

REPUBLIC OF KENYA



OFFICE OF THE ATTORNEY GENERAL & THE DEPARTMENT OF JUSTICE

KENYA DRAFT POLICY ON PUBLIC PARTICIPATION

Revised Draft (6th) September, 2018

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## ABBREVIATIONS & ACRONYMS

AG	Attorney General
CUC	Court User Committees
CAF	County Assemblies Forum
CBEF	County Budget and Economic Forums
CBOs	Community Based Organizations
CCEUs	County Civic Education Units
CDF	Constituency Development Fund
CGA	County Governments Act
CIC	Commission for the Implementation of the Constitution
CIDP	County Integrated Development Plan
CKRC	Constitution of Kenya Review Commission
CoE	Committee of Experts
CRECO	Constitution and Reform Education Consortium
CSO	Civic Society Organizations
DFRD	District Focus for Rural Development
FBOs	Faith Based Organizations
FIDA	The Federation of Women Lawyers (Kenya)
ICJ	International Commission of Jurists
ICT	Information Communication Technology
IDLO	International Development Law Organization
IEBC	Independent Electoral and Boundaries commission
IGRTC	Inter- Governmental Relations Technical Committee
IGBEC	Inter-Governmental Budget and Economic Council
IBP	International Budget Partnership
KAJ	Kenya Administration of Justice
KCTA	Kenya Coast Tourism Association
KICD	Kenya Institute for Curriculum Development
KNCCI	Kenya National Chamber of Commerce and Industry



KLMC	Kenya Livestock Marketing Commission
KNFF	Kenya National Farmers Federation
KHRC	Kenya Human Rights Commission
KLRC	Kenya Law Reform Commission
KLGRP	Kenya Local Government Reform Programme
K-NICE	Kenya National Integrated Civic Education
KSG	Kenya School of Government
LASDAP	Local Authority Service Delivery Action Plans
MEL	Monitoring, Evaluation and Learning
MCA	Member of County Assembly
MDA	Ministries Departments and Agencies
MoDP	Ministry of Devolution and Planning
MoJNCCA	Ministry of Justice, National Cohesion and Constitutional Affairs
MR& E	Monitoring, Research and Evaluation
NCBF	National Capacity Building Framework
NCEF	National Civic Education Framework
NGEC	National Gender & Equality Commission
NLC	National Land Commission
NSA	Non- State Actors
NGEC	National Gender and Equality Commission
NGCDF	National Government Constituency Development Fund
PPPs	Public Private Partnerships
PWDs	Persons with Disabilities
TA	Transition Authority
TI	Transparency International
TISA	The Institute for Social Accountability
UNDP	United National Development Programme
WRUA	Water Resource Users Associations

## Defining Key Terms

The following terms will have the meanings assigned herein:

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- i. **Public Participation:** refers to the process by which citizens, as individuals, groups or communities (also known as stakeholders), take part in the conduct of public affairs, interact with the state and other non-state actors to influence decisions, policies, programs, legislation and provide oversight in service delivery, development and other matters concerning their governance and public interest; either directly or through freely chosen representatives.
  - ii. **Facilitation of Public Participation:** to facilitate means to “make easy or easier” or to “promote”; “taking steps to ensure the public is involved or is brought into the matter”
  - iii. **Accountability:** means answerability to the people: an open transparent system which permits the free flow of forward and backward information and in which leaders are answerable to the people.
  - iv. **Standards:** means the act or process of public participation is developed and accepted by the stakeholders as of the desired content and quality. The standards are based on the consensus of different interested parties, users, and by the two levels of government.
  - v. **Coordination:** refers to the ability or process of organizing different stakeholders to ensure that they work together in harmony, effectively and efficiently.
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## EXECUTIVE SUMMARY

The Government of Kenya has developed this Public Participation Policy as the country's overarching framework for public participation. In this policy, public participation is conceptualised as the process by which citizens, as individuals, groups or communities (also known as stakeholders), take part in the conduct of public affairs, interact with the state and other non-state actors to influence decisions, policies, programs, legislation and provide oversight in service delivery, development and other matters concerning their governance and public interest, either directly or through freely chosen representatives.

The main objective of the policy is to provide the framework for the management and coordination of public participation in Kenya for the fulfilment of the constitutional requirement on citizen engagement in development and governance processes in the country. Public bodies in Kenya will comply with this policy as a constitutional requirement.

The Constitution of Kenya promulgated in 2010 restructured and transformed the state-society relations in several positive ways. It states that the country's governance is based on social contract, an arrangement in which the citizens only delegate their power to the government but retain the sovereign power. The Constitution places the citizens at the centre of development and related governance processes; it provides for public participation as one of the principles and values of governance.

The Government of Kenya recognises that public participation strengthens and legitimises state decisions, actions and development interventions, and that it is an important element of good governance and the foundation for a true democracy. The National and County Governments' commitment to public participation has been demonstrated through several efforts, albeit with some deficits. Both levels of government have put in place some policies and laws required to effect public participation. These include Participation Guidelines by the State Department for Public



Service Commission and County Public Participation Guidelines by the Ministry of Devolution and Arid and Semi-Arid Lands (ASALs) in collaboration with the Council of Governors. The Ministry has also developed the national curriculum for civic education, and produced several civic education communication materials that are critical for the success of public participation.

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The National Capacity Building Framework (NCBF) and the relevant capacity building institutions like the Kenya School of Government and Centre for Parliamentary Studies have established programmes, and facilitated the training of government officials, including civil servants, the Members of Parliament and County Assemblies on public participation. The NCBF, adopted in 2013 provides a mechanism for facilitating and coordinating county capacity building initiatives based on government policies and priorities. One of its core objectives is to empower citizens in the counties to hold county governments accountable through sensitizing them on efficient policy instruments for functioning of county governments.

Nevertheless, the past and current public engagement programmes and processes have been fraught with diverse challenges. Some of the challenges include the lack of uniformity of the processes due to gaps in the countrywide frameworks and standards; the slow pace in completion and operationalization of public participation laws, regulations and guidelines; challenges of access to and provision of the relevant information to the public; limited capacity; and inadequate funding to public participation.

In particular, inadequate funding to public participation has affected the establishment of the relevant mechanisms for coordination and management of the processes and their effectiveness in developing appropriate capacity strengthening programmes; planning for public participation and managing the processes and; coordinating public participation and civic education programmes. In addition, there are gaps in complaints management and redress mechanisms, coordination, monitoring, evaluation, learning and feedback mechanisms of public participation in the country.

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This policy therefore seeks to address these gaps and challenges in order to improve and entrench public participation in development and governance processes in Kenya. The policy is organized into nine policy areas that highlight the key policy concerns and objectives, and sets the standards for public participation in Kenya. These standards legally bind all public bodies at the National and County levels.

The policy has nine specific objectives that national and county governments will endeavour to achieve. The nine objectives which constitute key priority policy areas will be achieved taking into consideration fourteen principles listed in chapter one, which include sovereignty of the people and equal opportunities for all; and provision of adequate and effective mechanisms and opportunities for participation for those interested in, or affected by decisions and special interest groups. The policy priority areas were identified through public interviews, Focus Group Discussions (FGDs) and regional hearings conducted countrywide.

