

# The Effects of Coordination in Multilevel Governance System on Water Services Management in Kenya

James Origa Otieno

The University of Nairobi

Department of Political Science and Public Administration, Kenya

Joseph Okeyo Obosi

The University of Nairobi

Department of Political Science and Public Administration, Kenya

Justine Mokeira Magutu

The University of Nairobi

Department of Political Science and Public Administration, Kenya

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## Abstract

This article examined the effectiveness of the existing framework for intergovernmental coordination in Kenya's multilevel governance system and its effects on the management of water services delivery. Based on a thematic analysis of interviews with policy actors from both levels of government, the findings indicate that, despite agreement among policy actors from both levels that there is a significant functional interdependence in the delivery of water services, the scope and frequency of coordination were less than anticipated under the devolution policy. This has negatively impacted water service delivery in numerous ways. The study demonstrates that the underlying causes of the observed weak intergovernmental coordination are factors related to persistent contestation of functional assignment between the two levels of government, resource allocation, and perceptions of national government encroachment into county functions which erodes trust and undermines service delivery.

**Keywords:** Multilevel governance, decentralization, devolution, intergovernmental coordination, water services delivery

## Introduction

According to Yusuf & World Bank (1999), by the turn of the new millennium, many nations globally had implemented multilevel governance through some form of decentralization reforms to enhance the delivery of public services. Various scholars have used the terms multilevel governance and decentralization interchangeably. Piattoni (2010) distinguishes between the two concepts. She asserts that multilevel governance refers to the overarching distribution and exercise of power by multiple levels of government and non-governmental actors. Decentralization, on the other hand, is the operational structure and process of transferring power and authority from a central government to lower levels of government, including provinces, municipalities, and even communities. Decentralization, in whichever form it is adopted, be it devolution or deconcentration, is essential for the implementation of multilevel governance due to its key role in assigning responsibilities to different levels of government units and defining coordination mechanisms among them (Bardhan, 2002; Hooghe & Marks, 2003). Sakhanienko et al. (2023) identify structures for coordination of governance actors, mechanisms for sharing power and assigning functions, and the autonomy of actors under the principle of subsidiarity as the most crucial components to the functioning of multilevel governance.

The practice of multilevel governance generally involves interactions between a multiplicity of policy actors at varying levels, thus negotiations, coordination, and mutual adjustments based on rationale choice between these actors so as to avoid socially perverse outcomes becomes a critical aspect of the governance process (Hooghe & Marks, 2021). Castañer & Oliveira (2020) defines coordination as the deliberate adjustment of actions, concurrence on the division of responsibilities and functions, and the integration of dispersed activities among interdependent but distinct actors resulting not only in the achievement of jointly determined goals but also prevention of socially perverse outcomes. Water services management involves choices about the ownership and management of infrastructure and service models to provide water to end users; choices on sharing and management of water resources to assure sustainable use of water resources and relationship among actors at national and subnational levels based on existing governance configurations (Jiménez et al., 2020; Zwarteveen et al., 2017). Considering the complexity in the governance of water services, primarily owing to the shared resource and transboundary nature of water resources, and the multitude of actors and processes at different levels of governance, foregrounding issues of coordination is a necessary condition of unpacking the nature of the complexity (Akhmouch et al., 2020; Moss & Newig, 2010; Pahl-Wostl, 2015). Some scholars have attributed this complexity which yields significant coordination challenges to institutional fragmentation (Bréhaut & Turley, 2020; Zelli & Van Asselt, 2013). Others have emphasized institutional misfit where the choice of institutional arrangements are not properly designed to match the scale of problem being addressed as a major source of coordination challenges in the management of water services in multilevel systems (Rubiños & Del Carpio, 2022; Young, 2002).

Wang et al., (2016) attributed fundamental causes of water management conflicts in China to lack of coordination between stakeholders resulting from the complex inter-jurisdictional

policy conflicts. On the other hand, Hurlbert & Diaz (2013), argued that coordination failure observed in multilevel governance regimes in Canada and China occurred as a result of management balkanization caused by a lack of clarity regarding roles and mandates of the different policy actors. Jia et al., (2019) demonstrated that ineffective interjurisdictional coordination of China's urban water governance led to a lack of accountability for urban water pollution, inconsistent strategies for securing water sources, and increased water supply costs as a result of an emphasis on large technocratic infrastructure over local catchment conservation approaches. They observed that frequent and special meetings of government officials, as well as the establishment of an overarching body to combine responsibilities dispersed between jurisdictions, were beneficial in overcoming the coordination challenge.

Bakker & Cook (2011) concluded that, while the presence of multiple actors is not always problematic, the absence of an effective coordinating mechanism resulted in multiple conflicting water policies and prolonged policy development periods as stakeholders took long to obtain consensus over conflicting mandates and jurisdictions in Canada. Additionally, they noticed that complexity caused by opposing organizational mandates necessitating compromise had a major impact on coordination and, as a result, on collective water management outcomes. Hegga et al., (2020) argued that institutional overlaps within Namibia's decentralized water supply regime resulted in insufficient coordination between the national, regional, and local governments, leading to high failure rates of installed infrastructure due to no one accepting ultimate responsibility for its maintenance. Mobarak Mushfiq & Lipscomb (2009) evaluated the impact of interjurisdictional coordination on river water pollution and discovered that collectively coordinated basin committee negotiations resulted in a greater reduction in pollution than individual actor's efforts. According to Bezerra et al. (2021), the absence of an efficient interinstitutional coordination framework resulted in inconsistency in information exchange, a lack of communication, and transparency, resulting in increased conflicts among the multiple uses of water and further centralization of water management decision-making.

