

# KEEPING ALIVE SOCIETIES HOPE - KASH

## CIVIC ENGAGEMENT FACILITATORS HANDBOOK: A GUIDE FOR CITIZEN PARTICIPATION IN COUNTY AFFAIRS



**USAID**  
FROM THE AMERICAN PEOPLE



**AHADI**  
AGILE AND HARMONIZED ASSISTANCE  
FOR DEVOLVED INSTITUTIONS



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## **FOREWARD**

PUBLIC PARTICIPATION IS A CONSTITUTIONAL REQUIREMENT IN ALL GOVERNANCE PROCESSES BOTH AT NATIONAL AND COUNTY LEVELS. ONE WAY OF BUILDING CAPACITY OF THE CITIZENS TO MEANINGFULLY PARTICIPATE IN GOVERNANCE PROCESSES IS THROUGH PURPOSE-DRIVEN CIVIC EDUCATION. THE PUBLIC NEEDS PROMPT AND RELEVANT INFORMATION FOR THEM TO MEANINGFULLY PARTICIPATE IN PUBLIC AFFAIRS AND DEVELOPMENT PROCESSES.

THIS CIVIC ENGAGEMENT FACILITATOR'S HANDBOOK FOR PURPOSE-DRIVEN CIVIC EDUCATION IS PRIMARY AIMED FOR USE BY THE FARMERS IN KISII AND NYAMIRA COUNTIES WHO WILL BE TRAINED AS COMMUNITY CIVIC EDUCATORS IN THE TWO COUNTIES. THE HANDBOOK CAN HOWEVER BE USED BY THE GENERAL CITIZENS. THE PROPOSED STRATEGY IS CIVIC EDUCATION AND INFORMATION SHARING THAT IS ALIGNED WITH SPECIFIC CITIZEN ENGAGEMENT INTERVENTIONS OR EVENTS WITH EMPHASIS ON THE POTENTIAL BENEFITS FOR PARTICIPATING. IT IS EXPECTED THAT EFFECTIVE USE OF THE HANDBOOK WILL RESULT TO MEANINGFUL INVOLVEMENT OF THE CITIZENS IN COUNTY POLICY AND LEGISLATIVE PROCESSES, PLANNING, BUDGETING AND IMPLEMENTATION OF THE APPROVED DEVELOPMENT PLANS AND BUDGETS AS WELL AS MONITORING AND EVALUATION.

EFFECTIVE USE OF THIS HANDBOOK SHOULD CONTRIBUTE TO IMPROVEMENT IN THE LEVEL AND QUALITY OF CITIZEN ENGAGEMENT IN COUNTY GOVERNANCE. THE COMBINATION OF TIMELY SHARING OF THE INFORMATION AND CIVIC EDUCATION OF THE PUBLIC ON THEIR RIGHTS AND RESPONSIBILITIES SHOULD FACILITATE ATTITUDE AND BEHAVIOR CHANGE WHICH IS CRITICAL IN PROMOTING PUBLIC PARTICIPATION IN KENYA. IT IS ANTICIPATED THAT THE LINK BETWEEN PUBLIC PARTICIPATION AND POTENTIAL BENEFITS WOULD ENCOURAGE THE CITIZENS TO TURN OUT AND ENGAGE IN THE COUNTY GOVERNANCE PROCESSES BECAUSE OF THE EXPECTED POSITIVE OUTCOMES TO THEIR LIVES. THE FOCUS OF PUBLIC PARTICIPATION IN THE HANDBOOK IS THE PUBLIC EXPENDITURE CYCLE MAINLY THE SPACES AND OPPORTUNITIES FOR PUBLIC PARTICIPATION, AND WHEN AND HOW TO PARTICIPATE.

THE MATERIAL AND INFORMATION CONTAINED IN THIS HANDBOOK MAY BE FREELY QUOTED OR REPRINTED, PROVIDED CREDIT IS ACCORDED AND GIVEN TO THE KASH. KASH IS GRATEFUL TO THE UNITED STATES AID FOR INTERNATIONAL DEVELOPMENT (USAID) FOR THE FINANCIAL SUPPORT THAT ENABLED THE PRODUCTION OF THIS HANDBOOK THROUGH ITS AGILE AND HARMONIZED ASSISTANCE FOR DEVOLVED INSTITUTIONS (AHADI).

THOMAS ABOL

EXECUTIVE DIRECTOR

**KEEPING ALIVE SOCIETIES' HOPE (KASH)**

## 1. PUBLIC PARTICIPATION IN DEVOLVED SYSTEM

DEVOLUTION IS A CONSTITUTIONAL PROVISION IN KENYA. THE KENYAN CONSTITUTION (2010) BESTOWS ON THE CITIZENS THE HIGHEST POWER AND PROVIDES THAT THE CITIZENS CAN DELEGATE THEIR POWER TO STATE ORGANS BUT RETURNS THE SOVEREIGN. PUBLIC PARTICIPATION IS ONE OF THE NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE IN THE COUNTRY MEANING THAT IT IS THE RIGHT OF EVERY CITIZEN TO PARTICIPATE IN THE PUBLIC GOVERNANCE PROCESSES AT THE COUNTY AND NATIONAL LEVELS. THE PROCESSES INCLUDE FORMULATION OF THE POLICIES, MAKING OF THE LAWS, DEVELOPMENT PLANNING, BUDGETING, IMPLEMENTATION, MONITORING AND EVALUATION OF APPROVED PLANS AND BUDGETS.

### DEVOLVED SYSTEM IN KENYA

THE DEVOLVED SYSTEM WAS INTRODUCED TO TAKE SERVICES CLOSER TO THE PEOPLE. THIS IS TO ENSURE THAT THE PEOPLE HAVE A VOICE FOR THEIR WELL-BEING IN PUBLIC DEVELOPMENT PROCESSES.

DEVOLUTION IS GEARED TOWARDS PLACING THE CITIZENS AT THE CENTRE OF PLANNING, BUDGETING, IMPLEMENTATION, FORMULATION OF POLICIES, MAKING OF LAWS AND OVERSIGHT OF DEVELOPMENT IN OF THE COUNTY.

KENYA IS A UNITARY STATE WITH ONE NATIONAL GOVERNMENT AND 47 COUNTY GOVERNMENTS. THE TWO LEVELS OF GOVERNMENTS ARE DIFFERENT BUT SHOULD COOPERATE, CONSULT AND COORDINATE IN DEVELOPMENT MATTERS. EACH LEVEL OF GOVERNMENT HOWEVER HAS DIFFERENT FUNCTIONS AND POWERS.

### NATIONAL GOVERNMENT

THERE IS ONE NATIONAL GOVERNMENT IN KENYA THAT COMPRISES OF THE NATIONAL EXECUTIVE, PARLIAMENT, JUDICIARY, CONSTITUTIONAL COMMISSIONS AND INDEPENDENT OFFICES.

THE NATIONAL EXECUTIVE IS MADE OF THE PRESIDENT, CABINET AND PUBLIC SERVICE.

PARLIAMENT IS MADE OF NATIONAL ASSEMBLY AND SENATE THAT HAS REPRESENTATIVE OF THE PEOPLE AT THE CONSTITUENCY AND COUNTY LEVELS TOGETHER WITH NOMINATED MEMBERS.

JUDICIARY IS COMPOSED OF ALL THE COURTS NAMELY: SUPREME COURT, THE COURT OF APPEAL, THE HIGH COURT, MAGISTRATE COURT, AND KADHI COURT.

CONSTITUTIONAL COMMISSIONS AND INDEPENDENT OFFICES ARE PROVIDED FOR IN CHAPTER 15 OF THE CONSTITUTION. CONSTITUTIONAL COMMISSIONS AND INDEPENDENT OFFICES MAKE SURE THAT YOUR SOVEREIGN POWER AND RIGHTS OF THE CITIZENS ARE PROTECTED. THEY MAKE SURE THAT THE CONSTITUTION AND OTHER LAWS ARE FOLLOWED. THE COMMISSIONS INCLUDE: COMMISSION ON ADMINISTRATIVE JUSTICE, NATIONAL GENDER AND EQUALITY COMMISSION, KENYA NATIONAL COMMISSION ON HUMAN RIGHTS, NATIONAL POLICE SERVICE, AND JUDICIARY SERVICE COMMISSION AMONG OTHER. INDEPENDENT OFFICES INCLUDE: CONTROLLER OF BUDGET, KENYA NATIONAL AUDIT OFFICE, AND DIRECTOR OF PUBLIC PROSECUTION.

