultural sector ministries and other stakeholders. The Strategy addresses interventions in Agriculture, Livestock, Fisheries, Cooperatives, Water, Environment, Agroforestry and Private Sector.

In the last 5 years, the sector has been revitalized and placed on the path for further development. Hence, this strategy is perceived as an Agricultural Sector Development Strategy (ASDS). Although much has been achieved during the period, the challenges of food security, poverty reduction and transforming agriculture from subsistence to farming as a business—agribusiness, markets, efficient use of inputs and agricultural credit—still remain. The ASDS seeks to progressively reduce unemployment and poverty, and to spur agriculture back to growth trends.

The vision of the ASDS is: A food-secure and prosperous nation. Since the agricultural sector is still the backbone of Kenya's economy—and the means of livelihood for most of the rural population—it is inevitably the key to food security and poverty reduction. The overall goal of the agricultural sector is to achieve an average growth rate of 7 per cent per year over the next 5 years. Given the critical strategic issues that need to be addressed, the strategic mission for the sector is: An innovative, commercially oriented and modern agriculture.

The overall development and growth of the sector is anchored in two strategic thrusts:

- » Increasing productivity, commercialization and competitiveness of agricultural commodities and enterprises
- » Developing and managing key factors of production.

The strategy adopted the strategic thrust of increasing the productivity, commercialization and competitiveness of agricultural commodities as core factors to enable the sector to export more outputs, earn the country foreign exchange, and create employment. With the responsibilities of the agricultural sector spread across 10 ministries and the need for partnerships with several other ministries and stakeholders, implementation of ASDS required strong partners and among the Government, private sector, development partners and other non-State actors. A sector-wide approach and strong coordination mechanisms was instrumental in the success of the strategy.

A strategy was needed to position the agricultural sector as the key driver for delivering the 10 per cent annual economic growth rate envisaged under the economic pillar of Vision 2030. The strategy would guide public and private sector efforts in addressing major development challenges facing the agricultural sector. In addition, the strategy has taken into account the ongoing institutional and policy reforms, the country's new political system and structure of government, the just-completed ERS and the SRA, and has incorporated agricultural policy proposals contained in Vision 2030's medium-term plan.

It has also taken into account regional and international initiatives such as the Comprehensive African Agricultural Development Programme (CAADP), which recognizes agriculture's contribution to accelerated economic growth in African countries, and the MDGs in which the United Nations member countries pledged to reduce extreme hunger and poverty by 2015. In developing this strategy, the Government perceived that the agricultural sector had been revived and was set on the path for further development, hence the Agricultural Sector Development Strategy. The overriding goal of the ASDS was to achieve a progressive reduction in unemployment and poverty, and the two major challenges of poverty and food security that Kenya continues to face. The strategy outlines the agricultural policies, institutional reforms, and programmes and projects that the Government will implement in the short and long term to achieve this goal.

Within the context of devolved system of government, the strategy requires alignment as per the distribution of powers and functions between the two levels of governments. Notably, the strategy should overall cover the thrust and strategic direction of the sector but exercise caution with regard to allocation powers of implementation. The dichotomy of distribution of powers and function should observe and allocate responsibility to the national government that relate to the nation policy in relation to the following;

- » Agricultural policy,
- » Support to agricultural research and promote technology delivery,
- » Regulation and quality control of inputs, produce and products from the agricultural sector,
- » Management of control of pests and disease in crops,
- » Promote management and conservation of the natural resource base for agriculture, and
- » Promotion of market access and product development

As per the distribution of functions between the two levels of government in fourth schedule, the strategy needs revision to provide for the wider scope of policy implementation to county governments. This revision will cover the following areas;

- » Implementation of policy and legal frameworks
- » Improving agribusiness and market Access
- » Improving land use and crop Development
- » Enhancing access to Inputs and credit to farmers
- » Improving livestock productivity
- » Improving control of livestock diseases and Pests
- » Integrated development and management of rangelands
- » Improving animal health
- » Developing aquaculture
- » Improving capacity for marketing agricultural inputs and produce
- » Enhancing access to agricultural credit
- » Promoting and implementing value addition

- » Promoting good governance, management and efficiency
- » Implementing programs for private sector participation

Implementation of the ASDS was coordinated the Agricultural Sector Coordination Unit (ASCU) which, organized the sector's biennial national forum of stakeholders. The forum discussed implementation constraints, progress and ways of overcoming them and considerations of future prospects. At the middle level, the inter-ministerial coordination committee included all ministries that provide services to the agricultural sector. The committee comprised of principal secretaries of the lead and collaborating ministries and were responsible for coordinating the planning of the strategy at the sector level and monitoring its implementation to ensure that its goals were achieved. At the Local level, ASDS was implemented through district agricultural development committees (DADCs) made up of the sector ministries and stakeholders.

