



Civic Education Curriculum

The Civic Education Curriculum Pathway
to the Realization of True Devolution in
Makueni County



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GOVERNMENT OF MAKUENI COUNTY
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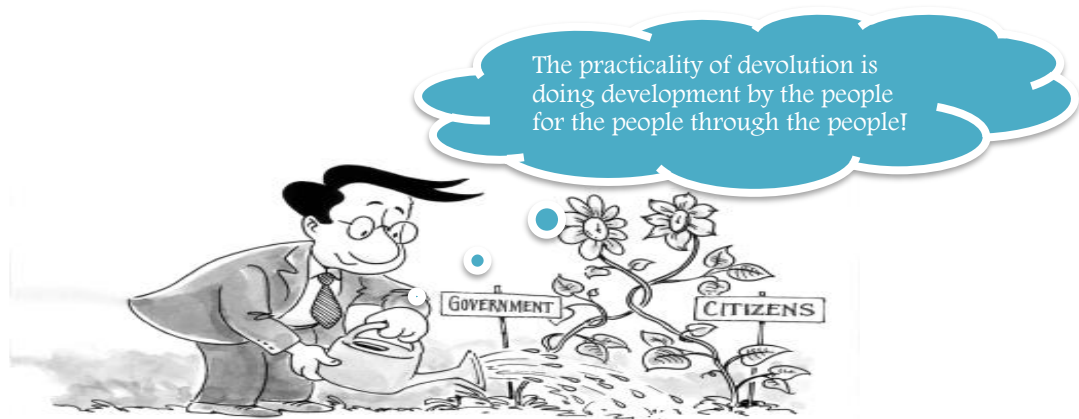
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Why this Curriculum

Under Section 137 of the County Government Act, 2012 the County Civic

Education Unit is mandated to facilitate civic education. While the unit recognizes that it has this mandate, there are other stakeholders who will want to carry out civic education. It is in the light of this that the Unit provides a common curriculum specifically for use by its educators and for use by other interested players. The intent of the curriculum is to provide a framework outlining the scope for the conduct of civic education on the era of devolution, while adhering to a strict code of conduct.



How to Use this Curriculum

The County Civic Education Curriculum intends to provide useful information to Civic Education providers serving in the County as well as anyone seeking to learn about civic education. This includes critical provisions of the Constitution, the devolved system of government and the concept of and tools for active citizen engagement.

The Curriculum starts every chapter and section by identifying some important the civic educator or reader expects to learn and then provides basic content on the topic. Most of the content is fact-based and primarily drawn from the constitution, existing laws, and other

Authoritative literature. Often paired with the factual content are reflections on how a person may use the information to impact the political and social areas of their lives.

The section on devolution addresses the technical and practical aspects of devolved governance and the devolution process established in the Constitution of Kenya, 2010. It also outlines the structure of the Kenya's devolved system of government and transitional laws that support implementing the devolution process in accordance with the constitution. The civic educator/reader will need to pay close attention to newly established government structures at the county level, which will replace local authorities currently responsible for governance and service delivery in local communities.

The section on citizen participation is elaborate and mostly takes an interactive approach. The section intends to empower the reader's interaction with their constitution and government. Specifically, it seeks to improve the reader's understanding of public participation principles and values in the Constitution. It also provides the reader with useful tools to improve their civic engagement.

The tools incorporate practical realities of different geographical and social settings, and help the reader identify how he/she can best educate or influence others in their community.

National Anthem of Kenya

As written in the Second Schedule of The Constitution of Kenya, 2010

1

Ee Mungu nguvu yetu
Ilete baraka kwetu.

Haki iwe ngao na mlinzi
Natukae na undugu

Amani na uhuru
Raha tupate na ustawi

2

Amkeni ndugu zetu
Tufanye sote bidii

Nasi tujitoe kwa nguvu
Nchi yetu ya Kenya,

Tunayoipenda
Tuwe tayari kuilinda.

1

O God of all creation
Bless this our land and nation.

Justice be our shield and
defender
May we dwell in unity

Peace and liberty
Plenty be found within our
borders.

2

Let one and all arise
With hearts both strong and
true.

Service be our earnest
endeavour,
And our Homeland of Kenya

Heritage of splendour,
Firm may we stand to defend.

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CHAPTER 1

1.0 INTRODUCTION

1.1. Understanding Civic Education

1.1.1 What is Civic Education?

The Constitution of Kenya, 2010 promotes public participation at all levels of governance. This participation is only possible when the public is educated on issues affecting their lives and how to influence the relevant decision-makers of such issues. In this regard, civic education is a critical tool for enhancing public participation. Civic education, for example, informs community members of government development plans and their contribution to ensure the implementation of the plan is successful. Moreover, civic education helps citizens challenge the necessity or legitimacy of specific government policies and actions. Citizens can better contribute to the development of their country when they know how their government works and how to support issues important to them.

Some examples of civic education include:

- attending a public forum organized by local leaders to understand how local elected officials make decisions on community issues;
- participating in a discussion on a government policy affecting the community (e.g. the introduction of new laws on waste management, proper usage of water, etc.); and
- educating the community about a proposed public or private development in their area and the potential impact this may have

1.1.2 Why Does Civic Education Matter?

Civic education informs citizens of major social economic and political issues that affect their lives. It also educates citizens on their specific civic roles and responsibilities, which will help them to:

- be active participants in democratic processes such as the election of leaders and referenda;
- build better advocacy skills and increase levels of understanding of their constitution;

- engage authorities (i.e. public officers, politicians, civil servants, police, medical health officers, teachers, other actors, etc.) on a regular basis;
- promote public understanding of the rights and responsibilities required of citizens to maintain and improve good governance, proper leadership, the rule of law and democratic principles; and keep their fellow citizens informed about government initiatives and encourage greater citizen participation in service delivery and other related issues

Hence, it is in the best interest of the county government to promote a society and government in which:

1. Human rights are respected
2. The individual's dignity and worth are acknowledged
3. The rule of law is observed
4. People willingly fulfill their responsibilities, and
5. The common good is the concern of all.

Making that kind of society, that kind of government a reality is the most important challenge that the people of Makueni face and the most important work they could undertake.

1.2 Theory of Change in Civic Education

Mindset change through civic education occurs through the following essential components of good civic education.

1.2 1 Civic Knowledge

Civic knowledge is concerned with the content or what citizens ought to know; the subject matter, if you will. In both the National Standards and the Civics Framework for the Nation that are well stipulated in the National Curriculum of Civic Education under the State Department of Devolution and ASAL, which currently is underway in every county, the knowledge component is embodied in the form of five significant and enduring questions. The five questions are:

- a) What is Kenya's civic life, politics, and government?
- b) What are the foundations of the Kenya's political system?

- c) How does the government established by the Constitution embody the purposes, values, and principles of the people's democracy?
- d) What is the relationship of the National Government, County Government and the People's government?
- e) What are the roles of citizens in Kenyan democracy?

The choice of question format as a means of organizing the knowledge component was deliberate. Democracy is a dialogue, a discussion, a deliberative process in which citizens engage. The use of questions is intended to indicate that the process is never-ending, is an on-going marketplace of ideas, a search for new and better ways to realize democracy's ideals.

It is important that everyone has an opportunity to consider the essential questions about government and civil society that continue to challenge thoughtful people. Addressing the first organizing question "What are civic life, politics, and government?" helps citizens make informed judgments about the nature of civic life, politics, and government, and why politics and government are necessary; the purposes of government; the essential characteristics of limited and unlimited government; the nature and purposes of constitutions, and alternative ways of organizing constitutional governments. Consideration of this question should promote greater understanding of the nature and importance of civil society or the complex network of freely formed, voluntary political, social, and economic associations which is an essential component of a constitutional democracy. A vital civil society not only prevents the abuse or excessive concentration of power by government; the organizations of civil society serve as public laboratories in which citizens learn democracy by doing it.

The second organizing question "What are the foundations of the Kenyan political system?" entails an understanding of the historical, philosophical, and economic foundations of the Kenya's political system; the distinctive characteristics of the Kenyan society and political culture; and the values and principles basic to the Kenyan constitutional democracy, such as individual rights and responsibilities, concern for the public good, the rule of law, justice, equality, diversity, truth, patriotism, devolution, and the separation of powers. This question promotes examination of the values and principles expressed in such fundamental documents as the Acts on Devolution, the Kenyan Constitution, Vision 2030 and other legal provisions.

Knowledge of the ideals, values, and principles set forth in the nation's core documents serves an additional and useful purpose. Those ideals, values, and principles are criteria which citizens can use to judge the means and ends of government, as well as the means and ends of the myriad groups that are part of civil society.

The third organizing question "How does the government established by the Constitution embody the purposes, values, and principles of Kenyan democracy?" helps citizens understand and evaluate the limited government they have ordained and established and the complex dispersal and sharing of powers it entails. Citizens who understand the justification for this system of limited, dispersed, and shared power and its design are better able to hold their governments-County and National -accountable and to ensure that the rights of individuals are protected. They also will develop a considered appreciation of the place of law in the Kenyan political system, as well as of the unparalleled opportunities for choice and citizen participation that the system makes possible.