NATIONAL GOVERNMENT ORGAN AND FUNCTIONS	OPPORTUNITIES FOR PUBLIC PARTICIPATION BY CITIZENS
1. NATIONAL EXECUTIVE	▪ REPORTING TO OR PETITIONING THE PRESIDENT,

NATIONAL GOVERNMENT ORGAN AND FUNCTIONS	OPPORTUNITIES FOR PUBLIC PARTICIPATION BY CITIZENS
<ul style="list-style-type: none"> <li>- IMPLEMENTS POLICIES, PLANS AND BUDGETS APPROVED BY PARLIAMENT AMONG OTHERS.</li> </ul>	<ul style="list-style-type: none"> <li>▪ REPORTING TO PUBLIC SERVICE COMMISSION</li> <li>▪ REPORTING TO RELEVANT CONSTITUTIONAL COMMISSIONS AND INDEPENDENT OFFICES.</li> <li>▪ PICKETING AND DEMONSTRATING PEACEFULLY.</li> <li>▪ REPORTING TO APPOINTED LEADERS SUCH AS CABINET SECRETARIES AND PRINCIPAL SECRETARIES</li> </ul>
<p><b>2. PARLIAMENT</b></p> <p><b>A. NATIONAL ASSEMBLY FUNCTIONS</b></p> <ul style="list-style-type: none"> <li>- MAKES NATIONAL LAWS</li> <li>- APPROVES BUDGETS, PLANS, NATIONAL POLICIES AND LAWS</li> <li>- VETS SENIOR PUBLIC OFFICERS</li> </ul> <p><b>B. SENATE</b></p> <ul style="list-style-type: none"> <li>- PROTECTS INTERESTS OF COUNTY GOVERNMENTS</li> <li>- MAKES NATIONAL LAWS CONCERNING COUNTY GOVERNMENTS.</li> <li>- APPROVES BUDGETS TO BE SHARED BETWEEN NATIONAL AND COUNTY GOVERNMENTS.</li> <li>- ENSURES COUNTY GOVERNMENTS SPENDS ALLOCATED FUNDS AND TAXES WELL.</li> <li>- REMOVE (IMPEACH) THE PRESIDENT.</li> </ul>	<ul style="list-style-type: none"> <li>▪ REPORT TO OR PETITION PARLIAMENT ON ANY LAW, BUDGET AND VETTING OF PUBLIC OFFICERS.</li> <li>▪ ATTEND PARLIAMENT PROCEEDINGS</li> <li>▪ BOYCOTT OR PEACEFUL DEMONSTRATION.</li> <li>▪ CONSULT WITH ELECTED AND NOMINATED MPs AND SENATORS.</li> </ul>
<p><b>3. JUDICIARY</b></p> <ul style="list-style-type: none"> <li>- LISTENS TO CASES FROM THE CITIZENS AND GIVES JUDGMENT</li> <li>- SOLVES DISPUTES AND DISAGREEMENTS BY INTERPRETING THE LAW(S) MADE BY PARLIAMENT AND COUNTY ASSEMBLIES.</li> </ul>	<ul style="list-style-type: none"> <li>▪ UNLESS ON SPECIAL OCCASIONS, CITIZENS ARE FREE TO ATTEND COURT SESSIONS AND HEARINGS.</li> <li>▪ A CITIZEN IS FREE TO REPORT OR PETITION THE JUDICIAL SERVICE COMMISSION (JSC) ABOUT ANY ISSUE CONCERNING A JUDGE OR MAGISTRATE.</li> <li>▪ CITIZEN(S) MAY ALSO GO TO COURT TO ASK FOR A SOLUTION ABOUT ANY PROBLEM OR DISPUTE BETWEEN THEM AND THEIR COUNTY GOVERNMENT.</li> <li>▪ ANY CITIZEN CAN GO TO COURT TO SEEK FOR INTERPRETATION ON MATTERS OF PUBLIC INTEREST LITIGATION E.G. OKIYA OMTATA AND INCREASE IN TAX IN FUEL.</li> </ul>
<p><b>4. CONSTITUTIONAL COMMISSIONS AND INDEPENDENT OFFICES</b></p> <p>THEY ARE RESPONSIBLE FOR PROTECTING THE POWER OF THE PEOPLE OF KENYA AND THEIR RIGHTS BY ENSURING THAT THE CONSTITUTION AND OTHER LAWS ARE FOLLOWED. THEY INCLUDE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS, COMMISSION ON ADMINISTRATIVE JUSTICE, NATIONAL GENDER AND EQUALITY</p>	<ul style="list-style-type: none"> <li>▪ REPORT TO THE COMMISSIONS OR INDEPENDENT OFFICES UNDER THEIR RESPONSIBILITY.</li> </ul>

NATIONAL GOVERNMENT ORGAN AND FUNCTIONS	OPPORTUNITIES FOR PUBLIC PARTICIPATION BY CITIZENS
COMMISSION, CONTROLLER OF BUDGET, AUDITOR GENERAL'S OFFICE, ETHICS AND ANTI-CORRUPTION OFFICE AND DIRECTORATE OF PUBLIC PROSECUTION,	

## COUNTY GOVERNMENT

THE COUNTY GOVERNMENTS HAVE BEEN ASSIGNED FUNCTIONS IN THE CONSTITUTION AS STIPULATED IN THE 4<sup>TH</sup> SCHEDULE PART II FUNCTIONS.

COUNTY GOVERNMENT CONSISTS OF THE COUNTY ASSEMBLY AND COUNTY EXECUTIVE.

THE COUNTY EXECUTIVE IS MADE OF A GOVERNOR, DEPUTY GOVERNOR, THE COUNTY EXECUTIVE COMMITTEE MEMBERS (CECS) AND COUNTY CHIEF OFFICERS.

IT ALSO HAVE THE EMPLOYEES WHO ARE HIRED BY THE COUNTY PUBLIC SERVICE WHO INCLUDE THE DIRECTORS AND OTHER TECHNICAL STAFF, SUB COUNTY ADMINISTRATORS, WARD ADMINISTRATORS, VILLAGE ADMINISTRATORS, MUNICIPALITY AND TOWNS MANAGERS, AND OTHER SUBORDINATE STAFF E.G. DRIVERS, MESSENGERS AND SWEEPERS.

THE COUNTY ASSEMBLY IS MADE OF MEMBERS OF COUNTY ASSEMBLY (MCAs) AND SPEAKER. IT WORKS THROUGH THE COUNTY ASSEMBLY COMMITTEES.

THE COUNTY ASSEMBLY ALSO HAS TECHNICAL STAFF UNDER LEADERSHIP OF THE CLERK WHO IS EMPLOYED BY THE COUNTY ASSEMBLY SERVICE BOARD AND RESPONSIBLE FOR THE DAY-TO-DAY MANAGEMENT OF THE ASSEMBLY AFFAIRS

### *FUNCTIONS OF COUNTY GOVERNMENTS*

THE FUNCTIONS OF THE COUNTY GOVERNMENT ARE PROVIDED IN THE FOURTH SCHEDULE PART 2 OF THE CONSTITUTION. THESE ARE:

1. AGRICULTURE INCLUDING CROPS AND ANIMALS. LIVESTOCK SALE YARDS, COUNTY ABATTOIRS, PLANT AND ANIMAL DISEASE CONTROL AND FISHERIES.
2. COUNTY HEALTH SERVICES
3. CONTROL OF AIR POLLUTION, NOISE POLLUTION, OTHER PUBLIC NUISANCES AND OUTDOOR ADVERTISING.
4. CULTURAL ACTIVITIES, PUBLIC ENTERTAINMENT AND PUBLIC AMENITIES
5. COUNTY TRANSPORT
6. ANIMAL CONTROL AND WELFARE
7. TRADE DEVELOPMENT AND REGULATION
8. COUNTY PLANNING AND DEVELOPMENT
9. PRE-PRIMARY EDUCATION, VILLAGE POLYTECHNICS, HOME CRAFT CENTRES AND CHILDCARE FACILITIES.
10. NATURAL RESOURCES AND ENVIRONMENTAL CONSERVATION POLICIES
11. PUBLIC WORKS AND SERVICES
12. FIREFIGHTING SERVICES AND DISASTER MANAGEMENT.
13. CONTROL OF DRUGS AND PORNOGRAPHY.
14. ENSURING, COORDINATING AND BUILDING CAPACITY OF COMMUNITIES TO PARTICIPATE IN GOVERNANCE AT THE LOCAL LEVEL