This requires a significant shift since the largest aspect of the strategy's implementation relates to service deliver which now is the responsibilities of the county governments. (The review of the strategy is ongoing and succinct proposal in relation to implementation framework have been forwarded)

The National Livestock Policy (sessional paper no 2 of 2008) addresses the challenges in the livestock sub-sector in the context of livestock breeding, nutrition and feeding, disease control, value addition and marketing, and research and extension. The policy is broadly guided by the following specific objectives and is designed to:

- » Achieve appropriate livestock management systems for sustainable development of the livestock industry;
- » Improve and conserve available animal genetic resources effectively;
- » Achieve effective control of animal diseases and pests in line with the relevant international codes and standards;
- » Ensure safety of foods of animal origin through professional meat inspection, milk hygiene, and other animal resource products quality control
- » Focus research efforts in the livestock sub-sector on resolving current and emerging problems;

- » Ensure quality standards and quality assurance at all levels of production and marketing chain for increased competitiveness of the livestock industry; and
- » Address various cross-cutting issues that impact on the livestock sub-sector; among such issues are land, water, environment, infrastructure, insecurity, livestock-wildlife interactions, HIV/AIDS and other human diseases, gender and capacity building.

The sessional paper at the time of its development, 2008 assumed an institutional and implementation framework of a centralized system of government. For realignment to the devolved system of government, focus of implementation of the policy programs will require to be assigned to county governments in the following functional areas;

- » Implementation of national veterinary policies including formulation of relevant county policies
- » Management of livestock sale yards and county abattoirs
- » Livestock extension services to deliver husbandry technologies
- » Management of sanitary measures; management of county abattoirs, primary preventive health care –vaccination, veterinary Clinical services, implement disease control programmes and disease surveillance
- » Vector surveillance and control including tick and tsetse fly control
- » Management of regulatory services such as control of animal movement (intra and inter county) and development of relevant county veterinary laws
- » Implement international treaties for animal resource industry
- » Implement international standards on animal health, production and food safety
- » Implementation of animal welfare standards across all species and sectors- transportation, humane slaughter
- » Conservation and management of animal reproductive resources such as Implementation of animal reproductive services including Artificial insemination

- » Collection and synthesis for county planning and reporting to National Veterinary Services
- » Development of county specific programmes and projects
- » Promotion of livestock trade- market access and product development

The Co-operative Development Policy revised policy is up to date with regards to functional assignment with a clear distribution of function between the two levels of governments. The role of county governments has been articulated as the management and administration of Co-operatives as follows:

- » Formulate county specific co-operative policies in line with national goals and policies;
- » Promote registration of co-operatives;
- » Carry out impromptu inspections into the affairs of county co-operatives;
- » Provision of audit services and enforcement of audit requirements and standards;
- » Promote value addition and adoption of appropriate technology by co-operatives;
- » Establish and maintain county co-operative information centres;
- » Enforce compliance with co-operative legislation;
- » Facilitate collaboration and linkages with various stakeholders for the benefit of the movement;
- » Enforce good governance in the management of the co-operative societies within their jurisdiction; and
- » Undertake co-operative education and training.

The National Food and Nutrition Security Policy (Sessional Paper No. 1 of 2012) seek to achieve good nutrition for optimum health of all Kenyans. The broad objectives of the policy are:

- » To achieve adequate nutrition for optimum health of all Kenyans;
- » To increase the quantity and quality of food available, accessible and affordable to all Kenyans at all times; and

- » To protect vulnerable populations using innovative and cost-effective safety nets linked to long-term development.

The FNSP addresses associated issues of chronic, poverty-based food insecurity and malnutrition, as well as the perpetuity of acute food insecurity and malnutrition associated with frequent and recurring emergencies, and the critical linkages thereof. These main issues of concern that the policy addresses include; food availability and access, food safety, standards and quality control, nutrition improvement, school nutrition and nutrition awareness, food security and nutrition information, and early warning and emergency management.

The policy proposed a well-streamlined food and nutrition security implementation strategy through the creation of secretariats at national and county levels. These are to bring together all relevant ministries to ensure broad, multi-sectoral implementation, coordination and monitoring mechanisms, providing a forum for an integrated response to both emergency and chronic food and nutrition security issues. More so this will serve as advisory bodies to the respective level of government on issues relating to food and nutrition security.