The fourth organizing question "What is the relationship of the Nation to county governments and to the people of whom sovereignty belongs. It is important because the people of Kenya nor their leaders do not live in isolation; it is a part of an increasingly interconnected society. The current milestones in Kenyan democracy has experienced a shift from one party power to multi party with the devolution of powers for self-governance to the people as enacted in article 174 of the County Government Act, 2012. Hence, Citizens also need to develop a better understanding of their roles in enhancing their participation because of the increasingly significant role that they are playing in the political, social, and economic realms.

The final organizing question "What are the roles of citizens in Kenyan democracy?" is of particular importance. Citizenship in a constitutional democracy means that each citizen is a full and equal member of a self-governing community and is endowed with fundamental rights and entrusted with responsibilities. Citizens should understand that through their involvement in political life and in civil society, they can help to improve the quality of life in their neighborhoods, communities, and nation. If they want their voices to be heard, they must become active participants in the political process. Although elections, campaigns, and voting are central to democratic institutions, citizens should learn that beyond electoral politics many participatory opportunities are open to them. Finally, they should come to understand that the attainment of individual goals and public goals tend to go hand in hand with participation in political life and civil society. They are more likely to achieve personal goals for themselves and their families, as well as the goals they desire for their communities, Counties, and nation, if they are informed, effective, and responsible citizens.

1.2.2 Civic Skills: Intellectual and Participatory Proficiency

The second essential component of civic education in a democratic society is civic skills. If citizens are to exercise their rights and discharge their responsibilities as members of self-governing communities, they not only need to acquire a body of knowledge such as

that embodied in the five organizing questions just described; they also need to acquire relevant intellectual and participatory skills.

Intellectual skills in civics and government are inseparable from content. To be able to think critically about a political issue, for example, one must have an understanding of the issue, its history, its contemporary relevance, as well as command of a set of intellectual tools or considerations useful in dealing with such an issue.

The intellectual skills essential for informed, effective, and responsible citizenship sometimes are called critical thinking skills. A good civic education enables one to identify or give the meaning or significance of things that are tangible such as the flag, national monuments, or civic and political events. It also enables one to give the meaning or significance of intangibles, such as ideas or concepts including patriotism, majority and minority rights, civil society, and constitutionalism.

The ability to identify emotional language and symbols is of particular importance for citizens. They need to be able to discern the true purposes for which emotive language and symbols are being employed.

Another intellectual skill which good civic education fosters is that of describing. The ability to describe functions and processes such as legislative checks and balances or judicial review is indicative of understanding. Discerning and describing trends, such as participation in civic life, immigration, or employment helps the citizen fit current events into a longer term pattern.

Good civic education seeks to develop competence in explaining and analyzing. If citizens can explain how something should work, for example the Kenya's devolved system, the legal system, or the system of checks and balances, they will be more able to detect and help correct malfunctions. Citizens also need to be able to analyze such things as the components and consequences of ideas, social, political, or economic processes, and institutions. The ability to analyze enables one to distinguish between fact and opinion or between means and ends. It also helps the citizen to clarify responsibilities such as those between personal and public responsibilities or those between elected or appointed officials and citizens.

In a self-governing society citizens are decision-makers. They need, therefore, to develop and continue to improve their skills of evaluating, taking, and defending positions. These skills are essential if citizens are to assess issues on the public agenda, to make judgments about issues and to discuss their assessment with others in public or private.

In addition to the acquisition of knowledge and intellectual skills, education for citizenship in a democratic society must focus on skills that are required for informed,

effective, and responsible participation in the political process and in civil society. Those skills can be categorized as interacting, monitoring, and influencing. Interacting pertains to the skills citizens need to communicate and to work cooperatively with others. To interact is to be responsive to one's fellow citizens. To interact is to question, to answer, and to deliberate with civility, as well as to build coalitions and to manage conflict in a fair, peaceful manner. Monitoring politics and government refers to the skills citizens need to track the handling of issues by the political process and by government. Monitoring also means the exercising of oversight or "watchdog" functions on the part of citizens. Finally, the participatory skill of influencing refers to the capacity to affect the processes of politics and governance, both the formal and the informal processes of governance in the community.

It is essential that the development of participatory skills begins in the earliest grades and that it continues throughout the course of schooling. The youngest pupils can learn to interact in small groups or committees, to pool information, exchange opinions or formulate plans of action commensurate with their maturity. They can learn to listen attentively, to question effectively, and to manage conflicts through mediation, compromise, or consensus-building. Older students who have already been trained on civic education by the county or civic providers should be able to develop the skills of monitoring and influencing public policy. They should learn to research public issues using electronic resources, libraries, the telephone, personal contacts, and the media. Attendance at public meetings ranging from public participation forums, town hall meetings and legislative hearings

If citizens are to influence the course of political life and development they need to expand their repertoire of participatory skills. Voting certainly is an important means of exerting influence; but it is not the only means. Citizens also need to learn to use such means as petitioning, speaking, or testifying before public bodies, joining ad-hoc advocacy groups, and forming coalitions. Like the skills of interacting and monitoring, the skill of influencing can and should be systematically developed.

1.2.3 Civic Dispositions: Essential Traits of Private and Public Character

The third essential component of civic education, civic dispositions, refers to the traits of private and public character essential to the maintenance and improvement of constitutional democracy.

Civic dispositions, like civic skills, develop slowly over time and as a result of what one learns and experiences in the home, school, community, and organizations of civil society. Those experiences should engender understanding that democracy requires the responsible self-governance of each individual; one cannot exist without the other. Traits of private character such as moral responsibility, self-discipline, and respect for

the worth and human dignity of every individual are imperative. Traits of public character are no less consequential. Such traits as public spiritedness, civility, respect for the rule of law, critical mindedness, and willingness to listen, negotiate, and compromise are indispensable to democracy's success.

Civic dispositions that contribute to the political efficacy of the individual, the healthy functioning of the political system, a sense of dignity and worth, and the common good were identified in the principles of civic education envisioned by the constitution of Kenya, 2010. In the interest of brevity, those dispositions or traits of private and public character might be described as:

- Becoming an independent member of society. This disposition encompasses adhering voluntarily to self-imposed standards of behavior rather than requiring the imposition of external controls, accepting responsibility for the consequences of one's actions and fulfilling the moral and legal obligations of membership in a democratic society.
- Assuming the personal, political, and economic responsibilities of a citizen. These responsibilities include taking care of one's self, supporting one's family and caring for, nurturing, and educating one's children. They also include being informed about public issues, voting, paying taxes, serving on juries, performing public service, and serving in leadership positions commensurate with one's talents.
- Respecting individual worth and human dignity. Respecting others means listening to their opinions, behaving in a civil manner, considering the rights and interests of fellow citizens, and adhering to the principle of majority rule but recognizing the right of the minority to dissent.
- Participating in civic affairs in a thoughtful and effective manner. This disposition entails becoming informed prior to voting or participating in public debate, engaging in civil and reflective discourse, and assuming leadership when appropriate. It also entails evaluating whether and when one's obligations as a citizen require that personal desires and interests be subordinated to the public good and evaluating whether and when one's obligations or constitutional principles obligate one to reject certain civic expectations.
- Promoting the healthy functioning of constitutional democracy. This disposition encompasses being informed and attentive to public affairs, learning about and deliberating on constitutional values and principles, monitoring the adherence of political leaders and public agencies to those values and principles and taking appropriate action if adherence is lacking. This disposition also inclines the

citizen to work through peaceful, legal means to change laws that are thought to be unwise or unjust.

1.3 Democracy and Governance

1.3.1 Democracy

Democracy refers to a system of government based on people's consent, also known as the 'will of the people'. Simply put, democracy means rule by the people. The basic principles of democracy include the following:

- a) recognition that power belongs in the hands of the people;
- b) the greatest possible freedom for all;
- c) a just society;
- d) the same rules for all;
- e) equality before the law;
- f) respect for the rule of law; and
- g) Equal opportunity for all.

In a democracy, people govern themselves either directly through voting by referendum or indirectly through representatives they elect to make decisions for them. Democracy also applies to decision making at the local level and through interactions between citizens.

1.3.2 Governance

Governance refers to the management of public affairs as well as the relationships between and among people and their organizations. Citizens in a democracy have the power to exercise political control. They may become involved in their government by meeting with elected and government officials to express their concerns or by petitioning and demonstrating peacefully in support of an issue or action.

Citizens in a democracy also can vote for candidates who make convincing arguments to improve their lives and re-elect those leaders who actually fulfil their promises once elected. Media groups can report freely about government activities, including matters of corruption and the misuse of public resources. In addition, under a democratic system, the President and other public officials are responsible for enforcing the rule of law provided for in the Constitution.

In a democracy, citizens must get involved in the governing process to ensure that public officials are responsive their needs. If citizens are not actively involved in the political and decision-making process, public officials can make decisions with little accountability to the public. Without citizen input, these decisions may also harm rather than help the community. Citizen involvement in governance, however, does not

happen overnight. It takes time for people to first, recognize the role they can play in their country's democracy, and second, to take the appropriate steps to become involved in the democratic process.