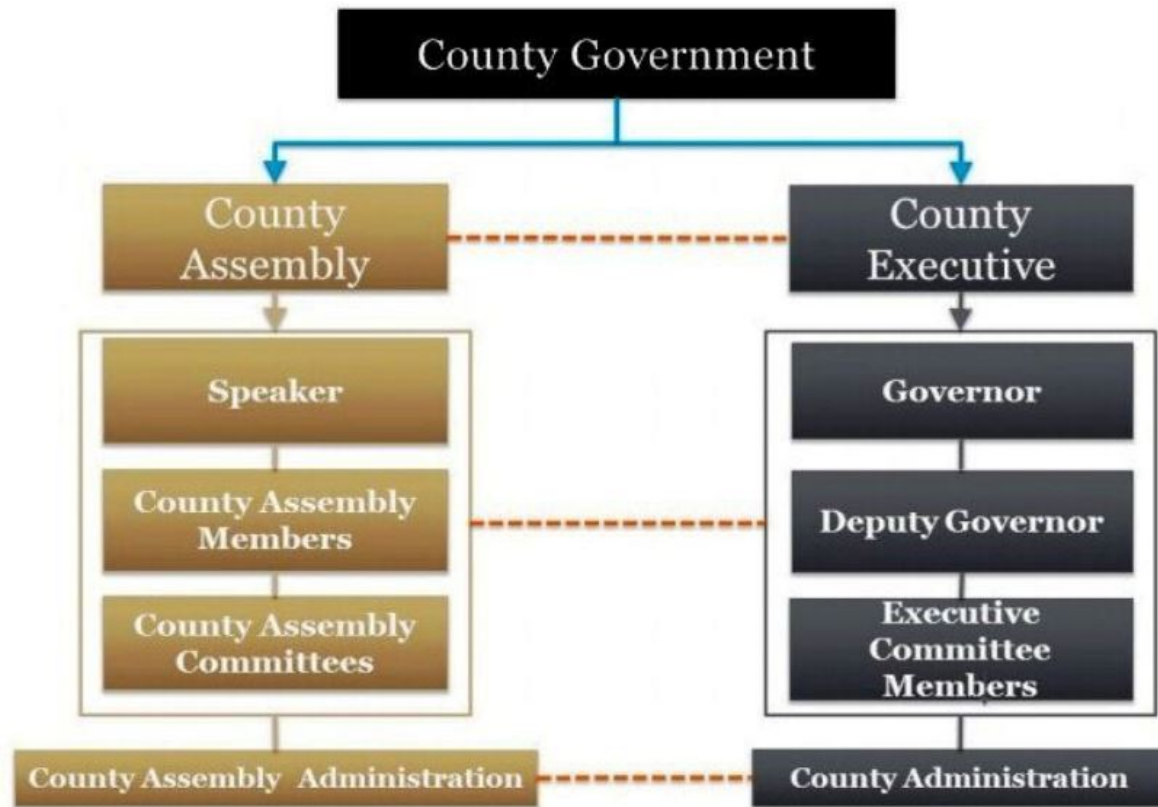


FIGURE: STRUCTURE OF THE COUNTY GOVERNMENT

## PUBLIC PARTICIPATION

CITIZENS CAN PARTICIPATE TO INFLUENCE DECISION MAKING PROCESS ON DEVELOPMENT MATTER(S) DURING PLANNING, BUDGETING, POLICY OR A LAW MAKING BY THE COUNTY GOVERNMENT.

### WHY CITIZEN PARTICIPATION

CITIZEN PARTICIPATION IN THE RUNNING OF THE COUNTY AFFAIRS IS PROVIDED FOR IN THE CONSTITUTION OF KENYA AND OTHER LAWS. THE CITIZEN IS REQUIRED TO BE AT THE CENTRE OF RUNNING OF THE COUNTY GOVERNMENT BECAUSE IT IS:

- CITIZEN'S RIGHT  
ALSO THE SOVEREIGNTY POWER (*MAMLAKA MAKUU*) BELONGS TO ALL *CITIZENS*.
- CITIZEN'S RESPONSIBILITY.
- CITIZENS VIEWS MATTERS.

### POTENTIAL GAINS IN PARTICIPATING IN COUNTY GOVERNMENT AFFAIRS AND LOSSES FOR NOT PARTICIPATING BY CITIZENS

IT IS IMPORTANT FOR A CITIZEN TO ENGAGE IN PUBLIC AFFAIRS THAT THEY WILL ACCRUE BENEFITS. BUT NOT PARTICIPATING IS LOSS TO THE CITIZENS TOO.

GAINS FOR PARTICIPATING	LOSES FOR NOT PARTICIPATING
1. CITIZENS VOICE IS HEARD	❖ DECISIONS MADE MINUS CITIZENS

CITIZENS ARE REQUIRED TO PARTICIPATE AS IT IS THEIR RIGHT AND RESPONSIBILITY. THEY CAN ASK QUESTIONS AND GET ANSWERS TO QUESTIONS SO AS THEIR VOICE IS HEARD IN THE COUNTY PROCESSES.

CITIZENS' PRIORITIES AND NEEDS CAN OR WILL BE TAKEN ON BOARD TO IMPROVE SERVICE DELIVERY.

## **2. CITIZENS INFLUENCE PLANNING AND BUDGETING PROCESSES**

CITIZENS ARE ABLE TO DETERMINE HOW THEIR MONEY FROM THE TAXES, FEES AND LEVIES BY COUNTY GOVERNMENT WILL BE USED.

## **3. FEEDBACK AND INFORMATION SHARING OPPORTUNITY**

CITIZENS HAVE THE CHANCE TO GET REPORT AND INFORMATION OF PREVIOUS PROCESSES AND NEW INFORMATION IS SHARED BY THE GOVERNMENT.

COUNTY GOVERNMENT USES PUBLIC PARTICIPATION FORUMS TO SHARE INFORMATION ON THE PLANS AND IMPLEMENTATION OF PROJECTS.

## **4. PARTICIPATION OF MARGINALIZED GROUPS**

MARGINALIZED COMMUNITIES AND GROUPS GET AN OPPORTUNITY TO PARTICIPATE. THEIR PRIORITIES AND NEEDS GET TO BE INCLUDED IN THE PLANS, BUDGETS, POLICIES AND LAWS AND IMPLEMENTATION. SUCH GROUPS INCLUDE PERSONS WITH DISABILITY, YOUTH, AND WOMEN SMALL SCALE TRADERS AMONG OTHERS.

DECISIONS ARE MADE WITHOUT CITIZENS INPUT THEREFORE NOT MEETING THE EXPECTATIONS OF COMMUNITY AND PUBLIC. THEIR VOICE IS NOT HEARD OR INCLUDED IN THE COUNTY PROCESSES.

IN THAT CASE, THE CITIZENS HAVE NO CONTROL OVER POLICIES, PLANS, IMPLEMENTATION OF PUBLIC SERVICE DELIVERY AND DEVELOPMENT ISSUES INITIATED BY COUNTY GOVERNMENT

❖ **CITIZENS DO NOT KNOW WHAT THE COUNTY IS PLANNING**  
CITIZENS HAVE NO SAY IN COUNTY GOVERNMENT PLANS, POLICIES, BUDGETS AND PROJECTS INCLUDING THEIR IMPLEMENTATION. HENCE THE CITIZENS LACK OF OWNERSHIP AND TRUST WITH PUBLIC OFFICERS.

❖ **NEEDS AND PRIORITIES OF CITIZENS NOT TAKEN ON BOARD**  
CITIZENS AND COMMUNITY NEEDS AND PRIORITIES ARE NOT ADDRESSED AS NO ONE WHAT PRESENT TO SHARE THE CONCERNS. THEREFORE CITIZENS DIVERSE SKILLS CAPACITY AND UNIQUE IDEAS ARE NOT SHARED TO HELP COMMUNITY AND COUNTY GOVERNMENT TO PLAN AND BUDGET.

### ***HOW TO PARTICIPATE IN COUNTY AFFAIRS?***

THERE ARE SEVERAL OPPORTUNITIES AND WAYS CITIZENS CAN USE TO ENSURE THAT THEIR VOICES ARE HEARD AND NEEDS CONSIDERED BY THE COUNTY GOVERNMENT. CITIZENS MAY PARTICIPATE INDIVIDUALLY OR ORGANISE THEMSELVES INTO A COMMUNITY GROUP(S) AND PARTICIPATE:

- ✓ WRITING AND SENDING LETTERS/MEMORANDA/PETITION,
- ✓ ATTENDING AND GIVING VIEWS DURING PUBLIC PARTICIPATION FORUMS INCLUDING PUBLIC BARAZAS, PUBLIC DEBATES AND PUBLIC MEETINGS ETC,
- ✓ PUBLIC PETITIONING,



- ✓ DEMONSTRATING PEACEFULLY AND PICKETING.
- ✓ LEGAL ACTION OR FILING CASES IN COURTS OF LAW.
- ✓ ATTENDING COUNTY ASSEMBLY SESSIONS.
- ✓ GOING ON STRIKES, BOYCOTTING AND GO-SLOWS.
- ✓ SHARING THE CONCERNS WITH ELECTED LEADERS,
- ✓ HOLDING PRESS CONFERENCES AND/OR RELEASING PRESS STATEMENTS ON AN ISSUE.
- ✓ GETTING TOGETHER AND RAISING COMMON CONCERN JOINTLY,
- ✓ VOTING DURING ELECTIONS.
- ✓ REPORTING TO RELEVANT GOVERNMENT ORGANS LIKE THE CONSTITUTIONAL COMMISSIONS AND INDEPENDENT OFFICES.

### **OPPORTUNITIES FOR PUBLIC PARTICIPATION IN RUNNING OF THE COUNTY**

CITIZENS CAN PARTICIPATE IN RUNNING OF THE COUNTY DURING:

1. HIRING AND REMOVAL OF COUNTY OFFICERS E.G. GOVERNOR, *WAZIRIS (MEMBERS OF COUNTY EXECUTIVE COMMITTEE)*, CHIEF OFFICERS, MCAs AND DIRECTORS.
2. PLANNING FOR AND DELIVERY OF PUBLIC SERVICES (DEVELOPMENT ACTIVITIES, PROJECTS AND PROGRAMS),
3. MAKING AND IMPLEMENTATION OF LAWS AND POLICIES,
4. BUDGETING FOR AND ACHIEVEMENT OF PUBLIC SERVICES (DEVELOPMENT ACTIVITIES, PROJECTS AND PROGRAMS),
5. OVERSEEING HOW THE COUNTY DELIVERS PUBLIC SERVICES AND USE OF MONEY

## **2. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN COUNTY PROCESSES**

THE KEY OPPORTUNITIES FOR CITIZEN TO PARTICIPATE IN THE PLANNING AND BUDGET MAKING PROCESSES OF THE COUNTY GOVERNMENT INCLUDE:

- A. COUNTY DEVELOPMENT PLANNING,
- B. COUNTY BUDGETING MAKING,
- C. MAKING OF LAWS AND FORMULATION OF POLICIES, AND
- D. OVERSEEING IMPLEMENTATION OF SERVICES AND PROJECTS.

