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REPUBLIC OF KENYA

13<sup>TH</sup> PARLIAMENT | 4<sup>TH</sup> SESSION

THE SENATE

STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND  
HUMAN RIGHTS

**Rt. Hon. Speaker**  
You may approve for tabling  
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Date: 12/05/25

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13/05/25

REPORT ON CONSIDERATION OF THE KENYA POLICY ON  
PUBLIC PARTICIPATION (SESSIONAL PAPER NO. 3 OF 2023)

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## **LIST OF ABBREVIATIONS AND ACRONYMS**

AG	– Attorney-General
CAF	– County Assemblies Forum
CAJ	– Commission on Administrative Justice
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
COG	– Council of Governors
CSO	– Civic Society Organizations
FBOs	– Faith Based Organizations
IBEC	– Intergovernmental Budget and Economic Council
ICT	– Information, Communication Technology
IDLO	– International Development Law Organization
IEBC	– Independent Electoral & Boundaries Commission
IGRTC	– Inter-governmental Relations Technical Committee
KICD	– Kenya Institute for Curriculum Development
KLRC	– Kenya Law Reform Commission
KNCHR	– Kenya National Commission on Human Rights
K-NICE	– Kenya National Integrated Civic Education Program
KSG	– Kenya School of Government
MDA	– Ministries, Departments and Agencies
NCBF	– National Capacity Building Framework
NGEC	– National Gender & Equality Commission
NLC	– National Land Commission
NSA	– Non-State Actors
PSC	– Public Service Commission
PWDs	– Persons with Disabilities
TISA	– The Institute for Social Accountability

## PRELIMINARIES

### Establishment and Mandate of the Committee

The Standing Committee on Justice, Legal Affairs and Human Rights is established under the Standing Orders of the Senate and is mandated *'to consider all matters relating to constitutional affairs, the organization and administration of law and justice, elections, promotion of principles of leadership, ethics, and integrity; agreements, treaties and conventions; and implementation of the provisions of the Constitution on human rights.*

### Membership of the Committee

The Committee comprises -

- |  |                    |
|--|--------------------|
| 1. Sen. Wakili Hillary Sigei, CBS, MP  | - Chairperson      |
| 2. Sen. Veronica W. Maina, MP          | - Vice-chairperson |
| 3. Sen. Raphael Chimera Mwinzagu, MP   | - Member           |
| 4. Sen. Karen N. Nyamu, MP             | - Member           |
| 5. Sen. Andrew Omtatah Okoiti, MP      | - Member           |
| 6. Sen. (Prof.) Tom Ojienda, SC, MP    | - Member           |
| 7. Sen. Crystal Kegehi Asige, MP       | - Member           |
| 8. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member           |

Minutes of the Committee in considering the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023) are attached to this Report as ***Annex 1***.

## **FOREWORD BY THE CHAIRPERSON**

**Honourable Speaker,**

The report contains proceedings of the Standing Committee of Justice Legal Affairs and Human Rights Committee on its consideration of Kenya Policy on Public Participation (Sessional Paper No.3 of 2023). The Sessional Paper was published in December 2023 and tabled in the Senate on 25<sup>th</sup> April, 2024, whereupon it was committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.

**Honourable Speaker,**

The Kenya Policy on Public Participation (Sessional Paper No.3 of 2023) is a culmination of the efforts made by the Executive to formulate suitable frameworks to ensure that the public engages meaningfully in decision making. This is in compliance to the fundamental principles of Kenya's constitutional democracy enshrined under Article 10 of the Constitution. Collaborative engagement among various entities including the State Department of Public Service, Ministry of Devolution and the Council of Governors developed the Public Participation Guidelines to enhance citizen engagement in the country. The Ministry also developed several Civic Education Training Materials to facilitate effective public participation. This was necessitated by the fact that programs around public participation fell short of clear cut and uniform implementation framework and standards challenges including lack of uniformity of the processes due to gaps in countrywide frameworks and standards.

**Honourable Speaker,**

The Policy identifies nine policy areas, highlighting policy concerns and the policy standards. The objectives of the Sessional Paper Policy No. 3 of Public Participation are to address the gaps and challenges to improve and entrench public participation in development and governance processes in Kenya. The framework sets out comprehensive and coherent standards for active and meaningful public participation for the national and county governments. The framework also outlays a coordinating framework to fulfil the constitutional requirement on the citizen engagement in development and governance processes in the Country.

**Honourable Speaker,**

In compliance with Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee placed an advertisement in the *Daily Nation*



and *Standard* newspapers on 10<sup>th</sup> May, 2024 inviting the public to submit comments on the Sessional Paper by way of written memoranda. Following this call, the Committee received submissions from various stakeholders, including the National Gender and Equality Commission, Innovate4Change Initiative, Disability Advocacy & Services Kenya, Health NGOs' Network (HENNET), Natural Justice, and Mombasa County Development Trust.

The Committee proceeded to consider the Policy, together with the submissions received thereon. The observations and recommendations of the Committee in this regard are set out in Chapters Three and Four of the Report. Notably, the Committee recommends that this House **approves** the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023).

**Honourable Speaker,**

I wish to thank the Offices of the Speaker and the Clerk of the Senate for the support accorded to the Committee during the consideration of the Sessional Paper. The Committee also takes this opportunity to acknowledge and appreciate the stakeholders who submitted written memoranda, which greatly enriched the Committee's consideration of the Sessional Paper.

Lastly, I wish to commend the Members of the Committee for their commitment, thoughtful insights, expertise, and collaborative efforts that culminated in the adoption of this Report.

**Honourable Speaker,**

It is now my pleasant duty, pursuant to Standing Order 223 of the Senate Standing Orders, to present the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023).

Signed .....  ..... Date..... 07.05.2025.

**SEN. WAKILI HILLARY SIGEL, CBS, MP**  
**CHAIRPERSON, STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS**  
**AND HUMAN RIGHTS**

## CHAPTER ONE: INTRODUCTION

### 1.0 Introduction

1. The Kenya Policy on Public Participation (Sessional Paper No.3 of 2023) was tabled in the Senate on Thursday, 25<sup>th</sup> April, 2024 and was committed to the Standing Committee on Justice, Legal Affairs, and Human Rights for consideration. A copy of the Sessional Paper is annexed to this Report as *Annex 2*.

#### 1.1. Objects of the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023)

2. The principal object of the Sessional Paper is to set standards for effective public participation and to establish a framework for the management and coordination of public participation in Kenya. The Sessional Paper furthers its objective by bestowing the State with the mandate: -
  - (a) **Access to Information:** Ensure citizens continually access timely information on public issues in a language and format that is easy to understand.
  - (b) **Civic Education Framework:** Provide a framework for coordination and enabling environment for Non-State Actors (NSAs) involved in civic education.
  - (c) **Capacity Building:** Undertake coordinated and integrated capacity building towards empowering responsible citizens and public institutions.
  - (d) **Planning and Implementation:** Promote effective public participation in planning, budgeting and implementation of approved plans and budgets.
  - (e) **Inclusion of Marginalized Groups:** Promote effective participation of children, minorities and marginalized groups at all levels of governance.
  - (f) **Funding Mechanisms:** Guarantee adequate, secure and sustainable funding for public participation.
  - (g) **Monitoring and Evaluation:** Promote well-resourced, updated and effectively implemented monitoring, evaluation and learning systems for public participation.
  - (h) **Feedback Mechanisms:** Promote responsive, functional and timely feedback and reporting mechanisms in order to build confidence in public participation process.
  - (i) **Complaints Management:** Promote effective handling of complaints

- (j) **Obligation to develop Guidelines:** Mandate various agencies to develop Public Participation Guidelines, incorporating Public Participation Principles and foster the review of the same after every five years.

- 3. The co-ordination framework proposed in the policy advocates for a cohesive and well-functioning institutional framework for the attainment of the objectives of the policy. While exercising the role of public participation, the Paper confers the people with an overall role of holding every agent engaged in public participation accountable.

### **1.2. Key Priority Areas of the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023)**

- 4. The Sessional Paper identifies and seeks to reaffirm the Government's commitment to exercise effective public participation strengthened by a national legal framework and the ratification/accession to regional and international treaties and enshrine that citizenry within the Kenyan legal framework. Further the Paper addresses key policy areas, which includes: access to information, civic education, capacity building, planning, budgeting and implementation, inclusion of minorities and marginalized groups, funding, monitoring, evaluation and learning, feedback and reporting mechanisms and complaints and redress mechanism.

### **1.3. Gaps and Challenges addressed in the Policy**

- 5. The Sessional Paper seeks to consequently seek to address a various areas that has affected the Public Participation Process including inadequate access of information by the public, weak capacity of the right holders 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, unclear of mechanisms for identification and inclusion of the marginalized groups. Additionally, the Sessional Paper also provides for the funding of public hearings in minorities and the marginalized groups, monitoring, evaluation and learning, feedback and reporting mechanisms, and complaints and redress mechanism in the source of public participation were reportedly impeding factors in public participation processes.



## **CHAPTER TWO: DEVELOPMENT OF THE LAW ON PUBLIC PARTICIPATION**

### **2.1 Introduction**

6. Public participation is certainly the bedrock of Kenya's legislative process. It has been entrenched in the Constitution under Article 10 as a national value and principle of governance and is obligatory on all persons whenever they apply or interpret the Constitution, enact, apply or interpret any law or make or implement public policy decisions. Article 232 of the Constitution expressly requires public involvement in policymaking, giving people the ability to actively influence laws and policies.
7. Public participation is important because it—
  - (a) promotes good governance and democracy. Engagement of citizens in decision making enhances transparency and accountability. This reduces resistance in implementation by fostering a sense of ownership of government policy;
  - (b) improves decision making. Public participation allows the government to gather diverse perspectives leading to better informed policies and decisions;
  - (c) enhances accountability and transparency. Public participation allows citizens to exercise oversight over actions by elected/appointed leaders. This builds trust in the government and enhances peaceful coexistence; and
  - (d) encourages the development of civic education. Participating in governance processes educates citizens about their rights, responsibilities and the inner workings of the government. This strengthens democratic institutions and promotes good citizenship.
8. Since the promulgation of the Constitution in 2010, the question of rationale, scope and application of public participation as a principle of governance has been subject of numerous decisions by the courts. Courts have affirmed that public participation is a constitutional right that cannot be wished away and that further, public participation must be 'reasonable' and not just formalistic and not illusionary or cosmetic exercise. In cases where the interests of those challenging the decisions seem unsubstantial, the Courts have frowned against any attempts to impose unreasonable demands for public participation.

## **2.2 Attempts to Enact Legislation on Public Participation**

9. Kenya does not have a legislation on public participation. However, it was not for lack of trying. Since 2016, the following Bills on public participation have been introduced in Parliament—
  - (a) Public Participation Bill, 2016 (Senate Bills No. 15 of 2016). This was the first major national attempt to legislate and standardize public participation procedures. The Bill was sponsored by former Senator Hon. Amos Wako, the then Chairperson of the Senate Standing Committee on Justice, Legal Affairs and Human Rights;
  - (b) Public Participation Bill, 2018 (Senate Bills No. 4 of 2018). This was a reintroduction of the 2016 Bill. It was also sponsored by former Senator Hon. Amos Wako;
  - (c) Public Participation (No. 2) Bill, 2019 (National Assembly Bills No. 71 of 2019). This Bill was sponsored by Hon. Chris Wamalwa; and
  - (d) Public Participation Bill, 2023 (National Assembly No. 52 of 2023). The Bill was sponsored by Hon. Daniel Epuyo Nanok, the Chairperson of the Committee on Parliamentary Broadcasting and Library. The Bill lapsed at the end of the third session.
10. All the above Bills lapsed in Parliament before conclusion. The Office of the Attorney General also generated a draft Public Participation Bill. Of note is that this Bill identified entities responsible in enforcement of the Bill in various government agencies, stated considerations to make when planning for public participation, provided clarity on the manner of giving notice as well as requirement for development of guidelines by responsible entities.
11. The situation in the counties is however different. Seven counties have since 2013 enacted county legislation on public participation. In 2014, Laikipia County became the first county to enact its own Public Participation Act. In 2015, Nairobi County enacted the Public Participation Act (Act No. 11 of 2015). This Act provides for the roles of the county government in promoting public participation, community participation in sub-counties, wards and villages, notification procedures, and the manner of petitioning the county government.
12. In 2016, Nakuru, Nyandarua and Kwale Counties enacted their Public Participation Acts. Of note is that the Kwale Act establishes the Office of Public Participation with



several functions including establishing structures for public participation, establishing a feedback process and an evaluation framework, supporting the county assembly and the county executive in development of consultation plans, monitoring and reporting to the county assembly on the implementation of the Act and informing the public of the outcome of public participation.

13. Mombasa County enacted the Public Participation Act (Act No. 6 of 2017) which establishes the Department of Public Participation in the County Executive. This office is mandated to among other things coordinate public participation within the executive, build the capacity of county government departments on public participation processes, mobilise stakeholders to participate in county governance and decision making processes, sensitise the public on county structures and opportunities for public participation, receive complaints emerging from public participation procedures and advise the county on the appropriate policies, plans and strategies for enhancing public participation.
14. Similarly, the Tana River Public Participation Act (Act No. 8 of 2017) establishes the Directorate of Public Participation within the county executive. This office is mandated to among other things coordinate public participation within the executive, build the capacity of county government departments on public participation processes, mobilise stakeholders to participate in county governance and decision making processes, sensitise the public on county structures and opportunities for public participation, receive complaints emerging from public participation procedures and advise the county on the appropriate policies, plans and strategies for enhancing public participation.
15. The Tana River Act also establishes the Office of Public Participation within the county assembly. This office is responsible for among other things providing support and advise to the county assembly on managing public participation and preparing reports on public participation.

### **2.3 Judicial Pronouncements on Public Participation**

16. In the absence of a national law or a policy on public participation, Courts have stepped in to provide guidelines on the manner of conducting public participation. For example, in 2015, the High Court in the *Mui Coal Basin Local Community & 15 others v Permanent Secretary Ministry of Energy & 17 others [2015] eKLR* held as follows regarding the process of carrying out public participation—



*“First, it is incumbent upon the government agency or public official involved to fashion a programme of public participation that accords with the nature of the subject matter. It is the government agency or Public Official who is to craft the modalities of public participation but in so doing the government agency or Public Official must take into account both the quantity and quality of the governed to participate in their own governance...*

*Second, public participation calls for innovation and malleability depending on the nature of the subject matter, culture, logistical constraints, and so forth. In other words, no single regime or programme of public participation can be prescribed and the Courts will not use any litmus test to determine if public participation has been achieved or not. The only test the Courts use is one of effectiveness...*

*Third, whatever programme of public participation is fashioned, it must include access to and dissemination of relevant information....*

*Fourth, public participation does not dictate that everyone must give their views on an issue... To have such a standard would be to give a virtual veto power to each individual in the community to determine community collective affairs. A public participation programme... must, however, show intentional inclusivity and diversity. Any clear and intentional attempts to keep out bona fide stakeholders would render the public participation programme ineffective and illegal by definition. In determining inclusivity in the design of a public participation regime, the government agency or Public Official must take into account the subsidiarity principle: those most affected by a policy, legislation or action must have a bigger say in that policy, legislation or action and their views must be more deliberately sought and taken into account.*

*Fifth, the right of public participation does not guarantee that each individual's views will be taken as controlling; the right is one to represent one's views – not a duty of the agency to accept the view given as dispositive. However, there is a duty for the government agency or Public Official involved to take into consideration, in good faith, all the views received as part of public participation programme. The government agency or Public Official cannot merely be going through the motions or engaging in democratic theatre so as to tick the Constitutional box.”*

17. Similarly, the Supreme Court in *British American Tobacco Kenya, PLC (formerly British American Tobacco Kenya Limited) v Cabinet Secretary for the Ministry of Health & 2 others (Petition 5 of 2017) [2019] KESC 15 (KLR)* laid down the following guiding principles for public participation—
- (a) as a constitutional principle under Article 10(2) of the Constitution, public participation applies to all aspects of governance;
  - (b) the public officer and or entity charged with the performance of a particular duty bears the onus of ensuring and facilitating public participation;
  - (c) the lack of a prescribed legal framework for public participation is no excuse for not conducting public participation; the onus is on the public entity to give effect to this constitutional principle using reasonable means;
  - (d) public participation must be real and not illusory. It is not a cosmetic or a public relations act. It is not a mere formality to be undertaken as a matter of course just to ‘fulfil’ a constitutional requirement. There is need for both quantitative and qualitative components in public participation;
  - (e) public participation is not an abstract notion; it must be purposive and meaningful;
  - (f) public participation must be accompanied by reasonable notice and reasonable opportunity. Reasonableness will be determined on a case to case basis;
  - (g) public participation is not necessarily a process consisting of oral hearings, written submissions can also be made. The fact that someone was not heard is not enough to annul the process;
  - (h) allegations of lack of public participation do not automatically vitiate the process. The allegations must be considered within the peculiar circumstances of each case: the mode, degree, scope and extent of public participation is to be determined on a case to case basis; and
  - (i) Components of meaningful public participation include the following:
    - (i) *clarity of the subject matter for the public to understand;*
    - (ii) *structures and processes (medium of engagement) of participation that are clear and simple;*
    - (iii) *opportunity for balanced influence from the public in general;*
    - (iv) *commitment to the process*
    - (v) *inclusive and effective representation;*
    - (vi) *integrity and transparency of the process; and*
    - (vii) *capacity to engage on the part of the public, including that the public must be first sensitized on the subject matter.*



18. Having laid down the guidelines, Courts have on several occasions inquired into the public participation process following enactments of Bills by Parliament as well as statutory instruments by regulation making authorities. A few cases are instructive to note—

**(a) *Petition No. 381 of 2014—The Council of Governors v the Senate, the National Assembly, the Senators of 47 Counties and the Attorney-General, and Petition No. 430 of 2014—Barasa Kundu, Albert Simiyu and Philip Wanyonyi Wekesa v the Speaker of the National Assembly and Others.***

19. These two petitions relating to the same subject matter were filed in Nairobi and Bungoma Courts respectively challenging the legality of the County Governments (Amendment Act), 2014 that introduced the County Development Boards chaired by relevant Senators in every county. The Petitioners were supported by Commission for the Implementation of the Constitution (CIC), which submitted that there was insufficient public participation in the enactment of the Act and which rendered the law unconstitutional.
20. During the hearing, the Respondents submitted that the public were invited to contribute to the Bill vide Kenya Gazette of 16<sup>th</sup> August, 2013 and Daily Nation of 11<sup>th</sup> October, 2013. The question that arose was whether the gazette notice and newspaper publication constituted adequate public participation.
21. In determining the matter, the Court allowed the consolidated Petitions and annulled Section 91A of the amended County Governments Act, 2014 which established the County Development Boards in each of the 47 Counties in Kenya. The Court held that the amendment altered the structure of devolution without subjecting it to a referendum (a form of public participation) key requirement to Article 255 of the Constitution.

**(b) *Nairobi Metropolitan PSV SACCOs Union Limited & 25 others v County Government of Nairobi & 3 others [2013] eKLR***

22. In this matter, the petitioner challenged an amendment to the Nairobi City County Finance Act of 2013 which authorized the County Government to charge motor-



vehicle parking fee of KES 140 on the basis that the charges were oppressive and enacted in violation of the principle of public participation.

23. The Court dismissed the Petition holding that the County had adequately conducted public participation. The Court held that the Respondents had engaged those who would have been affected by their decisions and the latter were given details of the proposals and an opportunity of stating their objections if any. The process was highly public as there were public forums, meetings with stakeholders, media reports and even lobbying and an opportunity to make written representations through written memoranda. The Court also held that it does not matter how the public participation was effected, what mattered was that the public was accorded some reasonable level of participation.

**(c) *Robert N. Gakuru & Others v Governor Kiambu County & 3 Others [2014] eKLR***

24. In this matter, the petitioners sought a declaration that the Kiambu Finance Act, 2013 gazetted *vide* Kiambu County Gazette Supplement No. 8 (Act No. 3) violated the various provisions of the Constitution of Kenya, 2010 and other legislations on public participation.
25. The Court ultimately found that there was no adequate public participation as follows—

*“In my view to huddle a few people in a 5 star hotel on one day cannot by any stretch of imagination be termed as public participation for the purposes of meeting constitutional and legislative threshold. Whereas the magnitude of the publicity required may depend from one action to another, a one day newspaper advertisement in a country such as ours where a majority of the populace survive on less than a dollar per day and to whom newspapers are a luxury leave alone the level of illiteracy in some parts of this country may not suffice for the purposes of seeking public views and public participation”*

26. Conducting public participation is not enough, the law maker or policy maker should demonstrate that they took into account the feedback received from the respondents.

