

Radio Discussions

# Toolkit

A Guide for Radio Journalists  
on Devolution

August 2020



# FOREWORD

Konrad Adenauer Stiftung (KAS) is a German Political Foundation working in Kenya since 1974 to promote and consolidate the tenets of democracy. The process demands that the citizens of Kenya, the civil society as well as media, political parties and other stakeholders are all involved in the process of building democracy. The implementation of the 2010 constitution is crucial for the political development and the stabilization of democracy. On the other hand, devolution which is key in promoting and advancing democracy, KAS Kenya has also been implementing devolution program which seeks to enhance public participation in selected counties (Isiolo, Makueni, Kilifi and Baringo).

Understanding the concept of devolution and its key functions and public participation still remains a challenge in majority of our counties. Media which includes local radio stations have been mentioned as one of the stakeholders that can enhance public participation at the counties. This radio discussion Tool kit seeks to educate the radio journalists in four counties where the KAS devolution program is implemented in Kenya on how best they can inform/educate their audience about matters devolution and how to participate in it. The guide will act as a point of reference for the journalists providing in-depth information about devolution and its structure, public participation processes, and public finance management. This would be useful for the radio journalists who command a large audience to continuously engage their audiences using educative talks shows so as to achieve a well-informed society that upholds their civic duties and responsibilities and can hold their leaders accountable.

We hope that by providing this toolkit to the radio journalists, they will use it to the best of their ability, engage devolution subject matter experts from their respective counties during the live talk shows from an informed point of view with the aim of educating their audience.

Special thanks goes to Titus Ogalo from Transparency International Kenya who worked tirelessly on this radio Tool kit guide. Our sincere gratitude also goes to journalists and partner organizations from Makueni, Isiolo, Kilifi and Baringo Counties, for enriching the document by providing their insights to reflect public information needs targeting the four counties. Last but not least, we wish to thank the Country Programme Coordinator, Ms. Sheila Ngatia for guiding this process to its completion.

Thank you!



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Thank you!

**Mr. Titus Ogalo**  
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# LIST OF ACRONYMS

ADP.....Annual Development Plan

BPS.....Budget Policy Statement

CBEF.....County Budget and Economic Forum

CRA.....Commission on Revenue Allocation

CFSP.....County Fiscal Strategy Paper

CSO.....Civil Society Organization

FBOs.....Faith Based Organizations

KAS.....Konrad-Adenauer-Stiftung

KLRC.....Kenya Law Reform Commission

TI-K.....Transparency International Kenya

MCA.....Member of County Assembly

MTEF.... Medium Term Expenditure Framework

PWDs....Persons with Disabilities





# INTRODUCTION

This radio tool kit is designed to assist radio journalists and generally their audiences to understand the concept of Devolution and how they can effectively participate in the process. Public participation still remains a challenge in the counties and how best to achieve it. Media which includes local radio stations have been mentioned as one of the key stakeholders that can enhance public participation at the counties.

Local radio stations in many countries and regions of the world have been recognized for their role in the advancement of good governance practices especially reaching out to marginalized groups (poor, women & youth) in our society, (UNESCO,2008). These radios promote citizens access to information which increases their participation in making decisions at the county level resulting in ensuring that diversity and pluralism of different opinions are heard.

Whereas radios – especially at the community level, remain a key medium of reaching and empowering the marginalized and the vulnerable members of the community, anecdotal evidence indicates that, misinformation and lack of current content especially on governance issues is often a challenge given the capacity gaps of the local presenters. It is based on this background that KAS has seen the need to intervene through development of a radio broadcast guideline that would assist in the radio broadcasts to be aired through selected local radios from four counties where the devolution program implements its programs. The counties include: Isiolo, Makueni, Baringo and Kilifi.



## Main Objective

The main aim of the radio programs would be to educate the public on devolved governance processes and strengthen public participation especially at the grass root level.

### Other specific objectives of the broadcasts would be:

1. To inform and educate on the concept of devolution and its key mandate
2. Educate the citizens on the importance of public participation and how they could take part in the process
3. To enhance bottom-up social accountability at the county level
4. Purpose to change the mind-set and attitude towards public participation in devolved governance system to raise the citizens' enthusiasm to participate
5. Reach out to the marginalized and special interest groups (women, young people, elderly, poor, Persons with Disabilities) and empower them to have a voice in the devolved system of governance

## How to use the radio discussions Toolkit

This guide provides general guidelines for basic understanding of Kenya's devolved governance with a focus on three main areas; Public participation, concept of devolution and public finance management; as critical areas in empowering the citizenry, to engage better at the county level. The Toolkit is particularly designed to assist radio journalists to hold informative talk shows or radio discussions around the three areas to empower the listeners. The language and explanations used in the Tool kit has therefore, been deliberately stepped-down, to ensure simple and easy understanding of the information.

For in-depth understanding of the areas covered, journalists who are the consumers are encouraged to complement consumption of the material with The Constitution of Kenya, Devolution enabling laws including; Public Finance Management Act, County Government Act, Urban areas and Cities Act, Intergovernmental Relations Act, among others. In addition, a consumer is also encouraged to refer to existing county specific laws as may be applicable, especially on areas around public participation. Finally, one is also encouraged to read alongside existing national manuals like the Devolution manual and Public participation policy developed by the national government.

The guide is organized as follows; for each of the three topic areas, there is a proposed outline script provided for radio journalist to consider, this is followed by an explainer giving critical information around each topic and finally, a proposed contextualized discussion area for the four targeted counties. In actual radio discussion, one may choose to reorganize the sections depending on the level of understanding and evaluation of public level of awareness.

Devolution has been noted as the one of the most transformative aspect of Kenya's constitution (World Bank, 2014). For realization of fruits of devolution, as envisioned in The Constitution, best practice requires effective engagement and participation of the public to ensure effective service delivery. However, effective engagement of the public in playing their role at the county level has been hindered by lack of critical knowledge among a critical mass at the grassroots on the concepts of devolution, functions, and how to effectively perform their role as citizens. Radio programs, while key in empowering the public, there is need to organize the discussions in a manner that addresses the knowledge gaps among citizens and duty bearers to inform realization of the promise of devolution.

## 1.1 Key objectives of the session

1. To provide radio presenters with basic guideline on how to effectively engage with listeners on concept of devolution.
2. To inform and educate the public on Kenya's unique devolution.
3. To highlight the functions of the county government and elected leaders at the county level.

## 1.2 Key questions

1. What is devolution? And what are the key functions of county governments?
2. What are the expectations of both citizens and duty bearers on service delivery at the county level?
3. What are the different roles of various elected county leaders and duty bearers? How can citizens ensure that their elected leaders are working?

## 1.3 Proposed Script Outline

[Estimated total time to cover the script- 52 minutes]

For effective interactions with citizens on devolution, the following are some of the key areas that one needs to understand and cover to effectively engage in understanding of devolution. The proposed outline can be covered in a series of a radio discussions depending on the interactions and the understanding from the public.

### 1.3.1 Introductions: Between 1-2 minutes

- Start by defining devolution as a growing governance concept generally. What is devolution from a broader perspective and what it means. Where possible apply local languages and Kiswahili to make it more relatable.

### 1.3.2 Unpacking Kenya's unique devolution; Between 3-5 minutes

Make the listeners understand the uniqueness of Kenya's devolution pointing out the uniqueness and explain meaning of devolution generally.

- It would help to give a comparative background of what informed the desire to adopt devolved governance in Kenya's context.

### *1.3.3 Foundational underpinning of Kenya's devolution; Between 5-7 minutes*

- It is important to point out the importance of devolution being enshrined in the constitution. This means devolution is protected by the supreme law of the land and that this is important, considering Kenya's past history with similar initiative.
- Share other key basic constitutional meaning of Kenya's devolution - focusing on the following key aspects as captured in the constitution;
  - The Objectives.
  - The Principles.

### *1.3.4 Unpacking devolved governance structures; Between 5-10 minutes*

- Describe the structure of devolved governments giving the functions of each organ and sub-units to emphasize the structures.
- Consider using below details to explain.
  - The structure of the county governments,
    - The County executive,
      1. The composition.
      2. The functions.
    - The County Assembly,
      1. The composition.
      2. The functions.

### *1.3.5 Understanding the relationship between County Governments and National Government.; Between 5-7 minutes*

- Explain to the listeners, the meaning of national government and that of the county government to ensure proper context.
- Explain the relationship. It is important to emphasize that Kenya is a unitary state while giving constitutional powers of devolved governments.
- The following are some points to consider while explaining;
  - The concept of 48 governments - distinctiveness and inter dependence and that none is superior than the other. That, both national and county governments shall carry out their operations on the basis of cooperation and consultation.
  - The shared institutions aspect.
  - Relationship with the senate when it comes to oversight.

### *1.3.6 Unpacking the functions of County Governments; Between 5-6 minutes*

- Relying on The Constitution, the following details should be discussed and shared during the radio discussion.
  - The functions of County governments.
    - The current functions
  
    - The fact that some of the functions can be transferred either to the national or to the county and the financial conditions that are required to accompany transfer of functions.
  
    - The current status of transfer of functions and the discussions that have gone into this.