## **STRUCTURES FOR CITIZEN PARTICIPATION IN COUNTY PLANNING AND BUDGETING**

### **1. COUNTY BUDGET AND ECONOMIC FORUM (CBEF)**

THE CONSTITUTION AND RELEVANT LAWS REQUIRE THAT CITIZEN SHOULD BE CONSULTED AND INVOLVED IN PUBLIC PLANNING AND FINANCIAL MANAGEMENT. COUNTY GOVERNMENTS ARE REQUIRED TO SET UP A COUNTY BUDGET AND ECONOMIC FORUM (CBEF) TO FACILITATE INVOLVEMENT OF THE CITIZENS IN THESE PROCESSES.

THE CBEF PROVIDES A MEANS FOR CONSULTATION BY THE COUNTY GOVERNMENT ON PREPARATION OF COUNTY PLANS, COUNTY FISCAL STRATEGY PAPER, COUNTY BUDGET

REVIEW AND OUTLOOK PAPER, COUNTY BUDGETING, COUNTY ECONOMY AND COUNTY FINANCIAL MANAGEMENT AT THE COUNTY LEVEL.

THE CBEF IS CHAIRED BY THE COUNTY GOVERNOR. IT MEMBERSHIP COMPRISES OF COUNTY CABINET (EXECUTIVE COMMITTEE MEMBERS) AND AN EQUAL NUMBER OF NON STATE ACTORS. THE NON STATE ACTORS SHOULD BE NOMINATED BY ORGANIZATIONS REPRESENTING PROFESSIONALS, BUSINESS, LABOUR ISSUES, WOMEN, PERSONS WITH DISABILITIES, THE ELDERLY AND FAITH BASED GROUPS AT THE COUNTY LEVEL

## **2. SECTOR WORKING GROUPS (SWGS)**

SECTOR WORKING GROUP (SWG) IS MADE UP OF THE COUNTY EXECUTIVE AND REPRESENTATIVES OF NON STATE ACTORS E.G. DEVELOPMENT PARTNERS, CIVIL SOCIETY AND THE PRIVATE SECTOR.

THE FUNCTION OF THE SWG IS TO PREPARE MEDIUM TERM EXPENDITURE FRAMEWORK (MTEF) SECTOR REPORTS THAT SYNTHESIZE MINISTERIAL EXPENDITURE REQUIREMENTS TO IMPLEMENT COUNTY POLICY GOALS. THE SWG IDENTIFIES AND RANKS SECTOR PRIORITIES, AND ANALYZES THE COSTS OF THE DIFFERENT PROPOSED POLICIES, PROGRAMMES AND ACTIVITIES. THE COUNTY DEPARTMENTS WITHIN THE SECTORS ARE EXPECTED TO REVIEW THEIR BUDGETARY PRIORITIES AND NEEDS, TAKING INTO CONSIDERATION THE NATIONAL PRIORITIES AS SET OUT IN THE GUIDELINES, THE ON-GOING ACTIVITIES AND PROJECTS AND THE FINANCIAL PLANS OF THE SECTORS.

## **3. COUNTY ASSEMBLY SECTORAL COMMITTEES AND MCA**

THE COUNTY ASSEMBLY WORKS MOSTLY THROUGH SECTORAL COMMITTEES SUCH AS BUDGET AND APPROPRIATION COMMITTEE, AGRICULTURE COMMITTEE, HEALTH COMMITTEE ETC. FOR INSTANCE, THE COUNTY ASSEMBLY HAS A BUDGET AND APPROPRIATION COMMITTEE WHOSE FUNCTION IS TO EXAMINE THE COUNTY FISCAL STRATEGY PAPER AND EVALUATE TAX ESTIMATES, ECONOMIC AND BUDGETARY POLICIES AND PROGRAMMES WITH DIRECT BUDGET EXPENDITURES.

THE COUNTY ASSEMBLY COMMITTEES ARE EXPECTED TO INVITE CITIZENS TO MAKE PRESENTATIONS ON ISSUE(S) BEFORE THEM.

SUBMISSIONS BY A CITIZEN CAN EITHER BE MADE ORALLY OR THROUGH WRITTEN LETTERS/MEMORANDA.

THE NOTICE FOR PUBLIC INVITATION TO THE COMMITTEE HEARINGS SHOULD BE COMMUNICATED IN GOOD TIME FOR THE CITIZEN TO ATTEND.

CITIZENS CAN ALSO GIVE THEIR VIEWS WITH THEIR MCAs ON ANY ISSUES BEFORE THE ASSEMBLY IN WRITING OR VERBALLY.

THE MCAs ARE REQUIRED BY LAW TO CONSULT MEMBERS OF THEIR WARDS AND THOSE THEY REPRESENT ON ANY ISSUES BEFORE THE ASSEMBLY,

### **1. PARTICIPATION IN COUNTY PLANNING PROCESS**

WHILE DEVELOPING AND APPROVING THE COUNTY PLANS, THE COUNTY GOVERNMENT IS REQUIRED TO ENSURE PUBLIC PARTICIPATION TO ENSURE THAT THE PLANS REFLECT THE VIEWS AND PRIORITIES OF THE CITIZENS AND COUNTY STAKEHOLDERS.

EACH COUNTY IS REQUIRED BY LAW TO DEVELOP THE FOLLOWING PLANS. THESE PLANS ARE:

- COUNTY INTEGRATED DEVELOPMENT PLAN (CIDP) – DEVELOPED EVERY 5 YEARS
- COUNTY SECTORAL PLAN – DEVELOPED EVERY 10 YEARS
- COUNTY SPATIAL PLAN – DEVELOPED EVERY 10 YEARS
- ANNUAL DEVELOPMENT PLAN – DEVELOPED ANNUALLY/EACH YEAR
- CITIES AND URBAN AREAS PLAN

THE COUNTY GOVERNMENT IS REQUIRED BY LAW TO ORGANISE AND HOLD MEETINGS OR FORUMS FOR THE CITIZENS TO CONTRIBUTE THEIR IDEAS TO BE CONSIDERED WHILE DRAFTING THE PLANS AND REVIEW THE PLAN(S).

OPPORTUNITY FOR CITIZEN PARTICIPATION	HOW CITIZEN PARTICIPATE	HOW CITIZEN CAN PREPARE FOR PUBLIC PARTICIPATION
<p>CITIZEN CAN CONTRIBUTE TO, AND PARTICIPATE IN, DEVELOPING THE COUNTY DEVELOPMENT PLANS:</p> <ol style="list-style-type: none"> <li>1. ONCE THE BUDGET CALENDAR IS RELEASED</li> <li>2. DURING DRAFTING OF THE PLANS</li> <li>3. DURING PUBLIC CONSULTATIONS ON THE DRAFT PLAN(S) WHILE IN DRAFT FORMS</li> <li>4. DURING REVIEW AND ASSESSMENT OF PERFORMANCE OF THE PLAN(S)</li> </ol>	<ul style="list-style-type: none"> <li>● THROUGH WRITING TO THE COUNTY EXECUTIVE OR ASSEMBLY LETTERS, MEMORANDA OR PETITIONS</li> <li>● ATTENDING AND ACTIVELY PARTICIPATING IN PUBLIC CONSULTATION FORUMS</li> <li>● WRITING TO OR PETITIONING THE COUNTY BUDGET AND ECONOMIC FORUM</li> <li>● CONSULTING WITH OR GIVING VIEWS TO THE COUNTY ELECTED AND APPOINTED LEADERS</li> <li>● ATTENDING AND PARTICIPATING IN COUNTY SECTOR WORKING GROUPS (SWGs)</li> </ul>	<p>BEFORE ATTENDING THE PUBLIC PARTICIPATION FORUMS FOR PLANNING, A CITIZEN SHOULD BE CLEAR ON THE ISSUE(S) UNDER CONSIDERATION AND ASK HIMSELF OR HERSELF THE FOLLOWING QUESTIONS:</p> <ul style="list-style-type: none"> <li>● WHAT PROBLEMS AFFECT YOU, YOUR VILLAGE, YOUR WARD, CONSTITUENCY, SUB-COUNTY OR COUNTY?</li> <li>● HAVE YOU DISCUSSED THIS WITH ANYONE ELSE: YOUR FAMILY, FRIENDS?</li> <li>● WHAT IS BEING DONE OR HAS BEEN DONE IN THE PAST ABOUT THE PROBLEMS?</li> <li>● HAVE YOU TOLD YOUR LEADERS OR THE LOCAL ADMINISTRATION ABOUT IT?</li> </ul> <p>AFTER THE PUBLIC PARTICIPATION FORUM, CITIZENS NEED TO ASK MORE QUESTIONS. THESE INCLUDE:</p> <ul style="list-style-type: none"> <li>● HAVE YOU BEEN GIVEN A CHANCE TO CONTRIBUTE OR IS IT DOMINATED BY “EXPERTS”?</li> <li>● DID YOU HAVE ACCESS TO SUPPORTING INFORMATION AND DOCUMENTS TO HELP YOU UNDERSTAND THE CONTENT OF THE BUDGET?</li> </ul>

