



**REPUBLIC OF KENYA**  
**COUNTY GOVERNMENT OF KISUMU**

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**THE KISUMU COUNTY PUBLIC PARTICIPATION  
POLICY 2023**

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**NOVEMBER 2023**



**REPUBLIC OF KENYA  
COUNTY GOVERNMENT OF KISUMU**

**AS APPROVED BY THE COUNTY ASSEMBLY OF KISUMU ON  
NOVEMBER, 2023**

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## **ABBREVIATIONS AND ACRONYMS**

CBROP	County Budget Review and Outlook Paper
CA	County Assembly
CBEF	County Budget and Economic Forum
CBOs	Community Based Organizations
CEC	County Executive Committee
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CFSP	County Fiscal Strategy Paper
CGA	County Government Act
CIAG-K	Community Initiative Action Group -Kenya
CIDP	County Budget Estimates; County Integrated Development Plans
CIMES	County Integrated Monitoring and Evaluation System
CoK	Constitution of Kenya
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organizations
EAC	East African Community
ECJP	Ecumenical Centre for Justice and Peace
FBOs	Faith Based Organizations
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
CESCR	International Covenant on Economic, Social and Cultural Rights
ICNL	International Center for Not-for-profit Law
ICPPR	International Covenant on Civil and Political Rights
ICT	Information, Communication Technology
IDIA	International Development Institute - Africa
KCPPP	Kisumu County Public Participation Policy
KEFEADO	Kenya Female Advisory Organization
K-MET	Kenya Medical and Education Trust
KNBS	Kenya National Bureau of Statistics
LREB	Lake Region Economic Bloc
M&E	Monitoring and evaluation
NAYA	Network for Adolescent and Youth of Africa
NGAOs	National Government Administrative Officers
NGOs	Non-Governmental Organizations
OPP	Office of Public Participation of Kisumu County
PFMA	Public Finance Management Act
PPPs	Public-Private Partnerships
PROTECT	Protecting Rights, Openness and Transparency Enhancing Civic Transformation
PWDs	Persons with Disabilities
TEAM	Transform Empowerment for Action Initiative
TI	Transparency International Kenya
UK	United Kingdom of Great Britain

## **FOREWORD**

The County Government of Kisumu and the people of Kisumu County developed this Public Participation Policy as the county's overarching framework for public participation and civic education. In this policy, public participation is conceptualized as the process by which citizens either as individuals, organizations, groups or communities (also known as stakeholders), take part in the conduct of county affairs, interact with the government and other non-state actors to influence decisions, policies, programs, legislation and service delivery and on other matters concerning the governance of the county. The County Government of Kisumu recognizes public participation as a defining element of democratic and participatory governance and a vital means for ensuring the legitimacy of government decisions and actions. The County Governments' commitment to public participation is to be demonstrated through various efforts including the enactment of the Kisumu County Participation Act 2015, which will undoubtedly need to be reviewed or repealed in light of the emerging issues identified by this policy.

Kisumu County Public Participation Policy envisions an open, people-centred, responsive and accountable governance culture in a participatory development system. The Government acknowledges that good and democratic governance is achievable in the county with effective, meaningful and institutionalized public participation. In this regard, the document provides policy direction and guiding principles for effective and meaningful public participation in county governance and development at all levels. The main objective of the policy is to provide the enabling framework for effective and meaningful public participation in county governance. The policy also provides the framework for coordination of stakeholders involved in the governance and development of the county.

The County Government is however, cognizant of the various challenges to ensuring that public participation is indeed effective and meaningful. These include inadequate funding for civic education, affixing public participation mechanisms and interventions, inadequate coordination of stakeholders, limitations in access to information and ICT opportunities. The policy specifies the measures and strategies that the county government, citizens and non-state actors will need to take to fill the gaps and address the challenges that hinder the realization of effective and meaningful public participation in our county affairs.

An integrated, coordinated, cooperative and consultative policy implementation approach will therefore involve various actors at all levels of the county government in accord with the principles of interdependence, consultation and cooperation. The County Government of Kisumu will put in place and strengthen the necessary mechanisms to facilitate the implementation of the policy, and to ensure that all public bodies in the county engage citizens effectively as required by the Constitution of Kenya and other related national and county policies, legislations and regulations. The government in collaboration with development partners will provide the necessary financial and technical resources required for the implementation of this policy.

Together, we will build a truly open, people-centred, responsive, accountable, prosperous and peaceful county where all residents enjoy high quality life and feel respected and at home.

**H.E. PROF. PETER ANYANG' NYONG'O**  
**THE GOVERNOR**  
**COUNTY GOVERNMENT OF KISUMU**

## **PREFACE**

The Constitution of Kenya 2010 identifies public participation as one of the national values and principles of governance that bind all state organs, state officers, public officers and all persons in the application and interpretation of the Constitution, enactment and application of laws as well as the making and implementation of public policy and decisions. The Kisumu County Public Participation Policy therefore seeks to provide the enabling framework to guide and ensure effective and meaningful public participation in the county governance and decision-making at all levels. The Policy in particular aims to enable all citizens, state and non-state actors including the civil society, the private sector and citizens including the marginalized communities and vulnerable groups to participate in every aspect of county governance and development, and to ensure effective exercise of the functions and powers of the county government at all levels.

The goal of this policy is thus to provide enabling framework and modalities for effective facilitation, management and coordination of public participation in governance, decision-making and development processes throughout the county of Kisumu. The policy is undergirded by both constitutional and operational principles and values considered crucial for effective and meaningful public participation by all. To ensure effective facilitation, management and coordination of public participation in county governance, decision-making and development, the Policy provides guidance on measures and strategies to be undertaken by the county government, citizens, state and non-state actors at all levels. The policy measures and strategies focus on the following key areas:

- a) Facilitation of civic education for meaningful public participation
- b) Ensuring access to timely information for informed public participation
- c) Facilitation of public participation processes in decision-making
- d) Promoting inclusive participation of marginalized communities, minorities and vulnerable groups
- e) Strengthening public complaint management, feedback and reporting system
- f) Building institutional capacity for effective public participation
- g) Strengthening multi-sectoral and intergovernmental coordination
- h) Strengthening legal and policy environment/framework
- i) Sustainable financing and public investment
- j) Strengthening research, monitoring, evaluation and social accountability systems

The Policy implementation approach will involve a highly participatory, multi-sectoral, collaborative, consultative, cooperative and coordinated strategy. The policy measures and strategies will be implemented through various instruments including legislation, regulations, by laws, guidelines, standard operating procedures, county investment plans, annual work plans and budgets among others. To determine the success of implementation, the policy and its associated investment plans will carefully be monitored and evaluated at various policy implementation levels.

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**OFFICE OF THE GOVERNOR**

## **ACKNOWLEDGEMENTS**

The development of the Kisumu County Public Participation Policy has benefited from the contributions of a wide range of public and institutional stakeholders. The Kisumu County Government and the Directorate of Public Participation appreciate all those who were involved in the planning, facilitation, and production of this policy. Our appreciation goes to all the County Executive Committee Members led by the H.E. Governor Prof. Peter Anyang' Nyong'o, County Government Departments, Chief Officers and Directors, the Office of the Clerk of the County Assembly and the Assembly Justice and Legal Affairs Committee for their support and collaboration in this process, including the validation and approval of the final policy document.

As was led by Mr. Wilson Nindo (County Director of Public Participation), special thanks go to the Kisumu County Public Participation Technical Working Group (TWG) members Mr. Baridi Manyasi (Director Monitoring and Evaluation), Mr. Evans Gichana (Director Climate Change), Mr. Chris Owalla (CIAG-K), Ms. Faith Gitonga (ICNL), TWG Chairperson Ms. Elizabeth Duya (TI), Mr. Clifford Ochieng (TEAM), Ms. Patricia Aduwo (STADA), Mr. Levi Juma (YA) Mr. Jim Ouko (PA), Cardinal Elias Komenya (ECJP), Ms Easter Achieng (KEFEADO), Ms. Cindy Aketch (KMET) and Mr. David Ongowo (NAYA) for their invaluable time and commitments towards the planning, consultations and insights during the development of this policy.

We sincerely recognize the following organizations who offered their technical and financial support in the process: The International Center for Not-for-profit Law (ICNL), the Community Initiative Action Group (CIAG)-Kenya, Transform Empowerment for Action Initiative (TEAM) Kenya, Transparency International Kenya (TI), Kenya Medical and Education Trust (K-MET), Practical Action, Youth Alive! Kenya, Kenya Female Advisory Organization (KEFEADO), Ecumenical Centre for Justice and Peace (ECJP), Network for Adolescent and Youth of Africa (NAYA), STADA Kenya and Equality Now.

To all the residents of Kisumu who spared time and provided valuable insights during the public participation and validation processes across the seven sub counties of the County, we say a big thank you.

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## **GLOSSARY/DEFINITION OF TERMS**

**Accountability:** means answerability to the people: an open transparent system which permits the free flow of forward and backward information and in which leaders are answerable to the people.

**Coordination:** refers to the ability or process of organizing different stakeholders to ensure that they work together in harmony, effectively and efficiently.

**Effective and Meaningful Public Participation:** involves seeking public input at the specific points in the decision making process and on the specific issues where such input has a real potential to help shape the decision or action. Effective and meaningful public participation depends on access to timely and relevant information to all members of the public so that they are aware and able to productively engage in decisions or actions that affect them.<sup>1</sup>

**Facilitation of Public Participation:** to facilitate means to “make easy or easier” or to “promote”; “taking steps to ensure the public is involved or is brought into the matter”

**Mechanisms/Structures:** Are channels through which the public constructively engages in county governance

**Performance Management:** Involves setting performance indicators, developing performance contracts, cascading them through the county public service, measuring the results, reporting and using the information for decision-making. Performance contracting, monitoring and evaluation, are key instruments of performance management.

**Public Participation:** refers to the process by which citizens, as individuals, groups or communities (also known as stakeholders), take part in the conduct of public affairs, interact with the state and other non-state actors to influence decisions, policies, programs, legislation and provide oversight in service delivery, development and other matters concerning their governance and public interest, either directly or through freely chosen representatives

**Reasonable opportunity to be heard:** means the procedure wherein the county government or authority gives public notice of the proposed action or decision to all members of the public whose interest would be significantly affected by the proposed action or decision.

**Standards:** means the act or process of public participation is developed and accepted by the stakeholders as of the desired content and quality. The standards are based on the consensus of different interested parties, users, and by the two levels of government.

**State Actors/Duty Bearers:** State Actors include National and County Government officials or agencies that are legally mandated to facilitate public participation in all aspects of decision-making.

**The public:** means all the people resident in Kisumu County and who associate with matters of common interest in the governance of the County Government of Kisumu. When used in relation to public participation in this Policy, the

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<sup>1</sup> Information to the Public must contain two parts; (a) an explanation of the decision, law or policy that is intended to be passed; and (b) the public should be made aware of the rationale of the intended decision in order to adjudge its efficacy or efficiency, and an invitation to participate to make themselves heard (*Law Society of Kenya v Attorney General and Another (2016) eKLR, paragraph 221, Milly Glass Works Ltd and 3 others v. County Government of Mombasa and 2 others (2016) eKLR, paragraph 33*)

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public means—

- (a) the residents of the county;
- (b) the rate payers of a city, municipality or town within the county;
- (c) any resident civic organization or non-governmental, private sector or labour organization with an interest in the governance of the county, city or municipality or town within the county;
- (d) non-resident persons who because of their temporary presence in the county, city, municipality or town make use of services or facilities provided by the county, city, municipality, or town.
- (e) For the purpose of this Policy, the *public* are also Non-State Actors.

## CHAPTER ONE: INTRODUCTION AND BACKGROUND

### 1.1 Introduction

Public participation is one of the foundational principles of democracy and an essential requirement of democratic governance, the rule of law, social inclusion, the fulfilment of human rights and sustainable development. Participation makes decision-making more informed and sustainable, and public institutions more effective, accountable and transparent, which in turn enhances the legitimacy of decisions and their ownership by all members of society.<sup>1</sup> The Constitution of Kenya, 2010 under Article 10 identifies public participation as one of the national values and principles of governance that bind all state organs, state officers, public officers and all persons in the application and interpretation of the Constitution, enactment and application of laws as well as the making and implementation of public policy and decisions. The Kisumu County Public Participation Policy therefore aims to guide and enable effective and meaningful public participation in the governance and management of all Kisumu County affairs at all levels of the administration as well as the realization of the right to development.

### 1.2 The concept and significance of public participation

Article 1 of the Constitution of Kenya, 2010 vests all sovereign power in the people of Kenya to be exercised at the national and county levels either directly or through democratically elected representatives. The sovereign power of the people is exercised through their participation in governance and decision-making. Article 25 of the International Covenant on Civil and Political Rights recognizes the right to participation in public affairs, which includes the right to take part in the conduct of public affairs; the right to vote and to be elected; and the right to have access to public service. Article 10 of the Constitution of Kenya identifies public participation as one of the binding national values and principles of governance.

The International Association for Public Participation (IAP2) defines public participation as any process that involves the public in problem-solving or decision-making and that uses public input to make better decisions.<sup>2</sup> The Kenya National Policy on Public Participation defines *public participation* as the process by which citizens, as individuals, groups or communities (also known as stakeholders), take part in the conduct of public affairs, interact with the state and other non-state actors to influence decisions, policies, programs, legislation and provide oversight in service delivery, development and other matters concerning their governance and public interest, either directly or through freely chosen representatives.<sup>3</sup>

The County Public Participation Guidelines, 2016 describes public participation as 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.<sup>4</sup> The Kisumu County Public Participation Act 2015, defines public participation as any process that directly engages the public in decision-making and gives full consideration to public input in making that decision. To institutionalize public participation, the Act establishes modalities and mechanisms to facilitate and co-ordinate public participation in the governance of the County. Figure 1 below illustrates what public participation entails.

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<sup>1</sup> Office of the High Commissioner for Human Rights, Guidelines for states on the effective implementation of the right to participate in public affairs. [https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs\\_web.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf)

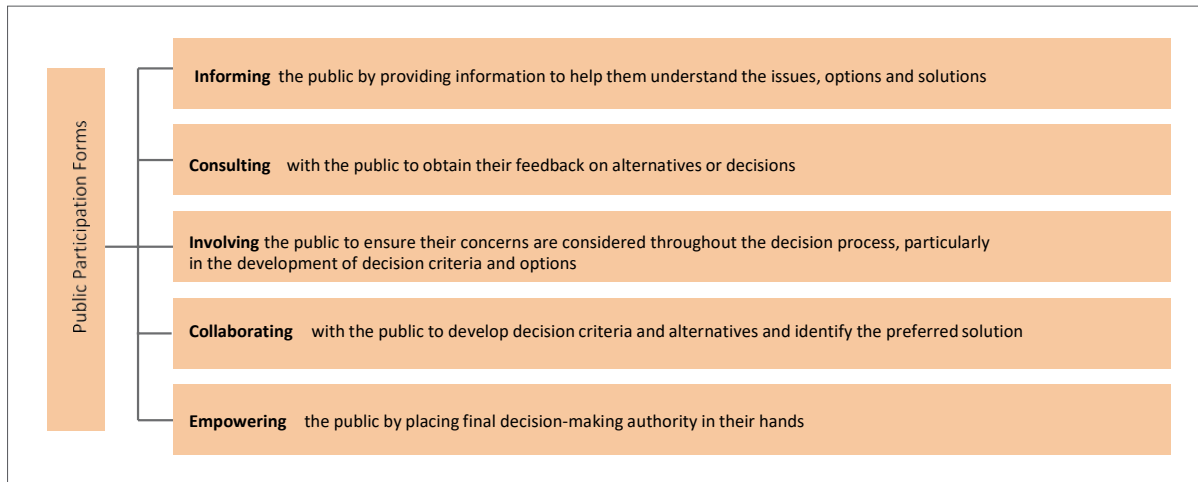
<sup>2</sup> International Association for Public Participation (IAP2), IAP2 Code of Ethics for Public Participation Practitioners, <https://www.iap2.org/page/ethics>

<sup>3</sup> Office of the Attorney General & The Department of Justice (2018), Kenya Draft Policy on Public participation September, 2018

<sup>4</sup> Ministry of Devolution and Planning & Council of Governors (2016) County Public Participation Guidelines, January 2016

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Figure 1: What public participation entails



Source: County Public Participation Guidelines, 2016

Public participation is an ongoing process of people’s active involvement in decision-making at different levels of governance in matters that concern them. The primary function of public participation is to develop the democratic characteristics of the government or state and ensure support for and legitimacy of the political system.<sup>5</sup> Effective public participation gives people the power to shape both the process and outcome of a decision-making process. It is essentially a means of enabling and empowering the people to be actively involved in the creation and implementation of structures, systems, policies, laws, plans and programmes that serve their interests. To achieve this, public participation requires building citizens’ civic capacity through civic education and information sharing to understand what their roles and responsibilities are, what actions they need to take to be meaningfully involved in decision-making and to effectively engage with authorities or stakeholders based on mutual respect. Public participation therefore means much more than mere consultation with or involvement of the people in an initiative. It only becomes meaningful if people are empowered to engage and become active contributors in their own lives rather than passive recipients of information, decisions and services. It entails listening to what people have to say and want and adapting the approach respond to accordingly. By so doing, the government is most likely to win the trust and confidence of the majority, if not of all the people, to the course of the action being pursued.<sup>6</sup>

