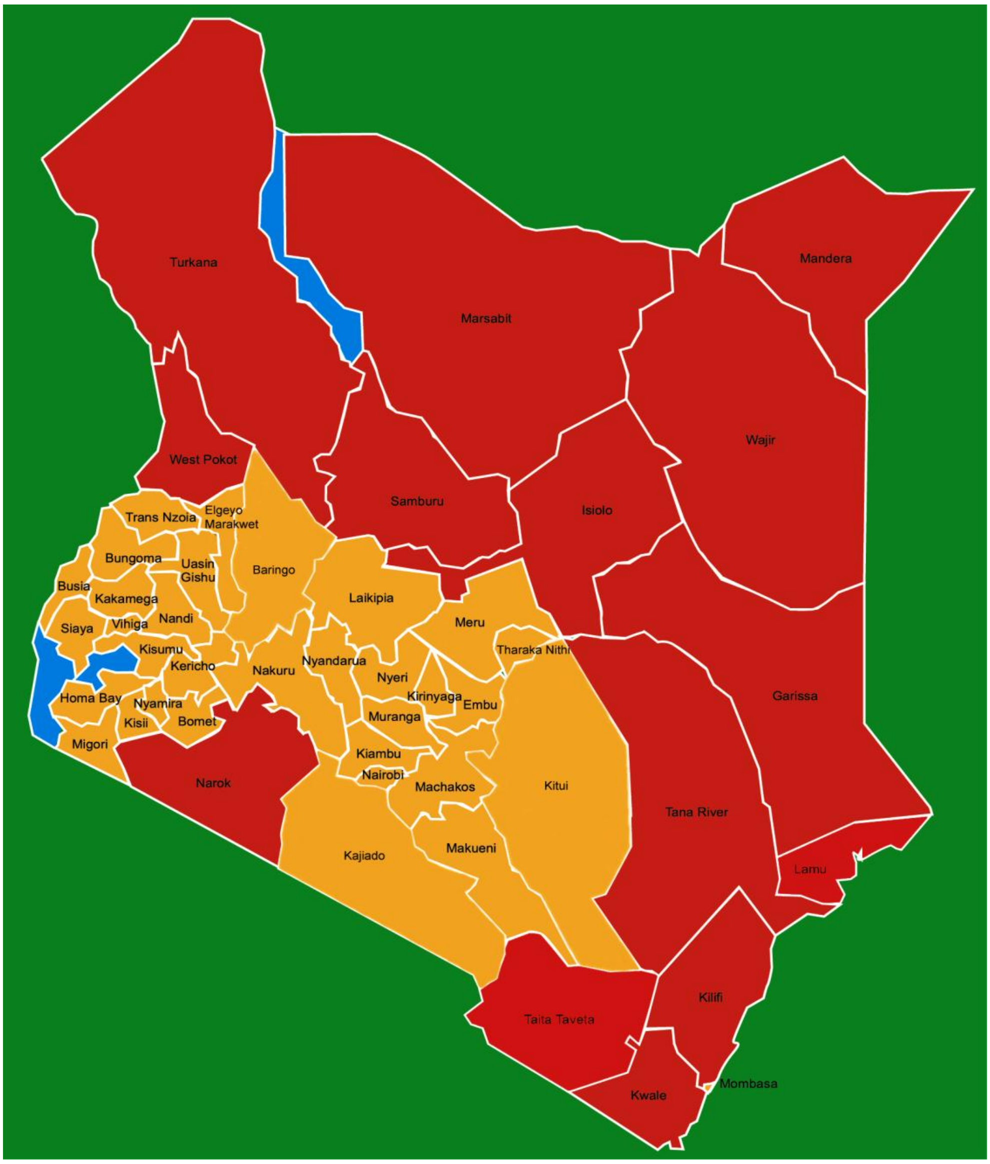
COMMISSION ON REVENUE ALLOCATION

POLICY ON THE CRITERIA FOR IDENTIFYING MARGINALISED AREAS AND SHARING OF THE EQUALISATION FUND



FINANCIAL YEARS 2011 TO 2014

Tel: 254 (20) 4298000
Fax: 254 (20) 4298251
Email: info@crakenya.org
Website: www.crakenya.org

14 Riverside Drive
Grosvenor Block
2nd Floor
P. O. Box 1310 – 00200
NAIROBI

COMMISSION ON REVENUE ALLOCATION

OUR REF. CRA/RF/VOL. I/44 **Date:** 22nd February 2013

- Clerk of the National Assembly
- Clerk to the Senate
- National Executive
- Clerk to County Assemblies
- County Governors

RE: POLICY ON THE CRITERIA FOR IDENTIFYING MARGINALIZED AREAS AND SHARING OF THE EQUALIZATION FUND – FINANCIAL YEARS 2011-2014

The Constitution of Kenya mandates the Commission on Revenue allocation to act as follows:-

Article 216 (4) **The Commission shall determine, publish and regularly review a policy in which it sets out the criteria by which to identify the marginalized areas for purposes of Article 204 (2)**

Article 204 (4) **The Commission on Revenue Allocation shall be consulted and its recommendations considered before Parliament passes any Bill appropriating money out of the Equalization Fund**

The attached documents cover the policy on the criteria for identifying marginalized areas.

It further contains recommendations on the sharing of the Equalization Fund among the counties identified as marginalized.

We are forwarding this document for your appropriate action.

Yours sincerely

Micah Cheserem
CHAIRMAN

TABLE OF CONTENTS

List of Tables

List of Figures

ACRONYMS AND ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
CDA	Coast Development Authority
CDI	County Development Index
CRA	Commission on Revenue Allocation
DFRD	District Focus for Rural Development
ENNDA	Ewaso Nyiro North Development Authority
ENSDA	Ewaso Nyiro South Development Authority
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of Racial Discrimination
ICESR	International Covenant on Economic, Social and Cultural Rights
ICPAK	Institute of Certified Public Accountants of Kenya
KFSSG	Kenya Food Security Steering Group
KIBHS	Kenya Integrated Household Budget Survey
KNBS	Kenya National Bureau of Statistics
KVDA	Kerio Valley Development Authority
LABDA	Lake Basin Development Authority
LATF	Local Authorities Transfer Fund
MDGs	Millennium development goals
MTEF	Medium Term Expenditure Framework
NEP	North Eastern Province
NFD	North Frontier District
RDA	Regional Development Authority
RMLF	Road Maintenance Levy Fund
SRDP	Special Rural Development Programme
TARDA	Tana and Athi River Development Authority
TB	Tuberculosis
UDHR	Universal Declaration of Human Rights

FOREWORD FROM THE COMMISSION CHAIRMAN

The Constitution requires the Commission on Revenue Allocation to determine, publish and regularly review a policy in which it sets out the criteria by which to identify marginalized areas for the purposes of Equalisation Fund.

The Constitution states that the national government shall use the Equalisation Fund only to provide basic services including water, roads, health facilities and electricity to marginalized areas to the extent necessary to bring the quality of services in those areas to the level generally enjoyed by the rest of the nation, so far as possible.

The constitution further states that the Commission on Revenue Allocation shall be consulted and its recommendations considered before parliament passes any bill appropriating money out of the Equalisation Fund.

Marginalisation is a very emotive subject in Kenya. Many communities claim they were marginalized by the colonial government or the successive administrations after independence. The Commission agrees that there are areas that were truly marginalized before and after independence. The majority of these areas are in Northern Kenya and semi-arid lands.

The amount set aside for the Equalisation Fund at 0.5% of all revenue raised nationally will not be adequate to remedy all the shortcomings in access and quality of services in the marginalized areas over the twenty years life of the Fund.

We have therefore recommended that the Fund be targeted at few projects that will have a transformational impact on the marginalized areas. We have further recommended that the spending of the funds commences in 2013 when the county governments will have been formed.

EXECUTIVE SUMMARY

The Commission on Revenue Allocation (CRA) was established in accordance with Article 215 of the Constitution of Kenya. Article 216 (4) of the Constitution requires the Commission to determine, publish and regularly review a policy in which it sets out the criteria by which to identify marginalized areas for purposes of the allocation and use of the Equalisation Fund.

This Policy sets out the criteria for identifying marginalised areas in Kenya. It identifies the marginalised counties and also provides a framework that will guide in the planning, implementation, and monitoring and evaluation in the use of the Equalisation Fund.

In setting out the criteria for identifying marginalized areas, the Commission identified reasons for marginalisation, which include:

1. Legislated discrimination;
2. Geographical location;
3. Culture and lifestyles;
4. External domination;
5. Land legislation and administration;
6. Minority recognition groups;
7. Ineffectual political participation; and
8. Inequitable government policies.