27. The position taken by the courts in Kenya aligns with the law in comparative jurisdictions. For instance, in South Africa, the Committee observes that public participation in South Africa is a crucial aspect of democratic governance. Let's explore the legal framework, principles, and court rulings related to public participation. The South African Constitution emphasizes both representative and participatory democracy specifically in respect to Articles 59(1)(a), 72(1)(a), and 118(1)(a) which establishes public participation in the legislative process. Under the South African law, the National Assembly must provide a national forum for public consideration of issues. The South African Constitution ensures that public participation involves everyone, individually or collectively, and considers their opinions in decision-making processes.
28. In the South African case of *Merafong Demarcation Forum and Others v President of Republic of South Africa and Others (2008)*, the Constitutional Court clarified the obligation to “**facilitate public involvement**” in legislation and other processes. The Court emphasized that legislative bodies must give the public a reasonable opportunity to participate effectively in the law-making process.
29. In another South African case of *Doctors for Life International v Speaker of the National Assembly and Others and Matatiele Municipality and Others v President of the RSA and Others*, the Court held that—
- “All parties interested in legislation should feel that they have been given a real opportunity to have their/ say, that they are taken seriously as citizens and that their views matter and will receive due consideration and could possibly influence decisions in a meaningful fashion. The objective is both symbolical and practical: the persons concerned must be manifestly shown the/ respect due to them as concerned citizens, and the legislators must have the benefit of all inputs that will enable them to produce the best possible laws. An appropriate degree of principled yet flexible give-and-take will therefore enrich the quality of our/ democracy, help sustain its robust deliberative character and, by promoting a sense of inclusion in the national polity, promote the achievement of the goals of transformation.*
30. While the importance of public participation cannot be gainsaid, the process faces several challenges namely—

- (a) there is limited awareness and understanding of citizen's right to participate in governance, the importance of public participation and how to participate effectively;
- (b) citizens who wish to participate often lack timely, objective and accurate information about legislation and policies, thereby hindering their ability to make informed decisions;
- (c) there has been declining trust in government institutions leading to apathy and low levels of participation;
- (d) public participation can be an expensive undertaking at times. Limited resources and government austerity can affect public participation activities such as outreach, training and facilitation;
- (e) political interference undermines the integrity of public participation leading to biased outcomes; and
- (f) time constraints may hamper effective public participation. It may be difficult for citizens to attend public hearings due to time or family responsibilities.



## **CHAPTER THREE: CONSIDERATION OF THE KENYA POLICY ON PUBLIC PARTICIPATION (SESSIONAL PAPER NO.3 OF 2023)**

### **3.0 Introduction**

31. Pursuant to Article 118 (1)(b) of the Constitution and Standing Order 145 (5) of the Senate Standing Orders the Committee proceeded to undertake public participation on the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023). In this regard, the Committee placed an advertisement in the *Daily Nation* and the *Standard* newspapers on Friday, 10<sup>th</sup> May, 2024 inviting members of the public to submit memoranda by way of written statements or comments on the Sessional Paper . A copy of the advertisement is attached as *Annex 3*.
32. Following the invitation, the Committee received submissions from six (6) stakeholders, namely: -
  - (a) National Gender and Equality Commission
  - (b) Innovate4change Initiative
  - (c) Disability Advocacy & Services Kenya (DASK)
  - (d) Health NGOs' Network (HENNET)
  - (e) Natural Justice
  - (f) Mombasa County Development Trust (MCDT)
33. Copies of the submissions are attached to this Report as *Annex 4*.

### **3.1 Overview of Stakeholders' Submissions on the Sessional Paper**

34. Key issues that emerged from the stakeholders' submissions on the Sessional Paper together with the consideration by the Committee included:-
  - (a) Access to Information
  - (b) Civic Education
  - (c) Inclusion of Minorities and Marginalized Groups
  - (d) Funding
  - (e) Monitoring, Evaluation, and Learning (MEL)
  - (f) Feedback and Reporting Mechanisms
  - (g) Institutional Framework for Policy Implementation
  - (h) Review of the Policy

35. The detailed submissions and deliberations on the Sessional Paper are summarized below:-

#### 3.1.1 Access to Information

36. The Policy provides that in as much as the Constitution guarantees access to information held by the state the right holders often face challenges accessing such information. Challenges that often ensue include lack of timely publication, use of inaccessible formats, and limitations on information disclosure that are not clearly defined.

37. With respect to access to information, stakeholders noted the following gaps:-
- (a) While the policy puts emphasis on timely access to information provided for in the Policy, it lacks specifics on measures to ensure the availability of digital infrastructure, especially in rural areas;
  - (b) it fails to set robust standards for ensuring this access is practical and inclusive. The existing mechanisms often exclude significant portions of the population, particularly those in areas with low literacy and poor infrastructure. A stakeholder made reference where the Policy states,

*"Ensure timely publication and dissemination of all information needed by the right holders for effective participation in a language(s) and appropriate media including online platforms using both official languages and in accessible formats for PWDs and the public".*

38. Some of the recommendations from stakeholders included: -
- (a) the Policy should articulate specific measures to ensure: timely dissemination of information using diverse media formats, simplified language and accessible formats, especially for PWDs such as Braille formats, audio- visual formats;
  - (b) require allocation of budget for developing digital platforms providing real-time updates on government activities and public participation opportunities;
  - (c) invest in internet connectivity in rural areas to ensure equitable access to information.
39. Contemporary society has embraced technological advancements in all aspects of life and public participation should not be any different. Technology offers inclusivity, accessibility, and timeliness in the public participation process as virtual participation

offers a broad perspective on how public participation can be carried out. Innovate4Change submitted that the has developed an efficient means of providing information to society.

### 3.1.2 Civic Education

40. Stakeholders acknowledged that civic education is crucial for effective public participation. However, some of the gaps in implementation include: -
- (a) inadequate coordination, limited coverage in rural areas, and insufficient funding;
  - (b) even though the policy acknowledges the need for civic education, the Policy does not address the sustainability of such programs in detail. The Stakeholder made reference to provision which stipulates

*“The Government established the Kenya National Integrated Civic Education (KNICE) Programme in November 2011 to educate Kenyans on the benefits and contents of the constitution with respect to its full implementation”.*

41. Some of the recommendations from stakeholders included: -
- (a) The establishment of a sustainable funding mechanism for continuous civic education programs, focusing on reaching marginalized and rural communities;
  - (b) the proposed provision should provide a platform that envisages partnership with educational institutions such as Universities to integrate civic education into the school curriculum;
  - (c) develop a monitoring and evaluation framework to assess the effectiveness of civic education initiatives;
  - (d) put in place an **enhanced Policy Standards for Civic Education**. The Stakeholder noted that even though the set policy standards for civic education are comprehensive, they lack specificity and detailed implementation frameworks, which diminishes their overall effectiveness. Further, it commented that lack of clarity and actionable detail hinders the practical application and potential impact of the standards.
42. The Stakeholders further in its submission identified key areas where the standards fall short, and in addition provided additional proposals that could enhance their specificity, implementation, and overall efficacy in their pursuit of ensuring that the



civic education initiatives effectively support meaningful public participation which includes:–

*‘Formulate, enact, and implement the necessary policies, legislation, and procedures for civic education:’*

43. The Stakeholder observed that the policy standards were foundational but lacks specificity on the implementation timeline and accountability measures. It therefore recommended for inclusion of clear timelines and designate’ responsible bodies to ensure timely enactment and implementation of policies. The Stakeholder proposed for establishment of periodic reviews that assess progress and its effectiveness. The Stakeholder further preferred a provision that establishes clear dates for when public participation is done nationwide. for example the county integrated development plan takes place after every five years, events such as this should be earmarked and set by the minister for interior affairs as public holidays set aside for the purpose of public participation.

***(a) Customize curriculum for civic education for specific needs in collaboration with all actors***

44. The Stakeholder noted that customization of civic education as crucial, and further observed that the Policy Paper failed to mention ongoing evaluation to adapt the curriculum to evolving needs. The Stakeholder recommended incorporation of mechanisms that enable continuous assessment, and feedback to regularly update the curriculum based on emerging needs and societal changes. Engage diverse stakeholders, including grassroots organizations, in the customization process.

***(b) Establish rights holder education mechanisms for minorities and marginalized groups in line with the Constitution and other related laws***

45. The Stakeholder noted that the even though the Standard addresses inclusion in the Paper, it does not specify how these mechanisms will be implemented or monitored. The Stakeholder recommended in its submission that the Policy details specific actions and resources required to establish these mechanisms. Further, it recommended for implementation for monitoring and evaluation frameworks to ensure the mechanisms are effectively reaching and benefiting minorities and marginalized groups.

***(c) Develop and popularize Charters, specifying how and when to participate, and the available opportunities for participation***

46. The Stakeholder noted that even though the Standard provision for developing and popularizing charters as posited in the Paper is beneficial to the framework. The Outlayed Standard, however, does not address how these charters would be communicated to the public. The Stakeholder recommended that multiple utilisation of communication channels that includes digital platforms, community meetings, and local media, to disseminate these charters widely. Further, the Stakeholder proposed that the Policy ensures that information is accessible in various languages and formats to reach all demographic groups.

***(d) Allocate adequate funds for civic education***

47. The Stakeholders suggested that as far as the Standard highlights the need for funding; it lacks details on funding sources and accountability. The Stakeholder recommended for establishment of a transparent funding model with clear guidelines on fund allocation and usage. The Stakeholder held that the provision could include a provision that ensures regular audits and public reporting to ensure accountability and effective use of funds.

***(e) Provide an enabling environment that allows Non-State Actors to support civic education programmes***

48. The Stakeholder noted observed that even though creating an enabling environment is essential in supporting civic education programs, there need to be more clarity on the specific actions required to achieve it. It recommended for provision that defines specific policies and measures that remove barriers faced by Non-State Actors. Foster partnerships between government and Non-State Actors through formal agreements and regular consultations to enhance collaboration.

***(f) Ensure civic education programs promote a participatory culture driven by integrity, national values, and principles of good governance***

49. The Stakeholder submitted that the standard sets a high ideal but lacks a framework for measuring the promotion of these values. It recommended for development of indicators and assessment tools to measure the impact of civic education programs



on promoting participatory culture and governance values. Further, it commented for the conduct of regular evaluations to ensure these programs effectively instil the desired values.

**(g) *Ensure encompassing and continual civic education within and at all levels of government, including Constitutional offices and independent offices***

50. The Stakeholder welcomed this provision to be crucial and added that save for lack of it mentioning training and capacity-building required for officials to deliver civic education. The Stakeholder recommended for implementation of a comprehensive training programs for government officials at all levels to equip them with the necessary skills and knowledge for delivering civic education. Further, it advocated for establishment of a continuous professional development framework that guarantees ongoing capacity building through establishing a framework that awards professionals, through continuous professional development points, for carrying out their civic duty in public participation and civic education forums.

**3.1.3 Inclusion of Minorities and Marginalized Groups**

51. The Policy Paper concerned that Mechanisms for the inclusion of minorities and marginalized groups espoused in the Constitution are inadequate resulting to their limited participation in democratic processes. Further, lack of targeted measures and tailored communication strategies limits the group's effective participation.
52. The Stakeholder noted that the first Standard (i) under the head that *seeks to provide guidelines for meaningful participation of minorities and marginalized groups* lacks specificity on the development and dissemination of these guidelines. The Stakeholder proposed that the Policy should articulate detailed, culturally sensitive guidelines that could include specific strategies for engaging different minority and marginalized groups. The Stakeholder further proposed that the guidelines provide for in the Policy should be widely disseminated through accessible channels and formats, including grass-root forums, community meetings, mainstream churches, online platforms, and local media.
53. The Stakeholder further commented on the Policy Standard (ii) *seeking to undertake stakeholder mapping to identify the minorities and marginalized groups for effective participation and engagement*. It highlighted that in as far as the stakeholder mapping



is essential, the standard does not specify how often this mapping should be updated or how the data will be used. The Stakeholder proposed that the Policy should seek to implement a regular stakeholder mapping process, updated annually, to capture the evolving demographics and needs of minorities and marginalized groups. The Stakeholder further recommended a proposal that allows the use of data to tailor public participation initiatives, and ensure they are inclusive and representative.

54. The Stakeholder on the Standard (iii) that seeks to *ensure public participation processes have plans for engagement of the minorities and marginalized groups, including provisions for appropriate hours and venues for meetings*. In its analysis, the Stakeholder submitted that the standard is vague about the specific criteria for appropriate hours and venues. The Stakeholder commented that the policy should establish clear criteria for selecting meeting times and locations that accommodate the schedules and accessibility needs of minorities and marginalized groups. It also recommended for the inclusion of flexible options such as virtual meetings to enhance on the participation entailing more options for meeting locations such as schools, mainstream churches that afford more options to the target audience.
55. On Standard (iii) that the Policy *to tailor communication to meet the needs of minorities and marginalized groups, the standard does not detail the methods or languages to be used for tailored communication*. The Stakeholder recommended that the Policy develops a comprehensive communication strategy that includes multiple languages and formats (e.g., *braille, sign language, audio recordings*). The Stakeholder proposed for the use of diverse channels such as community radio, social media, and local leaders to ensure broad reach and understanding.
56. The Stakeholder noted that the Standard (IV) that seeks to provide a disability-friendly infrastructure for PWDs during public participation processes, is broad and does not specify the types of disability-friendly infrastructure needed. The Stakeholder recommended that the Policy articulates specific infrastructure improvements, such as ramps, accessible restrooms, sign language interpreters, and assistive listening devices. Conduct accessibility audits to ensure that all venues meet the required standards for PWDs.
57. The Standard (vi) which seeks to provide for adequate budgetary resources for the engagement of minorities and marginalized groups. The Stakeholder noted that the standard does not provide details on how the budget will be allocated or monitored.

The Stakeholder proposed that the Policy should outlay a transparent budgeting process that specifies the allocation of funds for engaging minorities and marginalized groups. The Stakeholder therefore recommended for inclusion of provisions for regular financial audits and public reporting to ensure accountability and effective use of resources.

### **3.1.4 Funding**

58. The Policy Paper raises concerns of inadequate and unreliable funding for public participation which has overly affected a planning and engagement activities. The policy acknowledges the need for adequate funding but does not provide a robust framework for securing and managing these funds. This shortfall impacts the quality and frequency of participation activities. On this limb, the Stakeholder made comments through its submissions on various Policy Standards under this head.
59. The Standard (i) under this head provides for guidelines on funding for public participation to ensure adequate budgetary allocation. The Stakeholder submitted that the standard lacks specificity on what the guidelines should include and how they will be enforced. The Stakeholder submitted that the Policy should articulate comprehensive guidelines that detail the specific funding requirements for various public participation activities. The Stakeholder proposed for inclusion of mechanisms for regular review and enforcement to ensure compliance. The Stakeholder commented that the guidelines should also outline criteria for equitable distribution of funds to support diverse public participation initiatives.
60. Standard (ii) provide for adequate funding for public participation on a regular and continual basis. In the submission, the Stakeholder notes that the standard does not specify the funding sources or how regular and continual funding will be maintained. The Stakeholder proposed for establishment of a dedicated fund for public participation, with contributions from both national and county budgets. Ensure the fund is replenished annually and protected from budget cuts. It proposed further for inclusion of provisions for periodic financial audits and public reporting to maintain transparency and accountability, and provide for public-private partnerships to supplement government funding.
61. Standard (iii) provide conditional grants for strengthening of public participation to both levels of government and related agencies. The Stakeholder submitted that the



standard does not clarify the conditions for these grants or how they will be distributed and monitored. The Stakeholder proposed that the Policy sets out a clear conditions and criteria for awarding grants, such as demonstrated need, previous performance, and alignment with public participation goals. Implement a monitoring and evaluation framework to track the use of grants and assess their impact. Ensure that grant recipients are required to report on their activities and outcomes regularly.

62. Standard (iv) provides for mechanisms for collaboration with development partners and Non-State Actors to facilitate sourcing of adequate funding for public participation. The Stakeholder noted that the standard is broad and does not specify the nature of the collaboration or the roles of different stakeholders. The Stakeholder recommended in its submissions for a provision that promotes formal partnerships with development partners and Non-State Actors through memorandums of understanding (MOUs) that outline specific roles, responsibilities, and funding commitments. Further, the stakeholder proposed for establishment of a central coordination body to oversee collaborations and ensure alignment with public participation objectives. In its submissions, the Stakeholder proposed that the Standard seeks to facilitate regular stakeholder meetings to review progress and address challenges.
63. Standard (v) of the Policy under the distinct head provides for adequate funding for K-NICE and other existing frameworks for public participation. The Stakeholder notes that the Standard does not detail how funding levels will be determined or how funds will be allocated and managed. In their submissions, the Stakeholder proposed that Policy should provide for a requirement that for carrying out a needs assessment to determine the required funding levels for K-NICE and other relevant frameworks, such as the County Public Participation Guidelines, Civic Education Training Programs, and Monitoring and Evaluation Systems for Public Engagement. Proposed for an established transparent budgeting process that includes input from key stakeholders. Further, it was submitted that the Standard allocate funds based on the identified needs and priorities, and implement robust financial management systems to track expenditures and ensure efficient use of resources.

### **3.1.5 Monitoring, Evaluation, and Learning (MEL)**

64. The Policy acknowledged the fact that MEL systems for public participation are weak and inadequately integrated into governance processes. In that respect, the policy



recognizes the importance of MEL but does not provide a robust framework for it. In its current form the Policy's approach to MEL is insufficient to ensure accountability and continuous improvement. The lack of well-defined indicators and dissemination of MEL outputs would undermine public trust and engagement. In that sense, the Policy posited Standards to address various concerns.

65. The Policy sets forth Standard (i) that seeks to put in place MEL systems and mechanisms for public participation in development projects and programmes. The Stakeholder commented that the standard lacks specificity on the types of systems and mechanisms to be implemented and how they will be maintained and updated. The Stakeholder in the alternative proposed that the Policy provides detailed guidelines on the specific MEL systems and mechanisms to be used, such as digital platforms, data collection tools, and analytics software. The Stakeholder in addition recommended the Policy to entrench provisions in place that ensure these systems are user-friendly and scalable and provisions for ongoing training and technical support to ensure effective use and maintenance.
66. Standard (ii) seeks to integrate public participation within every MEL program in Government. The Stakeholder observed that the standard is broad and does not outline the process for integration or the specific areas of focus. Their submissions recommended that the policy specifies the creation of a framework for integrating public participation into all monitoring, evaluation, and learning (MEL) programs. Further, Stakeholder noted that the framework should include specific steps and timelines for implementation, with a focus on key areas such as policy formulation, project implementation, and service delivery. Additionally, the Stakeholder observed that the policy should establish cross-departmental teams to oversee the integration process and ensure consistency across government agencies.
67. Standard (iii) provides that the two levels of government should publish and disseminate annual reports with indicators on the status of public participation. The Stakeholder submitted that the standard does not specify the indicators to be used or the format and channels for dissemination. The Stakeholder however recommended that the Policy defines a comprehensive set of indicators for measuring public participation, including quantitative and qualitative metrics. Further, the Stakeholder commented that the Policy should seek to standardize the format for annual reports to ensure clarity and comparability, and utilize multiple dissemination channels, such

as government websites, social media, community meetings, and local media, to ensure broad reach and accessibility.

68. Standard (iv) proposes for the establishment structured communication and feedback mechanisms to ensure that MEL initiatives are disseminated to the right holders and policy makers. The Stakeholder commented that the standard lacks detail on the specific communication and feedback mechanisms to be established. In the alternative, the Stakeholder recommended that the Policy gives guidelines on; structured communication plans that includes regular updates, feedback loops, and stakeholder engagement sessions, the use of diverse communication methods, such as interactive online platforms, community forums, and feedback surveys, to gather input from right holders and policy makers, provisions for ensuring transparency through public sharing of feedback and the actions taken in response.
69. Standard (v), the Policy proposes for the communities be strengthened to actively participate in MEL, including auditing of public projects and programs. In its submission, the Stakeholder submitted that the standard does not provide details on how communities will be engaged or the support they will receive to participate in MEL activities. The Stakeholder recommended that the provision should facilitate: the Implementation of capacity building programs to train community members on MEL processes and tools, the provision of resources and support, such as training materials, financial assistance, and technical guidance, to enable communities to conduct independent audits and evaluations of public projects and programs, the establishment of community advisory boards to facilitate ongoing engagement and collaboration between government and community stakeholders.

### **3.1.6 Feedback and Reporting Mechanisms**

70. The Policy notes the concern of the discouragement that attendant to inadequate feedback and reporting mechanisms in the Public Participation process that contribute to apathy among right holders. The Stakeholder noted that the policy mentions feedback mechanisms but lacks details on their operation and effectiveness. Based on the reliance of the above provision, the Stakeholder submitted on Standards outlaid hereunder:
71. The Standard (1) proposes for establishment of mechanisms for timely feedback and reporting on public participation at all levels. The Stakeholder observed that the



standard lacks detail on the specific mechanisms to be used and how they will ensure timeliness. It recommended that the Policy should articulate specific feedback mechanisms such as online portals, community meetings, and mobile applications that allow for real-time feedback. Further, the Stakeholder proposed that the Policy should specify clear timelines for responding to feedback and ensure these are communicated to the public. Regularly review and update these mechanisms to maintain their effectiveness and accessibility.