### 1.3.7 Understanding the roles of various elected leaders; Between 10-15 minutes

- Relying on The Constitution, discuss the roles of each of the elected leaders while clarifying areas where there could be possible misunderstanding.
- Emphasize the need to know the roles of various leaders for one to hold them accountable - based on their roles.
  - Roles of other elected leaders, explaining the roles of the following leaders within the context of devolved governance;
    - The Governor.
    - The Women Rep (MP).
    - The Senator.
    - The MCA.
    - Member of Parliament (National Assembly).



#### Tips for successful discussions on the topic:

Consider asking questions/trivia, at every sub-topic. Some engaging questions could include;

1. How many governments do we have under The Constitution of Kenya?
2. Devolution is found in which chapter of The Constitution?
3. Which number is your county and where do I get the number in The Constitution?

Consider partnering with another institution, to undertake the discussions.

They could, for instance provide incentives for the trivia which makes the discussions quite engaging.

## 1.4 Explainer – Notes

### 1.4.1 What is Devolution?

- Devolution refers to the transfer of functions, resources and power to the sub-national levels of government. It is a movement to place governmental power in the hands of elected or appointed managers operating at a level closer to the beneficiaries of government actions (TI-Kenya, 2012).
- Devolution seeks to bring the government closer to the people. The devolved levels of government assume full responsibility and accountability for specific functions. In Kenya's context, the functions have been given by The Constitution of Kenya Part II of schedule 4. The purpose is to promote participatory democracy and sustainable development.

- The concept of devolution is one of the forms of decentralizations and generally entails the following three key components;
  - Administrative devolution - this refers to the devolution of decision-making institutions such as the parliament and county assemblies.
  - Fiscal devolution - this refers to the decentralization of number and types of services delivered and the revenues assigned to each level of government.
  - Political devolution - this is the transfer of political decision-making authority and accountability mechanisms available to the levels of government.

#### 1.4.2 Kenya's Unique Devolution

Ghai (2007) notes that there is no standard formula for devolution—it has to reflect a country's circumstances, experience and aspirations. Devolution therefore, comes in various forms depending on the context of each country. Indeed, Kenya has adopted a form that is unique to itself. In understanding Kenya's unique devolution, the taskforce on devolution (The Task force on Devolution Report 2012) did an exemplary work in explaining the difference. They noted the following points as key on understanding Kenya's unique devolution.

- *Understanding Kenya's unique devolution stems from Article 6(2) of The Constitution - which describes the governments at the two (National and County) levels as being distinct and inter-dependent and which conduct their mutual relations on the basis of consultation and cooperation.*
- Kenya's devolution form is therefore NOT based on the principle of absolute autonomy but instead, on that of inter-dependence and cooperation.
- The system combines a measure of autonomy and inter-dependence leading to a **Cooperative System of Devolved Government**. Cooperative devolved government is founded upon three relational principles; namely;
  - The principle of distinctness;
  - The principle of inter-dependence; and
  - The principle of consultation and cooperation.

This means that, the two levels of government are and should be distinct in their constitutional **functions, institutions, resources and legal frameworks**. They are coordinate and not subordinate to each other. None is a mere agent of the other and neither can be abolished by the other. Distinctness in this sense rules out the concept of hierarchy as a relational principle. In effect, the levels of government must have the freedom to make decisions in the functional areas assigned to them by The Constitution of Kenya 2010 without undue interference from the other.

The team also clarified that- "it should be made clear that distinctness is not aimed at reintroducing the independence "Majimbo" system. Indeed, the principle of interdependence requires a certain measure of mutual respect between the two levels of government. Article 189(1)(a) in this regard *requires government at either level to perform its functions, and exercise its powers, in a manner that respects the functional and institutional integrity of government at the other level, and respects the constitutional status and institutions of government at the other level and in the case of county government, within the county level*"

The two levels of government are also inter-dependent since devolution combines *self-government at the local level and shared government at the national level*. Inter-dependence is necessitated by the facts that the consumers of the services rendered by the two levels of government are the same citizens of Kenya, although located in different parts of the country. In the distribution of functions, quite a number of functions are concurrent in nature; and others are assigned on the basis of national government formulating national policy and setting national standards while the county level is assigned the implementation functions. Policy formulation and national standard setting functions of national government include a monitoring and evaluation aspect that creates a limited measure of oversight. Such oversight cannot therefore be intrusive, but rather facilitative. Inter-dependence then becomes the foundation of the concept of cooperative government.

*According to Articles 6(2) and 189(1)(b) and (c), inter-dependence requires that the two levels of government not only cooperate with, assist, support and consult each other and, as appropriate, implement the legislation of the other level of government; but also liaise with each other for the purposes of exchanging information, coordinating policies and administration and enhancing policy. At the relational level, cooperative government therefore requires that there be intergovernmental dialogue on the basis of consultation and cooperation which may even lead to the setting up of joint committees and joint authorities.*

*Cooperative devolved government requires that as a country, we move away from what used to be usual adversarial approach to issues and embrace a system of consultation, negotiation and consensus building in running of state affairs. This ties in hand-in-glove with the expectations for a shift to issue-based politics espoused under Vision 2030. Both vertical and horizontal intergovernmental relationships between national and county levels of government; and among county governments respectively, should be based on and informed by these principles of cooperative government.*

### *1.4.3 Dimensions of Devolution*

#### Objects and Principles of Devolution in Kenya

- The powers granted in Chapter 11 of The Constitution of Kenya enables counties to govern themselves, including raising revenue, making laws and electing local leaders.
- These objects and principles reinforce the reasons why the Kenyan people sought a new dispensation. In them, the citizens made it clear that devolved government in exercising its functions, in relating with the national government and its citizens must adhere to these objects and principles. Therefore, the structures and instruments of county government must mainstream these tenets within them. The institutional organisational cultures that manifest themselves in counties must be reflective. More critically, these must also be mirrored by national government.

## Article 174 of The Constitution outlines nine specific objectives as follows:

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;
9. Enhancing checks, balances and separation of powers.

### 1.4.4 Principles of Devolved Government

Article 175 of The Constitution lists and describes the principles of devolution in Kenya:

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

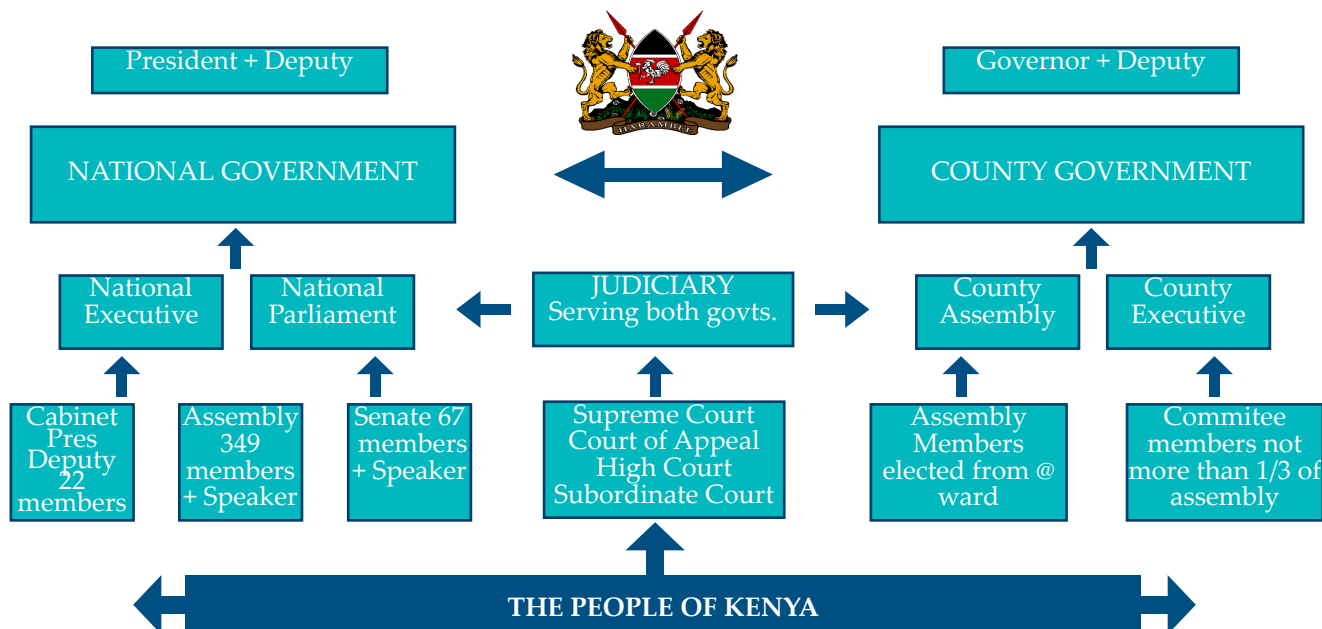
### 1.4.5 Powers of the County Governments

The Constitution and the enabling legislation; The County Government Act, 2012 grants specific powers to County Governments as follows among others:

- Entering into contracts;
- Acquiring land;
- Delegating functions to county and sub-county institutions;
- Partnering with public or private institutions;
- Establishing agencies and departments for services and other functions.

### 1.4.6 Structure and form of Devolved governance in Kenya

Figure 1 Source; Transparency international Kenya- manual on devolution.





