



COUNCIL OF GOVERNORS

THE COUNCIL OF GOVERNORS PERSPECTIVE

KARA BI-MONTHLY TALK SERIES (BTS), LAICO REGENCY NAIROBI, 17TH

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Topic: Public Participation in Kenya: What are the Milestones, Challenges and Prospects?

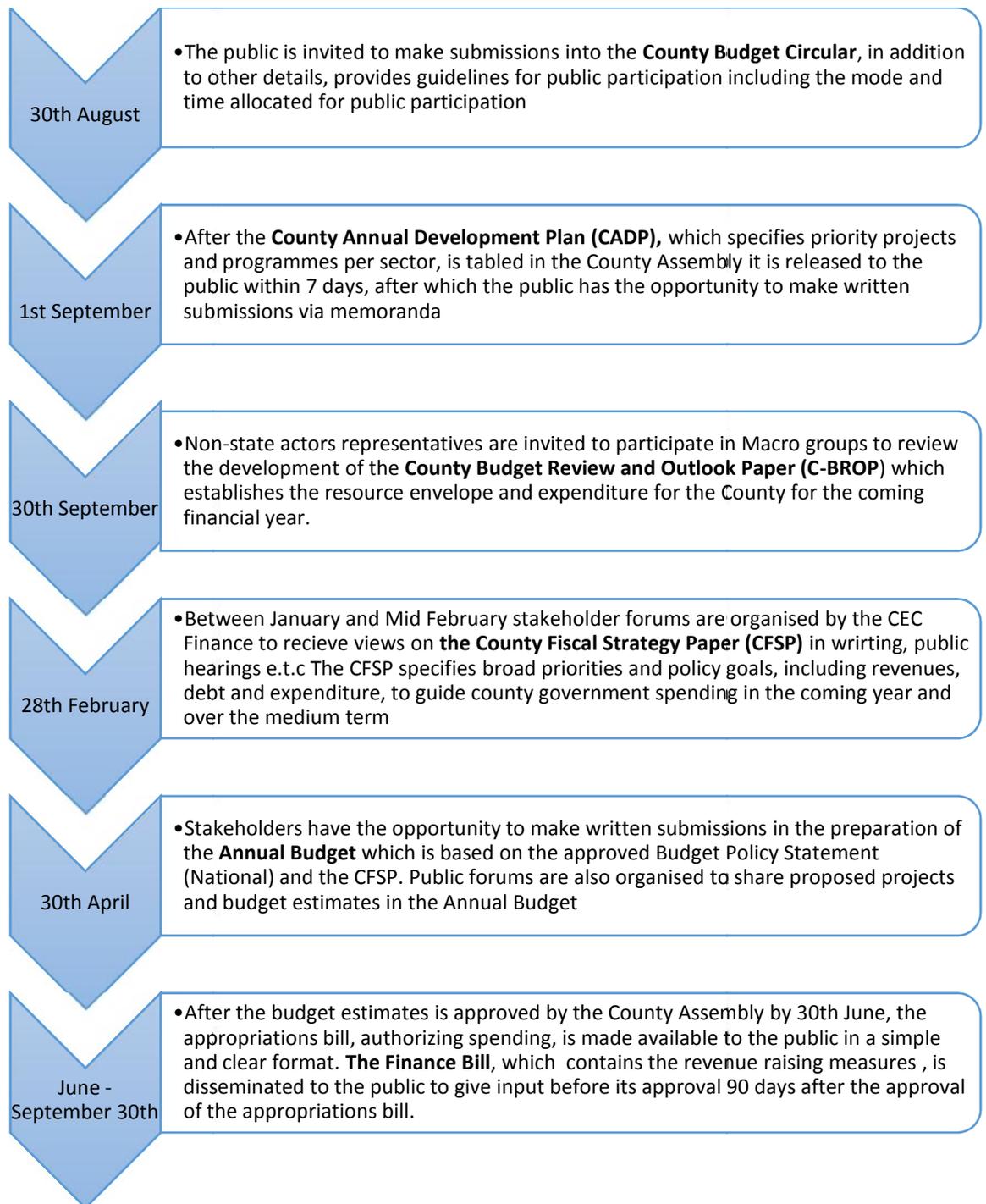
1. First, let me take this opportunity to thank KARA for extending an invite to the Council to share with other government officers, members of the private sector, development partners and of course the civil society on the experiences of public participation in the Counties.
2. In my presentation, I would like to emphasize on the role of the County Governments as contemplated in Article 1(2), 10 (2), 27, 33, 35, 174 (c), 184(1). Article 232(1) and the fourth Schedule part 2(14) of the Constitution on Kenya which is to engage citizens in planning, budgeting, and monitoring & evaluating service delivery. The main focus is whether in the execution of each role, the County Governments are creating an enabling environment for the public to participate. And not only to participate, **to effectively participate.**