Effective public participation requires enabling conditions such as clear mechanism for participation and communication channels between citizens and government, and that the actors, private individuals and organisations, need to have an understanding and knowledge of the issues and public processes to engage meaningfully. While the supply side of participation requires that enabling systems, mechanisms and frameworks are in place, the extent to which participation achieves its intended objectives largely depends on how the demand side (the public) is organised, enabled, informed and engaged on the issues they seek to influence.<sup>7</sup> To this end, the Constitution emphasises the need for the county governments

<sup>5</sup>Oyaya Charles (2012), People’s Participation and Public Engagement in Devolved Governance and Development: Non State Actors (NSAs) Practitioners’ Programming Reference Guide, Ministry of Justice, National Cohesion and Constitutional Affairs, December 2012

<sup>6</sup>Oyaya Charles (2012), People’s Participation and Public Engagement in Devolved Governance and Development: Non State Actors (NSAs) Practitioners’ Programming Reference Guide, Ministry of Justice, National Cohesion and Constitutional Affairs, December 2012

<sup>7</sup>Oduor Chrispine, Wanjiru Rose and Kisamwa Festus L (2015), Review of status of Public Participation, and County Information Dissemination Frameworks, A Case Study of Isiolo Kisumu, Makueni and Turkana Counties, Institute of Economic Affairs, Nairobi

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to coordinate and build the capacity of communities to participate in governance including the effective exercise of the functions and powers of the county governments at the local level.<sup>2</sup>

By engaging in public participation, the public exercise their sovereign power and human right to participate in decision-making. The significance of public participation including strengthening democratic governance; improving accountability; enhancing public confidence in and support to the decision-making processes; enhancing legitimacy of public institutions, decisions and actions; enhancing quality of decisions and ownership; helping alleviate social conflicts and disputes; and providing additional skills, knowledge and learning opportunities to all. Other benefits of public participation include citizen empowerment; the generation of new, diverse and innovative ideas and actions; enhancement of citizen government relations; appropriate prioritization of projects; improved delivery of public services and; governments responsiveness.<sup>3</sup>

Conversely, insufficient public engagement limits the power of the people to participate in democratic governance and development. Since public participation is now a justiciable right under the Constitution of Kenya 2010, inadequate public participation by the citizens in policy and legislative processes has led to numerous court interventions contributing to an emerging jurisprudence that is slowly defining and amplifying the boundaries of what should constitute public participation in policy formulation, legislation, planning and budgeting among other processes. For example, in the case of *Gakuru R. and others vs Kiambu County Government*, the petitioners contended that the Kiambu Finance Act, 2013 gazetted vide Kiambu County Gazette Supplement No. 8 (Act No. 3) violated various provisions of the Constitution and that the same was null and void on the grounds that no consultations took place and no invitations were made by the Respondents before the said Act was enacted. In his ruling, Justice Odunga held that:

*“Public participation ought to be real and not illusory and ought not to be treated as a mere formality for the purposes of fulfilment of the Constitutional dictates. It is my view that it behooves the County Assemblies in enacting legislation to ensure that the spirit of public participation is attained both quantitatively and qualitatively.... I hold that it is the duty of the County Assembly in such circumstances to exhort its constituents to participate in the process of the enactment of such legislation by making use of as many fora as possible such as churches, mosques, temples, public barazas, national and vernacular radio broadcasting stations and other avenues where the public are known to converge to disseminate information with respect to the intended action.”<sup>4</sup>*

### **1.3 The public participation challenge in Kisumu County**

Kisumu County has made tremendous efforts in putting in place an enabling legal and institutional environment for facilitating public participation in county governance and decision-making process. In addition, the County has established Sector Working Groups that provide opportunity for public input in the planning and budget making processes; and created Information Communication Technology (ICT) platform with a toll-free number to facilitate the public to ask questions in any department on basic service delivery, financial matters and other county affairs on public projects.<sup>11</sup> The County has also established Public Complaints Boards in all Wards with the aim of enabling the public to launch complaints anonymously and report corruption and mismanagement of County resources. Further, the county uses both formal and informal channels from time to time to enlighten the public on various matters of public interest and concerns including mass media, social media, site gatherings (for

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<sup>2</sup> COK 2010, Schedule 4 clause 14 states, “ensuring and coordinating 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” is one of the functions of the county governments.

<sup>3</sup> Oduor Chrispine, Wanjiru Rose and Kisamwa Festus L (2015), Review of status of Public Participation, and County Information Dissemination Frameworks, A Case Study of Isiolo Kisumu, Makueni and Turkana Counties, Institute of Economic Affairs, Nairobi

<sup>4</sup> *Gakuru R. and others vs Kiambu County Government*, Petition No 532 of 2013 Republic of Kenya in the High Court in the case of *Gakuru R. and others vs Kiambu County Government*

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projects evaluation), notice boards, conferences, county website, public barazas<sup>12</sup> and such informal forums as funerals and religious gatherings.

Despite the efforts and progress realized in institutionalizing public participation in Kisumu County, the public participation scene remains characterized by a number of challenges including:

- a) Legal inconsistencies of some provisions of the Kisumu County Public Participation Act 2015 to the Constitution of Kenya 2010 and relevant laws.
- b) Lack of the guiding policy, enabling regulations, guidelines and standards to aid the implementation of the Kisumu County Public Participation Act 2015.
- c) Lack of meaningful public participation in planning, budgeting, programs implementation, monitoring and evaluation processes at the ward and village unit levels;
- d) Inadequate framework for coordination of both state and non-state actors at various levels;
- e) Limited access to public information and civic education to enable informed public participation;
- f) Inadequate public participation communication mechanisms including the use of inappropriate formats to technical information to on citizens on for example planning and budgeting;
- g) Uncoordinated approach to community participation in local projects development, implementation, monitoring and evaluation;
- h) Limited scope of public and community outreach channels and social mobilization for participation;
- i) Inadequate mechanisms for inclusion and involvement of the marginalized, vulnerable and special interest groups in county decision-making;
- j) Limited skills and capacities of public officers to facilitate public participation;
- k) Inadequate commitment among public officials to ensure meaningful public participation. Often public participation is tokenistic just to meet the minimum requirements of the law;
- l) Inadequate funding for public participation functions;
- m) Inadequate implementation of the citizens' priorities resulting in public cynicism, disinterest, apathy and negative perceptions about public participation;
- n) Inadequate awareness amongst citizens on their right and responsibility to participation; and
- o) Inadequate mechanisms for social accountability including monitoring and evaluation of the effectiveness of public participation function as well as tracking and ensuring regular feedback on decisions made and interventions undertaken.

The Kisumu County Public Participation Policy aims to address these challenges by setting an enabling policy framework and mechanisms for ensuring effective and meaningful public participation in county governance, decision-making and development processes at all levels.

### **1.4 Rationale for the policy**

Whereas the Constitution of Kenya, 2010 and the Kisumu Public Participation Act 2015 offer an enabling framework for ensuring public participation in governance and development at various levels, there still exist many hurdles in operationalizing the provisions and principles of public participation as envisaged by the Constitution. One of the major challenges is the absence of enabling regulations, guidelines and

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<sup>11</sup> Oduor Chrispine, Wanjiru Rose and Kisamwa Festus L (2015), Review of status of Public Participation, and County Information Dissemination Frameworks, A Case Study of Isiolo Kisumu, Makueni and Turkana Counties, Institute of Economic Affairs, Nairobi

<sup>12</sup> Gatherings at the local level for deliberations on matters of interest and concern

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standards as to what comprises adequate, effective and meaningful participation including the level and nature of participation required to meet the minimum constitutional or legal threshold. Thus, although there are a lot of efforts in promoting public participation, there is inadequate policy framework to support and ensure meaningful public participation in governance especially at the community level. Further, there is lack of enabling framework for ensuring the effective and inclusive participation by the marginalized, vulnerable and minority groups in county governance and development. It also remains a challenge on how to ensure and sustain meaningful public participation in management of county affairs at all levels, safeguard public interest in public participation processes and enhance the legitimacy of public decisions and actions at various levels.

The Policy in particular aims to enable all citizens, state and non-state actors including the civil society, the private sector and citizens including the marginalized communities and vulnerable groups to participate in every aspect of county governance and development, and to ensure effective exercise of the functions and powers of the county government at all levels. The policy provides guidelines and mechanisms for the facilitation, management, coordination and financing of public participation as a function within the county governance system.

### **1.5 Scope and Application of the Kisumu County Public Participation Policy**

The Kisumu County Public Participation Policy (KCPPP) encompasses the entire county governance space from the village clusters, village units, ward, sub county to county levels including urban areas and inter-governmental spaces. The KCPPP applies to all state and non-state actors involved in decision-making at county and community level. These include citizens as individuals, all county government departments, the decentralized units of the county government, the county assembly and its committees, town committees, municipal and city boards, the civil society organizations including non-government and faith based organizations, the private sector, community based organizations and institutions, the marginalized communities, minorities and vulnerable groups, national government agencies working within the county, the media, development partners, both public and private service providers, households and consumers among others. The policy focuses on non-electoral decision-making processes except local referenda on local issues.

### **1.6 The Policy Development Process**

The process of developing the Kisumu County Public Participation Policy started in 2015 alongside the enactment of the Kisumu County Public Participation Act No. 11 of 2015. The decision to develop the county public participation policy was made in the context of the constitutional and legal requirements for public participation in all county government affairs. The initial efforts to formulate a policy was supported by a group of civil society organizations that came up with some draft that got suspended in transitional circumstances around 2016.

In 2020/2021, the policy development process was re-ignited spearheaded by the Policy Reference Group led by ICNL and a Multi- Stakeholder Technical Working Group under the direction of the County Director of Public Participation. The process of developing the Policy adopted a highly participatory and inclusive approach involving various stakeholders including individual citizens, county and national Government stakeholders and non-state actors at the county and sub county levels in compliance with the constitutional requirement of public

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participation in public policy making. The county and sub county stakeholder consultative and validation processes sought to:

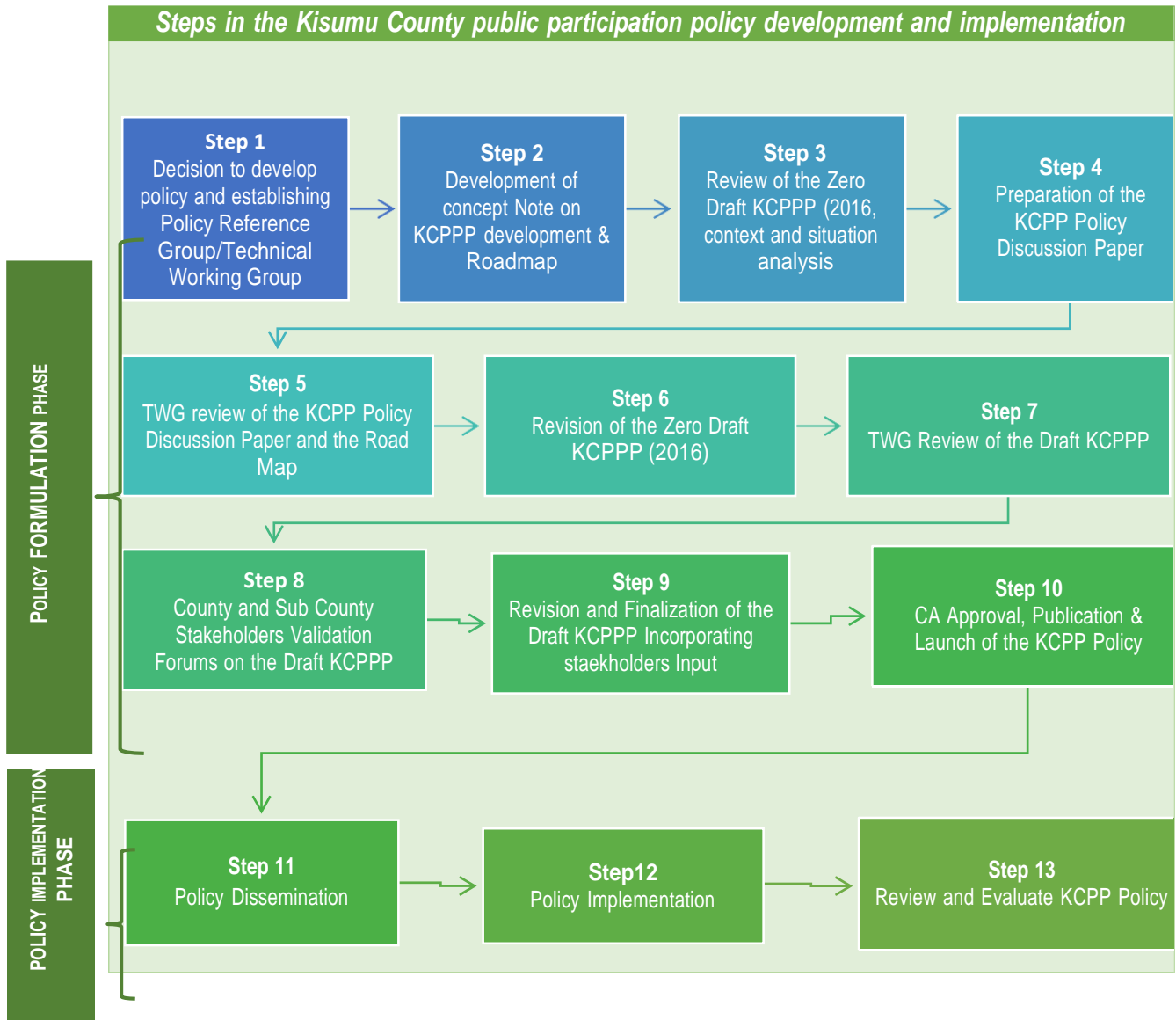
- a) Review and identify key policy issues, challenges and gaps, strengths and opportunities and make proposals for the formulation of the Kisumu KCPPP;
- b) Introduce stakeholders to the purpose of developing the county public participation policy and raise awareness on the public participation policy imperatives; and
- c) Enable stakeholders to review and validate the draft Kisumu County Public Participation Policy.

The information gathering for policy development involved literature review, focus group discussions, key informant interviews, stakeholder workshops, town hall meetings and public forums held across all the seven sub counties of Kisumu County. The policy development process that required little or no dialogue included review of relevant literature including county, national, regional and international policies, strategies, laws and reports.

The focus group discussions involved mixed populations taking into consideration residents, local leaders including elders and politicians, the youth, community based organizations, FBOs, religious leaders, CSOs, women, Persons with disabilities (PWDs), local administration, informal sector (jua kali), private sector, resident associations, professionals and minority communities including the Nubian and Asian communities. The key informants were drawn from the line county government departments and relevant national agencies concerned with education, governance, and economic planning and relevant national government agencies. These included County Executive Committee members; Directorates of administration and governance, human resource management, energy & mining, environment management, water services, health, trade, agriculture, livestock & fisheries, lands, housing, physical planning & urban development, and economic planning; members of the county assembly; civil society and non-governmental organizations; business leaders and business management organizations (BMOs); media and religious leaders. Figure 2 below shows the steps undertaken in the formulation and implementation of the Kisumu County Public Participation Policy.

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Figure 2: Steps in Kisumu County Public Participation Policy development process



## CHAPTER TWO: COUNTY CONTEXT

### 2.1 Overview

Kisumu County number 42 is one of the 47 counties established under Article 6(1) of the Constitution forming the territory of Kenya. Kisumu County is bordered by Homa Bay County to the South, Nandi County to the North East, Kericho County to the East, Vihiga County to the North West, Siaya County to the West and surrounded by the second largest freshwater lake in the world, Lake Victoria. Kisumu County covers approximately 567 Km<sup>2</sup> on water and 2085.4 Km<sup>2</sup> land area.

The county's strategic position serves as a gateway for Kenya into the rest of the Great Lakes region. It is located on the shores of Lake Victoria and serves as the main commercial and transport hub for the Western part of Kenya and the East African region. The county hosts the third largest city in Kenya, Kisumu city, which serves as the County's headquarters. The county also hosts the Lake Region Economic Bloc (LREB) and the East African Community (EAC) Lake Victoria Basin Commission. There are five major urban centers, namely Ahero, Katito, Muhoroni, Chemilil, and Maseno. Other emerging fast-growing centers include Awasi, Pap-Onditi, Holo, Kombewa and Sondu.

### 2.2 Administrative and political units

Administratively, the county is divided into 7 constituencies which share common boundaries and names with 7 of the 8 sub-counties, the eighth Kadibo sub-county was created by President Uhuru Kenyatta's administration and was gazetted on 29 October 2021, with the headquarters of the sub-county at Rabuur. It was split from Nyando Sub-county. The seven (7) Constituencies and sub-counties including Kisumu East, Kisumu West, Kisumu Central, Muhoroni, Nyando & Kadibo, Seme and Nyakach are shown in Table 1 below. The sub counties are further divided into 35 Wards and 70 Village Units.