**For effective discussion on radio, the following areas can be explored to benefit both duty bearers and right holders:**

- Given that different levels and forms of empowerment have been undertaken in various counties disproportionately, citizens tend to have different levels of understanding of devolution. This calls for appreciation of the differential understanding while not losing out on the key principles and basics for effective discussions.
- Different journalists have undergone different levels of training and understanding of devolution, hence the understanding will be at different levels.
- For these reasons, it is imperative to appreciate the different levels while developing a radio broadcast guideline that can assist journalists at the community level radio stations to empower citizens effectively in areas of devolution. The following approach could be considered for the following counties.

## **1.5 Functions of the County Government Vs roles of National Government**

- It is important to point out that according to Article 186 of The Constitution; Respective functions and powers of national and county governments are:
  - Except as otherwise provided by this constitution, the functions and powers of the national government and the county governments, respectively are as set out in the Fourth Schedule of The Constitution of Kenya.
  - A function or power that is conferred on more than one level of government is a function or power within the concurrent jurisdiction of each of those levels of government.
  - A function or power not assigned by this Constitution or national legislation to a county is a function or power of the national government.
  - For greater certainty, parliament may legislate for the republic on any matter.
- It is also important to let listeners know that The Constitution also allows for transfer of functions between national and county government. In this respect, Article 187 of the constitution gives the following guidance;
  1. A function or power of government at one level may be transferred to a government at the other level by agreement between the governments if;
    - The function or power would be more effectively performed or exercised by the receiving government; and
    - the transfer of the function or power is not prohibited by the legislation under which it is to be performed or exercised.
  2. If a function or power is transferred from a government at one level to a government at the other level;
    - Arrangements shall be put in place to ensure that the resources necessary for the performance of the function or exercise of the power are transferred; and
    - Constitutional responsibility for the performance of the function or exercise of the power shall remain with the government to which it is assigned by the Fourth schedule.

## 1.6 Roles of various leaders under Devolved Governance in Kenya

- For understanding of Kenya’s devolved governance, it is important to remind listeners the various roles of elected (and nominated) leaders for citizens to effectively hold their leaders accountable.
- It is important to emphasize that nominated leaders are equally key and are important as envisioned by The Constitution.
- It is equally important to remind the listeners that apart from the elected and nominated leaders within the context of devolved governance, there are also other officers who are equally important in completing the leadership structure at the county level (both Executive and Assemblies). These include but not limited to;
  - County Secretary
  - County Executive members
  - Chief officers
  - County Assembly Clerks.
- It is also important to highlight the women function in the leadership positions under The Constitution of 2010.
  - For the first time in Kenya’s history, in 2017, women were elected to serve as governors and senators, and 29 percent more women ran for office than in the previous election — a fact that led to the largest number of women ever seated at all levels of the Kenyan government. Women now hold 172 of the 1,883 elected seats in Kenya, up from 145 after the 2013 elections.
  - Although Kenya’s constitution mandates that all appointed and elected bodies contain at least one-third women, women’s actual representation often falls short of that threshold. Women account for just 23 percent of the National Assembly and Senate — a figure that includes seats reserved exclusively for women representative.

**Table of roles of some of the key Devolved governance leaders.**

*Table 1*

Position	Role	Comments
Governor	Some of the key roles of the governor include: -The Leadership of the county executive, representing the county, making, approving, and implementing county Policies.	The total number of gubernatorial positions in Kenya is 47.
Senator	The functions of The Senate in Kenya largely relate to the counties and to laws that touch on the counties. Despite that, it has a crucial role to play in the sphere of politics and governance.	The number of elected senators is 47. In order to bring in the sense of gender balance in the Senate, 16 women are nominated to the Senate, 4 members are also nominated to represent the youth and the people with disability.
Women Representative	Each of the 47 counties has an elected women’s representative at the National Assembly. The public sees them as completely different from other MPs. However, they are all similar based on their functions.  The only difference is that the role of women representatives goes beyond that of other MPs. That is why The Constitution created special positions for them in parliament.	Women representatives represent the women, whom The Constitution recognizes as a marginalized group (Article 100).
Ward Representative (MCA)	The constitution gives MCAs three main roles: 1. Representation - to represent the ward at the county level carrying the aspirations and wishes of the residents. 2. Legislation - to make laws at the county level in line with the constitution towards governing the county. 3. Oversight - The constitution also mandates the assemblies to check on the excesses of the executive in line with the constitution.	The members of the county assembly (MCAs) countrywide add up to about 1,450.  There are also 772 nominated MCAs.

**Table of roles of some of the key Devolved governance leaders.**

*Table 2*

Contextualizing discussions on Understanding of Devolution.
<p><b>Isiolo County</b></p>
<p>For Isiolo county, the following aspects are considered areas that need emphasis:</p> <ol style="list-style-type: none"> <li>1. Functions of the county government</li> <li>2. Role of the following leaders; Governor/MCA/Women rep/ Senator/</li> <li>3. Constitutional right for the people to hold leaders accountable</li> </ol> <p>Need to compare the roles of National and County governments in explaining the roles functions of both National and County governments.</p> <ol style="list-style-type: none"> <li>1. The security function - roles of County and National government</li> <li>2. Roads construction roles.</li> </ol> <p>The land question/ and the registration processes/ the Kenya defense forces for instance has been having issues with locals on the land issue. There is need to refer and differentiate different roles on this.</p> <ol style="list-style-type: none"> <li>1. Members of the executive/number and names in Isiolo county</li> <li>2. Members of county assembly and wards.</li> <li>3. What are some of the initiatives of citizens in the county?</li> </ol>
<p><b>Makueni County</b></p>
<p>Water in Makueni is of great concern, in this regard, the current administration has started an initiative called 'kutwiikania kiw'u.' This initiative targets each household to store enough water which can be used during dry season. The department of water intends to ensure that earth dams are available at a distance not more than 2 kilometers from the furthest household. Also, the county government started another initiative labelled 'Nzangule ya Matangi,' which supplies tanks to women groups to harvest rain water, this ensures the women who are core in household duties access clean water for drinking.</p> <p>Sand harvesting and trade gained popularity as a source of quick cash in Makueni and other arid and semi-arid areas that harbor high quality sand. With a rapidly growing construction industry in towns like Nairobi, Thika and Athi-river and the county's proximity to these towns aided by the Nairobi Mombasa highway increased sand harvesting from Makueni.</p> <p>Unregulated sand harvesting results to reduced availability of water in riverbeds, drying of boreholes, increases soil erosion among other environmental issues. These, aggravated by effects of climate change, lead to reduction in agricultural productivity leading to loss of livelihoods.</p>

In this wake, H.E the Governor Kivutha Kibwana banned commercial sand harvesting in the County and appointed a task force in 2014 to look into the matters of sand harvesting and how the sand resource can be harnessed for socio-economic development. A key recommendation to enact a legislation to guide sand matters in the County was adopted and this led to the enactment of the Makueni County Sand Conservation and Utilization Act, 2015 that formed the Makueni County Sand Conservation and Utilization Authority as the lead agency for the county.

1. Unpacking the water provision and role of the county.
2. Unpacking health function at the county level.
3. Members of the executive/number and names in Makueni County
4. Members of county assembly and wards.
  - Majority of citizens of Makueni county have had their capacity build on public participation. Each ward during the first term of His Excellency Prof. Kivutha Kibwana there were 30 interlocutors who were trained on public participation and since then they are being used as influencers and mobilization during public participation.

There is a public participation structure which emanates from village level up to county level. This is the platform in which the citizens gives out their issues in form of projects and they are prioritized according to the impact and coverage.

### **Baringo County**

1. Baringo county is number?
2. What are the names of the various county leaders and their positions?
3. Unbundling the security role at the county level. (e.g. cattle rustling)
4. Dealing with agriculture function at the county level.
5. Members of the executive/number and names in Baringo county.
6. Members of county assembly and wards.

What are some of the initiatives of citizens in the county?

- Citizen participation in governance and decision making process.
- Citizen participation of centralized decision-making process.
- Providing checks and balances.
- Electing of quality leadership.

### **Kilifi County**

1. Kilifi is which county number?
2. What are the names of the various county leaders and their positions?
3. Functions of the county vis a vis land management.
4. Functions of the county and Education.
5. Members of the executive/number and names in Kilifi county.
6. Members of county assembly and wards.
7. What are some of the initiatives of citizens in the county?

Public participation has been threaded in The Constitution of Kenya as a key governance principle. Despite the critical positioning, realization of meaningful and effective participation has remained a challenge especially at the counties due to a number of reasons including but not limited to; cost implications, under appreciation of the importance of public participation, and undertaking public participation to meet the bare minimum of the law.

## 2.1 Key objectives of the session

- To provide basic guide on how to empower the public on public participation as good governance principle.
- To give a presenter, a basic guide on how to effectively engage in a discussion around public participation for informative sessions covering critical aspects of public participation.
- To give basic guidance on accessing information for effective public participation.

### Key questions

1. What is public participation?
2. What are the key tenets of public participation?
3. How can meaningful public participation be achieved?

## 2.2 Proposed script outline

[Estimated total time to cover the script-50 Minutes]

For effective undertaking of discussions on public participation, the following are some of the critical aspects that needs to be considered and covered.

### 2.2.1 Introduction and meaning of Public Participation; Between 2-3 minutes

- There is need to give a background, on the meaning of public participation as a good governance principle.

### 2.2.2 Constitutional foundation for Public Participation in Kenya's governance; Between 5-6 minutes

- Consider giving details of confirming public participation as a key governance principle appreciated by the constitution in various sections of The Constitution.
- Emphasize how the grounding of public participation in The Constitution is important and key.