A multi-sectoral National Steering Committee under the leadership of the Office of the Attorney General and Department of Justice guided the gathering of information from stakeholders and the development of this policy from its inception in 2013. The policy has been developed in consultation with diverse stakeholders across the country: National and County Governments, Non-State Actors and the citizens. The government in collaboration with Development partners provided financial and technical support that was used to consult stakeholders, and to draft and develop this policy. The Government will put in place the necessary mechanisms to facilitate the implementation of this policy, and to ensure that all public bodies in the country engage citizens effectively as provided in the Constitution of Kenya and related legislations.

The policy reaffirms the Government's commitment to public participation. It specifies the interventions that the national and county governments will take to address the challenges that hinder the realization of effective public participation in Kenya. The Government acknowledges that good and democratic governance will be achieved in the country if public participation is guided by principles and values which enhance democratic governance through participation.

The policy will be implemented through an integrated, coordinated and consultative process by various actors both at the national and county levels of government, respecting the principles of separation of powers and devolution. Within each arm of government at both levels, public participation will be conducted in a collaborative manner in accord with the principle of separation of powers and in collaboration with Non State Actors (NSAs).

The Intergovernmental Relations Technical Committee (IGRTC), the Council of Governors (CoG), County Governments, County Civic Education Units (CCEUs), the Kenya School of Government (KSG) and the Kenya Institute for Curriculum Development (KICD) will play key roles in the implementation of public participation in Kenya. All government arms, including Ministries, Departments and Agencies (MDAs) will collaborate and work closely with Kenya's development partners, including NSAs.

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### 1.1. Kenya's Commitment to Public Participation

Effective public participation has become an indispensable element of democracy and people centred development. It is the very foundation for democracy which does not only strengthens the state by legitimizing governmental actions, but is also important for good and democratic governance.

Recognizing the benefits of public participation, the Constitution of Kenya created new spaces for interaction, declared the citizen sovereign and demand that the public must be involved in every aspect of public governance. Article 10 of the Constitution lists public participation as one of the national values and principles of governance that binds all state organs, state and public officers, and all persons in Kenya whenever any of them applies or interprets the Constitution, enacts, applies or interprets any laws, or makes or implements public policy decisions.

The Government of Kenya is committed to ensuring the attainment of effective public participation. This commitment is demonstrated by the numerous provisions of the Constitution on public participation and Devolution. It is also demonstrated by the various policies, guidelines, and legislations on public participation. Furthermore, Kenya is a signatory to several international and regional conventions with important provisions on public participation. Box 1 details the international and legal foundations for public participation in Kenya

**Box 1: The Constitutional and Legal Foundations for Public Participation in Kenya**

CONSTITUTION	REGIONAL HUMAN RIGHTS	INTERNATIONAL HUMAN RIGHTS TREATIES	DOMESTIC LEGISLATION
Article 2 provides that the Sovereign power of the people is exercised at both national and the county level	(Article 13) African Charter on Human and People's	(Article 25) The International Covenant on Civil and Political Rights (ICCPR)	The Urban Areas and Cities Act

<p>Article 69(1)</p> <p>Public participation in the management, protection and conservation of the environment.</p>	<p>Rights</p> <p>(Articles 4 and 7)</p> <p>Africa Charter on the Rights and Welfare of the Child</p>	<p>(Articles 7 and 14) The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)</p>	<p>The Public Finance Management Act</p> <p>The Independent Electoral and Boundaries Act</p>
<p>Article 94</p> <p>Parliament manifests the diversity of the nation, represents the will of the people and exercises their sovereignty.</p>	<p>(Articles 9 and 17)</p> <p>Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa</p>	<p>(Article 31) The UN Convention on the Rights of the Child (CRC)</p> <p>(Articles 9, 19 and 29) The UN Convention on the Rights of Persons with Disabilities (CRPD)</p>	<p>The County Governments Act</p> <p>The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act</p>
<p>Article 118</p> <p>Parliament is required to facilitate public participation and involvement in all its business.</p>	<p>African Charter for Popular Participati</p>	<p>Convention on Biological Diversity</p>	<p>The Consumer Protection Act</p>
<p>Article 159 of the Constitution simplifies Court procedural and technical rules that the public has easier access to courts.</p>	<p>on in Development and Transformation (1990)</p>	<p>Cartagena Protocol On Bio safety</p>	<p>The Basic Education Act.</p>
<p>Article 174 (c), outlines the objects of devolution</p>		<p>Convention for the Safeguarding of the Intangible Cultural Heritage (2003)</p>	
<p>Article 174 (d), recognizes the rights of communities to manage their own affairs and to further their development.</p>			
<p>Article 184 (1)(c),</p>			



<p>National Legislation shall provide for participation by residents in the governance of urban areas and cities.</p>			
<p>Article 196 (1) the County Assemblies are required to hold sittings and those of committees in public, and facilitate public participation in its business</p>			
<p>Article 232 (1), highlights the values and principles of public service.</p>			
<p>Fourth Schedule Part 2 (14) Counties are to ensure and coordinate the participation of communities in governance at the local level.</p>			

Since the promulgation of the Constitution, some efforts have been put into enabling public participation. A number of laws and policies have been enacted while some county governments have completed and adopted County Public Participation Guidelines, which defines the framework for citizen engagement with and also aims at empowering the citizens to demand for effective participation in matters of public governance. In some cases, citizens have gone to court to enforce the law. This notwithstanding, the nature and extent of public participation contemplated by the Constitution and devolution laws has not been fully achieved by either level of government. Standards for public participation and the mechanisms for coordination have not been developed, and important policies, legislations and guidelines on public

participation are not fully formulated. Key institutions and agencies have also not fully embraced public participation. The development of this policy is based on the acknowledgement that the country requires a coherent policy for managing and coordinating the many agencies involved in the mobilization and organisation of citizen participation.

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The policy underscores Kenya's commitments to the inclusion of the citizens in public governance and binds levels of Government, as well as the private bodies and the NSA in as far as their actions affect the public. The Policy also defines the important public participation priority areas taking into consideration the Constitution, and other existing policies and laws.

## **1.2. The Process of Formulating the Policy**

The development of the policy was done through a transparent, consultative, and participatory process under leadership of the Office of the Attorney General and Department of Justice. The process started in 2012, during a three-day stakeholder conference at the Great Rift Valley Lodge, Naivasha, 24<sup>th</sup> – 26<sup>th</sup> September, 2012 where the stakeholders discussed and agreed to develop a policy to guide public participation processes in Kenya.

In 2013, the Office of the Attorney General and Department of Justice developed a concept paper on the development of a policy on public participation, which was subjected to stakeholder review in 2014. The development of the Concept Paper was informed by the Executive Order no 2 of 2013 on the organization of Government of Kenya. The Order stated that the AG will be in charge of constitutional affairs. Executive Order no 1 of 2018 on the reorganization of Government of the Kenya further stated that the AG will be in charge of constitutional implementation.