It is difficult for a citizen to get involved in the political process without understanding how their government works. Citizens need skills and the confidence to voice their concerns in order to hold public officials accountable. They must also know their rights and responsibilities and have the necessary skills to make informed choices.

The Constitution has created more opportunities for citizens to participate in the management of their country. It is important for citizens, therefore, to take advantage of these opportunities not only by staying informed about the campaign platforms of politicians, but also by participating in government decision-making processes.

Civic education helps to create an informed and responsible citizenry that plays a critical role in enhancing democracy. The Constitution directs all citizens to be active participants in the governance process. Civic education is the first step in empowering Kenyans to be responsible citizens who are aware of their rights and responsibilities and are prepared to contribute to a fair and equitable society.

1.3.2.1 Good Governance: Explained

Good governance provides effective service delivery that is free of abuse and corruption, gives priority to human-rights based approaches, and supports the rule of law.

Some of key components of good governance are as follows:

1. **Participation** – Participation by both men and women, the poor and the rich, people of all religious persuasions, people of all races and ethnic groups and people with different physical abilities are a vital aspect of good governance. This participation can be either direct or indirect through legitimate institutions or representatives.
2. **Rule of law** – The management of public affairs occurs in strict accordance with established laws. Good governance requires fair legal structures that are enforced without favoring any party or individual and fully protect human rights particularly those of marginalized and minority communities. The rule of law also means an independent judiciary and a police force that is impartial and not corrupt.
3. **Transparency** – Decisions taken and enforced by the government adhere to rules and regulations and occur in an open manner. Moreover, those affected have free and open access to information on the decisions taken and their enforcement.
4. **Responsiveness** – Institutions and processes try to serve all the people within a reasonable timeframe. In addition, the priorities of public institutions are responsive to the priorities of citizens.

5. **Consensus-driven** – The different interests in society are included in order to reach a broad consensus on what is in the best interest of the community as a whole.
6. **Equity and inclusiveness** – All groups in society, especially the most vulnerable, have the opportunity to maintain or improve their health and security. This ensures that all members of society feel that they are equal stakeholders.
7. **Effectiveness and efficiency** – Institutions and processes produce results that meet the needs of society while also ensuring they are making the best use of available resources. It also means the sustainable use of natural resources and the protection of the environment.
8. **Accountability** – Governmental institutions, private sector, and civil society must be accountable to the public and their institutional stakeholders. In general, organizations and institutions are accountable to those impacted by their decisions or actions.
9. **Strategic vision** – Leaders and the public should have a broad and long-term outlook on good governance and human development, along with a sense of the requirements for such development. There should also be an understanding of the historical, cultural, and social factors that inform this outlook

1.3.2.2 Key Issues in Good Governance

The 1997 UNDP Mayors Survey identified and ranked the eight most important quality of life issues for urban areas. They are as follows:

1. Employment/job creation
2. Solid waste collection and disposal
3. Urban poverty
4. Shelter and housing
5. Water and sanitation
6. Public transport and traffic
7. Health services
8. Civil society participation

The above list of issues should not be limited to urban areas as they reflect major issues in rural areas as well. Resolving these issues requires good governance. Therefore, as we adopt the county model of government through devolution, the above issue areas

will be critical when measuring the performance of local elected leaders and public officials

1.3.2.3 Challenges of Good Governance

Different societies have achieved certain notable measures of development through completely different governance approaches. There are some context specific challenges that can hinder good governance. They include:

1. **Destructive conflict** – Peace is a necessary pre-condition for good governance. A history of violent conflict fueled by intolerance, beginning particularly in the colonial times, left our country’s government and civil society institutions in ruins. Therefore, it is critical to promote a peaceful coexistence as a basis for governance.
2. **Lack of democracy** – Although democracy is a difficult process that requires watchfulness and support, it is essential to successful good governance. Political leaders at all levels in our country must make democracy a key part of their collective agenda through actions and not just words.
3. **Weak civil society** – A strong relationship must exist between the state and civil society if democracy is to endure and good governance is to prevail. Political leaders, however, sometimes view civil society as their competitors and believe they require greater control from the government.
4. **Discrimination** – Good governance cannot thrive without the mainstreaming of women, young people, and both the marginalized and minority sections of society into politics and governance. Excluding these sections of the population from real political power in Kenya, whether at the national, community or household level has ensured wide social, economic, and political inequalities in our country today.
5. **Weak institutions** – Good governance and effective citizen participation requires investment in improving the capacity institutions and citizens. Our country needs capacity building and improvement across the whole spectrum of institutions of governance, including the Legislature, Judiciary, political parties,

and human rights commissions. Our citizens must also have their capacities strengthened through delivery of strong social services and universal education, so they can contribute to the governance process.

6. **Poor ownership** – While the fundamentals of good governance are universal, specific institutions and systems of good governance cannot be simply imported. Instead, they must be homegrown and something that is “lived” rather than one that is “received” from others. Therefore, the only way to sustain our country’s reform process towards good governance is if it earns long-term commitment from our political leaders

1.4 The Role of Various Institutions in Provision of Civic Education in The County

It is incumbent upon all state organs, state and public offices to ensure that members of the public meaningfully participate in all governance processes. Civic education, as a means of informing the public to know their rights and responsibilities and make informed choices, should be embraced by both levels of government and delivered effectively and sustainably.

The County Government Act, 2012 and the Transition to Devolved Government Act specify roles of various actors in civic education. Section 137 of the County Government Act provides for the formation of the County Governments, civic education units and 121 for support for capacity of county governments among others.

Sections 98- 101 of the same Act provides that national and county governments have responsibility to facilitate implementation of civic education programs including ensuring participation of Non-State Actors. County Governments are responsible for

civic education at the county level and are required to legislate on the institutional framework for facilitating implementation of civic education including establishment of County civic education units.

A number of civil society organizations and faith based organizations are also engaged in civic education activities. Most of them work in selected geographical areas. A few of them work through consortiums and could reach out to more regions.

While the Constitution and related Acts of Parliament provide for the need for citizen education and engagement, there are still challenges in coordination, messaging, delivery and financing of civic education. It is against this background that the Ministry of Devolution and Planning in collaboration with the Transition Authority, Department of Justice, Council of Governors and civil society organizations comprising of Uraia Trust and Amkeni wa Kenya seek to develop a National Civic Education Framework to guide coordination, messaging, financing and institutional framework for delivery of civic education at national and county level. The framework will be useful reference for development of policy and legislative framework for civic education at the national and county level.

1.5 The objectives of civic education

The County Government Act 2012, Section 99 provides the objectives of civic education as follows:

1. Sustained citizens' engagement in the implementation of the constitution;
2. Improved understanding, appreciation and engagement of in the operationalization of the county system of government;
3. Institutionalizing culture of constitutionalism; knowledge of Kenya's transformed political system, context and implications;
4. Enhanced knowledge and understanding of electoral system and procedures;
5. Enhanced awareness and mainstreaming of the bills of rights and national values

6. Heightened demand by citizens for service delivery by institutions of governance at the county level;
7. Ownership and knowledge on principal economic, social and political issues facing county administrators and their form, structures and procedures; and
8. Appreciating for the diversity of Kenya's communities as building blocks for national cohesion and integration

1.6 Code of Conduct for Trainers and Facilitators

Professional training and facilitation operates on the understanding that:

- ✓ The undertaking is bound to a set of universal rules and regulations-meaning this is not the first civic education activity.
- ✓ Effective training and facilitation takes place within an atmosphere governed by a well defined code of ethics.
- ✓ Professional training and facilitation succeeds best when pursued in good taste and with noble intentions.

1.7 Do's and Don'ts' for Civic Education Providers

DO:

- Uphold credibility and dignity that would enable you to command the respect of your audience.
 - Disseminate accurate information and correct any erroneous notions promptly.
 - Use simple and clear language ensuring you are audible to each of your trainees.
 - Be sensitive to people's values and beliefs while engaging in fair and balanced communication activities that foster and encourage mutual understanding.
 - Observe ground rules e.g. keeping your phone away during training sessions.
 - Acknowledge effort and good work from your audience. This encourages participation.
 - Give every trainee equal attention and space; be impartial.
 - Engage communities in an atmosphere where they will be comfortable.

Don't:

- Use confidential information gained as a result of professional activities for personal benefit and do
- Not represent conflicting or competing interests.
- Guarantee results on issues beyond your capacity or authority.
- Do guesswork; seek clarification whenever in doubt of the content of your references.
- Dress provocatively or indecently.
- Address community anonymously; memorize some of their names if not all.
- Monopolize the show; make your sessions interactive.
- Use indecent jokes and examples.
- Personalize anything.