Under Kenya's decentralized system of governance, the national and county governments share responsibility for water sector development and service provision. This is consistent with the Kenyan Constitution of 2010, which establishes Kenya as a unitary state with a two-tiered multilevel government that decentralizes political policymaking authority and fiscal resources from the national government to forty-seven (47) subnational county governments. Whereas the national government is responsible for water sector policy leadership, regulation, the provision of infrastructure that serves multiple counties, and technical assistance to county governments to attain sectoral objectives, the county governments are responsible for the provision of water services at county level. This calls for coordination between the two levels of government in carrying out their respective responsibilities in water services provision. By looking at the effectiveness of the instruments and interdependence of both level of government in processes of water policy and water services delivery investments planning and implementation, this article has argued that inadequate intergovernmental coordination between the national and county levels under Kenya's devolved multilevel governance regime has hindered the management of water service including constraining the development of key

sector policies, strategies, and plans.

### **Theoretical framework**

This study was tailored around Neumann & Morgenstern (2007) game theory as an analytic lens to examine intergovernmental coordination in multilevel governance of water services delivery in Kenya. Game theory models situations in which multiple actors must interact and coordinate their behaviour strategically to achieve certain desired outcomes considering various constraints, pressures, and priorities they face including the behaviours of other actors. The key proponent of the theory is that there are actors who must consider various possible actions or strategies to accomplish their desired objectives, the order of which is determined by anticipating the choices of other actors. The outcome of the interactions is determined by the combined strategies of all participating actors. Sen (2015) furthers the game theory by positing that the actors' decisions are governed by a set of rules that specify which decisions are permissible and which are prohibited. The main assumptions underlying the game theory are that the outcomes of interactions, whether cooperative or not, can be explained by the fact that each actor is aware of the agreed-upon rules and will make rational decisions based on their perceptions of benefits accruable to them. Each actor also assumes that the other actors are rational and will, therefore, coordinate their strategies to maximize their utility out of the interactions (Sen, 2015).

In multilevel governance systems, such as Kenya's devolved institutional structure for water services delivery, policy formulation and implementation are influenced by the interactions between multiple policy actors at the national and county level. Policy actors at the national and county government levels interact within the institutional framework that assigns difference functions for water services delivery to each level of government as well as the expected rules on cooperation and coordination as defined in article 189 and the fourth schedule of the Constitution of Kenya. Actors will choose to coordinate or not coordinate their actions and strategies for delivering services to citizens based on their perceptions of interdependence, and motives of the other actors in order to maximize their utility, which includes attempts to secure the support of citizens and maximizing political expediency.

### **Data and Methods**

This study sought to examine the perspectives of policy actors regarding the efficacy of the existing framework for intergovernmental coordination in Kenya's multilevel governance system and its effects on the delivery of water services. The interview method was used to acquire data for the study, as it allows for the elicitation of interviewees' personal experiences, attitudes, perceptions, and beliefs as well as the exploration of more sensitive issues that may be revealed anonymously. Through semi-structured interviews, the study elicited narrative data that allowed participants who were policy actors intimately familiar with the underlying issues on the governance of water services delivery in Kenya to answer questions about meaning and perspective. Between September 2022 and February 2023, twenty-six (26) policy actors from the national government, county administrations, and non-state actors were interviewed using a key informant guide. Purposive sampling was used to select policy actors based on their participation in the water governance arena in Kenya, until data

saturation was reached. The questions posed to the interviewees centred on establishing the nature of existing instruments for institutional coordination between the national and county governments in the water sector; the perceptions of policy actors regarding the effectiveness of the coordination instruments; the extents of functional interdependence between the two levels of government and how this influences their propensity to coordinate or not; the frequency of coordination activities; the key factors motivating or disincentivizing coordination; and how these coordination dynamics has affected water service delivery in Kenya.

### **Data analysis and Discussion of results**

The interviews were transcribed and qualitatively analyze using thematic coding with *Dedoose* software and manual analysis with Microsoft Excel. The data was analyzed, presented, and discussed within the context of two overarching themes: the how and the why of intergovernmental coordination. The perceptions of policy actors regarding the efficacy of extant coordination instruments, the extent of functional interdependence, and the practice of coordination between the national and county governments were the focus of the how theme. The why theme sought to explain the observed coordination dynamics by examining the emergent underlying factors that determine intergovernmental coordination, as well as the effects of coordination (or lack thereof) on the delivery of water services. The findings were presented and discussed using tables and figures to summarize the data, as well as a narrative format with excerpts from the interviews to illustrate the findings.