3. Over the last five years, County Governments have focused on operationalizing the policy, legal and regulatory framework on transparency and public participation into practical and effective mechanisms.
4. Since 2013, counties have been **pace setters** in institutionalizing participatory structures. There have been a number of noteworthy milestones for enabling public engagement and planning at both National and County levels
 - i. **Having in place statutory policy guidelines at county level is critical for ensuring effective participation.** Nearly all counties have in place these statutory guidelines Majority of which have either a draft bill in place awaiting review by both internal and external stakeholders or awaiting approval from the County Assembly. The County Public Participation Guidelines launched in 2016 by the Ministry of Devolution and Planning (MODP) with support from the World Bank has been a useful tool to Counties in the absence of the legislation. These include mechanisms for public participation, communication and access to information, mobilization and outreach for public engagement, redress mechanisms and Monitoring, Evaluating, Reporting and periodic Learning from their public participation experience
 - ii. **The principles of citizen participation¹ include timely access to relevant information.** The objective of county communication is to create awareness on devolution and governance and promote citizen

¹ Section 87(a) to (g) of the County Governments Act.

awareness of crucial issues. All the 47 Counties have been facilitating public outreach, public communication and access to information using websites, community radio stations, public barazas, and traditional media including the use of brochures and notices. Counties have also innovated and leveraged on mobile technology through the use of bulk Short Message Service (SMS's) and Youth Forums conducted via the messaging app WhatsApp.

- iii. **Across all the respective forty seven (47) County Governments, the County Executive Committee (CEC) members of finance continue to ensure citizen participation at different stages of the budget cycle.**



iv. **At least 31 Counties have established County Budget and Economic Forums.** While in some, challenges of the nomination of non-state actors, functioning of the CBEF's and how to conduct consultations with the public continue to make them inactive. To aid them, the Commission

on Revenue Allocation (CRA) together with a number of civil society organizations came up with a set of guidelines to enable the counties to set up the CBEFs. The guidelines provide a broad understanding of the consultation process of the CBEF, Nomination and Functioning to be contextualized at the local level².

- v. **One of the roles of the County Budget and Appropriations Committee is to convene public forums for the analysis of the County Executive proposed Budget.** Similar to the County Executive Committee (CEC) members of finance, across all 47 county CBAC have organized forums at which the public are able to share their input both orally and through written submission, their views on the proposed projects and budget estimates in the Annual Budget. In some Counties, there is a deliberate action for the CE and CBAC to conduct joint meetings to save on cost and to ensure consistency on information that is gathered.
- vi. **When the public is engaged, it is expected that they will receive what was incorporated and what was not and why. This has happened in most counties.** During the planning process, community representatives propose an endless list (often feasible) of projects to the County. This in turn raises citizen's expectation on the projects that will be selected for implementation. If the County Governments fails to communicate back to the public, it undermines the public's very trust in the participation process and creates apathy. At least 30 counties, have been able to develop mechanisms to feedback to the public in regards to their input into the decision making process. These include organizing for public

² <http://www.internationalbudget.org/wp-content/uploads/Signed-Circular-Cheserem-CRA-CBEF.pdf>

forums, the public are also able to receive feedback through the sub-county and ward administrators offices, through local radio channels at least twice a week and by continuing to leverage on mobile technology by sending an SMS to a representative and/ or group on their feedback. Other Counties have innovatively set up a ‘public convener’ who receives public reports and complaints and given feedback within 72hrs which accentuates the aspect of government responsiveness and accountability to the citizens.

