

TOPIC: EFFECTIVE PUBLIC PARTICIPATION UNDER
DEVOLVED SYSTEM OF GOVERNMENT

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PRESENTATION OUTLINE

- ❖ Definition of Public Participation
- ❖ Principles of Public Participation
- ❖ The Legal & policy framework for County Public Participation
- ❖ Threshold for public participation
- ❖ Stages of Public Participation
- ❖ County Public Participation Act status
- ❖ What counties need to do to achieve the threshold
- ❖ Benefits of Public Participation
- ❖ Recommendation for effective Public Participation


❖ What is this Public Participation:

According to the Black's Law Dictionary, "participation" is defined as the act of taking part in something; such as partnership, a crime, or a trial.

National Public Participation Policy (NPPP). It defines public participation as "the process where individuals, governmental and non-governmental groups influence decision making in policy, legislation, service delivery, oversight and development matters.

Public participation is the involvement of all parties who may potentially have an interest in a development or project, or be affected by it. It is an empowering process which enables local people to do their own analysis, take command and gain confidence (Chambers, 2002).

Purpose and principles of public participation

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- ❖ Promote democratic and accountable exercise of power;
 - ❖ Foster national unity by recognizing diversity;
 - ❖ Give powers of self-governance to the people and enhance the participation of people in the exercise of the powers of the state and making decisions affecting them;
 - ❖ Recognize the rights of communities to manage their own affairs and for further development

The legal & policy framework on public participation

- ❖ The Constitution makes citizen participation a central part of Kenya's governance system.
- ❖ The rationale of public participation is based on the foundation that the people of Kenya have sovereign power which they have delegated to state actors at the national and county levels.
- ❖ The sovereignty must be respected and institutionalized in all processes of governance

The legal & policy framework on public participation

No.	Article/Section	Legal & Constitutional provisions
1.	Article 1(2) of the Constitution of Kenya, 2010	All sovereign power belongs to the people of Kenya. The people may exercise their sovereignty directly or through their elected representatives.
2.	Article 10 (2) a, b and c	The national values and principles of governance include; democracy and participation of the people; inclusiveness; good governance, integrity, transparency and accountability.
3.	Article 27	The Constitution guarantees equality and non-discrimination. Hence, public participation should ensure equality and non-discrimination
4.	Article 33	Public participation should respect the freedom of expression of all participants
5.	Article 35	The Constitution guarantees the right to access information by citizens
6.	Article 69 (1) (d) :	The State shall encourage public participation in the management, protection and conservation of the environment
7.	Article 118	Provides for public access and participation in sittings of Parliament and of its committees
8.	Article 119	Provides for the right of anyone to petition parliament.
9.	Article 119	Provides for the right of anyone to petition parliament.
10.	Article 129	Provides that Executive authority derives from the people of Kenya

The legal & policy framework on public participation

No.	Article/Section	Legal & Constitutional provisions
11.	Article 159	Provides that judicial Authority is derived from the people of Kenya
12.	Article 174(c)	Objects of devolution are; to give powers of self-governance to the people and enhance their participation in the exercise of such powers in decision making.
13.	Article 174(d)	Communities have the right to manage their own affairs and to further their development.
14.	Article 184(1)	National legislation shall provide for the governance and management of urban areas and cities and shall provide for the participation of residents in the governance of urban areas and cities.
15.	Article 196 (1) (b)	A county assembly shall-facilitate public participation and involvement in the legislative and other business of the assembly and its committees
16.	Article 201	The following principles shall guide all aspects of public finance in the Republic—(a) there shall be openness and accountability, including public participation in financial matters
17.	Article 221(5)	In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly
18.	Article 232(1)(d)	The values and principles of public service include the involvement of the people in the process of policy making and (f) transparency and provision to the public of timely and accurate information
19.	Fourth Schedule Part 2 (14)	The functions and powers of the county are to coordinate and ensure the participation of communities in governance. Counties are also to assist communities to develop the administrative capacity to enhance their exercise of power and participation in governance at the local level.
20.	The Public Finance Management Act- Section 207	County Governments are to establish structures, mechanisms and guidelines for citizen participation.

The legal & policy framework on public participation

No.	Article/Section	Legal & Constitutional provisions
21.	County Government Act- Section 91	The county government shall facilitate the establishment of modalities, and platforms for citizen participation.
22.	The County Government Act Sections 94, 95,96	Counties are to establish mechanisms to facilitate public communication and access to information using media with the widest public outreach. Every county shall designate an office for ensuring access to information
23.	County Government Act Sections 100 and 101	County governments should create an institutional framework for civic education.
24.	Urban areas Act Sections 21 and 22	Overarching theme is participation by the residents in the governance of urban areas and cities. The Second Schedule of the Act provides for the rights of, and participation by residents in affairs of their city or urban areas.
25.	Public Procurement and Disposal Act 2015 Section 68(3), 125(5), 138, and 179	Emphasis on transparency of the procurement process including requirements for procuring entities to publicly avail procurement records after closure of proceedings, publicise notice of intention to enter into contract on websites and public notice boards and publish and publicise all contract awards.