### **Effectiveness of the existing instruments and approaches for intergovernmental coordination**

This section examines the efficacy of existing coordination instruments in accomplishing intergovernmental coordination goals in the delivery of water services. The Constitution of Kenya assigns different responsibilities to the national and county governments, with county governments having the discretion to tailor water services policies and investments to local needs and context based on national policies, strategies, laws, and regulatory provisions. To avoid policy incoherence, contradiction, and duplication of functions and investments, however, the two levels of government are expected to carry out their responsibilities in a coordinated manner through various intergovernmental coordination instruments.

When asked to identify the existing instruments and approaches put in place to facilitate inter-governmental coordination of water services delivery under the current devolution policy as summarized in table 1.

Table 1. Existing instruments for intergovernmental coordination of water services delivery in Kenya

Existing Instruments and approaches for intergovernmental coordination for water services delivery	Frequency	Category of Respondent who gave this response
Council of Governors secretariat including under it water CECMs caucus and CoG water committee meetings	10	Water services provider companies; WASPA; County Government official; Council of Governors; CSO/NGO official
Intergovernmental Relations Technical Committee (IGRTC)	8	Council of Governors; County government official; Ministry of water official; Transition Authority; Development partner
WASREB (during the WSPs' licensing and tariffs approval process)	6	Water services provider companies; WASPA; WASREB; Development partners
Water Service Providers Association (WASPA)	4	Water services provider companies; WASPA official; Ministry of water official
Through the funding arrangements between WSPs and WSTF at the national level	2	Water services provider companies
When designing new projects between counties, MoWSI and the WWDAs	3	Water services provider companies, County government officials, WWDAs officials
There is currently none. Forums such as CoG and WASPA are more for lobbying and advocacy and not intergovernmental coordination	1	Water services provider companies;

(Source: key informant interview transcripts)

All respondents identified the Council of Governors Secretariat, including its various caucuses, and the Intergovernmental Relations Technical Committee as the primary mechanisms for intergovernmental coordination, as shown in Table 1. However, additional instruments and approaches to coordination were also highlighted. For instance, water service providers (WSPs) identified the Water Services Regulatory Board (WASREB) as a crucial instrument for coordinating water service activities between counties and the national government by virtue of their mandate for licensing and enforcement of regulatory standards in services provision. The WSPs also highlighted their association – the Water Services Providers Association (WASPA), as a critical coordination instrument. In addition, WSPs regard their funding arrangements with the Water Services Trust Fund (WSTF) as instruments for coordinating intergovernmental water services activities. Policy actors at both levels of government appear to concur that the processes of designing and implementing specific water investment projects jointly is a crucial aspect of service delivery coordination. In contrast, some respondents believe that no coordination instruments currently exist, emphasizing that the Council of Governors (CoG) is predominantly a county advocacy platform and not an intergovernmental coordination instrument.

When probed further on their perceptions on the effectiveness and efficiency of the above intergovernmental coordination instruments, the responses of the interviewees are as summarized in Table 2.



Table 2. Respondents perceptions on the effectiveness of intergovernmental coordination instruments for water services delivery

Perceptions of respondents	Frequency	Category of Respondents	From what Level of government
national government actors do not view the counties as equals creating coordination conflicts with counties	9	Ministry of water; Water Service Providers Association (WASPA)	National, county
The intergovernmental technical relations committee only intervenes when a problem arises, as opposed to having a clear pattern of planned coordination events	11	Water Service Providers Association (WASPA)	National
Persistent mistrust, competition, and conflict resulting from counties view of the national government as encroaching into their functions and withholding funds from them have rendered the coordination instruments ineffective	14	Water Services Regulatory Board (WASREB) official; NGO/civil society official	National
The counties do not regard the intergovernmental technical relations committee as a neutral and efficient instrument for coordination.	8	Council of Governors; Development partner official; county government official	National, county
The existing coordination instruments are inadequate to hold aberrations from the rules accountable.	21	CSO/NGO official	Non-state actor
The intergovernmental relations committee as a coordination instrument is non-binding, with limited legislative backing and no authoritative means of enforcing decisions on actors from both levels	13	Water Works Development Agency (WWDA)	National
The less statutory forums such as CECMs caucus and WASPA has been more effective at enabling coordination compared to CoG and the IGTRC	18	Water service Provider company, county government, civil society/NGO, development partners	County, National
The CoG secretariat has been generally effective at macro-level coordination but weak on water sector coordination	1	Former Transition Authority official	National
Forums such as the CoG and IGTRC are not legally binding, hence cannot enforce coordination effectively.	7	Water service Provider company	County

(Source: key informant interview transcripts)

Table 2 reveals a two-stream categorization of coordination instruments: statutory and non-statutory. Most respondents, particularly those from civil society and the county level, including water companies and county government officials, believe that non-statutory coordination instruments, such as the CECMs caucus and the WASPA, have been more effective at facilitating coordination than statutory coordination instruments established under the Intergovernmental Relations Act of 2012, such as the Council of Governors, the IGTRC, and the National and County Governments summit. The key reason highlighted for this was that non-statutory instruments rely on the goodwill and trust of the professional networks of the actors involved, as opposed to the legal enforcement requirement of the statutory coordination instruments. This concurs with Watts (1997), who argued that formal institutions would be more effective at enabling intergovernmental coordination when reinforced by

informal conditions such as mutual respect, trust, and recognition of the legitimacy of the other's actors' position in the institutional arena. As one CSO/NGO official stated,