*Table 1: Kisumu County administrative and political units by population and area*

Constituency	Population*	Area (km <sup>2</sup> )	Sub-county
Kisumu East	229,997	135.90	Kisumu East
Kisumu West	172,821	212.90	Kisumu West
Kisumu Central	174,145	32.70	Kisumu West
Muhoroni	154,116	667.30	Muhoroni
Nyakach	150,320	357.30	Nyakach
Nyando	161,508	413.20	Nyando & Kadibo
Seme	121,667	190.20	Seme

### 2.3 Physical and topographic features

The county's topography is undulating and characterized by Kano-Plains which is a flat stretch lying on the floor of the Rift Valley, the Nyabondo Plateau and the over-hanging huge granite rocks at Riat hills, Maseno and Seme areas. Kano Plains being predominantly black cotton soil, is poorly drained and unstable for agriculture though suitable for rice, horticulture and sugarcane production. Seme and the lower parts of Nyakach Sub-counties are dominated by lake sediments, commonly sand and clay soils and thus the population economic activity is fishing. Kisumu West Sub-county and upper-Nyakach are predominantly red- loamy soils suitable for agricultural production. The lake shores are generally swampy and offer fertile ground for horticulture and fish breeding.

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### 2.4 Population and demographic Profile

The population of the County according to the 2019 Kenya Population and Housing Census was 1,155, 574 persons with 560,942 (48.5 percent) males and 594,609 (51.5 percent) females. The county population is currently estimated at 1,227,702 and is projected to 1,484,366 by 2030. The average household size in the county is 3.8 compared to the national average of 3.9 with Nyando and Nyakach having sizes of 4.2 each with Kisumu Central being the lowest at 3.3. The County's average population density according to 2019 Kenya Population and Housing Census stands at 554 per sq. kilometre against the national average of 82 per sq. kilometre. The most densely populated Sub-County is Kisumu Central at 4,737 persons per square km while Muhoroni Sub-County is the least at 234 persons per square km.

According to the 2019 Kenya Population and Housing Census the population of street persons was 451 of which 315 were males and 136 were females. The county's 2019 population structure is typical of a population that is dominated by young persons with the categories between 0-9, 10-19 and 20-29 age groups having the largest populations of 288,735, 299,427 and 209,826 respectively. The cohort with the lowest population is 70-79 and 80+ years as shown in the Table 2 below.

*Table 2: Kisumu County Population Distribution by Age*

<b>Age Distribution (C 2019)</b>	
<b>Age category</b>	<b>Population</b>
<b>0-9 years</b>	288,735
<b>10-19 years</b>	299,427
<b>20-29 years</b>	209,826
<b>30-39 years</b>	153,081
<b>40-49 years</b>	85,557
<b>50-59 years</b>	52,613
<b>60-69 years</b>	38,263
<b>70-79 years</b>	19,419
<b>80+ years</b>	8,603

Source: Kenya National Bureau of Statistics (2019) 2019 Kenya Population and Housing Census: Volume IV Distribution of Population by Socio-Economic Characteristics, December 2019

The 2019 Kenya Population and Housing Census shows that there were a total of 39,929 persons with disability of who 23,580 were female and 16,349 were males. Table 3 below shows the distribution of the population aged 5 years and above by type of disability.

*Table 3: Distribution of Population aged 5 years and above by type of disability*

<b>Type of disability</b>	<b>Number</b>
<b>Visual</b>	17,606
<b>Mobility</b>	16,196
<b>Cognitive</b>	8,190
<b>Hearing</b>	7,291
<b>Self-care</b>	4,288
<b>Communication</b>	3,409

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Source: Kenya National Bureau of Statistics (2019) 2019 Kenya Population and Housing Census: Volume IV Distribution of Population by Socio-Economic Characteristics, December 2019

### 2.5 Education and literacy

The Kisumu County literacy levels are fairly high with 90.8% of the population aged 15+ able to read and 83.4% able to write while 81.1% of the population are able to read & write. Table 4 below shows the distribution of population age 3 years and above by highest level of education reached in Kisumu County.

*Table 4: Distribution of Population Age 3 Years and Above by Highest Level of Education Reached and Sex in Kisumu County*

Level of Education	Total	Male	Female
Total	<b>978,105</b>	<b>478,889</b>	<b>499,198</b>
Pre-primary	104,468	52,242	52,226
Primary	492,849	234,090	258,748
Secondary	258,761	127,868	130,889
TVET	73,246	36,108	37,137
University	45,701	26,912	18,787
Adult Education	741	365	376
Madrasa/Duksi	48	28	20
Don't know	1,989	1,128	861
Not states	302	148	154

Source: Kenya National Bureau of Statistics (2019) 2019 Kenya Population and Housing Census: Volume IV Distribution of Population by Socio-Economic Characteristics, December 2019

### 2.6 Information, Communication Technology (ICT)

ICT is a critical tool for producing, distributing and utilizing information and knowledge that in turn plays a great role in promoting public participation in decision making and governance and driving economic development. According to the 2019 Kenya Population and Housing Census a total 524,515 (49.4%) of individuals aged 3 years and above owned a mobile phone. More females (271,786) than males (252,715) owned a mobile phone. Generally, mobile phone penetration is high, and the coverage by the major service providers (Safaricom, Airtel and Telkom) is basically reliable. The use of internet and computers is however, low with only 253,426 (23.9%) using internet and 133,434 (12.6%) using computers. The ownership and usage of selected ICT equipment and services in Kisumu County is presented in Table 5 below.

*Table 5: Distribution of Population Age 3 years and Above Owning a Mobile Phone and using internet and computers by County and Sub County*

County/sub-county	Mobile phone ownership		Use of internet		Use of computers/ Laptop/ Tablet	
	Total	%	Total	%	Total	%
<b>County</b>	<b>524,515</b>	<b>49.4</b>	<b>253,426</b>	<b>23.9</b>	<b>133,434</b>	<b>12.6</b>
Kisumu East	109,698	54.2	58,879	29.1	29,987	14.8
Kisumu Central	97,762	61.6	69,939	44.2	41,096	26.0
Kisumu West	78,440	49.6	37,566	23.9	21,037	13.4
Seme	48,931	43.5	16,203	14.4	7,583	6.7
Muhoroni	61,248	43.4	21,854	15.5	10,428	7.4

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<b>Nyando</b>	67,104	44.9	26,699	17.9	12,813	8.6
<b>Nyakach</b>	61,332	43.8	22,286	15.9	10,490	7.5

Radio was the popular household asset owned by 65% of households, with households in rural sub counties accounting for a larger share of an average 68.9% (Seme (68.8%, Muhoroni (70.9%), Nyando (65.2%), Nyakach (70.7%)) compared to those in the city sub counties accounting for an average of 61.8% (Kisumu East 58.4%, Kisumu Central (63.8%) and Kisumu West (63.2%)). Other important ICT related assets owned by the households were Computers (9.8%), functional TV (45.1%), Analogue TV (6.5%) and internet (20.0%).

*Table 6: Percentage Distribution of Conventional Households by Ownership of Selected Household Assets by Area of County and Sub County*

<b>County/sub-county</b>	<b>Stand-alone Radio</b>	<b>Computers/ Laptop/ Tablet</b>	<b>Functional TV</b>	<b>Analogue TV</b>	<b>Internet</b>
<b>County</b>	<b>65</b>	<b>9.8</b>	<b>45.1</b>	<b>6.5</b>	<b>20.0</b>
<b>Kisumu East</b>	58.4	11.3	53.8	7.2	23.5
<b>Kisumu Central</b>	63.8	23.6	66.8	9.6	45.7
<b>Kisumu West</b>	63.2	8.9	44.0	6.6	18.5
<b>Seme</b>	68.8	3.5	27.3	4.1	7.3
<b>Muhoroni</b>	70.9	4.0	35.6	5.3	9.9
<b>Nyando</b>	65.2	5.3	36.8	5.6	11.3
<b>Nyakach</b>	70.7	4.2	32.7	5.2	8.6

## **CHAPTER THREE: LEGAL AND POLICY CONTEXT**

Kenya has evolved a broadly enabling constitutional, legal and policy environment for the promotion of public participation in governance, decision-making and development. The Constitution of Kenya recognizes public participation as a right, a principle and value of governance and a function of government at both national and county levels. The Kisumu County Public Participation Policy is therefore informed by, and aligned with various overarching county, national, regional and international legal and policy frameworks as described below.

### **3.1 International and regional legal and policy framework**

Article 2 (5) (6) of the Constitution of Kenya provides that the general rules of international law will form part of the laws of Kenya and that any treaty or convention ratified by Kenya will form part of the law of Kenya under the Constitution. Article 21(4) further requires the State to enact and implement legislation to fulfil its international obligations regarding human rights and fundamental freedoms. In this regard, Kenya has ratified several regional and international conventions, treaties and declarations, under which the human rights to participation and development are either directly or indirectly enunciated. These include the International Covenant on Civil and Political Rights (ICCPR) (Article 25); the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR); the Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW) (Articles 7 and 14); the Convention on the Rights of the Child 1989 (CRC) (Article 31); the International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD); the Convention on the Rights of Persons with Disabilities, 2006 (Articles 9, 19 and 29); Convention for the Safeguarding of the Intangible Cultural Heritage (2003); Convention on Biological Diversity; the African Charter on Human and People's Rights (Article 13); the African Charter on the Rights and Welfare of the Child (Articles 4 and 7); the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Articles 9 and 17); the African Charter for Popular Participation in Development and Transformation (1990); and the Treaty for The Establishment of the East African Community (1999). The Kisumu County Public Participation Policy integrates the norms and principles of international law, human rights and development.

Internationally, public participation and civic engagement have been long recognized and affirmed as vital instruments for addressing the challenges of poverty reduction and achieving internationally agreed sustainable development goals. Public participation is recognized as playing a crucial role in the promotion of democratic governance, the rule of law, social inclusion, economic development and the advancement of all human rights. The standard of participation, described in the Declaration on the Right to Development (DRD) of 1986, as 'active, free and meaningful', is considered the most robust articulation of participation in any international legal instrument. Active, free and meaningful participation moves beyond provision of information and consultation to authentic and empowered participatory governance. This requires creating opportunities for citizens to safely and freely influence decision-making at all stages.

The International Covenant on Civil and Political Rights (ICCPR) at Article 25 (a) provides that “every citizen will have the right and the opportunity ... and without unreasonable restrictions ... to take part in the conduct of public affairs, directly or through freely chosen representatives ...” The right to directly and indirectly participate in public life is important in empowering individuals and groups, and is one of the core elements of human rights-based approaches aimed at eliminating marginalization and discrimination. Participation

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rights are closely linked to other human rights such as the rights to peaceful assembly and association, freedom of expression and opinion and the rights to education and to information.<sup>13</sup>

In recent decades, several major United Nations summits, resolutions and international declarations have focused on the themes of participation and partnership in a wide range of international issues. Several of the UN resolutions concentrate specifically on the need for more participatory approaches to governance, focusing on partnerships among multiple stakeholders at both the national and international levels, including national governments, civil society organizations, non-governmental organizations, media, businesses and the private sector. For example, in its resolution A/RES/50/225, the General Assembly acknowledged the importance of undertaking a participatory approach to public administration as a catalyst for supporting the developmental process.<sup>14</sup>

The Economic and Social Council, in its resolution E/2006/99, articulated the importance of civic participation when it encouraged Member States to strengthen citizen trust in government by fostering public citizen participation in key processes of public policy development, public service delivery and public accountability.<sup>15</sup> Resolution 2006/17 on Social dimensions of the New Partnership for Africa's Development emphasized the fact that democracy, respect for all human rights and fundamental freedoms, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society, non-governmental organizations and the private sector are among the indispensable foundations for the realization of social and people-centred sustainable development.<sup>16</sup> The General Assembly in its resolution 60/34<sup>17</sup> further acknowledged and stressed the fact that building and strengthening the state capacity in participatory and transparent governance would not only help Member States to address development and other challenges but also help in ensuring participatory public administration's responsiveness to the needs of the people.<sup>18</sup>

### **3.2 Constitutional framework**

The Kisumu County Public Participation Policy is anchored on the Constitution of Kenya, 2010. The principle of public participation cuts across the entire labyrinth of the Constitution and its institutional and functional makeup. Public participation imbues all public affairs and binds both State and Non-State Actors (NSAs) in the governance and development of the nation. Article 1 of the Constitution vests all sovereign power in the people of Kenya which may be exercised either directly or indirectly through democratically elected leaders at the national and county levels. Article 10 of the Constitution identifies participation of the people and inclusivity as some of the binding national values and principles of governance. All the state organs, state officers, public officers and all persons are required to apply the principles and values of public participation in the application and interpretation of the Constitution; enactment, application and interpretation of laws; and

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<sup>13</sup> United Nations Human Rights Office of the High Commissioner. Equal participation in political and public affair. Available at: <https://www.ohchr.org/EN/Issues/Pages/EqualParticipation.aspx> [Accessed on April 28, 2020].

<sup>14</sup> UNGAS 50<sup>th</sup> Session Resolution, A/RES/50/225 on Public administration and development, 1 May 1996

<sup>15</sup> Economic and Social Council (2006), Resolutions and Decisions of the Economic and Social Council, E/2006/99

<sup>16</sup> Economic and Social Council (2006), Resolutions and Decisions of the Economic and Social Council E/2006/99, Resolution 2006/17 on Social dimensions of the New Partnership for Africa's Development, The Economic and Social Council, 40th plenary meeting 26 July 2006

<sup>17</sup> UNGAS Sixtieth Session Resolution A/RES/60/34 on Public administration and development adopted by the General Assembly on 30 November 2005

<sup>18</sup> United Nations. (2008). People Matter: Civic Engagement in Public Governance - World Public Sector Report 2008. Department of Economic and Social Affairs, New York, pg. 27.

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making and implementation of public policy and decisions including planning, public finance management and service delivery. The Constitution under Article 10 (1) (a, c, d) further identifies the principles and values of democracy, the rule of law, good governance, integrity, transparency, accountability and devolution of power as key pillars for achieving sustainable development. The Constitution stresses the citizens' right to information (Art. 35), the freedom of association (Art. 36) and of assembly & demonstration (Art. 37) as well as of movement and residence (Art. 39). Article 174 (c) provides that one object of devolution is: "to give powers of self-governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them."<sup>19</sup>

Articles 118, 119 and 196 of the Constitution particularly sets key requirements for Parliament and the County Assemblies to provide frameworks for public participation in legislative processes.<sup>20</sup> Chapter Twelve applies the right to participation explicitly to public finance management, which will be based on principles of "openness and accountability" (Art. 201). Chapter Thirteen ascertains the Public Service's obligation to be transparent and provide "timely, accurate information" to the public (Art. 232 (1)(f)).

The Constitution provides that the marginalized and minorities have the right to fully participate in the integrated social and economic life of Kenya as a whole and in the counties in particular. County governments should enact legislation that promote the interests and rights of minorities and marginalised communities in county development. Additionally, there should be a commitment to affirmative action and equal opportunity if participation in governance and development is to be realized by all individuals and groups of people regardless of bias factors such as ethnicity, race, colour, religion, sex, age, genetic information, or disability.

The Fourth Schedule Part 2 paragraph 14 of the Constitution gives County Governments the power to ensure and coordinate the participation of communities in governance at the local level and assisting communities to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level. This requires the county governments to create enabling mechanisms for ensuring and coordinating the participation of communities and locations in governance; and to build capacity of communities to effectively participate in the exercise of county government's functions and powers. The citizen may participate in the identification of community needs, development planning for the county; county budget preparation and validation; implementation of development projects at the local level and in the actual monitoring and evaluation of projects or programs being implemented through public funds in the county.

Overall, the Constitution of Kenya 2010 opens up several spaces and opportunities for citizens to exercise their popular sovereignty through participation in governance and development at national and county levels as shown in Table 7 below.