## II. PUBLIC PARTICIPATION IN COUNTY BUDGET MAKING PROCESS

A COUNTY BUDGET IS A PLAN OF HOW THE COUNTY GOVERNMENT INTENDS TO RAISE MONEY OR REVENUE AND SPEND. GOVERNMENT BUDGET PERIOD (FINANCIAL YEAR)

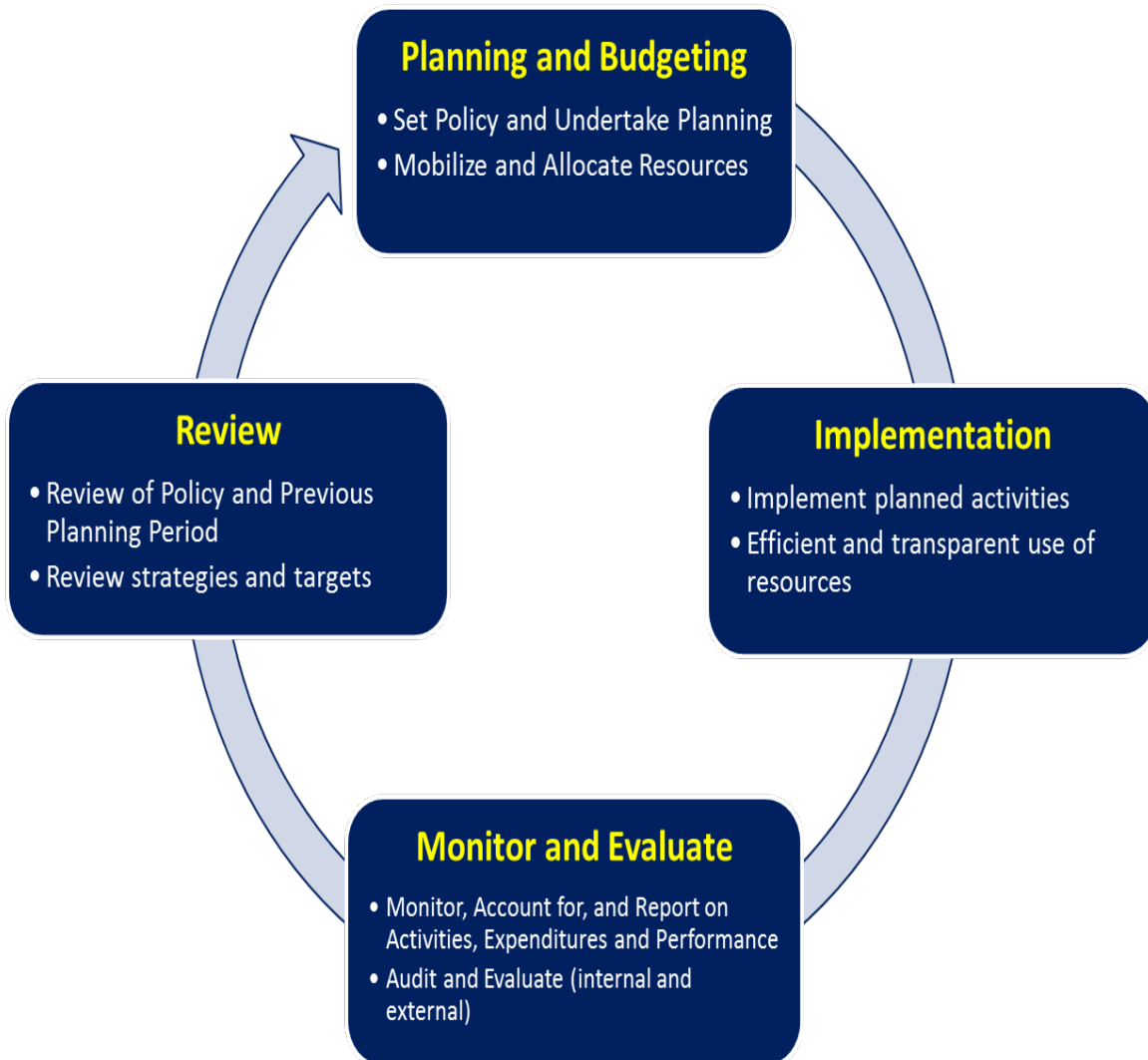
**ALWAYS COVER 12 MONTHS WHICH STARTS 1<sup>ST</sup> JULY AND ENDS 30<sup>TH</sup> JUNE. THE BUDGET SHOULD CONTAIN**

- **MONEY EXPECTED TO BE AVAILABLE THROUGH DIFFERENT SOURCES (INCOME), COSTS TO BE INCURRED IN RUNNING THE GOVERNMENT E.G. SALARIES AND OPERATIONS (RECURRENT) AND DEVELOPMENT SPENDING**
- **PROPOSALS ON HOW THE GOVERNMENT PLANS TO FINANCE THE DEFICITS OR SHORTFALLS IN FUNDS**
- **PROPOSALS FOR BORROWING TO MEET FINANCIAL SHORTFALLS AND PAYMENT OF THE PUBLIC DEBTS AND HOW THIS INCREASES PUBLIC DEBT**

**THE BUDGET IS IMPORTANT BECAUSE:**

- **FOR BETTER AND FOCUSED PLANNING OF THE AVAILABLE RESOURCES/FUNDS**
- **TO ENSURE PRIORITIES ARE MET**
- **TO FACILITATE RESPONSIBLE SPENDING**
- **TO AVOID WASTAGE**
- **FOR ACCOUNTABILITY**