### 2.2.3 Understanding constitutional provisions on Public Participation; Between 7-10 minutes

- Consider giving details of various provisions in the constitution that emphasizes on public participation as provided in the explainer sections below.
- Consider sharing other enabling legislation that also give further guidance on public participation including public participation laws of specific counties of discussions.

#### 2.2.4 How to work towards realization of meaningful Public Participation; Between 10-15 minutes

- Consider sharing some of the critical platforms that The Constitution and enabling legislations emphasizes for instance, the budget and economic forums, the citizenry organized groups as recognized by the Urban Areas and Cities Act.
- Consider sharing some of the best practices from other counties and other regions that have been witnessed so far towards promotion and realization of meaningful public participation.
- Share the bare minimum constitutional threshold towards realization of effective public participation.

#### 2.2.5 Importance of access to information in enhancing effective Public Participation; Between 5-6 minutes

- Share with the listeners on the importance of access to information to effectively engage from an informed point of view.
- Share on the constitutional right on access to information – Article 35 of The Constitution and subsequent Access to information Act 2016.
- Share on some of the tips and ways of ensuring one accesses important information- especially targeting members of the public.

#### 2.2.6 Appreciating challenges that have been realized so far on realization of Public Participation; Between 7-10 minutes

- Consider sharing challenges that duty bearers have shared that they face towards realization of effective public participation.
- Similarly consider sharing the challenges that citizens have shared that they go through towards realization of public participation as a right.



#### Tips to consider for successful discussion on this area:

- Consider asking the following questions;
  1. Do you know what County Budget and Economic forum is? And how can it enhance participation in the budget making process?
  2. Which platforms are you aware of that your county uses to engage the public?
  3. Do you know you have a responsibility to seek to be involved in decision making processes and what have you done to ensure that your voice Counts?
- Consider reviewing some of the court cases on matters of public participation to give a good grounding on jurisprudence E.g. Justice Odunga's ruling on Kiambu case.
- Consider reading through existing county's customized public participation law as well as the model legislations provided at the national level by KLRC for instance.

## 2.3 Explainer-Notes

### 2.3.1 Constitutional framework on Public Participation

The concept of public participation in Kenya has over the years attracted much attention since the promulgation of The Constitution in 2010. Being a critical governance principle towards realization of the objects of devolution, several attempts have been made to define it and a number of mechanisms developed to actualize effective public participation. Guidelines and legislation have since been developed both at the national and county levels to create a framework of interpreting, understanding and implementing public participation especially at county level.

The Ministry of Devolution and Planning and the Council of Governors finalized the County Public Participation Guidelines in January 2016. The development of the policy was informed by the need to fulfill the objects of devolved government. One of the objects is encapsulated in Article 174 (c) of The Constitution, that is, to “enhance the participation of people in the exercise of the powers of the State and in making decisions affecting them.” The guidelines were developed in a participatory process that involved key stakeholders such as CSOs, FBOs, county governments, academia, the private sector, professional bodies, international experts as well as national and county government officers.

Public participation as a policy development tool is not necessarily a new concept in the Kenyan governance system. The difference is that The Constitution of Kenya 2010 raises the standard on public involvement, decision-making, policy formulation and lays the basis for the development of a policy framework on citizen participation. The Key provisions pertaining to this are:

1. Article 1 which vests all sovereign power in the people of Kenya.
2. Article 1 (4) provides that sovereign power of the people is exercised at the (a) national level and (b) the county level.
3. Public participation is further implied in several other provisions among them, Article 10,129, 132 which provide for the participation of the people in the execution of law and in policy making. The Constitution has therefore opened new space for the public and for the exercise of popular sovereignty through legislative activity in Articles 118, 119 and 196 where public participation in the legislative and other business of parliament, county assembly and its committees is now guaranteed.
4. Chapter 4 of The Constitution includes the Bill of Rights including equality, human dignity, freedoms, environment, as well as rights to housing, health care, food, water, social security, education, access to information.
5. As relates to Public finance and participation, Chapter 12 and Article 201(a) provides for openness and accountability, including public participation in financial matters.
6. Further, the objects of principles of devolved government in Article 174(c) give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the state and in making decisions that affect the citizenry. Article 174(d) recognizes the right of the communities to manage their own affairs and to further their development.
7. Article 184 (1), states that national legislation shall provide for the governance and management of urban areas and cities and shall in particular (c) provide for participation by residents in the governance of urban areas and cities.



Other key provisions are:

8. Article 232(1) on the values and principles of public service which include: (d) involvement of the people in the process of policy making and: (e) accountability for administrative acts and (f) transparency and provision to the public of timely and accurate information.

The Fourth Schedule Part 2 (14) stipulates that the functions and powers of the county are to ensure and coordinate the participation of communities and locations in governance at the local level. Counties are also to assist communities to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

**Summary of the key provisions in tabular format is as below;**

Mechanisms of participation are spelt out in The Constitution as well as various laws that inform implementation of devolved government including the County Government Act, 2012, and the model law on public participation developed by the Kenya Law Reform Commission (KLRC). Table 2 below summarizes the relevant constitutional provisions that inform public participation.

### 2.3.2 Benefits of Public Participation to duty bearers and right holders

Table 3

Article	Provision
1: Sovereignty	All sovereignty belongs to the people of Kenya and may be exercised by them directly or through elected representatives.
Article 10: National Values and Principles of Governance	10 (2) (a) The national values and principles include patriotism, national unity, democracy, and participation of the people.
Article 33: Freedom of Expression	Every person has the right to freedom of expression, the right to receive and impart information or ideas.
Article 34: Freedom of Media	The state shall not control or interfere with public or dissemination of information or penalize persons for holding opinions or views.
Article 35: Access to Information	35 (1) (a) Every citizen has the right to access to information held by the state and 35(3) the state shall publish important information.
Article 69: Obligation in respect of the environment	69(1)(d) The state shall encourage public participation in the management protection and conservation of the environment.
Article 118: Public Access and Participation.	Provides for public access and participation in sitting of parliament and of its committees.
Article 119: Right to Petition Parliament.	Provides for the right of anyone to petition parliament.
Article 129: Principle of Executive authority	Provides that executive authority is derived from the people of Kenya.
Article 159: Judicial authority	Provides that judicial authority is derived from the people of Kenya.

Article 174: Objects of Devolution	174(c) To give effect to self-governance to the people and enhance the participation of the people in the exercise of the powers
Article 184: Urban areas and Cities	184 (1) (c) National legislation shall provide for the governance and the management of the urban areas and cities and shall, in particular, provide for participation by residents.
Article 196: Public participation and County Assembly powers, privileges and immunities.	196(1)(b) A county assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its committees.
Article 201: Principles of Public finance	201 The following principles shall guide all aspects of public finance in the republic (a) there shall be openness and accountability, including public participation in financial matters.
Article 221(5): Budget Estimates and Annual Appropriation Bill	221(5) In discussions and reviewing the estimates, the committee shall seek representation from the public and the recommendations shall be taken into account when the committee makes its recommendations to the national assembly.
Article 232: Values and Principles of Public Service	232 (1)(d) The values and principles of public service include involvement of the people in the process of policymaking
Fourth Schedule Part 2:	The functions and powers of the county government are
	14; Ensuring coordinating the participation of communities and locations in the governance at the local level.

*Table. Provisions of The Constitution on Public Participation.*

The following are the benefits of public participation:

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

## Duties and responsibilities of citizen's in Public Participation

Table 4

<b>Equality</b>	Article 27 of The Constitution provides that the senate shall not discriminate directly or indirectly on any ground. This guarantees equal participation in decision making processes at the county.
<b>Freedom of Expression</b>	Article 33 of The Constitution guarantees the freedom of expression including the freedom to seek, receive or impart information or ideas. Hence, every person should feel constitutionally empowered to share information and ideas during participation process.
<b>Right to access information</b>	Article 35 of The Constitution grants every citizen the right to access information held by the state. This includes information required for effective public participation.
<b>Planning</b>	The public should be involved in strategizing, mapping, prioritization and codification of issues that may be subjected to public participation by the draft policies, legislation or development plans. Members of the public have the duty to from the onset to ensure that what is documented actually presents issues that are crucial at the most basic unit at the county. After mapping, prioritization and codification of issue, members of the public should be clear on the issues are to be addressed to the county department involved, the statutory period for civic education and form of participation.
<b>Organization</b>	Members of the public may participate in decision making process as individuals or representative groups. County residents should determine the most effective grouping to engage the county governments. Such organization may be in the form of youth and women groups, SACCO's, chamber of commerce, civil society or religious entities.
<b>Participation</b>	The public has a duty to fully participate in county education initiatives and other processes.
<b>Monitoring and Evaluation</b>	The public has a duty to monitor and evaluate the implementation of policies, legislations and development plans, citizens' participation and civic education processes.