The **National Agricultural Sector Extension Policy(NASEP) (Sessional Paper No 1 of 2011)** seeks to promote pluralistic extension service provision as well as guide the operations of Extension Services Providers (ESPs) through an established independent regulatory body to ensure quality. The policy sets a framework to provide strategic guidelines on:

- » Commercializing and privatizing extension services;
- » Regulation, coordination, monitoring and evaluation of extension services;
- » Approaches and methods of extension services delivery;
- » Content and choice of extension messages by ESPs and their clientele;
- » Empowering clientele;
- » Stakeholder collaboration and networking;
- » Modalities for funding of extension services including the formation and operations of the stakeholder trust fund; and
- » Institutional framework and linkages

The policy sets out an implementation plan that is largely coordinated by the Agricultural Sector Coordination Unit (ASCU). It is envisioned that; the Unit would spearhead the preparation of the National Agriculture Sector Extension Policy Implementation Framework. Extension services are fully devolved are the mandate of county government and therefore from an implementation standpoint, these set of activities should be carried out by respective county governments and not the ASCU. The services provided at the county level are primarily extension services

Another policy, the **Agricultural Research System Policy 2012** aims to reform the Kenyan agricultural research system into a dynamic, innovative, responsive and well-coordinated system driven by a common vision and goal. The policy objectives are: improving agricultural research policy framework; harmonizing and providing direction to national research for sustainable development; strengthening the legal, institutional and regulatory framework; coordinated planning, development and sharing of human resources and physical assets; coordinated planning, development and management of knowledge, information and communication technology; increased focus on outreach and technology dissemination and targeted partnership development framework.

- » What's needed is coordination with county governments - develop a framework for strong working relations with the county governments in implementation of agricultural research – farming practices
- » Agricultural technology development and application
- » Increased focus on outreach and technology dissemination – coordination with county government (application)
- » KALRO - Board appointment – in the law) representation of county governments in the
- » Research agenda – needs to be aligned with the needs of the county governments alongside areas of crop and animal husbandry

The **National Agribusiness Strategy** focuses on putting markets at the centre of all production, processing, product development and packaging as well as focus research and development and innovation to better catalyse growth of a vibrant agribusiness sector.

- » The aspect of development of market systems to enhance productivity, processing, product development across agricultural value chains is a mandate of county governments.
- » County governments would need to develop and finance the different programs and strategies on market system development with a very limited role of the national government on standards and norms.

The National Horticulture Policy 2012 outlines the government's intended measures in the development and expansion of the horticulture industry. The objective of the policy is to sustain the industry's growth and development to enable it to; contribute to food and nutrition security, provide raw materials for primary processing, compete favourably in the export market and earn more foreign exchange, generate increased incomes and employment for various players, and generally contribute to the broader economic goals as envisaged in Vision 2030.

This policy offers specific interventions for production, support services (financing, research and extension), marketing (local, regional and export markets), infrastructure as well as regulatory and institutional arrangements. Cross-cutting issues affecting the industry are also analysed and policy interventions proposed.

Notable the elements of production, support services, marketing and infrastructure development is the mandate of county government. The policy requires revision to align distribution of functions between the two levels of governments. The aspect of the development of the regulatory regime is the mandate of the national government though the enforcement is executed by the county governments, which calls for a better designed policy to enhance coherence in implementation.

The National Seed Policy 2010 outlines the intervention measures to be implemented in the seed sub-sector for purposes of providing standards and uniform variety testing procedures. The policy also provides for the regulations needed for varietal release and listing of seeds in relation to

- » Provide procedures for seed production;
- » Comprehensive and flexible certification guidelines;
- » Relevant and simpler seed export and import requirements;

- » Outline the roles of relevant stakeholders in the coordination, structure, functioning and development of the seed sector;
- » Serves as the overall framework for regulatory instruments, such as the seed law and related legislation; and
- » Ensures a workable and efficient regulatory regime to operations within the seed sector.


Good balance between objectives on mandate for policy and regulation for national government whilst the county the county governments focus on he to enforcement of nationally agreed standards and uniformity of variety

Revision of the policy should be undertaken immediately and critically to consider and clearly outline the responsibility of County governments with respect to enforcing the standards and uniform variety testing procedures for seeds.

The **National Dairy Policy** aims at improving the productivity and competitiveness of the dairy industry in Kenya for improved livelihoods and food security. The goal of this policy is to improve the livelihoods of Kenyan dairy industry sector actors in line with the vision 2030. The policy thrust is to translate the sub-sector into increased dairy sector productivity leading to national food security, increased incomes and economic growth. The specific objectives of this policy are to: -

- » Improve the productivity and competitiveness of Kenya's dairy and dairy Products;
- » Positively contribute to the livelihoods of milk producing households;
- » Increase domestic consumption of milk and milk products;
- » Contribute to national food security;
- » Transform the industry into an exporter of dairy animals and products;
- » Maximize dairy exports in the regional and global markets; and
- » Re-orient milk processing towards long life dairy products.

Production and improving productivity is services provision, which is the mandate of county government and primarily relates to extension services.



The policy requires a reorientation to comply with the functional assignment. Objectives and programs on improving the productivity and competitiveness of the dairy industry need to be articulated in county policy frameworks – for purposes of translating them into projects and allocation of adequate financial resources.