72. Standard (ii) proposes that the Policy relevant entities involved in the process should review, formulate, and implement plans on feedback on public participation. The Stakeholder notes that the standard does not specify the process for reviewing, formulating, and implementing feedback plans. The Stakeholder, however, proposed that the Policy should establish a structured process for reviewing existing feedback mechanisms, including regular stakeholder consultations and surveys to gather input. It should in addition provide guidelines on detailed plans that outline specific actions, responsible parties, and timelines for implementation. Further, it should provide guidelines that ensure these plans are regularly updated based on feedback and changing needs.
73. Standard (iii) of the Policy proposes that the two levels of Government should ensure that responsible institutions develop guidelines on receiving and analyzing feedback from right holders, sharing and incorporation into development processes. The Stakeholder submitted that the standard does not provide details on the development or content of these guidelines. The Stakeholder recommended that the Policy should articulate comprehensive guidelines that detail the methods for collecting, analyzing, and utilizing feedback. It should, in addition, include procedures for transparent data handling, stakeholder communication, and integration of feedback into policy and decision-making processes. Further, the Stakeholder notes that the Policy should provide direction on training for staff to effectively implement these guidelines and ensure consistent application across institutions.
74. The Standard (v) proposes that the two levels of government and attendant agencies should ensure reports provide justification for decisions made. The Stakeholder submitted that the standard does not specify the criteria or format for providing justifications in reports. The Stakeholder recommended in the alternative that the Policy should provide guidelines on the development of standardized reporting templates that require clear justifications for all decisions made, based on public



feedback. It should include sections for detailing the rationale, evidence considered, and how feedback was incorporated. Further, it should make such reports publicly accessible and ensure they are written in clear, non-technical language to be easily understood by all stakeholders.

75. The Policy Paper sets out Co-ordination Framework for Public Participation positing various recommendations that seeks to enhance the Proposed Coordination Framework of the Kenya Policy on Public Participation. The Stakeholder made various comments on distinct parts of the Paper.

### **3.1.7 Institutional Framework for Policy Implementation**

76. The Stakeholder agreed with the proposed establishment of Institutional framework as crucial for the effective implementation of public participation. However, the Stakeholder noted that while the Policy identifies the Office of the Attorney-General & Department of Justice and the Ministry responsible for Devolution and Intergovernmental Relations as the coordinating agency (Section 4.3), it does not explicitly detail the roles and responsibilities of the institutions (e.g., IGRTC, Council of Governors, KSG, and KICD). Further, the Stakeholder commented that the framework is not clear on how these institutions will coordinate their efforts under the leadership of the coordinating agency and how accountability will be ensured.
77. The Stakeholder submitted that the Policy could be improved by specifying the roles and responsibilities of each institution in more detail, particularly in relation to their coordination with the designated coordinating agency. It recommended that the frameworks should establish clear lines of accountability and coordination mechanisms, such as regular inter-agency meetings and a centralized communication platform managed by the coordinating agency. This will ensure that each institution understands its role and how it contributes to the overall public participation process, facilitating efficient collaboration and oversight.

#### **(a) *The Coordinating Government Agency***

78. The Stakeholder was positive on the provision of inclusivity where the coordinating government agency, led by the Office of the Attorney-General & Department of Justice and the Ministry responsible for Devolution and Intergovernmental Relations, involves multiple state bodies. The Stakeholder, however, noted that the involvement

of numerous parties may lead to bureaucratic inefficiencies and overlap in roles. It reserved in the submission that the proposed Policy does not clearly define the responsibilities of both lead agencies. As a remedy, the Stakeholder recommended that the Policy assigns specific tasks to each lead agency based on their areas of expertise to avoid overlap and ensure a focused approach, and provide guidelines on the coordination mechanisms.

**(b) *The Role of Agencies***

79. The stakeholder observed that the roles assigned to various agencies, including government ministries, county governments, development partners, non-state actors, right holders, and the media, are well distributed. However, there is insufficient detail on how these agencies will interact and what mechanisms will be in place to ensure their collaboration is effective. The Stakeholder recommended that the Policy should articulate clearly inter-agency collaboration frameworks that outline how such entities seek work together. The Stakeholder noted that such provision should be enhanced to ensure regular training and capacity-building workshops to align all agencies on best practices and procedural standards.

**(c) *Development of Public Participation Guidelines***

80. The Stakeholder submitted that the policy proposes the development of public participation guidelines without specifying the process for developing the guidelines or enforceability of the same guidelines. The Stakeholder recommended that the Policy should provide for and articulate a transparent and inclusive process for developing public participation guidelines, involving stakeholders from all levels of government and civil society. The Stakeholder, in addition, affirmed that the guidelines should address key issues such as participant selection, engagement methods, and feedback mechanisms. The Stakeholder proposed that such guidelines should be published and made available widely. The Stakeholder recommended that the Policy should provide for the implementation of a system to monitor adherence to these guidelines and offer support where needed.
81. The Stakeholder made further proposals in its submissions to guide on the development of a comprehensive enforcement framework in order to enforce public participation guidelines effectively, which includes the following elements:



- (a) **Legislative Backing:** Enact laws or regulations that mandate the adherence to public participation guidelines by all relevant government bodies and agencies. Specify penalties for non-compliance to ensure that the guidelines are taken seriously and implemented correctly.
- (b) **Designated Oversight Bodies:** Assign a dedicated oversight body or committee to monitor the implementation of the guidelines across all levels of government. Empower the oversight body to conduct regular audits, inspections, and reviews to ensure compliance.
- (c) **Regular Reporting:** Require periodic reporting from government bodies on their adherence to the public participation guidelines. Include detailed accounts of public participation activities, stakeholder engagement, and feedback received.
- (d) **Feedback and Grievance Mechanisms:** Establish clear channels for the public and other stakeholders to provide feedback on the implementation of the guidelines. Implement a grievance redress mechanism where complaints regarding non-compliance can be lodged and addressed promptly. Encourage the public to hold government bodies accountable for following the guidelines.

### 3.1.8 Review of the Policy

82. The Stakeholder submitted that even though the proposed five (5) year interval period set for review of the Policy is a reasonable interval; the provision fails to prescribe the criteria or process for the review. The Stakeholder concluded its submission by recommending that the Policy should define a clear criterion and a structured process for the policy review. The Policy should in addition ensure the review process is inclusive, involving stakeholders from all sectors. Further, it recommended for an establishment of a review committee with representatives drawn from government, civil society, and the private sector. The Stakeholder proposed that the outcomes of the review and the rationale for any changes made to the policy should be published.



## **CHAPTER FOUR: OBSERVATIONS**

### **4.0 Committee Observations**

83. Arising from its consideration of the Kenya Policy on Public Participation (Sessional Paper No. 3 of 2023) and the submissions received thereon, the Standing Committee on Justice, Legal Affairs and Human Rights made the following observations:

#### **(a) Formulation of policies and guidelines**

84. The Committee observed that the Kenya Policy on Public Participation did not set clear timelines for formulation of context-specific policies and guidelines by different institutions, as well as accountability measures to ensure compliance.
85. The Committee therefore recommends that a mechanism be put in place to ensure that responsible bodies formulate, publicise and implement policies and guidelines on public participation within reasonable timelines.

#### **(b) Inclusion of marginalized groups**

86. The Committee observed that the Policy acknowledges the need to involve marginalized groups in public participation but does not provide clear guidelines on how this will be achieved. Minority communities, persons with disabilities, women, and youth often face barriers such as inaccessible meeting venues, lack of targeted communication strategies, and insufficient representation in decision-making processes. Many public participation forums are also held at times and locations that are not convenient for these groups, further excluding them from the process.
87. The Committee recommends that responsible bodies put in place mechanisms to ensure that barriers to effective engagement by marginalized groups in public participation processes are addressed.

#### **(c) Funding for public participation**

88. The Committee observed that one of the key challenges identified in the Policy is the inadequate and unreliable funding for public participation. Without sufficient financial resources, public participation initiatives remain weak and ineffective.

Many counties struggle to allocate adequate funds for participatory forums, and there is no clear mechanism for ensuring continuous funding.

89. The Committee recommends that responsible bodies allocate specific budgets to public participation initiatives. Additionally, to enhance transparency and accountability, the Committee recommends that regular audits be conducted on public participation processes including the amounts spent and the outcomes achieved, and that the reports of such audits be made public.

#### **(d) Feedback and Reporting Mechanisms**

90. The Committee observed that a major concern raised by stakeholders is the lack of effective feedback and reporting mechanisms from public participation exercises. Citizens feel that their contributions in public forums are not taken seriously, leading to apathy and disengagement.
91. The Committee observed that there is need to outline how feedback from public participation will be processed, shared, or incorporated into decision-making. This can be laid out in Guidelines to be prepared by public bodies in line with the Policy. Structured feedback systems that include digital platforms, mobile applications, and community forums should be utilized to facilitate real-time feedback.

#### **(e) Digital Infrastructure and Accessibility**

92. One of the key observations made by the Committee was that, while the Policy mentions the use of online platforms for public participation, it does not address the digital divide that affects many Kenyans. Many citizens, particularly in rural areas and among disadvantaged groups, lack access to the internet and digital devices. Additionally, persons with disabilities often face challenges accessing digital content due to the lack of assistive technologies.
93. The Committee therefore urges the government to invest in inclusive digital platforms that cater to diverse audiences, including those with disabilities. Expanding internet connectivity in underserved areas should also be prioritized to ensure that online participation opportunities are accessible to all citizens.

## CHAPTER FIVE: RECOMMENDATIONS

### 5.0 Committee Recommendations

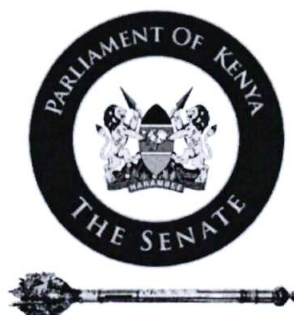
94. Having considered the Kenya Policy on Public Participation and the submissions received thereon, the Standing Committee on Justice, Legal Affairs and Human Rights recommends that –
- a) the Senate approves the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023);
  - b) the Office of the Attorney General and Department of Justice to finalize consultations on the draft Public Participation Bill and to submit it to Parliament for consideration and passage; and
  - c) the Office of the Attorney General and Department of Justice submits a progress report to the Senate within **sixty (60) days** of the approval by the Senate of the Kenya Policy on Public Participation, including on the measures taken to incorporate the observations and recommendations set out at Chapter Four of this Report.



## ANNEXURES

- Annex 1* Minutes of the sittings of the Committee in considering the Policy
- Annex 2* Copy of the Kenya Policy on Public Participation (Sessional Paper No. 3 of 2023)
- Annex 3* Advertisement published in the *Daily Nation* and *Standard* newspapers on 10<sup>th</sup> May, 2024
- Annex 4* Copies of Stakeholder Submissions on the Policy

**ANNEX 1: Minutes of the  
sittings of the Committee in  
considering the Policy**



## 13<sup>TH</sup> PARLIAMENT | 4<sup>TH</sup> SESSION

### **MINUTES OF THE 213<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON 14<sup>TH</sup> APRIL, 2025 AT 2:30 PM AT GLEE HOTEL, IN KIAMBU COUNTY**

#### **PRESENT**

- |  |                              |
|--|------------------------------|
| 1. Sen. Crystal Kegehi Asige, MP       | - Member ( <i>Chairing</i> ) |
| 2. Sen. (Prof.) Tom Ojienda, SC, MP    | - Member                     |
| 3. Sen. Andrew Omtatah Okoiti, MP      | - Member                     |
| 4. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member                     |
| 5. Sen. Raphael Chimera Mwinzagu, MP   | - Member                     |

#### **ABSENT WITH APOLOGY**

- |                                       |                    |
|---------------------------------------|--------------------|
| 1. Sen. Wakili Hillary Sigei, CBS, MP | - Chairperson      |
| 2. Sen. Veronica W. Maina, MP         | - Vice-chairperson |
| 3. Sen. Karen Njeri Nyamu, MP         | - Member           |

#### **SECRETARIAT**

- |                         |  |
|-------------------------|--|
| 1. Mr. Charles Munyua   | - Principal Clerk Assistant II                     |
| 2. Mr. Boniface Kiambi  | - Senior Clerk Assistant ( <i>Taking Minutes</i> ) |
| 3. Ms. Faith Wangui     | - Legal Counsel II                                 |
| 4. Ms. Angela Bonaya    | - Clerk Assistant III                              |
| 5. Mr. Jackson Matheshe | - Research Officer III                             |
| 6. Mr. Josphat Ngeno    | - Media Relation Officer                           |
| 7. Mr. Zenton Williams  | - Audio Officer                                    |
| 8. Ms. Gloria Anyango   | - Intern   |

#### **MIN. NO. 576/2025**

#### **PRELIMINARIES**

The meeting was called to order at thirty two minutes past two O'clock and opened with a word of Prayer.

#### **MIN. NO. 577/2025**

#### **ADOPTION OF THE AGENDA**

The Agenda of the meeting was adopted having been proposed by Sen. Daniel Kitonga Maanzo, EBS, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.



**MIN. NO. 578/2025**

**REPORT OF THE COMMITTEE ON THE KENYA  
POLICY ON PUBLIC PARTICIPATION  
(SESSIONAL PAPER NO. 3 OF 2023)**

The Committee resumed consideration of the Committee Report on the Kenya Policy on Public Participation (Sessional Paper No. 3 of 2023).

Members observed that the observations and recommendations made at the 211<sup>th</sup> meeting had been incorporated in the Report.

Thereupon, the Committee adopted the Report after it was proposed by Sen. Okiya Omtatah, MP and seconded Sen. Dan Maanzo, MP.

**MIN. NO. 579/2025**

**REPORT OF THE COMMITTEE ON THE COUNTY  
CIVIC EDUCATION BILL, 2024 (SENATE BILLS  
NO. 4 OF 2024)**

The Committee resumed consideration of the Committee Report on the County Civic Education Bill, 2024 (Senate Bills No. 4 of 2024).

Members observed that the observations and recommendations made at the 210<sup>th</sup> meeting had been incorporated in the Report.

Thereupon, the Committee adopted the Report after it was proposed by Sen. Prof. Tom Ojienda, MP and seconded by Sen. Okiya Omtatah, MP.

**MIN. NO. 580/2025**


**LEGISLATIVE PROPOSAL: THE DRAFT  
CONSTITUTION OF KENYA (AMENDMENT) BILL,  
2025, SPONSORED BY SEN. OKONG'O MOGENI,  
CBS, SC, MP.**

In the absence of the sponsor, the Committee deferred consideration of the legislative proposal to a later date.

**MIN. NO. 581/2025**

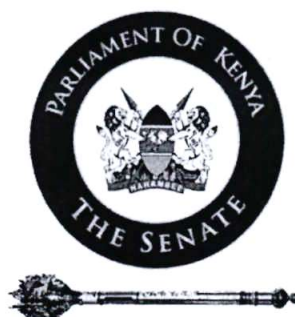
**ADJOURNMENT**

The Chairperson adjourned the meeting twenty-six minutes past four O'clock. The next meeting would be held on Wednesday, 16<sup>th</sup> April, 2025 at 8:00 a.m.



**SIGNED:** .....

**DATE:** 6/5/2025 .....



## 13<sup>TH</sup> PARLIAMENT | 4<sup>TH</sup> SESSION

### MINUTES OF THE 211<sup>TH</sup> SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON WEDNESDAY, 9<sup>TH</sup> APRIL, 2025 AT 8:00 AM VIRTUALLY ON THE ZOOM ONLINE MEETING PLATFORM

#### PRESENT

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| 1. Sen. Wakili Hillary Sigei, CBS, MP | - Chairperson ( <i>Chairing</i> ) |
| 2. Sen. Veronica W. Maina, MP         | - Vice-chairperson                |
| 3. Sen. Raphael Chimera Mwinzagu, MP  | - Member                          |
| 4. Sen. Karen Njeri Nyamu, MP         | - Member                          |
| 5. Sen. (Prof.) Tom Ojienda, SC, MP   | - Member                          |
| 6. Sen. Andrew Omtatah Okoiti, MP     | - Member                          |
| 7. Sen. Crystal Kegehi Asige, MP      | - Member                          |

#### ABSENT WITH APOLOGY

- |  |          |
|--|----------|
| 1. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member |
|--|----------|

#### SECRETARIAT

- |                         |   |
|-------------------------|---|
| 1. Mr. Charles Munyua   | - Principal Clerk Assistant II                  |
| 2. Mr. Boniface Kiambi  | - Senior Clerk Assistant                        |
| 3. Ms. Faith Wangui     | - Legal Counsel II                              |
| 4. Ms. Angela Bonaya    | - Clerk Assistant III ( <i>Taking Minutes</i> ) |
| 5. Mr. Jackson Matheshe | - Research Officer III                          |
| 6. Mr. Josphat Ngeno    | - Media Relations Officer                       |
| 7. Mr. Zenton Williams  | - Audio Officer                                 |
| 8. Ms. Gloria Anyango   | - Intern  |

#### MIN. NO. 565/2025

#### PRELIMINARIES

The meeting was called to order at twenty minutes past eight O'clock and opened with a word of Prayer.

#### MIN. NO. 566/2025

#### ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Crystal Kegehi Asige, MP and seconded by Sen. Andrew Omtatah Okoiti, MP.



The Committee was taken through the draft Report on the Kenya Policy on Public Participation (Sessional Paper No. 3 of 2023).

During deliberations, Members –

- i) proposed additional aspects to be incorporated in the Report as gaps in the Policy, particularly on ensuring meaningful participation by persons with disability (PWDs) and other marginalized groups in public participation processes;
- ii) observed that, while amendments could not be proposed to the Policy at this point, the observations by the Committee could be transmitted to the Office of the Attorney General for incorporation during the drafting of the Public Participation Bill that was expected to be submitted to Parliament for consideration; and
- iii) noted the absence of provisions in the Standing Orders providing procedural guidance to the Senate or its Committees in consideration of Sessional Papers submitted by the Executive to Parliament for approval.

Thereupon, the Committee resolved that the Secretariat incorporates the additional comments and recommendations in the text of the Report and thereafter schedules the Report for adoption.

- i) *Petition by Mkupuo Network Awareness regarding implementation of an award by the Environment and Land Court for compensation and resettlement*

The Committee was informed that the Ministry of Lands, Housing and Urban Development was yet to submit its written submissions on the Petition despite follow up from the Secretariat, and that this was delaying consideration and reporting on the Petition. The Chairperson undertook to follow up with the Ministry for a response.

- ii) *Working Rretreat of the Committee*

Members were reminded of the upcoming retreat of the Committee coming up on 13<sup>th</sup> to 15<sup>th</sup> April, 2025 in Kiambu County. A request was made for the sitting to commence early to enable adequate time for consideration of the business before the Committee.

- iii) *Consideration of the Supreme Court judgment in Petition No. 19 (E027) of 2021; Senate & Others vs The National Assembly & Another*

The Chairperson recalled that, while the Committee had considered the implications of the Supreme Court Judgment in Petition No. 19 (E027) of 2021,

two aspects that the Committee was tasked to consider were pending, namely, its recommendations on processing of legislative business in light of the Judgment, and the implications of the Judgment on the the Houses of Parliament (Bicameral) Relations Bill, 2023.

Noting that the Committee was expected to update the House at the *Kamukunji* scheduled for Tuesday, 15<sup>th</sup> April, 2025, the Secretariat was tasked to prepare a Brief on the said areas for consideration on Monday, 14<sup>th</sup> April, 2025.

**MIN. NO. 569/2025**

**ADJOURNMENT**

The Chairperson adjourned the meeting twenty-seven minutes past nine O'clock. The next meeting would be held on Thursday, 10<sup>th</sup> April, 2025 at eight O'clock.

SIGNED: .....

DATE: .....6/5/2025.....





## 13<sup>TH</sup> PARLIAMENT | 3<sup>RD</sup> SESSION

### MINUTES OF THE 161<sup>ST</sup> SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON THURSDAY, 8<sup>TH</sup>, AUGUST, 2024 AT 8.00 A.M VIA THE ZOOM ONLINE MEETING PLATFORM

#### PRESENT

- |  |                                  |
|--|----------------------------------|
| 1. Sen. Wakili Hillary Kiprotich Sigei, MP | - Chairperson( <i>Chairing</i> ) |
| 2. Sen. Raphael Chimera Mwinzagu, MP       | - Vice Chairperson               |
| 3. Sen. Fatuma Adan Dullo, CBS, MP         | - Member                         |
| 4. Sen. Catherine Muyeka Mumma, MP         | - Member                         |
| 5. Sen. Veronica W. Maina, MP              | - Member                         |
| 6. Sen. Andrew Omtatah Okoiti, MP          | - Member                         |

#### ABSENT WITH APOLOGY

- |  |          |
|--|----------|
| 1. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |
| 2. Sen. Hamida Ali Kibwana, MP             | - Member |
| 3. Sen. Karen Njeri Nyamu, MP              | - Member |

#### IN ATTENDANCE

- |                             |                     |
|-----------------------------|---------------------|
| 1. Sen. Esther Okenyuri, MP | - Nominated Senator |
|-----------------------------|---------------------|

#### SECRETARIAT

- |                         |   |
|-------------------------|---|
| 1. Mr. Charles Munyua   | - Senior Clerk Assistant                        |
| 2. Mr. Moses Kenyanchui | - Legal Counsel I                               |
| 3. Ms. Lynn Aseka       | - Clerk Assistant III                           |
| 4. Ms. Angela Bonaya    | - Clerk Assistant III ( <i>Taking Minutes</i> ) |
| 5. Mr. Jackson Matheshe | - Researcher III                                |
| 6. Mr. Josephat Ng'eno  | - Media Relations Officer                       |
| 7. Ms. Judith Aoka      | - Assistant Audio Officer                       |
| 8. Ms. Marion Kibet     | -Attachee                                       |

#### MIN. NO. 302/2024

#### PRELIMINARIES

The Chairperson called the meeting to order at twenty five minutes past eight O'clock and opened with a word of prayer.

The agenda of the meeting was adopted having been proposed by Sen. Catherine Muyeka Mumma, MP and seconded by Sen. Veronica W. Maina, MP.