### 2.3.3 Challenges to Public Participation

Challenges to public participation emanate from both the public and the government. Some of the challenges that citizens face on public participation;

- Relationship between the government and communities
  - The relationship between communities and the government is strained by the community’s perception that the government does not understand their issues and imposes policies and programs that negatively affect them.
- Restrictions on policy timelines
  - The government may be considering a policy change for a long period of time, but the public consultation process may be short and may not allow the community and community-based organizations the time to research and prepare to effectively participate.
- Lack of access to information
  - The communities lack adequate information on policy, government programs and services. Some of the information is difficult to obtain and interpret.
- Inadequate representation of certain community groups in the decision-making process
  - There are some groups who tend not to be well represented in the policy fora.
- Lack of understanding of the policy making process
  - The policy-making process tends to be very complex making it difficult for most people to understand it. It is important to note that, if the process was made simpler, it would empower individuals and communities to understand and implement policy.
  - It can also help reduce public apathy or a situation where the public demands payment.
- Inadequate community resources
  - For communities to play an active role in the policy-making process, it is necessary for them to have access to resources.
  - These resources include adequate funding, government training programs, education, leaders, and volunteers to support the causes and initiatives.
- Apathy
  - This is a situation whereby citizens are indifferent, lack of concern, or get disinterested on issues affecting them and therefore withdraw from engaging with the authorities. This impedes participation in public affairs.

### 2.3.4 Challenges duty bearers face in facilitating Public Participation from the government level include;

- Perceived resistance of communities as partners in policy development.
  - This is where those in authorities tend to imagine that there would be resistance to implementation of a certain policy with the community even before trial.
- Jurisdictional issues
  - This may include unresolved boundary issues, and county headquarters
- Structural barriers within government
  - This is the bureaucratic procedures and processes (many stages) involved while approaching issues in government. This tends to not only slow down the pace for public in pursuing certain issues but also discourage them to the point of giving up.

### *2.3.5 Possible solutions to challenges facing Public Participation*

These may include the following:

- Enhancing relationship between government and communities.
- Creation of horizontal initiatives to provide linkages among communities so as to establish partnerships, with government department's organizations and agencies. This should be done considering the needs, concerns, and resources of the specific communities involved.
- Time and policy timeline restrictions.
- Community and community-based organizations should be accorded enough time for research on policy in order to effectively participate in the policy process.
- Lack of access to information.
- Communities should have access to information on the government policy, programs and services. The information should be simplified for easier understanding and interpretation in various multimedia formats.
- The information should be readily available to the community.
- Inadequate representation.
  - Affirmative action and deliberate efforts should be made to enforce the law on inclusivity.
- Lack of understanding of the policy making process.
  - Empower individuals and communities on policy-making process.
- Inadequate community resources.

The government to provide communities with resources such as adequate funding, training programs so that the communities can play an active role in governance processes.

### *2.3.6 Best Practices in enhancing effective and meaningful Public Participation*

In borrowing from other jurisdictions, Cottrell (2010) identifies the following key parameters from United Kingdom's experience that a good public participation legal framework should consider and adopt it in practice for effective public participation.

- When to consult? Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- Duration of consultation exercises: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- Clarity of scope and impact: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- Accessibility of consultation exercises: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- The burden of consultation: Keeping the burden of consultation [on the consultees] to a minimum is essential if consultations are to be effective and if consultees 'buy-in to the process is to be obtained.
- Responsiveness of consultation exercises: Consultation responses should be analyzed carefully and clear feedback should be provided to participants following the consultation.
- Capacity to consult: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Other publications include one by the Government of the republic of Ireland: *Reaching Out: Guidelines on Consultation for Public Sector Bodies*, which includes a stage by stage guide to consultation, including suggestions of methodology, as well as the following —checklist:

#### Checklist for better consultation

- Are you clear on the purpose and objectives of your consultation?
- Are you clear on the questions you want to ask in your consultation?
- Have you identified all of the stakeholder groups and individuals that should be consulted?
- Have you chosen the most appropriate and inclusive methods of consultation, including those that meet the needs of 'non-traditional' stakeholders?
- Have you allowed for sufficient resources for the consultation?
- Have you considered all of your legal obligations?
- Have you publicized your consultation in online and offline media?
- Have you allowed sufficient time to give stakeholders an opportunity to consider the issues fully?
- Have you planned how you will analyze the submissions received during your consultation?
- Have you planned to evaluate your consultation process and to ensure any lessons learned are considered for the future?

#### *2.3.7. Importance of access to information in enhancing effective Public Participation*

- Access to information is a key precursor to effective public participation.
- It is imperative to remind the listeners, access to information as a constitutional right and the emphasis The Constitution lays on access to information.
- Access to information Act 2016 further requires various government entities to designate an access to information point person and gives guidelines on how access to information requests needs to be processed. It is important to inform citizens on these aspects to bolster their request for information for effective public participation.

### 2.3.8 Effective discussions on Public Participation in contextualized settings

For effective discussion on Public participation targeting below counties. The following aspects could be considered.

Table 5

Probing areas	Contextualizing discussions on Public Participation			
	Isiolo	Makueni	Baringo	Kilifi.
<p><b>Existence of a customized legal framework on Public participation. Does it exist in your county?</b></p>	<p>The county enacted Civic Education and Public participation Act. But Not disseminated. This needs to be prioritized.</p> <p>Public participation in budget has not been done in a good way.</p> <p>For instance, there are cases of frequent supplementary budgets that normally comes up and denies people effective engagement. Issue of calling.</p>	<p>The county has trained about 900 interlocutors who have been offering participatory engagement voluntarily.</p> <p>The county government has contracted Ward Development Officers (WDOs) in each ward to train the citizens on public participation</p> <p>There is local county radio station through which all the events are advertised. The radio station is private public partnership initiative.</p>	<p>Yes, the legal framework is in place and the county is making an effort to implement but there is need to make improvements in reaching the marginalized communities and the remote areas of the county.</p> <p>Baringo county Public Participation Act 2015</p> <p>Key objective is to provide a mechanism for the involvement of and participation of decision making</p>	<p>Yes, but it's not operational and guidelines as stipulated in the Act not adhered to. There is need to push for this conversation with public and engage with county assembly what to ensure implementation of the law.</p>
<p><b>What are some of the best practices that have been adopted by your county to ensure effective Public participation?</b></p>	<p>The structure of the county is there however there is need to push for equipping the ward offices and sub-county offices to act as centers of accessing information and engaging the citizens.</p>	<p>There are effective structures which enable the citizen participate in public participation events which include;</p>	<p>The county website is one of the best examples that can be borrowed from other counties on enhancing public participation.</p>	<p>Using civil society networks to do mobilizations of citizens that are supposed to attend public forums</p>

	<p>The county website is also useful but it has not been fully equipped and updated with current information. This needs to be pushed as the county can take advantage of technology to reach the vast and wide county through online platforms.</p>	<p>Ward development committee which is in charge of the ward as far as government engagement is concerned.</p> <p>Sub-ward committee which represents the members of the ward.</p> <p>Cluster committee where by a cluster is a combination of 5 to 7 villages, this helps in selection of issues identified in the villages.</p> <p>Village committee which discuss the projects/issues identified by the members.</p>	<p>The website has detailed budget documents, they are well updated and arranged, something that most counties don't have.</p> <p>Baringo county also has good track record in engaging with civil society organizations which is useful in reaching wider public.</p> <p>Establishment of department of publicity and public participation headed by a director; Members include; Representative from professional organization in the county, private sector and industry within the county, county treasury officials are also a good practice.</p>	<p>Giving CSOs a platform to address public forums while also assisting residents in developments of memorandums for submission to the assembly or the county executive.</p>
<p><b>Are there citizen led/ community structures that are existing that can be utilized for effective Public participation?</b></p>	<p>Civil society structures. E.g. Isiolo civil society network can be used.</p> <p>Council of elder's structure is one of those systems that could effectively be used in Isiolo.</p>	<p>Yes, in Makueni we have both state and non-state actors who form structures that can be utilized for effective public participation.</p> <p>Non-state actors include;</p> <ol style="list-style-type: none"> <li>1. Community Oversight Forums</li> <li>2. Makueni Women Entrepreneurs Network (MaWo-ENet)</li> <li>3. Makueni Civic Society (MaCSONet)</li> </ol> <p>State actors include ;</p> <ol style="list-style-type: none"> <li>1. Makueni County Public Participation Structure</li> <li>2. Ward Interlocutors</li> <li>3. Project Management Committees (PMC)</li> <li>4. Project Sustainability Committee (PSC)</li> </ol>	<p>Baringo civil society organization comprising of all civil society within the county, citizen led community structures-Nyumba kumi, youth league, existence of ward and village public participation forums.</p>	<p>We have Kilifi citizen forum that is currently active in all the sub -counties and help residents in analyzing county policies or budget documents prior to public forums so that citizens can participate from an informed perspective.</p>