The National Poultry Policy (Sessional Paper No. 2 of 2010) focuses on enhancing the contribution of the poultry industry towards food security and employment creation in the country. The main objective of the policy is to enhance the contribution of the poultry industry towards food security and employment creation in the country, specific by: -

- » Enhancing poultry production and productivity;
- » Facilitating timely detection, diagnosis, treatment and control of poultry diseases;
- » Promoting competitiveness of the poultry industry locally, regionally and internationally; and
- » Promoting value addition and marketing of poultry and poultry products.

The thrust of the policy focuses mostly on production, competitiveness and value chain development, which are all elements of county governments. The policy requires to be reviewed in line with the distribution of functions between the two levels of government with only allocation of matters national policy to the national government.

Production and improving productivity and value chain development are aspects of services provision, which is the mandate of county government and primarily relates to extension services.

The policy requires a reorientation to comply with the functional assignment.

Objectives and programs on improving the productivity, competitiveness, value chain development (value addition) of the dairy industry needs to be articulated in county policy frameworks – for purposes of translating them into projects and allocation of adequate financial resources.

The National Bee Keeping policy aims at enhancing the contribution of the beekeeping sector to food security, employment creation and

environmental conservation in the country. The specific objectives of the policy are:

- » To increase the production and supply of honey and other hive products to meet local demand and have surplus for export;
- » To promote value addition at all stages of beekeeping value chain and improve marketing of hive products for an internationally competitive market;
- » To ensure existence and safety of honeybees; To assure quality of hive products; and
- » To promote environmental conservation

The policy needs to be reviewed to recognize the functional areas that are the mandate of county governments. The policy must acknowledge and outline policy measures, which require implementation of the policy program by the county governments in order to achieve the overall policy objectives. Beside the element of policy matters, the entire thrust of the policy is the mandate of county governments.

The National Rice Development Strategy is to improve food security and income of Kenyans through sustainable rice production, marketing and utilization. The strategic Objectives are: expansion of area under rain-fed and irrigated rice; Reduction in field and storage losses of rice; Improved farmer's access to credit and to high quality inputs; Improved farmers' access to certified rice seed; Provision of advisory extension support services; Provision of effective monitoring and evaluation (M&E) system; Strengthened human resource development.

Revision of the policy/strategy to bring compliance with distribution of functions and powers – production, access to credit and to inputs, provision of extension services etc.

Strategic Interventions – revision because their implementation is the aspect of county governments


- » Rice productivity increased by developing: -
- » Improving and expanding irrigation infrastructure
- » Field and post-harvest losses reduction
- » Farmers access credit and high-quality inputs by

- » Facilitating adequate production, distribution and marketing of good quality seeds.
- » Extension, advisory support services and technology development and application

The National Policy on Integration and Drainage Development provides for the institutional set up and composition of the National Irrigation Board – representation of county governments. The parent law, the Irrigation Act does not provide for the involvement of county governments. However, irrigation projects may be performed on lands under the control of county governments. Therefore, the policy should be revised to ensure coordination and collaboration with county governments.

The Kenya Veterinary Policy, 2015, governs the livestock sub-sector. The provisions of the Fourth Schedule of the Constitution of Kenya guide the development of the policy. It aligns developments in the animal resource industry to the Constitution as well as the Kenya Vision 2030 and the international animal health laws, treaties, agreements and conventions ratified by Kenya. Development and growth of the animal resource industry has hitherto relied on the National Livestock Policy, the Agricultural Sector Development Strategy, the Kenya Vision 2030 and commodity or issue-specific policies among others. However, animal resources by their nature are varied and their functions straddle different institutions and departments. Livestock, fisheries and wildlife constitute the three broad functional domains managed by different institutions; aspects of human, animal and environmental health require cooperation across departments. The Veterinary Policy creates operational linkages among these institutions while recognizing and preserving their functional specialties. The Policy specifies key challenges facing the animal resource industry and provides direction in addressing each of them. It focuses on ten objectives leading to the realization of the goals in the animal resource industry.

The Policy takes into account the constitutional obligations of each level of government, national and county, with regard to development of animal resources and outlines functional relationships between the two levels of government. The Policy provides an enabling environment for safeguarding animal life, health and welfare as well as animal propagation and production for food security and economic



development. The design of the policy is hoped to largely inspire implementation, which will boost the contribution of the animal component to food security and ensure that animal products that are consumed or marketed meet the highest safety and nutritional standards.

The development and governance of the fisheries sub-sector in Kenyan has generally and largely focused on the inland sector. The governance of marine sector is weak and may require strengthening in terms of policy and structural reform. The policy frame on fisheries provides for the conservation, management and development of fisheries and other aquatic resources focusing on ways to enhance the livelihood of communities that depend on fishing.

