

EFFECTS OF PUBLIC PARTICIPATION ON LEGISLATION BY THE  
KENYA NATIONAL ASSEMBLY

VICTOR WEKE IMBO

A RESEARCH PROJECT SUBMITTED TO THE SCHOOL OF  
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OF THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF  
MASTER OF PUBLIC POLICY AND ADMINISTRATION OF  
KENYATTA UNIVERSITY

## **DECLARATION**

This research project is my original work and has not been presented for a degree in any other university.

Signature\_\_\_\_\_ Date\_\_\_\_\_

Name: Victor Weke Imbo, MBA

Reg. No. C153/CTY/PT/29701/2014

This research project has been submitted for the review with my approval as university supervisor.

Signature\_\_\_\_\_ Date\_\_\_\_\_

Dr. Felix Kiruthu

Department of Public Policy and Administration

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Finally, I am truly grateful to my family for their words of encouragement that pushed me through the finish line.

To God be the Glory!

## **DEDICATION**

To my daughter Amor, and her gracious mother Chebet

## **ABSTRACT**

Public participation in policy making has become entrenched in democratic principles of governance in Kenya. Policy formulation is very critical in legislation because it is the point at which various causes of action are prescribed towards certain challenges. This has hitherto been a preserve of the governing elite with the role of non-state actors now gaining prominence. Kenya enacted a constitution in 2010 of which public participation stands out, with all government activities required to conform to this principle. Seven years later and it is still not yet clear if progress has been made to entrench this letter and indeed spirit of the law in our national culture, specifically in policy formulation through national legislation. The first objective of this study was to ascertain the level of public awareness. Further, the study sought to interrogate the process institutionalized by the National Assembly to actualize constitutional requirements relevant to public participation, and went further to establish the extent to which outcomes of legislation and policy are influenced by the design of this participation. The study conducted in the cosmopolitan Nairobi City County used descriptive research design and a random sample of 200 members of the public from a target population of approximately 3 million residents, on their awareness and participation levels. Interviews of key resource persons in the legislative process were also conducted, including civil society organizations that had participated before. These key personnel were identified purposively as they were adjudged to be in the heart of the legislative process in Kenya. Theories of participative and deliberative democracy that offers citizens real democratic power over the state and the neo-liberal market-oriented approach that entrenches participation are the theoretical basis of the research. Content analysis was used to analyze open ended questions and secondary data, while measures of central tendency were used to analyze responses from closed questions. The study found that public participation has had little effect on outcome of legislation by the National Assembly. This was because there was low awareness by the public, compounded by faulty process and design of the participation process by the National Assembly. The research recommends that the public should be intensely sensitized, the National Assembly should use media with wider coverage, strengthened constituency offices and provision of adequate time to Committees to process Bills.

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## **LIST OF ABBREVIATIONS**

CDF	:	Constituencies Development Fund
KLRC	:	Kenya Law Review Commission
LASDAP	:	Local Authorities Service Delivery Action Plans
LATF	:	Local Authorities Transfer Fund

## **Operational definition of terms**

**Awareness-** The result of civic education; the knowledge or appreciation of the situation or fact that citizens can take part in legislation.

**Effects-** The degree to which something influences outcome.

**Legislation-** The process of making or enacting laws

**Policy-** A proposed guide to action to tackle emergent or existent challenges.

**Policy cycle-** stages in the policy making process typically including agenda setting, policy formulation, adoption, implementation and evaluation.

**Policy actors-** persons or groups that participate in the policy making process. They are state and non-state actors

**Principle** – a proposition that serves as the foundation for a system of belief

**Practice** – generally accepted repeated or regular way of doing things

**Public participation-** The process by which members of the public, non-state and other interest groups engage policy makers before laws and policies are enacted.