<p><b>What can you consider as innovation in your county, towards realization of effective Public participation?</b></p>	<p>Some of the innovative ways of communication could include; 1. pictorial messages using IEC (Information, Education &amp; Communication) meant to target larger illiterate population 2. Creative use of social media targeting youthful population 3. Use of local FM stations to disseminate information using various local languages including hosting people in political leadership positions to engage with the population during call in shows 4. Work with and through community champions to run weekly citizen forums on pertinent issues affecting the community and covering it live on local radio stations.</p>	<p>The use of both state and non-state actors as mentioned above.</p>	<p>Affirmative action programs to involve minorities and marginalized groups are represented and participate in all governance matters in the county. Building of a realistic timeframe for the consultation, allowing reasonable period for each stage of the process</p>	<p>Use of community radios in enlightening citizens on various budget stages, so that they can understand the cycle and follow the sequence.</p>
<p><b>Do bodies like County Budget and Economic forum exist in your county? Who are the members? – organization wise?</b></p>	<p>The CBEF has been established, but there is need to interrogate the effectiveness and the membership for better functioning</p>	<p>There is existence of CBEF in the county comprise of 10 members, that equates the number of ECMS. The members are selected from various profession adhering to the lied down processes. It is set-up to coordinate and collect views from the public during the budgeting process. It functions as a think-tank for the county government in terms of financial and economic management. They are nominated by (and represent) organizations representing professionals, business, labor issues, women, persons with disabilities, the elderly, and faith-based groups at the county level.</p>	<p>Yes, The CBEF is in existence but there is need to tighten representation and effectiveness of the group in playing the useful role. There is need to have probing discussions with leaders on this. Consist of professional organization in the county, private sector and Jua kali sector, farmers’ groups.</p>	<p>Yes, it does exist but it’s not operational and the members are drawn from the various constituent groups as stipulated in sec 137 (1) of the PFM Act.</p>

<p><b>How is access to information in your county affecting public participation?</b></p>	<p>There is limited access to information from the county government that hinder participation in matters affecting the communities. Most of the residents especially in rural wards are devoid of critical information for participating.</p>	<p>People of Makueni county access information through the following channels: Ward Development officers employed by the county The county has also developed bulk SMS platform through which information from the county government is shared through SMS. There is county magazine –“Ene Magazine” Use of local radio station which is accessible by all the citizens Advertisement in their website where you can access daily updates Use of print media e.g. Daily nation, The Standard etc.</p>	<p>The county is still faced with a number of challenges including in areas of access to information which is affecting effective public participation in the following areas;          Poor decision making</p> <ul style="list-style-type: none"> <li>• Wrong choice of projects within the wards</li> <li>• Low turnout of members of the public during public participation sessions.</li> <li>• Slow information sharing affects turn out</li> <li>• Historical practices for example chiefs’ involvement sometimes prevents people from fully participating in forums</li> </ul>	<p>Access to information is greatly affecting public participation in that budget or policy documents are not availed in time , that is two weeks to the public forum and therefore when they are availed on the day of the forum , citizens can’t analyze bulky documents and this affects the outcome of the process .</p>
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Participation in the public finance management especially at the county level, has received a new level of appreciation. It is perhaps the most active area of participation of the public, and often mistaken as the only area where public participation is key, given the emphasis of the law on the area. Indeed, as was pointed out by Cloward and Piven (1966), public engagement in public finance management can be one of the powerful ways of civilian oversight and organizing of citizens due to the emotive nature of the subject (money matters). However, for realization of greater involvement, citizen's must have the basic information and knowledge in the current public finance management framework for their effective participation.

## 3.1 Key objectives of the session

- To provide critical tenets for understanding Kenya's public finance management under the current constitutional framework.
- To provide critical information to radio presenters on how to effectively engage with listeners on the subject of budget making processes.

### Key questions

1. County budget cycle and public participation emphasis on timeline/budget calendar and key responsible people in the budget process as well as the key budget documents - To what extent are these key areas clear to members of the public?
2. What is the Public participation framework in the budget making process?

## 3.2 Proposed Script outline

[Estimated total time to cover the script- 55 Minutes]

For effective engagement with the public on the topic of public finance management, one needs to have an understanding on the following areas;

### 3.2.1 Introduction; Public finance management from Constitutional background; Between 4-5 minutes

- The Constitutional provisions on public finance management.
- Critical principles that constitution bequeaths citizens on citizen's engagement.
- Highlight key principles that helps in enforcing public participation and civilian oversight.

### 3.2.2 Understanding Budget Making process; Between 30-35 minutes

- To give critical guidance on the budget making process with appreciation of the documents and various responsible persons at each important stage.
- Emphasis on the specific timelines as per the Public Finance Management Act.
- Clearly explain the various stages and who is responsible for what.

### 3.2.3 Unpacking opportunities for Public Participation; Between 13-15 minutes

- To identify key public participation opportunities within the process for effective information to the public on engaging in the budget making process.
- Discuss possible structures and the composition for instance the budget and economic forum.



#### Tips that one can consider:

1. Consider making discussions on Budget calendar critical dates as engaging as possible. This could include coming up with activities for listeners to understand and internalize.
2. Consider having emphasis on the documents one needs to know and understand how to read for effective and meaningful engagement in the budget making process discussions.

## 3.3 Explainer-Notes on Budget Making Process

Budget making process has very specific timelines anchored in the law that should be followed. The timelines further have opportunities for public participation in the process in line with The Constitution. The Constitution further establishes critical principles that guides the public finance management in Kenya with emphasis on areas of transparency, accountability and public participation as captured in Article 201 of The Constitution. For realization of fruits of devolution, public knowledge on public finance management and opportunities for civilian oversight is key given that fiscal management is a critical pillar of devolution.

### 3.3.1 Budget Making Process

Budget making process has four (4) critical stages as follows;

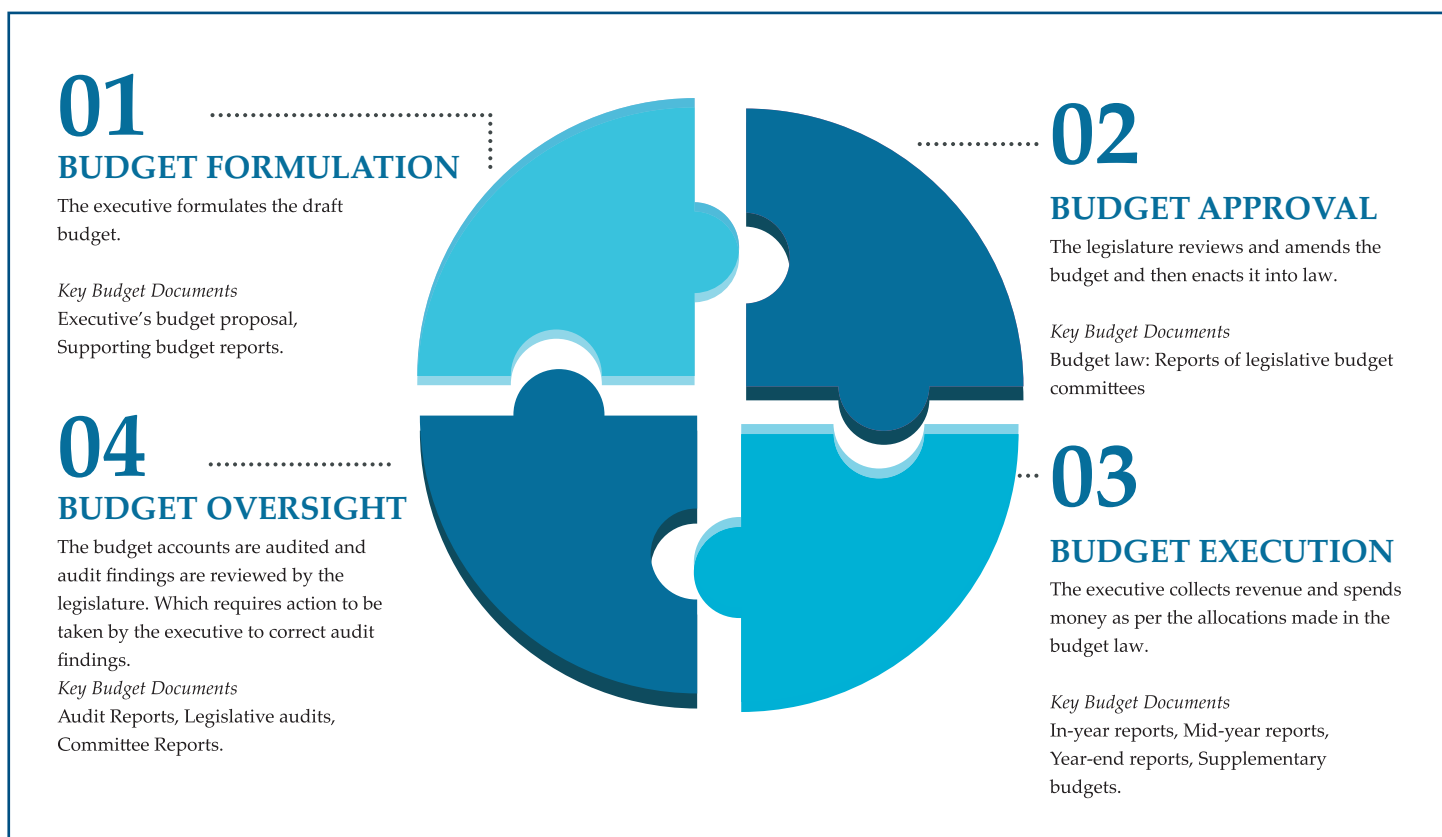
1. Formulation state.
2. Approval stage.
3. Implementation/Execution stage.
4. Oversight/Audit stage.

It is important that for each of the stages, ones understand the following aspects in relation to each stage for effective civilian oversight and value addition to the engagements at the County level.

1. Which documents should one expect and review at each stage?
2. Who is supposed to be responsible for what at each stage?
3. What are the opportunities for public participation at each stage?