There are both the statutory instruments such as through the intergovernmental coordination Act that establishes the summit, the cog and the intergovernmental relations committee but also there are the lesser formal instruments that are non-statutory such as coordination through the water cecms caucus. As non-governmental actors who engage with both levels, we find the lesser formal channels as more useful than the statutory instruments because they are based on shared goodwill and friendly consensus rather than hierarchical or forceful means in the law (CSO/NGO official)

A second major trend in the responses to the question of the effectiveness of coordination instruments was that even though the Council of Governors and the Intergovernmental Technical Relations Committee (IGTRC) were widely cited as the primary instruments for facilitating intergovernmental coordination in the delivery of water services, several respondents pointed out that both instruments have significant shortcomings. Not only do policy actors from county governments and water service companies at the county level view the IGTRC as a "mouthpiece" of the national government that favors actions driven by the national government, causing counties to question its legitimacy as a neutral coordinator and arbitrator of emerging conflicts between the two levels of government, but they also criticize it for being more reactive than proactive in facilitating coordination via a well-planned schedule of engagements. As some respondents stated,

*While the primary role of the functions of the intergovernmental relations committee is to facilitate the activities and implementing the decisions of the National and County Government Coordinating Summit and the Council of Governors (COG).....the IGTRC has only remained a mouthpiece of the NG and a weak arbitrator since counties see it not as neutral (County Government official)*

*While we have the intergovernmental relations committee with the mandate to facilitate working together, we have seen them get involved only when there is a problem rather than having a clear pattern of joint planning which is lacking in the sector (water service company official)*

On the other hand, a national ministry of water official is of the view that the Council of Governors has had an adversarial relationship with the national ministry of water, which has impeded its effectiveness as a platform for intergovernmental coordination.

*There's a feeling from the ministry of water and the WWDAs that the COG is overstepping its mandate to be a dangerous vicious body that seems to be fighting the National Government rather than being a facilitator of coordination and consensus (ministry of water official)*

More than eighty (80) per cent of the study respondents from both levels of government were of the perception that the existing coordination instruments are inadequate to hold policy actors from both levels of government to account for failing to effectively coordinate in water services delivery as required by the constitution.

When probed further to establish the scope and frequency of coordination activities for water



services delivery between the national and county governments since devolution policy was operationalized, respondents provided the information summarized in Table 3.

Table 3. Scope and frequency of intergovernmental coordination in water services delivery in Kenya

scope of intergovernmental coordination	no. Of respondents	Category of Respondent	Level of government
During launch, implementation, or handover of projects from national government to counties (especially for externally funded projects)- Periodic project-based coordination n=17	17	Water Works Development Agency (WWDA); WASPA; WSP official; Council of Governors; Ministry of water, development partner	National, county
During public consultation activities on the tariffs and license renewal for water service providers- More regular and always on-going between WASREB and WSPs n=13	13	Water service provider company; Water Services Regulatory Board (WASREB) official	National, county
During discussion of the water sector coordination framework in Naivasha n=4- Was a one-time event	4	WSP official; Council of Governors; Ministry of water, civil society/NGO	National, county

(Source: key informant interview transcripts)

The respondents' perceptions that coordination between policy leaders from the two levels of government has not occurred frequently are supported by Table 3, which summarizes the scope, frequency, and intensity of coordination activities. Unless related to specific projects jointly implemented by the national and county governments, most respondents from both levels of government agreed that there are no regular patterns of intergovernmental coordination in the delivery of water services. The responses also indicate that, usually, the coordination for project implementation is a condition imposed by external development partners, who impose conditions requiring efficient coordination between the two levels for successful project delivery. Most of the county-level WSP respondents appreciate and acknowledge that coordination with WASREB is the only regular coordination event, primarily due to statutory requirements for the enforcement of regulations and service standards. Aside from the more frequent coordination between WASREB and the water utilities as part of regulatory enforcement processes and the periodic coordination during the implementation of specific projects, the only policy level coordination event highlighted was the one-time discussion in March 2018 in Naivasha towards the drafting of a water sector intergovernmental coordination framework. The framework has not yet been implemented, according to respondents from the council of governors and the ministry of water, more than four years after the framework's draft was approved. The framework was designed to provide a practical platform for dialogue and a liaison mechanism between the National Government and the County Governments, as well as to complement the efforts and work of the Inter-Governmental Technical Relations Committee (IGTRC) in coordinating the

achievement of water sector policy goals and service standards (Intergovernmental technical relations committee, 2022).

Four years after the ratification of the coordination framework by both levels of government, several explanations were provided for its non-operationalization. Most respondents ascribed the delays to political disputes over functional assignment, specifically disagreements regarding the role of Water Works Development Authorities (WWDAs) within the county level. Most counties maintain that these WWDAs should not conduct activities within their jurisdictions unless its cross-country and bulk investment in nature and that the funds allocated to them should be allocated to the counties as their proportionate share of national revenue. On the other hand, water ministry officials argue that WWDAs should continue to exist because of the high level of expertise they have developed to undertake quality infrastructure works as compared to the counties are still developing such capacity. This impasse has impeded the implementation of the coordination framework, as the national government insists on a role for the WWDAs within the framework, much to the counties' chagrin. Other factors cited as contributing to the delay include the fact that the majority of actors view the decisions of the forums as non-binding in the absence of a clear legal enforcement mechanism. This has led to the belief that they can continue to operate regardless of the existence of the coordination framework. This validates earlier observations on the perception of actors, such as Council of Governors officials, development partner officials, county government officials, CSO/NGO officials, and WWDA officials, that the existing coordination instruments are insufficient to hold deviations from the rules accountable and that the intergovernmental relations committee as a coordinative body is inadequate.