**CONSIDERATION OF THE STAKEHOLDERS' SUBMISSIONS ON THE COUNTY CIVIC EDUCATION BILL, 2024 (SENATE BILLS NO. 4 OF 2024) - RESUMPTION**

The Committee resumed consideration of stakeholders' submissions on the County Civic Education Bill, 2024 (Senate Bills. No. 4 of 2024) from Clause 4 as left off in the previous meeting.

During deliberations, Members –

- (i) noted that in terms of setting aside a budget for civic education, there was need to make use of the existing budgetary frameworks such that costs are mainstreamed into the relevant ministries at both national and county government level to cascade down to the civic education programmes at grassroot level.
- (ii) saw the need to note and cater for the unique needs and cultural differences of various special interest groups during service delivery for effective civic education.
- (iii) observed that there was need to cascade civic education to the village level by using innovative ways to relay information such as through vernacular radio stations.
- (iv) noted that the proposal in Clause 5 to train public officials on civic education at national and county level was flawed as public servants are usually trained on how to deliver on their mandate whereas civic education is preserved to be targeted to the general public.
- (v) observed that for purposes of uniformity, each county executive committee as an entity should design a mechanism through which the respective county will carry out civic education rather than leave each individual county executive committee member to come up with mechanisms which may vary as proposed in clause 6 of the Bill.

Due to lapse of time and the need to have more members present to give input, the Committee resolved to resume consideration of the matrix of stakeholders' submissions on the Bill at a meeting of the Committee to be held during the week of 26<sup>th</sup> August, 2024.



The Committee was taken through a matrix containing submissions from the following six stakeholders-

- (i) National Gender and Equality Commission
- (ii) Innovate4Change Initiative
- (iii) Disability Advocacy & Services Kenya (DASK)
- (iv) Health NGO's Network (HENNET)
- (v) Natural Justice
- (vi) Mombasa County Development Trust (MCDT)

During deliberations, Members,

- (i) noted that public participation was a constitutional principle that often attracted litigation and that there was need to ensure that the rulings of the court were captured in the Policy on Public Participation.
- (ii) observed that public participation was greatly linked to civic education since for there to be meaningful public participation, the citizenry needed to be adequately informed.
- (iii) also noted that public participation was critical in service delivery of public institutions and there was need for feedback mechanisms to be put in place for the public to raise any concerns or comments with regard to services offered.

The Committee resolved to resume deliberations on the Sessional Paper at a later date, at which the Office of the Attorney General would be invited to attend.

In light of the upcoming *Senate Mashinani* sittings to be held from 23<sup>rd</sup> to 27<sup>th</sup> September, 2024 in Busia County, the Committee resolved to schedule a meeting with the counterpart Committees in the Western region, for experience sharing and capacity building on the mandate, role and functions of the Committee. The Secretariat was tasked to work on a proposal identifying key training areas and areas of interest by the counties.

*(i) Working Retreat of the Committee*

The Committee was informed that there was need to meet during the recess to process all pending bills, petitions and statements before the Committee. Members were informed that the Senate Liaison Committee would be meeting to allocate funds to committees.

In this regard, Members resolved that, subject to allocation of funding by the Liaison Committee, the Committee holds a working retreat from 26<sup>th</sup> to 30<sup>th</sup> August, 2024 in Machakos County.

*(ii) Petition by Mkupuo Network Awareness*

The Committee was informed that stakeholders would be invited to submit their submissions on the Petition during the proposed working retreat of the Committee that will be held from 26<sup>th</sup> to 30<sup>th</sup> August, 2024.

The Sessional Chairperson adjourned the meeting at eighteen minutes past ten O'clock. The next meeting was scheduled to be held on notice.



**SIGNED:** .....

**DATE:** 13/11/2024 .....



## 13<sup>TH</sup> PARLIAMENT | 3<sup>RD</sup> SESSION

### **MINUTES OF THE 133<sup>RD</sup> SITTING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS HELD ON WEDNESDAY, 15<sup>TH</sup> MAY, 2024 AT 8.00 A.M COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS**

#### **PRESENT**

- |  |                                   |
|--|-----------------------------------|
| 1. Sen. Wakili Hillary Kiprotich Sigei, MP | - Chairperson ( <i>Chairing</i> ) |
| 2. Sen. Raphael Chimera Mwinzagu, MP       | - Vice Chairperson                |
| 3. Sen. Fatuma Adan Dullo, CBS, MP         | - Member                          |
| 4. Sen. Catherine Muyeka Mumma, MP         | - Member                          |
| 5. Sen. Veronica W. Maina, MP              | - Member                          |
| 6. Sen. Hamida Ali Kibwana, MP             | - Member                          |
| 7. Sen. Karen Njeri Nyamu, MP              | - Member                          |
| 8. Sen. Andrew Omtatah Okoiti, MP          | - Member                          |

#### **ABSENT WITH APOLOGY**

- |  |          |
|--|----------|
| 1. Sen. William Cheptumo Kipkiror, CBS, MP | - Member |
|--|----------|

#### **SECRETARIAT**

- |                         |   |
|-------------------------|---|
| 1. Ms Lilian Waweru     | - Legal Counsel II                              |
| 2. Ms. Lynn Aseka       | - Clerk Assistant III                           |
| 3. Ms. Angela Bonaya    | - Clerk Assistant III ( <i>Taking Minutes</i> ) |
| 4. Mr. Jackson Matheshe | - Research Officer III                          |
| 5. Mr. Josphat Ng'eno   | - Media Relations Officer III                   |
| 6. Ms. Judith Aoka      | - Assistant Audio Officer                       |
| 7. Mr. Abadallah Mbore  | - Serjeant-At-Arms                              |
| 8. Ms. Marion Kibet     | - Attachee                                      |

#### **IN ATTENDANCE (OFFICE OF THE ATTORNEY-GENERAL)**

- |                           |                            |
|---------------------------|----------------------------|
| 1. Ms Emily Chweya        | -Director of Legal affairs |
| 2. Mr. Steven Kibet Korir | -Senior Legal Counsel      |

#### **MIN. NO. 159/2024**

#### **PRELIMINARIES**

The Chairperson called the meeting to order at twenty-four minutes past eight O'clock and opened with a word of prayer.

#### **MIN. NO. 160/2024**

#### **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Andrew Omtatah Okoiti, MP, and seconded by Sen. Fatuma Adan Dullo, CBS, MP.



**MIN. NO. 161/2024**

**MEETING WITH THE OFFICE OF THE  
ATTORNEY-GENERAL TO DELIBERATE ON THE  
SESSIONAL PAPER NO. 3 OF 2023 ON THE KENYA  
POLICY ON PUBLIC PARTICIPATION**

To gain a deeper understanding of the sessional paper, the committee first received a briefing from the secretariat on the salient provisions of the Paper and their implications.

Members observed that the Sessional Paper was a crucial policy proposal as it touched on public participation, as provided under Article 10 of the Constitution. Members noted that this was a constitutional principle that is the most litigated on with regard to Bills passed by the Houses. Therefore, there was need to keenly scrutinize the Sessional Paper to come up with a clear policy that addresses challenges experienced during public participation.

Thereafter, the Committee was informed that the Attorney General had sent his apologies as he would not be able to personally appear before the Committee. Instead, representatives from his office were present to meet the Committee. Noting the seriousness of the subject matter and the questions the Committee intended to pose to the Attorney General, the Committee resolved that a letter be written to the Attorney General to appear before the Committee in person, as invited, in line with the Standing Orders.

**MIN. NO. 162/2024**

**ANY OTHER BUSINESS**

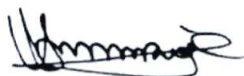
*The Independent Electoral & Boundaries Commission (Amendment) Bill, 2024 (National Assembly Bills No. 10 of 2024)*

Members were informed that the Independent Electoral & Boundaries Commission (Amendment) Bill, 2024 (National Assembly Bills No. 10 of 2024), having been committed to the Committee on 9<sup>th</sup> May, 2024 had been advertised in both the Standard and Daily Nation newspapers on the same date on Wednesday, 15<sup>th</sup> May, 2024 and the submission window for feedback on the Bill had been shortened to seven days so as to receive submissions Wednesday, May 22<sup>nd</sup>, 2024.

**MIN. NO. 163/2024**

**ADJOURNMENT**

The Chairperson adjourned the meeting at fifteen minutes past nine O'clock. The next meeting was scheduled to be held on Thursday, 16<sup>th</sup> May, 2024 at nine O'clock in Parliament.



SIGNED: .....

DATE: 29/5/2024 .....

***ANNEX 2: Copy of the Kenya  
Policy on Public Participation  
(Sessional Paper No. 3 of  
2023)***



REPUBLIC OF KENYA

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OFFICE OF THE ATTORNEY-GENERAL AND  
DEPARTMENT OF JUSTICE

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# **KENYA POLICY ON PUBLIC PARTICIPATION**

**SESSIONAL PAPER NO. 3**

DECEMBER, 2023

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI



PAPERS L.A.O	
DATE	25/4/2024
TABLED BY	Majority Leader.
COMMITTEE	-
CLERK AT THE TABLE	Mbayo.

OFFICE OF THE ATTORNEY-GENERAL AND  
DEPARTMENT OF JUSTICE

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## KENYA POLICY ON PUBLIC PARTICIPATION

SESSIONAL PAPER NO. 3

DECEMBER, 2023

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## **ABBREVIATIONS & ACRONYMS**

AG	Attorney-General
CUC	Court User Committees
CAF	County Assemblies Forum
CAJ	Commission on Administrative Justice
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
COG	Council of Governors
CRECO	Constitution and Reform Education Consortium
CSO	Civic Society Organizations
DFRD	District Focus for Rural Development
FBOs	Faith Based Organizations
FIDA	Federation of Women Lawyers (Kenya)
IBEC	Intergovernmental Budget and Economic Council
IBP	International Budget Partnership
ICJ	International Commission of Jurists
ICT	Information, Communication Technology
IDLO	International Development Law Organization
IEBC	Independent Electoral & Boundaries Commission
IGRTC	Inter-governmental Relations Technical Committee
KCTA	Kenya Coast Tourism Association
KHRC	Kenya Human Rights Commission
KICD	Kenya Institute for Curriculum Development
KLGRP	Kenya Local Government Reform Programme
KLMC	Kenya Livestock Marketing Commission
KLRC	Kenya Law Reform Commission
KNCCI	Kenya National Chamber of Commerce & Industry



KNCHR	Kenya National Commission on Human Rights
KNFF	Kenya National Farmers Federation
K-NICE	Kenya National Integrated Civic Education Program
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 & Evaluation
NCBF	National Capacity Building Framework
NCEF	National Civic Education Framework
NGCDF	National Government Constituency Development Fund
NGEC	National Gender & Equality Commission
NLC	National Land Commission
NSA	Non State Actors
PPP	Public Private Partnerships
PSC	Public Service Commission
PWDs	Persons with Disabilities
TA	Transition Authority
TI	Transparency International
TISA	The Institute for Social Accountability
UNDP	United Nations Development Programme
WRUA	Water Resource Users Associations

## FOREWORD

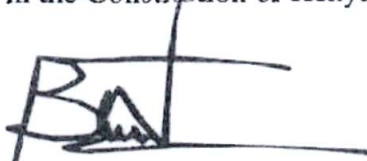
The Constitution of Kenya promulgated in 2010 restructured and transformed the state-society relations in several positive ways. The country's governance is based on a social contract, an arrangement in which the right holders only delegate their power to the government but retain the sovereign power. The Constitution places the right holders 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, through the Office of the Attorney-General and Department of Justice has developed the Kenya Policy on Public Participation as the Country's overarching framework for public participation. In this Policy, public participation is conceptualized 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 indirectly through freely chosen representatives.

The objectives of the Policy are to set standards for effective public participation and to establish a framework for the management and co-ordination of public participation in Kenya. 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. In 2016, the Attorney-General appointed a National Steering Committee to spearhead the policy formulation process. The committee comprised officers from the Office of the Attorney-General and Department of Justice, Former Ministry of Devolution and Planning, Intergovernmental Relations Technical Committee, Commission on Administrative Justice (CAJ), National Gender and Equality Commission (NGEC), Kenya National Commission on Human Rights (KNCHR), Kenya Law Reform Commission (KLRC), The Institute for Social Accountability (TISA), UNDP/Amkeni, Office of the High Commissioner for Human Rights

(OHCHR), National Civil Society Congress, International Development Law Organization (IDLO), Council of Governors (CoG), Public Service Commission (PSC) and the County Assemblies Forum (CAF).

I call upon both levels of government to put in place the necessary mechanisms to facilitate the implementation of this Policy, and to ensure that all public bodies in the Country engage right holders effectively as provided in the Constitution of Kenya and related legislation.

A handwritten signature in black ink, appearing to be 'J. B. N. Muturi', written over a horizontal line.

HON. J. B. N. MUTURI, E.G.H.  
*Attorney-General*



## DEFINITION OF TERMS

The following terms will have the meanings assigned herein:

- 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 indirectly through freely chosen representatives.
- Facilitate Public Participation:** means to “make easy or easier” or to “promote”; “taking steps to ensure the public is involved or is consulted on a matter”
- Accountability:** means answerable 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.
- Standards:** means the act or process of public participation as developed and accepted by the stakeholders relating to the desired content and quality. The standards are based on the consensus of different interested parties, users, and by the two levels of government.
- Coordination:** refers to the ability or process of organizing different stakeholders to ensure that they work together in harmony, effectively and efficiently.
- Right Holders:** means every individual given the universal nature of human rights. Every Individual within the state is entitled to the same rights without distinction based on any ground including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth.
- Duty Bearers:** means state actors. This includes all organs of the state including but not limited to Parliament, the Judiciary, National Police Service, County Government and Government Ministries, Departments and Agencies.

**Summit:**

means the National & County Coordinating Summit established under section 7 and 8 of the Intergovernmental Relations Act, 2012. The Summit consists of the President, the Deputy President and the Governors of the forty-seven counties. The main objective of the Summit is to encourage harmonious and mutually beneficial relations between the National government and the Counties. The Summit also provides a forum, for among other things, the promotion of national cohesion, unity and national values and principles of governance.

## **EXECUTIVE SUMMARY**

Public participation is one of the fundamental principles of Kenya's constitutional democracy. Indeed, the constitution upholds the people as sovereign and requires all State organs, State officers, public officers and all persons to ensure the participation of the people in the review, formulation and implementation of all public policies, administrative decisions and procedures, enactment and application of the law. The Government of Kenya recognizes that public participation strengthens and legitimizes state decisions, actions and development interventions. The presence of clearly, well-developed strategies for public participation build trust and confidence in the systems, promote accountability, strengthen commitment of all stakeholders towards improved governance, and directly limit the potential for corruption and poor leadership.

It is on the basis of this recognition and the need to ensure effective public participation in constitutional implementation, that various efforts have been made to formulate suitable frameworks to ensure that the public engages meaningfully in decision-making.

The Participation Guidelines by the State Department for Public Service, the County Public Participation Guidelines by then Ministry of Devolution and Arid and Semi-Arid Lands (ASALs) in collaboration with the Council of Governors are some of the tools used to enhance citizen engagement in the country. The Ministry also developed a number of Civic Education Training Materials to facilitate effective public participation.

The National Capacity Building Framework (NCBF) adopted in 2013 provides a mechanism for facilitating and co-ordinating county capacity building initiatives based on government policies and priorities. One of its core objectives is to empower right holders 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 co-ordination 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.

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 Kenya Policy on Public Participation sets out overarching comprehensive and coherent standards for active and meaningful public participation for the national and county governments and provides a framework for the coordination of public participation in order to fulfil constitutional requirements on citizen engagement in development and governance processes in the country.

Part One of the Policy reaffirms the Government's commitment to exercising effective public participation, further strengthened by a national legal framework and the ratification/accession to regional and international treaties that enshrine the right to citizenry involvement. It describes the policy development process, which was highly consultative and participatory. The section outlines the rationale, objectives of the Policy, and the guiding principles which must guide all aspects of the public participation process.

Part Two sets out the situational analysis, briefly tracing the efforts made, over the years, to incorporate citizen engagement in the decision making processes. The section also identifies the major challenges facing public participation in Kenya.

Part Three outlines nine policy priority areas, policy concerns and policy standards to address the concerns. The policy priority areas were identified through public interviews, focus group discussions and regional hearings conducted countrywide.

Part Four tabulates the coordination framework for the implementation of the Policy. The Policy will be implemented through an integrated, co-ordinated and consultative process by various actors at the national and county levels of government. Within each arm of government and at both levels, public participation will be conducted in a collaborative manner in accord with the principles of separation of powers devolution and in collaboration with Non State Actors (NSAs).

## **PART ONE**

### **INTRODUCTION**

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

Effective public participation has become an indispensable element of democracy and people centered development. It is the very foundation for democracy which strengthens the state by legitimizing governmental action, and promotes good and democratic governance. The right to participate in public affairs is important for promoting the rule of law, ensuring social inclusion, advancing gender equality, and for the realization of all human rights. Meaningful public involvement in political and public affairs can only be realized in conjunction with a range of other rights, including freedom of expression and information, assembly, association, equality, non-discrimination and socio-economic rights. Exercising this right is not a once-off affair but rather an ongoing cycle in which people make decisions, live with the consequences, and based on that experience make better future decisions.

The Government of Kenya acknowledges that the citizens' active and meaningful participation in public affairs is a fundamental hallmark of any truly democratic state. In formulating this Policy, the Government commits to enhancing openness and citizen engagement in all aspects of the governance agenda. The Policy sets the standards to ensure that the views of the public are heard and taken on board. It lays down the framework to encourage citizen participation, builds an understanding of how government works and its decisions, advances synergies between government, non-state actors and the private sector and ensures inclusion of different interest groups.

The commitment of the Government to ensure the attainment of effective public participation is affirmed not only in the Constitution but also in national laws, and regional and international treaties that have been ratified or acceded to by Kenya.

#### **1.2. The Constitution, Regional, International and National Foundations of Public Participation**

##### **1.2.1. The Constitution of Kenya**

The Constitution, in Article 2, enshrines the sovereign power of the people at both levels of government. Public participation is one the key national values and principles of governance in Article 10. The importance of public participation is further captured in Article 69 which encourages



public participation in the management, protection and conservation of the environment; The role of government in representing the will of the people as provided in Article 94, Article 118 which mandates Parliament to facilitate public participation in legislative processes, Article 174 enhancing public participation in devolved government, Article 184 in governance of urban areas and cities, Article 196 ensuring public participation in county government matters, Article 201 on participation in principles of public finance and Article 232(1) which highlights the values and principles of public service.

### **1.2.2. International Instruments**

The right to participate in public affairs including political participation is rooted in Article 25 of the International Covenant on Civil and Political Rights (ICCPR). Article 21 of the Universal Declaration of Human Rights states that the will of the people shall be the basis of the authority of the government and further mentions the right of every individual to take part in the government of their country.

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) in Article 7 and 14 affirms the right of women to participate in the formulation of government policy, non-governmental organizations and associations concerned with the public and political life of the country. Article 31 of the Convention on the Rights of the Child (CRC): promotes the right of the child to participate fully in cultural and artistic life and encourages the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity. Article 23 further ensures participation of a mentally or physically disabled child in the community. The UN Convention on the Rights of Persons with Disabilities (CRPD) promotes the full participation of persons with disability in civil, political, economic, social and cultural spheres with equal opportunities. This is echoed in Article 3, 9, 19, 29 and 30.

The Convention on Biological Diversity and the Cartagena Protocol on Bio safety emphasizes the importance of public awareness, education and participation as a fundamental element for effective implementation in Article 13 and 23 of the convention and protocol respectively. It further recognizes access to relevant information in order for individuals to make informed choices and actions. The Convention for the safeguarding of the Intangible Cultural Heritage (2003) in Article 11 and 15, obligates state bodies to ensure the widest possible participation of communities in safeguarding measures.



### 1.2.3. Regional Human Rights Instruments

Article 13 of the African Charter on Human and Peoples Rights provides among others that every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law. Further, Article 9 and 17 of the Protocol to the African Charter on Human and Peoples Rights on the rights of women in Africa (Maputo Protocol) emphasizes the right of women to participate in the political and decision making process as well as formulation of cultural policies at all levels.

Articles 4 and 7 of the African Charter on the Rights and Welfare of the Child recognize the right of children to freely express their opinions on all matters. The Charter under Article 14 further provides the need for meaningful participation of non-governmental organizations, local communities and the beneficiary population in the planning and management of basic service programmes for children.

### 1.2.4. The National Legal Framework

The following legislations promote the concept of public participation. **The Urban Area and Cities Act** gives effect to Article 184 of the Constitution; to among others provide for the principle of governance and participation of residents and as outlined in the second schedule. **The Public Finance Management Act** highlights the relevance of public or community participation in financial and budgetary matters in Sections 10(2), 35(2), 48(2), 125(2), 139 (2), 191B and 207. Section 26 of the **Independent Electoral and Boundaries Commission Act** states that the Commission shall observe the principle of public participation and requirement for consultation in the performance of its functions. The same is provided in the Fourth schedule of this Act. **The County Governments Act** in Sections 3(f), 6(6), 6A (3), 30(3)(g), 47, 50(3)(g) 51(3)(g), 52(3), 53(2), 87, 91, 92, 97(g), 100(4), 106(4) and 115 establishes modalities and principles of public participation in counties. Part IV of the **Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act**, provides for public awareness, sensitization, training and education by national government including ensuring involvement and participation of individuals and groups affected by internal displacement. Part X of the **Consumer Protection Act** establishes the Kenya Consumers Protection Advisory Committee which in Section 90 (d) is mandated with promotion/participation in consumer education programmes. **The Basic Education Act** in Section 4(l) and (q) outlines one of the guiding principle of basic education as participation and

inclusiveness of stakeholders. Section 4 of the **Land Act 2012**, denotes guiding values and principles for government officials and specifically mentions public participation in Section 4 (2) (h) and (I). The need for public participation is emphasized in the **Water Act 2016** Sections 10(1), 64(1) and 87(1). Further Section 8(3) of the **Treaty making and Ratification Act** provides that the relevant parliamentary committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures. Finally, Section 4(3) of the **HIV and AIDS Prevention and Control Act 2006** provides that in conducting educational and information campaigns, the Government shall collaborate with relevant stakeholders to ensure the involvement and participation of individuals and groups infected and affected by HIV and AIDS.