**Diagrammatic representation of Budget Making Process stages.**

*Figure 2 Source; TI-Kenya Budget training manual.*



### 3.3.2 Opportunities for Citizen Participation in the Budget Making Process at the County level

In the spirit of transparency and accountability in the planning and budget making process, there are many opportunities for citizen participation. Citizens can exercise their right to participate in the budget-making process at several stages and in various ways as follows:

#### 1. Pre-budget reading period

- County Budget and Economic Forum (CBEF)
  - The composition of the County Budget and Economic Forum (CBEF) is as follows:
    - a. The Governor of the County Chairperson;
    - b. Other members of the County Executive Committee;
    - c. A number of representatives, who are not County public officers, equal to the number of executive committee members appointed by the Governor from persons nominated by organizations representing professionals, the business community, labor issues, women, persons with disabilities, the elderly and faith-based groups at the county level.
- The functions of the CBEF entails providing a means for consultation by the county governments on:
  - Development of County Plans,
  - Development of County Fiscal Strategy Paper and the Budget Review Outlook. Matters relating to budgeting, the economy and financial management at the County level.
- The County budget and economic forum allows citizens to give their views and input in the planning and budgeting process through their representatives in the forum.
- County Assembly Budget Committee Hearings
  - The Budget Committee of the County Assembly is obligated to organize hearings where citizens discuss their priorities. Here, the citizens have the opportunity to influence the final budget before it is approved.
- Citizen Fora
  - These should be organized by the county governments at all administrative levels of the county, namely: the sub-county, ward and village level. This is to ensure that all citizens have equal opportunities to participate. Citizens therefore have an obligation to demand for and attend these meetings and give their contribution
- County Planning Units
  - These units are also supposed to be set up at all the administrative levels. These planning units are meant to ensure citizens participate meaningfully in the planning and budget making process during sector working groups.
- County communication platform and strategy
  - The Constitution of Kenya, 2010 under Article 35 places an obligation on the county governments to actively publish and publicize information affecting the citizens including all information relating to the budget process.

## 2. Post-budget reading period

- The County executive committee member in charge of the county treasury has a constitutional duty to publish an implementation report every quarter in the financial year. Therefore, every three months, this report is prepared and sent to the county assembly for oversight.
- The implementation report outlines how the county has been implementing the budget in that period, and helps identify problems so that they can be corrected within the financial year.

These reports ought to be made public, so as to provide citizens with the opportunity to participate and raise questions about the implementation of items indicated in the budget.

In the post-budget period, citizens can participate by:

- Requesting for copies of the reports from the finance secretary;
- Reading the reports and discussing them with other citizens, and also with county assembly members;
- Providing comments and feedback on the reports.

### 3.3.3 Critical Budget calendar days with specific documents and persons

Table 6

		NATIONAL GOVERNMENT	COUNTY GOVERNMENT	
	DATES	WHAT HAPPENS?		HOW IS THIS IMPORTANT?
		NATIONAL GOVERNMENT	COUNTY GOVERNMENT	
	August 30th	National Treasury releases a circular to all government agencies.	The County Executive member for finance must also release a circular by this date doing the same at county level.	<ul style="list-style-type: none"> <li>• Budget Circular provides budget process and key policy directions. MTEF process is specified in the budget and will commence soon after it is issued.</li> <li>• Separate circulars at national and county levels</li> <li>• Starting the process, and setting out guidelines for public participation.</li> </ul>
	September 1st		County Integrated Development Plan submitted to Assembly	County governments must complete Integrated Development Plans as the basis for budget preparation
<b>REVIEW OF PAST FISCAL PERFORMANCE CONTINUES</b>				
	September 30th	Budget Review and Outlook Paper submitted to Cabinet for approval	County Budget Review and Outlook Paper submitted to County Executive Committee for approval	Budget Review and Outlook Paper compares previous year (to June) revenue and spending against what was planned in the budget
	December 31st	<p><b>CRA recommendations on revenue sharing (vertical and horizontal)</b></p> <p>Commission on Revenue Allocation should submit its recommendations for the division of revenue between national and county governments, and among the counties, to the rest of government.</p>		Three months later CRA presents revenue sharing proposals. Medium Term Expenditure Framework (MTEF) process should be well underway by now. It is not clear how the MTEF process links to the vertical sharing because MTEF is not mentioned in the PFM law. (MTEF Defines a three-year rolling micro-economic framework which outlines the overall resources. It also forms the basis of setting national priorities and expenditure prioritization. It was introduced in Kenya in 1997 after the Government and World Bank Carried out a public expenditure review which identified various weaknesses in public expenditure management)



		<b>FISCAL FRAMEWORK PREPARATION</b>		<ul style="list-style-type: none"> <li>• During this time, the National Treasury and the various ministries and agencies should undertake some type of consultation with the public and other stakeholders.</li> <li>• This can include sector hearings as in the past, or visits by Treasury to counties to solicit views</li> <li>• Views from the public should feed into the formulation of the Budget Policy Statement.</li> </ul>
	Between January 1st	<ul style="list-style-type: none"> <li>• Treasury prepares Budget Policy Statement</li> <li>• Public Debt Management Office prepares Debt Management Strategy</li> </ul>	<ul style="list-style-type: none"> <li>• County Treasury prepares County Fiscal Strategy Paper</li> </ul>	<ul style="list-style-type: none"> <li>• Treasury must give CRA an opportunity to comment on the Budget Policy Statement</li> <li>• CRA is also required to respond to the 47 County Fiscal Strategy Papers</li> <li>• After CRA recommendations are received, Treasury begins work on the Fiscal Framework (economic forecasts, aggregate revenues, borrowing, spending ceilings by main spending units). At national level an independent office recommends borrowing. BPS will include vertical sharing and preliminary proposals for Judiciary and Parliament</li> </ul>
	Before February 15th	<b>PREPARATION OF REVENUE SHARING BILLS</b>		
		<ul style="list-style-type: none"> <li>• Treasury prepares Division of Revenue and County Allocation of Revenue Bills</li> <li>• Division of Revenue and County Allocation of Revenue Bills notified to CRA and Intergovernmental Budget and Economic Council.</li> </ul>		<ul style="list-style-type: none"> <li>• This procedure is not specified in the PFM Act, but it would give CRA a further opportunity to input into vertical sharing decisions.</li> <li>• Revenue sharing proposals are firmed up in draft bills that include 47 county equitable share allocations and also include conditional grants</li> </ul>
		<b>PARLIAMENT/ASSEMBLY CONSIDERS FISCAL FRAMEWORK</b>		<p>Fiscal Framework consists of;</p> <ol style="list-style-type: none"> <li>1. Budget Policy Statement</li> <li>2. Debt Management Strategy</li> <li>3. Revenue sharing Bill</li> </ol>

	February 15th	<ul style="list-style-type: none"> <li>• Cabinet Secretary for Finance to submit the Budget Policy Statement to Parliament.</li> <li>• Also the deadline for the debt management strategy paper, and</li> <li>• The Division of Revenue and County Allocation of Revenue Bills to go to Parliament.</li> </ul>		A very good opportunity for citizens to make their inputs in the process.
	February 28th	<ul style="list-style-type: none"> <li>• Deadline for Budget Policy Statement to be approved by Parliament.</li> <li>• This is also the deadline for the County Fiscal Strategy Paper to be tabled in each County Assembly.</li> </ul>		
		<b>PARLIAMENT/ASSEMBLY ADOPTS FISCAL FRAMEWORK</b>		
	March 1st	<ul style="list-style-type: none"> <li>• Deadline for Budget Policy Statement to be made available to public.</li> <li>• Parliament considers report on Budget Policy Statement and passes resolution (with or without amendments)</li> <li>• National Assembly Committee considers Division of Revenue Bill</li> <li>• Senate Committee considers Allocation of Revenue Bill and reports to Parliament</li> </ul>		<p>This is great opportunity for citizens to interact with the document and make inputs in the process</p> <p>The Budget Policy Statement will bind Parliament to limits on revenue raising, borrowing and spending. The budget estimates adopted later will have to comply with the Budget Policy Statement (BPS) At the same time Parliament is also considering revenue sharing through National Assembly and Senate Committees. It is not quite clear how these processes link up. BPS and the Division of Revenue Bill should be consistent</p>
		<b>REVENUE SHARING CONSIDERED</b>		
	March 15th	<ul style="list-style-type: none"> <li>• This is the deadline for passing the Division of Revenue and County Allocation of Revenue Bills.</li> <li>• National Assembly Committee considers Division of Revenue Bill</li> </ul>	County Assembly considers County Fiscal Strategy and adopts with or without amendments	The Senate Committee considers the County Allocation of Revenue Bill while the National Assembly Committee is looking at the Division of Revenue Bill. There is no time limit for the report on the DoRB but the CAoR Bill report must be delivered by 30 April.

