



**COLLABORATION
OF WOMEN IN
DEVELOPMENT**

Investing in Women, Children and Youth

THE IMPACT OF LEVIES AND TAXES ON WOMEN TRADERS IN KILIFI COUNTY

RAPID ASSESSMENT REPORT 2019



Source: devpolicy.org



In Partnership with

**URGENT
ACTION
FUND +
AFRICA**

FOR WOMEN'S HUMAN RIGHTS



***The study was commissioned by Collaboration of Women in Development (CWID).
It analyses the impact of county levies and taxes on informal traders in Kilifi County***

**Published by
© 2019**



Investing in Women, Children and Youth

Collaboration of Women in Development (CWID) | Zakheme Road, Mishomoroni | P.O. Box 12327 – 80117, Mombasa, Kenya
Tel +2540412242000 / +254770013432 | www.coastwomen.org / info@coastwomen.org

In Partnership with

**URGENT
ACTION
FUND +
AFRICA**

FOR WOMEN'S HUMAN RIGHTS

Urgent Action Fund Africa | 2nd Floor, Riara Corporate Suites
Riara Road, Kilimani Nairobi, Kenya
Tel +(254) 202 301 740 / +(254) 732 577 560 | www.uaf-africa.org / info@uaf-africa.org

by: John Owegi

ACKNOWLEDGMENT

Collaboration of Women in Development (CWID) would like to thank Kilifi County officers who supported the assessment process by providing valuable information. Further, credit goes to Kenya National Chamber of Commerce and Industries (KNCCI) – Kilifi Chapter which supported in mobilization of informal traders and other business management organizations (BMOs) for interviews.

The Secretariat led by Betty Sharon (Executive Director), Tom N'gar (Head of Programs), Livingstone Odero (Resource Mobilization Manager), Susan Lankisa (Monitoring and Evaluation Lead), Maryam Fauz (Finance Manager), Caroline Mghalu (Project Manager), Allan Oduor (Field Officer) and Susy Auma (Assistant Field Assistant Officer) – was instrumental in realizing the goal of the study.

DISCLAIMER

These are the views from the study representatives and the data collected from the selected community by the consultant and are not necessarily the views of Collaboration of Women in Development (CWID).



Stakeholders Engagement Forum on Draft Trade Policy in Kilifi



FORWARD BY THE EXECUTIVE DIRECTOR

Informal sector remains a significant source of livelihoods especially in many urban settings in Kilifi County. It is also important because of its absorption of a significant proportion of women and other vulnerable populations who have been evidenced to face chronic inequalities, disadvantages and marginalization. However the informal sector in Kilifi County, as in many parts of Kenya, continues to receive inadequate attention in terms of access to dignified services, policy and resource allocation that can catalyze sustainability.

In the absence of policies and laws that regulate market excess, other indirect taxes may distort market prices and make the indigenous farm produce uncompetitive in most urban markets. The levies also make the farm produce expensive and a preserve of the upper income class, hence limiting access by the poor communities to these nutritious food items. The uncertainty of the market levies may lead to high commodity prices in the market as the vendors seek to recover their tax expense. It may also make non producers to lower the prices at source citing high levies and this could serve as a powerful disincentive to local women farmers who may make only minimum gains from their produce;

On behalf of the board of directors and staffs of CWID I send my sincere gratitude to CEC of Trade Kilifi County, Hon. Nahida Mohamed for enduring the sense in engaging stakeholders to participate in a beneficiaries-led initiative to assess different types of levies imposed by the county government combined with factors such as high transportation costs, police road blocks, demolitions by county askaris, seasonality of supply and perishability as mentioned in this study.

It is therefore my wish that the Trade department of Kilifi County will embrace all stakeholders in working with women, small scale traders to increase knowledge of their rights as small scale traders and enhance their capacity to organize and engage government – demand accountability for service delivery, as well as consider creating awareness on laws recognizes capacities of small scale traders on: business management, savings, access to credit facilities, business registration, licensing, taxation and public participation

BETTY SHARON
EXECUTIVE DIRECTOR – COLLABORATION OF WOMEN IN DEVELOPMENT (CWID)



LIST OF ACRONYMS

BMOs	Business Management organizations
KNCCI	Kenya National Chamber of Commerce and Industries
CWID	Collaboration of Women in Development
UAF-A	Urgent Action Fund - Africa
CoK	Constitution of Kenya, 2010
OAG	Office of the Auditor-General
PFM	Public Finance Management
CECM	County Executive Committee Member