### **1.3. Policy Formulation Process**

This Policy is the outcome of an elaborate, inclusive and participatory process. A National Steering Committee was appointed under the auspices of the Office of the Attorney-General and Department of Justice to provide policy oversight and strategic leadership over the policy development process. The Committee drew its members from the then Ministry of Devolution and Planning, Intergovernmental Relations Technical Committee (IGRTC), Commission on Administrative Justice, National Gender and Equality Commission (NGEC), Kenya National Commission on Human Rights (KNCHR), Kenya Law Reform Commission (KLRC), The Institute for Social Accountability (TISA), UNDP/Amkeni, Office of the High Commissioner for Human Rights, National Civil Society Congress, International Development Law Organization (IDLO), Council of Governors (COG), Public Service Commission (PSC) and the County Assemblies Forum (CAF).

The Steering Committee rolled out the policy development process with support from development partners and consultants. The process involved consultations with various stakeholders through Key Informant Interviews (KIIs), Focus Group Discussions 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. The process also included the analysis and documentation of best practices, input from experts and submission of written memoranda.



#### **1.4. Rationale for the Policy**

The Policy is the execution framework to guide both levels of government, the private sector and non-state actors and all persons in their engagements with the public on governance issues. The Policy is based on the need to achieve the constitutional imperatives on public participation and the realization that 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.

#### **1.5. Policy Objectives**

The main objective of this Policy is to set standards for effective public participation and to provide an overarching framework for the coordination of public participation in Kenya for the fulfillment of the constitutional requirement on right holders' engagement in development and governance processes in the country. The Policy has nine specific objectives which both levels of government will;

- 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 children, minorities and marginalized groups at all levels of governance;
- 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.

#### **1.6. Guiding Principles**

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

- 1) Sovereignty of the people and equal opportunities for all;
- 2) Right of every individual, group, community and organization to be involved in the decision and policy making processes;
- 3) Provision of adequate and effective mechanisms and opportunities for participation for those interested in, or affected by decisions;
- 4) Consultation between the two levels of government in line with Article 6(2) of the Constitution and building relationships with Non State Actors;
- 5) Inclusion of minorities and the marginalized groups, including women, youth, elderly, PWDs and children;
- 6) Non-discrimination and accommodation, respecting diversity, people's values, culture, needs and customs;
- 7) Timely access to the necessary information in a language and form that is easy to comprehend, including accessible formats for Persons with Disabilities (PWDs) and through media that is accessible to the public;
- 8) Provision of civic education and the development of the necessary capacity for the public to effectively engage;
- 9) National Values under Article 10, the Bill of Rights and Fundamental Freedoms in Chapter Four of the Constitution;
- 10) Principles of leadership and integrity in Chapter 6 of the Constitution;
- 11) Provision of adequate funding for public participation;
- 12) Adequate monitoring, evaluation, learning and feedback mechanisms;

- 13) Adherence to the principles of devolution and separation of power;
- 14) Respect for the principles of child participation, including child friendly environment, appropriate information, and non-intimidation;
- 15) Access to remedial measures in cases of dispute;
- 16) Reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards; and
- 17) Promotion of public-private partnerships to encourage direct dialogue and concerted action on sustainable development.

## **PART TWO**

### **PUBLIC PARTICIPATION IN KENYA: SITUATIONAL ANALYSIS**

#### **2.1. Introduction**

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) 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 right holders' 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 centralized 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 right holders 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 right holders.

The enactment of the 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 right holders annually at ward level consultative processes to consider and identify priority capital projects. LASDAPs provided important opportunities for rights holder 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.

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 regularized 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 National Government Constituencies Development Fund (NG-CDF) represents an important mechanism for the participation of the people in matters that affect them. The Fund, established under the NG-CDF Act, 2015 as amended in 2016, aims to address the socio-economic development of the people at the constituency level to reduce poverty and enhance regional equity. The Act provides for the participation of the people in project formulation and implementation of identified national government development projects at the constituency level in line with constitutional principles. All implementing agencies of the CDF are required to place the community at the forefront in the project cycle. The community on the other hand is required to participate in open meetings convened by the Chairperson of the NG-CDF community to deliberate on development.

The Judiciary has integrated public participation by establishing Court Users' Committees and the National Council on the Administration of Justice. This was enhanced by 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.

County governments have adopted the County Public Participation Guidelines, 2016 elaborated by the then Ministry of Devolution. The Guidelines provide a framework for citizen engagement.

Overall, the Government has made significant efforts to initiate processes through which the public participate. However, the nature and extent of public participation contemplated by the Constitution has not been fully achieved by either level of government. 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.

The Policy underscores Kenya's commitments to the inclusion of the right holders in public governance and binds both levels of Government, as well as the private bodies and the non-state actors (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

### **2.3. Challenges**

The development of this Policy is driven by the major challenges facing public participation in Kenya which were identified through a participatory process during the development of the Policy. They include;

#### **a) 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: what constitutes adequate public participation; what is the nature of participation that meets the Constitutional threshold; what are the most effective mechanisms for public participation; what does public participation entail; and when can it be said that public participation has effectively taken place?

#### **b) Inadequate Co-ordination 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 various agencies. The result has been incoherent methods of engaging

right holders and overlapping activities which lack synergy among actors. This overburdens right holders and nurtures cynicism and disinterest in public participation.

#### **c) Ineffective Inclusion of Special Interest Groups**

Important segments of society, especially the special interest groups, minorities and the marginalized 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 represent their needs.

#### **d) 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 right holders; 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 outcomes of decisions.

#### **e) 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 right holders, newspaper adverts are used to announce 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 right holders to understand.

#### **f) Citizen Apathy**

Inadequate implementation of the right holders' 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 attendance.



#### **g) Limited Civic Education and Inadequate Capacity**

Majority of right holders 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.

#### **h) 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.

#### **i) 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 right holders also complain that their inputs are not incorporated into decision making and governance processes.

#### **j) 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 right holders through the construction of new relations between right holders 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* right holders to planning *with* them.

## **PART THREE**

### **POLICY PRIORITY AREAS**

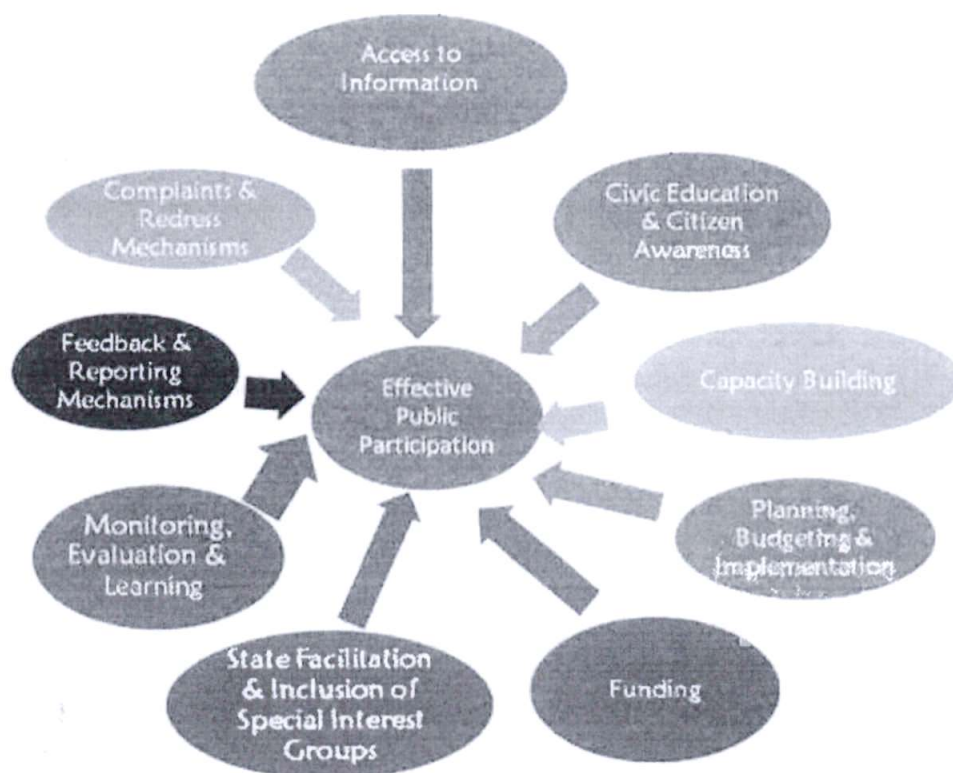
#### **3.1. Introduction**

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 blueprint, 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. This Policy provides a broad framework and minimum standards for effective public participation. Duty bearers will be expected to cascade and implement the general provisions of this policy by developing guidelines and clear strategies for effective public participation.

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 rights holder participation in planning, budgeting and implementation of programmes which this Policy addresses. These gaps are largely the result of inadequate access to information by the public, weak capacity of the right holders 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 areas include: access to information, civic education, capacity building, planning, budgeting and implementation, inclusion of minorities and marginalized groups, funding, monitoring, evaluation and learning, feedback and Reporting mechanisms, and complaints and redress mechanism as expressed in Figure 1.

**Figure 1: Kenya's KPPP: 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 right holders access to information held by the state and relevant private entities. Access to information is vital for the achievement of meaningful and effective public participation. Access to information empowers and enables right holders to hold the duty bearers to account. Governments have obligation to disclose information to the people through appropriate media and format, particularly in areas with high illiteracy levels. The Policy recognizes that



access to information can only be limited pursuant to Article 24 of the Constitution, section 6 of the Access to Information Act, 2016 and sections 43 and 49 of the Kenya Defence Forces Act, 2012.

### **Policy Concern**

The Constitution guarantees access to information held by the state, however, right holders 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 right holders 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, the people have experienced challenges accessing information pertaining to discussions within the National and County Government Coordinating Summit and the Intergovernmental Budget and Economic Council (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, 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 right holders 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 right holders for effective participation in a language(s) and appropriate media, including online platforms using 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 right holders. Civic education informs the public, creates awareness and empowers them to make informed decisions. It ensures that a critical mass of right holders, are endowed with knowledge and skills that embody the values, norms and behaviour that accord with the principles of democracy. Among others, Part X of the County Government Act (2012) mandates County governments to ensure civic education is 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 in November 2011 to educate Kenyans on the benefits and contents of the constitution with respect to its full



implementation. The Programme introduced an integrated national approach towards civic education which brought together state and non-state actors to ensure consistency and national coverage. The objectives of the programme included ensuring sustainable information and awareness on the constitution, its principles, structures and processes, enabling citizens to actively engage the government and governmental processes as a civic duty, inculcating a culture of adherence to the constitution amongst government agencies, and non-state actors and individuals, developing a culture of constitutionalism, respect for the rule of law and public engagement and fostering a system that ensures governmental responsiveness to its citizens and citizens responsibility for keeping the government in check. Talk shows and online portals were mounted to allow Kenyans to discuss issues on the Constitution of Kenya.

In 2016, the then Ministry of Devolution and Planning developed a Civic Education Training Manual for Learning Institutions. The manual was developed to enhance the capacity of trainers of civic education and enable them to effectively train the target groups on the provisions of the Constitution particularly devolution and public participation.

Currently, the Office of the Attorney-General & Department of Justice conducts civic education programs to raise awareness of the citizens on the Constitution and relevant policies, laws and administrative procedures. The program is important because it equips the citizens with the necessary tools for engagement in the implementation and governance processes.

### **Policy Concern**

While civic education is acknowledged as a powerful tool for engagement of right holders 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 marginalized groups is also limited and there are no special measures dedicated to these groups in the delivery of civic education. In addition,



while there are diverse civic education materials, there have been no standardization even though the then K-NICE and the former Ministry of Devolution and ASAL developed a civic education curriculum. Due to the lack of adequate finances, the Office of the Attorney-General has been unable to reach all Kenyans under its civic education program. Furthermore, while the counties must establish County Civic Education Units (CCEUs) in compliance with the County Government Act 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. Customize curriculum for civic education for specific needs in collaboration with all actors
- iii. Establish rights holder education mechanisms for the minorities and marginalized 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 programmes
- 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 right holders with relevant skills for participating in development processes. For right holders, it further removes the fear of intimidation and encourages them to hold duty bearers to account. Capacity building is also important for ensuring uniformity in the management of right holders 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, 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 and 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 right holders on development issues.

**Policy Objective:**

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

**Policy Standards**

The Government at the two levels 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.
- vii. Embed monitoring, evaluation and learning mechanisms in public participation processes as part of capacity building.

**3.2.4. Planning, Budgeting and Implementation**

The Constitution provides for participatory governance in all aspects of the Government's development agenda. 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 right holders often results to identification with the development programmes and ownership of the implemented interventions.

The policy takes cognizance of the limitation espoused by section 90 (2) of the Public Procurement and Asset Disposal Act, 2015 that require national security organs and other procuring entities that deal with procurements of classified nature to manage their procurements and disposals on the basis of a dual list and requirement to maintain confidentiality on the said lists. Section 90(3) also requires other entities that procure classified items to seek approval from the Cabinet Secretary for approval of the classified list of items annually.

### **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. The Constitution fundamentally, altered the framework for development planning and execution in Kenya. The hitherto top-down planning processes were replaced with participatory planning, bestowing on all the right holders the right to participate in development and governance matters.

In spite of the Constitutional promise of rights holder engagement in public planning, budgeting and implementation a gap remains. This is 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 affected the realization of 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**

The Government 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 right holders 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 NSAs for effective cooperation and coordination of public participation in planning, budgeting and implementation processes.
- vii. Establish online platforms for citizen engagement

### **3.2.5. Inclusion of Minorities and Marginalized Groups**

The Constitution recognizes the need to build an inclusive and equitable society. It provides for the participation of minorities and marginalized groups in Articles 53, 54, 55, 56, 57 and 100. These groups include women, children, PWDs, youth, the elderly, ethnic and other minorities and marginalized groups. 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 marginalized 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 marginalized groups at all levels.**

#### **Policy Standards**

The Government at the two levels will:

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

The Government 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 right holders to assess outcomes and counter-check whether outcome is in line with the expected outputs, and to learn and recast processes in line with the needs of right holders.

#### **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 rights holder 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**

The Government 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 right holders 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 duty bearers and right holders on development matters. Regular feedback and reporting enables the right holders 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 right holders' 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 right holders. This has been intensified by the low levels of right holders' awareness, and the negative attitude among the right holders that feedback and reporting mechanisms have not been very effective. Consequently, a large proportion of the right holders 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**

The Government 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 analyzing feedback from right holders, 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 right holders in Kenya have a constitutional and legal right to complain about, or petition the Government on any matter under the law. 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 (KNCHR), 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 well 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 utilization 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 decentralize their services, this has not happened.

**Policy Objective:**

**The state will promote effective handling of complaints**

**Policy Standards**

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

- (i) Establish and strengthen complaints and redress mechanisms and procedures that are simple, available, publicized 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) Sensitize right holders on complaints and redress mechanisms; and
- (vii) Provide for the development of a service delivery charter and ensure they are regularly reviewed and updated;
- (viii) Provide adequate funding for handling complaints.

## **PART FOUR**

### **CO-ORDINATION FRAMEWORK**

#### **4.1. 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.

#### **4.2. 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.

#### **4.3. The Coordinating Government Agency**

The state under the leadership of the Office of the Attorney-General & Department of Justice and the Ministry responsible for Devolution and Intergovernmental Relations shall establish a multi-sectoral coordination framework for ensuring effective public participation. The coordinating agency will have other state bodies who hold the mandate of the various subject matters addressed in this policy, and NSAs who directly work on any of the nine key policy areas.

In addition to the Office of the Attorney-General & Department of Justice and the Ministry responsible for Devolution and Intergovernmental Relations, other mandatory government bodies will be the Intergovernmental Relations Technical Committee (IGRTC); Council of Governors (COG), The Commission on Administrative Justice (CAJ) Kenya School of Government (KSG), The National Treasury, Ministry of Public Service, Gender and Affirmative Action, Ministry of Information, Communication and Digital Economy, Ministry of Interior and National Administration, Kenya National Commission on Human Rights, and the National Gender & Equality Commission (NGEC). Non State Actors 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.

#### **4.4. The Role of Agencies**

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

**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.

**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 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 sustainable public participation.

**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.

**Non-State Actors:** The role of non-state actors will be to collaborate with Government to mobilize right holders and resources, disseminate the policy and participate in capacity building for both right holders 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, and in monitoring and evaluation.

**Right holders:** Right holders, including citizens are the main pillars of the policy and have to actively be involved in the implementation of the 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, right holders are expected to exercise their sovereignty by holding duty bearers and all other agencies to account.

**Media:** The role of the media will be to disseminate the policy and raise public awareness about the policy in the broadest sense. They will also monitor the implementation of the policy through use of interpretive news stories, context-setting stories, editorial materials, columns, letters-to-the-editor and cartoons to convey policy message.

#### **4.5. 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.

#### **4.6. 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 (KNICE).

#### **4.7. 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 prepare 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;
- (viii) Timelines for participation;
- (ix) How monitoring, evaluation and learning will be achieved; and
- (x) Resources for facilitating public participation.

#### **4.8. Monitoring, Evaluation and Learning**

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 rights holder 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;



- (iii) Enhance and support access to information of the right holders 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, evaluation and learning 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 PWDs were effectively engaged; whether public participation process gave a feedback to participants how their input informed decisions made; and whether the outputs of monitoring and evaluation are used for learning and improving public participation.

#### **4.9. 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.

***ANNEX 3: Advertisement  
published on 10<sup>th</sup> May, 2024***

# REPUBLIC OF KENYA



## THIRTEENTH PARLIAMENT | THIRD SESSION THE SENATE

**Sessional Paper No. 3 of 2023 on the Kenya Policy on Public Participation**

### **INVITATION FOR SUBMISSION OF MEMORANDA**

At the sitting of the Senate held on Thursday, 25<sup>th</sup> April, 2024, Sessional Paper No. 3 of 2023 on the Kenya Policy on Public Participation was tabled in the Senate and thereafter committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.

The Policy aims to set standards for effective public participation and to establish a framework for the management and coordination of public participation in Kenya.

Pursuant to the provisions of Article 118 of the Constitution, the Standing Committee on Justice, Legal Affairs and Human Rights Committee now invites interested members of the public to submit any representations that they may have on the Sessional Paper by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to **[clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke)** and copied to **[senatejlhrc@parliament.go.ke](mailto:senatejlhrc@parliament.go.ke)**, to be received on or before **Wednesday, 22<sup>nd</sup> May, 2024 at 5.00 p.m.**

The Sessional Paper may be accessed on the Parliament website at **<http://www.parliament.go.ke/the-senate/house-business/papers-laid>**

**J.M. NYEGENYE, CBS,  
CLERK OF THE SENATE.**



***ANNEX 4: Copies of  
Stakeholder Submissions on  
the Policy***

# **Memorandum on Sessional Paper No.3 of 2023 on the Kenya Policy on Public Participation**

**To:** The Senate of Kenya

**From:** Festus M. Kaluki, Secretary/C.E.O, Disability Advocacy & Services Kenya (DASK)

**Date:** May 17<sup>th</sup>, 2024

## **Introduction**

This memorandum aims to provide an overview and critical analysis of Sessional Paper No.3 of 2023 on the Kenya Policy on Public Participation. The objective is to inform the Senate on key aspects of the policy, its significance, and recommendations for effective implementation to enhance democratic governance in Kenya.

## **Background**

Public participation is a cornerstone of democratic governance, ensuring that citizens have a voice in the decision-making processes that affect their lives. Sessional Paper No.3 of 2023 outlines the framework for public participation in Kenya, aiming to institutionalize and standardize citizen involvement across all levels of government.

## **Key Provisions**

### **1. Legal and Institutional Framework**

- Establishes a comprehensive legal framework to support public participation.
- Mandates the creation of institutional structures at national and county levels to facilitate citizen engagement.

### **2. Principles of Public Participation**

- Ensures inclusivity, transparency, and accountability in public participation processes.
- Emphasizes the need for timely and accessible information to the public.

### **3. Mechanisms and Platforms**

- Introduces various mechanisms such as public forums, digital platforms, and community outreach programs to enhance participation.
- Encourages the use of technology to reach a wider audience and streamline feedback processes.

#### 4. **Capacity Building and Resource Allocation**

- Calls for the capacity building of public officials and citizens to effectively engage in participatory processes.
- Allocates resources to ensure sustainable implementation of public participation initiatives.

### **Analysis**

#### **Strengths:**

- The policy provides a robust framework that aligns with constitutional mandates on public participation.
- Emphasizes inclusivity, aiming to engage marginalized and vulnerable groups.
- Promotes transparency and accountability, crucial for building public trust in governance.