The Commission further highlights the consequences and impacts of marginalisation. These include high levels of absolute and relative poverty, food insecurity, poor infrastructure, poor state of basic social services and poor governance.

The primary criterion chosen for identifying marginalized counties in this policy is the County Development Index (CDI), which is a composite index constructed from indicators measuring the state of health, education, infrastructure and poverty in a county. The CDI is complemented by two other approaches, namely: expert analysis on historical and legislative discrimination and results of the Commission's county marginalisation survey.

Based on these criteria, the following fourteen (14) counties have been identified as marginalised.

1. Turkana
2. Mandera
3. Wajir
4. Marsabit
5. Samburu
6. West Pokot
7. Tana River
8. Narok
9. Kwale
10. Garissa
11. Kilifi
12. Taita Taveta
13. Isiolo
14. Lamu

A map highlighting the marginalised counties is shown in **Figure 1.**

This Policy further makes the following recommendations;

i. The Equalisation Fund be appropriated as conditional grants to marginalized counties. Thus, the Fund should be spent when county governments are in place;

ii. The Fund should be appropriated in a single budget line instead of the sectors under the Medium Term Expenditure Framework (MTEF);

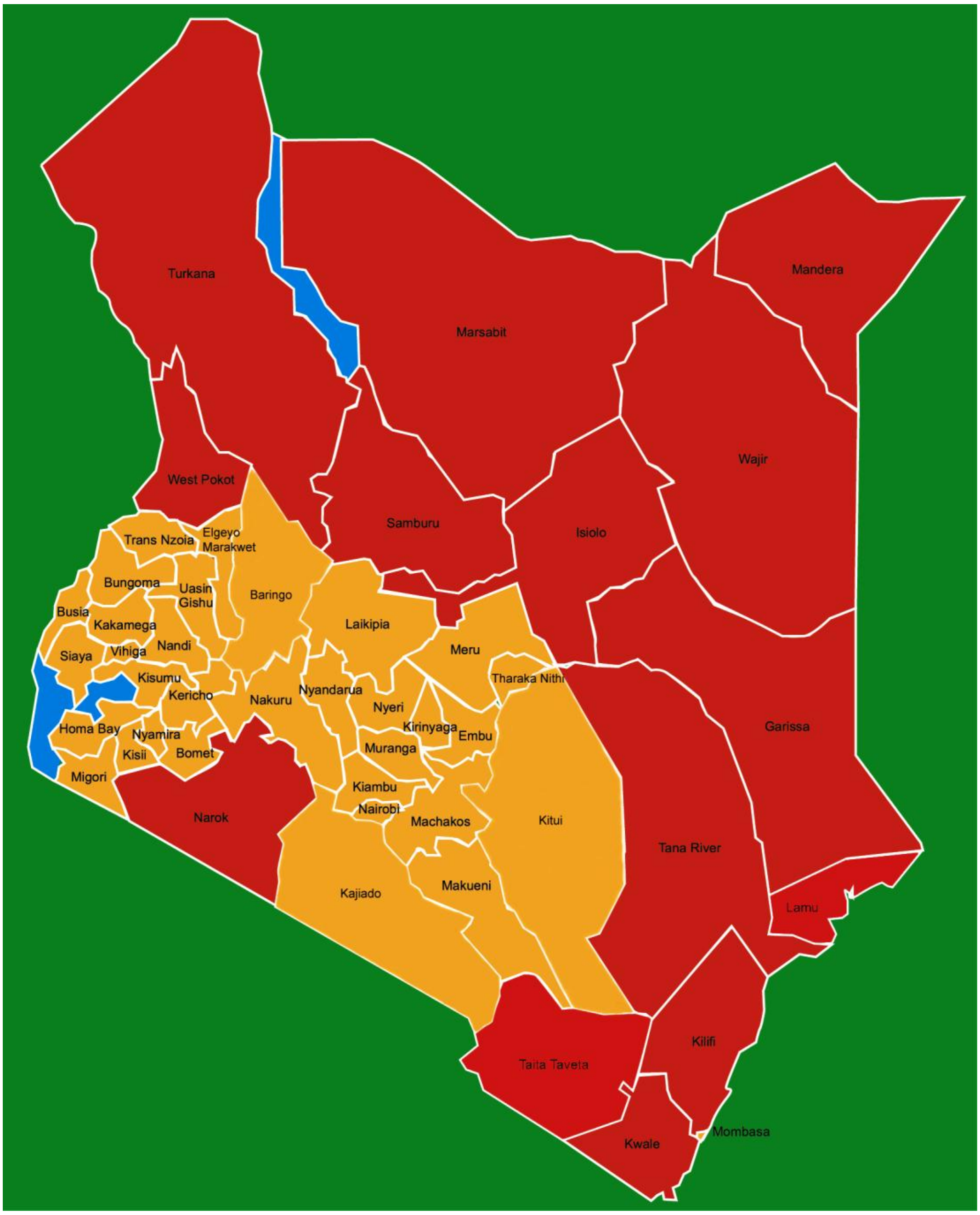
iii. The Fund should be managed by an Advisory Committee. There should be clearly defined linkages between Fund management, county and local level structures and line ministries; and

iv. This policy is effective for three (3) years before it is reviewed.

The policy recognises that there are marginalised communities living in counties which are classified as non-marginalised and thus do not benefit from the Equalisation Fund. Both the national and county governments should, therefore, institute affirmative action programs targeting minorities and marginalised groups within counties to enable them realise their social and economic rights as enshrined in the Constitution.

All actors in government are expected to rally around this policy in order to ensure that we make the country an equitable society as envisaged in the Constitution.

Figure 1: County Map of Kenya Identifying Marginalised Counties



Note: The Marginalised counties are shown in red

1. INTRODUCTION

1.1 Background

1.1.1 The Constitution of Kenya 2010 creates a devolved governance structure that promises to bring development to all parts of the country. Political power and decision-making was centralized and confined at the centre in Nairobi before promulgation of the new Constitution in August 2010. This perpetuated marginalisation of some parts of the country, especially far-flung regions and minority groups, from full participation in social and economic activities. The result has been significant levels of disparities in economic development among different regions and communities

1.1.2 The Constitution promises an equitable society with comprehensive protection of social and economic rights to all Kenyans. To give effect to equity, the government is required to legislate on measures to redress any disadvantages suffered by individuals or groups due to marginalisation. Specifically, Article 204 establishes the Equalisation Fund (thereafter referred to as the Fund) that shall be used to provide basic services to marginalized areas to the extent necessary to bring the quality of those services to the levels generally enjoyed by citizens in the rest of the country.

1.1.3 Article 216 (4) requires the Commission on Revenue Allocation to determine, publish and regularly review a policy in which it sets out the criteria by which to identify marginalized areas for the purposes of section 204(2) of the Constitution.

1.2 Objectives and Scope

1.2.1 Objectives

The two critical objectives of this policy are: (a) to set out criteria for identifying marginalised areas in Kenya; and, (b) to recommend procedures for utilization of the Fund as stipulated in Article 204 (2).

1.2.2 Scope

Though marginalisation issues in Kenya are many, this policy confines itself to aspects of marginalisation for the sole purpose of the Fund as per the provisions of the Constitution.

1.3 Structure of Policy Report

This policy document comprises of the following sections: this introduction; constitutional provisions; causes and effects of marginalisation in Kenya; policy directions; criteria for identification of marginalised areas; the sharing approach; and, conclusions and recommendations.

2. CONSTITUTIONAL PROVISIONS

2.1 Overview

2.1.1 Social and economic rights of all Kenyans are protected under both the Constitution and international law. Chapter 4 of the Constitution sets out the Bill of Rights, which includes the right to equality and freedom from discrimination. Article 43 sets out the economic and social rights that include rights to the highest

attainable standards of health care services, accessible and adequate housing, and reasonable standards of sanitation, clean and safe water in adequate quantities, and education.

2.1.2 Internationally, minority rights are protected under the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESR), and the International Convention on the Elimination of Racial Discrimination (ICERD), all to which Kenya is a signatory. Kenya is also a signatory to the Millennium Development Goals (MDGs), which require the country to create a conducive environment for development and elimination of poverty.

2.1.3 Specifically, MDGs address issues of: eradication of extreme poverty and hunger; achieving universal primary education; promoting gender equality and empowering women; reducing child mortality rates; improving maternal health; combating HIV AIDs, malaria and other diseases; ensuring environmental sustainability; and developing a global partnership for development. Each of the goals has specific stated targets and dates for their achievement.