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To support the Office of the Attorney General, a National Steering Committee, comprising of Ministry of Devolution and Planning, Intergovernmental Relations Technical Committee (IGRTC), Commission on Administrative Justice, National Gender and Equality Commission, Kenya National Commission on Human Rights, Kenya Law



Reform Commission, The Institute for Social Accountability (TISA), UNDP/Amkeni, Office of the High Commissioner for Human Rights, National Civil Society Congress, IDLO, Council of Governors (CoG), Public Service Commission (PSC) and the County Assemblies Forum (CAF) was established.

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Supported by development partners and consultants, the Steering Committee rolled out the policy development process. The process involved consultations with various stakeholders through Key Informant Interviews (KIIs), Focus Group Discussions (FGDs) and regional stakeholder consultations in various regions of Kenya during which views of the public were collected by the National Steering Committee on how best public participation can be provided for. The Regional consultations were attended by members of the public, women and youth leaders, Non State Actors, including Community Based Organizations (CBOs), members of various County Assemblies and representatives from the County Commissioners' offices.

### **1.3. Rationale for the Policy**

The policy is the execution framework to guide both levels of government, the private sector and NSAs in their engagements with the public on governance issues. The policy is based on the need to achieve the constitutional directive and driven by the acknowledgment that the realization of effective public participation as contemplated in the constitution has been affected by numerous challenges. These challenges include absence of standards and ineffective coordination mechanisms, inadequate coordination among providers, ineffective inclusion of special interest groups, citizen apathy, and inadequate funding. The policy sets the standards and provides the mechanisms for the coordination of public participation at both levels of government.

### **1.4. Policy Objectives**

The main objective of this policy is to provide the framework for the management and coordination of public participation in Kenya for the fulfilment of the constitutional requirement on citizen engagement in development and governance processes in the

country. The policy has nine specific objectives which both levels of government will ensure, namely:

- 1) Ensure citizens continually access timely information on public issues in a language and format that is easy to understand;
- 2) Provide a framework for coordination and enabling environment for NSAs involved in civic education;
- 3) Undertake coordinated and integrated capacity building towards empowering responsible citizens and public institutions;
- 4) Promote effective public participation in planning, budgeting and implementation of approved plans and budgets;
- 5) Promote effective participation of minorities and marginalized groups at all levels;
- 6) Guarantee adequate, secure and sustainable funding for public participation;
- 7) Promote well-resourced, updated and effectively implemented monitoring, evaluation and learning systems for public participation;
- 8) Promote responsive, functional and timely feedback and reporting mechanisms in order to build confidence in public participation process and;
- 9) Promote effective handling of complaints.

### 1.5 Guiding Principles

Public participation in Kenya's governance processes shall be guided by adherence to the following principles and values:

- i. Sovereignty of the people and equal opportunities for all
- ii. Right of every individual, group, community and organization to be involved in the decision and policy making processes
- iii. Provision of adequate and effective mechanisms and opportunities for participation for those interested in, or affected by decisions



- iv. Consultation between the two levels of government in line with Article 6(2) of the Constitution and building relationships with Non State Actors
- v. Inclusion of minorities and the marginalized groups, including women, youth, elderly, PWDs and children
- vi. Non-discrimination and accommodation, respecting diversity, people's values, culture, needs and customs
- vii. Timely access to the necessary information in a language and form that is easy to comprehend, including accessible formats for People with Disabilities (PWDs) and through media that is accessible to the public
- viii. Provision of civic education and the development of the necessary capacity for the public to effectively engage
- ix. National Values under Article 10, the Bill of Rights and Fundamental Freedoms in Chapter Four of the Constitution
- x. Principles of leadership and integrity in Chapter 6 of the Kenya Constitution
- xi. Provision of adequate funding for public participation
- xii. Adequate monitoring, evaluation, learning and feedback mechanisms
- xiii. Adherence to the principles of devolution and separation of power
- xiv. Respect for the principles of child participation, including child friendly environment, appropriate information, and non-intimidation
- xv. Access to remedial measures in cases of dispute.

The policy objectives and priority areas were identified through an encompassing participatory approach covering citizens and stakeholders across Kenya. A summary of issues gathered from the public are listed and briefly discussed in the following section focusing on situation analysis of public participation in Kenya.

## 2.1 Introduction

Many efforts have been made in the past to improve Public participation in Kenya's governance affairs. The Local Authority Service Delivery Action Plans (LASDAPs), the District Focus for Rural Development (DFRD) and the Constituency Development Fund (CDF) had important mechanisms for engaging the public. However, prior to 2010, public participation was largely nominal and based on the goodwill of the government. The Constitution changed this situation by vesting all sovereign power in the people of Kenya (Article 1, Kenya Constitution) and has made public participation a mandatory provision.

## 2.2 Kenya's Experience with Public Participation

The promulgation of the Constitution in 2010 ushered a new era for citizen participation in Kenya by embedding public participation as a principle of governance which binds all state and public officials. Prior to this, development processes were largely centralised using top-down approach to planning with major decisions made from the capital city, Nairobi. The involvement of decentralized agencies including the provinces and districts was largely limited to transmitting to the public information and decisions already agreed upon in Nairobi. Such decisions were implemented in the field through the local authorities and provincial administration with minimal input and participation of the public.

In 1983 there were some attempts to involve citizens in development processes through the DFRD. The DFRD encouraged community participation in the identification, planning and implementation of the development projects at the district level with limited participation at the lower levels of sub districts and villages. The



entire planning and management process was under the direction of the Provincial Administration, and the public did not have a strong voice. Those who participated were selected by the chiefs, District Officers (DOs) or the District Commissioners (DCs). This approach skewed the voice and participation of ordinary citizens.

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The enactment of Physical Planning Act in 1996 was a milestone development, which provided for community participation in the preparation and implementation of physical and development plans. In 2001, the Ministry of Local Government through its reform program, the Kenya Local Government Reform Program (KLGRP) introduced the Local Authorities Service Delivery Action Plan (LASDAP), a tool developed to improve participatory planning, governance and service delivery in local authorities (LAs). Through LASDAP, the Local Authorities engaged citizens annually at ward level consultative processes to consider and identify priority capital projects. LASDAPs provided important opportunities for citizen participation, such as in information gathering, consultation and consensus meetings, formation of monitoring groups, and participating in feedback meetings. Local Authorities Budget Day and Community Budget Committees were also established with a goal of improving public participation.

In 2003, the Constituencies Development Fund (CDF) Act created the Constituencies Development Fund with the objective of addressing poverty at grassroots level by devolving at least 2.5 per cent of national government's ordinary revenue to the constituencies. The Fund was administered by area Members of Parliament (MPs) with support from CDF Committees and administrative staff while each funded project was managed by specific Projects Management Committees whose members were supposed to be appointed by the citizens. Even though the CDF Act provided for the mechanisms for public participation in management of the fund through their engagement in identification and prioritization of development needs as well as actual implementation of the approved projects, the MPs largely influenced decisions and allocation of these funds.

