Rings Research in Gender & Ethics

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How is gender addressed in the governance of the Kenyan health system?

The importance of taking account of gender in the attainment of good health outcomes is well documented. Engendering health systems governance would not only lead to better health outcomes for people of various genders but also potentially harness the power of the health system to act on gender inequity in society more broadly.

Where possible, this brief analyzes effort to ensure gender balance within health governance structures and the extent to which the architecture of health governance promotes a gendered approach. It ranks governance laws, policies and guidelines in accordance with a continuum of approaches to action on gender and health (Figure 1). It suggests measures that can be taken to make these policies more gender equitable.

Health systems governance has three broad frameworks, legal; planning; and political. The legal framework is largely bounded by the constitution of Kenya and the auxiliary health act (Health Act no. 21 of 2017). The political governance framework is shaped by nascent political agenda in health, while the planning framework is guided by technical plans and documents in health.

This brief interrogates the extent to which health systems governance in Kenya have been engendered. In this regard the following documents and policies will be reviewed:

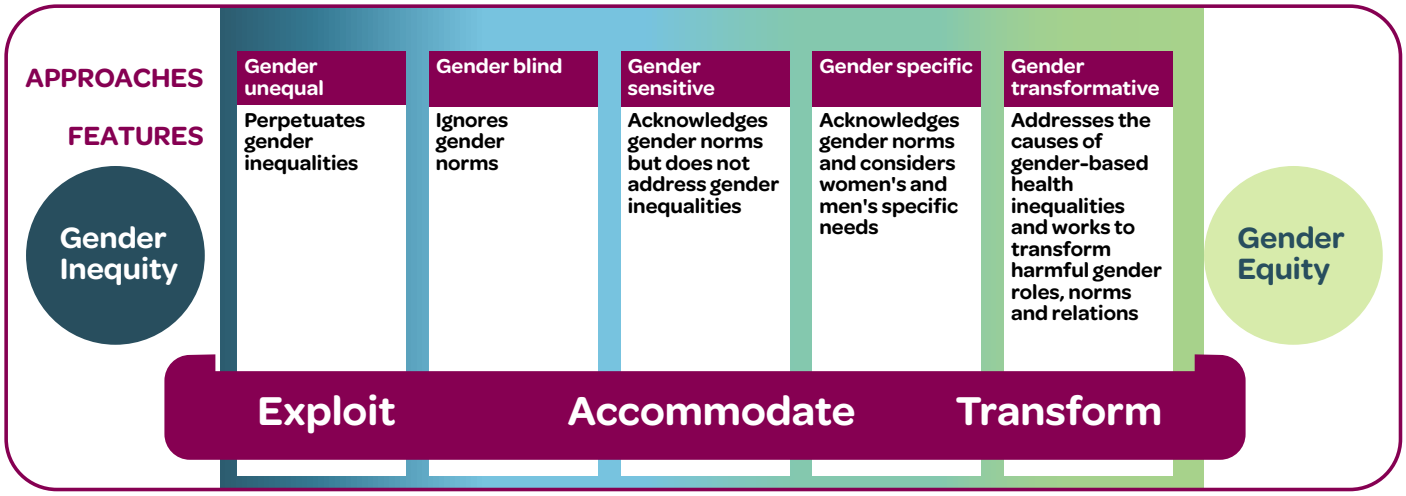
1. The constitution of Kenya;
2. The Health Act;
3. The Kenya Health Policy, 2014 – 2013; and
4. Medium Term Plan (MTP) III

The Constitution

Chapter four of the Kenyan Constitution, on the Bill of Rights identifies health as a critical economic and social right, "Every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care." The right to health as enshrined in the constitution should be encapsulated within the larger spirit of the constitution which endeavors to provide an equitable country. Article 27 (1) proceeds that, "every person is equal before the law and has the right to equal protection and equal benefit of the law"; Article 27(3) affirms that, "women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres". The Constitution establishes the Kenya National Human Rights and Equality Commission to, among other things, "promote gender equality and equity generally and to coordinate and facilitate gender mainstreaming in national development," (Article 59 (2)(b). Article 59 gives rise to the National Gender and Equality Commission (NGEC) established under Act. no 15 of 2011. One of the functions of the Commission is to co-ordinate the mainstreaming of gender into all state organs and policies.

The Fourth Schedule of the constitution identifies the provision of health services as a county government function. Therefore, even though health policy is a preserve of the national government, resourcing and administrative decisions made at the county level have a bearing access to health services and thereby have implications on either equitable or inequitable access to health services. On a broad premise the Kenyan constitution lays the ground for the gender equitable distribution of resources. As a constitutional and moral principle therefore, all axillary acts, policies and resourcing decisions should uphold gender equity. Using the scale in Figure 1 the constitution could be described as gender specific.