TABLE OF CONTENTS

ACKNOWLEDGMENT	i
FORWARD BY THE EXECUTIVE DIRECTOR	ii
LIST OF ACRONYMS	iii
TABLE OF CONTENTS	iv
1 EXECUTIVE SUMMARY	v
1.1 INTRODUCTION	v
1.2 KEY FINDINGS.....	v
2 BACKGROUND	1
2.1 CONTEXT	1
3 METHODOLOGY	2
3.1 STUDY DESIGN	2
3.2 OVERALL GOAL	2
3.3 OBJECTIVES OF THE STUDY	2
3.4 PRIMARY DATA COLLECTION	2
4 LEGAL AND INSTITUTIONAL FRAMEWORK FOR TAXATION IN KENYA	2
4.1 NATIONAL AND COUNTY TAXATION LAWS.....	2
4.2 INSTITUTIONAL FRAMEWORK FOR TAX ADMINISTRATION – NATIONAL AND COUNTY LEVEL.....	2
5 INFORMAL SECTOR SMALL SCALE TRADE IN KILIFI COUNTY	4
5.1 TAX OBLIGATIONS OF INFORMAL SECTOR SMALL SCALE TRADERS	4
5.2 CHALLENGES AND RATING OF SERVICES OFFERED BY THE COUNTY GOVERNMENT	5
5.2.1 CHALLENGES EXPERIENCED BY INFORMAL TRADERS	5
5.2.2 RATING OF SERVICE DELIVERY PROVIDED BY THE COUNTY GOVERNMENT.....	6
6 CONCLUSIONS RECOMMENDATIONS	7
6.1 CONCLUSION	7
6.2 Recommendations	

EXECUTIVE SUMMARY

1.1 Introduction

This study, contracted by CWID, is a Rapid Assessment that aims to generate sound fact-based evidence and analysis on impacts of the Kilifi County tax policies on small-scale traders in the informal sector. The Assessment was conducted in Kilifi County as part of an on-going project dubbed, *SHE Trade Project* (funded by Urgent Action Fund - Africa). The project's overall goal is to enhance inclusion of women informal traders in trade and market development in Kilifi County.

1.1 Key Findings

1. **Heavy taxes/levies** by county government that reduce income and increase burden on traders
2. **Poor Service Deliver for traders** – This is despite the revenue raised from the same traders.
3. **Poor Market Management structures** - Discrimination in market space allocation to women traders
4. **Inadequate information** and awareness on county trade laws
5. **Limited credit facilities for trades** – This limits the ability of traders to expand their business
6. The County has **no regulations on hawking** –hawkers have no regulations to guide how, when and where to trade
7. **Limited external markets** for surplus produce such as coconut and cashew nuts
8. Poor Market Management Structures
9. County have **no or limited regulations for implementation of the numerous trade related laws.**
10. The County has **no policy guidelines on trade and markets**



CWID MOU for women economic empowerment program between county government of Kilifi and CWID and Kenya National Chamber of Commerce and Industries- Kilifi Chapter on 3rd October 2019

BACKGROUND

2.1 Context

Public service delivery in most of the world's developing countries is characteristic of ineffective, cumbersome, too procedural, costly, red taped and less-than-transparent systems. As a result, markets in such urban centres operate inefficiently. Women and the youth constitute the majority of traders operating within these markets. According to 'The Impact of Kenya's Tax System on Gender', a report released in 2018 by Oxfam in Kenya, more female informal sector traders (6.6%) operate permanent shops and semi-permanent structures than do their male counterparts (5.6%). The report also indicates that the majority of informal sector traders are youth who fall within the age bracket of 30 – 40 years. Markets in Nairobi, Kwale, Kilifi, Kisumu, Migori, Kilifi and Turkana counties are especially affected. The following as the major challenges have been identified to be facing small-scale traders in Kenya's urban settings: a) Poor service delivery; b) No or inequitable allocation of market space; c) Inadequate or ineffective inclusion of small-scale traders in market management, policymaking and decision-making; d) Corruption and lack of accountability and transparency; e) Information gaps; and f) Poor planning.