2.1.4 State organs and officers have a fundamental duty to respect these rights as per Article 21 of the Constitution. The state is required to enact legislations and policies to progressively realize these rights and fundamental freedoms. They are also obliged to put in place affirmative action programmes to help marginalized groups to participate in all aspects of social and economic life, including education, employment and economic opportunities as per Article 56 of the Constitution.

2.1.5 The Fund is part of the framework established by the Constitution to address service level gaps in marginalized areas. According to Article 204(2) of the Constitution, the objective of the Fund is to provide basic services including water, roads, health facilities and electricity to "marginalized areas". Article 204(3)(b) of the Constitution provides that the national government may use the Fund "*either directly, or indirectly through conditional grants to counties in which marginalized communities exist*".

2.2 Definitions and Interpretations

2.2.1 The criteria for identifying marginalized areas under Article 216(4) of the Constitution take into account communities that have been excluded from social and economic life of Kenya for different reasons.

2.2.2 The Constitution defines "marginalized communities," and "marginalized groups" (Article 260), but does not define "marginalized areas."

2.2.3 According to the Constitution:

- Marginalised **community** means: *(a) a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole; (b) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;(c) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or (d) pastoral persons and communities, whether they are nomadic or settled, that, because of relative geographic isolation, have experienced only marginal participation in the integrated social and economic life of Kenya as a whole.*

- Marginalised **group** means *a group of people who, because of laws or practices before, on, or after the effective date of the Constitution, were or are disadvantaged by discrimination on one or more of the grounds in Article 27 (4).* The grounds for discrimination include: *race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.*

2.2.4 It is clear from these definitions that "communities" are different from "groups." Marginalised *communities* are identified with a particular geographic location and their members identify with each other in a cultural and social sense. In contrast, the members of marginalised *groups* are linked by particular characteristics that make them vulnerable to discrimination or social exclusion but may not necessarily live in a particular geographic location. Members of marginalized communities may also be subject to discrimination as defined in Article 27(4) of the Constitution.

2.2.5 For purposes of this policy the term ***"marginalized areas"*** refers to a geographic location where significant populations of marginalised communities live. This can either be a county or sub-county unit. Article 204(3) of the Constitution requires the national government to use the Fund either directly or indirectly through conditional grants to counties where marginalised communities live. Consequently, the Commission has interpreted the term "marginalised areas" to mean "marginalised counties".

2.2.6 The Commission is, however, cognizant of the fact that there are pockets of marginalized communities in many other counties that are classified as non-marginalised in this policy document.

3. MARGINALISATION IN KENYA

3.1 Nature and Causes of Marginalisation

3.1.1 Marginalisation is a multifaceted condition in which a group, a community or an area is excluded from active participation in economic, social and political affairs. In the case of groups or communities, marginalized individuals do not usually have access to a wide range of basic services such as food, water, health care, energy, education and security. They also have limited political participation. A marginalized area, on the other hand, is a region where access to means of communication and transport, in addition to the above essential basic services, is substantially below the level generally enjoyed by the rest of the nation.

3.1.2 Marginalisation can be attributed to several factors: legislated discrimination, geographical factors, culture and lifestyles, domination by non-indigenous people, land legislation and administration, non-recognition of minority groups, ineffective political participation, and inequitable government policies.

3.1.2.1 Historical and Legislated Discrimination

3.1.2.1.1 Marginalisation in Kenya was formalized through discriminative legislation. For example, the District Ordinance Act of 1902, created `*closed districts*' policy. According to the ordinance, the Northern Frontier District

(comprising of present day Turkana, Marsabit, Wajir, Mandera, Garissa, Isiolo, and Samburu counties) was a closed area, and movement in and out of the region required special passes. This policy created `*two nations'* in one. Sentiments by the colonial government were that Northern Territories could be given protection under the British flag or could be left to their own customs as anything else was considered uneconomical. This policy was evident from colonial times as reflected in the memoirs of one district officer[1]

'Kenya, … is divided roughly into two halves, the southern half of which consists of what we call the settled area where the white people had their farms and the agricultural natives …, and the northern area which extends from Lake Rudolf to the Somali border…. The administrators in the southern half of Kenya thought we were mad to live in the northern area at all…."

This closed district policy and creation of the Northern Frontier District excluded the region from the rest of Kenya.

3.1.2.2 Other colonial laws such as the Vagrancy Act, Northern Frontier Province Poll Tax, and the Special Districts (Administration) Act, were equally punitive to the residents of this region. The overall legislative framework was premised on exclusionist policy and thus, explains to a large extent the region's low socio-economic development.

[1] Hassan A. I (2008): Legal impediments to the development of Northern Kenya. http://pambazuka.org/en/category/comments/51377

3.1.2.3 The post-colonial government's reaction to the '*Shifta*' war immediately after independence exacerbated Northern Kenya's isolation from the rest of the country. To deal with this 'menace' the government introduced constitutional amendments and new Acts such as Nos. 14, 16, and 18 of 1965 that allowed the government to rule Northern Kenya by decree.

3.1.2.4 Sessional Paper No. 10 of 1965, for example, anchored a strategy of investing resources in areas of "high economic potential" areas in order to attain rapid economic growth and redistribute the proceeds to "medium potential" and "low potential areas". This was directly linked to the nature of the economy, which is still dependent on agriculture. Nonetheless, this policy led to neglect of what was considered as "low potential areas" leading to social and economic exclusion.

3.1.2.5 The failure to attract resources in these areas is manifested in the underdevelopment as exemplified in poor performance in schools, poor infrastructure, and the absence of essential government services.

3.1.3 **Land Policy and Administration**

3.1.3.1 Both colonial and post-colonial governments facilitated dispossession of land. This resulted in land related injustices that included landlessness, lack of opportunity to access credit and general economic deprivation. Following the enactment of the Land Titles Ordinance of 1908, all persons with claims to land were to present these claims to the Land Registration Court, failing which all unclaimed land became Crown Land. The Maasai lost land through land agreements of 1904 and 1911, which finally confined them to south of the Railway line. In the Rift Valley the colonialists took away land and created part of the White Highlands that included Central Kenya. Later the Swynnerton Plan (1952-54) called for land tenure reforms aimed at moving the basis of land ownership in the "African Reserves" from communal tenure to one based on private property.

3.1.3.2 The Crown Lands Ordinance of 1915, which became the Government Land Act (CAP 280 of the old Constitution), was used as the most effective tool of political patronage by successive regimes.

3.1.3.3 Through these legislations, Africans lost their land to colonialists, particularly at the Coast where indigenous communities were dispossessed of their land. Upon attaining independence, such land never reverted to the 'original owners' but was taken over by 'new land owners' causing the current land problems in parts of the country. Equally, lack of decisive land reforms continues to cloud ownership and use of land especially among minority groups and marginalised communities.

3.1.4 **Geographical Factors**

3.1.4.1 Counties in the vast northern and some coastal parts of the country are generally isolated from the centre due to their geographical location. Some major towns such as Lodwar, Mandera, Moyale, Wajir and Lamu are more than 1000 kilometres from the capital city. This geographical location has been a major impediment to socio-economic integration of the residents of these regions into the mainstream economic activities of the country. This vastness and their being located far away from the capital city, in addition to the inadequate resources for development perpetuated their exclusion from national resource allocation.

3.1.4.2 The climatic conditions in these regions is harsh and characterized by low and unreliable rainfall, frequent droughts, poor soils, and high temperatures. These unfavourable climatic conditions, coupled with location away from the capital city, contributed largely to low socio-economic development.

3.1.5 **Culture and Lifestyles**

3.1.5.1 Pastoral communities occupy the arid and semi-arid lands (ASALs), which cover about 80% of Kenya's total land area. The pastoralist population is estimated at about 25% of Kenya's total population. Over time, these vast ASALs did not attract integrated development initiatives.

3.1.5.2 Their cultural practices, beliefs and norms have over time made it difficult for them to be fully integrated in the modern economic, social and political spheres. Additionally, their desire and intention to promote and continue practicing their traditions creates a perception among the non-pastoralist communities that they are not willing to be part of modern socio-economic development. This has led to their marginal participation in integrated social, economic and political development.

3.1.6 **Internal Migration**

Though the Constitution allows Kenyans to settle and own properties anywhere in Kenya, migration of some communities into other regions has caused tensions because residents of the affected areas have perceived the 'new comers' as dominating politics and economic life in these regions. Examples of adverse socio-economic effects of internal migration can be cited in Isiolo, Lamu and Tana River counties.

3.1.7 **Minorities' Recognition**

Until the enactment of the current Constitution, minority and marginalised groups were not recognized in the statutes. This was despite the State's ratification of international conventions. In addition, marginalized communities are unable to influence legislative and administrative policy on account of their small numbers.