**Public policy-** principles on which laws guiding public matters are based

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## **CHAPTER ONE: INTRODUCTION**

### **1.1 Background of the study**

Legislation can be construed as the highest level of policy making because it provides legal backing to provisions of various spheres of public life. The concept of public participation in public affairs has gained traction in contemporary democratic literature. Theodoulou and Cahn (1994) state that public policy is the result of interaction between state and non-state actors. Moreover, Bossuyt (2000) found that involvement of both state and non-state actors in policy making has become widely accepted in both developed and developing countries. He sums up the benefits of this to include increased acceptance, ownership and compliance.

The stabilization of regimes across the world opened up new avenues for civic participation to broaden and reinforce the role of citizens in policy making. Avritzer (2012) identified the new participatory institutions that emerged in Brazil in the 1990s as involving three different institutional designs: bottom-up designs in which participatory budgeting has been most acknowledged, power sharing designs which accommodates civil society input and ratification designs in which members of the public approve or reject policies proposed by local governments.

Potter (2008) states that in the United Kingdom, despite there being no written constitution, the practise of public participation has been accepted as necessary towards development. Matters of local concern have been devolved to Scotland, Wales and Northern Ireland with the national government maintaining responsibility.

Enquete-Kommission (2000) documents that in Germany, there has been a reported high level of civic engagement. The significance of participation however depends on the issue at hand. In urban planning, participatory structures have been in place for the last thirty years, with sectors like construction, energy, environmental and health being enshrined in the law.

In Kenya, some forms of public participation have been witnessed since independence in various development initiatives. These were however practised in the absence of a policy framework, a phenomenon reminiscent of sub-Saharan Africa, hampering effective engagement by non-state actors (Kalu 2014).

Sigei (1987) posited that the decade after independence, Kenya, like most African states at the time, had centrally conceived and controlled development activities in an effort to maximise scarce resources to spur rapid growth. The assumption was that benefits would trickle down to the lowest levels. He observed that in the 70's however, benefits were not visible after massive resources were employed to develop grandiose plans. This brought a paradigm shift in which the need of involvement of intended beneficiaries became apparent. The provincial administration in Kenya was restructured, in line with the District Focus for Rural Development initiative in the 1980s. However, Chitere and Ileri (2004) observed that this approach faced structural and bureaucratic challenges, among them being that approval of plans were still undertaken at the ministry level. It was a false start. Successive attempts through Local Government Transfer Fund (LATF) and Local Authorities Service Delivery Action Plans (LASDAP) faced the same structural challenges.

The next attempt at grassroots participation was through the enactment of the Constituencies Development Fund Act (CDF Act 2003). This was a modest attempt to devolve resources at a rate of 2.5% of the national budget. The CDF has achieved notable successes as well as structural challenges that are before courts for interpretation.

With the enactment of the new constitution in the year 2010 the role of the public has been given great prominence in policy making. This is a radical shift from the hitherto assumption that the legislature will always represent interests of the public. Article 1 (2) of the Constitution empowers citizens to exercise their sovereign power directly. Article 10 (2) (a) includes national values, ‘...*Participation of the people.*’ Article 35 further grants citizens the right to access to any information that affects the nation. Article 94 grants Parliament exclusive jurisdiction in legislation, with a caveat under Article 118 that states that Parliament shall conduct its business in an open manner, and its sittings and those of its committees shall be open to the public; and facilitate public participation and involvement in the legislative and other business of Parliament and its committees. The Article further states that Parliament may not exclude the public, or any media, from any sitting unless in exceptional circumstances that the relevant Speaker will determine and state justifiable reasons for the exclusion.

Further, Article 119 grants every person the right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.

Article 232 (1)(d) crowns it all by listing as a value and principle of public service, *'..involvement of the people in the process of policy making.'*

Literature on the effectiveness of public participation in influencing legislative policy outcomes in Kenya post 2010 Constitution has not been forthcoming due to the fact that the constitution is still relatively young, and operationalizing it has not been complete.

Public participation evokes different expectations and understandings in different cultural contexts, hence the need to evaluate the Kenyan scenario. Further, there has been no evidence that the constitution's provisional prescriptions towards public participation have remedied the structural challenges witnessed in early attempts discussed above.