Governments raise money through taxes and levies to finance public service delivery. The Kenyan government has in the recent past been faced with several challenges with regard to revenue shortfalls and mounting expenditure pressures, mainly due to funding of devolution and infrastructure projects. There have also been considerable increases in the public wage bill that have been occasioned by frequent civil service strikes especially by the teachers and doctors. With the growing expenditure pressures, the government has identified various ways of enhancing tax revenue collection, key among them, and the taxation of the informal sector. The informal sector plays a significant role in the Kenyan economy. The informal sector is estimated to account for 30 percent of the GDP and 82.8 percent of employment in 2015. Further, it is estimated that 66 percent of workers in the informal sector are women who are largely engaged in small-scale retail trade.

Kilifi County has a total of twenty nine thousand, seven hundred and twenty (29,720) licensed small and medium enterprises with women owning 39.2%. There are two hundred and seventy one thousand, five hundred (271,500) unregistered and unlicensed informal businesses of which women own 64.7%. The unregistered informal trade employs three hundred and thirty eight thousand, six hundred and seventy-six (338,676) traders out of which 64.7% are women. The unregistered traders experience many challenges ranging from poor quality services (i.e. social amenities and security). Most of the traders secure market spaces in the thirty-five (35) formal markets in the thirty-five wards.

To respond to the needs, the County has established a Trade, Tourism and, Cooperative Development to ensure resource mobilization; policy guidance & law enforcement to ensure compliance to various laws; provide soft loans and guidance to potential traders and businesses. Through the Department, the County plans to establish two main markets, namely: (a) Construction of a modern fresh produce market at Mazeras; and (b) Construction of a Retail /wholesale market at Mtwapa. In addition, the County in 2016, Trade License Act which imposed an array of levies upon traders (including unregistered/unlicensed) was enacted. The County has also drafted Trade and Markets Bill which aims, among other things, to provide for the regulation of trade and other business activities, the establishment and management of markets.

METHODOLOGY

3.1 Study Design

This research study employed a blend of desk research and participatory research methods. On the desk research, the study reviewed literature on laws, policies, gender and informal sector small-scale trade, and the taxation factors that affect informal small-scale trade. The desk literature review involved the review of information from all government data sources. The participatory research phase involved direct administration of both qualitative and quantitative questionnaires to relevant stakeholders.

3.2 Overall Goal

The general objective of the rapid assessment is to generate sound fact-based evidence and analysis on impacts of the Kilifi County tax policies on small-scale traders in the informal sector.

3.3 Objectives of the study

Specifically, the study sought to fulfill the following;

- 1) Analyzing the existing Kilifi County taxes levied on small scale traders
- 2) Understanding the operating context and services provided to the small-scale traders by Kilifi County Government.
- 3) Identify possible solutions/recommendations to the challenges

3.4 Primary Data Collection

The first step in primary data collection involved questionnaire administration to respondents (interaction with traders at their places of work, private sector organization representatives, and county government departments). The study area was Kilifi County with focus on markets where small-scale traders were concentrated. Two markets were selected randomly targeting twenty (20) small-scale traders (both male and female). The main markets in targeted include Oloiptip and Charo maye Markets.

4. LEGAL AND INSTITUTIONAL FRAMEWORK FOR TAXATION IN KENYA

4.1 National and County Taxation Laws

Taxation in Kenya, whether at the national or county level, is anchored on the Constitution of Kenya, 2010 (CoK) besides other enabling legislations. In particular, article 209 (3) of the CoK empowers counties to levy property, entertainment taxes and any other tax that is authorized through an Act of parliament. Further, the Constitution in Article 209(4) empowers both the national and the county government to raise revenue through imposition of licenses, fees and charges for the services they provide. However, the Constitution requires counties to ensure that their taxation and any other revenue raising measures is not prejudicial to national economic policies, economic activities across county boundaries, factor mobility and trade. In addition, article 210 (1) of the Constitution provides that no tax or licensing fee may be imposed, waived or varied except as provided by legislation and where legislation permits the waiver of any tax or licensing fee, a public record of each waiver shall be maintained together with the reason for the waiver; and each waiver, and the reason for it, shall be reported to the Office of the Auditor-General (OAG).

In addition, there are county-based taxation or tax-related laws that are specific to each county. In the case of Kilifi County, these includes but not limited to, The Kilifi County Finance Bill, 2019; The Kilifi County Tourism Act, 2016; Kilifi County Tax Waivers Administration Act, 2014; The Kilifi County Betting, Gaming and Lotteries Bill, 2016; The Kilifi County Liquor Control Bill, 2014; Kilifi County Valuation For Rating Bill, 2016; The Kilifi County Trade Licensing Act, 2016; and County Outdoor Advertisement & Signage Control & Regulation Bill, 2018.