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<sup>19</sup> Constitution of Kenya, Article 174 (c)

<sup>20</sup> Constitution of Kenya, 2010, Articles 118, 119 and 196

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*Table 7: Key constitutional provisions underpinning public participation policy*

Focus Area	Relevant Constitutional provisions
<b>Exercise and protection of people's sovereignty</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 1 (1) and (2) provides that all sovereign power belongs to the people of Kenya and that the people may exercise their sovereign power either directly or through their democratically elected representatives. The sovereign power of the people is delegated to constitutional institutions, parliament and county legislative assembly, the national and county executive and the judiciary and is exercised at the national and county levels.</li> <li><input type="checkbox"/> Article 249 (1) (a) provides that one of the objects of the constitutional commissions and independent offices is to protect the sovereignty of the people.</li> </ul>
<b>Participation in governance and development</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 10 (a) (c) (d) provides for sharing and devolution of power, the rule of law, democracy, participation of the people, good governance, transparency, integrity and accountability and sustainable development</li> <li><input type="checkbox"/> Article 174 provides for the objects of devolution including:               <ul style="list-style-type: none"> <li>(a) to promote democratic and accountable exercise of power</li> <li>(c) to give powers of self-governance to the people and enhance their participation in the exercise of the powers of the state and in making decisions affecting them</li> <li>(d) recognize the powers of the communities to manage their own affairs and to further their development</li> </ul> </li> </ul>
<b>Participation in legislative processes [including international law making]</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Art 2 (5), (6) incorporates rules of international law into Kenyan law, as well as treaties and conventions ratified by the state</li> <li><input type="checkbox"/> 21 (4) requires the State to enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.</li> <li><input type="checkbox"/> Articles 118 (1) and 196 (1) of the Constitution require Parliament and the county legislative assemblies respectively, to facilitate public access, participation and involvement in the legislative and other businesses of Parliament and the assemblies and their committees.</li> <li><input type="checkbox"/> Article 119 (1) accords every person the right to petition Parliament to consider any matter within its authority including enactment, amendment, or repeal of any legislation.</li> </ul>
<b>Participation in public policy making</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 19 (1) provides that the Bill of Rights is the framework for social, economic and cultural policies.</li> <li><input type="checkbox"/> Article 232 (1) (d) provides for involvement of the people in the process of policy making as one of the values and principles of public service.</li> </ul>
<b>Participation in cultural affairs</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 11(2) provides that the state will promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.</li> </ul>
<b>Duties and rights of citizens</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 18 (e) provides that Parliament will enact legislation prescribing the duties and rights of citizens.</li> </ul>
<b>Equal opportunity</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 27 (3) provides that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.</li> </ul>
<b>Freedom of opinion Freedom of expression</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 32 (1) provides that every person has the right to freedom of conscience, religion, thought, belief and opinion.</li> <li><input type="checkbox"/> Article 33 (1) (a) and (b) provides that every person has the right to freedom of expression including freedom to seek, receive or impart information or ideas and artistic creativity.</li> </ul>
<b>Access to public information</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 35 (1) (3) provides that every citizen has the right of access to information held by the state; and held by another person. The article further requires the state to publish and publicise any important information affecting the nation.</li> </ul>
<b>Freedom of association</b>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Article 36 (1) provides that every person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association.</li> </ul>

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<b>Participation in political processes</b>	<ul style="list-style-type: none"> <li>□ Article 38 provides that every person has the right to: form, participate in forming a political party; participate in the activities of, or recruit members for a political party; free, fair and regular elections based on universal suffrage and free expression of his or her will for any elective office of any elective public body or political party; register as a voter; vote by secret ballot in any election or referendum; and be a candidate for public office or office within a political party and if elected to hold office.</li> <li>□ Article 37 provides that every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities.</li> </ul>
<b>Participation in management, protection and conservation of the environment</b>	<ul style="list-style-type: none"> <li>□ Article 69 (1) (d) requires the state to encourage public participation in the management, protection and conservation of the environment and to ensure the equitable sharing of the accruing benefits.</li> </ul>
<b>Participation in public finance management including budget making</b>	<ul style="list-style-type: none"> <li>□ Article 201 (b) provides for openness and accountability including public participation in public finance matters</li> <li>□ Article 221(5) provides that in discussing and reviewing estimates, the committee will seek representations from the public and recommendations will be taken into account</li> <li>□ Article 20 (5) (b) requires the state in allocating resources, to give priority to ensuring the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances, including the vulnerability of particular groups or individuals</li> </ul>
<b>Access to basic services and rights</b>	<ul style="list-style-type: none"> <li>□ Article 43 guarantees the right of every person to health and health care including reproductive health care and emergency medical care, education, food, housing and sanitation, safe water and social security.</li> <li>□ Article 46 (1) (a) and (b) provides that consumers have the right to goods and services of reasonable quality and to the information necessary for them to gain full benefit from goods and services</li> <li>□ Articles 53 to 57 provide for the rights of special groups to have reasonable access to water, health services, education, employment and infrastructure including transport, information, appropriate communication materials and devices, care and assistance.</li> <li>□ Article 6 (3) requires national state organs to ensure reasonable access to their services in all parts of the Republic in so far as they are appropriate.</li> <li>□ Article 129 (2) provides that the executive authority of the Republic must be exercised in a manner compatible with the principle of service to the people of Kenya, and for their wellbeing and benefit.</li> <li>□ Article 174 (h) requires state organs to facilitate the decentralization of their functions and services from the capital.</li> <li>□ Article 21 (2) provides that the State will take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43.</li> <li>□ Article 47 (1) (2) provides that every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair; and that if a right has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.</li> </ul>
<b>Fair administration and quality public service</b>	<ul style="list-style-type: none"> <li>□ Article 232 (1) Values and principles of public service includes: <ul style="list-style-type: none"> <li>(a) involvement of the people in policy making</li> <li>(e) accountability for administrative acts</li> </ul> </li> <li>□ (f) transparency and provision to the public of timely and accurate information</li> <li>□ Article 159 (1) and (2) (c) of the Constitution provides that the judicial authority derives from the people and recognizes the place of alternative dispute resolution mechanisms.</li> <li>□ Article 60 (1) (g) encourages communities to settle land disputes through recognized local community initiatives consistent with Constitution.</li> </ul>
<b>Participation in judicial processes</b>	<ul style="list-style-type: none"> <li>□ Article 67 (1) (f) also provides that one of the functions of the National Land Commission is to encourage the application of alternative dispute resolution mechanisms in land conflicts.</li> </ul>

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<b>Participation in local governance</b>	<ul style="list-style-type: none"> <li>□ Article 174 (c) (d) of the Constitution gives powers of self-governance to the people; recognizes the right of communities to manage their own affairs and further their development; and seeks to enhance the participation of the people in exercise of the powers of the state and in making decisions affecting them.</li> <li>□ The Fourth Schedule Part 2 (14) of the Constitution tasks the County governments to ensure and coordinate the participation of communities and locations in governance at the local level.</li> </ul>
<b>Participation in the governance of urban areas and cities</b>	<ul style="list-style-type: none"> <li>□ Article 184 (1) (c) states that ‘national legislation will provide for the governance and management of urban areas and cities and will in particular (c)’provide for participation by residents in the governance of urban areas and cities’</li> </ul>
<b>Participation and inclusion of the marginalized, disadvantaged and minority groups in development</b>	<ul style="list-style-type: none"> <li>□ Article 10 of the Constitution outlines such principles as equality, equity, fair treatment, human dignity, inclusiveness, protection of marginalized, non-discrimination and human rights as key ingredients of the Constitution of Kenya 2010.</li> <li>□ Articles 53 to 57 provide for the rights of special groups, namely children, persons with disability, youth, minorities and marginalized groups and older members of society to fully participate in the affairs of the society and to representation in governance, social, economic, political, and other spheres of life.</li> <li>□ Article 56 (a) requires the state to put in place affirmative action programmes to ensure that minorities and marginalised groups participate and are represented in governance and other spheres of life</li> <li>□ Article 27 (6) provides that the state will take legislative and other measures, including affirmative action programmes and policies designed to dress any disadvantage suffered by individuals or groups because of past discrimination.</li> <li>□ Article 174 (e) provides that one of the objects of the devolved government is to protect and promote the interests and rights of minorities and marginalised communities.</li> <li>□ Article 27 (4) provides that the state will not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, vulture, dress, language or birth.</li> <li>□ Article 21 (3) vests in all State organs and all public officers the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.</li> <li>□ Article 20 (5) (b) requires the state in applying any right under Article 43 and in allocating resources, to give priority to ensuring the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances, including the vulnerability of particular groups or individuals;</li> </ul>

### **3.3 Legal Framework**

In line with the Constitution, there are a number of legislative instruments and guidelines that explicitly provide for public participation in Kenya. These include the County Government Act, 2012, Public Finance Management Act, 2012; Urban Areas and Cities Act, 2011; Inter- Governmental Relations Act, 2012; Public Procurement and Disposal Act 2015; the Public-Private Partnerships Act, Kisumu County Public participation Act, 2015, the Kisumu County Administration (Village Units) Act, 2019, Public Finance Management Regulations 2014, Guidelines on Performance Contracting in County Government, Guidelines on County Integrated Monitoring and Evaluation System (CIMES) and Handbook on County Performance Management Systems among others.

### **3.3.1 National legal framework**

Broadly, Section 91 of the County Governments Act, 2012 as read together with section 22 of the Urban Areas and Cities Act, 2011 and Section 137 of the Public Finance Management Act, 2012 require the County Governments to facilitate the establishment of structures for citizen participation, including budget preparation and validation forums, monitoring service delivery as well as deliberating on county legislations and plans. These instruments broadly provided the national legal framework for the policy.

**The County Government Act, 2012** defines *the public* when used in relation to public participation as: (a) the residents of a particular county; (b) the rate payers of a particular city or municipality; (c) any resident civic organisation or non-governmental, private sector or labour organization with an interest in the governance of a particular county, city or municipality; and (d) non-resident persons who because of their temporary presence in a particular county, city or municipality make use of services or facilities provided by the county, city or municipality. Section 6 of the Act states that in exercising its powers or performing any of its functions a county government will ensure efficiency, effectiveness, inclusivity and participation of the people. Section 87 of the Act outlines the principles of citizen participation in county governance as follows:

- (a) timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;
- (b) 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;
- (c) protection and promotion of the interest and rights of minorities, marginalised groups and communities;
- (d) legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;
- (e) reasonable balance in the roles and obligations of county governments and non-state actors in decision-making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight;
- (f) promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development; and
- (g) recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight.

Section 91 of the County Governments Act identifies modalities and platforms for citizen participation. These obligate the county government to facilitate the establishment of structures for citizen participation among them information communication technology based platforms, town hall meetings, budget preparation and validation fora, notice boards that announce jobs, appointments, procurement, awards and other important announcements of public interest, development project sites, avenues for the participation of peoples' representatives including but not limited to members of the Parliament (the National Assembly and Senate) and establishment of citizen fora at county and decentralized units.

Section 96 of the Act establishes the modalities of access to information and requires every county government and its agencies to designate an office for purposes of ensuring access to information. The Act obligates the county governments to conduct civic education as part of enhancing public participation. Sections 105 and 115 of the Act obligates the county governments to ensure 'meaningful engagement of

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citizens in the planning process. Section 119 requires the County Executive Committee (CEC) to establish Citizen’s Service Centres at the County, Sub-County, Ward and any other decentralized levels to ‘serve as the central office for the provision of service by the county in conjunction with the national government of public services to the county citizens.

**The Public Finance Management (PFM) Act, 2012** provides the framework for public participation in public financial management matters and in particular: the formulation of the County Fiscal Strategy Papers (CFSP), County Budget Estimates; County Integrated Development Plans (CIDP). In Section 137 of the Act provides for the setting up of County Budget and Economic Forum (CBEF). The CBEF provides for a platform for consultation on the preparation of County plans, County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the County. These consultations also extend to matters relating to budgeting, economy and financial management at the County level. The CBEF is specifically designed to ensure participation of the public in the county’s budgeting process. The Act further provides for the procedure to be followed in order to ensure participatory budgeting and defines the role of the County Government in promoting public participation. The Public Finance Management Act, 2012 provides for the establishment of a County Budget and Economic Forum (CBEF) in each county. The CBEFs are intended to provide a platform for the county and public to consult on areas such as preparation of a County Fiscal Strategy Paper, preparation the County Budget Review and Outlook Paper (BRPOP) and other matters relating to budgeting, the economy and financial management at the county level.

**The Urban Areas and Cities Act, 2011** makes provisions for public participation. Section 2 of the Act provides for a Citizen Fora as a forum for citizens organized for purposes of participating in the affairs of an urban area or a city. In Section 3 (c), it identifies ‘participation by the residents in the governance of urban areas and cities.’ In Section 11 (d), it establishes ‘institutionalized active participation by its residents in the management of the urban area and city affairs’ as one of the principles of governance and management of urban areas and cities. The Second Schedule of the Act further elaborates the rights of, and participation by residents in affairs of their city or urban area. It obligates the authorities in an urban area or city to ‘develop a system of governance that encourages participation by residents in its affairs’ through creating ‘appropriate conditions for participation in the preparation, implementation and review of the integrated development plan, the establishment, implementation and review of its performance management system, the monitoring and review of its performance, including the outcomes and impact of its performance, the preparation of its budget and making of strategic decisions relating to delivery of service.

*Table 8: Summary of Relevant Legal Provisions on Public Participation*

Reference Legislation	Legal Provisions
<b>County Government’s Act, 2012</b>	
Section 15	A person has a right to petition a county assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation
Section 27	The electorate in a county ward may recall their member of the county assembly before the end of the term of the member on any of the grounds specified in subsection (2). i.e. violation of chapter 6 of the constitution or mismanagement of public resources and conviction of an offence under the elections Act
Section 28	A recall under section 27 will be initiated by a petition which will be filed with the IEBC and which will be: - a) in writing b) signed by a petitioner who- i) is a voter in the ward in respect of which the recall is sought; and b) was registered to vote in the elect in respect of which the recall is sought ...
Section 88	88 (a-g) Principles of public participation; 88 (1) (2) (3) Right to petition the county government; form of petition and county legislation on petitions

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Section 90	Section 90(1) provides that a County government may conduct a local referendum on among other local issues- a) county laws b) planning and investment decisions affecting the county for which a petition has been raised and duly signed by at least twenty five percent of the registered voters where the referendum is to take place
Section 91	The county government will facilitate the establishment of modalities, and platforms for citizen participation.
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 will designate an office for ensuring access to information
Section 100	Each county will implement an appropriate civic education programme and establish a civic education unit in this regard
Section 101	Subject to section 100, county legislation will provide the requisite institutional framework for purposes of facilitating and implementing civic education programmes under this part.
<b>Urban Areas and Cities Act, 2011</b>	
Section 11(d)	The governance and management of urban areas and cities will be based on the following principles ... (d) institutionalized active participation by its residents in the management of the urban area and city affairs
Section 21 & 22	Overarching theme is participation by the residents in the governance of urban areas and cities. Section 22 (1) of the Act provides for Citizen Fora and that subject to the second schedule, residents of a city, municipality or town may (a) deliberate and make proposals to the relevant bodies on- (i) The provision of services (ii) Proposed issues for inclusion in county policies and county legislation
Second schedule (1)	Classification of cities and towns by services
Second schedule (2)	The Second Schedule of the Act provides for the rights of, and participation by residents in affairs of their city or urban areas
<b>Public Finance and Management Act 2012</b>	
Section 2	Interpretation of publicize, the general nature of the document, how it may be accessed by members of the public among other variations
Section 137	Establishment of forum for consultation by county governments i.e. the Budget and economic forum
Section 207	County Governments are required to establish structures, mechanisms and guidelines for citizen participation. (1) Regulations may provide for participatory governance for purposes of this Act. (2) The following matters may be provided for- (a) Structure for participation (b) Mechanisms, processes and procedures for participation (c) Receipt, processing and consideration of petitions and complaints by members of the community (d) Notification and public comments procedures (e) Public meetings and hearings (f) Special needs of people who cannot read or write, people with disabilities, women and other disadvantaged groups (g) Matters with regard to which community participation is encouraged (h) The rights and duties of members of community and (i) Any other matter that enhances community participation
<b>Inter- Governmental Relations Act, 2012</b>	
Section 29	The framework for public participation in the transfer or delegation of powers, functions or competencies by either level of government under this Part will be provided by regulations
<b>Public Procurement and Disposal Act 2015</b>	
Sections 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.

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### **3.3.2 Legal and Institutional Framework for Public Participation in Planning, Budgeting and Monitoring**

The minimum legal requirements and framework for effective and meaningful participation at the county level are presented in Table 9 below. These include public participation in policy making, planning and budgeting and monitoring.

*Table 9: Minimum legal requirements for public participation at the County Level*

<b>Minimum Requirements</b>	<b>Reference in Legislation</b>
<b>Overall legal and institutional framework</b>	
1. County Governments (CGs) should create structures, mechanisms and guidelines for citizen participation. The structures and guidelines should ensure participation is open to all without discrimination and have safeguards against domination of the consultations by one group (whether politicians, elites or CSOs).	CGA Section 115 & PFMA Section 207
2. Each County Assembly will develop laws and regulations giving effect to the requirement for effective citizen participation in development planning and performance management within the county and such laws and guidelines will adhere to minimum national requirements.	CGA Section 115 (2) and 47
3. CGs and its agencies will designate an office or officer for purposes of ensuring access to information and will enact legislation to ensure access to information for which reasonable fees may be imposed.	CGA Section 96 and CoK Art. 35.
4. CGs should promote access to information for minorities, marginalised groups and communities.	CoK, CGA, PFM Act (Specifically Article 35 and 254:3)
5. CGs should establish mechanisms to facilitate public communications and access to information with the widest public outreach using media, which may include: television stations, information communication technology centres, websites, community radiostations, public meetings; and traditional media.	CGA Section 94 and 95.
6. CGs should develop city-level interactive websites on which planning information will be posted and feedback received.	Urban Areas and Cities Act 2011.
7. CGs should create legislation to provide the institutional framework for facilitating civic education and establish a civic education unit.	CGA Section 100-101.
8. County Governors are responsible for promoting and facilitating citizen participation in the development of policies and plans, delivering services, and for submitting an annual report to the County Assembly on citizen participation in the affairs of the County Government.	CGA, Section 30 and 92.
9. CGs should establish County Budget and Economic Forums (CBEF) as a “means for consultation” by the county government on plans and budgets.	PFM Act Section 137

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10. CGs should develop complaints (Grievance Redress Mechanisms) which are followed up and have the confidence of citizens. These should be based on common standards, with clear regulations and operational mechanisms.	CGA Section 47 and 59, PFM Act Section 48 and 139.
11. County Government Authorities, agencies and agents have a duty to respond to petitions and challenges from citizens. Public authorities should promote accountability; ensure that expenditure of public funds is subject to effective oversight; and promote informed debate on issues of public interest.	CGA Section 89
12. The County Governor should publicly deliver an annual State of the County Address.	CGA Section 30K.
<b>Participatory Budgeting</b>	
13. County Governors are responsible for ensuring citizen participation in the planning and delivery of services.	CoK Art. 232 and CGA Section 115.
14. Citizens should be engaged in preparation of integrated development plans. Citizens should be represented in the boards of cities and municipalities including representatives of professional associations, private sector, registered associations of informal sector, neighbourhood associations and associations of urban areas and cities.	Urban Areas and Cities Act (Section 22 and Second Schedule Clauses 1 and 2).
15. County planning should serve as a basis for engagement between county governments, citizens, interest groups and other stakeholders.	CGA Section 102.
16. The County Planning Unit (CPU) will be responsible for ensuring meaningful citizen engagement in planning processes through a 5 year County Integrated Development Plan (CIDP); a 10 year County Sectoral Plan; a 10 year County Spatial Plan; and a Cities and Urban Areas Plan.	CGA Section 105.
17. The County Executive Committee (CEC) member for finance should ensure citizen participation in planning and budgeting.	PFMA Section 125.
18. The County Budget circular should prescribe the manner in which the public will participate. Participation could take various forms including but not limited to direct participation, written comments and through representatives.	PFMA Section 128.
19. The public should be consulted in preparation of the County Fiscal Strategy Paper.	PFMA Section 117.
20. The Accounting Officer of an urban area or city should ensure that the public participates in the preparation of the annual budget estimates/strategic plan.	Urban Areas and Cities Act Section 21, draft Urban Policy pg. 18, PFMA Section 175.
21. The relevant committee of the County Assembly should take into account public views in considering budget estimates.	PFMA Section 131.
<b>Participatory Monitoring</b>	
22. Each county should develop the Performance Management Plan to provide for mechanisms of monitoring the work of the county.	CGA Section 47 and 59, PFM Act Section 48 and 139.