In spite of the existence of a set of processes, institutions, and arrangements through which governments from both levels can interact and effect coordination in the delivery of water services, there is no consensus among actors from both levels on the legitimacy and efficacy of these instruments to enforce coordination. This has diminished their ability to facilitate the expected coordination. The architects of the Constitution of Kenya (2010) outlined the normative expectations for coordination between the two levels of government in carrying out their assigned responsibilities under Article 189.

*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 (Constitution of Kenya, article 6(2))*

*(1) Government at either level shall (a) perform its functions, and exercise its powers, in a manner that respects the functional and institutional integrity of government at the other level, and respects the constitutional status and institutions of government at the other level and, in the case of county government, within the county level; (b) assist, support and consult and, as appropriate, implement the legislation of the other level of government; and (c) liaise with government at the other level for the purpose of exchanging information, coordinating policies and administration and enhancing capacity. (2) Government at each level, and different governments at the county level, shall co-operate in the performance of functions and exercise*

*of powers and, for that purpose, may set up joint committees and joint authorities.*  
(Constitution of Kenya, article 189(1))

However, these expectations have not been met, as evidenced by the lack of operationalization of the coordination framework four years after it was ratified.

The institutional structure under devolution policy in Kenya provides for several instruments and institutions to effect coordination in water services delivery. However, these instruments are viewed as weak in their enforceability, with coordination occurring only sporadically, and primarily in most cases for specific investment projects funded by external development actors. Respondents identified prevailing mistrust between national and county government actors resulting from contested issues of functional allocation and resource-sharing patterns between the two levels of government as one of the fundamental reasons why the existing coordination arrangements are not operating as envisioned by the framers of the Constitution of Kenya. However, the findings showing that the more informal coordination mechanisms such as caucuses and member associations such as WASPA have been more effective an enabling inter-governmental coordination concur with Fenna (2012), who argued that formal structures and institutions for intergovernmental coordination are crucial for the success of intergovernmental relations. In his examination of older, more federal multilevel government systems such as the United States, Canada, and Australia, he argued that the lack of clear constitutional or extra-constitutional provisions for coordination, and the assumption that the central (federal) government and the subnational governments would engage on a cooperative federalism basis based on mutual policy interest, did not result in the expected coordination outcomes. This appears to contradict the observations in Kenya's water sector where the constitutional and extra-constitutional provisions to facilitate coordination between levels of government, yet these have failed to do so.

Wanna et al., (2009) observe that the politics of resource sharing and power contestations take precedence over institutions in guiding the relationships between multiple levels of government. This finding is similar to the findings in Kenya, which attribute the coordination failure to power and resource contestations, creating a lack of goodwill and mistrust among policy actors from both levels of government. These findings further support Poirier & Saunders (2011) conclusion that the constitutional autonomy enjoyed by subnational units is a significant factor influencing coordination outcomes, especially when the subnational units do not trust the goodwill of the central government.

The findings on the limitations of legal enforcement mechanisms within the existing coordination institutions in Kenya concur with other findings that coordination in multilevel governance systems will be more effective when the coordination institutions have a formal status in the constitution or any form of formal intergovernmental agreements (Phillimore, 2013; Chattopadhyay & Nerenberg, 2010; Poirier & Saunders, 2011). This emphasizes the critical need for coordination institutions to be backed by legally binding statutes for them to achieve the desired intergovernmental coordination goals.

## Functional interdependence and intergovernmental coordination in water services delivery

This section presents an analysis of the data on intergovernmental functional dependency in order to provide a synthesis of the primary underlying factors that determine intergovernmental coordination, as well as the effects of coordination, or lack thereof, between policy actors at the two levels on the delivery of water services.

The key informants were asked about their perceptions on the extent of functional interdependence between the two levels of government in processes of water services delivery with the aim to establish whether this has motivated or hindered the propensity of policy actors at both levels to coordinate. Table 4 summarizes the responses to this line of inquiry.