The overarching policy is the **National Oceans and Fisheries Policy, 2008**, which outlines the policy guidelines and objectives for the sector and enumerates guiding principles for the policy. It also gives specific policy statements covering the areas of research and development for the fisheries sector, proposal on resource management, prioritization of matters on aquaculture development and the enhancement of monitoring control and surveillance.

Further, the policy provides for the legal and institutional framework and details out opportunities for trade and commerce, infrastructure investments and infrastructure development together with the aspects of human resource development. This policy is outdated with regard to the governance of the country and specifically the system of devolved government by the dint of being developed in 2008. In as much the policy development was comprehensive at the time and taking cognizance national development plans, the Strategy for Revitalizing Agriculture (SRA) of 2004 and the Kenya Vision 2030 much has changed that require realignment of the policy document.

Table 3: Matrix Audit of Agriculture Sector Policies

Act/Policy	Issue	Rationale	Recommendation
Agricultural Sector Development Strategy (ASDS)	<p>As per the distribution of functions between the two levels of government in fourth schedule, the strategy frames functions for devolved to county governments as though they are within the purview of the national government. The issues under consideration includes:</p> <ul style="list-style-type: none"> » Implementation of policy and legal frameworks » Improving agribusiness and market Access » Improving land use and crop Development » Enhancing access to Inputs and credit to farmers » Improving livestock productivity » Improving control of livestock diseases and Pests » Integrated development and management of rangelands » Improving animal health » Developing aquaculture » Improving capacity for marketing agricultural inputs and produce » Enhancing access to agricultural credit 	<p>The policy the way it is currently designed and framed portends a perspective whereby policy implementation is skewed in a manner entails national government functions performing and undertaking functions allocated to the county government as per the constitution. This requires a significant shift since the largest aspect of the strategy's implementation relates to service deliver which now is the responsibilities of the county governments</p>	<p>Revision of the policy with a view to developing an entirely new policy. Notable the national government through the Ministry of Agriculture has initiated this process</p>

Act/Policy	Issue	Rationale	Recommendation
<p>Session Paper no 2 of 2008 on National Livestock Policy</p>	<ul style="list-style-type: none"> » Promoting and implementing value addition » Promoting good governance, management and efficiency » Implementing programs for private sector participation <p>Aspects of powers and functions under livestock functional areas that have been devolved to county governments are framed by the policy as belong to the national government</p>	<p>The sessional paper at the time of its development, 2008 assumed an institutional and implementation framework of a centralized system of government. For realignment to the devolved system of government, focus of implementation of the policy programs will require to be assigned to county governments in the following functional areas: implementation of national veterinary policies; management of livestock sale yards and county abattoirs; livestock extension services to deliver husbandry technologies; management of sanitary measures; management of county abattoirs, primary preventive health care –vaccination, veterinary Clinical services, implement disease control programmes and disease surveillance; vector surveillance and control including tick and tsetse fly control; management of regulatory services such as control of animal</p>	<p>An overhaul of the sessional paper and be framed to embrace the spirit of the constitution in relation to functional assignment and also provide a framework to support implementation of devolved functions in the livestock sector.</p>

Act/Policy	Issue	Rationale	Recommendation
The Co-operative Development Policy		<p>movement (intra and inter county) and development of relevant county veterinary; implementation of animal welfare standards across all species and sectors- transportation, humane slaughter; conservation and management of animal reproductive resources such as implementation of animal reproductive services including Artificial insemination; collection and synthesis for county planning and reporting to National Veterinary Services; promotion of livestock trade- market access and product development</p>	
			<p>The revised policy is up to date with regards to functional assignment with a clear distribution of function between the two levels of governments. The role of county governments has been articulated as the management and administration of Co-operatives as follows:- formulate county specific co-operative policies in line with national goals and policies; promote registration of co-operatives; carry out impromptu inspections into the affairs of county co-operatives; provision of audit services and enforcement of audit requirements and standards; promote value addition and adoption of appropriate technology by co-operatives; establish and maintain</p>