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23. Each County should establish County Public Service Boards. The CPSBs should be responsible for (i) reporting to the County Assembly, (ii) informing and educating county public officers, (iii) advising the county governments on the implementation and monitoring of the national performance management system which should involve citizens facilitated by the County Executive Committee.	CGA Section 57-59.
<b>Financial Transparency – Public Financial Management (PFM)</b>	
24. Various budget documents (e.g. Budget estimates and approvals, fiscal strategy paper, Audited accounts, Annual Reports, Quarterly Report, Pre and post- election reports) should be published and publicized within laid out times in user friendly formats (e.g. have executive summary and narrative) so the citizens can provide meaningful input and engagements.	PFMA Section 48, 123(3), 139 and 166(4c).
25. Municipal and city boards should make public their annual audited financial statements; to be published in two major public dailies, as well as on Board’s website, and in a conspicuous place at the Board’s office.	The Urban Areas and Cities Act, Section 48.

### 3.3.3 County Legal Framework

At the county level, the Kisumu County Public Participation Act, 2015 gives effect to the Constitution and provides for the establishment of modalities and platforms for public participation in the governance of the county. Section 5 of the Act establishes the Office of Public Participation mandated to facilitate and coordinate public participation in governance of the county including communities, organizations and citizens. The Act also provides for decentralization of public participation structures to sub county and ward levels. The Kisumu County Public Participation Act, 2015 however, lacks clear statement on the duties of the county government, rights and related provisions and defined minimum standards of what is considered adequate, effective and meaningful public participation.

Some of the gaps or issues identified in relation to the Kisumu County Public Participation Act, 2015 and which may require consideration in the amendment of the Act in order to strengthen public participation function include but not limited to the following:

- a) Structure and nature of the Office of Public Participation intended in Part II of the Act on establishment, composition, remuneration, funding, and functions of the Office as an autonomous body with its governance structure is unconstitutional and unimplementable in the current County governance structure;
- b) Responsibilities of county and decentralized units in relation to Articles 176 (2), 184 and 186 & 4<sup>th</sup> Schedule Part 2 (14), 187, 189, County Government Act Section 48, Urban Areas and Cities Act 2011;
- c) Clear inter-governmental and inter-agency coordination procedures within the Act.

Overall, given the fact that the Kisumu County Public Participation Act, 2015 predates the policy, it will be imperative to undertake an indepth review of the Act against the policy to inform its

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amendments or repeal to provide an effective framework for meaningful public participation in Kisumu County.

**The Kisumu County Administration (Village Units) Act, 2019** provides for the establishment of Village Units and the effective coordination, management and supervision of the general administrative functions in the Village Units including ensuring and coordinating the participation of communities in governance within the village units.

### 3.4 Key planning and budget documents requiring public information and input

The county decision making processes including planning and budget process produces several documents that the public need to be familiar with and have their input for effective and meaningful participation. These key documents are highlighted in Table 10 below.

*Table 10: Key planning and budget documents requiring public information and input*

S/No.	Planning and Budget Document	Who produces the document?	Reference legislation	Contents of the Document	Date Due in the County Assembly	Deadline for Action by the CA	Rationale for public release	Publication Information / Input by the Public
1.	Budget Circular	The County Executive Member for Finance	PFMA (2012) Section 128 (2)	<ul style="list-style-type: none"> <li>• Timelines for various activities;</li> <li>• Procedures for review and projection of revenues and expenditures;</li> <li>• Key policy areas to be taken into consideration;</li> <li>• Procedures for public consultation; and</li> <li>• Format for budget documentation.</li> </ul>	30 <sup>th</sup> August (County)	- <b>Action:</b> For the information of members especially in scheduling their annual calendar.	The document is critical for the public to know when, where and how to participate in the budget process.	To be publicized within 7 days of publication.

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2.	County Integrated Development Plans (CIDP)/ Annual Development Plans	Prepared by CEC Member for Planning, with input from the County Budget and Economic Forum (C-BEF) and departments.	PFMA (2012) Section 126(3)	<ul style="list-style-type: none"> <li>• Strategic priorities for the medium term;</li> <li>• Programmes to be delivered;</li> <li>• Significant capital expenditure; and</li> <li>• Grants, transfers and subsidies to be made on behalf of County Governments.</li> </ul>	1 <sup>st</sup> September	No date provided but should be within 14 days <b>Action:</b> To debate and approve with or without amendments.	The plans will go through three main stages: a) Formulation by the County Planning Unit b) Approval by the County Executive c) Tabling and approval in the CA. In each of these stages there is need to share with the public the documents whether as draft especially in stage (a) and (b).	14 days before adoption in the County Executive and then tabling in the CA. To be publicized within 7 days of tabling in the CA and within 7 days after approval in the CA.
3.	Budget Review and Outlook Paper (BROP)	Prepared by the County Treasury	PFMA (2012) Section 118 (1), (2) (a) (b) (c) (d), (3), (4)	<ul style="list-style-type: none"> <li>• Actual fiscal performance in the previous year;</li> <li>• Updated economic and financial forecasts from the recent Budget Policy Statement;</li> <li>• Identification of broad policy priorities to be implemented by the CG in the medium term;</li> <li>• Provide indicative available resources (i.e. ceilings) to fund CG priorities— in consultation with CRA and the National Treasury; and</li> <li>• Reasons for any deviations from the financial objectives in the County Fiscal Strategy Paper (C-FSP).</li> </ul>	30 <sup>th</sup> September	- <b>Action:</b> For Information of Members.	The County Treasury will prepare the BROP and it is important that before they table it in the County Executive the Public be given an opportunity to comment.	14 days before tabling in the county executive committee (with 7 days allowed for input). To be publicized 7 days after tabling in the CA.

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4.	County Fiscal Strategy Paper (CFSP)	Prepared by County Treasury. Prepared in time for review and approval by the CEC.	PFMA (2012) Section 117 (1), (6), (8)	<ul style="list-style-type: none"> <li>• Broad strategic priorities and policy goals— medium term and long term.</li> <li>• Outlook on expenditures, revenues and borrowing for the medium term.</li> </ul>	28 <sup>th</sup> February	15 <sup>th</sup> March <b>Action:</b> To debate and approve.	<p>There is need that before the County Executive approves the CFSP, the public be given an opportunity to input. Thereafter when it is tabled in the county assembly it should be made public.</p> <p>Finally what the CA approves (withor without amendments) should be made public too for greater certainty.</p>	7 days before tabling in the County executive. To be publicized 7days after tabling in the CA.
5.	Debt Management Strategy	Prepared by County Treasury	Section 123(1)(3) of the PFMA, 2012	<ul style="list-style-type: none"> <li>• The total stock of debt as at the date of the statement;</li> <li>• The sources of loans made to the county government;</li> <li>• The principal risks associated with those loans;</li> <li>• The assumptions underlying the debt management strategy; and</li> <li>• An analysis of the sustainability of the amount of debt, both actual and potential.</li> </ul>	28 <sup>th</sup> February	- <b>Action:</b> For information of members in decision making on the liabilities of the county.	-	-

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6.	Budget Estimates (Revenue and Expenditure)	Prepared County Treasury and Department s/county government entities	PFMA (2012) Section 129, (1), (2), (3), (4), 131(1) (5)	<ul style="list-style-type: none"> <li>Details of all planned development and recurrent expenditures of the government. Also the estimated revenues by source and explanation of strategies for deficit financing.</li> </ul>	30 <sup>th</sup> April	30 <sup>th</sup> June <b>Action:</b> To debate and approve with or without amendments To pass the appropriations bill to authorise withdrawals from the County Revenue Fund.	The public need to see what is tabled in the CA. This should also be complemented by clear dates (Not later than 30th May) as to when the public can give feedback to the departmental committees (on sector specific matters) or to the Budget and Appropriation Committee.	7 days after tabling in the CA with 14 days of public input. To be publicized 7 days after tabling in the CA.
7.	Appropriation Act	County Assembly	PFMA (2012) Section 131 (1) (5)	The appropriation Bill authorises the withdrawal from the County Revenue Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill.	30 <sup>th</sup> June	-	Once all has been discussed and the final budget approved it should be made public via the appropriations act and	To be publicized 7 days after approval in the CA.
8.	Cash flow projections	County Treasury	PFMA (2012) Section 127 (1)	Annual cash flow projections for the next financial year	15th June			
9.	Supplementary Budget documents	County Treasury and County Assembly	Section 135 (1) of PFMA 2012	Revised budget estimates.	On need basis			14 days before tabling in the CA. 7 Days after tabling in the CA.
10.	Finance Act / Finance Bill	The CEC-MFand County Assembly	PFMA (2012) Section 133	Taxation and other revenue raising measures of the county government.	30th September (within 90 days)	- <b>Action:</b> To debate and approve with or without amendments		14 days before tabling in the CA. To be publicized 7 days after approval in the CA.

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11.	Expenditure Review Reports	Departments, Treasury and Office of the Controller of Budget	Article 228(4)(6)of the Constitution, Section 166 (1)(4) of the PFMA	An in-depth analysis on specific sectors to establish the progress (or lack of it) by the county.	No Specific Date	- Action: For information of members.	-
12.	Audit Reports	National Audit Office	Article 226(3) & Article 229 (4)(a) of the Constitution, Section 48 of the Urban Areas and Cities Act, 2011	An independent opinion on the use of public funds in the county (both the county executive and county assembly).	31st December	3 months Action: To debate and decide on what actions should be taken.	-

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### 3.5 Policy Framework

The formulation of the Kisumu County Public Participation Policy, 2023 is informed by a number of national policy frameworks including the Kenya Vision 2030.

The overarching national policy framework, the Kenya Vision 2030 under the political pillar aims to realize by 2030 “*a democratic political system that is issue-based, people-centred, result-oriented and accountable to the public*”. The Kenya Vision 2030 envisages a political system that is responsive to the needs and rights of citizens, whose participation in all public policies and resource allocation processes is both fully appreciated and enabled. It emphasizes an open and transparent system that permits the free flow of information, and leadership accountability to citizens. The Kenya Vision 2030 therefore undertakes to promote, among other things:

- a) Individual and community participation in social activities and to influence decision-making.
- b) Public access to information and data;
- c) Formal and informal civic education and action programmes to widen knowledge and participation among citizens, leading to an informed and active citizenry;
- d) Inclusion of women and disadvantaged groups in electoral and political processes; and
- e) Open engagement between government and civil society, as well as the free flow of information (e.g. Through better and continuous engagement with the media)

Although not approved and published as a policy document, the Draft Kenya Policy on Public Participation, 2018 provides essential insights to inform the formulation of the Kisumu County Public Participation Policy 2023. The Draft National Policy on Public Participation, 2018 proposed a framework for the management and coordination of public participation in the country for the fulfilment of the constitutional requirement for citizens’ engagement in governance and development at national and county levels. The Figure below outlines the thematic focus areas of the proposed National Policy on Public Participation, 2018 .

Figure 3: The Focus areas of the Kenya National Public Participation Policy



Source: Office of the Attorney General & The Department of Justice (2018), Kenya Draft Policy on Public participation September, 2018

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**The County Public Participation Guidelines, 2016** published by the Ministry of Devolution and Planning and the Council of Governors provides the mechanism for public participation practice in county governance in line with Part VIII of the County Government Act 2012. The guidelines are to be applied in relation to the relevant laws, regulations and guidelines including but not limited to the Constitution of Kenya; the County Government Act 2012; the Public Finance Management Act 2012; the Urban Areas and Cities Act 2011; the Intergovernmental Relations Act 2012; the Public Finance Management Regulations 2014; Guidelines on Performance Contracting in County Government; the Guidelines on County Integrated Monitoring and Evaluation System (CIMES); and Handbook on County Performance Management Systems.

The Guidelines offer a practical approach for county governments to actively engage the public in policy making and planning, budgeting, implementation, monitoring and evaluation and seeking redress through public petitions and referenda. The Guidelines outline the overall county government responsibility to facilitate and report on public participation through the various departments and agencies of the county at the county level and all levels of decentralization (Sub-county, ward, village, urban and city areas), and in the case of the County Assembly, the responsibility of the speaker of the County Assembly and Chairpersons of various Committees of the House. The guidelines further layout the duties and responsibilities of members of the public in public participation; conditions for meaningful public participation; specific content areas and the mechanisms to be used in engaging the public; mechanisms for petitions, compliments/complaints, grievances and redress; and monitoring, evaluation, reporting and learning.

At the county level, the Kisumu County Integrated Development Plan (2023-2027) aims to improve access to public services, feedback mechanism and participatory development. The Plan prioritizes public participation and seeks to ensure effective facilitation and coordination of public participation in governance at all level. Specifically, the KCIDP 2023-2027 aims to strengthen and build capacity of public participation structures and citizens' participation in government policies, plans, and development agenda.

Despite a fairly enabling constitutional, national and county legal and policy environment for public participation, this is not backed up by a coherent policy framework for operationalization. The upshot is that there is no set of coherent normative principles for implementing public participation at all levels of the county structure.

## **CHAPTER FOUR: POLICY DIRECTION, GUIDING PRINCIPLES AND IMPERATIVES**

The Kisumu County Public Participation Policy provides the policy direction and guiding principles for effective and meaningful public participation in county governance, decision-making and development at all levels.

### **4.1 Vision Statement**

An open, people-centred, responsive and accountable Kisumu county governance and development system.

### **4.2 Mission**

To ensure effective and meaningful public participation and the free flow of information at all levels of the county governance, decision-making and development.

### **4.3 Policy goal**

To provide enabling policy framework and modalities for effective facilitation, management and coordination of public participation in governance, decision-making and development processes throughout the county of Kisumu.

### **4.4 Policy Objectives**

The specific objectives of the policy are:

1. To provide enabling framework for facilitation and coordination of civic education for meaningful public participation in county governance and decision-making.
2. To ensure continuous access to timely information on public issues in a language that is easy to understand, and a format that is inclusive and user friendly for informed public participation in county governance, and decision-making.
3. To facilitate effective and meaningful public participation in county governance and decision-making processes at all levels.
4. To ensure inclusive and meaningful participation of marginalized communities, minorities and vulnerable groups in county governance, decision-making and development at all levels.
5. To strengthen county public complaint management, feedback and reporting system.
6. To strengthen institutional capacity of the public participation structures for effective facilitation and coordination of public participation at all levels of the county.
7. To strengthen multi-sectoral and intergovernmental coordination mechanisms for public participation at all levels of the county.
8. To strengthen enabling legal and policy environment to ensure free, equal and meaningful public participation in county governance and decision-making.
9. To ensure sustainable financing and public investment in public participation and civic education.
10. To establish and operate an integrated county public participation monitoring, evaluation and social accountability systems

## 4.5 Guiding principles and values

The Constitution of Kenya 2010 requires a principle and value-based approach to public policy making, governance and management of public affairs. This policy is undergirded by the following principles that are considered crucial for effective and meaningful public participation by all.

### 4.5.1 Guiding constitutional principles and values

- a) **Governance principles and values:** This Policy is undergirded by the national principles and values of governance enshrined in Article 10 of the Constitution that bind all state organs, state officers, public officers and all persons wherever they apply and interpret the Constitution; enact and apply laws; or make or implement public policy. These national principles and values include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people, human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, protection of the marginalized, good governance, integrity, transparency and accountability and sustainable development.
- b) **Leadership principles:** The Policy is guided by principles of leadership and integrity enshrined in Chapter Six of the Constitution of Kenya. Chapter Six of the Constitution puts emphasis on personal integrity, competence, and suitability, objectivity, and impartiality in decision-making, and ensuring that decisions are not influenced by nepotism, favouritism, other improper motives, or corrupt practices.
- c) **Devolution principles:** The Policy is undergirded by principles and objects of devolution and devolved governance enshrined under Article 174 of the Constitution. These include the principles of democratic and accountable exercise of power; self-governance; the right of communities to manage their own affairs; protection and promotion of the interests and rights of minorities and marginalised communities; gender equity; equitable social and economic development; the provision of proximate, easily accessible services; accountability and transparency; checks and balances and the separation of powers among others.
- d) **Public finance management principles:** The Policy is guided by the principles of public finance management enshrined under Article 201 of the Constitution of Kenya. The principles include openness and accountability, public participation in financial matters and equitable development including making special provisions for vulnerable and marginalised groups and areas.
- e) **Public service principles:** The Policy is guided by the principles and values of public service outlined under Article 232 of the Constitution of Kenya. The principles and values include high standards of professional ethics; efficient, effective and economical use of public resources; responsive, prompt, effective, impartial and equitable provision of public services; involvement of the people in the process of policy-making; accountability for administrative actions; transparency; provision of timely, accurate information to the public; and representation of Kenya's diverse communities at all levels of the public service, of men and women, the members of all ethnic groups and persons with disabilities.