In January 2013, the CDF Act 2003 (amended in 2007) was repealed and replaced with CDF Act 2013. It provided that the CDF would fund only national government functions and also sought to limit the role of MPs in management of the fund. Communities participated through their membership in the County Projects Committees, the Constituency Development Fund Committees and the Project Management Committees. In 2015, the CDF was converted into a national government fund by the National Government Constituencies Development Fund (NGCDF) Act, but the legislation was contested in court by the county governments and the matter remains unresolved. However, as with the LASDAP, the CDF lacked a coherent coordinating framework and suffered from overlaps, duplication, and effective citizen involvement. Furthermore, it did not effectively accommodate special groups such as the women, youth, the elderly, People with Disabilities (PWDs), minorities and the marginalized.

Kenya's Judicial and Constitutional Review processes of the 1990s and 2000s helped popularize public participation in the country. The Constitution of Kenya Review Commission (CKRC) Act, 1998 had important public participation provisions. The CKRC Act required Commissioners to consult widely, to carry out intensive and extensive civic education and to ensure people's views were reflected in the Constitution. The Committee of Experts (CoE) drafting Kenya's 2010 Constitution regularised public participation. Partnering with NSAs, the CoE conducted civic education in all constituencies. The CoE had a thirty-day period for intensive public engagement before the people voted during the constitutional referendum that approved the Draft Constitution.

The Judiciary has integrated public participation by establishing Court Users' Committees and the National Council on the Administration of Justice. This has been enhanced after the adoption of the Judiciary Transformation Framework (2012-2016) and sustaining judiciary transformation framework (2017-2021), which provides better mechanisms for engaging the public in the administration of justice. The Framework proposed the development and implementation of a structured approach to ensuring interactions with the public through Open Days, Judicial Marches, and Public and



Student Visitation Programs, all meant to make the judiciary more accessible to the public. Other aspects have included the Chief Justice' Annual State of the Judiciary Address, court's emphasis on *open court* rather than chamber hearings and establishment of an elaborate media strategy.

Overall, both levels of Governments have guidelines on public participation and also initiated processes through which the public participate. However, the absence of an overarching national policy to provide clear objectives, principles and the framework for coordination of public participation in Kenya, which sets countrywide standards, is a deficit which this policy aims to address.

### **2.3 Challenges**

The development of this policy is driven by the major challenges confronting public participation in Kenya identified through a participatory process during the development of the policy, as briefly summarised below.

#### **i. Absence of Standards**

Despite the long history of public participation and the proliferation of providers, Kenya has not had clear policy objectives and standards to guide public participation. The absence of standards has resulted in lack of clarity and disagreements on important aspects of participation, including: a) what constitutes adequate public participation; b) what is the nature of participation that meets the Constitutional threshold; c) what are the most effective mechanisms for public participation; d) what does public participation entail; and, e) when can it be said that public participation has effectively taken place?

#### **ii. Inadequate coordination Among Providers**

Inadequate coordination among government agencies as well as gaps in collaboration between government and the NSAs and development partners, has hindered effective public participation in Kenya. In some cases, these gaps have led to duplication and

competition among the diverse agencies. This result has been incoherent methods of engaging citizens and overlapping activities which lack synergy among actors. This overburdens citizens and nurtures cynicism and disinterest in public participation.

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iii. **Ineffective Inclusion of special interest groups**

Important segments of society, especially the special interest groups, minorities and the marginalised have not been effectively included even on issues that affect them. Some of the factors that have contributed to this gap are generalized public participation without adequate stakeholder mapping and targeting, low awareness of public participation events and limited understanding by large sections of the populace on their rights and responsibilities due to inadequate civic education and the widespread assumption that the leaders understand concerns of the marginalized groups and therefore represents their needs.

iv. **Incoherent participation logistics**

Communication relevant for effective participation and related logistics has been a challenge. In some cases, organizers shift dates or venues for consultative meetings on short notice without consulting citizens; flout procedures, fail to provide relevant information and documents, or hold meetings in inaccessible places. Public participation has also been conducted to legitimize decisions already made and has failed to fully include NSAs and others capable of contributing to decisions outcomes.

v. **Poor Communication**

Challenges are being experienced in communication at national and county government's levels. This has resulted in slow, late, inaccurate or incomplete communication. On the side of citizens, newspaper adverts are used to announce for public participation even in areas with low literacy levels and low newspaper distribution and access. The sharing of materials and documents on planning and budgeting is limited, while most documents remain too bulky and technical for citizens to understand.



**vi. Citizen Apathy**

Inadequate implementation of the citizens' priorities and feedback to them on the decisions taken on their proposals, have discouraged many Kenyans from engaging in public participation processes. The result has been the development of the perception among the citizens that their involvement in such events is not helpful to their situations. This has led to negative perceptions about public participation and the emergence of demand for payment and reimbursement for their attendance.

**vii. Limited Civic Education and Inadequate Capacity**

Majority of citizens lack adequate awareness of their rights and responsibilities and the few, who do, lack the requisite understanding, knowledge or skills for processing the issues at stake. These deficits require civic education that has largely been inadequate.

**viii. Inadequate Funding**

Inadequate funding for public participation and other financial and budgetary constraints has reduced the frequency and quality of participation. Funding levels also determine the availability of materials, documents and support for logistics for participation.

**ix. Ineffective M & E Systems, Poor Learning and Feedback Mechanism**

Monitoring, evaluation, learning and feedback mechanism for public participation are weak and inadequate. Supervision and documentation of programs, their content and achievements have also been weak, while citizens also complain that their inputs are not incorporated into decision making and governance processes.

**x. Minimalism and "Compliance Only" Attitude**

Despite Constitutional and legal requirements for public participation, a number of duty bearers have a "compliance only" attitude and a "minimalist approach", where efforts are only put to ensure compliance with the law without effectively advancing public participation. Furthermore, participation seems to take place either at the



beginning or the tail end of development processes without continuity. The policy addresses these challenges by setting the objectives, principles and standards as well as coordinating mechanisms for public participation. It facilitates the empowerment of ordinary citizens through the construction of new relations between citizens and important institutions of governance, transforming participation from a technical-tokenistic device to a routine occurrence, while at the same time changing the behaviour of leaders from planning *for* citizens to planning *with* citizens.