1.8 The Ground Rules:

As you begin to conduct civic education forums, you will discover that the sessions often provoke discussions of sensitive or personal topics, which may derail the objective. Have a set of appropriate ground rules written on newsprint and hanged on the wall during the workshop. These rules include:

1. **Confidentiality-** Personal information shared in the civic education forums shall not be discussed elsewhere.
2. **Respect-** Respect other people's opinions and experiences.
3. **Openness-** Be open and honest without exposing other people's private lives; when using general situations as examples, avoid mentioning names.
4. **Non-judgmental-**Do not judge or criticize others even when you do not agree with their opinion.
5. **Anonymity-**It is okay to ask questions anonymously if necessary.
6. **Acceptance-**It is okay to feel uncomfortable when talking about sensitive topics.

There may be other ground rules the forum members will want to add or develop. If possible, let the rules come from the forum, perhaps after you have given an example of a ground rule. You can always add those not suggested by the participants.

1.9 Principles of Delivering the Civic Education Forums

Since the education targets adults among the communities of Makueni, below are some realities about adults that you should know. They enable you to communicate better and meet them at their point of need, culture and perspective!

Principles of Adult Learning	Conditions Ideal for Adult Learning
Bear in mind that adults are characteristically: <ul style="list-style-type: none"> ✓ They are sensitive. ✓ Independent-minded. ✓ Proud and averse to embarrassment. ✓ Knowledgeable. ✓ Experienced. ✓ Opinionated. ✓ Set in behavior patterns. ✓ Embedded in certain attitudes. ✓ Shaped by their cultural backgrounds. 	This implies that adults learn best when: <ul style="list-style-type: none"> ✓ Involved and interested. ✓ Training is beneficial. ✓ They are respected. ✓ There is good timing. ✓ Challenged. ✓ Not just lectured. ✓ They are comfortable and feel safe, learning activities are varied, and they have freedom.

1.10 Foundational Considerations in Delivering Civic Education

In summary, the key principles to observe during this civic education activity include:

1. Know the audience.
2. What is their background? What are they bringing into the learning situation? Know factors that can affect learning.
3. Establish rapport.
4. Choose appropriate and effective methods.
5. Proceed from the known to the unknown.
6. Prepare well and be ready to trouble-shoot.
7. Expect the unexpected.
8. Think on your feet.
9. Exercise respect all the time.

1.10 Understanding the Constitutions

1.10.1 What is a Constitution?

When people live or work together, they need to agree on how they will run their affairs. In a political state, as well as in some organizations, this agreement takes the form of a constitution. A constitution establishes the most important principles, rules, and structures that govern a political state or organization. It also regulates the power of the state or organization and reinforces its accountability to its members.

Furthermore, a constitution is the most important law of a state or organization, also known as the 'supreme law.' This means that all other laws subsequently passed by the state or organization must find their basis in the constitution. Some of the issues any constitution must address are:

1. Determine which people belong to that state or organization and are governed by the constitution;
2. Provide entitlements to the people belonging to that state or organization;
3. Decide how leaders representing the people are to be chosen, their roles and duties and how they are to be removed;
4. Define how the resources of the state or organization are to be managed and distributed; and
5. Provide ways to resolve conflict within the state or organization when they arise.

1.10.2 Two Types of Constitutions

There are two basic types of constitutions. The first is a written (codified) constitution, which is contained in a single document and serves as the single source of constitutional law. The second type is an unwritten (un-codified) constitution, which is not contained in a single document but rather consists of several different sources that may be written or unwritten. Most countries in the world, including Kenya, have codified constitutions. Both historical and political factors determine how a country adopts its constitution. Codified constitutions find their legitimacy, and often longevity,

in the way countries adopt them. Furthermore, changes to most codified constitutions require exceptional procedures. These procedures may be to:

1. Convene a special constituent/People's assembly;
2. Hold a referendum process; or
3. Create requirements so that it is more difficult for a legislature to amend a constitution than it is to pass a law.

1.10.3 Written Constitutions

Written (codified) constitutions normally include a ceremonial preamble, which provides the goals of the State, motivation for the constitution, and several articles containing the substantive provisions. Omitted from some codified constitutions, the preamble may also contain a reference to religion and/or to fundamental values of the nation such as liberty/freedom, democracy, or human rights.

1.10.4 Unwritten Constitutions

Unwritten (un-codified) constitutions often represent an 'evolution of laws' and pacts over time. Countries considered that have un-codified constitutions include Israel, Canada, Saudi Arabia, New Zealand, and the United Kingdom. Countries with written constitutions may also have aspects of an unwritten constitution as part of its laws. In other words, a written constitution is not necessarily a comprehensive document of the values, principles, and rules that govern a country.

1.10.5 The Role of the Constitution

A constitution's primary role is to set the values, principles and rules to guide people who exist as a unit (i.e. country, organization, etc.). In this regard, the constitution defines the role of the people, creates the organs of governance, and outlines the powers and functions of those organs. It also establishes guidelines for the relationship between the people and the organs of governance. An important role of a modern constitution is to state principles and rules on how people of one nation recognizes and adheres to the

rule of law. This occurs by establishing credible institutions and just values, rules and principles.

1.10.6 Constitutionalism & the Rule of Law

The rule of law is the principle that all people and institutions are subject and accountable to law fairly applied and enforced by the government. Constitutionalism refers to society's adherence to the principles of the constitution. It seeks to prevent undemocratic governance and intends to guarantee the liberty and rights of individuals on which free society depends. In other words, the purpose of constitutionalism is to ensure that those who govern do so within the rules that prescribed by the constitution and the law. Moreover, constitutionalism requires both citizens and leaders to be aware of their rights and responsibilities as prescribed in the constitution.

CHAPTER 2

2.0 THE CONSTITUTION OF KENYA, 2010: THE PEOPLE'S POWER

This Section highlights the following issues concerning the constitution of Kenya, 2010:

1. Highlights selected articles from The Constitution of Kenya, 2010 and their implication on the common mwananchi
2. Explains the ways in which the 2010 Constitution increases the sovereign power of citizens to have more control over the affairs of their everyday life
3. Provides an overview of the key rights of every citizen
4. Outlines constitutional aspects of land use, natural resource management and environmental preservation
5. Discusses leadership and good governance qualities added to the Constitution
6. Provides the roadmap and mechanisms for the successful and full implementation of the 2010 Constitution

2.1 An Overview of the 2010 Constitution

The Constitution of Kenya, 2010 consists of 18 Chapters and six Schedules. It emphasizes on the sovereign power of the people; noting that all constitutional power derives from the people. It stipulates that the government must consult citizens in the formulation of policies and decisions that affect them, other citizens, and the country as a whole government. They are also tools for citizens to use to ensure that the government adheres to the principles of the Constitution.

The constitutional provisions relating to land are comprehensive and include the creation of a National Land Commission as well as an improved land tenure system.

The land provisions also emphasize the need for the nation to address historical injustices that relate to land, and deals with matters of the environment and conservation.

2.2 The Constitution, the Nation, the People and the Values

2.2.1 Sovereignty of the People and Supremacy of the Constitution

The Constitution says that it derives its power from the people, and the persons in positions of leadership or the various institutions of governance should only exercise that power on behalf of the people. The Constitution further states that the people shall exercise their power directly or indirectly through their chosen representative(s).

An emphasis on the sovereignty of the people in the Constitution represents an important change from previous constitutions in terms of the relationship between the people of Kenya and both governing institutions and people in positions of leadership. Finally, the Constitution is the ‘supreme law’ in the country, meaning that every citizen is bound to it and is required to respect and adhere to its rules and principles.

2.2.2 Defending the Constitution

The Constitution requires citizens defend it when necessary. Any citizens may defend the constitution either acting on their own behalf or on the behalf of others. This also includes citizens acting as a member of a group or in the public interest

2.2.3 Guiding Values for Kenyans

Article 10 of the Constitution outlines the values that all citizens, particularly leaders, should apply when implementing any action required by the Constitution. These values seek to ensure that all citizens live a life of dignity, equity, and fairness. The Constitution also defines what the Republic of Kenya is and what it stands for,

including its territorial borders. It further sets the qualifications for, and the rights of, citizens. Additionally, it explains that culture is a foundation of the State and creates an obligation on the government to promote and protect culture.

2.2.4 Application & Implication

The Constitution aims to change and improve the way we govern our country. It contains provisions that acknowledge the fact that all sovereign power belongs to the people of Kenya. Citizens will now have an opportunity to get involved and participate in the decision-making process. They will also play a role in ensuring accountability on the part of leaders, public servants, and officers of the State. Finally, the Constitution improves the planning, governance, and service provision with adequate funding at the county and sub-county level.

2.2.5 Rights under the Constitution

One of the primary purposes of modern constitutions is to grant and define rights. The Constitution of Kenya, 2010 provides two sets of rights: (1) civil and political rights, and (2) economic, social, and cultural rights.

2.2.5.1 The Bill of Rights

A bill of rights is a list of the most important rights for citizens in their constitution. These rights belong to each individual and are not granted by the parliament. The Bill of Rights in our constitution is comprised of rights listed from Article 19 to 59, and is considered one of the most progressive Bills of Rights in the world. This is because our Bill of Rights guarantees a variety of fundamental rights and freedoms, including political, civil, and social economic rights.

The purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings.” – Article 19(2), the Constitution of Kenya, 2010

2.2.5.2 Civil Rights

Civil rights refer to the entitlement of an individual to personal freedom or liberty. The Constitution guarantees civil rights, including:

1. Right of equality and freedom from discrimination states that every person is equal before the law and has the right to equal protection and equal benefit of the law. Equality includes the full enjoyment of all rights and fundamental freedoms.
2. Right to freedom and security includes the right to no arbitrary detention, no physical or mental torture, and no inhumane or degrading treatment.
3. Right to freedom of conscience, religion, and opinion entitles every person the right to join or participate in any religion or to choose not to participate.
4. Right to freedom of movement and residence means that all citizens

It is usually very difficult to modify a bill of rights under the normal constitutional amendment procedures. Any modification often requires extraordinary actions like a referendum or a supermajority of votes have a right to freedom of movement within the country. It also means that citizens have a right to enter, remain in, and reside anywhere in Kenya. Citizens also have the right to leave the country at any time.

2.2.5.3 Right of Freedom of Expression

Right to freedom of expression refers to freedom to seek, receive, or communicate information and ideas, artistic creativity and academic freedom including scientific research.

2.2.5.4 Right of Access to Information

Right of access to information ensures that every citizen has the right of access to information held by the State; and information held by another person and required for the exercise or protection of any right or fundamental freedom. Every person also has the right to have the State correct or delete untrue or misleading information about him or herself.

Furthermore, the State shall publicize any important information affecting the nation.

2.2.5.5 Right of Freedom of Media

Right to freedom of the media is the right to prevent the state from attempting to control or interfere with any person engaged in broadcasting, the production, or circulation of any publication or the dissemination of information by any medium; or to penalize any person for any opinion or view or the content of any broadcast, publication or dissemination.

2.2.5.6 Right of Freedom of Association

The right to freedom of Association means that every person has a right to associate freely, to include forming, joining or participating in the activities of an association of any kind. This right also protects a person from forceful membership in a specific group, and from having their registration withheld or withdrawn without first receiving a fair hearing.

2.2.5.7 Political Rights

Political rights refer to two broad categories of rights. The first guarantees a fair trial for any accused person. The second category refers to rights to making political choices and participation in political activities. Article 38 of The Constitution states that every citizen is free to make political choices, which includes the right to form, or participate in forming, a political party; participate in the activities of, or recruit members for, a political party; or to campaign for a political party or cause. Furthermore, every adult citizen has the right to:

1. free and fair elections;
2. be registered as a voter;
3. vote by secret ballot in any election or referendum;
4. be a candidate for public office, or office within a political party of which the citizen is a member; and
5. hold office, if elected.

2.2.5.8 Social, Economic, and Cultural Rights

Social economic rights are referred to as “second generation rights” in the human rights naming system, and are one of the most significant achievements of the Constitution. Inspired by the United Nation's International Covenant on Economic, Social, and Cultural Rights (ICESCR), these second generation rights intend to protect an individual's access to education, housing, an adequate standard of living, and good health. Other rights in this grouping include rights of citizens to practice their indigenous languages and to family.

1. Economic rights provide the right to secure a living under certain working conditions;
2. Social rights guarantee access to basic services such as health, social security, housing, food, water and education;
3. Cultural rights provide citizens with the rights to preserve and practice cultural activities unless they harm or discriminate against a particular group, or violate other human rights in the Constitution;
4. Environmental rights mean that citizens have a right to an environment that is not harmful to people's health and wellbeing. These rights further call on citizens to protect the environment and conserve vegetation and wildlife for future generations; and
5. Developmental rights give citizens the right to live in prosperity and have enough resources for current use as well as saving some for future generations.

2.3 Limitation of Rights and Fundamental Freedoms

Article 24(1) of the Constitution stipulates that “a right shall not be limited except by law and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom and taking into account of all the relevant factors” including the:

1. nature of the right and fundamental freedom;
2. importance and the purpose of limitation;

3. nature and the extent of the limitation has provision on the nature of rights which can be limited; and
4. Circumstances that will necessitate the limitation of those rights.

However, the Constitution also clearly states that the following rights and fundamental freedoms shall not be limited to:

1. the right to habeas corpus;
2. freedom from torture and cruel inhuman or degrading treatment or punishment;
3. freedom from slavery or servitude; and
4. The right to a fair trial.

2.4 Application and Implications of the Bill of Rights

The Bill of Rights aims to protect all citizens so they can live a life of dignity where there is social justice and respect for human rights and the rule of law. It is important as a citizen that you to be aware of your rights in order to fulfil your responsibilities in ensuring that all citizens live peacefully with one another. Resources may not be immediately available to implement fully all economic and social rights because the Constitution allows for their gradual implementation.

The State, however, must demonstrate genuine and organized efforts towards full implementation of these rights. The State's efforts can take the form of clearly published programs and implementation plans on all areas covered by the Bill of Rights. Such plans must include verifiable information on the actions the government is taking to ensure the realization of these rights.

2.5 Land Use & Management

This section outlines the land provisions captured in the Constitution. It highlights the different categories of the land tenure system. Land ownership has been a controversial issue ever since the struggle for independence.

One major reason that land ownership has historically been an issue is because of poor land laws in the past, which allowed for the seizure of land from its rightful owners by corrupt individuals, including landowners' own community peers, and government officials.

2.5.1 Principles on Land Management

Our country has experienced land related clashes since independence because of competition for land ownership and corruption. The clashes have persistently threatened the national cohesion of our country. In an effort to resolve this historical problem, the Constitution includes general principles for the management of land matters. Some of the key provisions on land management in the Constitution are:

1. ensuring equitable access to land;
2. encouraging efficient, productive and sustainable usage of land;
3. enforcing transparent and cost effective administration of land;
4. requiring the conservation and protection of ecologically sensitive areas;
5. eliminating gender discrimination in laws, customs and practices related to land and property in land; and
6. Encouraging communities to settle land disputes through recognized local community initiatives consistent with the law.

2.5.2 Land Tenure

Reforms in land ownership are one of the key features of the 2010 Constitution. Specific types of land ownership outlined in the Constitution are below:

1. Freehold tenure is the ownership of land with the right to pass it on through inheritance. The landowner may have acquired the land through purchase or inheritance
2. Leasehold tenure is the temporary ownership of land through the payment of land rent. This is similar to renting a house and paying the property owner rent at an agreed amount without actually owning the house.

3. Partial interest tenure is land that has many different interests or stakeholders on a specific parcel of land. This can include easements where one landholder has rights to certain parts of another landholder's land. Examples of partial interest tenure include government regulation, zoning or even by negotiation among private and/or public parties
4. Customary tenure is land ownership granted through traditions. The Constitution does not recognize customary tenure when it conflicts with the principles or provisions of the Constitution on issues such as disinheritance because of gender. The maximum leasehold is now 99 years, which is a major shift from the previous system that allowed citizens to lease land for up to 999 years. A person who is not a citizen may hold land based on leasehold tenure only, which is different from the old system allowing for the most valuable land to be owned by foreigners. The new land provisions in the Constitution will, therefore, make land more accessible to many citizens and help to reduce poverty in the country.

2.5.5 Laws on Landholding

Parliament has already passed three laws that support the various land provisions in the Constitution. They are:

1. The National Land Commission Act, 2012
2. The Land Act, 2012
3. The Land Registration Act, 2012

Some additional complimentary laws are still required for aspects of land provisions in the Constitution. At a minimum, this includes laws to regulate community land, address historical injustices related to land ownership, and address the rights of informal settlers like protection from arbitrary eviction.

2.5.6 Establishment of the National Land Commission

Article 67 of the Constitution and provisions in the National Land Commission Act, 2012 establish the National Land Commission. Some of the Commission's primary functions are to:

1. manage public land on behalf of the national and county governments; •
develop a national land policy;
2. advise the national government on matters related to land titles and monitoring;
3. oversee land use throughout the country;
4. To investigate present or historical land injustices and recommend the appropriate redress; and encourage the use of traditional dispute resolution mechanisms in land conflicts.

In accordance with Article 6(3) of the Constitution, the headquarters of the National Land Commission is in Nairobi, but it is required to provide access to citizens in all parts of the country. The Commission is required to produce an annual report, which includes the following information: financial statements, progress report on work conducted so far, and any recommendations or challenges. The Commission should publish their report for public viewing as soon as it is practical after each financial year.

2.5.7 Application & Implication

The Constitution contains a full chapter dedicated to land management and environmental issues. This chapter is critical given the country's unique history of land disputes dating back to pre-colonial years. Historically, land ownership has been the root of many disputes. The establishment of the National Land Commission, and the implementation of constitutional provisions on land use and management, will increase accountability and transparency as well as reduce the possibility of illegal land seizure. New land laws passed by Parliament require the review of all grants or dispositions of public land and illegal land ownership. The constitutional provisions on land will also prevent the elite from occupying vast tracts of land. Finally, the Constitution requires efficient and effective land use.

2.6. Environment & Natural Resources

The Environment is the space in which we live and operate – whether it is the office, street, village, sea, or forest. Whatever one's daily surroundings may be, every citizen has the right to an environment that is healthy, clean, safe from pollution and protected from destruction.