The promulgation of the Constitution in 2010 signaled a new era for minorities and marginalised groups to enjoy rights like other Kenyans.

3.1.8 Inequitable Development Policies

Post-colonial Kenya's economic resource distribution is based on Sessional Paper No. 10 of 1965, which focused on generating growth in "high potential areas" and redistributing the proceeds to low and medium potential areas. This policy initiative in favour of public investment in "high potential areas" largely explains the disparities in social and economic development among various communities and regions. Subsequent socio-economic policy initiatives were informed by the Sessional Paper No. 10 of 1965.

3.2 Effects of Marginalisation

The key consequences and impacts of marginalisation are similar irrespective of the genesis or processes of marginalisation. They include:

3.2.1 High Levels of Poverty

According to the 2005/2006 Kenya Integrated Household Budget Survey (KIHBS), 46 percent of the population is estimated to be poor and, most of these live in rural areas. The 10 counties with the highest poverty rates include: Turkana (92.9%), Mandera (85.7%), Wajir (84.4%), Marsabit (79.3%), Samburu (77.7%), Tana-River (75.4%), Kwale (72.9%), West Pokot (68.7%), and Kilifi (66.9%). These same counties have the highest poverty gap rates. Compared to the national average (46%), the poverty rates in the above counties, are extremely high. Marginalized areas have low participation in economic activities resulting in these high levels of poverty.

3.2.2 Food Insecurity

Marginalised areas are highly food insecure with extremely high chronic malnutrition rates, which is worsened by poor nutrition knowledge. According to the Kenya Food Security Steering Group (KFSSG)[2] the ASALs suffer from perennial food shortages due to low agricultural productivity and erratic rains. Consequently, the region relies heavily on food supplies from other regions as well as relief food supplies for survival, especially during droughts.

3.2.3 Insufficient Infrastructure

In most marginalized areas, public social and physical infrastructure is inadequate. Schools, hospitals, clinics, water and sewerage, electricity, roads and bridges are underdeveloped. In the case of roads and bridges, access is difficult particularly during rainy seasons. Similarly, only a negligible percentage of the population has access to safe drinking water.

3.2.4 Poor State of Basic Social Services

Only a small percentage of the population in marginalized areas has access to primary healthcare, basic education, good nutrition, drinking water, basic shelter and reproductive health. Life expectancy is below the national average of about 63 years. In the case of education, a high percentage of the children and youth are out of school due to low enrolment and transition rates. School

[2] This is an organisation comprising of the line ministries dealing with food security, UN agencies, Red Cross, donors and NGOs

performance in national examinations is poor. Where basic services are available, their quality is below the national average.

3.2.5 **Weak Governance**

In most marginalized areas, there is weak governance manifested in lack of democracy, weak enforcement of rule of law, and weak institutions and human capacity for conducting public affairs and managing public resources.

3.3 Past Policy Initiatives and Limitations

3.3.1 Over the years, the government has implemented various policy initiatives to ensure balanced regional development in the country. These include the Special Rural Development Programme (SRDP) of 1971, *Sessional Paper No. 4 of 1975 on Economic Prospects and Policies* which stated that "there would be more emphasis on rural development", establishment of six Regional Development Authorities, the District Focus for Rural Development (DFRD) in July 1983, and use of devolved funds such as Constituency Development Fund (CDF), Local Authorities Transfer Fund (LATF), and Road Maintenance Levy Fund (RMLF).

3.3.2 These policy initiatives yielded mixed results. Some regions continued to be excluded from full participation in social and economic activities. The main challenges faced by these policy initiatives were political and bureaucratic in nature.

4. POLICY DIRECTION

4.1 Goals and Expected Outputs of the Policy

4.1.1 The main purpose of this policy is to set out the basis for identifying marginalized areas in Kenya and recommending procedures for utilization of the Equalisation Fund.

4.1.2 Past policy initiatives achieved mixed outcomes in addressing marginalisation. Article 204 of the Constitution established the Equalisation Fund as an affirmative measure that earmarked the Fund for spending on targeted basic services in marginalised areas. The purpose of the policy is to ensure that the Fund is used to bring the level of basic services in marginalised areas to the same level as that of other areas in Kenya.

4.1.3 Unlike the previous policy initiatives to address marginalisation, this policy is unique in a number of ways: (i) it is anchored on the Constitution, and specifically gives full effect to provisions of Article 204 of the Constitution, (ii) it sets out objective criteria for identifying marginalised areas for purposes of utilisation of the Fund, (iii) it provides a one-stop reference point as well as an overarching mechanism for administering the Fund.

4.2 Guiding Principles

The fundamental principles that guide this policy are the principles of public finance as stipulated in Article 201 of the Constitution. Specifically, Article 201(b)(iii) stipulates that expenditure shall promote the equitable development of the country, including making special provision for marginalized groups and areas.

In addition, this policy broadly draws on principles of public finance management that are not necessarily stipulated in the Constitution.

4.2.1 Equity

This principle aims at ensuring that basic services are provided to address disparities within and among counties. Service standards in marginalized areas shall be improved to the levels generally enjoyed by the rest of the nation.

4.2.2 Effectiveness

Funds shall be spent in a way that achieves the purpose for which it was established, that is, to improve the quality of basic services in marginalized areas.

4.2.3 Efficiency

This principle recognizes that funds shall be spent in a prudent and responsible way. Efficient public investment can contribute to economic growth, but projects can also be poorly selected and implemented due to poor information, weak technical capacity, waste and leakage of resources. Scaling up public investment in a weak institutional environment runs the risk of undermining the impact of that investment on both economic growth and social cohesion.

4.2.4 Economy

This principle aims at maximizing the use of resources. Selection of projects will be based on their appropriateness (accessibility, affordability, and cultural acceptability) in addressing service gaps.

4.2.5 **Subsidiarity**

Decisions about public investment should be made at the lowest appropriate level of government. County governments are best placed to identify the gaps in basic services and to design projects that are adapted to the needs of marginalized communities.

4.2.6 **Transparency**

The Fund shall be managed in a way that ensures openness about allocation, utilization and accounting.

4.2.7 **Participation**

This policy is guided by the principle of public participation in the management of public finance. Specifically, the views and opinions of the people of Kenya and other stakeholders should be considered in the formulation and prioritization of projects and implementation of this policy. Collaboration with other actors shall be encouraged, particularly, when the potential for improved outcomes exists.

4.2.8 **Materiality**

The unit of analysis for the purpose of this policy is the county. A county is considered marginalized if a significant proportion of its residents are excluded from the prevailing social and economic life of Kenya as a whole.

4.3 Policy Targets and Instruments

4.3.1 The overarching objective of this policy is to improve the welfare of communities in marginalised areas. This would bring the quality of basic services such as roads, health care, water, and electricity in marginalized areas to the level generally enjoyed by the rest of Kenya.

4.3.2 The provision of these basic infrastructure and services could be addressed through a number of policy instruments such as, an Equalisation Fund, conditional grants, equity-promoting legislative and administrative actions. The instrument used in this policy is the Equalisation Fund, which will run for 20 years as stipulated in Article 204(6) of the Constitution.

4.3.3 The Commission is cognizant of the prevailing dynamic environment and therefore this policy will be effective for a period of ***three (3) years***. The policy shall be reviewed after three years with a view to aligning it to the changing socio-economic circumstances in Kenya.

5. CRITERIA FOR IDENTIFICATION OF MARGINALISED AREAS

5.1 Overview

5.1.1 The methodological approach followed in developing the criteria for identification of marginalized areas is premised on the following three factors:

i. *Constitutional stipulations*: the need to adhere to the stipulations of the Constitution and, in particular, Article 204 that establishes the Equalisation Fund, Article 201 on public finance principles and Article 203(1) regarding the criteria for equitable sharing of revenue.

ii. *Historical injustices*: The need to review ethno-regional inequalities attributable to historical injustices and post-independence policies. The colonial administration defined the economic potential of the country strictly through agro-ecological zones. This policy defined Central and Rift Valley highlands as "high potential", the Lake Basin and Ukambani lowlands (Eastern province) as "medium potential", and the rangelands, which comprise 70% of the country, as the "lowest potential". This policy bias was largely retained and continued into post-independent Kenya through the Sessional Paper No.10 of 1965 and several subsequent policy initiatives.

iii. *County-level data:* Since Kenya has had a unitary state, most of the existing data is at the national level with limited data at the county level. This is compounded by the fact that there is limited official socio-economic statistics on "low potential" regions relative to the regions classified as "high potential" and "medium potential".

iv. *International experience:* The Commission borrowed experiences from other countries such as India, Portugal and South Africa which have implemented funds akin to the Equalization Fund in Kenya. Additionally, the Commission used experiences from international agencies such as the United Nations Development Programme (UNDP). This was particularly in the computation of the County Development Index (CDI).