Act/Policy	Issue	Rationale	Recommendation
<p>National Food and Nutrition Security Policy: Sessional Paper No.1 of 2012</p>	<p>» These main issues of concern that the policy addresses include; food availability and access, food safety, standards and quality control, nutrition improvement, school nutrition and nutrition awareness, food security and nutrition information, and early warning and emergency management.</p> <p>» The policy proposed implementation strategy through the creation of secretariats at national and county levels.</p>	<p>» Aspect of food availability, food safety and nutrition improvement is within the purview of county government for reasons of subsidiarity and proximity of enforcement.</p> <p>» Implementation of the policy programs as per the proposed structures requires adjustments and revision to enhance coordination especially matters on enforcement of standards and advocacy programs including awareness rising.</p>	<p>county co-operative information centers; enforce compliance with co-operative legislation; facilitate collaboration and linkages with various stakeholders for the benefit of the movement; enforce good governance in the management of the co-operative societies within their jurisdiction;</p> <p>and undertake co-operative education and training.</p> <p>Review of the policy can be undertaken in the medium term under the mechanism of relevant sectoral forum</p>
<p>National Agricultural Sector Extension Policy Sessional Paper no 1 of 2011</p>	<p>Agricultural extension services are fully devolved are the mandate of county government and therefore from an implementation standpoint, respective county governments and not the ASCU should carry out these set of activities.</p>	<p>Agricultural extension services both for crop and livestock are fully devolved and hence the policy should present a framework depicting that philosophy and viewpoint as well as an implementation framework by county governments</p>	<p>Revise the policy to bring to conformity of the distribution of powers and function under the functional area of agriculture and specifics of agricultural extension services.</p>

Act/Policy	Issue	Rationale	Recommendation
<p>National Agricultural Research System Policy, 2012</p>	<ul style="list-style-type: none"> » Lack of coordination with county governments in the development of agricultural research – farming practices » Agricultural technology development and its application » Poor coordination on outreach and technology dissemination in relation to application by county government » Setting of the research agenda which requires to be aligned with the needs of the county governments alongside areas of crop and animal husbandry. 	<p>Coordination between national and county governments in the develop a framework for coordination implementation of agricultural research farming practices</p> <ul style="list-style-type: none"> » Need for increased focus on outreach and technology dissemination – coordination with county government (application) 	<p>Extensive revision of the policy to reflect standards & norms for research development, application of research technology and coordination between the two levels.</p>
<p>National Agribusiness Strategy</p>	<p>The focus and priorities of the Agribusiness on production, processing, product development and packaging as well as focus research and development and innovation to better catalyse growth of a vibrant agribusiness sector which are all mandates of county governments in totality.</p>	<ul style="list-style-type: none"> » The aspect of development of market systems to enhance productivity, processing, product development across agricultural value chains is a mandate of county governments. » County governments would need to develop and finance the different programs and strategies on market system development with a very limited role of the national government on standards and norms. 	<p>A complete overhaul of the policy and no need of a national strategy document on agribusiness. County should developed individual agribusiness strategy documents reflecting specific county contexts and needs</p>

Act/Policy	Issue	Rationale	Recommendation
National Horticulture Policy, 2012	This policy offers specific interventions for production, support services (financing, research and extension), marketing (local, regional and export markets), infrastructure as well as regulatory and institutional arrangements. Cross-cutting issues affecting the industry are also analysed and policy interventions proposed.	The components of production, support services, marketing and infrastructure development are the mandate of count governments.	The policy requires revision to align distribution of functions between the two levels of governments. Critical is the aspect of the development of the regulatory regime is the mandate of the national government though the enforcement is executed by the county governments, which calls for a better designed policy to enhance coherence in implementation.
National Seed Policy, 2010	The thrust of the policy does not provide clarity for a system of devolved government where there is shared responsibility between the two levels of government. Lack clarity, policy coherence and allocation of responsibilities relate to the policy intervention measures in the setting out of standards and uniform variety testing procedures. The policy also provides for the regulations needed for varietal release and listing of seeds in relation to procedures for seed production; certification guidelines; seed export and import requirements; framework for regulatory instruments, such as the seed law and related legislation; and ensuring there is a workable and efficient regulatory regime to operations within the seed sector.	Good balance between objectives on mandate for policy and regulation for national government whilst the county the county governments focus on he to enforcement of nationally agreed standards and uniformity of variety	Revision of the policy should be undertaken immediately and critically to consider and clearly outline the responsibility of County governments with respect to enforcing the Standards and uniform variety testing procedures for seeds.

Act/Policy	Issue	Rationale	Recommendation
National Dairy Development Policy	The policy thrust is to translate the sub-sector into increased dairy sector productivity leading to national food security, increased incomes and economic growth. These are functions of county governments: productivity and competitiveness of Kenya's dairy and dairy products; increasing of domestic consumption of milk and milk products; contribution of milk to the objectives of national food security; export of dairy animals and products etc.	Production and improving productivity is services provision, which is the mandate of county government and primarily relates to extension services	The policy requires a reorientation to comply with the functional assignment. Objectives and programs on improving the productivity and competitiveness of the dairy industry need to be articulated in county policy frameworks – for purposes of translating them into projects and allocation of adequate financial resources.
Sessional Paper No. 2 of 2010 on National Poultry Policy	The thrust of the policy focuses mostly on production, competitiveness and value chain development, which are all elements of county governments. The policy requires to be reviewed in line with the distribution of functions between the two levels of government with only allocation of matters national policy to the national government.	Objectives and programs on improving the productivity, competitiveness, value chain development (value addition) of the dairy industry needs to be articulated in county policy frameworks – for purposes of translating them into projects and allocation of adequate financial resources.	The policy requires a reorientation to comply with the functional assignment.
National Beekeeping Policy	The policy goals and aims focus on enhancing the contribution of the beekeeping sector to food security, employment creation and environmental conservation in the country. Aspects production and supply of honey and other hive products to meet local demand and have surplus for export, promoting value addition and ensuring the existence and safety of honeybees fall well under the functions of county governments.	The policy must acknowledge and outline policy measures, which require implementation of the policy program by the county governments in order to achieve the overall policy objectives. Beside the element of policy matters, the entire thrust of the policy is the mandate of county governments.	The policy needs to be reviewed to recognize the functional areas that are the mandate of county governments.