#### **Challenges:**

- Implementation may face resistance due to existing bureaucratic inertia.
- Adequate funding and resource allocation remain critical concerns.
- Continuous capacity building is required to keep pace with evolving participatory methods and technologies.

### **Recommendations**

#### 1. **Strengthening Legal Provisions**

- Enact supplementary legislation to address gaps and ambiguities in the current policy.
- Ensure stringent enforcement mechanisms to hold public officials accountable for non-compliance.

#### 2. **Enhanced Resource Allocation**



- Secure dedicated funding for public participation initiatives in both national and county budgets.
- Explore partnerships with civil society organizations and international donors to supplement resources.

### 3. **Capacity Building**

- Invest in regular training programs for public officials and citizens on participatory governance.
- Utilize educational institutions and media to raise awareness about the importance of public participation.

### 4. **Monitoring and Evaluation**

- Establish independent bodies to monitor and evaluate the effectiveness of public participation initiatives.
- Implement feedback loops to continuously improve public participation processes based on citizen input.

### **Conclusion**

Sessional Paper No.3 of 2023 on the Kenya Policy on Public Participation represents a significant step towards enhancing democratic governance in Kenya. By addressing the highlighted challenges and adopting the proposed recommendations, the policy can foster a more inclusive, transparent, and accountable governance framework, empowering citizens to actively contribute to national development.

**Festus M. Kaluki**

**Secretary/CEO**

**contacts: +254 742 088 747/ +254 786 411 592**

**E-MAIL address: [festus@disabilityadvocacyandserviceskenya.co.ke](mailto:festus@disabilityadvocacyandserviceskenya.co.ke)**

**DISABILITY ADVOCACY & SERVICES KENYA (DASK)**

**Clerk of the Senate**  
**P.O Box 41842-00100**  
**Nairobi**

**SUBMISSION OF PROPOSALS FOR CONSIDERATION OF THE SESSIONAL PAPER No.3 OF 2023 ON  
 THE KENYA POLICY ON PUBLIC PARTICIPATION.**

**INSTITUTION - Mombasa County Development Trust (MCDT).**

**DATE: 20/05/2024**

<b>S/N o</b>	<b>Bill No.</b>	<b>Provisions of the Bill*</b>	<b>Rationale for Amendment Recommendation</b>	<b>Proposed Amendment**</b>
1.	1.3	This Policy is the outcome of an elaborate, inclusive and participatory process. A National Steering Committee was appointed under the auspices of the Office of the Attorney General and Department of Justice to provide policy oversight and strategic leadership over the policy development process. The Committee drew its members from the then Ministry of Devolution and Planning, Intergovernmental Relations Technical Committee (IGRTC), Commission on Administrative Justice, National Gender and Equality Commission (NGEC), Kenya National Commission on Human Rights (KNCHR), Kenya Law Reform Commission (KLRC), The Institute for Social Accountability (TISA), UNDP/Amkeni, Office of the High Commissioner for Human Rights,	To ensure inclusivity for PWDs in the policy formulation committee.	NCPWD is to be included in the policy formulation committee.

		National Civil Society Congress, International Development Law Organization (IDLO), Council of Governors (COG), Public Service Commission (PSC) and the County Assemblies Forum (CAF).		
2.	3.2	The right to access information is crucial to public participation and the functioning of a democracy. It is a right under the Constitution (Article 35 (1)), which is operationalized through the Access to Information Act, of 2016. The Constitution guarantees rights holders access to information held by the state and relevant private entities. Access to information is vital for the achievement of meaningful and effective public participation. Access to information empowers and enables right holders to hold the duty bearers to account. Governments must disclose information to the people through appropriate media and format, particularly in areas with high illiteracy levels.	The use of local means of dissemination of information such as town criers, and local radio stations will ensure that the people living in remote areas are reached. Secondly, with the emergence of digital technology, employing digital ways of access to information will be vital. Inclusion of PWDs to access to information in forms of availability of information that accommodate different forms of disability.	The county should explore other avenues of communication i.e. via vehicles - The village elder's structure should be strengthened for ease of dissemination of information. - The county should assign an interpreter to assist with the interpretation of PWDs and braille/audio. - There should be provisions for more digital ways of disseminating information i.e. WhatsApp /Twitter/Tiktok
3.	3.2.2	Section 101 provides for County legislation to provide the requisite institutional framework to facilitate and implement civic education programmes.	To ensure that all citizens have adequate information for better public participation.	There should be a structure in the county government specifically for civic education at the grassroots level. The county should establish coordination between public participation and civic education.



4.	3.2.5	The Constitution recognizes the need to build an inclusive and equitable society. It provides for the participation of minorities and marginalized groups in Articles 53, 54, 55, 56, 57 and 100. These groups include women, children, PWDs, youth, the elderly, ethnic and other minorities and marginalized groups. 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.	Providing a clear definition of marginalized and minority groups ensures inclusivity.	The guidelines should be specific on who are the marginalized communities, and minorities across all counties, what disability-friendly means.
5.	3.2.7	The Government at the two levels, in collaboration with other stakeholders.	To ensure the inclusivity of the stakeholders.	Should be specific on the stakeholders to be involved as defined in section 1.3

Signed by


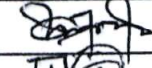
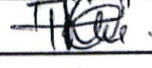



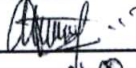

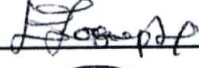


Patrick – MCDT  
Programs Coordinator

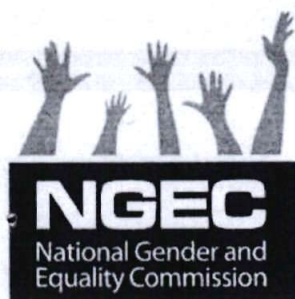
Add the list of participants without their ID  
Names/organizations/Telephone.

## Memorandum on the Kenya Public Participation Policy

### Attendance List

Date: 20/05/2024

No.	Name	Signature
1	RODIA Peter.	
2	Dada Odiwoor	
3	Tracy Nazi	
4	LYNN CHEPTOO	
5	Edwin Shamir	
6	DICKSON LENO	
7	PETER ODERO	
8	Alfred Abuka	
9	Joseph Nazareth.	
10	SWABIHA mohamed	
11	Mohamad Khalid	
12		
13		
14		
15		

**National Gender and Equality Commission**

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NGEC/Ag. CS/ NAS/VOL.I (14)

23<sup>rd</sup> May 2024

**Mr. Jeremiah. M. Nyegenye, CBS,**  
The Clerk of the Senate  
Clerk's Chambers  
Parliament Building  
P.O. Box 41842-00100  
**NAIROBI**

[clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke)  
[senateilahrc@parliament.go.ke](mailto:senateilahrc@parliament.go.ke)

Dear

*Mr Nyegenye***COMMENTS ON THE KENYA POLICY ON PUBLIC PARTICIPATION 2023**

Reference is made to your call to submit memoranda on the Kenya Policy on Public Participation.

In line with its mandate, the Commission presents to you memoranda analyzing the proposed draft policy and making proposals for amendment where necessary.

Yours sincerely,

Paul Kuria, OGW  
**Ag. COMMISSION SECRETARY/ CEO**





# MEMORANDA: THE KENYA POLICY ON PUBLIC PARTICIPATION, (Sessional Paper 3 of 2023)

S/No	Theme	Provisions of the Policy	Proposal	Justification
1.	1.23.	Regional Human Rights Instruments	<p>Include the following additional instruments-;</p> <p>1. Protocol to the African Charter on Human and People's Rights on the Rights of Older Persons -Article 5-Right to make decisions Article 17- Right to participate in programmes and Recreational activities</p> <p>2. Protocol to the African Charter on Human and People's Rights on the Rights of Persons with Disabilities Article 3C- General Principles- full and effective participation and inclusion in society Article 21- Right to participate in political and public life Article 25- Right to participate in sports, recreation and culture</p>	The two instruments were ratified by the state in 2021
2.	1.1	Kenya's Commitment to Public Participation	Under this introduction theme, consider including the commitment by the various courts in Kenya where many positive	Courts have been able to set precedents on the importance of public participation. The

			Rulings have been made on the right to effective publication by right holders.	case law have demonstrated to duty holders that public participation is a right enshrined in Article 10 and not a mere process of formality.
3.	2.3	Challenges	<p>Insert an additional challenge k) as follows</p> <p>K) Tight timelines for submission of comments</p> <p>The issue of concern is that many times the notices given for public participation are short and not adequate for participating effectively. At times there are multiple calls within the same time framework</p> <p>The notice needs to be ample, depending on the nature of the matter, the volume of the documents and the technicalities thereto, to enable participants to present meaningful submissions.</p> <p>The notices should also be posted to the lowest units of administration including sub counties, wards, villages etc.</p> <p>Potential participants get discouraged and end up not making any submissions</p> <p>Policy statement</p> <p>There should be co-ordinated mechanisms of making the calls for public</p>	<p>There are times when multiple calls are made for public participation –either concurrently, overlapping or back-to-back. Such calls affects the quality of submission because the right holders want to meet the deadlines, be present in the conversation, and not be locked out. A case in point is where the National Assembly and Senate have each a number of notices with overlapping or same deadlines, including the notice for this policy</p>



			<p>participation to enable meaningful submissions.</p> <p>Capacity building is also very crucial for the participants so that they can participate from an informed point as a right and not a favour for the Duty bearers..</p> <p>Venues for the meetings also need to be a major consideration in the realisation of this right. If possible the meetings should be devolved to the lowest unit of administration and not only the county headquarters</p>	
4.	New	Embracing evolving Technology	<p>Technology keeps evolving and at present the many duty bearers have been able to adapt to virtual technology and also use of social media alongside mainstream media.</p> <p>Duty holders need to embrace the technology to enable them reach out to a wider audience of participants especially the ones who do not subscribe to mainstream media.</p>	

#### General Comment

The Commission was part of the steering Committee in the development of the policy and is also proposed to be a part of the Coordination framework. As an interested party and a crucial stakeholder in this matter, the proposals herein will further improve the draft policy to framework for public participation that is compliant with fundamental principles of inclusion, equity and nondiscrimination.





Dear Sir/Madam,

**RE: SUBMISSION OF COMMENTS TO THE PUBLIC PARTICIPATION POLICY, 2023**

Natural Justice is a pan-African organization that operates across the Continent with three regional offices. In Kenya, Natural Justice is registered as a non-profit organization. Natural Justice's mission is to protect biodiversity, advance climate change mitigation and adaptation, and empower local communities and indigenous peoples to participate effectively and make their own decisions over resource use. Natural Justice works at the local, national, regional, and international levels with a wide range of partners. In addition to making sure that advancements made in international fora are completely upheld at lower levels, we work to ensure that community rights and duties are reflected and upheld on a larger scale.

Attached to this letter please find Natural Justice's detailed comments and recommendations on the Public Participation Policy, 2023, which we hope will provide insights and assistance in developing a final Public Participation Policy that reflects the values of Kenyans and foster the true meaning of Article 10 of the Constitution of Kenya. This Policy will outline various mechanisms, roles and responsibilities that apply in depth and scope thus enabling the realization of the specific objectives for effective public participation and civic education in the country.

Sincerely,

Mercy Chepkemai

Natural Justice: Lawyers for communities and the environment [mercy@naturaljustice.org](mailto:mercy@naturaljustice.org)

**COMMENTS ON THE POLICY AND HIGH-LEVEL RECOMMENDATIONS:**

Policy Area	Current Provision in the Policy	Proposed Recommendations	Justification and rationale
<b>General Comments</b>			
	<b>National Legal framework</b>	The Policy should make reference to the need for public participation in environmental matters as espoused in the Environmental Management and Coordination Act,	Environmental Management and Coordination Act is the umbrella law on environmental matters.
<b>Policy Objectives</b>	<p>1. Ensure citizens continually access timely information on public issues in a language and a format that is easily understandable</p> <p>5. Promote effective participation of children, minorities, and marginalized groups at all levels of governance</p>	<p>Ensure citizens continually access timely <u>objective and complete</u> information on public issues in a language and a format that is easily understandable <u>at minimum cost possible</u>.</p> <p>Promote effective participation of children, <u>persons with disabilities, women, youth,</u> minorities, and marginalized groups at all levels of governance</p>	-Article 35 of the Constitution provides that the State shall publish and publicize any important information affecting the nation. The Access to Information Act provides for costs and fees. However, the costs of providing information such as photocopying, printing, or any other administrative costs should not be more than the actual costs of making the copies and should not exceed the actual costs of making the actual copies.

<b>Guiding principles</b>	3. Provision of adequate and effective mechanisms and opportunities for participation for those interested in, or affected by decision	Provision of adequate and effective mechanisms and opportunities, <u>and</u> <u>adequate time</u> for participation for those interested in, or affected by decision	
<b>Key Policy Area Comments</b>			
<b>Access to Information</b>			
<b>Policy Objectives</b>	<p>The state will ensure rights holders continually access timely information on public issues in a language and a format that is easy to understand.</p> <p>The two levels of Government will ensure timely publication and dissemination of all information needed by the right holders for effective</p>	<p>The state will ensure rights holders continually access timely <u>objective, accurate and complete</u> information on public issues in a language and a format that is easy to understand.</p> <p>The two level of Government <u>and their units</u> should:  ii) ensure <u>proactive and</u> timely publication and dissemination of all information needed by the right holders for effective participation in a language and appropriate media,</p>	<p>The Policy should acknowledge and apply to the two tiers of government and their units and any other person exercising public authority.</p> <p>A proactive approach should be utilized in the dissemination of information. This will address the attitude of secrecy that the government and its officials have exercised.</p>



	participation.	including online platforms, <u>clear and comprehensible</u> using both official languages and in accessible formats for PWDs and the public, <u>such as print, audio, visual, electronic, braille etc.</u>	<p>For information access and dissemination to have the desired effects, government information needs to be understood by citizens. For that, they have to be clear and comprehensible – often a major challenge for administrations.</p> <p>The government should ensure that information is provided free in all cases or free under certain circumstances, if used for a public purpose or for fulfilment of basic democratic rights. If costs is included, then it should not be a hindrance for citizens accessing information.</p> <p>The public ought to be aware of the timeline provided for adequate notice to make their input on the issue. A timeline on what constitutes adequate notice should be provided.</p> <p>Article 21(a) of the Convention of Persons Living with Disabilities states that providing information intended for the public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and <b>without additional cost.</b></p>
<b>2.Civic Education</b>	ii. Develop and popularize Charters specifying how, and when to participate and the available opportunities for participation.	The Provision on what should be provided for in the charter should be comprehensive to include rights of the public and responsibilities of state organs and public offices to civic education, including how these rights and responsibilities are	The proposal aims to make civic education mandatory for all public and state organs before decision making, addressing the challenge of public understanding of laws and procedures, and to apportion responsibility on who should conduct public participation.

		exercised and accessed by the public.	
<b>3.Capacity Building</b>	The policy provides that the two levels of Government shall develop capacity building of all actors involved in public participation.	Insert that capacity building shall be a continuous process of these actors.	<p>In <i>British American Tobacco Kenya, PLC (formerly British American Tobacco Kenya Limited) v Cabinet Secretary for the Ministry of Health &amp; 2 others; and Kenya Tobacco Control Alliance &amp; another (Interested Parties); Mastermind Tobacco Kenya Limited (The Affected Party) [2019] eKLR</i>, the Courts gave meaning to what public participation is to include; clarity of the subject matter for the public to understand, commitment to the process, capacity to engage on the part of the public, including that the public must first be sensitized on the subject matter among others.</p> <p>A continuous venture of capacity building will ensure that right holders are fully versed on how to conduct public participation to avoid running afoul of the spirit of Article 10 of the Constitution by turning public participation into a cosmetic venture.</p>
<b>4.Feedback and reporting mechanism</b>	Establish mechanism for timely feedback and reporting on public participation at all levels.	<p>The two levels of Government -;</p> <p>i) Shall ensure innovation and inclusion of ICT integrated mechanisms for community feedback and analysis sharing and incorporation.</p>	-Inclusion of ICT on governance plays a key role in integration, narrowing the digital divide, as well as improved resource utilization and management. Use of ICT as a tool to receive and process feedback will ensure timely feedback on public participation at all levels.



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**Nairobi.**

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22<sup>nd</sup> May, 2024

**Mr. J. M. Nyegenye, CBS**

The Clerk of the Senate

Parliament Buildings

**NAIROBI.**

Dear Mr. Nyegenye,

REF: LETTER FORWARDING A MEMORANDUM ON THE KENYA POLICY ON PUBLIC PARTICIPATION (SESSIONAL PAPER NO. 3 OF 2023)

Reference is made to your Invitation for Submission of Memoranda on the above subject matter.

In view of the above, the Innovate4Change Initiative has reviewed the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023) and is pleased to submit its representations for consideration.

Find attached herewith our memorandum.

Yours respectfully,

**Nyandusi C. Matundura**

**Project Lead**

[innovatechange.policy@gmail.com](mailto:innovatechange.policy@gmail.com) | 254 725 405 914 | 254 746 516 294





**MEMORANDUM ON THE KENYA POLICY ON PUBLIC PARTICIPATION**  
**(SESSIONAL PAPER NO. 3 OF 2023)**

**SUBMITTED TO:**

STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS & HUMAN RIGHTS  
COMMITTEE

**SUBMITTED BY:**

INNOVATE4CHANGE INITIATIVE

DATED: 22<sup>ND</sup> MAY , 2024



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## INTRODUCTION

Public participation in Kenya is a principle, an indispensable procedural imperative and a constitutional objective. It involves all government policy decisions being subjected to a process of citizen engagement and after this engagement the citizens offer views and opinion that should be considered in the enactment of the policy. The legal underpinning of public participation is built on both International and domestic law. In international law it is enacted in all major human rights instruments including International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Africa Charter on Human and Peoples' Rights among others. In domestic law it is recognized in the Constitution of Kenya, 2010; Article 10(2) as a national value and principle, Article 118 2(b) mandates parliament to facilitate public participation and involvement in the legislative and other business of Parliament it is also a principle of devolution as stated in Article 174 (c), (d). Public participation cements a critical and foundational principle of Sovereignty of the People.

Having reviewed the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023) in its entirety, Innovate4Change Initiative opines that the Policy, as it currently stands, does not fully ensure that the standards for effective public participation are adequately set, nor does it establish a robust framework for the management and coordination of public participation in Kenya. Therefore, we recommend the following considerations for better implementation:

## SPECIFIC RECOMMENDATIONS

### Subject 1: Recommendations for Enhancing the Definition of Public Participation in the Proposed Kenya Policy on Public Participation

The current definition of public participation in the proposed Kenya Policy on Public Participation is as follows:

"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 indirectly through freely chosen representatives."

**Analysis:** While this definition provides a foundational understanding of public participation, it lacks several key elements that are essential for effective engagement. These missing elements include inclusiveness, transparency, accessibility, timeliness, empowerment, feedback, trust and respect, and continuous improvement. Without these components, the definition does not fully capture the essence of effective public participation, which is crucial for achieving the policy's aims.

The Policy in Section 2.3 (a) has identified significant challenges in public participation in Kenya, including the absence of standards. This lack of clear policy objectives and standards has led to ambiguities and disagreements on several important aspects of public participation. Specifically, there is a need for clarity on what constitutes adequate public participation, the nature of participation that meets the Constitutional threshold, the most effective mechanisms for public participation, and when public participation can be said to have effectively taken place. These challenges underscore the necessity for a comprehensive definition that addresses these gaps and provides a clear framework for effective public participation.

**Recommendations:** To ensure that the definition of public participation aligns with the policy's objectives and fosters meaningful engagement, we recommend the inclusion of the following elements:

1. **Inclusiveness:** The definition should emphasize the importance of involving all relevant stakeholders, including marginalized groups, to ensure diverse perspectives and equitable participation.
2. **Transparency:** Clear and accessible information about the process, decisions, and how public input will be used should be highlighted to build trust and accountability.



3. **Accessibility:** Participation opportunities should be convenient and understandable for everyone, including individuals with different abilities and language needs. (*See Addendum : Proposed Public Participation Website*)
4. **Timeliness:** Engaging the public early enough in the process to genuinely influence outcomes should be a priority.
5. **Empowerment:** The definition should stress that participants have a real voice in decision-making, with their input meaningfully considered and potentially shaping final decisions.
6. **Feedback:** Informing participants about how their input was used and the outcomes of the decision-making process is essential for maintaining engagement and trust.
7. **Trust and Respect:** Building and maintaining trust through respectful and open interactions between participants and decision-makers should be emphasized.
8. **Virtual participation:** with the internet making life easier and more efficient there is a need to integrate it into public participation as a means of achieving desired results. (*See Addendum : Proposed Public Participation Website*)
9. **Defined Thresholds:** Different thresholds should be established for public participation, tailored to the specific context and significance of the decision or policy being considered. This ensures that those incorporating public participation into processes know the expected level of engagement, recognizing that different situations require different levels of public participation

By incorporating these elements in the definition, the policy will more effectively define public participation. Without them, the process risks being understood superficially, excluding critical voices, and failing to achieve genuine engagement. These components ensure that public participation is inclusive, transparent, and impactful, empowering citizens to shape decisions and policies that affect their lives. They are essential for building trust between the government and the public, ensuring accountability, and fostering a collaborative environment for sustainable development and governance.