Table 4. Respondents' perceptions on intergovernmental functional dependencies in water services delivery

Perceptions of respondents	Category of respondent	Level of government
The county governments need licensing and regulatory approval from the national government for services at county level	Council of Governors; Development partner; water companies	County
National government still does large infrastructure like dams, but the counties provide last mile services from these dams	Council of Governors; Development partner; county government executive	County
The two levels serve the same citizens hence they must coordinate and are thus interdependent in that regard. When developing new projects, the counties are closest to the people hence they lead public consultations even if the project is being done by national WWDAs	Water Works Development Agency (WWDA); County government official; Water service provider company	National, County
The counties implement the national level policy, regulations, and service delivery standards	Water Services Regulatory Board (WASREB); Council of Governors; Ministry of water; Development partner	National, County
The counties need funding from the national government national government need to get their legitimacy from the citizens who are directly served by the counties and their WSPs	Water service provider company	County

(Source: key informant interviews transcripts)

Table 4 shows that there are five main areas of functional interdependence between the two levels of government. The primary area of interdependence highlighted by most respondents was that county governments rely on national policy guidelines, regulations and service standards for water services delivery and financial resources while the national government depends on county governments to execute national policies and ensure investments in bulk water and last mile services are sustained to give it greater legitimacy at the local level. However, a respondent from the national government, while appreciating that officials from the two levels of government recognize the extent of their functional interdependence, remarked that the nature of interaction between the levels of government has failed to reflect

the anticipated collaborative approaches in water services delivery, which he attributes primarily to individual differences between policy actors at both levels;

*.... the two levels are clearly interdependent since the national needs policies, regulations, and standards to be implemented at the county level since they are not present there while the counties need the national support with capacity building for big infrastructure as well as funding especially to mobilize external resources. however, the infighting and flexing of muscles on who is bigger than the other has made coordination despite this interdependence a challenge while it is clearly needed. (Ministry of Water official)*

Similar sentiments were expressed by a respondent from the council of governors;

*.... we are 100 percent dependent on each other. The national policies and aspirations are developed nationally but implemented at county level. The counties need funds from national to meet their goals. It is unfortunate that while this need of each other is clear, achieving it in practice has been problematic since the national officials seems not to care much because they control the funds hence feel like they don't need the counties much (Council of Governors official)*

The analysis of functional interdependence between the national and county governments in the delivery of water services has shown that the two levels are functionally intertwined. The responses from the interviewees show that because the constitution provides some exclusive functions such as setting policy and strategy and regulating service standards, yet these are to be carried out at the county level, but does not establish that water services provision is not an exclusive function of counties, implying that the national government can still undertake water service provision beyond the policy, strategy setting and regulation function, this has created a significant level of interdependence and, thus need for intergovernmental coordination. The institutional framework establishes a normative cooperation relationship in which competences are shared among the levels, with the national government having a more dominant role in governing the overall sector policy to be domesticated by counties through contextually appropriate county level policies, strategies, institutions, and investment plans in last mile service delivery. The analysis also demonstrates that the counties are unable to self-finance the implementation of these national policies at the county level; as a result, they rely heavily on national fiscal transfers, thereby reinforcing a significant dependence. Even though a majority of respondents from both levels of government agree that this is true, the majority also believe that the expected levels of coordination has not materialized.

The interviewees' perceptions of the primary factors that incentivizes or disincentivizes coordination between the two levels of government in the provision of water services were further explored considering their perspectives on the interdependencies. Table 5 provides a summary of the respondents' perceptions.



Table 5. Factors incentivizing intergovernmental coordination in water services delivery

Respondents' comments	Category of Respondents	Level of government
Coordination only happens during project planning and execution which require collaboration.	Council of Governors	County
Funding provided by the national government to the counties is the sole impetus for coordination efforts.	Water service provider company; Ministry of water; CSOs/NGO official; Development partner official	National, County
Professionalism, respect, and relationships, especially between engineers at both levels of government, enable for technical coordination.	Ministry of water official	National
There will be no coordination when counties feel excluded from planning and disrespected by national organizations such as WWDAs.	Water Works Development Agency; Water Service Providers Association (WASPA)	National
Coordination efforts are impeded by the counties' belief that the national government and its agencies are encroaching on county functions.	Water service provider company; Ministry of water; CSOs/NGO official; Development partner official	National, County
The contested roles and issue of resources not following functions, in which most funds are retained at the national level by the ministry through the WWDAs, is a significant obstacle to coordination	Ministry of water official	National
Personal political difference between specific actors at both levels prevents some individuals from seeing eye to eye hence deter coordination	Ministry of water official; Water service provider company; Development partner official	National, County

(source: key informant interviews transcripts)

Table 5 shows that most respondents are of the perception that the county government's need for financial resources from the national government to expand services at the county-level, as well as the national government's interest in undertaking investment projects within counties, is a major incentive of the few intergovernmental coordination events that have been happening in the sector. Despite this, mistrust between the two levels of government, particularly regarding the role of the WWDAs, has stymied intergovernmental coordination. As one interview from a development partner agency commented;

*...the need for funds to expand services by the counties endear counties to reach out to the ministry of water and the ministry needs the county to ensure services are sustained at the county level. But for the last ten years there has been continuous mistrust mainly because the counties feel that the WWDAs are not needed while the national insist the wwdas are needed for big infrastructure (development partner official)*

Similar observations were made by a respondent from the WWDAs;

*.....I think the biggest issue that works against good coordination is when the counties feel not included and disrespected by the national agencies like us. There are cases where WWDAs go into a county and just drill a borehole or built a treatment plant without even working with the county, this doesn't help, so you end up with maintenance problems which affects services when the system fail because the counties don't take ownership when systems fail because they were not involved in the development, this is a big problem in many counties (WWDA official)*



Several interviewees pointed the finger at political differences between individual actors at the national government and the county governments as the cause of the lack of coordination.