**THE BUDGET MAKING CYCLE STARTS WITH FORMULATION, APPROVAL AND IMPLEMENTATION, AND OVERSIGHT.**



**OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE COUNTY BUDGET MAKING PROCESS**

BUDGET STAGE	WHAT HAPPENS AT THIS STAGE	OPPORTUNITY FOR PARTICIPATION	HOW CITIZEN CAN PARTICIPATE
<p><b>1. FORMULATION</b> THE BUDGET IS PREPARED THROUGH PLANNING AND OTHER PROCESSES BY THE COUNTY EXECUTIVE</p>	<ul style="list-style-type: none"> <li>✓ COUNTY TREASURY ISSUES GUIDELINES ON BUDGET MAKING PROCESS INCLUDING PUBLIC PARTICIPATION BY 30<sup>TH</sup> AUGUST</li> <li>✓ COUNTY TREASURY PREPARES AND TABLES ANNUAL DEVELOPMENT PLAN (ADP) TO COUNTY ASSEMBLY BY 1<sup>ST</sup> SEPT</li> <li>✓ COUNTY FISCAL STRATEGY PAPER APPROVED BY MARCH 14<sup>TH</sup></li> <li>✓ COUNTY BUDGET ESTIMATES IS TABLED IN COUNTY ASSEMBLY BY 30<sup>TH</sup> APRIL</li> </ul>	<ul style="list-style-type: none"> <li>✓ PUBLIC CAN PARTICIPATE THROUGH SECTOR WORKING GROUPS AS STATED ON THE CIRCULAR BY COUNTY TREASURY</li> <li>✓ PUBLIC CAN PARTICIPATE THROUGH THE COUNTY BUDGET AND ECONOMIC FORUM (CBEF), THROUGH THEIR MCAS ETC</li> <li>✓ CITIZENS AND NSAS CAN PARTICIPATE THROUGH SECTOR WORKING GROUPS, COUNTY BUDGET AND ECONOMIC FORUM (CBEF), AND COUNTY MEMBERS OF ASSEMBLY (MCAS)</li> <li>✓ CITIZEN CAN PARTICIPATE GIVEN THE ANNUAL PLAN AND REPORTS ARE PUBLIC DOCUMENTS</li> <li>✓ VILLAGE, WARD AND SUB COUNTY STRUCTURES CAN BE MOBILIZED TO PROVIDE OVERSIGHT DURING IMPLEMENTATION</li> </ul>	<ul style="list-style-type: none"> <li>• ATTENDING AND CONTRIBUTING DURING COUNTY PUBLIC PARTICIPATION FORUMS SUCH AS THE ONES ORGANIZED BY COUNTY SECTOR WORKING GROUPS</li> <li>• ATTENDING AND CONTRIBUTING DURING COUNTY PUBLIC PARTICIPATION FORUMS</li> <li>• SUBMITTING LETTERS, PETITIONS OR MEMORANDA TO COUNTY GOVERNMENT AND COUNTY BUDGET AND ECONOMIC FORUM</li> <li>• CONSULTING YOUR COUNTY ELECTED LEADERS (GOVERNOR AND MCAS) AND SHARING YOUR CONCERNS AND ISSUES</li> <li>• WRITING LETTERS TO COUNTY GOVERNMENT AND COUNTY BUDGET AND ECONOMIC FORUM ON AN ISSUE(S)</li> <li>• GETTING TOGETHER AND TAKING JOINT POSITION ON AN ISSUE ON THE BUDGET AND PRESENTING IT TO THE COUNTY GOVERNMENT AND COUNTY BUDGET</li> </ul>
<p><b>2. APPROVAL</b> WHEN THE COUNTY ASSEMBLY PASSES THE BUDGET ESTIMATES FOR COUNTY EXECUTIVE TO IMPLEMENT</p>	<ul style="list-style-type: none"> <li>✓ COUNTY ASSEMBLY THROUGH BUDGET AND APPROPRIATION COMMITTEE CONSULTS PUBLIC ON THE BUDGET ESTIMATES (MAY TO JUNE)</li> <li>✓ COUNTY BUDGET ESTIMATES IS APPROVED BY 30<sup>TH</sup> JUNE</li> <li>✓ COUNTY APPROPRIATION BILL TABLED AND APPROVED BY 30<sup>TH</sup> JUNE</li> <li>✓ COUNTY FINANCE BILL (LEGAL INSTRUMENT THAT ALLOWS COUNTY GOVERNMENT TO COLLECT REVENUE AND DISBURSE) TABLED AND APPROVED BY 30<sup>TH</sup> SEPTEMBER</li> </ul>	<ul style="list-style-type: none"> <li>✓ PUBLIC CAN PARTICIPATE THROUGH SECTOR WORKING GROUPS, COUNTY BUDGET AND ECONOMIC FORUM (CBEF), AND COUNTY MEMBERS OF ASSEMBLY (MCAS)</li> <li>✓ CITIZEN CAN PARTICIPATE GIVEN THE ANNUAL PLAN AND REPORTS ARE PUBLIC DOCUMENTS</li> <li>✓ VILLAGE, WARD AND SUB COUNTY STRUCTURES CAN BE MOBILIZED TO PROVIDE OVERSIGHT DURING IMPLEMENTATION</li> </ul>	<ul style="list-style-type: none"> <li>• ATTENDING AND CONTRIBUTING DURING COUNTY PUBLIC PARTICIPATION FORUMS</li> <li>• SUBMITTING LETTERS, PETITIONS OR MEMORANDA TO COUNTY GOVERNMENT AND COUNTY BUDGET AND ECONOMIC FORUM</li> <li>• CONSULTING YOUR COUNTY ELECTED LEADERS (GOVERNOR AND MCAS) AND SHARING YOUR CONCERNS AND ISSUES</li> <li>• WRITING LETTERS TO COUNTY GOVERNMENT AND COUNTY BUDGET AND ECONOMIC FORUM ON AN ISSUE(S)</li> <li>• GETTING TOGETHER AND TAKING JOINT POSITION ON AN ISSUE ON THE BUDGET AND PRESENTING IT TO THE COUNTY GOVERNMENT AND COUNTY BUDGET</li> </ul>
<p><b>3. IMPLEMENTATION</b> WHEN PROJECTS AND SERVICES ARE FUNDED AND ROLLED OUT</p>	<p>COUNTY GOVERNMENT PREPARES ANNUAL PERFORMANCE MANAGEMENT PLAN AND REPORTS.</p>	<p></p>	<p></p>

<p>BASED ON THE APPROVED ANNUAL DEVELOPMENT PLAN (ADP) AND APPROVED BUDGET</p>	<p>THESE REPORTS ASSIST THE COUNTY ASSEMBLY TO PROVIDE OVERSIGHT</p>	<p>✓ PUBLIC ARE PROVIDED WITH OPPORTUNITY TO ASK QUESTIONS ABOUT BUDGET IMPLEMENTATION</p>	<p>AND ECONOMIC FORUM</p> <ul style="list-style-type: none"> <li>• ATTENDING AND CONTRIBUTING DURING THE FORUMS ORGANIZED BY THE COUNTY ASSEMBLY FOR PUBLIC PARTICIPATION.</li> <li>• ATTENDING AND CONTRIBUTING DURING COUNTY PUBLIC PARTICIPATION FORUMS SUCH AS BARAZAS AT THE COUNTY, SUB COUNTY, WARD AND VILLAGE LEVELS</li> </ul>
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**III. OVERSIGHT OF THE IMPLEMENTATION OF PLANS AND BUDGETS**

THE CITIZENS HAVE A RESPONSIBILITY TO ASSESS HOW PUBLIC SERVICES ARE PROVIDED BY THE COUNTY GOVERNMENT.

THE CITIZENS SHOULD ENGAGE WITH BOTH THE COUNTY EXECUTIVE AND THE COUNTY ASSEMBLY TO ASSESS THEIR PERFORMANCE IN PROVIDING THE SERVICES AND OVERSIGHT.

CITIZENS NEED TO COMPARE THE SERVICES PROVIDED BY THE COUNTY GOVERNMENT WITH WHAT WAS PROMISED IN THE APPROVED PLAN OR BUDGET. TO DO THIS BETTER, CITIZENS SHOULD HAVE THE APPROVED PLANS AND BUDGETS.

THE FOLLOWING ARE QUESTIONS THAT CAN HELP IN YOU AS A CITIZEN IN OVERSEEING THE IMPLEMENTATION OF THE BUDGET:

1. HAVE YOU SEEN A COPY OF THE BUDGET? IS THE CONTENT UNDERSTANDABLE?
2. PARTICIPATE IN THE DESIGN OF THE PROJECTS AND IMPLEMENTATION: DO THE PROJECTS MEET YOUR EXPECTED STANDARDS AND COST? DID IT FOLLOW THE PROJECT PLAN, DESIGN OR WAS IT VARIED? HAS IT BEEN COMPLETED ON TIME? WHAT IS THE FINAL COST OF THE PROJECT? WAS THERE ANY VARIATION?

YOU HAVE A RIGHT AND RESPONSIBILITY TO ASK AND RECEIVE THIS INFORMATION TO ENABLE YOU PLAY ACTIVE ROLE IN PLANNING AND IMPLEMENTATION OF PROJECTS.

**AUDITING AND OVERSIGHT**

AUDITING AND OVERSIGHT IS A FOLLOW UP TO MAKE SURE THAT FUNDS WERE USED ACCORDING TO THE APPROVED BUDGET. THIS INVOLVES:

- ✓ AUDITOR GENERAL AUDITING THE FINANCES AND EXPENDITURES FOR PREVIOUS FINANCIAL YEAR AND PREPARING A REPORT.

- ✓ COUNTY EXECUTIVE PREPARING QUARTERLY IMPLEMENTATION REPORTS AND SHARING WITH THE COUNTY ASSEMBLY.
- ✓ COUNTY ASSEMBLY DEBATES THE QUARTERLY IMPLEMENTATION REPORTS.
- ✓ IMPLEMENTATION REPORTS ARE PUBLISHED AND PUBLICISED FOR CITIZENS TO ACCESS.

**OPPORTUNITY FOR CITIZENS TO PARTICIPATE**

- I. CITIZENS AND COMMUNITY INTEREST GROUPS (NGOS, PROFESSIONAL BODIES AND CBOs) CAN CONDUCT SOCIAL ACCOUNTABILITY PROCESSES SUCH AS SOCIAL AUDIT AND COMMUNITY SCORE CARD
- II. CITIZENS GIVING FEEDBACK ON THE PUBLIC SERVICES AND
- III. CITIZENS PHYSICALLY INSPECTING THE PROJECTS OR TESTING THE QUALITY OF SERVICES BEING OFFERED.

**IV. COUNTY POLICY AND LAW MAKING PROCESSES**

COUNTY GOVERNMENT MAKES LAWS AND POLICIES THAT HELP IN DELIVERY OF SERVICES, IMPLEMENTATION OF ITS FUNCTIONS AND PLANS.

IT IS A LEGAL REQUIREMENT FOR THE COUNTY EXECUTIVE AND COUNTY ASSEMBLY TO TAKE VIEWS FROM THE *CITIZENS* WHILE MAKING THE COUNTY LAWS AND POLICIES.

THE COUNTY EXECUTIVE AND COUNTY ASSEMBLY SHOULD PUBLISH A PROPOSED LAW (BILL) OR POLICY AND CIRCULATE IT TO THE PUBLIC IN ORDER TO MAKE *CITIZENS* AWARE OF THE PLAN TO PASS THE LAW OR POLICY AND ASKS FOR THEIR INPUT OR EVEN OBJECTIONS TO IT.