Is there a threshold for public participation?

- ❖ community needs assessment done;
- ❖ Work with other stakeholders for wider reach;
- ❖ Periodic capacity building of citizens
- ❖ Seek and give feedback.
- ❖ Simplify County documents
- ❖ Have designated fixed venues at every level
- ❖ Provide adequate notice
- ❖ Allocate funding for PP

Benefits of public participation to duty bearers and right holders

- ❖ Improved service delivery by public officers
- ❖ Increased credibility between public officers and the community on important issues and services
- ❖ Creates citizens who feel they belong and have trust in their community and county government
- ❖ Provides a platform for greater diversity of citizens to contribute to public debate and decision making
- ❖ Provides an opportunity for focused and prioritized community concerns to be addressed by public officials
- ❖ Creates citizens who are more aware of their community needs and how government responds to those needs.

County Public Participation enactment status

No.	County/ Year	2013	2014	2015	2016	2017	2018	2019
1.	Machakos							
2.	Meru							
3.	Kericho							
4.	Elgeyo Marakwet							
5.	Kisumu							
6.	Baringo							
7.	Embu							
8.	Kisii							
9.	Nairobi							
10.	Nyeri							
11.	Turkana							
12.	Kakamega							
13.	Kiambu							
14.	Kwale							

County Public Participation enactment status

No.	County/Year	2013	2014	2015	2016	2017	2018	2019
15.	Nakuru							
16.	Nyandarua							
17.	Tana River							
18.	Mombasa							

Counties	+% PPA	-%PPA
Enactment status of County Public Participation Act	38.3	61.7

County Public Participation enactment status

No.	County/Year	2013	2014	2015	2016	2017	2018	2019
1.	Lamu							
2.	Busia							
3.	Vihiga							

How Many Counties have Draft PPB Bill	+% PPB	-%PPB
3/29	10.3	89.6

What is NOT PUBLIC PARTICIPATION and what is PUBLIC PARTICIPATION

No.	WHAT IS NOT	WHAT IT IS
1.	Enactment of a public participation Act	Effective implementation of the Act
2.	Advertising PP on selected media outlets like East African standard and Daily Nation	Advertising in all media outlets relevant to members of the county. For example if its Kiambu County – Inoro FM, Kisumu– Ramogi/Radio Nam Lolwe, Kakamega – Sulwe FM/Radio Citizen, Chief’s camp, churches, facebook etc
3.	Sharing the County document 1 or 2 days to pp event	At least two weeks before the pp event.This will allow them for instance to have a pre–pp event meeting for a position.
4.	Sharing highly technical document with stakeholders	Step these documents down into a language stakeholders will understand
5.	Inviting selected and specific stakeholder (s)	Invite all interested stakeholders.Cluster your stakeholders into: The Manufacturing community, Mama Mboga, Boda Boda, Matatu members etc
6.	Speaking to purported elite from a sub–county, Ward and village	Speak to all clusters in the community. Don’t look for teachers, MCA’s , former Cllrs only.Engage mama mboga too
7.	Taking records of names, ID. Nos. and signature of people attending a pp event	Inculcating their views in the final report

KEY AREAS TO LOOK AT FOR PUBLIC ENGAGEMENT

- ❖ Budget Circular provides budget process and key policy directions. MTEF process is specified in the budget and will commence soon after it is issued. *There is need to start the process, and setting out guidelines for public participation.*
- ❖ The County Fiscal Strategy Paper (CFSP) bind County Assembly to limits on **revenue raising, borrowing and spending**. The budget estimates adopted later will have to comply with the CFSP.
- ❖ Law making process
- ❖ Development of CIDPs

RECOMMENDATIONS FOR EFFECTIVE PP

- ❖ Develop positive attitude by the public towards public participation by explaining to them the benefits of public participation;
- ❖ Increase awareness and provide adequate information on public participation;
- ❖ Improve capacity of the public to participate through civic education;
- ❖ Have a designated and accessible venues for public participation;
- ❖ Practice objectivity and political tolerance/neutrality for quality of deliberation;
- ❖ Provide incentives;
- ❖ Use simplified language;
- ❖ Give a long notice about two to four weeks about public participation forums to give enough time to reflect on development plans/proposals

Shukran!Comments /clarification