The Kilifi County Finance Act, 2019

This is the primary legal framework, which is enacted pursuant to section 132 of the Public Finance Management Act, 2012. It sets out the revenue-raising measures for the Kilifi County government. Kilifi County Finance Act is an annual legislation that only contains the amendments to legislation required to give effect to the county government's revenue-raising measures. The law is expected to alter the amount or rate of a tax or fee by amendment of other laws. Some of the key highlights of the law is the provision (Schedule 1 & 2) requiring different businesses including those involved in informal trade (e.g. sale of milk in per-litre jerry can to pay certain amount of fees.

The Kilifi County Tourism Act, 2016

This legislation gives mandate to the Executive Committee Member responsible for finance to make recommendation for provision of fees to promote the development of sustainable tourism including license and permits fees; disincentives to deter bad tourism activities and services; and user fees for the tourism products and services rendered.

Kilifi County Tax Waivers Administration Act, 2014

The Kilifi County Tax Waivers Administration Act, 2013 provides for the regulation and administration of tax waivers. This law was enacted to ensure compliance with article 210 of the Constitution and its main purpose is to provide for the procedure applicable to and requirements for tax waivers.

The Kilifi County Betting, Gaming and Lotteries Act, 2016

The Kilifi County Betting, Gaming and Lotteries Act, 2016 provides for the control and licensing of betting and gaming premises; for the imposition and recovery of a tax on betting and gaming; for the authorizing of public lotteries in the county; and for connected purposes. This law establishes the Betting Control and Licensing Board which, among other, grants permit for regulation of running betting, lotteries and gaming business. This legislation permits the executive member (subject to approval by the County Assembly) to make regulations that will ensure effective implementation of the law. However, no regulations have been developed since its enactment three years ago.

The Kilifi County Liquor Control Act, 2015

The Act seeks to provide for the Control and Regulation of the production, sale, distribution, consumption and outdoor advertising of liquor in Kilifi County. The Act further establishes two zones for purposes of administration of the Act: (a) Kilifi Northern Region-comprising of Kilifi North, Malindi, Magarini and Ganze SubCounties; and (b) Kilifi Southern Region- comprising of Kilifi South, Rabai and Kaloleni Sub Counties. The Act further compels every liquor business operator to pay a registration fee of KES 1000.

The Kilifi County Coconut Act, 2015

The Act establishes a Board which, among other things, prescribes fees (after consultation with the relevant Committee of the house): a) payable for license issued; and b) nursery operation annual registration fees payable by every registered coconut nursery operator. The Board is also mandated to make regulations requiring the registration and licensing, in a manner and upon payment of fees as may be prescribed, of producers, processors, transporters and distributors of coconut produce, and of any premises used.

The Kilifi County Public Entertainment and Amenities Act, 2016

The Act was enacted to regulate public entertainment and the use of public amenities and for connected purposes. It gives mandate to the department responsible for making policies and legislations on public entertainment to set conditions and fees for the licensing of places of public entertainment. In addition, it gives the Executive Committee Member powers to make regulations for the better carrying into effect of the provisions of this Act to prescribe the fees to be charged in respect of any license or permit in accordance with the applicable Act.

The Kilifi County Rating Act, 2016

The Act provide for the imposition of rates on land and buildings in the County of Kiifi. The bill seeks to repeal the previous National Rating Act (Cap 267). Considering that the current valuations are outdated (have been in existence for more than 30 years), this Act aims at remedying the current situation by providing for valuation of properties for the purpose of levying property rates.

The Kilifi County Trade Licensing Act, 2016

This Act seeks to provide for granting of permit for and regulating conduct of a business or trade within the County. The law will upon enactment streamline the framework for regulation of the Trade Licenses and/or Single Business permit. The law regulates the trade without necessarily regulating the profession. The Act provides for the appointment of a county licencing officer with the responsibility of administering trade licences

The Kilifi County Trade and Markets Bill, 2019

The Bill when enacted will provide for the regulation of trade and other business activities, the establishment and management of markets and for related purposes. In addition, the Bill compels a regular trader, who wants to carry out any commercial activity from a public market must obtain a license or, in the case of a casual trader, pay such fee as may be prescribed. The Bill also empowers the Executive Committee Member to make Regulations for fixing, regulating and collecting stallages or charges and the payment and collection thereof in any public market

County Outdoor Advertisement & Signage Control & Regulation Bill, 2018

The County Outdoor Advertisement & Signage Control and Regulation Bill, 2018 is a bill by the Senate and it seeks to provide for a legal framework for the regulation of outdoor advertisement in the counties through the issuance of licenses by the county outdoor advertising licensing committee. The bill proposes the establishment of County Outdoor Advertising Committee that is mandated to regulate outdoor advertisement in each county.