5.1.2 In view of the factors referred to in paragraph 5.1.1 above, the following three-pronged approach is adopted:

i. C*ounty Development Index (CDI),* which focuses on the level of development of a county as measured by selected county-level development statistics;

ii. *Insights on marginalisation from the* Commission's *county survey,* which introduce public participation component in the development of this policy; *and*

iii. *Analysis of historical and legislated injustices*, which tells part of the "story behind the county-level development statistics".

5.1.3 Each of the approaches in paragraph 5.1.2 is presented in a respective detailed background paper.

5.2 County Development Index (CDI)

5.2.1 Introduction

5.2.1.1 In order to objectively identify marginalized areas for the purpose of the allocation of the Fund, there is need for a "quantitative measure" of the access levels and quality of these basic services in each of the 47 counties.

5.2.1.2 The Commission had the choice of utilizing a number of existing quantitative measures/indices such as the Human Development Index (HDI), Gender Development Index (GDI), literacy index, education opportunity index, and poverty index. However, existing data on most of these measures are not from KNBS, are unavailable at county-level, may be derived from unofficial data sources, and were most likely developed for other purposes.

5.2.1.3 In view of the challenges identified in paragraph 5.2.1.2 above, the Commission developed a County Development Index (CDI), which is a proxy for the level of access to certain developmental imperatives as well as the quality of basic services provision. Counties which are ranked low by this index have low levels of access and quality of basic services. The development of the index followed three steps: selection of indicators, assignment of weights, ranking of counties and, finally, the determination of the threshold for purposes of identifying marginalized counties.

5.2.1.4 The details are available in a separate Commission's document on the CDI (CRA Working Paper No.2012/01).

5.2.2 Selection of Primary Indicators

5.2.2.1 Several potential socio-economic and ecological indicators were considered. These are: poverty index, life expectancy, mortality rates, education measures, access to health care and ecological factors.

5.2.2.2 The Commission selected four broad categories, namely, health, education, infrastructure, and poverty. The selection was based on constitutional stipulations in Article 204(2), causal connection with marginalisation, and availability of official data from KNBS.

1. Health Indicators

The choice of health indicators is motivated by three factors. First, health facilities are specifically mentioned in Article 204(2) of the Constitution with regard to the use of the Fund. Second, the health sector is a key social pillar of Vision 2030 that aims at providing equitable and affordable health care at the highest standards to all Kenyans. Finally, there are three health-related Millennium Development Goals (MDGs) to which Kenya is a signatory, namely: reducing infant mortality (goal 4); reducing maternal mortality rate (goal 5); combating HIV and AIDS, TB, Malaria and other diseases (goal 6).

Several indicators can be used to measure access to health services. However, selection of indicators mentioned below is primarily based on availability of official data at county level and the fact that they broadly reflect the county's status of health services, including:

- Percent of deliveries (**Del**) done by qualified medical practitioners based on the 2009 census;
- Percent of children aged 12-23 months immunized (**Imm**) based on the 2009 census; and
- Percent of the population with improved sanitation (**San**) based on the 2009 census.

2. Education Indicators

The Commission is of the view that although education is not explicitly mentioned in Article 204(2) of the Constitution, it is a critical basic service that has a positive multiplier effect in realizing other development goals. With regard to Kenya's economic blue prints, the education sector is a key social pillar of Vision 2030. Additionally, universal primary education is goal number 2 of the MDGs. The selection of the following education indicators is based on availability of official data and the fact that they broadly reflect the status of education at the county level:

- **Secondary education** (**Sec**): Percentage of population with secondary education from the 2009 census;
- **Literacy** (**Lit**): Percentage of population who can read and write from the 2009 census.

3. Infrastructure Indicators

The choice of infrastructure indicators is motivated by two considerations. First, water, roads, and electricity are specifically mentioned in Article 204(2) of the Constitution with regard to the use of the Fund. Second, infrastructure is a key enabler for national transformation under Vision 2030.

The status of infrastructure can be measured by indicators of water, roads, electricity, railways, waterways, ports, airports, and telecommunications. The selection of the following infrastructure indicators is based on availability of official data and the fact that they broadly reflect the status of infrastructure at the county level:

- Percent of **tarmacked roads** (**tRoad**) based on the 2009 census;
- Percent of the population with **electricity** (**El**) based on the 2009 census;
- Percent of the population with access to **clean water** (**Wat**) based on the 2009 census.

4. Poverty (Pv) Indicator

While poverty is not explicitly mentioned in Article 204(2) of the Constitution, the Commission views it as an important indicator that measures absence of basic services in a population.

Poverty data is based on the Kenya Integrated Household Budget Survey (KIHBS) of 2005/2006. There are three different poverty indices: poverty head count, poverty gap and poverty severity index. The poverty gap is used in this policy since it defines the depth of poverty, which is closer to what marginalisation is all about.

5.2.3 Assignment of Weights

(*See note 1 for computation of CDI*)

5.2.3.1 The assignment of weights is done at two levels: Broad categories/dimension and at individual indicator level.

5.2.3.2 Broadly, the indicators used in the computation of the CDI can be grouped into four broad categories/dimensions, namely, health, education, infrastructure, and poverty gap (Table 1).

Table 1: Broad Categories/Dimensions

Category/Dimension	Weight (%)
Poverty(Gap)	16
Infrastructure	28
Health	28
Education	28
Total	100

5.2.3.3 The weights for the broad categories/dimensions were assigned based on two factors:

i. ***Constitutional stipulations***: Indicators identified in Section 204(2) of the Constitution were assigned a higher weight. These indicators are water, roads, health facilities and electricity.

ii. ***Commission's own judgment:*** Indicators, which the Commission considered to have strong causal link with development were assigned high weights. The Commission noted the fact that poverty has a high correlation with infrastructure, health and education. However, a large proportion of the poverty gap index is composed of "food poverty", which is not captured by infrastructure, health and education indicators. Consequently, poverty gap is assigned a slightly smaller weight of 16%. The other three broad categories/dimensions are assigned an equal weight of 28% each as shown in Table 1. Within each category, individual indicators are assigned equal weights as shown in table 2 reflecting the fact that they are all equally important.

Table 2: Indicators/Dimensions and Weights

Category/Dimensions	Weight (%)	Indicator	Weight (%)
1) Poverty gap	16	i. Poverty	16
2) Infrastructure	28	i. Roads	9.33
		ii. Electricity	9.33
		iii. Water	9.33
3) Health	28	i. Immunisation	9.33
		ii. Sanitation	9.33
		iii. Deliveries in health facilities	9.33
4) Education	28	i. Literacy	14
		ii. Secondary education	14
Total	**100**		**100**