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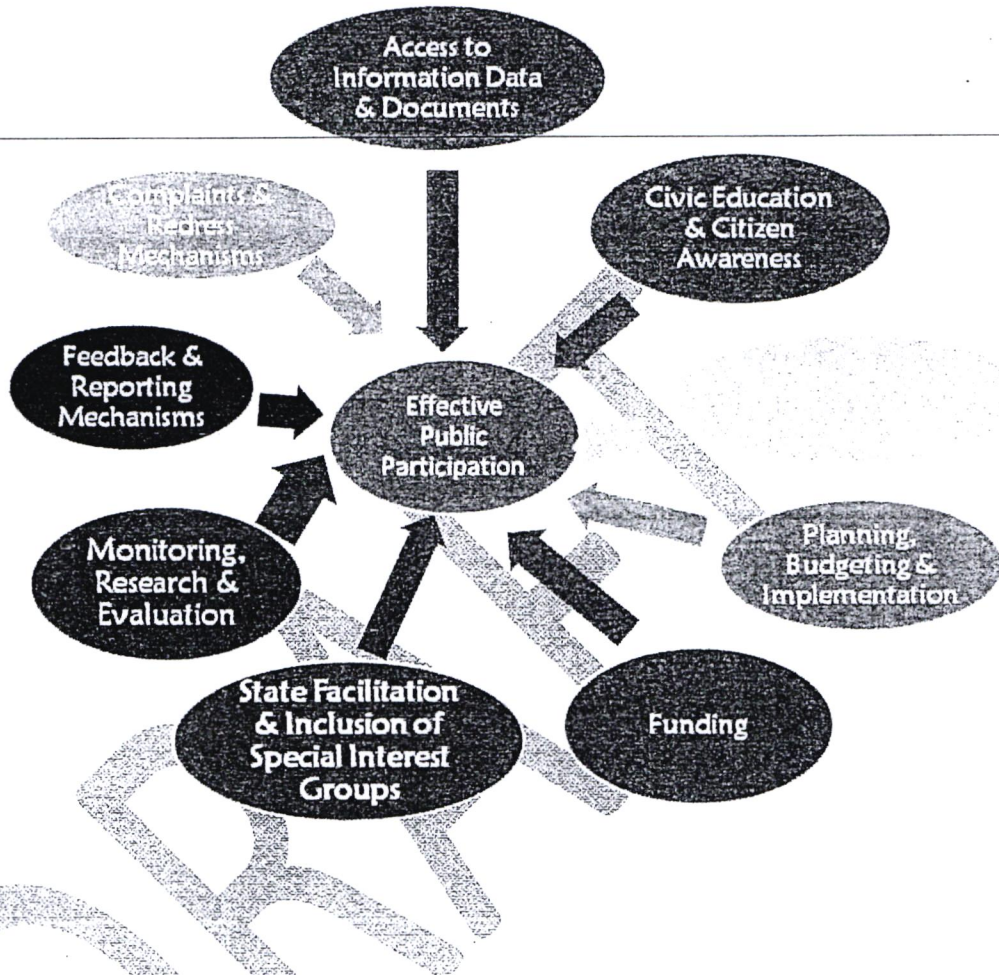
### 3.1 Introduction

This section presents nine identified policy areas, highlighting policy concerns and the policy standards to address the concerns. Past experiences provide important lessons on the status of public participation that include low levels of citizen participation in planning, budgeting and implementation of programmes which this policy will address. These gaps are largely the result of inadequate access to information by the public, weak capacity of the citizens and duty bearers in public participation, limited civic education and insufficient coordination of the processes, inadequate funding of public participation, inadequate opportunities for public engagement in planning and budgeting, lack of mechanisms for identification and inclusion of the marginalized groups.

The policy fits well within, and is embedded in the broad post-2010 Government of Kenya policy orientation. It is firmly anchored in the Constitution and Kenya's development blue-print, Vision 2030, both of which define how the governance sector is to be structured and run to facilitate the attainment of effective and sustainable public participation. The policy's objectives will be pursued and achieved within this wider network of government policy and legislation orientation.

The policy areas include: access to information; civic education; capacity building; planning, budgeting and implementation; inclusion of minorities and marginalised groups, funding; monitoring, evaluation and learning; feedback and Reporting mechanisms; and, complaints and redress mechanism as expressed in Figure 1 below.

Figure 1: Kenya's NPPP: Key Policy Areas



## 3.2 Key Policy Areas

### 3.2.1 Access to Information

The right to access information is crucial to public participation and to the well-functioning of a democracy. It is a right under the Constitution (Article 35 (1)), which is operationalized through the Access to Information Act, 2016. The Constitution guarantees citizens access to information held by the state and relevant private entities. Other legislation also provides for access to information which is vital for the achievement of meaningful and effective public participation. Access to information empowers and enables citizens to hold the duty bearers to account. Governments have



obligation to disclose information to the people through appropriate media and format, in particular areas with high illiteracy levels.

### Policy Concern

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The constitution guarantees access to information held by the state, however, citizens often experience challenges accessing such information. In most cases information held by the state is not published or publicized. Furthermore, even when the law requires that information be made public, quite often that is not done in time using appropriate media. In cases where documents are available, they are sometimes bulky or in a technical language which citizens cannot understand or in places where they cannot be easily accessed when needed. Newspaper adverts have been the commonly used medium for announcing public participation events even in areas with low literacy levels and low newspaper circulation and access.

The constitutional mechanisms for public participation have not been fully open to the public. For example, citizens have experienced challenges accessing information pertaining to discussions within the SUMMIT and IBEC. This also applies to parastatals and public institutions responsible for ratifying treaties. Furthermore, although there are legitimate cases where access to information can be legally limited, pursuant to Articles 24 and 35 (1) of the Constitution and Section 6 of the Access to Information Act, 2016, the line between making the necessary information available to the public while avoiding revealing information that can hurt the state remains unclear.

### Policy Objective

The state will ensure citizens continually access timely information on public issues, in a language and format that is easy to understand.

### Policy Standards

The government at the two levels will:

- i. Formulate and review the necessary policies, legislation and procedures necessary to make information available and accessible
- ii. Ensure timely publication and dissemination of all information needed by the citizens for effective participation in a language(s) and media that are appropriate, including both official languages and in accessible formats for PWDs and the public;
- iii. Establish a user-friendly system where information requested is provided in conformity with the Constitution and other applicable laws related to access to information;
- iv. Ensure any limitation on access to information is in conformity with the Constitution and other laws related to access to information;
- v. Ensure a collaborative approach to information sharing;
- vi. Ensure that records are accurate, authentic, have integrity, are usable and recorded in a manner which facilitates the right of access to information in conformity with the Constitution and all other relevant laws.

### **3.2.2 Civic Education**

Civic education is an important prerequisite for effective public participation by the citizens. Civic education informs the public, creates awareness and empowers them to make informed decisions. It ensures that a critical mass of citizens, are endowed with knowledge and skills that embody the values, norms and behaviour that accord with the principles of democracy. Among others, the County Government Act (2012) Part X mandates county governments to ensure civic education in line with the principles of devolved governance provided in the Constitution. Section 101 provides for County legislation to provide the requisite institutional framework for purposes of facilitating and implementing civic education programmes.

The Government established the Kenya National Integrated Civic Education (K-NICE) Programme, a national framework for civic education in recognition of the important role civic education plays in public participation. K-NICE is domiciled in the Attorney General's Office and Department of Justice and has coordinated and funded public



civic education in the past, in partnership with development agencies and NSAs across the country. K-NICE provides an unprecedented opportunity for collaborative and integrated national civic education if effectively implemented.