*..... Personality of the lead policy actors also matters a lot. the former minister Chelugui didn't seem to have a problem with the counties hence reached out and coordinated more times compared to the successor minister who had a person issue with the CoG hence did not want anything to do with them which affected the relations very badly (council of governors official)*

The objective of this part was to ascertain the character and scope of intergovernmental functional interdependence, with the aim of understanding the key factors that influence intergovernmental coordination between the national and county governments in Kenya when it comes to the provision of water services. The results suggest that although there is acknowledgement of a significant level of interdependence, the coordination efforts have been irregular and impromptu rather than consistently organized and predetermined. This can be attributed to various factors, including political disputes over functional responsibilities, divergent political ideologies among individual policy actors, and the imperative of political self-preservation among some of the senior level policy actors. The primary factors driving the limited instances of coordination are the fiscal stress experienced at the county level, which hinders their ability to mobilize resources for water service delivery, and the national government's desire for legitimacy and political visibility among voters at the county level. However, the absence of clear delineation of responsibilities between county and national governments, as well as the insufficient allocation of resources to counties, have been cited as the key problems impeding intergovernmental collaboration in the delivery of water services despite an acknowledgement of interdependence.

According to Bolleyer (2006), it can be hypothesized that in an institutional framework that incorporates multiple concurrent functions, there would be greater motivation for coordination compared to a system that assigns more exclusive functions. In the latter case, actors at different levels of government would likely exhibit a diminished inclination towards coordination. The findings displayed in Table 5 demonstrate that the primary factors motivating intergovernmental coordination in water services delivery in Kenya are primarily focused on financial opportunities and the imperative to adhere to regulatory requirements, rather than being rooted in a recognition of functional interdependence. Conversely, the findings indicate that the lack of coordination can be attributed to the contestation of functional assignment and conflicts arising from the mismatch between resources and their corresponding functions. Bolleyer conducted an examination of federal government systems in countries such as Canada, Switzerland, and the US. The study revealed that in these more developed systems, sub-national tiers of government possess greater autonomy in terms of law-making and taxation powers, enabling them to generate local revenue. Consequently, these sub-national entities may opt to disengage from coordination with the federal government and instead pursue independent actions to exercise their competencies, particularly when such actions prove advantageous to their interests. Contrary to the desired level of autonomy, county governments in Kenya face limitations in their ability to act independently in the provision of water services due to their heavy reliance on fiscal transfers from the national government. Consequently, they are compelled to collaborate with the national government, despite their

belief that the latter and its agencies are encroaching on county functions.

Table 6 summarizes the responses of the interviewees when asked what measures can be taken to improve coordination between the two levels of government in processes of water services delivery.

Table 6. Perceptions on ways to improve intergovernmental coordination in water services delivery in Kenya

Perceptions on what could be done to improve coordination	Category of respondents	Level of government
Maintain an annual or semiannual water sector meeting/symposium for coordination between the national and county governments.	Council of Governors; Water Services Regulatory Board (WASREB); CSO/NGO official	County, National
The Intergovernmental Relations Technical Committee should be given more legal powers to enforce coordination	Ministry of water; Water Works Development Agency (WWDA); CSO/NGO official; Water service provider company official	National
The intergovernmental relations committee should work more with the COG to have more jointly planned coordination events, meetings like Quartey round tables rather than just waiting for problems to emerge and do fire fighting	Water Service Providers Association (WASPA); CSO/NGO official; Ministry of water; Water service provider company official	National, County
The IGTRC should review its mandate and structure itself as a neutral partner of both levels of government and shed of this accusation of being an agent of the national government	Development partner official	

Several respondents are of the perception that the mandate of the IGTRC should be reviewed, and its instruments of engagement be re-structured to be a neutral partner of both levels of government so that it sheds off the common perception from the county governments that it only acts as an agent of the national government that doesn't inspire trust from the counties. Other respondents, as Table 6 shows, are of the view that the IGTRC should work more with the CoG to have more jointly planned coordination events, meetings like Quartey round tables rather than just waiting for problems to emerge and do fire arbitration or conflict resolution.

The weaknesses in coordination have impacted water service delivery in several ways. Some respondents commented that due to the lack of regular structured and predictable pattern of coordination of activities between the two levels of government, the completion of the identification, verification, and validation of all water provision assets and liabilities of the County Governments has been dragged for longer than necessary. Several respondents believe that a lack of intergovernmental coordination is to blame for the fact that water projects have not reached a large number of citizens where there are still unmet needs. This is due to the fact that the national government has prioritized counties where they feel welcome, leaving other counties that are labeled hostile to the national government starved of much needed funding. This is consistent with Simeon (2002) observations in Canada where the national government tended to coordinate more with specific provincial governments on the basis of bilateral agreements as opposed to building more nationalistic structures for binding co-decision with all provinces collectively. A situation which he concluded was compounded by the fact that in Canada there was no constitutional or legislative basis and little

bureaucratic support for formal intergovernmental coordination thus making ad hoc coordination arrangements which are too weak to change the actors' preferences and propensities the prevalent norm.