4.2 Institutional Framework for Tax Administration – National and County Level

The Constitution of Kenya under the fourth schedule provides for the demarcation of roles and responsibilities across the two levels of government. Each level is tasked with some level of responsibility over tax administration. At the national level, the Kenya Revenue Authority (KRA) is the principal collector of all government revenue (both tax and non-tax) collection agency and accounts for over 95% of Government Ordinary Revenues while in the case of Kilifi County; the responsibility to administer taxes and revenue is entrusted to the Director Revenue Management who is the chief revenue collector. This department is supported by the enforcement unit, which ensures compliance to the county laws and regulations.

The Public Finance Management Act, 2012, allows counties to appoint an agency, for instance, the Kenya Revenue Authority or any other agent to collect levies and charges on behalf of the county government.

In particular, section 160 of the PFM Act 2012 provides that the County Executive Committee Member (CECM) for finance may authorize the Kenya Revenue Authority or appoint a collection agent to be a collector of county government revenue. In the case of the Kilifi County, the role of tax administration is being undertaken by the county's department of Revenue, which has been decentralized to sub-county level for ease of administration and efficiency.

5. INFORMAL SECTOR SMALL SCALE TRADE IN KILIFI COUNTY

5.1 Tax Obligations of Informal Sector Small Scale Traders

From the field data, the respondents were asked if they required licenses to operate the business and 70% said they needed licenses while 29.8% did not need licenses to operate the business. The responses from the various traders are a clear indicator that most of the informal traders are not fully aware of their tax obligations in terms of what they need to pay to the County Government. This is because in order to operate within a market, the market fee is mandatory.

Table 1: Do you Require License to Operate Your Business? (%)

	No	Yes	Total
Sex			
Male	13.9	49.8	63.7
Female	5.9	20.4	36.3
Total	29.8	70.2	100.0

Table 2 was further analyzed in order to establish the licenses needed by the informal traders in order to operate their businesses. Worth noting were the additional costs the traders have to incur in order to conduct business – some of the costs for services such as security and water is the responsibility of the government but the traders have to make their own arrangements since the same services are not provided by the County government.

Table 2: License/Levies & trading costs

Licenses/Permits	Issuing Authority
Single Business Permit	County Department of Revenue
Hawkers Fees	County Department of Revenue
Health Certificate	County Department of Health
Fisheries License	County Department of Fisheries
Refuse Collection	County Department of Environment
Staff Health fees	County Department of Health
Security Fees	Private groups
Rent/Market Stall costs	County Department of Revenue
Storage fees	Private groups
Transport costs	Private individuals
Water costs	Private individuals

5.2 Challenges and Rating of Services Offered by the County Government

5.2.1 Challenges experienced by Informal traders

The following challenges were raised by both county officers and traders:

- a) Unfair trade practices such as operating businesses in areas designated for other businesses, deceptive advertisements and misinformation, deceptive trade practices
- b) Establishing competing businesses by employees in proximity e.g. next door to their previous employers upon departure from employment
- c) Unpredictable and business disruptive enforcement mechanism and procedure for non-compliance with business or trade laws and regulations
- d) The informal traders pay market fees and licenses, however, the County Government does not provide any cleaning services for the markets, if anything they wait to collect garbage when there is a very big heap.