The Constitution includes provisions to ensure that citizens have a sustainable environment that they are also required to protect. The Constitution ensures that the use of our country's natural resources benefit citizens, investors as well as the overall environment. The Constitution delegates to the State the responsibility of managing several aspects of the country's environment and natural resources. This includes a requirement for the State to maintain a national tree cover of at least ten per cent. Our country's current tree cover is approximately 2.3 per cent, which means that it will take hard work on the part of the government and all of us Kenyans to achieve and maintain this goal. Finally, the government is required to utilize the environment and natural resources for the benefit of the people of Kenya and not just a particular group of people or geographic area.

2.7 Protecting Our Natural Resources

Like many other countries, Kenya is working to benefit from its natural resources such as oil, minerals, forests, geothermal energy, mangroves, etc. The Constitution requires Parliament to be fully involved in the negotiation of agreements pertaining to the use of our country's natural resources and/or the environment. Specifically, Parliament must approve any transaction involving the granting of rights to the management of any natural resource in the country to any individual or entity. In other words, Parliament must approve any use of our natural resources.

Members of Parliament should be accountable and support the progress of the nation as a whole. This quality of our leaders will ensure that laws enacted do not end up

enriching wealthy elite while impoverishing the majority of the population in our country. Citizens must also be vigilant when it comes to the use of natural resources to ensure that it is in line with the constitutional prescriptions for sustainable land management.

2.7.1 Application and Implication

Every citizen has a responsibility to ensure that we manage our country's natural resources in such a way that it benefits all Kenyans. The Constitution also grants citizens the right and ability to enforce a healthy and sustainable environment. Specifically, citizens can apply to the Court to seek action when others, including the government, infringe on, threaten, and violate these rights. This type of citizen action can help to protect our environment.

CHAPTER 3

3.0 CITIZEN PARTICIPATION

3.1. Understanding Citizen Participation

Citizen participation (or 'public participation') is an action or series of actions a citizen takes to participate in the affairs of his or her own government and/or community.

When done correctly, citizen participation can bring the government closer to its citizens, produce more transparent public policies and decisions, and enable citizens to hold government leaders more accountable. In order for a democratic government to function properly citizens, need to participate actively in decision-making, policy formation, and service delivery. Citizens also need to understand their rights and ways to use them effectively.

3.1.1 Participation as a Two-Way Process

Citizen participation is a two-way process where the government provides opportunities for citizen involvement and citizens to choose whether to utilize those opportunities based on their level of concern, interest, and desired outcome. It is in the interest of governments, therefore, to encourage active participation from citizens and to ensure that citizens are educated on public issues so they can make valuable contributions to their decision-making process.

3.1.2 Participation as a Group

Citizen participation is in its most potent form when citizens act together and utilize their collective voice to impact government policies and decisions regarding their community. As a group, citizens can more effectively articulate their concerns and build consensus on solutions to issues in a way they would otherwise be unable to do on their own. Discussed later on in this chapter is the process of organizing a citizen group and

ways in which citizens can work with other like-minded citizens on a particular set of issues.

3.1.2.1 Roots of Citizen Power

Citizen participation is a categorical term for 'citizen power', or the power granted to citizens within their community or state. Article One of the Constitution grants each Kenyan citizen sovereign power. It purposely assigns specific citizen powers to all Kenyans and specific powers to those traditionally marginalized from decision-making in their communities and government. Also outlined in the Constitution are a series of responsibilities, which compliment citizen powers. It is through the coordinated and shared use of citizen power that citizens can directly affect their local governments.

3.1.2.2 Crucial Role of Civic Duty

The foundation of every democracy is the duty of its citizens to participate in the governance process. Citizen participation in governance is a right guaranteed under a country's democratic system through its constitution and laws. Citizens have an equal level of responsibility under a democratic system. This is especially the case with a devolved government system, like in Kenya, which incorporates citizens in their government's decision-making process. Therefore, citizens in a democratic system, have a civic duty to be active participants in local government and community affairs

3.1.2.3 Benefits of Citizen Participation

There are numerous benefits from active citizen participation. Examples of some of these benefits include:

1. public officials who are better able to understand and respond to the needs of their community;
2. increased credibility between public officials and the community on important issues and services;
3. citizens who feel they belong and trust in their community and local government;
4. alternative views from a greater diversity of citizens contributing to the public debate on issues and decision-making;

5. citizens who are better informed on projects and proposals undertaken by the government;
6. community concerns that are more focused and prioritized for public officials to address;
7. citizens' diverse and unique skill sets are revealed to government officials and the community;
8. a public that is more aware of community concerns and can thus more effectively judge government responses;
9. increased capacity of citizens to contribute to future public debates and decisions impacting their community; and
10. citizens who feel they have greater ownership over government decisions when public officials consult them

3.2 Minority and Marginalized Groups

Marginalized groups (women, youth, minorities, etc.) do not always have access to the necessary resources and local government positions for the public to hear their voices. Citizen participation is one way to ensure minority and marginalized groups to have a voice and contribute meaningfully to public debate on local issues and resource allocation. Article 56 of the Constitution provides for representation of minority and marginalized groups in our country's governance and other spheres of life. It grants them access to special education, economic and employment opportunities. The implications of these new forms of representation and opportunities for marginalized and minority groups are that there is a greater chance that government policies and services will incorporate their concerns.

2.2.1 Civil Society

Citizen participation makes important contributions to the development of civil society, which is a crucial stakeholder in the governance process. Civil society consists of active non-state actors concerned about specific issues or focused on accomplishing specific objectives. Civil society organizations, while sometimes partners with the government, serve as independent stakeholders within the community and thus are critical channels for citizen participation.

It is important that all levels of government ensure proper linkages between government decision-making and service delivery and the civil society. The benefit of these linkages is that civil society organizations can provide alternative views on such things as the community impact from government decisions and policy implementation. Moreover, civil society has deeper roots in local communities than governments, and as such, is a good resource for governments to learn more about specific community needs.

2.3 Forms of Citizen Participation

One of the most common and best-understood forms of citizen participation is voting in elections or referenda. When citizens lined up outside polling stations on August 4, 2010, they were exercising their citizen power by voting in a referendum to either accept or reject the Constitution of Kenya, 2010. Voting, however, is not the only form of public participation. Other ways for citizens to participate include:

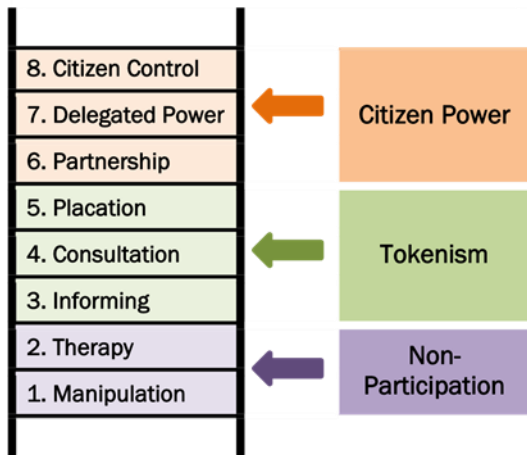
1. searching for information in newspapers, magazines, and reference materials to judge its accuracy;
2. participating in a public or private political discussion or debate on issues;
3. convincing a member of Parliament to vote a certain way for an issue important to you;
4. signing a petition on a desired government action or policy;

5. writing letters or emails to elected officials to express your opinion on an issue of concern;
6. contributing money to a political party or candidate you would like to see elected into government;
7. attending public meetings or rallies to learn, discuss or support an issue of concern to you;
8. campaigning for a political candidate or issue that will be voted on by the public;
9. demonstrating a position on an issue, cause or government policy through marches, boycotts, sit-ins, or other forms of peaceful protest;
10. vying as a candidate for elected office;
11. volunteering in the community or holding State office;
12. serving the country through military or other service to the country; or
13. Conducting peaceful civil disobedience of laws or policies seen as unjust and taking the consequences for such actions.

2.4 Stages of Citizen Participation

If you separate citizen participation into specific stages, it is possible to visualize where you stand in terms of your level of participation in relation to the governance process. There are eight different stages of citizen participation in government, which fall into three specific categories. Citizens may use these stages as a way of visualising their own level of participation in governance. Doing so can help them set goals to reach a more effective stage of participation. Below is a description of each stage of citizen participation in governance and their corresponding categories.

Stages of Citizen Participation



Arnstein, Sherry R. "A Ladder of Citizen Participation." *Journal of the American Planning Association*, Vol. 35, No. 4, July 1969, pp. 216-224.

2.4.1 Non-Participation (Stages 1 and 2)

The lowest stages of citizen participation are (1) Manipulation and (2) Therapy. The primary objective of these two stages is to simply educate or cure citizens of their concerns or anxieties through such things as arranged public events.

Such participation seeks to manipulate or give therapy to citizens so they think they are participating in governance when in fact they have no role in the process of decision-making or planning - their involvement occurs only after decisions or plans are already completed. This is why the Manipulation and Therapy stages fit into the "Non-Participation" category.