#### **4.5.2 Guiding Principles for Public Participation Policy**

Public participation will be guided by the following broad principles which will apply in all aspects of Kisumu County governance, decision-making and development processes:

- (a) Recognition of the sovereignty of the people and their right to participate in public affairs and development;
- (b) Recognition and respect of the right of every individual, group, community and/or organization to actively and meaningfully participate in the public policy and decision-making processes including management of public affairs;
- (c) Exceed the legislative requirements in promoting the value of public participation as a commitment to public duty;
- (d) Safeguard public interest in all public participation processes;
- (e) Non-discrimination and accommodation, respecting diversity, people's values, culture, needs and customs;
- (f) Timely access to the necessary information in a language and format that is easy to comprehend, including accessible formats for Persons with Disabilities (PWDs) and through a media that is accessible to the public;
- (g) Ensure open and honest communication in all public participation processes by facilitating the participants' unhindered access to the information they need to meaningfully participate in decision-making;
- (h) Provision of civic education and the development of the necessary capacity for the public to effectively engage and participate in governance and decision-making;
- (i) Provision of adequate and effective mechanisms and opportunities for meaningful public participation for those either interested in, or affected by decisions in policy making and implementation processes;
- (j) Protection, promotion and inclusion of the interest and rights of minorities, marginalized communities and vulnerable groups including women, youth, elderly, PWDs and children and their access to relevant information;
- (k) Respect and value diversity within the county and seek to make decisions that are equitable, responsive and appropriate to the diverse needs of the population;
- (l) Recognize and respect people's views and opinions in decision-making;
- (m) Respect for the principles of child participation, including child friendly environment, appropriate information, and non-intimidation;
- (n) Ensure highest level of accountability to the public and stakeholders involved in public participation and decision-making processes;
- (o) Provision of adequate and accessible mechanisms for reporting complaints, redressing grievances, review of decisions and dispute resolution;
- (p) Reasonable balance in the duties, roles and obligations of state and non-state actors in participatory governance and decision-making;
- (q) Promotion of Public-Private Partnerships (PPPs), such as joint committees, technical teams and citizen commissions to encourage direct dialogue and concerted action on sustainable development; and
- (r) Recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight; and

#### 4.6 Imperatives for effective and meaningful Public Participation

In order to make public participation meaningful, the County will endeavour to ensure the following are taken into consideration:

- a) **Clarity of the subject matter:** It is important to establish realistic and practical public participation goals that have been accepted by all stakeholders to mitigate the public's expectations. Making promises that cannot be kept will undermine public confidence in the public participation process.
- b) **Clear structure and process:** Before public participation takes place, clear rules need to be set defining the conduct of the process, tools to be used and how final decisions will be reached.
- c) **Access to information:** Duty bearers should provide information in acceptable, easy to use formats.
- d) **Opportunity for balanced influence:** The engagement rules should ensure a balance of opinion and avoid dominance or bias by a section of the public.
- e) **Commitment to the process:** Proponents of public participation must be willing to obtain and consider public input in decision-making and to ensure that public participation works.
- f) **Inclusive and effective representation:** Mechanisms must be established to reach out to all relevant stakeholders.
- g) **A climate of integrity:** For the public to fully participate, government agencies and decision makers must be credible, honest and trustworthy.
- h) **A belief in the value of public input:** Public input should result in better decision-making and better governance.
- i) **Capacity to facilitate participation:** Ensure that agencies know how to design and implement public participation processes. Both the agencies and the public should have the knowledge and communication skills required to facilitate and participate effectively in the process.
- j) **Building capacity for participation:** Acknowledge and build people's capacities for meaningful participation.
- k) **Complete transparency:** The timely sharing of easily understandable and accessible information to educate the public about the issues and options.
- l) **Bear in mind standing conditions of the participants:** It is critical that facilitators understand their audience well. They should clearly discern the social and economic status, cultural and religious beliefs and practices of those engaging in public participation. Knowledge levels, incomes and power wielded will influence the deliberations and ultimately have a bearing on the conclusion and subsequent outcomes.
- m) **Respect:** Respect people's right to participate, views and opinions recognizing that they do already play an active role in shaping their own lives and that they are far from being passive recipients of a pre-determined process of engagement.
- n) **Multi-sectoral collaboration and coordination:** A coordinated and collaborative effort by various stakeholders, sectors and government departments and agencies at all levels will be promoted and institutionalized. The roles, responsibilities and mandates of different stakeholders will be clearly defined.
- o) **Sustainable financing:** Ensuring effective and meaningful public participation in governance requires adequate and sustainable funding and investment by the government through adequate budget allocation and partner support.

#### 4.7 The Policy Approach

The Kisumu County Public Participation Policy adopts and advocates for the following key approaches to management and coordination of public participation activities and initiatives throughout the county:

- a) ***Rights-based approach:*** The Policy adopts a rights-based approach to public participation. This calls for the deployment of best possible measures, including adequate resources to enable the widest possible enjoyment of the right to participation in public affairs and development.
- b) ***Countywide inclusive approach:*** The Policy emphasizes countywide inclusive public participation approach to management of public affairs involving all state and non-state actors in county governance, decision-making and service delivery at all levels.
- c) ***Multi-sectoral approach:*** The Policy advocates for a multi-sectoral approach involving engagement and participation of diverse sectors and stakeholders at all levels to ensure effective and meaningful public participation in all county governance, decision-making and development activities.
- d) ***Evidence based approach:*** The Policy advocates for evidence based decision-making by ensuring decisions are based on facts, data and evidence.
- e) ***Risk based approach:*** A risk-based approach to public participation means that county leadership, departments, competent authorities, institutions and stakeholders including non-state actors identify, assess, and understand the public participation risks to which they are exposed, and take the appropriate mitigation measures in accordance with the level of risk. The risk-based approach has three steps: determine the risk profile, implement effective risk controls and balance the residual risk. It also involves identifying the highest participation compliance risks to the county or organisation, making them a priority for the compliance controls, policies and procedures. The highest compliance risks will cause the highest interruption or disruption to public participation processes if they happen thereby endangering decision making processes. As such both the County Executive Committee and County Assembly will assess the compliance risks and implications of public participation on key decisions that require public participation.

## **CHAPTER FIVE: POLICY MEASURES**

The Kisumu County Public Participation Policy provides an inclusive policy framework and guidance on measures and strategies to be undertaken for effective facilitation, management and coordination of public participation in county governance, decision-making and development processes. The Policy provides broad guidance to both state and non-state actors involved in county and local governance and service delivery at all levels. This chapter describes the policy measures and strategies around the following 10 key policy focus areas:

- a) Facilitation of civic education for meaningful public participation
- b) Ensuring access to timely information for informed public participation
- c) Facilitation of public participation processes in decision-making
- d) Promoting inclusive participation of marginalized communities, minorities and vulnerable groups
- e) Strengthening public complaint management, feedback and reporting system
- f) Building institutional capacity for effective public participation
- g) Strengthening multi-sectoral and intergovernmental coordination
- h) Strengthening enabling legal and policy environment/framework
- i) Sustainable financing and public investment
- j) Strengthening research, monitoring, evaluation and social accountability systems

The policy measures and strategies will be implemented through the instruments of applicable national and county laws, regulations, guidelines, standards, plans and programs.

### **5.1 Facilitation of civic education for meaningful public participation**

The right to participation in public affairs requires an environment that ensures that the public are empowered and adequately equipped with the knowledge and capacity necessary through civic education. Effective civic education informs the public, creates awareness and empowers them to meaningfully participate in public affairs and make informed decisions.

#### **5.1.1 Policy gaps and challenges**

Although civic education is a prerequisite for effective public participation and is acknowledged as a powerful tool for citizens' empowerment, there is limited structured countywide civic education in Kisumu County resulting in low citizens' awareness of their rights and responsibilities and inadequate participation in county governance and decision making. This is exacerbated by limited access to timely and appropriate information; and lack of targeted county civic education programme for individuals and groups that are vulnerable, marginalized or disadvantaged.

### **5.1.2 Policy Statement**

The county government of Kisumu in collaboration with partners and non-state actors will provide an inclusive framework for facilitation and coordination of countywide civic education activities and initiatives

Civic education programmes will be developed and implemented as an integral part of the county administration, governance and development function with the aim of empowering citizens and promoting a culture of participation within local communities. Civic education programmes will include knowledge of human rights, the importance of participation for society, and an understanding of the electoral and non-electoral decision-making and political system and of various opportunities for participation, including available legislative, policy and institutional frameworks.

### **5.1.3 Policy measures and strategies**

The County Government will:

1. In collaboration with partners and non-state actors, design and implement a countywide civic education programme.
2. Establish/strengthen the directorate with the mandate of conducting continuous civic education and facilitating all matters related to public participation in the County executive.
3. Mainstream and integrate civic education into all county public participation and governance activities at all levels of the County government system, including the Executive and County Assembly;
4. Design standardized Kisumu County civic education curriculum and materials on public participation taking into account the provisions of Article 33 of the Constitution of Kenya and Part X of the County Government Act, 2012;
5. Develop public participation regulations and guidelines for non-state actors in line with section 100 (4) of the County Government Act, 2012;
6. Develop guidelines for inclusion and targeting of minorities, vulnerable and marginalised groups in county civic education programs in line with the Constitution and relevant laws;
7. Promote inter-governmental collaboration and engagement of all the relevant non-state actors in the implementation of county and local civic education programs; and
8. Ensure adequate budget allocation for civic education program.

## **5.2 Ensuring access to timely information and ICT for informed public participation**

The right of access to information, which as part of the right to freedom of expression, is an enabler of public participation and a prerequisite for ensuring openness, transparency and accountability in governance. Access to timely and relevant information not only empowers and enables citizens to hold the duty bearers to account but also to meaningfully and effectively participate in decision-making.

### **5.2.1 Policy gaps and challenges**

Despite Article 35 (1) (3) of the Constitution of Kenya provides that every citizen has the right to access information held by the state and other persons, the public often experience challenges in accessing such information. Very often, the information held by the state that is necessary for effective public participation is not made readily available in a timely and accessible manner. The low literacy levels have even made it more difficult for the citizens to acquire the information they require

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to effectively and meaningfully participate in decision-making processes such as policy making, planning and budgeting.

### **5.2.2 Policy Statement**

The County Government of Kisumu will provide an enabling policy and legislative framework and mechanisms for ensuring timely access to information in a language and format that is easy to understand in the context of public participation. The County Government will especially facilitate access to information for individuals and groups that are marginalized, vulnerable or disadvantaged to ensure their informed and meaningful public participation in county governance, decision-making and service delivery. This will include establishing procedures for the provision of assistance, from formulation of requests for information through to their delivery, for the purpose of promoting equal access to information.

The County Government will further ensure the development and deployment of ICTs, including new data-driven technologies to strengthen equal and meaningful participation. Proactive measures will be adopted to make ICT widely available, accessible and affordable without discrimination of any kind.

### **5.2.3 Policy measures and strategies**

The County Government in collaboration with partners, non-state actors and relevant national agencies will:

1. Ensure timely publication, availability and dissemination of facts and information needed for effective public participation in a language(s), format and media that are appropriate and accessible taking into the needs of persons with disabilities;
2. Strengthen county communication and public information offices at all levels
3. Establish/strengthen county public information management system to facilitate the right of access to information.
4. Develop regulations and guidelines on routine and systematic information disclosure by public and private entities or service providers.
5. Develop and implement standards and standard operating procedures for ensuring access to information of different classes held by county or corporate bodies.
6. Establish an impartial county oversight mechanism to monitor and report on the implementation of the right of access to information.
7. Promote the use of information and communications technologies (ICTs) to create spaces and opportunities for meaningful participation
8. Promote public private partnerships, in the design, development and use of ICTs for participation.

### **5.3 Facilitating meaningful public participation in county governance and decision-making**

The Government of Kenya recognizes the right of citizens to participate directly in the conduct of public affairs. The conduct of public affairs is a broad concept that covers all aspects of governance, public administration, decision-making and service delivery. This includes the formulation and implementation of laws, policies, strategies, plans, budgets and programs and provision of services at various levels. Active involvement of the citizens in the conduct of public affairs often results in enhancing public confidence in decision-making processes, ownership and legitimacy of public decisions and actions.

### **5.3.1 Policy gaps and challenges**

Despite the constitutional requirement and importance of participation in the conduct of public affairs and decision-making, much of the public participation efforts continue to be less meaningful and effective. The available opportunities for public 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 better the complex and technical nature of the matters presented for public participation. As result, public participation is often tokenistic just to meet the minimum requirements of the law.

This is due to diverse factors including inadequate political will and commitment to ensure meaningful public participation; inadequate public participation planning and financing; inadequate coordination among and between county government agencies and non-state actors; and inadequate modalities for involvement of the marginalized, vulnerable and minority groups.

### **5.3.2 Policy Statement**

The County Government will facilitate effective and meaningful public participation in county governance and decision-making processes at all levels. The public participation structures and modalities will be strengthened and made accessible at all levels for all. The County Government will provide guidance for the relevant state and non-states actors on ensuring meaningful participation before, during and after decision- making processes.

### **5.3.3 Policy measures and strategies**

The County Government will:

1. Integrate and mainstream public participation in all county decision-making processes including legislative, policy, development planning, programming, budgeting and implementation processes;
2. Develop, implement and regularly update county public participation communication strategy;
3. Provide adequate budget and human resources to support public participation programs and activities at all levels.
4. Develop and implement guidelines for inclusion and engagement of marginalized and vulnerable groups in governance and decision making in various settings including disaster and emergency situations;
5. Promote and protect the right of children to express their views freely and to be heard in decision-making on matters that affect them;
6. Establish performance management framework for public participation;
7. Facilitate, support and coordinate meaningful public participation at different stages of county governance and decision-making including before, during and after decision-making. Table 11 below presents the measures and strategies to ensure meaningful public participation in county decision-making processes.

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*Table 11: Measures and strategies for ensuring meaningful public participation in county decision-making processes*

Stages of decision-making	Measures and strategies
<b>7.1 Public participation before decision-making</b>	<p>a) Give communities and stakeholders the opportunity, for example, through online consultations, public hearings or forums, or working groups or committees to participate in shaping the agenda of decision-making processes in order to ensure that their priorities and needs are included in the identification of the subject matter and content for discussion.</p> <p>b) Identify and notify in a timely, adequate and effective manner, individuals and groups who are directly or likely to be affected by, or who may have an interest in a subject matter of decision- making such as a policy, law, strategy, plan, budget, programme or project, and facilitate their participation.</p> <p>c) Provide and disseminate timely and easy to understand information regarding the decision- making process that is appropriate to local conditions and presented in a clear, usable, accessible, age and culturally appropriate formats, and in a language(s), in accordance with the principle of maximum disclosure. The information about the process should include, as a minimum, the following elements:</p> <ol style="list-style-type: none"> <li>i. The type or nature of the decision under consideration;</li> <li>ii. The range of options and issues to be discussed and decided at each stage, including problems, solutions, and the possible impact of their outcomes;</li> <li>iii. The timelines for participation at each stage of the process and opportunities for the public to properly prepare and submit constructive contributions;</li> <li>iv. The public officials, institutions and stakeholders/partners involved and their respective roles and assigned tasks at each stage of the process;</li> <li>v. The public authority responsible for making the decision;</li> <li>vi. The special needs of individuals and groups including opportunities and mechanisms for inclusion and involvement of the marginalized and vulnerable groups including people who cannot read or write, people with disabilities, women, youth, children, minorities and other disadvantaged groups; and</li> <li>vii. The procedures envisioned for the participation of the public, including information regarding: <ul style="list-style-type: none"> <li>• The date on which the procedure will begin and end;</li> <li>• The time and venue, including information on accessible infrastructure or facilities;</li> <li>• The modalities and rules of the conduct of the decision-making process; and</li> <li>• The public authority or official body to which comments or questions can be addressed or from which additional information on the decision under consideration can be requested, and the procedure and time frame for the transmittal of their response.</li> </ul> </li> </ol>
<b>7.2 Public participation during decision-making</b>	<p>a) Develop and widely disseminate a calendar of the decision-making process including sufficient time for the public to prepare and make their contributions during decision-making processes. Depending on the subject of decision-making, the calendar should ensure that opportunities to participate do not fall during days traditionally considered as holidays, such as religious festivals, national holidays or other periods of significance to public life.</p> <p>b) Ensure participation structures such as County Office of Public Participation, departmental participation units, communication offices, multi-stakeholder committees, technical working groups, taskforces and/or panels and citizen forums etc. are adequately resourced to ensure meaningful public participation in all stages of decision-making processes.</p> <p>c) Enable the public to submit any information, analyses and opinions directly to the relevant public authority, either electronically or in paper form without excessive formalities.</p> <p>d) Ensure public participation events are free of charge and held in venues that are neutral and easily accessible for persons with disabilities, older persons and children.</p> <p>e) Provide opportunities for submission of written memoranda, petitions or comments through online tools and for in-person participation. The weight given to contributions received through online platforms should be equal to that given to comments received offline or in person.</p>