Most women complained that most of their stalls are close to the garbage collection point thus most customers stay away when the stench from the garbage become stronger

e) The enforcement officers (Askaris) tend to make arrests claiming that traders have violated by-laws, which the informal traders are not aware of. No notices are published in markets when the by-laws are introduced.

f) There are no storage facilities where traders can store their goods when going home; thus traders have to look for private storage facilities which are time and resources consuming.

g) In markets there are no public toilets, water supply. Security services are not provided by County Government. Furthermore, there is no lighting in the markets, and in most cases, female traders are forced to close their businesses early to avoid cases of robbery and theft.

h) Destruction of stalls by county government – Most traders reported that they are usually confused as they obtain licenses from the same County Government that demolishes structures claiming that their business units are not in designated areas

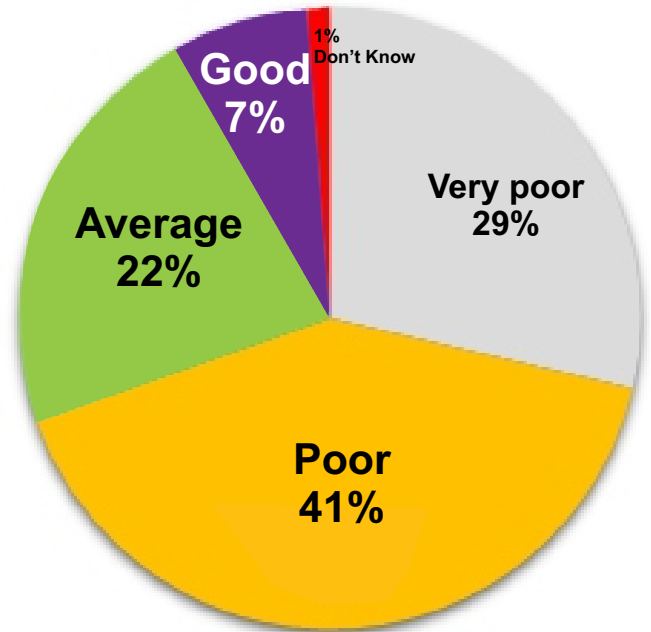
i) Weak forward and backward inter-linkages and integration between foreign direct investments and local county traders

- i) Weak forward and backward inter-linkages and integration between foreign direct investments and local county traders
- j) Inaccessibility of markets by children, elderly, sick and persons with disability due to constructions made without due regard to different vulnerability
- k) Persistent conflicts on management of public markets
- l) Poor governance of the markets and presence of middlemen operating within the markets which negatively affects operations of the markets
- m) Weak linkage between the farmers and wholesalers in the county for purposes of developing the value chains in food market
- n) Low uptake of technology and innovation in the wholesale and retail trade especially in the public markets
- o) Proliferation of informal trade and hawking in the County which has increased encroachment of business areas where other licensed businesses operate
- p) Proliferation of retail trade along road reserves, illegal worksites and other non- designated areas. These structures are often demolished by public authorities in the event of roads expansion and recovery and further utilization of public or private land where the worksites operate unlawfully in public or private land
- q) Sub-optimal utilization of space in the public markets due to poor planning and infrastructure development
- r) Multiple licensing requirements for wholesale and retail traders which increases compliance burden for businesses
- s) Inadequacy of skills and technical knowhow on business management and industry related issues
- t) Lack of access to capital especially for capital intensive industries
- u) Lack of business premises or operating space especially for the women and youth informal traders
- v) Lack of affordable credit or inadequate information and awareness on affordable credit

5.2.2 Rating of Service Delivery Provided by the County Government

Most of the traders felt that the services offered by the County Government were below average (70%). This means that the County Government need to come up with mechanism to enhance service delivery for informal traders.

Figure : Rating of Service Delivery Provided by the County Government



6. CONCLUSIONS / RECOMMENDATIONS

6.1 Conclusion

While informal trade in Kilifi is considered instrumental in revenue generation by the County Government, the same Government is yet to set a conducive environment for trade within the County. Traders continue to report poor service delivery even as they continue to pay the required levies. In addition, the County has put in place several trade and taxation-related legislation but their implementation remain hampered by the lack of regulations.

However, the County Government has shown political will in ensuring that Kilifi County thrives through effective and competitive trade within the Country and beyond.

6.2 Recommendations

The following recommendations have been selected for purposes of policy advocacy

1. Kilifi County Department of Trade needs to develop Trade and Markets Policy to provide policy guidelines for smooth and coordinated implementation of trade laws. The Policy will be expected to identify challenges and provide policy measures per sub-sector.
2. Kilifi County Department of Trade needs to ensure a percentage of the revenue collected from traders is ploughed back into service delivery for traders in markets and business areas.



CWID

Collaboration of Women in Development (CWID)
Zakheme Road, Mishomoroni
P.O. Box 12327 – 80117, Mombasa, Kenya
Tel +2540412242000 / +254770013432
www.coastwomen.org // info@coastwomen.org