The results also point out that due to the disarray in coordinated collaborative investment planning between the WWDAs and the county governments, most counties have ended up constructing infrastructure of poor quality that cannot sustain long-term services delivery due to inadequate technical design and construction supervision among county staff. This has led to a situation where critical water services assets have not only been allowed to deteriorate due to disrepair, depriving citizens of much-needed water services, but also cases of resources wastage through duplication of efforts and mismatching of investments at the county level.

*.....If they don't coordinate then there will be gaps since the WWDAs will not know the locations at county level where need is greatest leaving some citizens unserved. ownership and maintenance of assets will be a gap that cuts off citizens from water access if the two levels don't work together (development agency official)*

Another impact of the weak intergovernmental coordination in water services delivery is evidenced through situations where there have been large-scale nationally implemented projects, such as dams and other bulk water systems, which end up lying idle for extended periods without any last mile connections to serve the intended beneficiaries. The expectation in a collaborative and well-coordinated service provision regime is that the national government agencies would hand these over to the counties to undertake the further in-country distribution investments but this never materialized because the investments have not been coordinated between the two levels of government.

*.....both levels have goals and strategies that seeks to serve the same citizens and because of that they have to be dependent on each other. The national has large scale projects such as dams and the northern collector tunnel which supplies water to be distributed by counties. if they can't coordinate, there will be gaps where large infrastructure is done by no serve lines to serve citizens at household level where the citizens are (development agency official)*

Consistent with Jia et al. (2019) that ineffective interjurisdictional coordination of China's urban water governance resulted in insufficient accountability for urban water pollution, the results above indicate that it is not always clear to citizens whom they should contact for assistance due to the accountability void created by the lack of coordinated investment planning between the county government and national government agencies. For instance, the results indicated that when some installed water systems fail to function or break down and communities seek assistance from the county to restore functionality, the county refers them to the water works that constructed the system because it was not involved in the construction of the system. In contrast, the WWDA instructs them to return to the counties, as the system has already been transferred to the county.

*Some of the feedback from our engagements with communities and citizens is that it's a very confusing situation as the blame game always shifts, when water systems fail especially in rural areas, the communities go to the county and the county tells them to go to water works*

*who built the system since they were not involved, this creates a significant accountability gap that is affecting services negatively....(county government executive committee member)*

While respondents from both levels of government concur that there is a significant functional interdependence between the two levels of government in the delivery of water services, mistrust stemming from contested functional assignment, resource allocation, individual political differences between key policy leaders at both levels, and weaknesses in the existing coordination instruments have impeded the achievement of normatively expected extents of coordination in such a multilevel governance system. These results confirm the study's hypothesis that inadequate water sector intergovernmental coordination has impeded the implementation of key policies, strategies, and investment projects for water service delivery in Kenya. Bolleyer concluded that in federal systems such as the United States, Canada, and Switzerland, functional interdependencies led to a tendency for different levels of government to establish more collaborative structures, resulting in more intense patterns of coordination among policy actors in various policy spheres. He claimed that the recognition of mutual interdependence led to a rise in non-hierarchical interactions between federal and local government bureaucrats. The findings regarding the dynamics of intergovernmental coordination in the delivery of water services in Kenya where despite agreeing that there is a significant level of interdependence but yet the level of coordination in such a situation is not being achieved contradict this conclusion.

## **Conclusions**

This article explored the perspectives of policy actors regarding the efficacy of intergovernmental coordination within Kenya's multilevel governance system and its impact on the provision of water services. The study's findings indicate that despite the presence of formal coordination institutions and a shared recognition of the intricate functional interdependence between both levels of government, the attainment of effective coordination has proven to be challenging. The observed phenomenon can be attributed to several factors. Firstly, policy actors have raised concerns regarding the legitimacy of the current coordination instruments. Secondly, there is a lack of robust legal mechanisms to enforce coordination efforts. Thirdly, political disparities exist among senior policy actors at both the national and county government levels. Fourthly, unresolved disputes regarding functional assignment and resource allocation to county governments contribute to the issue at hand. The aforementioned challenges have had a detrimental effect on the provision of water services, hindering the progress of investment growth aimed at expanding water coverage due to the absence of a coordinated planning platform. Additionally, there is an accountability gap where citizens are uncertain about whom to approach for specific services. Furthermore, these challenges have resulted in wastage and inefficiency in capital deployment, as both levels of government implement investment programmes that occasionally overlap. The implications of the study's findings have significant importance for the development and execution of intergovernmental coordination mechanisms in Kenya and other nations that possess multilevel governance systems. For coordinating mechanisms to achieve effectiveness, it is imperative that they possess legitimacy, robust legal enforcement mechanisms, and garner support from political players at both the national and subnational

levels. Furthermore, it is crucial to address disputed matters concerning functional allocation and the distribution of resources. The study presents evidence-based recommendations for enhancing intergovernmental collaboration within a multilevel governance framework. These recommendations are as follows: There is a need to strengthen the validity of the current coordinating instruments. There is a need for enhanced reinforcement of the legal mechanisms pertaining to the instruments. It is imperative to address political divergences among senior policy actors at both the federal and state levels of government. It is imperative to address the unresolved and contentious issues around the clarity of functional assistance and funding distribution to county governments. Furthermore, it is imperative to maintain vigilant oversight of the execution of intergovernmental coordination mechanisms and make necessary adaptations as required.

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