### Policy Concern

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While civic education is acknowledged as a powerful tool for engagement of citizens in development, multiplicity of actors and different coordination mechanisms have made it challenging to implement. The NSAs have been the major providers of civic education but their programmes have not been sustainable due to challenges of funding. Furthermore, civic education tends to concentrate on urban areas and cities leaving a major gap in rural areas. Coverage of the minorities and the marginalised groups is also limited and there are no special measures dedicated to these groups in the delivery of civic education. In addition, there are diverse civic education materials however there have been no standardization even though the Ministry of Devolution and ASAL has developed civic education curriculum. Further while the counties are required to establish County Civic Education Units (CCEUs) in compliance with the CGA, 2012, this has not been fully achieved.

#### Policy Objective

The state will provide the framework for coordination and enabling environment for NSAs involved in civic education

#### Policy Standards

The government at two levels will:

- i. Formulate, enact and implement the necessary policies, legislation and procedures for civic education
- ii. Customise curriculum for civic education for specific needs in collaboration with all actors
- iii. Establish citizen education mechanisms for the minorities and marginalised



- groups in line with the Constitution and other related laws
- iv. Develop and popularize Charters, specifying how, and when to participate, and the available opportunities for participation.
  - v. Allocate adequate funds for civic education
  - vi. Provide an enabling environment that allows NSAs to support civic education programs
  - vii. Ensure civic education programs promotes a participatory culture driven by integrity, national values and principles of good governance;
  - viii. Ensure an encompassing and continual civic education within and at all levels of government, including Constitutional offices and independent offices.

### **3.2.3 Capacity Building**

Capacity building for public participation is important to all actors engaged in development, including government agencies and NSAs, who need the relevant skills and experience to manage and coordinate public participation effectively. The actors require skills on planning for public participation; management of the actual engagement processes which include stakeholders' identification and mobilization, facilitating and documenting public participation, analysis, communication, and monitoring and evaluation; and preparation of public participation reports. Capacity building at different levels equally endows NSAs and citizens with relevant skills for participating in development processes. For citizens, it further removes the fear of intimidation and encourages them to hold service providers and leaders to account. Capacity building is also important for ensuring uniformity in the management of citizen engagement processes since public participation is a legal function for all public bodies in Kenya. This can however be realized only if there is standardization in capacity development and the tools of engagement in public participation.

### **Policy Concern**

The government has the relevant capacity building institutions that include the Kenya School of Government and the Centre for Parliamentary Studies which have been administering capacity building to public bodies and officials on public participation.

The training has however to a large extent emphasized on the legal provisions governing the process and is yet to adequately cover the relevant skills and tools. Despite receiving the training therefore, public officials face some challenges on planning for, managing and documenting public participation processes. The approaches and tools used are yet to be standardized and the management of public participation processes is not uniform.

While some agencies have established departments or units responsible for managing and coordinating the processes, others lack such mechanisms and respective departments undertake their own public engagement processes. Capacity building for public participation has also been affected by inadequate funding which has hampered ability of the agencies to effectively plan for, manage and coordinate the function. The development partners and NSAs have filled this gap however the coordination among them and public agencies has not been adequate. The public agencies and NSAs engaged in capacity building need comprehensive capacities, skills, knowledge and experience to meaningfully engage citizens on development issues.

**Policy Objective:**

The state will undertake coordinated and integrated capacity building towards empowering responsible citizens, public institutions and NSAs.

**Policy Standards**

Both levels of government will:

- i. Develop capacity of the institutions mandated to offer capacity building services to government agencies and NSAs on public participation;
- ii. Engage adequate human resources with appropriate skills and competencies to manage public participation functions;
- iii. Allocate adequate budget for capacity building of all actors involved in public participation;
- iv. Collaborate in capacity building on public participation;



- v. Establish and strengthen coordination mechanisms in capacity building on public participation;
  - vi. Promote and safeguard NSAs operational environment for public participation.
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- vii. Embed monitoring, evaluation and learning mechanisms in public participation processes as part of capacity building.

### **3.2.4 Planning, Budgeting and Implementation**

Planning, budgeting and implementation of the approved plans are important stages in development. The realization of responsive and people driven development requires effective public participation in all the three stages. Active involvement of the citizens often results to identification with the development programmes and ownership of the implemented interventions.

#### **Policy Concern**

Planning, budgeting and implementation of projects in Kenya have largely been devoid of public participation. The available opportunities for participation are often the preserve of the elites and opinion leaders who tend to be invited to public participation events on the assumption that they understand the needs and priorities of their communities. Furthermore, public engagement processes are complex and technical and require skills and adequate planning. The Kenya Constitution (2010) addresses public participation related issues and provides for participatory governance. It fundamentally, altered the framework for development planning and execution in Kenya. The hitherto top-down planning processes were replaced with participatory planning. It bestows on all the citizens the right to participate in development and governance matters.

However, the constitutional promise of citizen engagement in public planning, budgeting and implementation is yet to be fully realized in Kenya due to diverse challenges that include gaps in planning for citizen engagements, inadequate notification, inadequate financing of the processes, and minimal coordination and



collaboration among government agencies and with stakeholders. These challenges have therefore affected the realization participatory budgeting and planning processes as anticipated in the Kenyan constitution and relevant laws.

**Policy Objective:**

The state will promote effective public participation in planning, budgeting and implementation of approved plans and budgets

**Policy Standards**

Governments at the two levels will:

- i. Integrate public participation action plans in all development plans, budgets and implementation processes;
- ii. Provide adequate resources for public participation in planning, budgeting and implementation processes;
- iii. Adopt and implement effective stakeholder mapping and engagement plans with sufficient stakeholder consultations in planning, budgeting and implementation processes;
- iv. Prescribe for adequate notification of public participation, and provision of timely and accurate information in accessible formats for PWD's and other citizens to facilitate meaningful public engagement in planning, budgeting and implementation processes;
- v. Integrate national and international environmental and social protection standards in public participation during planning, budgeting and implementation processes and;
- vi. Establish or strengthen collaboration with development partners and Non-State Actors for effective cooperation and coordination of public participation in planning, budgeting and implementation processes.

**3.2.5 Inclusion of Minorities and Marginalised Groups**

The Constitution recognises the need to build an inclusive and equitable society. It provides for the participation of minorities and marginalised groups in Articles 53, 54, 55, 56, 57 and 100. This group include women, children, PWD, youth, the elderly, ethnic and other minorities and marginalized communities. The recognition is informed by the available statistics and everyday realities which show that sections of Kenyan society have been excluded in the development processes.

### Policy Concern

Lack of relevant and functional mechanisms for engagement of the minorities and marginalised groups in the development and democratic processes has led to inadequate representation of their views and needs. Although the Constitution requires inclusive participation and development, implementation of mechanisms for ensuring their participation and leveraging their contribution has been slow. Often they are incapacitated and not able on their own to effectively participate in development processes and demand for inclusion in participation and provision of services and infrastructure. **Women's** participation has been affected by gender based barriers originating from attitude, customs, and traditions. **Children** are often ignored as having no contribution to make due to their level of maturity status even in policies that affect them. **PWDs** and **minority** ethnic, religious and political groups have special needs and can make substantive contribution to development processes but they are rarely facilitated to participate in these processes.