DETAILED ESTIMATES PRESENTED				
Formulation	April 30th	<ul style="list-style-type: none"> <li>This is the deadline for the Cabinet Secretary to submit the budget proposal, or Budget Estimates to Parliament. It is also the deadline for the Judiciary and the Parliamentary Services Commission to submit their own budgets to Parliament. This is also the date for the county budget proposal to be submitted to the County Assembly.</li> <li>Detailed budget estimates for national government presented to Parliament</li> <li>Includes Allocation from Equalisation Fund</li> <li>Detailed budget estimates for Judiciary and Parliament presented.</li> </ul>	<ul style="list-style-type: none"> <li>Detailed budget estimates presented to County Assembly</li> </ul>	The deadline for Senate report on the Allocation of Revenue Bill is also the deadline for detailed estimates to be presented. Estimates must include proposals for spending from the Equalisation Fund
	May	This is likely when the Budget Committee will begin to hold public hearings on the budget.		Members of the public should be on the lookout during this period to ensure that they be proactive in getting involved in the process.
	May - June	This is when the Budget Committee will table its recommendations on the budget in Parliament.		
	May 15th	This is the deadline for the Cabinet Secretary to give any comments on the Judiciary and Parliamentary budget requests.	County Executive Committee Member presents comments on County Assembly Budget	This step provides an opportunity for the executive to comment on the budget proposals of the other arms of government
	May 30th	Estimates approved by Parliament (in time for appropriation law 30/6)	Estimates approved by county assembly (in time for appropriation law by 30/6)	
Approval	June	The national Finance Bill to authorize tax and revenue collection is tabled in Parliament. Assembly.	A County Finance Bill is to be tabled at this time in the County	
Implementation (12 months period)	June 30th	<ul style="list-style-type: none"> <li>This is the end of the financial year, and the deadline for the Appropriations Bill to be passed by parliament to authorize spending for the new budget year. This is also the deadline at county level for passing the county Appropriations Act.</li> <li>Appropriation Bill passed and assented to</li> </ul>	<ul style="list-style-type: none"> <li>County Appropriation Law must be passed by this date.</li> </ul>	

	July	Sometime in the latter half of July, the final approved budget estimates should be available to the public		
Audit/ Oversight	November	Government must publish the Budget Review and Outlook Paper, reviewing last year's budget performance and this budget year's initial forecasts from the Budget Policy Statement in February. There is no deadline for the County Budget Review and Outlook Paper, but it should be available around this time as well.		
	December 15th	Government must publish an implementation report on the first quarter of budget implementation from July-September no later than 45 days after the end of the quarter.		
	By December 30	Audit report		The report gives the citizens opportunity to understand how their moneys have been spent by various government entities. It is an important tool for holding leaders accountable.

## 3.4 Citizens voice in the Budget Making Process - Additional notes on engaging in the Budget making process

### 3.4.1 Engaging the County Executive

The public need to come together as community and agree on needs and priority areas.

We need to engage our Ward administrator in putting together a plan and budget for the ward. The ward administrator should ensure that such plans and budget is considered during the county budget making. This is possible if the ward administrator submits the plan and budget to the sub-county administrator; who presents the same to the county treasury.

We can also present sector specific plans and budgets to the different county sectors/departments.

We can also put all our priority areas and recommendations for funding in one document (Memorandum) and submit directly to the County Department for Finance (County Treasury).

During the budget making and public hearing forums, we should present the same copy of the Memorandum to the county government officials.

### 3.4.2 Following up

There is always a need to follow up with ward administrator to confirm that priority areas (as provided for in Ward Development Plan) have been included in the county government's budget. It is possible to do this if the county treasury shares with citizens a copy of The County Government's Budget Estimates before it is submitted to the county assembly.

Citizens' should remember that Memorandum (submitted to the County Treasury earlier on) is one of the documents that needs to be referred to as one cross-checks the budget estimates in order to confirm if our priority areas have been included.

If we are not satisfied with the details in the County Government's Budget Estimates, we will need to go back to the county treasury and submit another memorandum entailing details of what we are satisfied with and what we want to be relooked into and corrected before the budget estimates are taken to the county assembly by the county executive.

### 3.4.3 Engaging the County Assembly

Any time after 30th April, one needs to ask their member of county assembly to share with them a copy of The Budget Estimates that shall have been submitted to the county assembly by the county executive. One can also get a copy of The Budget estimates from the office of the county assembly clerk. Once again one needs to check if the priority areas in their Ward Development Plan are reflected in The Budget Estimates. One will also need to refer to the Memorandum (that had been submitted to the county treasury earlier on) as one cross checks The Budget Estimates.

One will need to write another memorandum to the county assembly budget and appropriations committee with details of what he/she agree with in The Budget Estimates that should be approved without any changes; and what one wishes to have relooked into and corrected. One will also give a copy of our Memorandum to their MCA so that he/she can use it for lobbying on behalf of the community/group.

On the day that the final debate and approval of The Budget estimates is being done, the people will have to travel to the county assembly, sit on the public gallery and observe and follow how our MCAs will be representing us in ensuring that the budget being approved has adequately provided for our priorities.

### **Accessing a Copy of the Approved County Government's Budget**

Any time after 30th June, when the county assembly shall have discussed and approved the budget, one will ask for a copy of the approved budget and disseminate to community members. One can get the copy of the approved budget from the office of the county assembly clerk, or the county treasury.

One can ask their member of county assembly or the ward administrator to share the copy of the approved county government's budget.

One can also download from respective county government's Website.

With the copy of The County Government Budget in our hands, one can engage in monitoring budget implementation and tracking the utilization of resource within our community.

**For effective discussion in radio, the following areas can be explored to benefit both duty bearers and right holders.**

- One needs to consider having a balance discussion considering challenges and appreciating areas which have been done well from both sides.
- One needs to be clear on which financial year a reference is being made to.
- One also needs to be clear on the roles and responsibilities of various officers in the whole chain both at the national and at the count level.
- One also needs to be clear on the budget making process with appreciation of different roles, timelines and different document that will be required at different times.

Table 7

Probing areas	Contextualizing discussions on Public Finance Management			
	Isiolo	Makueni	Baringo	Kilifi
<b>Experience in access to budget documents</b>	Isiolo is generally borana speaking and there is need to consider local language to engage in some topics	There is a genuine effort through established radios, centers and offices created. However there is room for improvement in making budget documents even more easy to consume by investing on regular production of “mwananchi” budgets.	<p>Access to budget documents is a bit tiresome especially to illiterate persons in the society.</p> <ul style="list-style-type: none"> <li>• Long procedure to access documents has been witnessed in Baringo.</li> <li>• Discrimination when issuing budget documents from the offices on age and gender and specific groups including civil society organizations has been a challenge.</li> </ul>	<ul style="list-style-type: none"> <li>• Budget documents not easily accessible even for the CSOs, let alone the general public.</li> <li>• County website is not updated regularly</li> <li>• The county lacks an information center that can be ideal as far as access to information is concerned.</li> </ul>
<b>Public participation in Budget making process and the existing/established frameworks</b>	Need to ensure that public is well engaged from the beginning of the budget cycle and need to take adhere to the timelines.	There are noticeable efforts from the county, there is need to ensure more inclusivity including dedicated effort in reaching out to the marginalized and the remote parts of the county.	<p>There are existing/ established frameworks for public participation in the county.</p> <p>This includes Baringo county public participation Act 2015 whose key objective is to provide a mechanism for the involvement of and participation of decision making during public participation session.</p>	The process is quiet technical and requires comprehensive civic education for citizens to understand but although the budget forums are held at the ward and sub -county level , most residents don’t understand the process and those that attend one forum might not be the ones that attend the other forum , so they raise issues that are out of context with the particular document being discussed and later on become hopeless because their views have not been considered not knowing that what they suggested is way out of order with what was being discussed.

<p><b>Public engagements in Budget making process</b></p>	<p>CBEF was formed and there is need to activate the group and engage as was envisioned by the Public Finance Management Act.</p>	<p>Most documents are available in the county website and also in the relevant offices, they are available when needed. This include even the BQs of various projects.</p>	<p>In Baringo we have public participation engagement guidelines that guide the county government, committee and the public when conducting budget making process for example realistic timeframe for the consultation, allowing reasonable period for each stage in the budget making process.</p>	<p>-The structures (SWGs, CBEF) that enhance effective public participation are dormant or not operational and therefore the various constituent groups cannot participate effectively or at all and the county government does public participation because the laws says such but they lack the goodwill to ensure the process is inclusive and meets all the required threshold of an effective public participation forum. Some recommendations;</p> <ul style="list-style-type: none"> <li>- Public participation Act should be operationalized</li> <li>- County budget &amp; economic forum should be operationalized</li> <li>- Budget documents should be presented in simple formats for ease of understanding</li> <li>- Documents should also be translated in Kiswahili so that those that can't understand English can also participate effectively in the process</li> <li>- There should be separate forums for PWDs, PLWHIV and albinism community to enhance inclusivity and the spirit of 'no one should be left behind.'</li> </ul>
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				<ul style="list-style-type: none"> <li>- Feedback on what has been considered, backed with justifications should be provided by either the executive or the assembly to avoid the feeling of being taken for a roller coaster ride</li> <li>- Civic education should precede public participation, so that residents can understand the importance of taking part in the process and how to effectively participate during such forums</li> <li>- Counties should establish citizen information Centre's, a one stop shop where the public can access all policy and budget documents with ease.</li> <li>- Public participation requires proper planning and understanding of various dynamics and demographics of the area and should not be taken as an event but a process.</li> <li>- Counties should set aside 2% of the sector budgets to facilitate public participation.</li> </ul>
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## Conclusion

*“Devolution of Government remains a better system of Governance than the hitherto centralized system of governance. It however, has been choked due to devolution of bad habits of corruption, discrimination, intolerance and unethical leadership in a number of ways within a number of counties. Nevertheless, the seeds of Devolution will germinate and blossom with e active implementation of The Constitution that faithfully adheres to the values and principles of Governance as set out in Article 10 and chapter six on leadership and integrity”*

Boaz Waruku.

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