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<b>7.3 Participation after decision-making</b>	<ul style="list-style-type: none"><li>f) Provide adequate opportunities and time between the end of the participatory process and the taking of the final decision for public feedback on, and validation of proposed decisions with information regarding:<ul style="list-style-type: none"><li>i. The grounds and reasons underlying the decisions and</li><li>ii. How the public contributions have been taken into account or used, what was incorporated, what was left out and the reasons why. A report can be published, together with the decision(s) made, which may include the nature and number of inputs received and evidence of how participation was taken into account.</li></ul></li><li>g) Build/strengthen the technical capacities and expertise of public officials and institutions responsible for the conduct, facilitation, management, coordination, documentation, monitoring and evaluation of public participation processes.</li><li>h) Establish appropriate data collection and management systems for collecting, processing, analysing and archiving inputs received from the public both online and offline.</li><li>a) Ensure the outcome of the participatory decision-making process is widely disseminated to the public in accessible and user-friendly format, and in a timely, comprehensive and transparent manner, through appropriate offline and online means. This includes multi-media platforms including dedicated websites, email and SMS alerts, community based dissemination events/barazas, citizen forums, panels, conferences, seminars etc. at various levels.</li><li>b) The Office of Public Participation or relevant county authorities will conduct surveys, process evaluation or focus group discussions, to collect information on various aspects of public participation and decision-making processes at various stages, and to document lessons and best practices for future improvement.</li><li>c) Forge strategic partnerships and collaboration with non-state actors to ensure effective dissemination and participation in the implementation of decisions.</li><li>d) Establish appropriate frameworks to ensure meaningful public participation and transparency in tracking, monitoring and evaluation of the implementation activities. Participation in monitoring and evaluation should be considered as a continuum and include the use of social accountability tools, such as social audits, public expenditure tracking surveys, community score cards, social audits, transparency portals, community media and public hearings.</li><li>e) Ensure the public have access to key information on implementation to allow effective participation in monitoring and evaluating progress in the implementation of decisions including laws, policies, strategies, plans, budgets, programs or projects. Information on the implementation process should include:<ul style="list-style-type: none"><li>i. the authority in charge of the implementation process and its contacts;</li><li>ii. the resources, financial and non-financial, to be used for implementation;</li><li>iii. whether the implementation involves a public-private partnership and the role and contacts of the private actor(s) involved; and</li><li>iv. opportunities for inclusion and participation in the implementation process.</li></ul></li><li>f) Prepare and widely disseminate progress and review reports on implementation activities to the public in accessible and user-friendly formats, and in a timely, comprehensive and transparent manner, through appropriate local media, social media, offline and online means.</li></ul>
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### **5.4 Promoting Inclusive Participation of Marginalized Communities, Minorities and Vulnerable Groups**

The Constitution of Kenya elaborately recognizes and provides for the right of marginalized and vulnerable groups in governance and decision-making. Article 10 of the Constitution identifies inclusivity, equality, equity, fair treatment, human dignity, non-discrimination and protection of the marginalized as binding principles and values of governance. Articles 53 to 57 of the Constitution recognizes the rights of special groups, namely children, persons with disability, youth, minorities and marginalized groups and older members of society and provides for their participation in public affairs and decision-making including representation in governance, social, economic, political, and other spheres of life. Article 174 (e) identifies protection and promotion of the interests and rights of minorities and marginalised communities as one of the objects of the devolved government. Section 6 of the County

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Government Act, 2012 obligates county governments in exercise of their powers or performance of any of their functions, to ensure inclusivity and participation of the people.

### **5.4.1 Policy gaps and challenges**

Despite the constitutional and legal requirements for full and meaningful participation and representation of the marginalized, vulnerable and minority groups in public affairs and decision-making, their participation and involvement remains inadequate. This is mainly due to inadequate functional mechanisms and modalities for engagement of the minorities and marginalised groups in county governance and decision-making processes and socio-cultural barriers.

### **5.4.2 Policy Statement**

The County Government of Kisumu will ensure inclusive and meaningful participation of all marginalized communities, minorities and vulnerable groups in county governance, decision-making and development at all levels through gender and socially inclusive planning, interventions and affirmative action. To this end, the Government will give highest priority in resource allocation to the participation needs of the marginalized communities, minorities and vulnerable groups.

### **5.4.3 Policy measures and strategies**

The County Government in collaboration with the non-state actors including civil society actors and private sector and relevant national agencies will:

1. Regularly conduct county and community mapping of the marginalized and vulnerable individuals and groups and create a database and profile by wards and village units for effective participation, planning and resource targeting;
2. Develop guidelines for gender and social inclusion and targeting of marginalised communities, minorities and vulnerable groups for their effective participation in decision-making processes;
3. Establish procedures for the provision of assistance to individuals and groups that are marginalized, disadvantaged and/or vulnerable to access the information they need to ensure their effective and meaningful participation;
4. Ensure public participation forums and events are appropriately designed and equipped with necessary infrastructure and facilities to accommodate the special needs of the vulnerable individuals and communities including children, persons with disabilities and the elderly at all levels.
5. Ensure public participation events are free of charge and held in venues that are neutral and easily accessible for persons with disabilities, older persons and children
6. Provide adequate budgetary resources for facilitating and empowering the marginalized and vulnerable individuals and groups to effectively participate in decision making processes at all levels.

## **5.5 Strengthen public complaint management, feedback and reporting system**

Sections 88 and 89 of the County Government Act, 2012 thus recognizes citizens right to petition the county government on any matter under her responsibility and vests in the county government authorities, agencies and agents the duty to expeditiously respond to citizens' petitions or challenges. An efficient complaint management, feedback and reporting system is therefore a pre-requisite for transparent and accountable engagement between the government and citizens on governance and development matters. Practically, regular feedback and functional complaints management and redress mechanisms not only enable citizens to appreciate the value of their participation in decision-making

but also enhance their confidence in government thereby encouraging participation.

### **5.5.1 Policy gaps and challenges**

Inadequate complaint management, feedback and reporting mechanisms have discouraged public participation and in some instances contributed to apathy among citizens. This is exacerbated by the low levels of citizen awareness of the available opportunities for petitioning the county government including modalities for registering or reporting complaints and seeking redress. Consequently, a large proportion of the citizens consider public participation as of no value or benefit to them and therefore often demand for facilitation to engage in public participation events.

### **5.5.2 Policy Statement**

The County Government will establish public feedback and complaints handling mechanisms at the county and decentralized units to ensure expeditious response citizens petitions and complaints.

### **5.5.3 Measures and strategies**

The County Government in collaboration with the relevant national agencies, oversight institutions and non- state actors will:

1. Develop and implement standard guidelines and procedures that are simple, accessible and understandable by users on public complaints handling, feedback and reporting.
2. Strengthen the capacity of the Office of Public Participation, communication and information offices to document complaints and provide responsive and timely feedback and redress at all levels.
3. Establish and strengthen public participation dispute resolution mechanisms at all levels.
4. Develop and disseminate county public participation charter.
5. Advocate for the strengthening and decentralization of the services of the national constitutional oversight institutions handling complaints to the county, sub-county, ward, urban area and village levels.
6. Create awareness and sensitise citizens on available complaints handling and redress mechanisms.

### **5.5.4 Strengthening institutional capacity for effective public participation**

While Kisumu County Public Participation Act, 2015 attempted to establish modalities and institutional framework for the facilitation and coordination of public participation in the governance of the county such as the Office of Public Participation, the Communication Office and the various citizen participation forums established at the county, sub county, ward, urban areas and village levels. In order to realize the intendment of the Kisumu County Public Participation Act, 2015, the County Government has established the Directorate of Public Participation to manage and administer modalities of public participation.

The purpose of these Structures is to promote the culture of democratic and participatory governance; communicate and disseminate information to the public; and to give the public space to discuss and contribute to matters that affect their lives including county policies, plans and budgets, the delivery of services and administration of the local governance units. This policy therefore aims to operationalize and strengthen the public participation structures created under the Kisumu County Public Participation Act 2015 and building institutional capacity for effective and meaningful public participation.

### **5.5.5 Policy gaps and challenges**

Although the Kisumu County Public Participation Act 2015 attempts to establish an institutional framework for Public Participation, the implementation of the said Act has found that the institutional framework established by the Act are unimplementable and the same be reviewed and restructured. Therefore in the current structure, the County Government has established the Directorate of Public Participation to manage and administer public participation programs and activities within the County. However, the public participation personnel in the Directorate are insufficient and lacks adequate capacity to effectively plan, manage and facilitate public participation processes. In addition, due to lack of standards defining the levels at which the citizens may be engaged or consulted, and the complexity of some decision-making process such as planning and budgeting, citizens are hardly enabled to engage meaningfully. As a result, the available opportunities for citizen participation, which are often held at county and sub county levels, are typically dominated by the elites and opinion leaders.

### **5.5.6 Policy Statement**

The County Government will operationalize and strengthen the public participation structures at all levels of the county governance system in line with the applicable laws. The County Government in collaboration with non-state actors will undertake coordinated and integrated institutional capacity building of public participation structures, institutions, non-state actors and citizens to ensure effective public participation at all levels.

### **5.5.7 Policy measures and strategies**

The County Government in collaboration with the non-state actors and partners will:

1. Operationalize and strengthen public participation structures and mechanisms including office of public participation, communication and citizen fora at all levels
2. Conduct capacity needs assessment of the public participation structures at county and decentralized unit levels;
3. Develop and implement county public participation capacity building strategy for the mandated county institutions;
4. Adequately equip the county public participation structures including the Directorate of Public Participation, departmental participation units, communication offices, multi-stakeholder committees, technical working groups, taskforces and/or panels and citizen forums etc.
5. Provide capacity building and training for the County Assembly committees and their technical staff, participation coordinators or facilitators and public officials responsible for the conduct of public participation processes.
6. Establish and build capacity of performance management framework for public participation at various levels

7. Ensure allocation of adequate budget and resources for the establishment and operationalization of appropriate public participation structures.

## **5.6 Strengthening multi-sectoral and intergovernmental coordination for effective public participation**

Since public participation involves diverse actors and sectors at various levels of governance and decision-making, ensuring effective stakeholder coordination is critical. This requires that all stakeholders involved in promoting and facilitating public participation have a clear understanding of their roles and responsibilities, what is expected of them, what needs to be done and where, the means to do it, accountability for doing it, and an agreed mechanism to ensure effective coordination of their activities.

### **5.6.1 Policy gaps and challenges**

Whereas the County Government has established the Directorate of Public Participation, and mandated it to oversee the coordination of public participation in the county, this remains a challenge. This is partly attributed to the fact that the Directorate is not yet fully operationalized and allocated adequate resources to facilitate and coordinate the public participation function across the county. This is further hindered by the current legal framework of public participation within the County made pursuant to the Kisumu County Public Participation Act, 2015 which established an Office in the character of a committee to facilitate public participation within the County. In addition, there is lack of guidelines and procedures for multi-sectoral and intergovernmental coordination in public participation at different levels.

### **5.6.2 Policy Statement**

The County government will establish, strengthen and institutionalize inclusive multi-sectoral, stakeholder and intergovernmental coordination mechanisms at all levels of the county governance and create an enabling environment for Non-State Actors in promoting public participation. The roles, responsibilities and mandates of different stakeholders will be clearly defined.

### **5.6.3 Policy Measures and strategies**

The County Government in collaboration with the non-state actors and relevant national agencies will:

1. Strengthen the Office of Public Participation to effectively facilitate and oversee countywide coordination of public participation function of the county government.
2. Develop guidelines for multi-sectoral and stakeholder coordination and engagement in public participation, governance and decision-making processes.
3. Develop model stakeholder engagement and partnership agreement to support cooperation between public authorities, Non-State Actors and development partners in promoting public participation.

## **5.7 Strengthening legal and policy framework for public participation**

Enabling legal and policy environment is key to ensuring the free, equal and meaningful participation of citizens in governance and decision-making. The necessary legislative and policy measures should hence be identified and adopted to ensure free and equal participation of all citizens including the marginalized, disadvantaged and vulnerable in governance and decision-making processes.

### **5.7.1 Policy gaps and challenges**

Despite a strong constitutional, legal and policy environment for public participation at both national and county levels, the existing legal and policy frameworks are not fully operationalized. The Kisumu County Public Participation Act, 2015 for example, lacks enabling regulations and guidelines to fully operationalize the law and implement other applicable public participation laws and policies within the county. In addition, there are no defined minimum standards for what is considered adequate, effective and meaningful public participation that should be met in the exercise of county powers and functions at various levels. Further, there is lack of standard operating procedures for facilitation of public participation in governance and decision-making processes by both state and non-state actors.

### **5.7.2 Policy Statement**

The county government will strengthen the legal and policy environment to ensure free, equal and meaningful public participation for all in county governance and decision-making. To achieve this the county government will review and enact the necessary legislation, regulations, policy guidelines and standards.

### **5.7.3 Policy measures and strategies**

The County Government in collaboration with the non-state actors will:

1. In line with Section 90 of the County Government Act, 2012 and the Election Act No. 24 of 2011, develop enabling county legislation on the conduct local referenda (Kisumu County Referenda Bill) on local issues, county laws and planning and investment decisions affecting the county for which a petition has been raised and duly signed by at least twenty-five percent of the registered voters where the referendum is to take place.
2. Develop policy guidelines and standards including standard operating procedures to guide all stakeholders involved in facilitating and promoting public participation in county governance and decision-making at various levels;
3. Develop guidelines for inclusion and engagement of marginalized and vulnerable individuals and groups for effective participation in county governance and decision-making
4. Establish appropriate dispute resolution mechanisms for any disputes that may arise in the public participation processes
5. Promote and protect citizens' rights to participation, freedom of opinion and expression, including the right of access to information, and the rights to freedom of peaceful assembly and of association.
6. Design and implement measures to strengthen equal participation taking into account the diverse needs or challenges of individuals and groups that are marginalized, disadvantaged or vulnerable.

## **5.8 Ensuring sustainable financing and investment in public participation**

The Constitution identifies public participation as one of the binding principles and values of governance and a requirement for making decisions affecting the people. Both national and county governments are thus obligated in exercise of their powers or performance of their functions to ensure inclusive public participation in governance and decision-making. This includes participation in planning; discussing and reviewing budget estimates; implementation of the approved plans and budgets; policy making; the legislative and other businesses of the county assemblies and their committees; the governance of urban areas and cities; and conducting local referenda. To ensure effective public participation in county governance and decision-making, adequate and sustainable public financing and investment is therefore required. Article 175 (2) of the Constitution indeed requires county governments to have reliable sources of

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revenue to enable them to effectively govern and deliver services as assigned by the Constitution.

### **5.8.1 Policy gaps and challenges**

While the County Government of Kisumu has established elaborate structures for facilitation and co-ordination of public participation in county governance, these structures are not accompanied with adequate county budget allocation and investment. Funding for public participation function and activities therefore remain highly inadequate, unpredictable and unreliable resulting in limited citizen public participation in county decision-making. Other challenges include lack of county public participation investment plan and dependence on development partners' and non-state actors' funding of public participation activities, which is often inadequate and unsustainable.

### **5.8.2 Policy statement**

The County Government will ensure adequate, secure and sustainable funding for public participation function. The county government will also create an enabling environment for the non-state actors and development partners to support and promote public participation, civic education and access to information at all levels of county governance. Specifically, the County Government of Kisumu will establish a county public participation fund and provide a designated budget line within the county program based budget framework. The budget for public participation will be ring-fenced to ensure that it is secure and not diverted for other purposes. The county government will determine a percentage of the county development budget to be used for public participation and civic education purposes at county and decentralized levels.

### **5.8.3 Policy measures and strategies**

The County Government in collaboration with the non-state actors and development partners will:

1. Develop and implement county public participation investment plan and resource mobilisation strategy.
2. Develop inclusive public participation planning, budgeting and sustainable financing guidelines for government and non-state actors.
3. Strengthen the financial capacity of the Office of Public Participation to support and coordinate countywide public participation planning, budgeting and resource mobilization.
4. Map, identify and promote innovative financing options for public participation at county and decentralized units and other levels.
5. Establish and administer Kisumu County Public Participation Fund to receive and mobilize funds from various sources in line with Article 207 (4) (b) of the Constitution and Section 116 of Public Finance Management Act, 2012.
6. Establish public participation function as either a program or sub-programme of the governance and administration sector within the county Program Based Budgeting Framework.
7. Increase county government budgetary allocations for each County department, decentralized unit and County assembly for facilitation of public participation and civic education activities at all levels of county governance structure.
8. Develop planning and budgeting guidelines for inclusive participation of individuals and groups that are marginalized, disadvantaged or vulnerable in governance and decision-making.

## **5.9 Strengthening public participation research, monitoring and evaluation**

The purpose of research, monitoring and evaluation is to help generate evidence for decision-making, and to measure

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and track performance in achieving set targets and indicators to improve accountability. Through research, monitoring and evaluation, evidence and facts are generated to aid decision-making, learning, effective implementation and planning. In respect to public participation, the evidence and facts generated assist both duty bearers and citizens to ensure informed engagement, assess performance, learn and recast processes as necessary. An enabling research, monitoring and evaluation framework is therefore required for better understanding of the needs and problems associated with achieving effective public participation, inform critical decisions and improve future planning.