## Subject 2: Recommendations for Enhancing the Proposed Policy Standards in the Priority Areas of the Kenya Policy on Public Participation

### **1. Access to Information**

**Policy Concern:** The Constitution guarantees access to information held by the state; however, right holders often face challenges accessing such information. Issues include lack of timely publication, use of inaccessible formats, and limitations on information disclosure that are not clearly defined.

**Analysis:** The policy emphasizes timely access to information but lacks specifics on measures to ensure the availability of digital infrastructure, especially in rural areas ; it fails to set robust standards for ensuring this access is practical and inclusive. The existing mechanisms often excludes significant portions of the population, particularly those in areas with low literacy and poor infrastructure.

**Reference:** The Policy states, "Ensure timely publication and dissemination of all information needed by the right holders for effective participation in a language(s) and appropriate media including online platforms using both official languages and in accessible formats for PWDs and the public" .

**Recommendation:** The Policy should articulate specific measures to ensure: timely dissemination of information using diverse media formats, simplified language and accessible formats, especially for PWDs such as Braille formats, audio- visual formats.

Allocate budget for developing digital platforms providing real-time updates on government activities and public participation opportunities. Enhance internet connectivity in rural areas to ensure equitable access to information.

Contemporary society has embraced technological advancements in all aspects of life and public participation should not be any different. Technology offers inclusivity, accessibility, and timeliness in the public participation process as virtual participation offers a broad perspective on how public participation can be carried out. The innovate4change has developed an efficient means of providing information to the society. See addendum 1.1.





## 2. Civic Education

**Policy Concern:** Civic education is crucial for effective public participation but is hampered by inadequate coordination, limited coverage in rural areas, and insufficient funding.

**Analysis:** The policy acknowledges the need for civic education but does not address the sustainability of such programs in detail.

**Reference:** "The Government established the Kenya National Integrated Civic Education (K-NICE) Programme in November 2011 to educate Kenyans on the benefits and contents of the constitution with respect to its full implementation".

**Recommendation:** Establish a sustainable funding mechanism for continuous civic education programs, focusing on reaching marginalized and rural communities. Partner with educational institutions e.g. Universities to integrate civic education into the school curriculum. Develop a monitoring and evaluation framework to assess the effectiveness of civic education initiatives.

### Enhancement on the Proposed Policy Standards for Civic Education

The proposed policy standards for civic education are comprehensive but lack specificity and detailed implementation frameworks, which diminishes their overall effectiveness. This lack of clarity and actionable detail hinders the practical application and potential impact of the standards. The following analysis identifies key areas where the standards fall short and provides targeted recommendations to enhance their specificity, implementation, and overall efficacy, ensuring that the civic education initiatives effectively support meaningful public participation.

Formulate, enact, and implement the necessary policies, legislation, and procedures for civic education:

**Analysis:** This standard is foundational but lacks specificity on the implementation timeline and accountability measures.

**Recommendation:** Include clear timelines and designate responsible bodies to ensure timely enactment and implementation of policies. Establish periodic reviews to assess progress and



effectiveness. There should be established clear dates for when public participation is done nationwide, for example the county integrated development plan takes place after every five years, events such as this should be earmarked and set by the minister for interior affairs as public holidays set aside for the purpose of public participation.

Customize curriculum for civic education for specific needs in collaboration with all actors:

**Analysis:** While customization is crucial, there is no mention of ongoing evaluation to adapt the curriculum to evolving needs.

**Recommendation:** Incorporate mechanisms for continuous assessment and feedback to regularly update the curriculum based on emerging needs and societal changes. Engage diverse stakeholders, including grassroots organizations, in the customization process.

Establish rights holder education mechanisms for minorities and marginalized groups in line with the Constitution and other related laws:

**Analysis:** The standard addresses inclusion but does not specify how these mechanisms will be implemented or monitored.

**Recommendation:** Detail the specific actions and resources required to establish these mechanisms. Implement monitoring and evaluation frameworks to ensure these mechanisms are effectively reaching and benefiting minorities and marginalized groups.

Develop and popularize Charters, specifying how and when to participate, and the available opportunities for participation:

**Analysis:** Developing and popularizing charters is beneficial, but the standard does not address how these charters will be communicated to the public.

**Recommendation:** Utilize multiple communication channels, including digital platforms, community meetings, and local media, to disseminate these charters widely. Ensure the information is accessible in various languages and formats to reach all demographic groups.

Allocate adequate funds for civic education:



**Analysis:** This standard highlights the need for funding but lacks details on funding sources and accountability.

**Recommendation:** Establish a transparent funding model with clear guidelines on fund allocation and usage. Include provisions for regular audits and public reporting to ensure accountability and effective use of funds.

Provide an enabling environment that allows NSAs to support civic education programmes:

**Analysis:** Creating an enabling environment is essential but needs more clarity on the specific actions required to achieve this.

**Recommendation:** Define specific policies and measures to remove barriers faced by NSAs. Foster partnerships between government and NSAs through formal agreements and regular consultations to enhance collaboration.

Ensure civic education programs promote a participatory culture driven by integrity, national values, and principles of good governance:

**Analysis:** This standard sets a high ideal but lacks a framework for measuring the promotion of these values.

**Recommendation:** Develop indicators and assessment tools to measure the impact of civic education programs on promoting participatory culture and governance values. Conduct regular evaluations to ensure these programs effectively instill the desired values.

Ensure encompassing and continual civic education within and at all levels of government, including Constitutional offices and independent offices:

**Analysis:** Continuity is crucial, but there is no mention of the training and capacity-building required for officials to deliver civic education.

**Recommendation:** Implement comprehensive training programs for government officials at all levels to equip them with the necessary skills and knowledge for delivering civic education. Establish a continuous professional development framework to ensure ongoing capacity-building. This is through establishing a framework that awards professionals, through





continuous professional development points, for carrying out their civic duty in public participation and civic education forums.

### 3. Inclusion of Minorities and Marginalized Groups

**Policy Concern:** Mechanisms for the inclusion of minorities and marginalized groups are inadequate, resulting in their limited participation in democratic processes.

#### **General Analysis:**

While the policy sets out standards for inclusion, it does not sufficiently address the barriers faced by these groups. The lack of targeted measures and tailored communication strategies limits their effective participation.

#### **Specific Analysis & Recommendations on Proposed Policy Standards**

Provide guidelines for meaningful participation of minorities and marginalized groups:

**Analysis:** The standard lacks specificity on the development and dissemination of these guidelines.

**Recommendation:** The Policy should articulate detailed, culturally sensitive guidelines that include specific strategies for engaging different minority and marginalized groups. Ensure that these guidelines are widely disseminated through accessible channels and formats, including grass-root forums, community meetings, mainstream churches, online platforms, and local media.

Undertake stakeholder mapping to identify the minorities and marginalized groups for effective participation and engagement:

**Analysis:** While stakeholder mapping is essential, the standard does not specify how often this mapping should be updated or how the data will be used.

**Recommendation:** Implement a regular stakeholder mapping process, updated annually, to capture the evolving demographics and needs of minorities and marginalized groups. Use the data to tailor public participation initiatives and ensure they are inclusive and representative.



Ensure public participation processes have plans for engagement of the minorities and marginalized groups, including provisions for appropriate hours and venues for meetings:

**Analysis:** The standard is vague about the specific criteria for appropriate hours and venues.

**Recommendation:** The policy should establish clear criteria for selecting meeting times and locations that accommodate the schedules and accessibility needs of minorities and marginalized groups. Include flexible options such as virtual meetings to increase participation, include more options for meeting locations such as schools, mainstream churches that afford more options to the target audience.

Tailor communication to meet the needs of minorities and marginalized groups:

**Analysis:** The standard does not detail the methods or languages to be used for tailored communication.

**Recommendation:** Develop a comprehensive communication strategy that includes multiple languages and formats (e.g., braille, sign language, audio recordings). Use diverse channels such as community radio, social media, and local leaders to ensure broad reach and understanding.

Provide disability-friendly infrastructure for PWDs during public participation processes:

**Analysis:** The standard is broad and does not specify the types of disability-friendly infrastructure needed.

**Recommendation:** Articulate specific infrastructure improvements, such as ramps, accessible restrooms, sign language interpreters, and assistive listening devices. Conduct accessibility audits to ensure that all venues meet the required standards for PWDs.

Provide adequate budgetary resources for the engagement of minorities and marginalized groups:

**Analysis:** The standard does not provide details on how the budget will be allocated or monitored.



**Recommendation:** Articulate a transparent budgeting process that specifies the allocation of funds for engaging minorities and marginalized groups. Include provisions for regular financial audits and public reporting to ensure accountability and effective use of resources.

#### 4. Funding

**Policy Concern:** Inadequate and unreliable funding for public participation affects planning and engagement activities.

**Analysis:**

The policy acknowledges the need for adequate funding but does not provide a robust framework for securing and managing these funds. This shortfall impacts the quality and frequency of participation activities.

#### Specific Analysis & Recommendations on Proposed Policy Standards

Provide guidelines on funding for public participation to ensure adequate budgetary allocation:

**Analysis :** The standard lacks specificity on what the guidelines should include and how they will be enforced.

**Recommendation:** The Policy should articulate comprehensive guidelines that detail the specific funding requirements for various public participation activities. Include mechanisms for regular review and enforcement to ensure compliance. The guidelines should also outline criteria for equitable distribution of funds to support diverse public participation initiatives.

Provide adequate funding for public participation on a regular and continual basis:

**Analysis:** The standard does not specify the funding sources or how regular and continual funding will be maintained.

**Recommendation:** Establish a dedicated fund for public participation, with contributions from both national and county budgets. Ensure the fund is replenished annually and protected from budget cuts. Include provisions for periodic financial audits and public





reporting to maintain transparency and accountability. Provide for public-private partnerships to supplement government funding.

Provide conditional grants for strengthening of public participation to both levels of government and related agencies:

**Analysis:** The standard does not clarify the conditions for these grants or how they will be distributed and monitored.

**Recommendation:** Define clear conditions and criteria for awarding grants, such as demonstrated need, previous performance, and alignment with public participation goals. Implement a monitoring and evaluation framework to track the use of grants and assess their impact. Ensure that grant recipients are required to report on their activities and outcomes regularly.

Provide mechanisms for collaboration with development partners and NSAs to facilitate sourcing of adequate funding for public participation:

**Analysis:** The standard is broad and does not specify the nature of the collaboration or the roles of different stakeholders.

**Recommendation:** Create formal partnerships with development partners and NSAs through memorandums of understanding (MOUs) that outline specific roles, responsibilities, and funding commitments. Establish a central coordination body to oversee collaborations and ensure alignment with public participation objectives. Facilitate regular stakeholder meetings to review progress and address challenges.

Provide adequate funding for K-NICE and other existing frameworks for public participation:

**Analysis:** The standard does not detail how funding levels will be determined or how funds will be allocated and managed.

**Recommendation:** The Policy should require that a needs assessment is carried out to determine the required funding levels for K-NICE and other relevant frameworks, such as the County Public Participation Guidelines, Civic Education Training Programs, and Monitoring and Evaluation Systems for Public Engagement. Develop a transparent budgeting process that



includes input from key stakeholders. Allocate funds based on the identified needs and priorities, and implement robust financial management systems to track expenditures and ensure efficient use of resources.

## **5. Monitoring, Evaluation, and Learning (MEL)**

**Policy Concern:** MEL systems for public participation are weak and inadequately integrated into governance processes.

**General Analysis:** The policy recognizes the importance of MEL but does not provide a robust framework for it. In its current form the Policy's approach to MEL is insufficient to ensure accountability and continuous improvement. The lack of well-defined indicators and dissemination of MEL outputs would undermine public trust and engagement.

### **Specific Analysis & Recommendations on Proposed Policy Standards**

Put in place MEL systems and mechanisms for public participation in development projects and programmes:

**Analysis:** The standard lacks specificity on the types of systems and mechanisms to be implemented and how they will be maintained and updated.

**Recommendation:** The Policy should provide detailed guidelines on the specific MEL systems and mechanisms to be used, such as digital platforms, data collection tools, and analytics software. Have provisions in place that ensure these systems are user-friendly and scalable and provisions for ongoing training and technical support to ensure effective use and maintenance.

Integrate public participation within every MEL program in Government:

**Analysis:** The standard is broad and does not outline the process for integration or the specific areas of focus.

**Recommendation:** The policy should specify the creation of a framework for integrating public participation into all monitoring, evaluation, and learning (MEL) programs. This framework should include specific steps and timelines for implementation, with a focus on



key areas such as policy formulation, project implementation, and service delivery. Additionally, the policy should establish cross-departmental teams to oversee the integration process and ensure consistency across government agencies.

Publish and disseminate annual reports with indicators on the status of public participation:

**Analysis:** The standard does not specify the indicators to be used or the format and channels for dissemination.

**Recommendation:** The Policy should define a comprehensive set of indicators for measuring public participation, including quantitative and qualitative metrics. Standardize the format for annual reports to ensure clarity and comparability. Utilize multiple dissemination channels, such as government websites, social media, community meetings, and local media, to ensure broad reach and accessibility.

Establish structured communication and feedback mechanisms to ensure that MEL initiatives are disseminated to the right holders and policy makers:

**Analysis:** The standard lacks detail on the specific communication and feedback mechanisms to be established.

**Recommendation:** The Policy should give guidelines on ; structured communication plans that includes regular updates, feedback loops, and stakeholder engagement sessions, the use of diverse communication methods, such as interactive online platforms, community forums, and feedback surveys, to gather input from right holders and policy makers, provisions for ensuring transparency through public sharing of feedback and the actions taken in response.

Strengthen communities to actively participate in MEL, including auditing of public projects and programs:

**Analysis:** The standard does not provide details on how communities will be engaged or the support they will receive to participate in MEL activities.

**Recommendation:** The Policy should facilitate the following; Implementation of capacity-building programs to train community members on MEL processes and tools, the provision of resources and support, such as training materials, financial assistance, and technical





guidance, to enable communities to conduct independent audits and evaluations of public projects and programs, the establishment of community advisory boards to facilitate ongoing engagement and collaboration between government and community stakeholders.

## 6. Feedback and Reporting Mechanisms

**Policy Concern:** Inadequate feedback and reporting mechanisms discourage public participation and contribute to apathy among right holders.

**General Analysis:** The policy mentions feedback mechanisms but lacks details on their operation and effectiveness

### Specific Analysis & Recommendations on Proposed Policy Standards

Establish mechanisms for timely feedback and reporting on public participation at all levels:

**Analysis:** The standard lacks detail on the specific mechanisms to be used and how they will ensure timeliness.

**Recommendation:** The Policy should articulate specific feedback mechanisms such as online portals, community meetings, and mobile applications that allow for real-time feedback. Specify clear timelines for responding to feedback and ensure these are communicated to the public. Regularly review and update these mechanisms to maintain their effectiveness and accessibility.

Review, formulate, and implement plans on feedback on public participation:

**Analysis:** The standard does not specify the process for reviewing, formulating, and implementing feedback plans.

**Recommendation:** The Policy should establish a structured process for reviewing existing feedback mechanisms, including regular stakeholder consultations and surveys to gather input. Provide guidelines on detailed plans that outline specific actions, responsible parties, and timelines for implementation. Provide guidelines that ensure these plans are regularly updated based on feedback and changing needs.



Ensure that responsible institutions develop guidelines on receiving and analyzing feedback from right holders, sharing and incorporation into development processes:

**Analysis:** The standard does not provide details on the development or content of these guidelines.

**Recommendation:** The Policy should articulate comprehensive guidelines that detail the methods for collecting, analyzing, and utilizing feedback. Include procedures for transparent data handling, stakeholder communication, and integration of feedback into policy and decision-making processes. Provide direction on training for staff to effectively implement these guidelines and ensure consistent application across institutions.

Ensure reports provide justification for decisions made:

**Analysis:** The standard does not specify the criteria or format for providing justifications in reports.

**Recommendation:** The Policy should provide guidelines on the development of standardized reporting templates that require clear justifications for all decisions made, based on public feedback. Include sections for detailing the rationale, evidence considered, and how feedback was incorporated. Make these reports publicly accessible and ensure they are written in clear, non-technical language to be easily understood by all stakeholders.

### **Subject 3: Recommendations for Enhancing the Proposed Coordination Framework of the Kenya Policy on Public Participation**

#### **1. Institutional Framework for Policy Implementation**

**Analysis:** The institutional framework is crucial for the effective implementation of public participation. However, while the Policy identifies the Office of the Attorney-General & Department of Justice and the Ministry responsible for Devolution and Intergovernmental Relations as the coordinating agency (Section 4.3), it does not explicitly detail the roles and responsibilities of the institutions (e.g., IGRTC, Council of Governors, KSG, KICD). There is also a lack of clarity on how these institutions will coordinate their efforts under the leadership of the coordinating agency and how accountability will be ensured.



**Recommendation:** To improve this framework, the Policy should specify the roles and responsibilities of each institution in more detail, particularly in relation to their coordination with the designated coordinating agency. Establish clear lines of accountability and coordination mechanisms, such as regular inter-agency meetings and a centralized communication platform managed by the coordinating agency. This will ensure that each institution understands its role and how it contributes to the overall public participation process, facilitating efficient collaboration and oversight.

## **2. The Coordinating Government Agency**

**Analysis:** The coordinating government agency, led by the Office of the Attorney-General & Department of Justice and the Ministry responsible for Devolution and Intergovernmental Relations, involves multiple state bodies. While this inclusivity is positive, the involvement of numerous parties may lead to bureaucratic inefficiencies and overlap in roles.

The proposed Policy does not clearly define the responsibilities of both lead agencies.

**Recommendations:** Assign specific tasks to each lead agency based on their areas of expertise to avoid overlap and ensure a focused approach. Provide guidelines on the coordination mechanisms.

## **3. The Role of Agencies**

**Analysis:** The roles assigned to various agencies, including government ministries, county governments, development partners, non-state actors, right holders, and the media, are well-distributed. However, there is insufficient detail on how these agencies will interact and what mechanisms will be in place to ensure their collaboration is effective.

**Recommendations:** The Policy should articulate clearly inter-agency collaboration frameworks that outline how these entities will work together. It should have provisions that ensure regular training and capacity-building workshops to align all agencies on best practices and procedural standards.





#### 4. Development of Public Participation Guidelines

**Analysis:** The policy proposes the development of public participation guidelines, but it does not specify the process for developing these guidelines or how they will be enforced.

**Recommendation:** The Policy must provide articulate a transparent and inclusive process for developing public participation guidelines, involving stakeholders from all levels of government and civil society. The guidelines address key issues such as participant selection, engagement methods, and feedback mechanisms. Publish the guidelines and make them widely available. The Policy must provide for the implementation of a system to monitor adherence to these guidelines and offer support where needed.

And to enforce the public participation guidelines effectively, the Policy must provide for the development of a comprehensive enforcement framework that includes the following elements:

**Legislative Backing:** Enact laws or regulations that mandate the adherence to public participation guidelines by all relevant government bodies and agencies. Specify penalties for non-compliance to ensure that the guidelines are taken seriously and implemented correctly.

**Designated Oversight Bodies:** Assign a dedicated oversight body or committee to monitor the implementation of the guidelines across all levels of government. Empower the oversight body to conduct regular audits, inspections, and reviews to ensure compliance.

**Regular Reporting:** Require periodic reporting from government bodies on their adherence to the public participation guidelines. Include detailed accounts of public participation activities, stakeholder engagement, and feedback received.

**Feedback and Grievance Mechanisms:** Establish clear channels for the public and other stakeholders to provide feedback on the implementation of the guidelines. Implement a grievance redress mechanism where complaints regarding non-compliance can be lodged and addressed promptly. Encourage the public to hold government bodies accountable for following the guidelines.



## 5. Review of the Policy

**Analysis :** The policy states that it will be reviewed every five years, which is a reasonable interval. However, it does not specify the criteria or process for the review.

**Recommendation:** The Policy should define a clear criteria and a structured process for the policy review. Ensure the review process is inclusive, involving stakeholders from all sectors. Establish a review committee with representatives from government, civil society, and the private sector. Publish the outcomes of the review and the rationale for any changes made to the policy.

### **Subject 4: Enhancements - Additional Focus Areas for Public Participation**

To further enhance public participation, we identified the importance of the policy addressing the following areas, acknowledging that although they were not part of the policy document, their inclusion is critical for ensuring comprehensive and effective citizen engagement across various facets of governance. These areas highlight the need for thorough civic education, equitable resource allocation, inclusive legislative processes, and improved decision-making quality. By incorporating these aspects, the policy can better meet the diverse needs of the Kenyan population and foster a more participatory and democratic society:

#### 1. Public Participation in the Removal of Leaders from Office

**Analysis:** The Constitution states that public participation should be included in legislative and 'other business of Parliament' under article 118(b). Notwithstanding the fact that the Parliament is the lawmaking arm of the government, it is also important to consider that it is a court of removal for governors (Senate) and a court of removal for the executives, that is, the president, his deputy and members of his cabinet ( National Assembly). The current system involves the relevant parliamentary committee taking a judicial trial approach.

**Recommendation:** The rules of Natural Justice clearly state that 'no one should be a judge in his/her own case'. Therefore, it is imperative for the Court, during the investigation stage, incorporate public participation to help legitimize the process and outcome, to not only ensure



compliance with article 118(b) of the Constitution but to ensure that it reflects the will of the people which is the true purpose of public participation.