Finally, the desired outcome of public participation is enactment of policies that will spur development beneficial to the citizenry, and not as an end in itself. There has been a general lack of information as to accrued developmental benefits after the promulgation of the constitution in 2010.

## **1.2 Statement of the problem**

The Constitution has provided a strong legal framework (principle) for citizen participation. The distinction between principle and practice exposes the major challenge in policy making. Practice spans from basic knowledge by citizens of their rights and powers, their ability to apply these rights, the facilitation by public

institutions to provide a conducive environment to exercise these rights, culminating to the respect of views collected and factoring them into the legislative process.

A question arises on what constitutes legitimate and useful public participation, and the design of this process to attain its objectives. This means the process should not only be geared towards fulfilling legal requirements but embodying the ideals of democratic participation and inclusion.

This research sought not to examine provisions of the law, but rather the spirit and practice of the law as regards public participation, and its eventual effect on the outcome of national legislation.

### **1.3 Objectives of the study**

The study sought to achieve the following objectives;

- i. To examine how the level of awareness of residents of Nairobi City County impacts their participation in legislation passed by the National Assembly.
- ii. To examine how the process of call for public participation affects the eventual participation by members of the public in legislation by the National Assembly.
- iii. To examine how the design of the public participation exercise employed by the National Assembly impacts participation by the public on national legislation.

#### **1.4 Research questions**

- i. How does the awareness of residents of Nairobi City County of their rights and constitutional provisions affect their participation in national legislation?
- ii. To what extent does the procedure used by the National Assembly to call for public participation affect participation by the public in national legislation?
- iii. How does the design of the actual public participation exercise impact effective participation in national legislation?

#### **1.5 Justification and significance of study**

This research sought to establish if the bills passed by the National Assembly after promulgation of the constitution 2010 reflect input of the public. The outcome of the project was to objectively establish if public participation in Kenya has influenced legislation in Kenya, and to what extent. The city county of Nairobi was identified because of its cosmopolitan nature and was adjudged to represent the highest access to information and participation in the country. National legislation is undoubtedly the highest form of policy making as laws have the backing and force of law. It was therefore essential to see whether the citizenry are involved in an exercise that has the biggest bearing in shaping conduct of matters that directly affect them. With only eight years since the promulgation of the Constitution, it was imperative to examine from the onset, whether policy makers and indeed the country had started on the right footing. With legislation bound on constitutional provisions after the 2013 General Election, the subject under study was invariably young and this research sought to fill the gap. The study therefore looks at public participation in legislation

passed between 2013 and 2015. The findings of this research project may help to gain insight into the process that culminates in the production and implementation of public policy. The research will expose the substance behind agenda setting with the new constitutional dispensation in the country; specifically whether those charged with representing the people maintain fidelity to this high calling. The research finally recommends strategies that the National Assembly can employ to encourage non-state actors effectively participate in policy making.

#### **1.6 Scope and limitations of the study**

The study examined legislation passed by the National Assembly between March, 2013 and December 2015. Specifically, the laws passed were tested to see whether public participation by residents of Nairobi County had any bearing in their outcome, right from the invitation to the actual consideration and factoring in of their views. Nairobi City County was chosen as it represented a cosmopolitan mix of residents, and had the highest access to information and other public services. The county has seventeen (17) constituencies out of which the sample was representatively selected.

The study was constrained by a lack of proper storage of documentation received from the public during consideration of Bills by Parliamentary Committees. Retrieval of the same took invariably long and was not comprehensive. Further, there seemed not to be a standardized reporting format of these Committee reports. Whilst some were as meticulous to give a breakdown of what each submission said, others simply listed the names, sometimes just the number, of members of the public who submitted views. In this case, effects of public views on the final outcome of some of

the legislation were difficult to ascertain. However, the study mitigated these shortcomings by listening to audio/ Hansard recordings of some of the proceedings that were available.