### Policy Objective

The state will promote effective participation of minorities and marginalised groups at all levels.

### Policy Standards

The government at the two levels will:

- i. Provide guidelines for meaningful participation of minorities and Marginalised Groups;
- ii. Undertake stakeholder mapping to identify the minorities and marginalised groups for effective participation and engagement;
- iii. Ensure public participation processes have plans for engagement of the minorities and marginalised Groups, including provisions for appropriate hours, and venue for meetings;
- iv. Tailor communication to meet the needs of minorities and marginalised groups
- v. Provide disability friendly infrastructure for PWDs during public participation processes, and
- vi. Provide adequate budgetary resources for the engagement of minorities and marginalised groups.

### **3.2.6 Funding**

The constitution provides that public participation is one of the values and principles of governance. The realization of public participation in governance processes needs adequate budgetary allocation to finance the necessary infrastructure processes and planning for public participation, actual engagements, monitoring and evaluation, feedback and coordination. These activities require resources which should be allocated and protected. It is therefore important that all government agencies plan for and adequately budget for public participation.

#### **Policy Concern**

Funding for public participation by the government has often been inadequate, unpredictable and unreliable. This shortfall has affected effective planning for and engagement of the citizens and stakeholders in the country's governance. While the development partners and NSAs have often filled the funding gaps, their contribution has been inadequate and unpredictable since they are largely project driven and short term. The funding gap has therefore affected public participation processes and



activities which require regular and reliable funding for advertising, civic education, logistics, printing and duplicating materials and information dissemination.

Policy Objective
The state will guarantee adequate, secure and sustainable funding for public participation.

### Policy Standards

Governments at the two levels will:

- i. Provide guidelines on funding for public participation to ensure adequate budgetary allocation;
- ii. Provide adequate funding for public participation on a regular and continual basis;
- iii. Provide conditional grants for strengthening of public participation to both levels of government and related agencies;
- iv. Provide mechanisms for collaboration with development partners and NSAs to facilitate sourcing of adequate funding for public participation and;
- v. Provide adequate funding for K-NICE and other existing frameworks for public participation.

### 3.2.7 Monitoring, Evaluation and Learning (MEL)

MEL is an important component of project cycle and continual implementation of any agreed project or programme. MEL objectively tracks implementation and outputs and measures the effectiveness of projects and programmes. Through monitoring and evaluation objective evidence based facts are generated for learning and effective implementation of development programmes. In respect to public participation, MEL information assist both duty bearers and citizens to assess outcomes and counter-check whether outcome is in line with the expected outputs, and to learn and recast processes

as necessary.

### Policy Concern

Public participation indicators have not been well defined and integrated into a MEL framework, and the few MEL outputs are not well published and disseminated for public consumption and improvement of development processes. These factors are further intensified by inadequate capacity, especially at county level to effectively carry out MEL functions. The gap undermines citizen confidence in governance processes, since people are likely to have confidence in development processes and outcomes when they receive feedback on their inputs and experience change to their livelihoods in a transparent manner.

#### Policy Objective

The state will promote well-resourced updated and effectively implemented monitoring, evaluation and learning systems for public participation.

### Policy Standards

Governments at the two levels, in collaboration with other stakeholders will:

- i. Put in place MEL systems and mechanisms for public participation in development projects and programmes;
- ii. Integrate public participation within every MEL program in Government;
- iii. Publish and disseminate annual reports with indicators on the status of public participation;
- iv. Establish structured communication and feedback mechanisms to ensure that MEL initiatives are disseminated to the citizens and policy makers; and
- v. Strengthen communities to actively participate in MEL, including auditing of public projects and programs.

### 3.2.8 Feedback and Reporting Mechanisms

An efficient feedback and reporting mechanism is a pre-requisite for transparent and accountable interaction and dialogue between the government and citizens on development matters. Regular feedback and reporting enables the citizens to appreciate the value of their participation through enhanced access to information on how the views they give are considered and progress in implementation of development programmes. The existence of functional feedback and reporting mechanisms enhances the citizens' confidence in government and encourages public participation.

#### Policy Concern

Inadequate feedback and reporting mechanisms have discouraged public participation and in some instances contributed to apathy among citizens. This has been intensified by the low levels of citizen awareness, and the negative attitude among the citizens that feedback and reporting mechanisms have not been very effective. Consequently, a large proportion of the citizens consider public participation as processes merely meant to satisfy the constitutional threshold for the benefit of the government with no value to their lives and therefore demand for payment for attending such events.

#### Policy Objective

The state will promote responsive, functional and timely feedback and reporting mechanisms in order to build confidence in public participation process.

#### Policy Standards

Governments at the two levels will:

- i. Establish mechanisms for timely feedback and reporting on public participation at all levels;



- ii. Review, formulate and implement plans on feedback on public participation;
- iii. Ensure that responsible institutions develop guidelines on receiving and analysing feedback from citizens, sharing and incorporation into development processes.
- iv. Ensure reports provide justification for decisions made.

### 3.2.9 Complaints and Redress Mechanisms

A functional complaints and redress mechanism is important in ensuring effective public participation. The citizens of Kenya have a Constitutional and legal right to petition the government on any matter under the law. In this regard, the Constitution has created different institutions to address public complaints. Notably, the Commission on Administrative Justice (Office of the Ombudsman), Kenya National Commission on Human Rights Commission (KNHRC), National Gender and Equality Commission (NGEC), Independent Police Oversight Authority (IPOA) and National Land Commission (NLC) are some of the mechanisms that have been established for addressing complaints against public institutions.

#### Policy Concern

Despite the above elaborate institutional framework, the same has not been institutionalised at the county level. Furthermore, the attendant legal frameworks and resourcing have been insufficient thereby undermining the effectiveness of these bodies. In particular, complaints management has not been embraced adequately or institutionalised in some public offices. In some instances, where it exists, the primary focus is compliance rather than improvement of service delivery. These deficits have undermined the institutional and utilisation of other available mechanisms besides the courts to redress of complaints.

Public bodies such as CAJ, KNCHR, and NGEC provide a complementary platform for handling public complaints but they have had challenges of budgetary constraints, insufficient statutory framework and limited accessibility hence hindering their ability to perform fully. Furthermore, whereas some of the shared institutions were

supposed to decentralise their services, this has not happened.

<b>Policy Objective</b>
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The state will promote effective handling of complaints
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### Policy Standards

Governments at the two levels will collaborate with other stakeholders to:

- (i) Establish and strengthen complaints and redress mechanisms and procedures that are simple, available, publicised and understandable by users;
- (ii) Promote alternative dispute resolution mechanisms;
- (iii) Ensure internal complaints and redress mechanisms are established at all levels of government;
- (iv) Strengthen oversight institutions on complaints handling at national and county levels of government, particularly Commission on Administrative Justice;
- (v) Ensure compliance with existing laws and complaints reporting mechanisms and
- (vi) Sensitise citizens on complaints and redress mechanisms; and
- (vii) Provide for the development of a service delivery charter and ensure they are regularly reviewed and updated.