PROCESS OF DEVELOPMENT OF BILLS	OPPORTUNITIES FOR CITIZEN TO PARTICIPATE	HOW CITIZEN PARTICIPATE
DRAFTING OR PREPARATION OF THE BILL OR DRAFT POLICY	DURING THE DRAFTING BY THE COUNTY EXECUTIVE OR ASSEMBLY. THE PUBLIC CAN ALSO BE INVOLVED TO GIVE THEIR VIEWS ON THE BILL OR DRAFT POLICY. COUNTY ASSEMBLY IS ALSO REQUIRED TO INVOLVE CITIZENS DURING THE APPROVAL PROCESS. THIS IS LARGELY DONE BY THE RELEVANT COUNTY ASSEMBLY COMMITTEES CONDUCTS PUBLIC HEARINGS ON THE PROPOSED LAWS, THE RELEVANT COMMITTEE UPON RECEIVING S PROPOSALS CAN MAKE CHANGES BEFORE THE COUNTY ASSEMBLY MAKES AMENDMENTS TO IT.	<ul style="list-style-type: none"> <li>• GIVING VERBAL OR WRITTEN VIEWS .</li> <li>• ATTENDING AND ACTIVELY PARTICIPATING IN PUBLIC PARTICIPATION FORUMS OR HEARINGS ON BILLS AND POLICIES</li> <li>• PRESENTING VIEWS TO THE MCA(S) AND COUNTY ASSEMBLY COMMITTEES</li> <li>• WRITING TO THE RELEVANT MEMBER OF COUNTY EXECUTIVE COMMITTEE</li> <li>• BOYCOTTING, PICKETING AND DEMONSTRATING PEACEFUL</li> </ul>
PUBLICATION OF THE BILL OR DRAFT POLICY		
<b>FIRST READING</b> – THE BILL IS REFERRED TO THE COMMITTEE IN CHARGE OF THE ISSUES THAT THE BILL ADDRESSES.		
<b>SECOND READING</b> – MCAs DISCUSS THE BILL, THE VIEWS OF THE MEMBER WHO SPONSORED THE BILL AND THE REPORT OF THE COMMITTEE. NO AMENDMENTS AT THIS STAGE.		
<b>THIRD READING</b> – MEMBERS DEBATE AND VOTE ON THE BILL. IF IT IS VOTED FOR THEN IT IS PASSED BY THE ASSEMBLY. IF NOT, IT IS REJECTED		



PROCESS OF DEVELOPMENT OF BILLS	OPPORTUNITIES FOR CITIZEN TO PARTICIPATE	HOW CITIZEN PARTICIPATE
FORMULATION OF A POLICY	COUNTY DEPARTMENTS MUST ALSO INVOLVE THE PUBLIC DURING THE FORMULATION OF POLICIES.	<ul style="list-style-type: none"> <li data-bbox="1045 254 1422 338">• ENGAGING THE GOVERNOR AND OTHER COUNTY OFFICERS</li> </ul>

## ANNEX

### LEGAL BASIS FOR PUBLIC PARTICIPATION

#### 1. CONSTITUTION OF KENYA

THE CONSTITUTION OF KENYA PROMULGATED ON THE 27<sup>TH</sup> AUGUST 2010 AFTER A SECOND SUCCESSFUL REFERENDUM HAS BEEN SAID TO BE ONE OF THE PROGRESSIVE CONSTITUTION IN THE WORLD AS IT HAS IN A STRONG WAY PROMOTED, AND SAFEGUARDED HUMAN RIGHTS. THE KEY AREAS INCLUDE:

- **PREAMBLE:** IT PLACES THE PEOPLE OF KENYA AT THE CENTRE OF GOVERNANCE INCLUDING PLANNING, BUDGETING, IMPLEMENTATION, IMPLEMENTATION, MONITORING AND EVALUATION OF POLICY, LEGISLATIONS, DECISIONS ON SERVICE DELIVERY AND DEVELOPMENT MATTERS. THE PREAMBLE STARTS:

*WE, THE PEOPLE OF KENYA—  
ADOPT, ENACT AND GIVE THIS CONSTITUTION TO OURSELVES  
AND TO OUR  
FUTURE GENERATIONS*

- **ARTICLE 1: SOVEREIGN POWER**
  - ALL SOVEREIGN POWER BELONGS TO THE PEOPLE OF KENYA.
  - PEOPLE MAY EXERCISE THE POWER DIRECTLY OR THROUGH DEMOCRATICALLY ELECTED REPRESENTATIVES.
  - REPRESENTATIVE POWER IS DELEGATED TO PARLIAMENT (NA AND SENATE) AND COUNTY ASSEMBLIES; NATIONAL AND COUNTY GOVERNMENT EXECUTIVES; JUDICIARY AND INDEPENDENT TRIBUNALS.
  - THE POWER IS EXERCISED AT NATIONAL AND COUNTY LEVELS.
- **ARTICLE 10** PROVIDES THAT PUBLIC PARTICIPATION IS ONE OF THE NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE.
- **ARTICLE 118(1)(B)** OBLIGATES PARLIAMENT TO FACILITATE PUBLIC PARTICIPATION AND INVOLVEMENT IN LEGISLATIVE AND ITS OTHER BUSINESSES AND THOSE OF ITS COMMITTEES.
- **ARTICLE 174(C)** OBJECTIVE OF DEVOLUTION IS TO ENHANCE THE PARTICIPATION OF PEOPLE IN THE EXERCISE OF THE POWERS OF THE STATE AND IN MAKING DECISIONS AFFECTING THEM.
- **ARTICLE 184(1)(D)** NATIONAL LEGISLATION ON MANAGEMENT OF URBAN AREAS AND CITIES MUST PROVIDE FOR PUBLIC PARTICIPATION IN GOVERNANCE AND MANAGEMENT.
- **ARTICLE 196(1)(B)** OBLIGATES COUNTY ASSEMBLIES TO FACILITATE PUBLIC PARTICIPATION AND INVOLVEMENT IN LEGISLATIVE AND ITS OTHER BUSINESSES AND THOSE OF ITS COMMITTEES.

- **ARTICLE 201(B)** PROVIDES THAT PUBLIC PARTICIPATION IN MANAGEMENT OF PUBLIC FINANCES AS A COMPONENT OF THE PRINCIPLE ON OPENNESS AND ACCOUNTABILITY.
- **ARTICLE 221(5)** PROVIDES THAT THE NATIONAL ASSEMBLY MUST SEEK FOR PUBLIC INPUT AND RECOMMENDATIONS AND TAKE THE VIEWS INTO ACCOUNT WHEN PREPARING THE ANNUAL FINANCIAL ESTIMATES OF REVENUE AND EXPENDITURE.
- **ARTICLE 232:** 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.
- **ARTICLE 239(5):** THE NEED FOR POLICE TO BE SUBJECTED TO THE GOVERNMENT AND ELECTED REPRESENTATIVES OF THE PEOPLE
- **FOURTH SCHEDULE PART 2:** OUTLINES ONE OF THE FUNCTIONS OF THE THAT THE COUNTY GOVERNMENT IS TO ENSURE AND COORDINATE THE PARTICIPATION OF COMMUNITIES AND LOCATIONS IN GOVERNANCE AT THE LOCAL LEVEL AND ASSISTING COMMUNITIES AND LOCATIONS TO DEVELOP THE ADMINISTRATIVE CAPACITY FOR THE EFFECTIVE EXERCISE OF THE FUNCTIONS AND POWERS AND PARTICIPATION IN GOVERNANCE AT THE LOCAL LEVEL.

## **2. COUNTY GOVERNMENT ACT, 2012**

- **SECTION 3 OF THE CGA** PROVIDES THAT AN OBJECTIVE OF THE CGA IS TO PROVIDE FOR PUBLIC PARTICIPATION IN CONDUCT OF THE ACTIVITIES OF COUNTY ASSEMBLIES AS REQUIRED UNDER ARTICLE 196 OF THE CONSTITUTION.
- **SECTION 104 OF CGA** PROVIDES THAT COUNTIES HAVE THE OBLIGATION TO PROMOTE PUBLIC PARTICIPATION AND INCORPORATE NON-STATE ACTORS IN THE PLANNING PROCESSES.
- **SECTION 115(1)** OF CGA PROVIDES THAT PUBLIC PARTICIPATION IN COUNTY PLANNING PROCESSES IS MANDATORY AND THAT IT MUST PROVIDE CLEAR AND UNAMBIGUOUS INFORMATION ON ANY MATTER UNDER CONSIDERATION IN THE PLANNING PROCESS.
- **SECTION 115 (2)** OF CGA PROVIDES THAT COUNTY ASSEMBLIES ARE TO DEVELOP LAWS AND REGULATIONS TO GIVE EFFECT TO CITIZEN PARTICIPATION IN DEVELOPMENT PLANNING AND PERFORMANCE MANAGEMENT WHICH MUST ADHERE TO THE MINIMUM NATIONAL STANDARDS.
- **SECTION 115 (2)** OF CGA PROVIDES THAT THE PROCESS OF DELIVERING SERVICES BY COUNTY GOVERNMENTS MUST ENSURE THAT THE SERVICES MUST INVOLVE SHARING OF DATA, BE TRANSPARENT AND ACCOUNTABLE.