## **CHAPTER TWO: LITERATURE REVIEW AND THEORETICAL FRAMEWORK**

### **2.1 Introduction**

This chapter reviews the work of other scholars specifically with the role of the public/ non-state actors in policy making. The study commenced with a brief overview of the policy making process, including legislation in Kenya which exposed the policy formulation stage of public policy. The study also reviewed civic exposure and awareness by members of the public. Further, the process and design of public participation by state actors was reviewed to establish best practice, and the effect of all this in the outcome of adoption of public policy and legislation. The thesis that informed the study is similarly discussed in this chapter.

### **2.2 Overview of the policy making process**

Ripley and Franklin (1987) in their work on the United States Congress in developing public policy defined public policy as solutions by government to various public challenges. Their emphasis on government confirms the central role it plays by virtue of being the custodian and trustee of public interest. In an ever increasing democratic society, non-state actors have come to claim a prominent role in policy making. The diversity of the actors has thus meant that a process of interaction and bargain is at play in the various stages of policy making. Their study amplifies the role of the public in solutions to various challenges facing them.

In its better practice guide of 2015, the Victorian Auditor General's office says public participation is defined by the International Association for Public

Participation as the involvement of those affected by a decision in the decision-making process. Public participation encompasses a range of public involvement, from simply informing people about what government is doing to delegating decisions to the public.

Bardach (2012) states that policy making is a social and political activity; it goes beyond personal decision making because it affects the whole population. He adds that the process usually involves a vast array of professionals and other interested parties, and this has morphed the contemporary analyst into one who engages in wide activities including public relations. Citizen participation increases the scope of citizens' involvement in matters that affect them, beyond periodic voting in elections. Moreover, it opens up the democratic space by encouraging openness and accountability by public institutions. It further contributes to the quality of policy options and for smooth implementation through wide acceptance and compliance. Public participation is therefore a model of democracy.

The notion of public participation can be traced to the Greek city-state times where every citizen was believed to be important in decision making. Democratic self-government means that citizens are actively involved in their own governance; they do not just passively accept the dictums of others or acquiesce to the demands of others. As Aristotle put it in his *Politics* (c 340 BC), "If liberty and equality, as is thought by some, is chiefly to be found in democracy, they will be attained when all persons alike share in the government to the utmost." Presently, public participation is a major concept practiced in the developed world, with more than 35 European

countries subscribing to the 1998 Aarhus Convention (Creighton, 2005). This convention, formerly known as the United Nations Economic Commission for Europe Convention for Access to Information, Public Participation in Decision Making, and Access to Justice in Environmental Matters, commit signatory states to ensure public participation and access to information in all environmental decision making.

To demonstrate at what level much of an impact public views would make during policy making phases, Sutton (1999) described the linear model of policy making that was championed by Harold Laswell as an analytical and rational process that goes through various stages. These are agenda setting, policy formulation, decision making, implementation and finally monitoring and evaluation. The constant interaction between state and non-state actors is manifest in all these stages, but most importantly during formulation. Kingdon (1995) described the three streams framework towards agenda setting. These include problem, policy and political streams of which non-state actors seize windows of opportunity to lobby government to adopt their ideas. The formulation phase succeeds agenda setting and is the focus of this proposal because it is at this point that legislation is made and adopted by Parliament.

Anangwe (1997) describes policy using David Easton's model of environment, input and conversion, to acknowledge the multi-faceted nature of the exercise. He however identifies a disconnect between those in positions of bureaucracy and the people, caused by a 'social distance' between the two groupings. It would therefore be

beneficial to the public good for policy making process be consultative and employ the use of a feedback mechanism.

### **2.3 Role of awareness in public participation**

This study examined what exactly constituted awareness, in order to understand its place in the process of policy making, as well as how awareness is created.