Figure 1: A continuum of approaches to action on gender and health



Inspired by remarks by Geeta Rao Gupta, PhD, Director International Center for research on Women (ICRW) during her plenary address at the XIIIth International AIDS Conference, Durban, South Africa. July 12, 2000

The constitution sought to transfer power as much as possible to the people, through the devolved system counties which were viewed as elementary units through which service users could shape decisions that affected them. However, the power relations at county, community and household level that determine access to health have not always been acknowledged (McCollum et al, 2019). Further attention to the intersection of power relations within the devolved context yield to health policies that are not only responsive to the needs of different groups, but also have the capability of re-configuring the power relations that marginalize them in the first place.

The Kenya Health Act

The Kenya Health Act (Act no. 21 of 2017) was passed with the purpose of establishing a unified health system. The Act also operationalizes the Constitutional provisions that deal with healthcare. In the spirit of the constitution, the Health Act endeavors to keep in line with the spirit of the constitution on promoting gender equality. For example, the Act expressly states that it is the duty of the state to "promote, improve and maintain the health and well-being of every person" (Article 4(a). Article 4(c), underscores the importance of providing health services through a manner that best meets the specific needs of different groups and earmarks "ensuring the realization of the health-related rights and interests of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities and members of particular ethnic, religious or cultural communities."

The Act goes on to name specific rights that are critical to women and from a gender perspective, they include: right to maternity care (Article 5 (3) (b); the right to reproductive health services (Article 6 (1)(a); the right to appropriate health care for safe pregnancy, child birth and post-partum care (Article 6 (1)(b) and; the right to treatment in the event of an abnormal pregnancy. However, the act interprets gender in a rather narrow sense and almost equates gender to women's health. For example, it ignores emerging issues such as non-communicable diseases, mental health, predisposition to work related injury which affect men and women differently. The Act could therefore be considered gender sensitive.

The Planning Framework

Medium Term Plan III

The Medium Term Plan III acknowledges improvements made in maternal health, for example skilled deliveries increased from 600,000 to 1.2 million between 2013 -2017, while maternal mortality reduced from 488 to 382 over the same period. Three of the six flagship projects in MTP II had direct bearing on gender and health, they included: the Linda Mama Project to cover 1.36 million mothers and babies by 2022; Health Insurance project for Elderly People and Persons with Severe Disabilities (PWSDs) to cover about 1.7 million persons by 2022; and the Health Insurance Subsidy Programme (HISP) for the orphans and the poor to cover about 1.5 million persons by 2022. We consider the plan to be gender specific.

Kenya Health Policy 2014 – 2030

The Kenyan Health Policy gives direction on the improvement of overall health status of the country by 2030. The policy goes on to highlight three key principles, although the principles are abstracted from the constitution, gender is not among them. The Policy highlights that gender disparities remain significant, with the Gender Inequality Index (GDI) stood at 0.618 and ranking Kenya 130 out of 146 countries worldwide in 2012. The policy also acknowledges that gender disparities between Kenyan regions exist and that health interventions need to address these regional disparities. In addition, the policy identifies other social determinants of health, such as the literacy level for women having a strong correlation with women and maternal health. Although the health policy refers to gender, none of the identified policy imperatives are gender related. None of the six policy objectives is gender related. Although the policy dedicates substantial mention to the governance of the health system, it pays insufficient attention to gender. The significant emphasis it places on the health system through organizational lenses as opposed to institutional ones also ignores the social-cultural attributes like gender that either inhibit or enhance access to health. If placed on the gender continuum this policy could be considered gender sensitive.

Political Governance

Political governance within the health system refers to agenda setting within health. The current Kenyan government has articulated a policy agenda with four priorities, one of which is the attainment of Universal Health Coverage (UHC). The target of UHC is scaling up National Hospital Insurance Fund coverage (NHIF) to 100% coverage. In the past, the political administration in government has focused on women's health, including through the free maternity programme and Beyond Zero. While these can be said to have a focus on women's health, they do not necessarily take a gendered approach.

Discussion

This review has discovered a relationship between, gender, health and governance that is somewhat ambivalent, or that does not go far enough. Although the constitution sets a broad premise for gender equitable health services and resourcing, the Health Act does not go far enough in the same spirit, particularly in ensuring that women are represented in the governance of key organs in health care. Whilst, a gendered approach should not be reduced to a mere count of women's representation within key organs of decision making, equitable representation goes a long way in acknowledging the historical gender imbalance in governance and decision making that has bearing on health outcomes for all. At the planning level two trends emerge, the first is that gender gets relegated to the periphery of plans and policies, and second, that there is a failure in health policy and programmes to address specific gender needs. Programmes targeted towards improving women's health at the national level point towards an understanding that health services need to address the needs of specific groups who are marginalized due to gender roles, norms and relations. However, it is not clear whether the association of gender and health is recognized in other ways. This brief does not make a conclusive review with regards to gender, governance and health in the country; and it is important to remember that the provision of health services is a domain of county governments. As such, a wider understanding of the status of gender and health can only be made through a review of resourcing and decision making with regards to health at the county level.

Further reading

McCollum R et al. (2019) Applying an intersectionality lens to examine health for vulnerable individuals following devolution in Kenya, International Journal for Equity in Health201918:24
https://equityhealthj.biomedcentral.com/articles/10.1186/s12939-019-0917-2

Acknowledgements

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