- vii. **The Introduction of Participatory Budgeting** in some counties has not only facilitated compliance with the legal provisions on public participation but has resulted in the better management of expectations and enhanced the overall credibility of the public participation process. Participatory Budgeting is the process of directly involving local people in making decisions on the priorities and spending for a defined amount of the public budget. The uniqueness of Participatory Budgeting, is that decisions that citizens make on the defined portion of the budget are final, and included in the budget

5. Some challenges include;

- i. **Counties continue, with varied success, to promote access to information for minorities, marginalized groups and communities** including the use of local languages, use of the Kenyan sign language and inclusion of women and youth in decision making for example the use of registered *Chamas* including *Maendeleo ya Wananawake* women’s group and even

building a database that directly communicate with women and the youth

- ii. **Planning is obligatory and no public funds shall be appropriated outside a planning framework³.** The plans include the 5 year County Integrated Development Plan (CIDP); a 10 year County Sectoral Plan; a 10 year County Spatial Plan; and a Cities and Urban Areas Plan for which the County is responsible for ensuring meaningful citizen engagement in developing all the plans. While the citizen have, in a great majority, been involved in the development of the County Integrated Development Plans (CIDPs), Spatial plans and Sector plans, little or no engagement has been undertaken on the Cities and Urban Areas Plan. Why?The delineation of Urban Boundaries has been a challenge for most County Governments. With less than 30% of all Counties having such plans in place. There are efforts by Council of Governors to provide for procedures for the formation of City and Municipal Boards and Town Committees through guidelines.
- iii. **Publishing and publicizing the various budget documents in a timely way still remains one of the fundamental obstacles to meaningful public participation.** The whole budgeting processes is demanding and requires a great deal of strategy and effort to get it right. That said, all the 47 counties need not only ensure they have put in place the right structures but also that the timelines of events coincide with those as spelled out in Section

³ Section 104 (1) of the County Governments Act.

48, 123(3), 139 and 166(4c) of the PFM Act 2012. This will be a major milestone towards having a functional budget process in place for all the 47 counties. In at least 50% of the Counties, the various budget documents have been published and publicized within the specified time thus resulting in citizen's meaningful engagement and input because an informed citizen is an active citizen. In some counties, the budget estimates have even developed into citizen friendly versions with an executive summary and a narrative explanation of tables and figures that are more readable and user-friendly for citizens and CSOs.⁴

6. Prospects and way forward

- i. **There is lack of National Policy and/or Legislation on Public Participation.** The Office of the Attorney General and the Department of Justice, are currently working, and now in draft form, on the Public Participation Policy. This is very much needed as it will set standards and coordination mechanism for public participation for the two levels and different arms of Government, Government agencies, Constitutional Commissions and Independent Offices, the private sector and non-state actors.
- ii. **Citizens are increasingly demanding for transparency not only on what the government has done but also for them to demonstrate the impact of government interventions in improving their quality of life.** A vast majority (70%) of the County governments have performance

⁴ Section 131 (6) of the Public Finance Management Act, 2012

management plans in place however some don't conform to the features as outlined in Section 47 of the County Governments Act, 2012. The newly launched Performance Management framework for County Governments is a welcome addition as it will provide the much needed structure and uniformity in monitoring the work of the county and most importantly are responsive to the needs of the *Mwananchi*. However there is further need to capacity build the (CPSB) boards in the structuring of the performance management plans which in turn will result in uniformity in monitoring the work of the counties by the Summit

- iii. **Citizen engagement efforts have been hindered by a lack of dedicated county resources.** Most of it has been ad hoc and done for compliance purposes. Underfunded public participation has resulted in unnecessary litigations. The Commission on Revenue Allocation (CRA) has recommended for the last two years for the inclusion of funds for public participation in the equal share for county governments through the Division of Revenue Bill, It has subsequently been rejected by the National Treasury. County Governments need to ensure that they spend considerable efforts in planning and setting budget lines for public participation.