

Emergency Preparedness and Readiness of County Health Care Systems

INTRODUCTION

In the past two decades, the world has realized astronomical increases in humanitarian needs and costs of responding to disasters, including health disasters¹. The COVID-19 pandemic, as well as health consequences of increased drought and floods associated with climate change, have brought to the fore the need to assess and strengthen Kenya's health sector disaster management capacities. Studies and practice have shown that jurisdictions that lack health disaster preparedness and risk reduction measures are more likely to have their public health and medical systems overwhelmed when disaster strikes, causing more morbidities, mortalities, and other negative direct social and financial impacts to communities and governments.

KEY ISSUES, CHALLENGES AND POLICY OPTIONS

Coordination between National and County level Governments in health disaster management

The Constitution of Kenya 2010 identifies Disaster Management as a concurrent function between the National and County Governments. Schedule 4, Section 1 gives the Disaster Management role to the National Government, while Section 2 gives the role "disaster management and firefighting" to County Governments. The National Government has formed various disaster management agencies with both exclusive and overlapping roles. Through an Executive order, the National Disaster Management Unit (NDMU) has been formed within the National Police Service to take charge on all issues of disaster management in the country. Through acts of

parliament, the National Drought Management Authority (NDMA) and the National Disaster Operations Centre (NDOC) were formed. NDMA is mandated to exercise overall coordination over all matters relating to drought risk management and to establish mechanisms, either on its own or with stakeholders, that will end drought emergencies in Kenya; while NDOC acts as a focal point for emergencies and disasters response coordination, resource mobilization, and reporting and operates and emergency operations center. All these agencies operate under the Ministry of interior and coordination of the National Government. The implementation of Kenya's 2010 constitution anticipated that the Transition Authority was to facilitate a process that ensured all concurrent functions to be clearly unbundled so as each level of government is clear on specific responsibilities within the broader function that it is responsible for. With the unbundling of the Disaster Management function not yet done, there is lack of clarity on the functions of County and National Governments in this area. There is a proposed National Disaster Management Bill 2019 that recommends the formation of a single disaster management authority, but this bill too is unclear on the function split between the two levels of Government. There is thus a need to clearly highlight the roles of each level of Government in health disaster management.

Coordination between health sector actors and the disaster management actors

Whilst the disaster management structures are in charge of all disaster activities, it is key to note that health teams have significant roles when in contexts of health disasters. In addition to lack of structural clarity between levels of Government, experiences from both the COVID-19 pandemic and recurrent health emergencies such as drought and floods have shown challenges in

¹ U.N. Office of Coordination of Humanitarian Affairs. Saving Lives Today and Tomorrow: Managing the Risk of Humanitarian Crises, accessed September 15, 2015, <http://www.unocha.org/saving-lives/>

coordination and communication between health sector actors and the disaster management actors primarily under the Ministry of Interior, leading missed opportunities to for cross sector learning in health emergency management. While the health sector experts have knowledge and skills in epidemiologic prediction and health service delivery in emergencies, disaster management practitioners can more clearly predict the course of the disaster and apply broad disaster management principles to save lives and property in emergency contexts. There is thus a need to foster closer partnerships between these two sectors.

Financing mechanisms for health disaster management

The Public Finance Management Act under section 110 provides that County Governments with approval from the County Assemblies may establish county government Emergency Fund. While a number of County Governments have established these funds through legislation, routine contribution to the fund remains a challenge to most governments and their agencies due to financial strain in providing regular services. There are also challenges in emergency management faced by health facilities as they provide emergency care to patients in need of urgent care but are not able to pay for these services. In addition to broader health disaster management financing, there is a current burden faced by health facilities as they provide their constitutional mandate of saving lives of people in need of emergency medical care, since some of these patients are unable to pay for services they receive.

Public Health Act Cap 242 as key tool in health Disaster Management

Laws that protect the health of the population may be organized and administered quite differently across different countries, depending on historical and constitutional factors, as well as specific health challenges each country has faced in the past. The concept of public health law is not limited to laws regulating the provision of health care services but extends to the legal powers necessary for the State to discharge its obligation to realize the right to health for all members of the population. The right to health is a fundamental human right guaranteed in the Constitution of Kenya. Article 43 (1) (a) of the Constitution provides that every person has the right to the highest attainable standard of health. In order to provide this to the population, the Government uses various tools, including legislation. One key legislation from a Public Health perspective is the Public Health Act, Cap 242 of the laws of Kenya. This paper reviews and makes suggestions to strengthen Kenya's preparedness on emerging diseases like COVID-19. While the central reason for this proposed review is to entrench within the Public Health Act lessons learned from the COVID-19 pandemic response, some reviews were to align it to Kenya's devolved context. Various sections of this act are not aligned to the devolved health system of governance, and bodies formed through the act – like the Central Board of Health – have not considered the COG and County Governments as key stakeholders. In addition to this, there is a need to review this act to strengthen Public Health actions for existing public health challenges, as well as emerging challenges like the COVID-19 Pandemic. Key recommended areas for amendment include: a) Making the act relevant and responsive to the current devolved context including ensuring county governments are supported in executing their mandate on devolved health functions; b) Realigning bodies formed under the Public Health Act to be aligned to the current constitutional and health sector context. Specifically, review the purpose, function, and constitution of the Central Board of Health; c) Reviewing fines and penalties under this Act in view that these are low in comparison to offenses. This has mainly been due to the devaluation of the Kenyan Shilling over time; d) Alignment of the Act to the current disease trends, both communicable and non-communicable diseases, as well as aspects of maintaining preventive health; e) Alignment of the Act to current health policy; f) Strengthening obligations of health workers in the Act; g) Ensure the act supports Kenya's compliance with relevant international obligations and laws; h). Strengthen the Monitoring and Evaluation mechanisms of this, and other health laws in order to understand their effectiveness and contribution to the health sector; i) Clarifying the relationships

between this Act and other Acts of Parliament, including re-defining supremacy between these Acts; and j) Ensure the act is aligned to the Constitution of Kenya 2010.

Other Key issues in strengthening health disaster management

In addition to the highlighted aspects necessary in strengthening health disaster management, there are various other issues of interest: a. The critical mass of Kenya's health sector human resource does not have any formal training in disaster management, both pre-service and in-service, b. Although Kenya has elaborate border surveillance programs, strengthened during the COVID-19 pandemic, there is lack of elaborate guidance on cross border management of health disasters with most neighboring nations; c. County capacity for health disaster prediction and early warning, as well as use of data for decision making in health disasters needs to be stepped up; and d. Health services continuity planning in disasters needs stepping up.

CONCLUSION

Overall, this paper calls for a clear split of disaster management roles between the two levels of government, increased coordination between health and disaster management sectors in addressing disasters and the review of the Public Health Act Cap 242 to make it an effective tool for emergency management. Further, the paper calls for National and County leadership to increase investment in emergency preparedness and response for health.