## 2. Mandatory Public Participation in Key Policy Processes

**Analysis:** The Senate was established under the 2010 Constitution to protect devolution. This was a remedy for the failed Majimbo system that was in the repealed Constitution. In the repealed Constitution, decisions were majorly centralized and made in the capital city and the seven provinces were constantly ignored and their influence largely limited. To appreciate Public Participation, one must understand the historical injustices before the promulgation of the 2010 Constitution: Lack of inclusivity, unequal distribution or allocation of resources, executive dominance, lack of checks and balances etc.

These historical issues underscore the necessity for a governance framework that mandates public participation and ensures it meets specific threshold levels. Such measures are vital for processes that set binding plans for a specified period, ensuring that public welfare and governance reflect the collective will and needs of the community. Instituting mandatory public participation with defined thresholds addresses past injustices and fosters a more inclusive, democratic governance structure.

**Recommendation:** In the development of policies and plans that have a significant impact on governance and public welfare, it is imperative that public participation be both mandatory and subject to achieving specific threshold levels. This is particularly crucial for processes that recur with each electoral cycle, such as the establishment of development plans, which set the framework for governmental actions for a specified period. For example, the County Integrated Development Plan, as provided for under Section 104 of the County Government Act, 2012 in Kenya, locks in the course of action for the entire period until the next cycle. Because public welfare and governance are bound by the decisions made within these plans, it is essential that a substantial threshold of public participation is met to ensure the resulting policies truly reflect the needs and aspirations of the community. Instituting mandatory public participation with specified threshold levels for these processes not only enhances transparency and accountability but also guarantees that the voices of citizens are integral to the decision-making process. This approach fosters a more inclusive and democratic





governance structure, ensuring that public welfare and governance operate within a framework that has been genuinely shaped by the people it serves.

### 3. Integration of Civic Education in Professional Development Curricula

**Analysis:** Civic education plays a crucial role in fostering an informed and engaged citizenry, capable of contributing effectively to public participation processes. Currently, many professionals may lack the necessary understanding of civic duties and the importance of public participation in governance. Integrating civic education into the curricula of professional bodies can address this gap.

Professional bodies often require members to complete Continuous Professional Development (CPD) points to maintain their certifications. For instance, under Regulation 11 of the Advocates Act (Continuous Professional Development) Regulation, 2004, every applicant for an annual practicing certificate must provide proof of securing five units of continuing legal education each practicing year. By incorporating civic education into CPD programs, professionals across various fields will receive regular training on public participation principles and practices.

This approach ensures that all professionals, regardless of their field, are well-versed in the importance of civic engagement. It enhances their ability to participate meaningfully in public processes and encourages a broader reach of public participation awareness. By embedding civic education in professional development, we can cultivate a culture of informed participation and active citizenship among professionals.

**Recommendation:** To ensure widespread and effective public participation, it is recommended that civic education be integrated into the curricula of professional bodies. Specifically, this integration should occur within the trainings that professionals attend to obtain Continuous Professional Development (CPD) points as they advance in their careers. This will ensure that all professionals are well-versed in the principles and practices of public participation, fostering an informed and engaged citizenry that actively contributes to the public participation process. This also allows for a greater reach in public participation awareness.



#### 4. Calendarization of Civic Education Programs and Public Participation Dates

**Analysis:** Public participation and civic education are critical components of a democratic society, yet they often lack the consistency and visibility necessary to engage the broader public effectively. Regular and predictable scheduling of these activities can significantly enhance public awareness and participation.

By calendarizing civic education programs and public participation dates, these activities become a known and expected part of the civic landscape. For example, just as the annual National Budget reading is a well-known event, setting specific dates for civic education and public participation events ensures that citizens across the country can anticipate and prepare for these opportunities. Designating certain venues for these activities can further reinforce their regularity and accessibility, much like other regularly scheduled community events.

This structured approach ensures that public participation and civic education are not sporadic or ad-hoc but are integral and predictable components of the civic calendar. It promotes greater engagement and consistency, fostering a culture of continuous and active participation.

**Recommendation:** To enhance public awareness and ensure consistent engagement, it is recommended that civic education programs and public participation dates be calendarized. This means establishing specific, recurring dates for these activities, similar to the annual scheduling of the National Budget reading. By having set dates, and possibly designated venues, for civic education and public participation events, people across the country will know when and where these activities are taking place. Just as certain community events are regularly scheduled and widely recognized, citizens will be aware that on specific dates and in designated venues, civic education and public participation activities will be ongoing. This structured approach will foster a more informed and engaged citizenry, ensuring that these crucial activities are an integral and predictable part of the civic calendar.



## CONCLUSION

In conclusion, the Kenya Policy on Public Participation (Sessional Paper No.3 of 2023) represents a significant effort to institutionalize public participation in governance. However, our comprehensive review identifies critical areas that need enhancement to ensure the policy fully achieves its objectives. Key recommendations include defining roles and responsibilities more clearly, establishing robust monitoring and enforcement mechanisms, and incorporating additional focus areas such as civic education, equitable resource allocation, and inclusive legislative processes. By addressing these gaps, the policy can foster more meaningful and effective public participation, build public trust, and ensure that the diverse needs of the Kenyan population are met. We urge Parliament to consider these recommendations to strengthen the policy and enhance democratic governance in Kenya.





## ADDENDUM

### Proposal for a Public Participation Website

#### **Introduction**

Technology is arguably one of humanity's greatest inventions, enhancing efficiency, easing daily life, and connecting people globally. In our information age, technological advancements shape how we interact and share information, integrating into every aspect of our lives. Public participation in governance should be no exception.

Currently, one of the major challenges limiting public participation in Kenya is access. Most people work during the day and cannot attend community meetings organized for public input on legislative matters. This lack of accessibility results in delays or obstacles to passing bills that require public participation.

Integrating technology into public participation can enable the government to gather public opinions in an unfiltered and unbiased manner. As technology permeates education, commerce, and healthcare, it is time for public participation to evolve similarly, reaching the public through modern means.

#### **Proposal**

Innovate4Change Initiative proposes creating a public participation website where citizens can comment on and give their opinions on parliamentary matters. Additionally, the website will allow for general feedback on desired national actions. Collected opinions will be analyzed and shared with Parliament to inform decision-making.

The program's success will rely on a public-private partnership involving:

1. The government
2. Telecommunications companies

#### **Website Proprietor**



The website proprietor should be Parliament. Parliament will oversee the development, maintenance, and content management of the website. The role of the proprietor includes ensuring the website's proper functioning, regularly updating content, and managing user interactions to facilitate effective public participation. By taking on this responsibility, Parliament will ensure that the platform remains a reliable and authoritative source for gathering public opinions and promoting civic engagement.

### **How It Would Work**

The website will function as a social platform, accessible via a link. It will feature chat rooms where public participation discussions are led in real-time.

**Chat Room Definition:** An online platform enabling real-time text-based communication among users, typically hosted on a server with internet connectivity.

Telecommunications companies will play a crucial role by sending links to users via messaging services. The text messages will include brief descriptions of active public participation topics. Upon clicking the link, users can join various public participation meetings for different regions and submit their feedback.

Those without internet access on their mobile devices will be directed to nearby areas where they can follow chat room proceedings and send their opinions via text messaging.

### **Impact**

1. Greater access to the youth demographic, who typically do not attend physical public participation meetings.
2. Increased engagement from both young and older populations interested in participating.
3. A wider array of views, resulting in a more diverse set of ideas.
4. Inclusion of the working middle class, who are usually at work during daytime public participation events.



5. A more accurate reflection of public opinion, ensuring transparency in the law-making process.

By implementing this public participation website, we can modernize citizen engagement, making it more inclusive, accessible, and effective in shaping governance.





**HENNET CSO Memoranda 2024**

**Sessional Paper (No. 3 of 2023) of the Public Participation Policy**

**Presented to:**  
**Clerk.senate@parliament.go.ke**  
**and copied to senate**  
**senatejlahrc@parliament.or.ke**

**Date: May 22<sup>nd</sup> 5.00pm.**

## HENNET CSOs Comments on the Public Participation Policy, 2023

Health NGOs Network (HENNET)			
Part and title	Issue of Concern	Justification	Recommendation
Part 1: Definition of Terms	Public participation	The current definition doesn't put into consideration that it's a two-way interactive process	Public participation is the process where individuals, governmental and non-governmental groups influence decision making in policy, legislation, service delivery, oversight, and development matters. It is a two-way interactive process where the duty bearer communicates information in a transparent and timely manner, engages the public in decision making and is responsive and accountable to their needs. The public gets actively involved in the process when the issue at stake relates directly to them
Part 1	1.3 Policy Formulation Process	There was a gap in inclusivity whereby some stakeholders like the religious groups, business communities and only 2 CSOs are mentioned to have been involved	There is need to include all the stakeholders and the 47-county representation
	1.4 Rationale	The rationale is not well elaborated and only highlights the challenges in public participation	A rationale typically explains the reasoning behind a decision, project, or proposal, providing a clear and logical explanation for why certain actions are taken or certain conclusions are reached.
	1.5 Policy Objectives	The highlighted objectives do not address the challenges outlined. They put the responsibility of participation on the NSA, yet it is the responsibility of the government as NSA provide support	<ol style="list-style-type: none"> <li>1. Absence of Standards: Establish clear, uniform standards and guidelines for public participation to ensure consistency and effectiveness across all levels of government and sectors.</li> <li>2. Ineffective Coordination Mechanisms: Develop and implement effective coordination mechanisms that facilitate seamless collaboration among various government agencies and stakeholders involved in public participation</li> </ol>

			<p>processes.</p> <p>3. Inadequate Coordination Among Providers: Foster inter-agency and inter-sectoral coordination by creating platforms for regular communication, joint planning, and collaboration among service providers.</p> <p>4. Ineffective Inclusion of Special Interest Groups: Ensure the inclusive design of public participation processes by actively engaging and accommodating the needs of special interest groups, including marginalized and vulnerable populations.</p> <p>5. Citizen Apathy: Increase citizen engagement and reduce apathy through awareness campaigns, education, and creating more accessible and meaningful opportunities for public involvement in decision-making processes.</p> <p>Inadequate Funding: Secure adequate funding and allocate resources specifically for public participation initiatives to ensure their sustainability and effectiveness, including training, outreach, and implementation activities.</p>
In reference to the public participation Bill 2023	Section 5	The scope of public participation outlined is narrow. Needs to be relooked to inform	<ol style="list-style-type: none"> <li>1. Policy Formulation</li> <li>2. Legislative Processes</li> <li>3. Planning and Budgeting</li> <li>4. Project Development and Implementation</li> <li>5. Service Delivery and Monitoring</li> <li>6. Environmental Management</li> <li>7. Public Health and Safety</li> <li>8. Education and Awareness</li> <li>9. Decision-Making Bodies</li> <li>10. Digital Participation</li> <li>11. Feedback and Accountability Mechanisms</li> <li>12. Conflict Resolution and</li> <li>13. Consensus Building</li> </ol>



	Section 7	The rights highlighted are not all inclusive	<ol style="list-style-type: none"> <li>1. Right to Information: Access information held by public authorities.</li> <li>2. Right to Be Consulted: Be consulted on matters affecting them.</li> <li>3. Right to Public Hearings and Meetings: Attend and participate in public hearings and meetings.</li> <li>4. Right to Submit Proposals and Feedback: Submit proposals, comments, and feedback.</li> <li>5. Right to Petition: Petition government bodies on public concerns.</li> <li>6. Right to Participation in Elections and Referenda: Vote in elections and referenda.</li> <li>7. Right to Association and Assembly: Form and join associations and assemble peacefully.</li> <li>8. Right to Judicial Review: Challenge government decisions and actions through judicial review.</li> <li>9. Right to Equitable Participation: Ensure all citizens, including marginalized groups, have opportunities to participate.</li> <li>10. Right to Education and Capacity Building: Access education and capacity-building opportunities to enhance participation.</li> </ol>
<b>2.2 Kenya's experience with Public Participation</b>			Include experiences in the budget-making process as guided by the PFM ACT and County Government ACT as well as public participation experience from CSOs and NSA
3.2.1 Access to Information	The vagueness of 'timely' information to be specified.	Article 10, Article 174 & article 201 of the constitution on principles of national values, principles of devolved government and principles of public finance and national values	Insert on a Quarterly basis for progressive reporting and ensure accountability
3.2.2 Civic education	<p>Role of both National and County government not well defined</p> <p>No budgetary allocation</p>	Article 1 and 232(1) of the constitution. The County Government Act 2012, Public Finance Management Act 2012, Urban Areas and Cities Act 2011	Clearly define the roles and responsibilities of actors at national and county level.

	Lack of accountability for the resources		Have budgetary allocation for civic education at national and county and this needs to have accountability structures in place.  Standardization of civic education materials to take care of illiterate, young, old citizens and PWD
3.2.3 Capacity Building	Definition of capacity building is lacking.	To empower citizens for effective participation	To be inserted in the interpretation section To develop a national capacity building framework
3.2.4 Planning, Budgeting, and Implementation	Aadequate notification for public participation to take place to be specific	Promote effective participatory engagement of citizens	21 days is sufficient notice
3.2.5 Inclusion of minorities and marginalized groups	-Definition of minorities and marginalised is missing - Framework of children participation missing	Article 53, 54,55,56,57, 100 of the constitution	-To be included in the Interpretation section of the policy. -Set up of children participation frameworks and operationalize them.
3.2.6 Funding	Timely reports on funding allocation and expenditure reports to be made available to the public	Article 10, Article 201 of the constitution, Public Finance & Management Act	-To provide framework and guidelines on funding
3.2.7 & 3.2.8 Monitoring, Evaluation and Learning	Repetition of issues	To ensure achievable and clear performance indicators	3.2.8. and 3.2.7 MEL and Feedback & reporting mechanisms should be captured under the MEL
Part IV Institutional Framework for Policy Implementation	There should be clarity between the bill and the policy needs to be clarified.		This would recommend having a consistent, well-functioning implementation of the policy.
4.3 The Coordinating	Feedback and Reporting Issues.	It's not clearly indicated which body is relevant for reporting of the overall public participation.	The policy needs to provide a clear reporting body.

Government Agency	It needs to have a clear legal implication.	The policy mentions a coordinating agency but there's no clarity on who they're and there mandate.	Formation of the relevant committee that will supporting the participation.
4.4 The Role of Agencies. Non-State Actors	Promotion of accountability and good governance.	Eliminate the word "Collaborate" rst	The role of non-state actors will be to mobilize citizens and resources, disseminate the policy and participate in capacity building for both citizens and duty bearers. They will also engage with the government in public participation processes including civic education and mobilizing the citizens to participate in diverse aspects of public governance and also focus majorly on promotion of accountability and good governance.
4.6 Development of People's Participation Charters	Risk of lack of standardizing.	The charter might lack the aspect of standardizing with the ingredients of when and how.	The policy and the proposed legislation need to provide bare minimum standardization of the when (specific timelines) and the how (threshold, where e.tc.) for public participation. The lack of standardization will result in development of equivocal people's participation charters.
4.7 Development of Public Participation Guidelines	Standard Guideline on Public Participation	<p>"Each arm of government shall prepare guidelines on public participation indicating how they will engage with the public" this statement contradicts the aspects of a National Standard Guideline on Public Participation that will be adopted by the County Government.</p> <p>Add "Publish and/or make it available to the public through their appropriate accessible channels "</p> <p><i>"Further, both National and County governments will prepare an Annual Public Participation Report and <b>publish and/or make available to the public through their</b></i></p>	We recommend that each public participation report (that captures recommendations, justifications and any other concerns deemed necessary) shall be made publicly available through appropriate accessible channels within 21 days after the activity.



		<i>official websites detailing the level of public participation in each level of government and the challenges experienced"</i>	
4.8 Monitoring, Evaluation and Learning.	For effective learning and knowledge management.		<p>1. Recommend the addition of the Following:</p> <p>2. Summary of all parties that participated in the said notice for public participation.</p> <p>3. Summary of feedback collected and report on what was considered, what was not considered and reasons for not consideration.</p> <p>4. Demographic analysis of the number of people engaged.</p> <p>5. Summary engagement methods used; barriers of participation encountered.</p> <p>6. The call for public participation and the responses on the same by public including matters raised which were outside the focus area.</p>

### General Comments

1. The inclusion of PFM ACT and County Government ACT to be included in BOX 1 (The Constitutional & Legal Foundations for Public Participation in Kenya) These 2 laws have been in use for more than 10 years and have guided public participation including in the national and County budget making processes.
2. There is need for the inclusion of HENNET as a member of the IGRTC, due to the representative role that HENNET, coordinating Health CSOs in Kenya.
3. Section on Feedback & Reporting Mechanism: The role of CSOs and NSAs in providing a platform for feedback is important and should be captured. Also, the policy should include feedback schedules at all levels and target sectors.
4. We can propose for a clear framework for public participation including harmonization of public participation and civic education plans and activities at all levels and the key drivers (include social and academic calendars)- Population targeting should be described in the policy for

example for education reforms can include targeted mobilization of children, parents, caregivers, and teachers as the key target in addition to the general population. This can be informed of a fraction of the whole respondents should be from specific target groups.

5. Compliance aspects including the legal aspects eg PSEAH and Data protection should be included
6. The policy should also indicate adherence to human rights principles in addition to the proposed inclusivity.

### **Conclusion**

As stated in the policy, we shall anticipate a published report of this exercise on the same.

**Yours faithfully,**



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This memo is submitted on behalf of Registered HENNET Member Organizations

1	Health NGOs Network Secretariat
2	Amref-Health Africa
3	Ace Africa
4	ACHESEREM
5	Action Aid International
6	AFIDEP
7	Afri Afya
8	Africa institute for health and development- AIHD
9	Aga Khan Foundation
10	Ageing Concern Foundation (ACF)
11	AIDS Healthcare Foundation Kenya (AHF)
12	ADEO
13	APDK- Association for the Physically Disabled of Kenya
14	APHRC- Africa population and health research centre
15	Basic Needs UK in Kenya
16	Beacon of HOPE
17	CARE International
18	Center for Public Health and Development (CPHD)
19	Centre For the Study of Adolescence ( CSA)
20	Christian Aid
21	Christoffel Blinden Mission (CBM)
22	COEC
23	COECSA
24	Community capacity Building Initiative
25	Consortium for National Health and Research ( CNHR)

26	CPDA- Christian Partners Development
27	Deaf Aid
28	Don Amolo, Memorial Kids Ark (DAMKA),
29	DSW
30	Elizabeth Glaser Pediatric Aids Foundation (EGPAF)
31	Emayian organization
32	Engender Health
33	Family Support Initiative
34	FHI - Family Health International
35	Food for the Hungry
36	Fred Hollows Foundation Kenya
37	Global Communities(formerly CHF)
38	HAIA Health Action International Africa
39	Health Rights Advocacy Forum(HERAF)
40	Healthrights International Kenya
41	Hellen Keller International
42	Helpage Kenya
43	HOPE <i>worldwide</i> Kenya
44	ICL- I Choose Life
45	IMA WORLD HEALTH
46	International Centre for Reproductive Health (ICRHK)
47	International Committee For Development of people (CISP)
48	International Plan Parenthood Africa
49	Internews in Kenya
50	Intrahealth International

51	JHPIEGO
52	Johnstone Kenya
53	KANCO- Kenya AIDS NGOs Consortium
54	KCDF
55	KENAAM- Kenya NGOs Alliance against Malaria
56	KENCANSA
57	Kenya Association for the Welfare of people with Epilepsy- KAWWE
58	Kenya Association of Muslim Medical Professionals
59	Kenya Association of Professional Counsellors
60	Kenya Consortium to Fight AIDS TB and Malaria
61	Kenya Episcopal Conference
62	Kenya Medical Education Trust (KMET)
63	Kenya Society for the blind
64	Kenya Women Living with AIDS- KENWA
65	Kibera Integrated Community Self-Help Programme KICOSHEP
66	KRCS- Kenya Red Cross Society
67	Life Care and Support Centre - LICASU
68	Living Goods
69	LVCT Health
70	M Health Kenya
71	Malteser
72	Marie Stopes International Kenya (MSK)
73	Medecins Sans Frontieres- MSF



74	META Kenya
75	Micronutrient Initiative
76	Mildmay International LTD
77	Morris Moses Foundation
78	Mothers2Mothers
79	Movement of Men against AIDS in Kenya (MMAAK)
80	NEPHAK- National Empowerment Network of People Living with HIV/AIDS in Kenya.
81	Next-Gen Lawyers
82	NOPE - National Organisation of peer Educators
83	Nyamira post HIV Test CBO (NYAPOHTE)
84	Nyanza Reproductive Health Society
85	Operation Eyesight
86	Options Consultancy Services Kenya Limited
87	Organization of African Youth (OAY)
88	PATH
89	Pathfinder International
90	Peoples Health Movement
91	Provide International
92	PS Kenya
93	Ripples International
94	Rural AIDS Prevention and development Organisation (RAPADO)
95	Samaritans Purse International Relief
96	Save The Children

7	Sight Savers International
98	Smile Train
99	SOS Children's Villages
100	SOWED Kenya
101	St. Hemmingsway CBO
102	SWAP- Safe Water and AIDS project
103	The Youth Cafe
104	VSO K
105	Waci Health
106	WEMIHS- Wem Intergrated Health Services
107	White Ribbon Alliance Kenya
108	Women fighting Aids in Kenya
109	World Friends
110	World Neighbours
111	World Relief
112	World Vision
113	KP Consortium
114	NTBC-K
115	COPHED
116	YPD