2.4.2 Tokenism (Stages 3, 4 and 5)

The lower-middle stages of citizen participation are (3) Informing and (4) Consultation. The primary objective of the power holder in these two stages is to explain to, and hear from, citizens on policies and decisions. While the goal is for these power holders to inform citizens and get their input on policies and issues, these actions will ultimately not affect the outcome of the government's decision-making or planning process. This

is why the Informing and Consultation stages of citizen participation fit into the category of “Tokenism.”

The upper-middle stage of citizen participation, (5) Placation, is a higher level of tokenism because citizens have the ability to not just hear and be heard by power holders, but also to provide advice during the deliberation process. Still with placation, the power holders keep the authority to make the final decisions, and as such, citizen participation in this stage is more symbolic than meaningful.

2.4.3 Citizen Power (Stages 6, 7 and 8)

The highest stages of citizen participation reveal increasing degrees of "citizen power," particularly in the decision-making process of government. The lowest of these stages is (6) Partnership, which means that citizens can negotiate with power holders and thus decision-making responsibilities are shared. The two highest stages of citizen participation are (7) Delegated Power and (8) Citizen Control. These two stages reflect increasing levels of citizen power, particularly as it relates to citizens having greater power over the decision-making process through such things as more seats on a committee or even full managerial power of a project.

2.5. Citizen Participation in Kenya

Citizen participation in Kenya finds its early roots in development projects that benefitted local communities. Throughout the post-colonial era, the country took legislative steps to provide ways for citizens to be active participants in the governing of their country. Most of these ways, however, were limited to local authorities and the implementation of laws incorporating citizen participation did not reach their full potential because citizens did not fully understand their rights or embrace the opportunity. Finally, local authorities struggled to promote local funding and planning processes to citizens, like the Local Authority Service Delivery Action Plan (LASDAP) and the Constituencies Development Fund (CDF)

2.5.1 The Constitution on Participation

The Constitution provides a strong legal framework for citizen participation. The challenge will be to educate as many citizens as possible on these new rights and responsibilities and to provide them with tools to make valuable contributions to the governance process. This is why constitutional reforms, the establishment of county governments, and support for the full implementation of the Constitution are so important to the future of the nation. Below are specific references to citizen participation in the Constitution.

2.5.2 Sovereign Power of Citizens

Citizen participation is a core part of the Constitution. It starts with Article 1, which states that all sovereign power is vested to the people of Kenya. The exercise of this power occurs at the national and county levels either directly through citizen participation or indirectly through democratically elected representatives. Examples of direct citizen participation include:

1. contesting for elections
2. registering to vote
3. becoming informed on issues and policies
4. scrutinizing candidates and political parties
5. maintaining peace during elections
6. debating issues
7. attending community or civic meetings for sensitization
8. being members of private, public and voluntary organizations
9. paying taxes
10. protesting
11. petitioning the government
12. recalling elected members of Parliament and county assemblies

Citizens can also indirectly participate by electing leaders to represent them in national and county governments. The use of citizens' sovereign power, therefore, serves as a

cornerstone of Kenya's Constitutional authority and its democratically elected government.

2.5.3 Participation in Kenya's Governance

The Constitution makes citizen participation a central part of Kenya's governance. Article 10(2)(a) states that "participation of the people" is one of our country's values and principles of governance. Article 232(1)(d), meanwhile, instructs public servants to include citizens "in the process of policy making."

2.5.4 Participation in Devolved Government

In terms of direct constitutional references to citizen participation in devolved government, Article 174(c) says that an object of devolution is to "enhance the participation of people in the exercise of the powers of the State and in making decisions affecting them." Article 184(1)(c) further requires that mechanisms "for participation by residents" be included in national legislation to urban areas and cities governance and management.

2.5.5. Participation in the Legislatures

The Constitution provides citizens with the right to participate in the decision making process and other duties of the national and county legislative bodies. Specifically, Articles 118(1)(b) and 196(1)(b) directs the national and county legislatures respectively to "facilitate public participation" in its work. Additionally, Article 119(1) states that citizens have the "right to petition Parliament to consider any matter within its authority," meaning that Kenyans can request Parliament to take up issues important to them.

2.6 Citizens' Access to Information

The Constitution supports access to information by all citizens, which is a key ingredient to effective and active citizen participation. Kenya's national and county legislative bodies, for instance, are directed by the Constitution to conduct their work in an open and transparent manner; Articles 118 (1) (a) and 196(1)(a) specifically direct

Parliament and the county assemblies respectively to hold public meetings and conduct their work in the full view of all citizens. Another reference to public information sharing is in Article 201 (1) (a), which states that there be "openness and accountability" and public participation when it comes to public financial matters.

In addition to information gleaned from the official business of the legislatures and public finances, Article 35 of the Constitution stipulates that citizens have the right to access all information held by the State or public officials. Public servants must also share information with citizens. Article 232 (1) (f) states that the values and principles of public service include "transparency and provision to the public of timely and accurate information

2.7 Activating Citizen Power

2.7.1 Getting Started

Now that you have a better understanding of citizen participation, it is time to harness your citizen power in a practical way that affects your community and local government. This starts with organizing yourself, conducting research and planning what it is you want to do.

Roadmap to Successful Participation

The roadmap to successful citizen participation in local governance and community affairs can fit into six steps:

1. Identify community needs
2. Assemble a citizen group Form partnerships and networks
3. Utilize tools and tactics
4. Keep the community informed
5. Seek feedback

You should first identify the needs or issues of your community and then assemble a group of citizens to address those needs or issues. Once you form a group, it should seek to work with other likeminded groups through

partnerships and networks. This will improve the overall impact of your group's work. Finally, your group and its partners should utilize tools and tactics to engage the community and then follow up with citizens to keep them informed of the progress and/or challenges they face.

2.7.3 Importance of Strategic Planning

Planning is important to the success of any citizen-driven effort. A plan sets the direction of your path to success. Without a plan, you and your group will most likely waste valuable resources. The many unexpected events and challenges that happen during the course of your work will also easily distract you. By planning and budgeting, you and your team will be able to identify short-term goals, calculate the costs, and create a series of clear steps that lead to your ultimate goals. A plan will also help you establish indicators so that you can measure the progress of your work and make adjustments, if necessary.

In order for your plan to be effective, it will need to be flexible, have a central theme or vision, specific objectives and messages. Your plan should guide you through the various decisions you need to make during your work such as setting fundraising goals, the number of volunteers you will need, and the type of communication strategy you will use.

The tactics used in the course of your work (i.e. door-knocking campaigns, rallies, petition initiatives, etc.) should fit into your plan's objectives and overall strategy. It is important that you and your other group members spend time to develop a strategy and activities that support your objectives. Finally, all members of your group should understand your plan and work hard to implement it.

2.7.4 Form Networks and Partnerships

A network or partnership develops among community groups based on a set of common issues, concerns or principles. A network or partnership may have different degrees of formality, but its primary function is to expand the reach and influence of its

individual member groups. A network or partnership may support common objectives. Member groups may even pool their resources to advance a common cause or sustained effort in the community.

When building your network or partnership it is important that member groups have a clear understanding of its purpose, goals and objectives from the very beginning. This will help members make collective decisions more easily. You can formalise your relationships with other groups through a written agreement such as a Memorandum of Understanding (MoU), which all partners should sign. The MoU can either have an end date or be an open agreement among partners. By building a network or partnership among groups within your community, can help individual groups overcome five key challenges:

1. Lack of information (little knowledge about local resources and the legitimate and efficient use of them);
2. Lack of political influence (little credibility with local authorities and support services such as finance agencies and legal services);
3. Lack of political credibility (small scale of influence with which to negotiate and poor knowledge of the rules and regulations surrounding your issue);
4. Lack of administrative experience (no history with the bureaucracy of the newly devolved government); and
5. Lack of collective confidence (few joint experiences on which to establish mutual trust and from which to take calculated risks).
6. Creating a network or partnership will also benefit the others. It develops community capacity, builds a support network for everyone and promotes independence.

2.7.5 How to Build a Community Network

Creating a network requires planning and a clear set of ideas and objectives in order to attract other groups. Below are some best practices to help you should you decide to form a network:

1. Community awareness – talk to other local groups or even an NGO working in the area to support your citizen participation efforts and find out what steps need to be taken to attract support for your group’s work in the community.
2. Form an association – see if a loose or formal association of other committees, businesses or local leaders might strengthen both your cause and theirs. Remind these colleagues that community members who agree to form such an association are stronger because they can undertake joint actions together.
3. Management formalization – agree exactly what legal and financial activities are required in order for you to be officially recognized as a local interest group, and over what timeframe.

(see info missing)

CHAPTER 4

4.0 FUNDAMENTALS OF DEVOLUTION

4.1 Understanding Devolution

Devolution involves the transfer of functions, resources and power to the subnational levels of government. The devolved levels of government assume full responsibility and accountability for specific functions given to them by the people through the constitution or law. The purpose of devolution is to promote participatory democracy and sustainable development for the benefit of all citizens. In short, devolution seeks to bring the government closer to the people.