### **5.9.1 Policy gaps and challenges**

There is lack of county research, monitoring, evaluation and learning framework for public participation. Public participation standards and indicators have also not been defined and integrated into county integrated and sectoral development planning and M&E framework.

### **5.9.2 Policy Statement**

The County Government in collaboration with non-state actors and partners will establish and operate an integrated public participation research, monitoring, evaluation and social accountability system to promote evidence-based decision-making and ensure seamless performance tracking and social accountability in county governance and decision-making. The county government will institute measures to increase investment in public participation research and utilization of strategic information for decision-making.

### **5.9.3 Policy measures and strategies**

The County Government in collaboration with relevant national government agencies and non-state actors will:

1. Ensure the integration of public participation function into the county integrated development and sectoral planning framework.
2. Establish and operate county integrated public participation and governance M&E framework and system aligned with the county public participation investment plan.
3. Strengthen the capacity of the Office of Public Participation to effectively facilitate and coordinate research, monitoring and evaluation on matters relating to public participation and prepare the county public participation status reports.
4. Develop and widely disseminate county public participation indicators for tracking and assessment of performance at various levels.
5. Develop and implement County community scorecard guidelines for social accountability in governance and development.
6. Promote utilization of findings and information from research, M&E systems to inform decision-making and improve public participation practice, learning and knowledge exchange.
7. Strengthen communities' capacity to actively participate in research, monitoring, evaluation and social audits.
8. Establish and operate knowledge management, communication and feedback mechanisms to ensure effective dissemination of research and M&E findings to the citizens and decision makers.

## **CHAPTER SIX: POLICY IMPLEMENTATION FRAMEWORK**

The Kisumu County Public Participation Policy will be implemented through various instruments including legislation, regulations, by laws, guidelines, standard operating procedures, county investment plans, annual work plans and budgets among others. To determine the success of implementation, the policy and its associated investment plans will be carefully monitored and evaluated at various policy implementation levels.

### **6.1 Policy dissemination**

The Office of Public participation in collaboration with the various county departments, the county communication and information offices, the county legislative assembly, non-state actors and partners will spearhead the dissemination of the Kisumu County Public Participation Policy throughout the county through multi-media strategies.

### **6.2 Policy implementation and planning framework**

The Policy implementation approach will involve a highly participatory, multi-sectoral, collaborative, consultative, cooperative and coordinated strategy. A stakeholder engagement and communication strategy will be developed and implemented. In addition, political leadership at all levels will be mobilized to support the public participation policy implementation through political good will policy, legislation and public investment.

#### **6.2.1 Institutional Implementation Framework**

The Directorate of Public Participation is vested with the overall responsibility to facilitate, oversee and co-ordinate public participation in the governance of the county including the participation of communities, organizations and citizens forming the public in the decentralized units within the county. This Policy further intends to bestow upon the Directorate with wide ranging powers and functions that will provide an enabling framework for facilitating the implementation of this Policy.

The Directorate will aid the implementation of this Policy through a coordinated and consultative process involving county government departments and agencies, the county assembly, urban authorities, intergovernmental mechanisms, citizens participation forums, local administration and non-state actors including CSOs, private sector and CBOs at the county, sub county, ward, city and urban areas and village levels.

Table 12 below outlines the roles and responsibility assigned to various stakeholders in the implementation of the policy.

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Table 12: Roles and responsibilities of stakeholder

Stakeholders	Roles and responsibilities
<b>Relevant National Government Agencies</b>	<ul style="list-style-type: none"> <li>• Cooperate, consult and collaborate with the county government in promoting public participation in local governance and decision-making.</li> <li>• Promote intergovernmental relations, coordination and dispute resolution relating public participation in areas of mutual concern including implementation of concurrent functions.</li> <li>• Provide capacity building and technical assistance to the county as appropriate.</li> <li>• Set national norms and standards for public participation and governance.</li> <li>• Report on international obligations in relation to the right to public participation, access to information and other applicable rights and fundamental freedoms.</li> <li>• Provide conditional and/or non-conditional grants to support the county in strengthening public participation and civic education.</li> <li>• Promote and facilitate public participation and coordination in national government related functions through national government administrative officers (NGAOs) including County commissioner, deputy community commissioners, assistant county commissioners, chiefs and assistant chiefs at the county, sub-county, ward, location and sub location levels respectively.</li> </ul>
<b>Relevant Constitutional Commissions and Independent offices</b>	<ul style="list-style-type: none"> <li>• Protect the sovereignty of the people and ensure optimal exercise of people’s sovereignty in the affairs of the state</li> <li>• Promote, respect, protection and observance of participation rights and freedoms</li> <li>• Monitor, investigate and report on the observance of participation rights</li> <li>• Receive and investigate complaints about alleged abuses of the participation rights and take steps to secure appropriate redress where the rights have been violated</li> <li>• Act as the principal organs of the state in ensuring compliance with obligations under treaties and conventions relating to participation rights</li> <li>• Investigate complaints of unfair or unresponsive official conduct, report on complaints investigated and take remedial action</li> <li>• Investigate any conduct in state affairs, or any act or omission in public administration in any sphere of government that is alleged or suspected to be prejudicial or improper or to result in any impropriety or prejudice in respect of the rights related to public participation.</li> <li>• Decentralize functions to county to ensure reasonable access to services within the county.</li> <li>• Cooperate, consult and collaborate with the county government to promote, protect and fulfil public participation rights.</li> </ul>
<b>Judiciary</b>	<ul style="list-style-type: none"> <li>• Uphold and enforce the rights to participation as guaranteed by the Constitution.</li> <li>• Hear and determine applications for redress, including compensation as a result of a denial, violation or infringement of, or threat to the participation rights</li> </ul>
<b>The County Executive Committee member responsible for Public Participation, County Departments and Agencies</b>	<ul style="list-style-type: none"> <li>• Promote and uphold the principles of citizen participation in county governance and decision making enumerated in the Constitution of Kenya and Section 87 of the County Government Act, 2012.</li> <li>• Facilitate the establishment of structures for citizen participation at county and decentralized units in line with Section 91 of the County Government Act, 2012.</li> <li>• Facilitate and prepare an annual report on public participation in the county government affairs to the County Assembly</li> <li>• Promote and facilitate citizen participation in county governance, and development and implementation of policies, plans, budgets and service delivery through the various departments and agencies of the county government at all levels.</li> <li>• Develop and implement county public participation investment plans</li> <li>• Provide adequate budgetary allocation for public participation</li> <li>• Receive and expeditiously respond to petitions, complaints and challenges from citizens.</li> <li>• Facilitate timely access to information, data, documents, and other information necessary for facilitating effective citizen participation in relevant or related to policy and legislation formulation and implementation including the approval of development plans, proposals, projects and budgets</li> </ul>

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<b>Directorate of Public Participation</b>	<ul style="list-style-type: none"> <li>• Facilitate policy dissemination and publicity</li> <li>• Oversee, facilitate and co-ordinate all county public participation stakeholders and activities.</li> <li>• Advise the county executive committee on matters of policy relating to public participation</li> <li>• Advise all county departments, agencies, sub county, ward and village administrations and non-state actors on matters pertaining to the public participation</li> <li>• Develop and enforce guidelines, standards and procedures regarding public participation.</li> <li>• Establish appropriate mechanisms, processes and procedures to enable citizens and local communities to effectively participate in county affairs.</li> <li>• Facilitate, convene and publicize citizen participation forums on issues of interests, the implementation of county policies and plans, the administration and functioning of the county government and the delivery of services</li> <li>• Support public hearings in relation to any petition submitted to the county executive committee</li> <li>• Prepare and submit the annual report on the status of public participation to the Governor and the County Assembly</li> <li>• Monitor, track and evaluate county public participation programs and activities</li> </ul>
<b>County Assembly</b>	<ul style="list-style-type: none"> <li>• Structure and streamline the manner in which public participation is conducted by the County Assembly</li> <li>• Formulate County Assembly policy guidelines on public participation</li> <li>• Establish County Assembly public participation, partnership and stakeholder management mechanism at county assembly, ward and village levels</li> <li>• Allocate and ring fence public participation funds to ensure sustainable financing of County Assembly public participation activities</li> <li>• Facilitate public participation and involvement in all the legislative and other businesses of the County Assemblies</li> <li>• Appropriate adequate resources for county public participation activities</li> <li>• Oversight the county executive in the implementation of county public participation plans, budgets and programs.</li> <li>• Enact enabling legislation, regulations and rules for the implementation of the county public participation policy</li> </ul>
<b>City Board and Municipalities</b>	<ul style="list-style-type: none"> <li>• Support and liaise with the Office of Public Participation on implementation of public participation within the city and urban areas</li> <li>• Ensure that residents participate in decision-making, programmes and service delivery</li> <li>• Promote and facilitate residents' participation in the development of city and urban policies and by laws</li> <li>• Facilitate the involvement of the public in city Board and Town Committees planning and budget making processes</li> <li>• Develop the City Board and Town Committees public participation Investment Plan</li> <li>• Provide adequate budgetary allocation for public participation</li> </ul>
<b>Sub-County Administration</b>	<ul style="list-style-type: none"> <li>• Support and liaise with the Office of Public Participation on implementation of public participation policies, plans and programs within the sub county</li> <li>• Mobilize the public for participation in the development of county policies, plans and service delivery</li> <li>• Convene regular social audit of sub county development programmes and activities,</li> <li>• Facilitate public participation in formulation and implementation of sub county development plans and programmes</li> <li>• Convene regular public meetings or barazas to disseminate information of public interest including government policy and decisions, public notices, receive public feedback and encourage public participation in formulation and implementation of policies, plans and projects.</li> <li>• Monitor and keep record of sub county public participation programmes and activities</li> <li>• Coordinate the public participation programs and activities within the sub county</li> </ul>

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<b>Ward Administration</b>	<ul style="list-style-type: none"> <li>• Support the Office of Public Participation activities within the ward</li> <li>• Mobilize communities to participation in the county development of policies, plans and service delivery.</li> <li>• Convene regular public meetings or barazas to disseminate information of public interest including government policy and decisions, public notices and receive public feedback and encourage public participation in formulation and implementation of policies, plans and projects</li> <li>• Facilitate dissemination of county policies and decisions.</li> <li>• Receive feedback and reports from the public on public participation and implementation policies, plans and programs.</li> <li>• Facilitate social audit of ward development programmes and activities,</li> <li>• Facilitate public participation in formulation and implementation of ward development plans and programmes</li> <li>• Monitor and keep record of ward public participation programmes and activities</li> <li>• Resolve disputes that may arise in public participation processes.</li> <li>• Coordinate the public participation programs and activities within the ward</li> <li>• Support the Office of Public Participation activities within the village unit</li> </ul>
<b>Village Administration</b>	<ul style="list-style-type: none"> <li>• Mobilize the community to participation in the effective exercise of the county functions and powers at the village level</li> <li>• Convene regular public meetings or barazas to disseminate information of public interest including government policy and decisions, public notices and receive public feedback</li> <li>• Facilitate and ensure the community and citizens' participation in monitoring of the implementation of county policies, plans and programmes at the village level.</li> <li>• Facilitate and support regular social audit of county and village development programmes and activities.</li> <li>• Facilitate and support community participation in the planning, design and implement community projects including in the activities of project management committees.</li> <li>• Facilitate public participation in the formulation and implementation of village development plans and programmes</li> <li>• Monitor and keep record of village public participation programmes and activities</li> <li>• Coordinate community participation programs and activities within the village</li> <li>• Resolve disputes that may arise in public participation processes.</li> <li>• Receive feedback and reports from the public on implementation of county policies, plans and programs.</li> <li>• Cooperate, consult and collaborate with the county public participation structures to facilitate citizen participation in areas of mutual concern including implementation of concurrent functions within the county</li> </ul>
<b>National Government Administrative Officers and service coordination units including county commissioner, deputy community commissioners, assistant county commissioners, chiefs and assistant chiefs</b>	<ul style="list-style-type: none"> <li>• Promote intergovernmental relations, coordination and dispute resolution relating public participation in areas of mutual concern including implementation of concurrent functions.</li> <li>• Collaborate and cooperate with Office of Public Participation and county administrative units to facilitate and coordinate public participation in national government supported programs and services at the county, sub-county, ward, location and sub location levels respectively.</li> <li>• Convene regular public meetings or barazas to disseminate information of public interest including national government policy and decisions, public notices and receive public feedback</li> <li>• Complement county government efforts in promoting public participation and good governance at all levels</li> <li>• Support and facilitate policy dissemination</li> </ul>
<b>Non-State Actors</b>	<ul style="list-style-type: none"> <li>• Mobilize the citizens to participate in diverse aspects of public governance and decision-making</li> <li>• Design, develop and implement civic education programmes.</li> <li>• Develop information, education and communication materials that are easily understood and accepted by the community.</li> </ul>

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<b>Development partners</b>	<ul style="list-style-type: none"><li>• Awareness creation citizens' rights to participate in governance and decision-making and affairs of the county government in general.</li><li>• Capacity building and training.</li><li>• Policy advocacy and participation in forums.</li><li>• Resource mobilization and fund raising for public participation and governance programmes.</li><li>• Contributing expertise for the promotion of the public participation and good governance.</li><li>• Bridge existing gaps between government and communities in public participation in governance and decision-making.</li><li>• Facilitate monitoring, evaluation and social accountability.</li><li>• Contribute to preparation of public participation status report</li><li>• Research and generation data, information and evidence for decision-making.</li></ul>
<b>Community based organizations and institutions</b>	<ul style="list-style-type: none"><li>• Complement government efforts in policy implementation</li><li>• Facilitate capacity building and technical assistance for public participation</li><li>• Assist in leveraging resources and provide programme funding and budget support for policy development and implementation, monitoring and evaluation</li><li>• Support institutional development and strengthening</li><li>• Support research and development</li><li>• Assist in community mobilization for public participation and civic education activities.</li><li>• Participate in decision-making processes including policy and law making, planning, budgeting and program implementation, service delivery and M&amp;E processes;</li><li>• Facilitate mobilization of local resources for public participation</li><li>• Engage in civic education and awareness creation activities on participation and other rights.</li></ul>
<b>Citizens and communities</b>	<ul style="list-style-type: none"><li>• Actively participate in decision-making including county planning, budgeting and implementation processes either as individuals or representative groups.</li><li>• Attend public participation meetings and to contribute effectively</li><li>• Actively participate in county civic education initiatives and other processes;</li><li>• Actively participate in monitoring evaluation and social audit of county policies, legislation, plans, budgets, public participation and civic education processes</li><li>• Exercise their sovereignty by holding duty bearers and all other agencies to account for their decisions and actions.</li></ul>

### **6.2.2 Policy Planning**

This Policy will be accompanied with a costed implementations plan both in the Executive and County Assembly. To guide the systematic implementation of the Kisumu County Public Participation Policy, the responsible County Government department and the Office of Public Participation in collaboration with various county departments, and County Assembly will develop a costed Countywide Public Participation Investment Plan within one year of the launch of the Policy.

The Investment Plan will be developed within the County Integrated Development Plan (CIDP) framework and implemented through the departmental annual development plans and budgets. The various county departments, agencies, urban authorities and decentralized units as well as the County Assembly will also develop and implement their respective public participation investment plans and budgets. The investment plans at all levels will be accompanied by clear funding and resource mobilization strategies which will be executed through the annual work plans and budgets developed within the county planning and budgeting framework. Local needs and vulnerabilities will serve as a key criterion for devising inclusive plans, interventions and allocation of financial resources.

### **6.3 Policy Monitoring and Evaluation Framework**

Section 47 (1) of the County Governments Act 2012 requires counties to develop a performance management plan to evaluate the performance of the county public service and the implementation of county policies. The plan should provide for, among other things, objective, measurable and time-bound performance indicators, expected inputs, outputs and results and citizen participation in the evaluation of the performance of the County Government.

The Office of Public Participation and partners will undertake the monitoring and evaluation of the Kisumu County Public Participation Policy. In this regard, the Office of Public Participation in collaboration with partners will, within one year of coming into effect of the Policy, establish a County Integrated M&E Framework for Public Participation. The M&E framework will be aligned with the County Public Participation Investment Plan. The framework will specify, among other performance targets, indicators, budgets and timelines against which the implementation of the Policy will be assessed. The main purpose of the M&E Framework will be to help track, monitor and evaluate the policy implementation and its outcomes. The key performance indicators to monitor performance and measure changes at various levels of policy implementation will be collaboratively developed.

The policy implementation will be monitored and evaluated through the annual multi-sectoral sector review forums. The annual reviews will be aligned with the annual county planning and budgeting processes.

### **6.4 Policy Review**

This Kisumu County Public Participation Policy will be reviewed after a period of five (5) years from the effective date. The review process will involve input from citizens and all stakeholders at various levels. The Office in charge of Public Participation will issue guidelines and procedures for conducting the policy review processes.

### **6.5 Financial Implications of this Policy**

The approval of this policy will occasion additional expenditure of public funds particularly in the establishment and strengthening of the Directorate of Public Participation and other public participation and civic education structures and Kisumu County systems necessary for the coordination and execution of meaningful public participation and stakeholder management in Kisumu County.

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