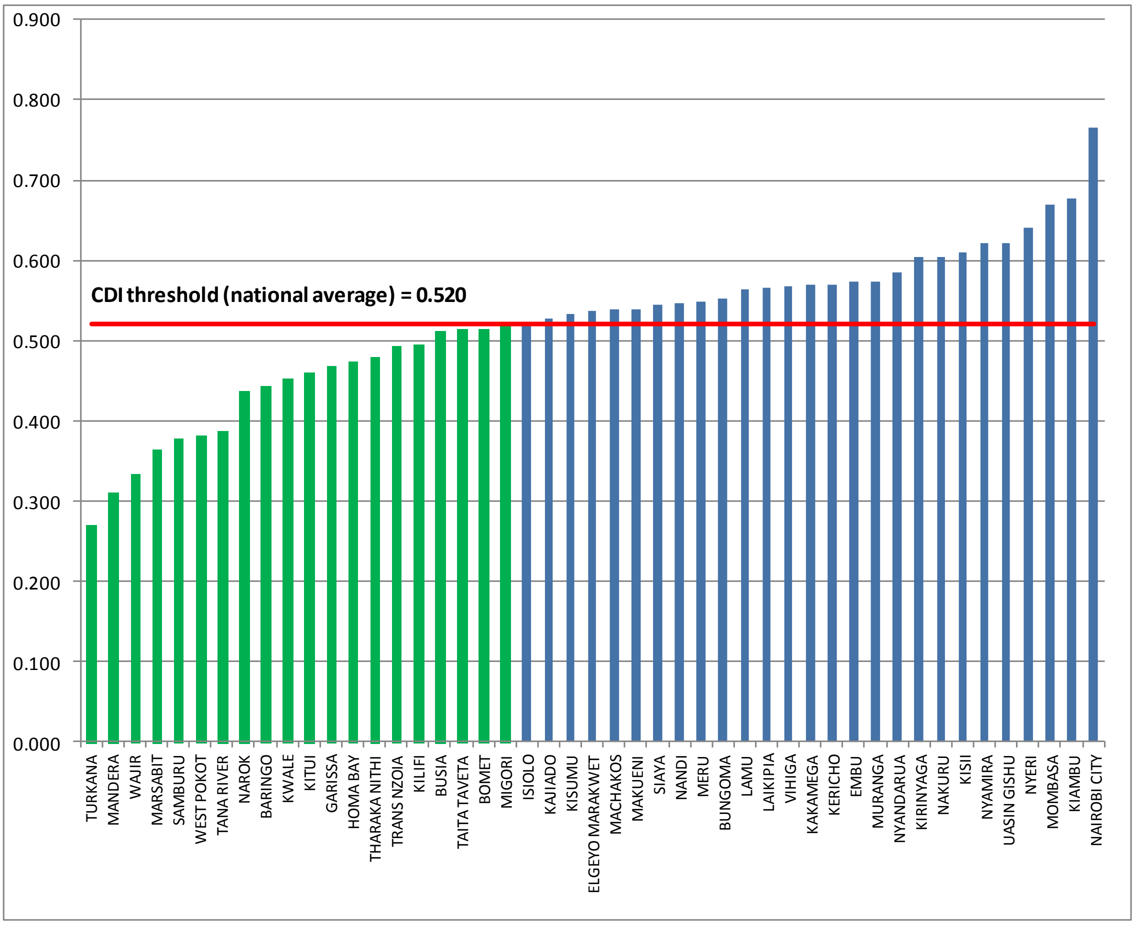
(See note 2 for the CDI equation with assigned weights)

5.2.4 Identification of Marginalised Counties on the Basis of CDI

5.2.4.1 The identification of marginalized counties using the CDI, entailed two steps: ranking of counties and choice of CDI threshold. Counties were ranked from the lowest to the highest index, on the basis of disparities in accessing basic services.

5.2.4.2 The threshold for identifying marginalized counties was the national average of the CDI which is 0.520 (Figure 2). This is in line with Article 204 (2) which stipulates that the purpose of the Fund is to bring the quality of services in marginalized areas to "the level generally enjoyed" by the rest of the nation.

Figure 2: CDI Ranking and Threshold



5.2.3.4 Using the CDI, the Commission identified 20 least developed counties presented in the CDI column of table 4.

5.3 Historical Injustices Analysis

5.3.1 Whereas the CDI is a quantitative measure of marginalisation, the analysis of historical injustices provides a qualitative approach that complements the CDI in the following ways:

i. *Explains the CDI from a historical context*: Provides part of the history behind the CDI indicators;

ii. *Complements the CDI* by providing county-level qualitative information;

iii. *Makes intra-county level analysis* possible by identifying marginalized communities in all counties; and

iv. It is *in line with Article 260 of the Constitution* which, envisages historical perspectives and draws on laws and practices in the past.

5.3.2 A detailed analysis of historical injustices is provided in Section 3 and a separate background paper [CRA Working Paper No. 2012/02]. The paper offers analysis of historical injustices in both the pre- and post-independence periods. It also identifies key legislations and practices that led to injustices in both periods. Some legislation led to ***exclusion*** of certain regions such as Northern Kenya and parts of the Coastal region. Examples of these legislations include: Special Districts (Administration) Ordinance 1934, Act No. 14 of 1965 that altered parliamentary majority required for approval of a declaration of a state of emergency from 65% to a simple majority and Act No. 16 of 1966 that extended the President's Powers to rule by decree North Eastern province and Marsabit, Isiolo, Tana River and Lamu Districts.

5.3.3 The land question is an important consideration in this policy because land predominantly determines provision of basic services. While the land problem is widespread in Kenya, the level of dispossession varies significantly among regions and communities and in the extent to which it affects the provision of basic services. The land problem is partly attributable to the Crown Land Ordinance of 1915, which became the Government Lands Act (Cap. 280). This Act promoted unequal allocation of land and gave the

Presidency unconstrained powers on leasing, granting and disposition of land, often at the expense of local residents, particularly, in the coastal region and within the Maasai community.

5.3.4 For the coastal region, this resulted in the squatter problem. The land problem contributed to the low socio-economic development of the region and in particular affected provision of basic services. Among the Maasai, large tracts of traditional Maasai land were alienated to undertake large scale farming, as well as conservation of wildlife as national parks and game reserves. This dispossession coupled with their nomadic lifestyle greatly affected their socio-economic development. Consequently, this impacted negatively on the availability and quality of basic services such as health facilities, schools, water and electricity.

5.3.5 Both pre-and post-independence economic policies perpetuated the marginalisation of some regions. Specifically, the colonial administration defined economic potential of the country strictly through agro-ecological zones that influenced investment and the provision of basic services. Central and Rift Valley Highlands were defined as 'high potential', the lake basin and Ukambani low lands as 'medium potential', while the range lands as the 'lowest potential'. Resources were invested in high potential areas with the hope that resultant revenues will be cascaded to the medium and low potential areas.

5.3.6 This policy paradigm was retained and perpetuated in independent Kenya through Sessional paper No. 10 of 1965 and subsequent policy initiatives. The result has been continued marginalisation of low and medium potential regions.

5.3.7 Based on the foregoing analysis, the Commission used the following historical criteria for the identification of marginalized counties:

i. Counties that have experienced legislated discrimination;

ii. Counties where populations have experienced land dispossession; and

iii. Counties found in 'low' potential areas in line with the agro-ecological zoning of the country's potential in the Sessional Paper No. 10 of 1965.

5.3.8 Applying the three historical injustice criteria in paragraph 5.3.7, 15 counties were identified as being "historically marginalized" (Historical injustices column of Table 4).

5.3.9 Since the historical injustice analysis does not present the severity of the "historical marginalisation", the order in the above list does not matter.

5.3.10 The historical injustice analysis further points out the fact that there are many marginalized communities which live in counties that are not classified as being marginalized.

5.3.11 Details of the analysis of historical injustices are presented in a separate Commission's publication (CRA Working Paper No.2012/02).

5.4 Insights from County Survey

5.4.1 The decision by the Commission to use county visits survey as an additional criterion to identify marginalized counties was informed by:

i. *Need for public participation as required by the Constitution:* Article 201 (a) of the Constitution, requires openness, accountability and public participation in all aspects of public finance; and

ii. The need to *translate marginalization perceptions of county* residents into a quantitative measure to complement the CDI.

5.4.2 In June 2012, the Commission carried out a national survey to identify marginalized counties. The survey involved about 150 selected participants from each of the 47 counties. They were drawn from a wide range of stakeholder groups comprising of leaders from: faith-based organizations, the youth, women's groups, government officers, non-state actors including unions, professionals and the media, among others. The details of this survey are presented in a separate Commission's publication (CRA working paper, 2012/03).

5.4.3 Based on the analysis of the survey, counties were ranked on the average percentage frequency of the group questionnaire in which they were mentioned as being marginalized. The higher the frequency of being identified as marginalized, the greater the degree of perceived marginalisation. An average cut off of 2.13% was used and total of eleven (10) counties were identified as marginalised.

5.5 Recommended Criteria

5.5.1 Given the size of the Equalisation Fund (0.5% of shareable revenues raised nationally) and the need to realise the service provision levels in the 20 year life of the Fund, the Commission limited the number of marginalized counties to those identified by at least any **two** of the three approaches in Table 4.

5.5.2 Consequently, for the purpose of this policy a county is identified as marginalized if it meets any **two** of the three criteria.

5.5.3 In light of the above, the basic criteria for identification of marginalized counties are the variables used in the computation of the CDI in Table 2, namely, health, education, infrastructure and poverty. It is expected that the specific indicators in each of the categories will change from time to time depending on availability of quality county-level data.

5.6 Identified Marginalised Counties

5.6.1 Table 3 presents a summary of the three different approaches. Counties identified as marginalized under each of the three approaches are clearly highlighted in green for ease of identification.