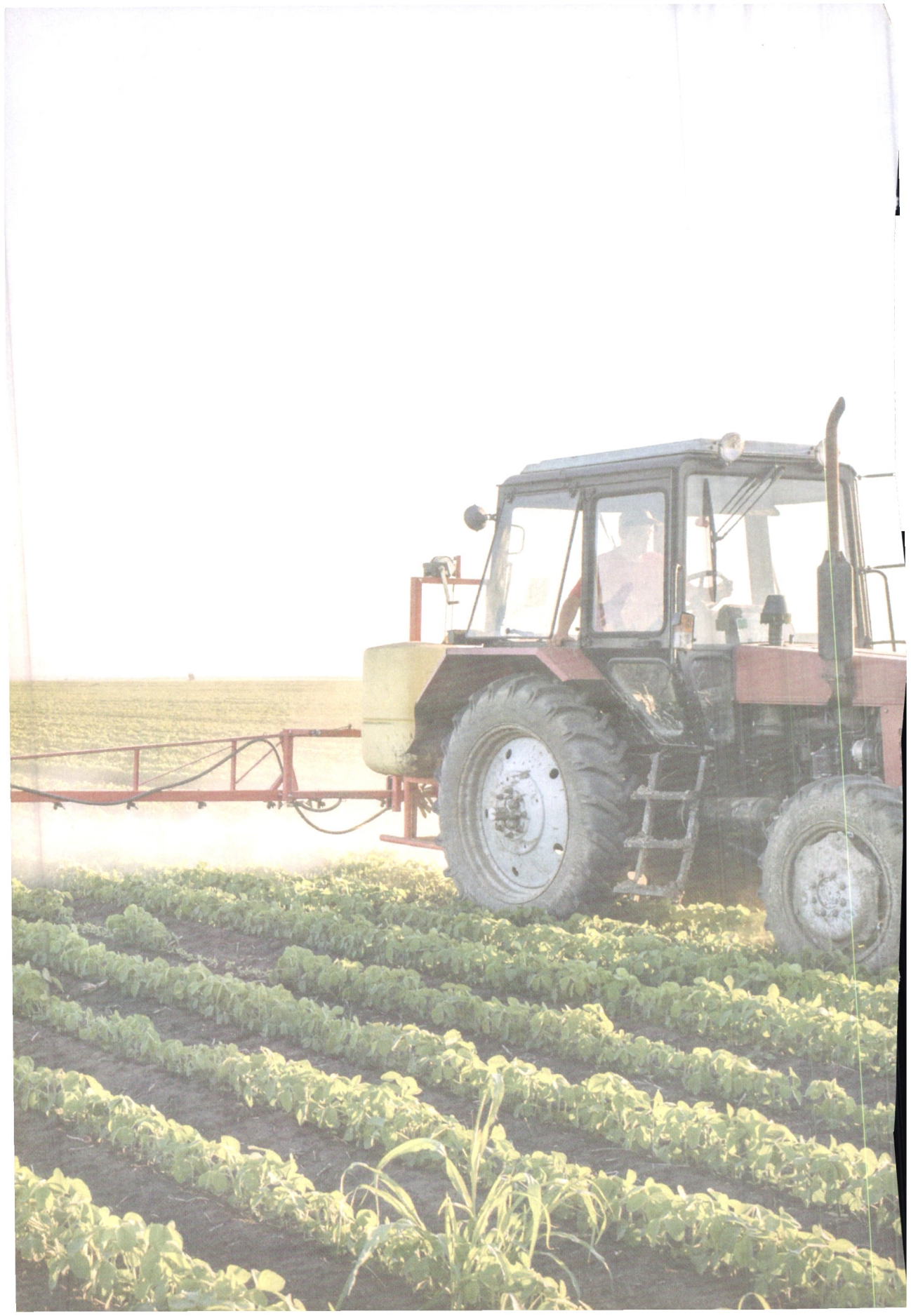
Act/Policy	Issue	Rationale	Recommendation
<p>Sessional Paper No. 3 of 2016 on National Climate Change Framework Policy</p>	<ul style="list-style-type: none"> » Protection of the environment and natural resources is allocate to national government whilst the county governments are in charge of implementation of specific national government policies on natural resources and environmental conservation. » The implementation framework tat envisions the national government to prepare and implement Climate Change Action Plans » Mechanism for ensuring that the Climate Change Action Plans for implementation of the Policy are aligned with the regular MTPs of Vision 2030. » Public collaboration, consultations and public awareness being carried out by national government. 	<p>The policy also established a mechanism for ensuring that the Climate Change Action Plans for implementation of the Policy are aligned with the regular MTPs of Vision 2030. This framework requires further revision in order to provide a framework that facilitates implementation of policy programs, projects and climate change action plans by county government as outlined and guided by the national policy.</p> <p>» With regard to public collaboration, consultations and public awareness across all sectors, interest groups and all publics, the policy need to be deliberate it should be revised to provide an outline and policy statements to coordinate framework between the national government and county governments with the established mechanism of intergovernmental relations framework specifically the ministerial and sectoral forums.</p>	<p>The policy requires significant revision in order to align it to the devolved system of government alongside the abovementioned functional assignment of powers and functions under environmental conservation. Granted, the policy is well aligned to the constitutional objectives of the ecological commitment to ecologically for sustainable development.</p>