## Introduction

The policy will be implemented through an integrated, coordinated and consultative process by various actors both at the national and county levels of government. The implementation of the policy, and the roles and responsibility assigned to each implementing agency will respect the principles of the separation of powers and devolution. Accordingly, public participation will be managed separately, but jointly, collaboratively and in a consultative, cooperative and coordinated manner both at the national and county levels to ensure both vertical and horizontal integration.

At each and within each level there shall be a responsible office which will coordinate public participation and provide oversight in keeping with the principle of devolution.

Appropriate strategies will be used to implement the policy. The strategies will take a national orientation and outlook. Public participation will take place at all levels including the lowest possible level of governance and will be conducted in English and Kiswahili in addition to other relevant languages commonly used in each specific locality. National and county Civic Education Units will ensure that public participation takes place in the most effective way inclusive of the lowest devolved units - village level.

Public participation strategies and action plans will be reviewed regularly to address any emerging issues.

## Institutional Framework for Policy Implementation

The existence of a cohesive and well-functioning institutional framework is essential for the attainment of the objectives of this policy. The aim is to ensure that the various



institutions effectively play their respective but interdependent roles with a view to promoting effective public participation in Kenya

The Intergovernmental Relations Technical Committee (IGRTC), the Council of Governors, County Governments, national government the Kenya School of Government (KSG), and the Kenya Institute for Curriculum Development (KICD) will play key roles in the implementation of public participation in Kenya. In addition, a wide range of NSAs including CSOs, NGOs, Faith Based Organizations (FBOs) and CBOs, together with development partners are envisaged to play crucial roles. More important, the people, in exercise of their sovereignty, will have the overall role of holding every agent engaged in public participation accountable.

### **The Coordinating Government Agency**

A multi-sectoral committee co-convened by the Office of the Attorney General and the Department of Justice and the Ministry of Devolution and ASAL will constitute the coordinating agency. The agency will have other state bodies who have the legal mandate of the various subject matters addressed in this policy and NSAs who directly work on any of the nine key policy areas. Thus, in addition to the co-conveners, other mandatory government bodies will be the Intergovernmental Relations Technical Committee; Council of Governors (CoG); Commission for Administration of Justice (CAJ), Kenya School of Government (KSG), Ministry of Finance and Planning, Ministry of Public Service and Youth Affairs, Ministry of Information, Communication Technology (ICT), Kenya National Commission on Human Rights; National Gender & Equality Commission (NGEC). NSAs or their umbrella bodies with programmes relevant to the nine policy areas will also be members of the coordinating agency. The multi-agency will provide leadership and supervise the coordination of the implementation of the policy.

### **The Role of Agencies**

The following agencies will play the role assigned to them as stated below:

- i. **MDAs and Constitutional Commissions and Independent Offices:** The

role of Government Ministries, Departments and Agencies including Constitutional Commissions and Independent Offices will be to create an enabling environment for public participation to take place, including establishing the relevant department or office and appointing officers in charge of public participation.

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- ii. **County Governments:** The role of County Governments will be to promote principles of public participation as provided in the Constitution, the County Governments Act and in this policy. Within the public participation policy framework, Governments at the two levels will foster linkages with various development partners to provide financial, material and technical assistance as well as build capacity for sustainability.
- iii. **Development Partners:** Development partners will play a complementary role towards realization of development of the goals and objectives of this policy. In particular, they will assist in leveraging resources and facilitating capacity building for public participation.
- iv. **Non-State Actors:** The role of non-state actors will be to collaborate with Government to mobilize citizens and resources, disseminate the policy and participate in capacity building for both citizens and duty bearers. They will also collaborate with the government in public participation processes including civic education and mobilizing the citizens to participate in diverse aspects of public governance.
- v. **The Citizen:** Citizens are the main pillars of the policy and have to actively be involved in the implementation of this policy including being actively engaged in monitoring, evaluation and learning. They have a duty to attend public participation meetings and to contribute effectively. Being the overall consumers of public participation, citizens are expected to exercise their sovereignty by holding duty bearers and all other agencies to account.



## **Incorporation of Public Participation Principles**

Each Government at the two levels and related agencies must incorporate the principles of public participation and will establish a coordination unit and designate an officer in charge of coordination ensuring that public participation becomes part of each MDA, Constitutional Commissions and Independent Offices standard operating procedures.

## **Development of People's Participation Charters**

The two levels and related agencies will develop a People's Participation Charter, which will set out the principles for participation, including specification of when and how the people of Kenya should participate as well as stipulating the opportunities available. The government will ensure the full revival and renewal of the Kenya National Integrated Civic Education (K-NICE).

## **Development of Public Participation Guidelines**

Each arm of government shall prepare guidelines on public participation indicating how they will engage with the public. Further, both National and County governments will make an Annual Public Participation Report detailing the level of public participation in each level of government and the challenges experienced. Each level of Government will outline in the Annual Report how they will be addressed in the next year and submit the same to the Coordinating Agency established by the Office of the Attorney General and Department of Justice. Both the national and county governments will pass legislation to establish the relevant mechanisms and institutions to address the following issues:

- i. Provide a working definition of public participation;
- ii. How public participation will be conducted and the responsibilities of key stakeholders;
- iii. Who should participate and how?
- iv. How each special interest group has been incorporated in the content of public participation;



- v. Conditions for meaningful participation;
- vi. Rights and duties of members of the public;
- vii. Capacity building mechanisms for key stakeholders; and,
- viii. Timelines for participation.

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## Monitoring and Evaluation

The realization of the objectives of this policy will require consistent monitoring, evaluation and learning that will help policy makers to;

- i. Quantify achievements gained in civic education and citizen awareness leading to a more informed citizenry during public participation and development process;
- ii. Identify critical success factors and both international and national best practices for public participation; and,
- iii. Enhance and support access to information of the citizenry to government procedures and operations; and,
- iv. Embed learning into public participation processes for improved development

A monitoring and results-based evaluation framework will be developed. This framework will specify, among other critical elements, performance targets, budgets and timelines against which the implementation of the Kenya Policy on Public Participation will be assessed. The Monitoring and Evaluation framework is directly linked with the budget framework to facilitate regular reviews and feedback on resource utilization.

The monitoring and evaluation framework will address questions such as whether the participation exercise comprised a broadly representative sample of the population of the affected public; whether the issues of concern to the public, and relevant to the decision at hand, were taken into account in reaching a decision; whether timeliness, realistic milestones and deadlines were properly managed throughout the process; whether the involvement of the public was canvassed early enough; whether the public

were able to participate in an effective forum; whether the public participation process provided the participants with the information, documents and data that they need to participate in an informed manner; whether the process for public participation sought out and facilitated the involvement of those potentially affected by or interested in a decision; whether the PLWDs were effectively engaged and, whether public participation process gave a feedback to participants how their input informed decisions made.

### **Review of the Policy**

The Kenya Policy on Public Participation will be reviewed every five years in line with the current and future needs of Kenya.

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