Table 3: County Analysis of CDI, Survey and Historical Injustices

	COUNTY	CDI	Historical Injustices Analysis	County Survey (Group)
1	TURKANA	0.27	1	27.72
2	MANDERA	0.31	1	8.35
3	WAJIR	0.33	1	9.45
4	MARSABIT	0.37	1	10.71
5	SAMBURU	0.38	1	3.94
6	WEST POKOT	0.38	1	5.20
7	TANA RIVER	0.39	1	5.51
8	NAROK	0.44	1	0.63
9	BARINGO	0.44	0	0.94
10	KWALE	0.45	1	1.42
11	KITUI	0.46	0	1.42
12	GARISSA	0.47	1	1.73
13	HOMA BAY	0.47	0	0.16
14	THARAKA NITHI	0.48	0	0.79
15	TRANS NZOIA	0.49	0	0.79
16	KILIFI	0.50	1	2.52
17	BUSIA	0.51	0	0.63
18	TAITA TAVETA	0.51	1	1.42
19	BOMET	0.51	0	0.00
20	MIGORI	0.52	0	0.47
21	ISIOLO	0.52	1	2.20
22	KAJIADO	0.53	1	0.47
23	KISUMU	0.53	0	0.16
24	ELGEYO MARAKWET	0.54	0	0.63
25	MACHAKOS	0.54	0	0.47
26	MAKUENI	0.54	0	0.47
27	SIAYA	0.55	0	0.31
28	NANDI	0.55	0	0.16
29	MERU	0.55	0	0.00
30	BUNGOMA	0.55	0	0.31
31	LAMU	0.56	1	9.13
32	LAIKIPIA	0.57	0	0.63
33	VIHIGA	0.57	0	0.00
34	KAKAMEGA	0.57	0	0.31
35	KERICHO	0.57	0	0.00
36	EMBU	0.57	0	0.00
37	MURANGA	0.57	0	0.00
38	NYANDARUA	0.58	0	0.31
39	KIRINYAGA	0.60	0	0.00
40	NAKURU	0.60	0	0.00
41	KISII	0.61	0	0.16
42	NYAMIRA	0.62	0	0.00
43	UASIN GISHU	0.62	0	0.00
44	NYERI	0.64	0	0.31
45	MOMBASA	0.67	0	0.16
46	KIAMBU	0.68	0	0.00
47	NAIROBI CITY	0.77	0	0.00
	NATIONAL AVERAGE	**0.52**		**2.13**

***Notes**: The cells shaded green indicate that the corresponding county is marginalized on the basis of that criterion. Additionally, since analysis of historical injustices is qualitative in nature, there is no national average.*

5.6.2 Table 4 presents the final counties based on each of the three approaches. The number of counties identified by each of the criterion is as follows: historical injustices (15), county survey (10) and CDI (20).

Table 4: County Ranking Using Historical, County Survey and CDI

HISTORICAL INJUSTICES APPROACH		COUNTY SURVEY APPROACH			CDI APPROACH		
RANK	COUNTY	RANK	COUNTY	COUNTY SURVEY (%)	RANK	COUNTY	CDI
1.	TURKANA	1.	TURKANA	27.72	1.	TURKANA	0.27
2.	MANDERA	2.	MARSABIT	10.71	2.	MANDERA	0.31
3.	WAJIR	3.	WAJIR	9.45	3.	WAJIR	0.33
4.	MARSABIT	4.	LAMU	9.13	4.	MARSABIT	0.37
5.	SAMBURU	5.	MANDERA	8.35	5.	SAMBURU	0.38
6.	WEST POKOT	6.	TANA RIVER	5.51	6.	WEST POKOT	0.38
7.	TANA RIVER	7.	WEST POKOT	5.20	7.	TANA RIVER	0.39
8.	NAROK	8.	SAMBURU	3.94	8.	NAROK	0.44
9.	KWALE	9.	KILIFI	2.52	9.	BARINGO	0.44
10.	GARISSA	10.	ISIOLO	2.20	10.	KWALE	0.45
11.	KILIFI				11.	KITUI	0.46
12.	TAITA TAVETA				12.	GARISSA	0.47
13	ISIOLO				13.	HOMA BAY	0.47
14	KAJIADO				14.	THARAKA NITHI	0.48
15	LAMU				15.	TRANS NZOIA	0.49
					16.	KILIFI	0.50
					17.	BUSIA	0.51
					18.	TAITA TAVETA	0.51
					19.	BOMET	0.51
					20.	MIGORI	0.52

5.6.3 Using the criteria in section 5.5.2 above, the following 14 counties meet at least two criteria and are identified as marginalized for the purpose of the Fund:

Table 5: Final List of Marginalised Counties

COUNTY			
1.	Turkana	8.	Narok
2.	Mandera	9.	Kwale
3.	Wajir	10.	Garissa
4.	Marsabit	11.	Kilifi
5.	Samburu	12.	Taita Taveta
6.	West Pokot	13.	Isiolo
7.	Tana River	14.	Lamu

6. SHARING APPROACH

6.1 Allocation of the Fund

6.1.1 CRA recommends that the Fund be shared among the counties identified as marginalized in Table 5 above, as follows:-

i. 50% of the Fund to be shared based on the Composite Development Index (CDI).

ii. 50% of the Fund to be shared equally.

6.1.2 Table 6 presents percentage share of the Fund allocated to each of the counties identified in Table 5 on the basis of the CDI, being 50% of the Fund as recommended above.

Table 6: County Percentage Share of Equalisation Fund

	COUNTY	CDI	% CDI SHARE*	% EQUAL SHARE**	% COMBINED SHARE***
1	TURKANA	0.27	10.66%	7.14%	**8.90%**
2	MANDERA	0.31	9.25%	7.14%	**8.20%**
3	WAJIR	0.33	8.62%	7.14%	**7.88%**
4	MARSABIT	0.37	7.87%	7.14%	**7.51%**
5	SAMBURU	0.38	7.61%	7.14%	**7.37%**
6	WEST POKOT	0.38	7.54%	7.14%	**7.34%**
7	TANA RIVER	0.39	7.41%	7.14%	**7.28%**
8	NAROK	0.44	6.57%	7.14%	**6.86%**
9	KWALE	0.45	6.34%	7.14%	**6.74%**
10	GARISSA	0.47	6.13%	7.14%	**6.64%**
11	KILIFI	0.50	5.81%	7.14%	**6.47%**
12	TAITA TAVETA	0.51	5.59%	7.14%	**6.37%**
13	ISIOLO	0.52	5.51%	7.14%	**6.33%**
14	LAMU	0.56	5.10%	7.14%	**6.12%**
			100.00%	**100.00%**	**100.00%**

Notes

**Percentage CDI share is derived as follows: (i) compute the inverse of the CDI for each of the 14 counties; (ii) compute the sum of the inverted CDIs,* *(iii) Compute the percentage share as the ratio of inverse CDI to the sum of the inverted CDIs.*

*** Percentage equal share is computed by dividing 100 per cent equally among all the 14 marginalised counties.*

*** Percentage combined share is computed as follows: (i) summing up the percentage CDI share and percentage equal share for each county, and (ii) dividing the resultant percentage sum by two.*

6.2 Operational Guidelines

In order to ensure that the Fund achieves its objective, appropriate operational guidelines are necessary. These cover aspects of accessing, using and accounting for the money as well as the specific aspects to which the funds will be used.

6.2.1 Fund Appropriation

6.2.1.1 The fund being set at 0.5% of the shareable revenue raised nationally is a modest amount given the purpose for its establishment. An important consideration is how the Fund shall be appropriated.

6.2.1.2 Article 204(3) of the Constitution provides that the national government may use the Equalisation Fund: (i) only to the extent that the expenditure of those funds has been approved in the Appropriation Act enacted by Parliament; and (ii) either directly or indirectly through conditional grants to counties in which marginalized communities exist.

6.2.1.3 The Commission recommends that the Fund should be spent indirectly as conditional grants to marginalised counties. Consequently, the actual expenditure of the Fund be done once county governments are in place. This is because county governments are better placed to target expenditure programmes targeted to marginalized communities within the counties.

6.2.1.4 The Funds be appropriated in a single budget line for each year as opposed to sector-level appropriation based on the Medium Term Expenditure Framework (MTEF).

6.2.1.5 Unspent funds earmarked for a specific project in each year should be rolled over to ensure project completion.

6.2.2 Fund Management

6.2.2.1 The Commission proposes that the Fund be managed by an Advisory Committee that will develop operational guidelines and a comprehensive governance and implementation framework. The framework will outline goals for service level improvement so as to bring the quality of those services to the levels generally enjoyed by the rest of the nation.

6.2.2.2 Details of the operational guidelines shall include, among others, (i) project identification in line with Article 204 (2) of the Constitution, (ii) project appraisal and appraisal processes, (iii) Fund disbursement procedures, (iv) project implementation progress reports, and project monitoring and evaluation process, including audit.