Act/Policy	Issue	Rationale	Recommendation
<p>National Biotechnology Development Policy</p>	<p>The policy's main statement of objective is to promote, and coordinate research in basic and applied sciences in biotechnology for purposes of promoting sustainable industrial development for the production of biotechnology-derived products. The application of biotechnology is largely in the areas of agriculture, public health and environment industries.</p>	<p>» The policy objective statements in terms of the agencies involved with production, regulation and application of biotechnology research and products need alignment to the devolved system of government.</p> <p>» The application of biotechnology is in functional areas (or sectors) that are devolved and hence the mandate of the county governments. It is however in order for the mandate on national policy and regulation be allocated to the national government.</p>	<p>Key consideration for the revision of the policy is to provide a framework of coordination and outlining enforcement mandate of regulation enforcement to county government.</p>
<p>The National Rice Development Strategy</p>	<p>Development strategy concerned with improving food security and income of Kenyans through sustainable rice production, marketing and utilization is not compliant with allocation of functions between the two levels of government more so agricultural production.</p>	<p>The strategic interventions that relate to: rice productivity increase; improving and expanding irrigation infrastructure; field and post harvest losses reduction; farmers access credit and high quality inputs; facilitating adequate production, distribution and marketing of good quality seeds an extension, advisory support services and technology development and application are the mandate of county governments.</p>	<p>Immediate revision of the policy/ strategy to bring it into compliance with distribution of functions and powers – production, access to credit and to inputs, provision of extension services etc. this is necessary since rice is a strategic grain for attaining food security.</p>

Act/Policy	Issue	Rationale	Recommendation
<p>National Policy on Irrigation and Drainage Development</p>	<p>The institutional set up and the implementation framework totally county governments role in irrigation and powers over land held in trust by county governments. The policy is framed in a manner which involves national government to be in active implementation of programmes and projects under irrigation within the jurisdictions of county governments.</p>	<ul style="list-style-type: none"> » Representation of county governments if implementation of irrigation projects » Disregard by national government in acquisition of land, which is held in trust by county governments as custodians of trust lands. » Lack and poor coordination and collaboration by the two levels of governments. County Governments are left out and there is no collaboration. 	<p>Revision of the policy in the medium term to reflect the allocation of functions between the two levels of government under irrigation. A better outline and description should be provided in the policy framework for areas of concurrent functions.</p>

4. Main conclusions and recommendations

- » While a number of laws have been repealed in the sector, a majority of the relevant legislation to the sector require an overhaul for compliance with the Constitution.
- » The Ministry in-charge of Agriculture has many institutions whose mandate overlaps with county governments. The recommendations of the 2013 Parastatal Taskforce should be reviewed and applied to the agricultural sector in order to restructure and rationalise the roles played by the numerous Semi-Autonomous and Autonomous Government Agencies in the Sector (SAGAs) in the sector.
- » Furthermore, there is a need to relook, in a holistic manner, the functions performed by the SAGAs vis-à-vis the role of counties in the Constitution. The Agriculture Sector is one of the sector whose functions are mainly devolved and performed at the county level and this should be reflected in the policy, legal and institutional arrangements of the sector.
- » Development of sector policies provides a space and opportunity for negotiating functional boundaries for concurrent function if any and achieving coherence in the sector. A number of policies have been proposed and these should be developed on the basis of consultation and cooperation.
- » It is important that all laws and policies are developed on the basis of Vision 2030, the country's economic blueprint as well be alive to devolution. This is especially important for agriculture, which is the country's largest economic sector





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