

KENYA

PUBLIC PARTICIPATION Mechanisms in Fiscal Matters

Kenya has a number of initiatives to increase public participation, including a rights-based approach, decentralization of power, and an increased role for the legislature.

Article 10 of the 2010 Constitution enshrines PUBLIC PARTICIPATION AS A NATIONAL VALUE AND PRINCIPLE OF GOVERNANCE. Kenya scored 48 out of 100 on the Open Budget Index, a comparative measure of central government budget transparency.

EXECUTIVE BRANCH

CIVIL SOCIETY CONSULTATIONS ON SPECIFIC ISSUES OR BILLS

Annual budget cycle: Design, production and delivery of public goods and services.

OBJECTIVE

Allow the public to participate in the identification of national development priorities. (Initiative integrated in the Kenya Vision 2013 planning project).

MECHANISM

- The Presidency and the Ministry of Devolution and Planning are responsible for engaging civil society in consultations on specific issues or bills.
- Preparation for Kenya's Second Medium Term Planning 2013-2017 (MTP II) was participatory:
 - Public consultation forums organized nationwide to discuss MTP II.
 - Thematic group meetings.
- Dedicated website where meetings were made public.
- 47 county consultations with private sector professions and other stakeholders.
- These included targeted focus group discussions and submissions of written memoranda.
- Draft MTP II was circulated to various stakeholders for comments that were extensive.

RESULTS

129 flagship projects were identified. There are concerns that the MTP does not adequately address devolution matters.

CIVIL SOCIETY PRE-BUDGET CONSULTATIONS

Annual budget cycle: Executive budget preparation.

OBJECTIVE

Better engagement with the budget preparation for citizens, media, parliament and the general public as required by Article 221(5) of the Constitution, and advocated by the Public Finance Management Act and Kenya's Program Based Budgeting (PBB).

MECHANISM

- The Budget Circular is presented to Parliament and the public within 2 months of the end of the fiscal year.
- The Circular contains the schedule for the preparation of the budget, key policy areas and procedures through which the public can participate in the budget process.
- Presentation of the Budget Review and Outlook Paper (BROP) by Treasury with information on actual fiscal performance in the previous year and updated macro-economic forecasts.
- Public hearings are held by sector by the Ministry of Finance with the participation of citizens and CSOs in Nairobi and also in some towns countrywide.
- Presentation of the Citizen's Alternative Budget (CAB), an advocacy tool for engaging the Treasury in the national budget process, by the Institute for Economic Affairs, a local NGO involved in budget advocacy work in Kenya. The CAB is presented during the public hearings with a view to inform the preparation of the Budget Policy Statement (BPS).
- Following the approval of the BPS by the Cabinet, there is a 2-week window for additional comments from the public before the BPS is submitted to the Legislature.

RESULTS

The CAB is usually not presented in time to impact the BPS.

No database exists on the number and type of submissions made by the public or whether they were incorporated.

Due to limited public awareness and low budget literacy, only a few have the capacity to engage with the government.

CIVIL SOCIETY CONSULTATIONS ON SPECIFIC ISSUES OR BILLS

Annual budget cycle: Presentation of the budget to and its adoption by the legislature.

OBJECTIVE

Allow public comments to guide modifications made to the budget in parliament (The National Assembly is required by Article 221(5) of the Constitution to "seek representations from the public).

MECHANISM

- The Budget Estimates and Appropriations Committee is responsible for investigating, inquiring into and reporting on all matters regarding the coordination, control and monitoring of the budget.
- Critical period for public participation: Estimates are tabled in the National Assembly, which has 2 months to debate and amend, and holds public hearings. It accepts written submissions in the form of memoranda.
- CSOs also email and prepare presentations to the Committee.
- Hearings are open to the public.

RESULTS

There is no legally mandated deadline by which the Estimates need to be made available to the public, and in some years, such as 2013, there was a delay in publication. In 2014 and 2015, the Estimates were tabled in a timely manner shortly after tabling.

LEGISLATURE

CIVIL SOCIETY CONSULTATIONS ON THE APPROACH TO AUDIT

Annual budget cycle: Auditing and review.

OBJECTIVE

CSOs use the reports of the Office of the Controller of the Budget to undertake budget advocacy and governance campaigns.

MECHANISM

- The Office of the Controller of the Budget (OCO B), as an agent of the legislature, oversees the implementation of the budgets of the national and county governments.
- The OCO B publishes all its reports online and in some cases with simplified summaries for public education.
- CSOs use OCO B reports to hold budget advocacy and governance campaigns aimed at holding the executive, legislature, and the judiciary to account.

RESULTS

In 2012/13, CSOs prepared a technical report on the state of county budget processes solely with information and data from the PFMA, the 2013/14 Budget Implementation Review and OCO B reports, based on which CSOs made recommendations to improve county budgeting.

SUPREME AUDIT INSTITUTION

CIVIL SOCIETY CONSULTATIONS ON THE APPROACH TO AUDIT

Annual budget cycle: Auditing and review.

OBJECTIVE

Allow collaboration with civil society in promoting accountability in the public sector.

MECHANISM

- A partnership between the Office of the Auditor General (OAG) and the National Taxpayers Association (NTA) was established in February 2015, at the request of the NTA, to share information and capacities.
- Areas of collaboration between the two entities entail the audit of public accounts, the creation of a liaison officer between the two entities, sharing information such as audit reports with the NTA, and a request to sign a Memorandum of Understanding with the AGO for future collaborations.

RESULTS

No results as of yet. This is the first of such partnerships in Kenya.

Citizen Complaint Mechanism

Annual budget cycle: Auditing and review.

OBJECTIVE

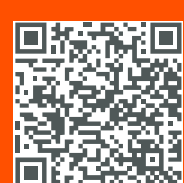
Members of the public can request an investigation of a public officer/institution for maladministration.

MECHANISM

- The Commission on Administrative Justice (CAJ or Office of the Ombudsman) is the most active public complaints office in Kenya mandated to address all forms of maladministration, promote good governance and efficient service delivery in the public sector by enforcing the right to fair administrative action.
- Public complaints can be filed in writing, by phone, in person or using an online complaint form.
- The CAJ investigates allegations of misuse of office, maladministration, delay, injustice, discourtesy, and other complaints against public officers and public institutions.

RESULTS

In the year 2013, the CAJ handled a total of 18,257 complaints.



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