### **3. PUBLIC FINANCE MANAGEMENT ACT, 2012**

- **SECTION 3(B)** OF PFMA PROVIDES THAT AN OBJECT OF THE ACT IS TO ENSURE THAT PUBLIC OFFICERS WHO MANAGE FINANCES ACCOUNT TO THE PUBLIC.
- **SECTION 15 AND 107** PFMA PROVIDES THAT INSTILLING FISCAL DISCIPLINE REQUIRES CITIZEN MONITORING.
- **SECTION 102(1)(A) & (C)** OF PFMA COUNTY GOVERNMENTS MUST COMPLY WITH PRINCIPLES OF PUBLIC FINANCE AND NATIONAL VALUES: PUBLIC PARTICIPATION IS ONE OF THE NATIONAL PRINCIPLES AND VALUES.
- **SECTION 125** OF PFMA OBLIGATES CEC MEMBER FOR FINANCE TO ENSURE PUBLIC PARTICIPATION IN BUDGET MAKING PROCESSES.
- **SECTION 126(4)** OF PFMA OBLIGATES CEC MEMBER FOR PLANNING TO PUBLICIZE COUNTY ANNUAL DEVELOPMENT PLANS.
- **SECTION 117(5)** OF PFMA OBLIGATES COUNTY TREASURY TO SEEK FOR AND TAKE INTO ACCOUNT VIEWS FROM THE PUBLIC IN THE PROCESS OF DEVELOPING COUNTY FISCAL STRATEGY PAPER.
- **SECTION 137(3) OF PFMA** PROVIDES THAT COUNTY GOVERNMENTS ARE TO ESTABLISH COUNTY BUDGET AND ECONOMIC FORUMS TO FACILITATE CONSULTATIONS AND PARTICIPATION OF CITIZENS AND STAKEHOLDERS IN COUNTY PLANNING, DEVELOPMENT OF FISCAL STRATEGY PAPER, BUDGET REVIEW AND OUTLOOK PAPER, AND MATTERS ON BUDGETING AND ECONOMY, AND FINANCIAL MANAGEMENT

### **4. URBAN AREAS AND CITIES ACT, 2011**

- **SECTION 3(C) OF UA&CA:** PARTICIPATION BY CITIZENS IN GOVERNANCE OF URBAN AREAS AND CITIES IS ONE OF THE OBJECTIVES THE ACT SEEKS TO FULFIL.
- **SECTION 11(D) OF UA&CA:** PROVIDES THAT INSTITUTIONALIZED ACTIVE PARTICIPATION BY CITIZENS IN MANAGEMENT IS ONE OF THE PRINCIPLES OF MANAGING URBAN AREAS AND CITIES.
- **SECTION 21 (1) (G)**; THE BOARDS OF CITIES AND MUNICIPALITIES TO ENSURE PARTICIPATION OF THE RESIDENTS IN DECISION MAKING, ITS ACTIVITIES AND PROGRAMMES
- **SECTION 22 OF UA&CA:** RESIDENTS OF URBAN AREAS SHOULD BE INVOLVED IN PROVISION OF SERVICES, ENACTMENT OF COUNTY POLICIES AND LEGISLATIONS, DEVELOPMENT OF ANNUAL BUDGETS AND ESTIMATES, PREPARATION OF DEVELOPMENT PLANS AND OTHER MANAGEMENT MATTERS.

- **SECTION 36 OF UA&CA:** WHILE PREPARING THE INTEGRATED DEVELOPMENT PLAN, URBAN AREAS MUST ADHERE TO OBJECTS OF DEVOLUTION WHICH INCLUDE PUBLIC PARTICIPATION AS PROVIDED IN ARTICLE 174 OF CoK.

## **ROLE OF COUNTY GOVERNMENT IN PUBLIC PARTICIPATION**

### **COUNTY EXECUTIVE**

#### **1. GOVERNOR**

- SECTION 30(3)(G) OF CGA LISTS PROMOTION AND FACILITATION OF CITIZEN PARTICIPATION IN THE DEVELOPMENT OF THE POLICIES AND PLANS, AND DELIVERY OF SERVICES IN THE COUNTY AS ONE OF THE FUNCTIONS OF THE GOVERNOR.**
- SECTION 92(2) OF CGA: THE GOVERNOR SHALL SUBMIT AN ANNUAL REPORT TO THE COUNTY ASSEMBLY ON CITIZEN PARTICIPATION IN THE AFFAIRS OF THE COUNTY GOVERNMENT**
- SECTION 91(G): THE COUNTY GOVERNMENT SHALL FACILITATE THE ESTABLISHMENT OF STRUCTURES FOR CITIZEN PARTICIPATION INCLUDING ESTABLISHMENT OF CITIZEN FORA AT COUNTY AND DECENTRALIZED UNITS.**

#### **2. SUB COUNTY ADMINISTRATOR**

**SECTION 50(3) OF CGA: A SUB-COUNTY ADMINISTRATOR IS RESPONSIBLE FOR COORDINATION, MANAGEMENT AND SUPERVISION OF ADMINISTRATIVE FUNCTIONS IN THE SUB-COUNTY WHICH INCLUDE:**

- (A) DEVELOPMENT OF POLICIES AND PLANS;**
- (B) SERVICE DELIVERY;**
- (C) DEVELOPMENTAL ACTIVITIES TO EMPOWER THE COMMUNITY;**
- (D) PROVISION AND MAINTENANCE OF INFRASTRUCTURE AND FACILITIES OF PUBLIC SERVICES;**
- (E) COUNTY PUBLIC SERVICE;**
- (G) FACILITATION AND COORDINATION OF CITIZEN PARTICIPATION IN THE DEVELOPMENT OF POLICIES AND PLANS AND DELIVERY OF SERVICES.**

#### **3. WARD ADMINISTRATOR**

**SECTION 51(3) OF CGA: A WARD ADMINISTRATOR IS RESPONSIBLE FOR COORDINATION, MANAGEMENT AND SUPERVISION OF ADMINISTRATIVE FUNCTIONS IN THE WARD WHICH INCLUDING:**

- (A) DEVELOPMENT OF POLICIES AND PLANS;**
- (B) SERVICE DELIVERY;**
- (C) DEVELOPMENTAL ACTIVITIES TO EMPOWER THE COMMUNITY;**

(D) PROVISION AND MAINTENANCE OF INFRASTRUCTURE AND FACILITIES OF PUBLIC SERVICES;

(E) COUNTY PUBLIC SERVICE;

(G) FACILITATION AND COORDINATION OF CITIZEN PARTICIPATION IN THE DEVELOPMENT OF POLICIES AND PLANS AND DELIVERY OF SERVICES.

#### **4. VILLAGE ADMINISTRATOR**

(A) ENSURING AND COORDINATING THE PARTICIPATION OF THE VILLAGE UNIT IN GOVERNANCE; AND

(B) ASSISTING THE VILLAGE UNIT TO DEVELOP THE ADMINISTRATIVE CAPACITY FOR THE EFFECTIVE EXERCISE OF THE FUNCTIONS AND POWERS AND PARTICIPATION IN GOVERNANCE AT THE LOCAL LEVEL

(3) A PERSON SHALL BE ELIGIBLE FOR APPOINTMENT AS A VILLAGE ELDER IF THE PERSON— (A) IS A CITIZEN OF KENYA; (B) HAS BEEN A RESIDENT OF OR HAS BEEN THE OWNER OF PROPERTY IN THE RESPECTIVE VILLAGE UNIT FOR A CONTINUOUS PERIOD OF NOT LESS THAN FIVE YEARS PRIOR TO THE APPOINTMENT DATE; (C) MEETS THE REQUIREMENTS OF CHAPTER SIX OF THE CONSTITUTION; AND (D) IS NOT DISQUALIFIED FOR APPOINTMENT TO OFFICE BY THIS ACT OR ANY OTHER LAW. (4) A VILLAGE ELDER SHALL BE PAID SUCH ALLOWANCE AS SHALL BE DETERMINED BY THE RESPECTIVE COUNTY ASSEMBLY.

#### **5. VILLAGE COUNCILS**

A VILLAGE COUNCIL SHALL BE RESPONSIBLE FOR

(A) ENSURING AND COORDINATING THE PARTICIPATION OF THE VILLAGE UNIT IN GOVERNANCE;

(B) ASSISTING THE VILLAGE UNIT TO DEVELOP THE ADMINISTRATIVE CAPACITY FOR THE EFFECTIVE EXERCISE OF THE FUNCTIONS AND POWERS AND PARTICIPATION IN GOVERNANCE AT THE LOCAL LEVEL;

(C) MONITORING THE IMPLEMENTATION OF POLICIES AT THE VILLAGE UNIT;

(D) ADVISING THE WARD ADMINISTRATOR AND SUB-COUNTY ADMINISTRATOR ON MATTERS PERTAINING TO THE VILLAGE

#### **COUNTY ASSEMBLY**

- **SECTION 3 OF THE CGA** PROVIDES THAT AN OBJECTIVE OF THE CGA IS TO PROVIDE FOR PUBLIC PARTICIPATION IN CONDUCT OF THE ACTIVITIES OF COUNTY ASSEMBLIES AS REQUIRED UNDER ARTICLE 196 OF THE CONSTITUTION.
- **SECTION 115 (2)** OF CGA PROVIDES THAT COUNTY ASSEMBLIES ARE TO DEVELOP LAWS AND REGULATIONS TO GIVE EFFECT TO CITIZEN PARTICIPATION IN DEVELOPMENT PLANNING AND PERFORMANCE MANAGEMENT WHICH MUST ADHERE TO THE MINIMUM NATIONAL STANDARDS.