6.2.2.3 The Advisory Committee shall consist of a representative from each of the following bodies:

i. The Commission on Revenue Allocation

ii. The National Treasury;

iii. The Inter-Governmental Relations Department (Ministry);

iv. The Controller of Budget;

v. The Institute of Certified Public Accountants of Kenya (ICPAK); and

vi. State departments responsible for water, roads, health, and electricity

The Chairmanship of the Advisory Committee should be rotational.

6.2.2.4 Management of the Fund will be supported by the Inter-Governmental Relations Department. In line with the principles set out in Section 4.2, this approach is less expensive, ensures a measure of independence, and transparency in Fund management. The existing arrangements for management of devolved funds such as the Local Authorities Transfer Fund (LATF) could be a model for consideration.

7. CONCLUSION AND RECOMMENDATIONS

7.1 This policy is a commitment towards promoting equity in Kenya. It proposes a comprehensive approach in addressing the basic needs of marginalised areas to the extent necessary to bring the quality of those services to the level generally enjoyed by the rest of the country.

7.2 The policy does not cater for all minorities and marginalized groups as outlined in Article 56 of the Constitution. Both the national and county governments must institute affirmative action programs to enable these groups to progressively realize their social and economic rights as envisaged in the Constitution.

7.3 The Commission makes the following recommendations:

i. The CDI be used as a primary basis for the identification of marginalized counties in addition to being identified as marginalized by either the analysis of historical injustices or county surveys or all the three approaches;

ii. The fourteen (14) identified counties in Table 5 of this policy document be considered as marginalized for purposes of the Fund;

iii. The Fund be appropriated as conditional grants to marginalized counties. Thus the Fund be spend when county governments are in place;

iv. The Fund should be appropriated in a single budget line instead of the sectors under the MTEF;

v. The Fund should be managed by an Advisory Committee. There should be clearly defined linkages between Fund management, county and local level structures and line ministries; and

vi. This policy is effective for **three(3)** years before it is reviewed.

7.4 The Commission further proposes that all actors in Government and other stakeholders rally around this policy to ensure an equitable society as envisaged in the Constitution. Both the national and the county governments, particularly those in marginalized areas, should channel their best efforts towards ensuring that the goals for which this policy is envisaged are realized.

Notes on CDI

Note 1

The CDI is computed as shown in the equation 1 below;

$$CDI_i = w_{pv}Pv_i + w_{tRoad}tRoad_i + w_{el}El_i + w_{wat}Wat_i + w_{imm}\,\mathrm{Im}\,m_i + w_{del}Del_i + w_{san}San_i + w_{lit}Lit_i + w_{\sec}Sec_i \qquad 1$$

Where $i =$ county 1,2,…47

$w_{pv}, w_{tRoad}, w_{el}, w_{wat}, w_{imm}, w_{del}, w_{san}, w_{lit}, w_{\sec} =$ Weights attached to each of the indicators identified in section 5.2.2 above.

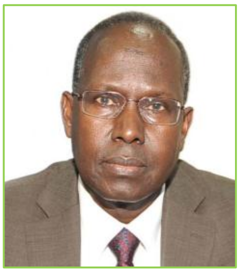
Note 2

The CDI equation with assigned weights is as shown below:

$$CDI_i = 16\%Pv_i + 9.33\%tRoad_i + 9.33\%El_i + 9.33\%Wat_i + 9.33\%\mathrm{Im}\,m_i + 9.33\%Del_i + 9.33\%San_i + 14\%Lit_i + 14\%Sec_i \qquad 2$$

CRA COMMISSIONERS AND COMMISSION SECRETARY

Commissioner Micah Cheserem – Chairman



Mr Cheserem serves as the chairman to the CRA, and is an accountant by profession with decades of hands-on experience. He is a qualified Fellow of the Association of Chartered Certified Accountants of London since 1974. He is a former Governor of Central bank of Kenya and the immediate former chairperson of the Capital Markets Authority. He has held a number of senior posts in various private sector and public companies including British American Tobacco, Lonrho and Unilever.

Commissioner Fatuma Abdulkadir - Vice Chairperson

Fatuma Abdulkadir holds a Masters in Business Administration and Bachelor of Education. She has been the National Project Coordinator in Arid Lands Resource Management Project. She has wide experience in development and implementation of government policies in Arid and Semi – Arid (ASAL) regions. She has also facilitated the implementation of programmes funded by development partners such as the EU, UNDP, WFP, FAO, UNICEF and OXFAM. She is the immediate former Chairperson of the Kenya Food Security Meeting which coordinates humanitarian interventions of all actors including government donors and NGOs in the food security sector.

Commissioner Prof. Wafula Masai

Wafula Masai is a holder of a Doctorate in Economic Analysis and Planning, a Masters of Arts in Development Economics and Bachelor of Arts in Economics. For about thirty years he has served as a lecturer and Associate Professor of Economics, Chairman of Economics Department (University of Nairobi), Prorgammes Director at the African Centre for Economic Growth and economic policy consultant for many international agencies, Kenyan public, private and civil society organizations.

Commissioner Amina Ahmed

Amina Ahmed holds a Bachelor of Arts in Economics and French. She has been the chairperson of the Kenyatta International Conference Centre (2008-2011) and a member of the Executive Committee of the One Shilling Foundation. She previously held senior positions in Kenya Commercial Bank for 22 years having left as Regional Manager, Coast. She is a holder of International Bankers Certificate London. Amina has a World Bank Certificate in Economic Analysis of Projects.

Commissioner Prof. Joseph Kimura

Joseph Kimura holds a PhD in Accounting, MBA in Accounting and Finance and Bachelor of Commerce in Accounting and is a Certified Public Accountant. He holds rank of Fellow of the Institute of Certified Public Accountants of Kenya and is a founder member of the Association of Financial Analysts of East Africa. Prof Kimura has held a large number of positions both in the public and private sectors including the University of Nairobi, United States International University, KASNEB and Higher Education Loans Board among others.

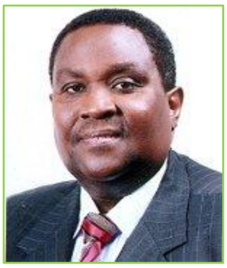
Commissioner Rose Bosibori Osoro

Rose Bosibori Osoro holds Masters in Business Administration from the University of Nairobi and a Bachelor of Arts from Kenyatta University. She is a Certified Public Accountant (CPA) and Certified Public Secretary (CPS) finalist. She has extensive work experience in public finance with emphasis on budgeting and financial allocation. She is a member of Institute of Certified Public Accountants of Kenya (ICPAK) and Kenya Institute of Management. She previously held positions at the Kenya Forestry Research Institute.

Commissioner Prof. Raphael Munavu

Raphael Munavu holds a Ph.D. in Chemistry, a Master of Science degree in Chemistry and Bachelor of Arts in Chemistry. He has held senior academic and administrative positions in Moi University, University of Nairobi; Egerton University, the Kenya National Examinations Council and the South Eastern University College (SEUCO). He has wide research and teaching experience and is a Fellow of the Kenya National Academy of Sciences (KNAS)

Commissioner Meshack Onyango



Meshack Onyango holds a Master of Science Degree in International Banking and Finance (1983) from Herriot – Watt University, Edinburgh, Scotland and a Bachelor of Commerce degree (Accounting option) (1975) from the University of Nairobi and Certificate in Money and Capital Markets Development from the prestigious New York Institute of Finance. He is a financial sector payments system development expert with thirty years' experience working with the Central Bank of Kenya. He has undertaken various consultancy assignments with varied donor agencies such as UNDP, USAID among others and has been a board member at the Capital Markets Authority. He is also a member of the Kenya Institute of Directors.

Joseph Kinyua (Commissioner/PS Treasury)

Joseph Kinyua holds a Bachelor a Bachelors and a Masters Degree in Economics and has wide experience in financial and public sector management. He has previously worked with the University of Nairobi, International Monetary Fund and the Central Bank of Kenya.

George Ooko – Commission Secretary

George Ooko holds a Bachelor of Commerce and Masters of Business Administration degrees from the University of Nairobi. He is the immediate former Chief Executive Officer of the Coffee Development Fund. He has vast experience from both the public and private sectors and has formerly been a Senior Executive at Barclays and NIC Banks.

COMMISSION ON REVENUE ALLOCATION

Physical Address: 14 Riverside Drive,
Grosvenor Block, 2nd floor
P.O Box 3010 -00200
NAIROBI.

Landline: 254-20-4298000

Mobile: 0708-752 539 / 0731-776 666

Fax: 254-20-4298251

e-mail: info@crakenya.org

Website: www.crakenya.org

facebook: crakenya

twitter: #crakenya