4.2 Role of Sovereign Power

Sovereign power is the supreme and absolute power that governs an independent state. It is also the source of all specific political power in a state. Examples of activities that use sovereign power include making and enforcing laws, signing treaties and trading with foreign countries, waging war and peace, and imposing and collecting taxes. The Constitution guides how Kenyans use their sovereign power. According to the Constitution, all sovereign power belongs to the people of Kenya and they may exercise this power "either directly or through democratically elected representatives." The institutions used in the Constitution to exercise the peoples' sovereign power include Parliament (National Assembly and Senate), county legislative assemblies, the National Executive, county executive committees, the Judiciary, and independent tribunals.

4.3 Decentralisation

Decentralisation is a process that distributes sovereign power from a central authority to different levels of government. The idea behind decentralization is that local communities and governments can govern themselves and deliver services better than a central government. The Constitution distributes the sovereign power at Kenya's national level to Parliament, Executive, Judiciary, independent commissions and

tribunals. At the county level, sovereign power the Constitution distributes sovereign power to the 47 country assemblies and county executive committees.

4.3.1 Dimensions of Decentralisation

There are three primary areas of decentralisation, which can occur either independently or jointly. They are as follows:

- a) Administrative decentralization refers to the decision-making institutions (i.e. Parliament, county assemblies, etc.) and procedures that support their operations.
- b) Fiscal decentralization refers to the number and type of services delivered and the revenues assigned to each level of government.
- c) Political decentralization refers to the transfer of political decision making authority and accountability mechanisms available to the levels of government.

4.3.2 Types of Decentralization

There are three primary types of decentralisation –

- de-concentration,
- delegation and
- devolution.

Each type has specific characteristics explained

- (1) Deconcentration refers to assigning responsibilities from a national authority to its own sub-national branches in other regions of the country. These branches are to some extent supervised by the national authority. This is the weakest type of decentralisation.
- (2) Delegation is the form of decentralisation that is in the middle between de-concentration and devolution. It refers to the transfer of some of the national authority's power to semi-independent subnational and/or non-government authorities. These semi-independent authorities have some freedom to decide how to carry out their responsibilities, but they are ultimately accountable to the national authority.

(3) Devolution refers to the near-complete transfer of power from a national authority to near-autonomous sub-national authorities. This is the strongest type of decentralisation. Under devolution, local citizens are empowered to elect their own leaders and make decisions on local matters affecting their communities.

4.4. Objects & Principles of Devolution

The Constitution transfers many national administrative, fiscal and political powers through devolution to 47 county governments. The powers granted in Chapter 11 of the Constitution enables counties to govern themselves, including raising revenue, making laws and electing local leaders. These powers, however, should observe specific principles and objectives outlined in the Constitution.

4.4.1 Principles of Devolved Government

Article 175 of the Constitution lists and describe the principles of devolution in Kenya.

Some of these include:

1. County governments shall be based on democratic principles and the separation of powers;
2. County governments shall have reliable resources so they can govern and deliver services effectively; and
3. The county government's representative bodies shall be comprised of not more than two-thirds of the same gender.

4.4.2 Objectives of Devolution

Article 174 of the Constitution outlines nine specific objectives of Kenya's devolved government. Some of these include:

1. Promoting democratic and accountable exercise of power;
2. Fostering national unity by recognizing diversity;
3. Giving power of self-governance to the people and enhancing their participation in the exercise of the powers of state and in making decisions affecting them;
4. Recognizing the right of communities to manage their own affairs and development;

5. Protecting and promoting the interests and rights of minorities and marginalized communities;
6. Promoting socio-economic development and providing easily and accessible services throughout Kenya;
7. Ensuring equitable sharing of national and local resource throughout Kenya;
8. Facilitating further decentralization of State organs; their functions and services from the Capital of Kenya; and
9. Enhancing checks, balances and the separation of powers

4.4.3 Distinct Features of Kenya's Devolution

Kenya's devolution model has several distinctive features. The most prominent of these features are:

1. **Level of government** – The sovereign power of the people is exercised at both the national and county levels of government. These two levels have distinct functions, roles and responsibilities. As much as they are distinct, the two levels of government are also connected to each other. According to Article 6 (2) of the Constitution, the two levels shall be interdependent and conduct their affairs through consultation and cooperation.
2. **Revenue distribution** – Revenue sharing and generation are other distinct features of the Kenya model. Chapter 12 of the Constitution declares that the two levels of government shall divide equitably the revenue raised nationally. Article 203 (2) of the Constitution stipulates that at least 15 per cent will be allocated to the 47 county governments. Article 202 (2) provides a possibility of county government receiving additional allocations conditionally or unconditionally.
3. **Decision-making organs** – The Constitution places national political power in the hands of the National Executive and Parliament. At the county level, the 47 county assemblies and county executive committees exercise the political power.

Positives & Negatives

There are several possible positive and negative effects of Kenya's embrace of devolved governance. They are as follows:

- Positive effects - The devolution process could increase employment, improve national economic growth, provide greater service delivery, develop marginalized/underdeveloped areas, and make the distribution of resources more equitable.
- Negative effects - Devolution could increase local corruption and clanism, national disunity, excessive taxation and regulation. Additionally, local areas with poor resources may be disadvantaged from other counties and may require more resources from the national government.

4.5 Transition Mechanisms

Kenya's transition to a devolved system of government requires changes to existing institutions and legislation passed by Parliament to empower new ones. Article 261 (1) of the Constitution stipulates that Parliament pass key legislation within a specific period to ensure a smooth transition to devolved government. The table below lists the legislation as mandated in Article 261 (2) and the Fifth Schedule (Legislation to be enacted by Parliament) of the Constitution in order to make devolution function on the national and county levels of government.

4.5 1 The Transition to Devolved Government Act, 2012

The Transition to Devolved Government Act, 2012 (No. 1 of 2012), which commenced on 9 March 2012, provides a framework for the transition to devolved government in accordance with section 15 of the Sixth Schedule to the Constitution. Specifically, the Act provides for:

1. A legal and institutional framework for a coordinated transition to the devolved system of government while ensuring continued delivery of services to citizens;
2. The transfer of powers and functions to the national and county governments;

3. Mechanisms to ensure that the Commission for the Implementation of the Constitution (CIC) performs its role in monitoring and overseeing the effective implementation of the devolved system of government effectively;
4. Policy and operational mechanisms during the transition period for audit, verification and transfer to the national and county governments of assets and liabilities, human resources, government and local authorities, and pensions and other staff benefits of employees of the any other connected matters;
5. Closure and transfer of public records; and
6. The mechanism for capacity building requirements of the national government and the county governments and make proposals for the gaps to be addressed.

4.5.2 Transition Authority

The Act establishes the Transition Authority, which is comprised of a full-time chairperson and eight other full-time members appointed by the President, in consultation with the Prime Minister and with the approval of the National Assembly (see First Schedule of the Act). The Transition Authority also includes Principal Secretaries from the Office of the President and the ministries responsible for devolution, public service, finance, planning and justice. The Attorney General is also a member of the Authority but serves in an ex-officio capacity.

The Authority must elect a vice chairperson from among its members within seven days of their appointment - s/he must be of opposite gender of the Chairperson. The Authority must also recruit and appoint a Secretary responsible for the Authority's day-to-day operations.

4.5.1 Authority Functions

The primary function of the Authority, as mandated in Article 7(1) of The Transition to Devolved Government Act, 2012, is to facilitate and co-ordinate the transition of the devolved system of government as provided for under the Constitution. Additional functions include:

1. Submitting a progress report on the transition process to the President, Prime Minister, CIC and CRA;
2. Publishing progress reports in the Gazette;
3. Auditing the assets and debts of local authorities;
4. Conducting an inventory of staff for both the central and local authorities;
5. Conducting civic education of the public on county governments;
6. Developing county profiles;
7. Determining which town qualifies as a city and municipality;
8. Assisting new county officials to develop their budgets;
9. Building the capacity of county officers in their new duties;
10. Transferring the functions originally done by national government authorities; and Evaluating the performance of county governments and reporting their findings to CIC and CRA

4.5.2 Guiding Principles

The Transition to Devolved Government Act, 2012 (Article 14) directs the Transition Authority to adhere to the following principles in the conduct of its work. They are to:

1. Perform its functions subject to the Constitution;
2. Be accountable to the people of Kenya and ensure their participation in the transition process;
3. Facilitate the transition to the devolved system of government in a transparent, objective and fair manner;
4. Promote and sustain fair procedures in its operations;
5. Ensure technical and administrative competence for the better carrying out of its functions;
6. Be non-partisan and non-political in its operations; and
7. Apply and promote national values and principles provided under the Constitution.

4.6 Transitional Plan

The Transition Authority is responsible for issuing guidelines for implementation plans created by various State or public entities. These plans must be submitted to the Authority and CIC for review and monitoring. Each of the 47 county governments must submit their transition plans to the Authority and CIC following the first elections under the 2010 Constitution. The CIC is responsible for monitoring the progress of transition plans and may request progress reports. Also following the first elections under the Constitution, the transition plans must be shared with the National and County Government Coordinating Summit and the Council of County Governors (more on these two bodies below).

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