Awareness can be defined as knowledge, consciousness to or perception of a given matter and can be achieved through communication, education and advocacy. Advocacy can be otherwise referred to as civic education. It is therefore safe to assume that at the very least, literacy levels in a country would have a bearing on eventual participation by the people in policy making. The United Nations Educational, Scientific and Cultural Organization, UNESCO's latest data of literacy levels in Kenya place adult literacy at 78.73% as at 2015. This would represent a high degree of literacy in the country and it would be safe to assume that public participation would therefore be boosted by this levels.

The importance of an informed public is discussed by Quigley (1995) who stated that civic education in a democracy is preparation for sustaining and enhancing self-government. Democratic self-government therefore would mean citizen participation based on informed, critical reflection. The opposite being an ignorant populace would therefore be construed to mean the public are ineffectual and unable and are handicapped in taking charge of their own affairs. Awareness provides the public with choices, and eventual ownership of outcomes.

Participation in itself is a means and not an end. Rowe et al (2004) posit that some policy makers may be more concerned with increasing public confidence than in a genuine attempt to widen consultation and gain better insights. The intention of participation is definitely the latter. This will be enriched through citizen awareness or what Arnstein (1969) says involves a high level of empowerment of the public and a direct input into the decision process. This can only be achieved through among others, civic education.

In an analysis of frameworks of devolution in Kenya, Omolo (2010) states that civic education informs citizens of major social, economic and political issues that affect their lives, as well as their rights and responsibilities. It also educates citizens on their specific civic roles and responsibilities, which will help them to be active participants in democratic processes such as legislation. For devolution especially, citizens must be politically conscious and have access to information. This is attainable through capacity building. Political knowledge affects participation, not only quantitatively but also qualitatively. Moreover, civic education enhances awareness on key development processes such as planning and budget-making. This calls for an effective mobilization of the public, timely disbursement to citizens of the agenda items for the public fora, packaging and presentation of agenda items in simplified forms that citizens can understand and effectively respond to, and the development of alternative budgets that capture and express citizens' interests, among other measures that enhance public participation.

Bosuyt et al (2002) identified three professional organizations as having had some input in public policy. These include the Federation of Kenya Employers, Kenya Association of Manufacturers and the Institute of Certified Public Accountants of Kenya. However, these are members' only lobby groups whose interest as captured in their constitution is the welfare of their membership. Any benefits accrued to the public would be construed as incidental or collateral but not deliberate. The concept of 'democratic deficit' which various scholars state as the fact that elitist groups may not always speak for the masses is evident.

#### **2.4 Process and design of public participation**

In a study on mechanisms of public participation in four counties in Kenya, Odhiambo & Opiyo (2017), they found that other than express provisions in various statutes including budget preparation and validation meetings, town hall meetings and citizen forums, these counties had put in place information, communication and technology based platforms for mobilization and passing on information. Other than use of social media, they employed use of word of mouth, radio and television channels and newspapers. The choice of which medium to employ varied and was based on terrain, urbaneness and other considerations.

In his public participation handbook, Creighton (2005) submits that there is no one-size fits all design of public participation, but should be innovative, and matches the circumstances of the issue at hand and the audience. The practice of participation should be an integrated part of decision making, by allowing participants ample time

and conducting it in a manner that gives the greatest opportunity to influence outcomes. Emphasis should be given to pragmatic and interactive approaches as opposed to formalized procedures.

The South African parliamentary website (<http://parliament.gov.za>) provides for several avenues for citizen participation including the People's Assembly, the Taking Parliament to the People programme, the Women's and Youth Parliament's public hearings, outreach programmes, broadcasts, publications and the social media. Parliament has also established Parliamentary Democracy offices in the nine provinces of the country improve access to information on draft laws, policies and other national matters. Finally, bills must be published together with an invitation for public submissions before they are introduced in the various legislative bodies.

In Germany (<http://parliament.gov.za>) on the other hand, public participation relies heavily in expert opinion, before policies are crystallized by the government. Specialist divisions in ministries receive and even monitor potential issues for legislation, and invite various interest groups for discussions.

Abelson & Gauvin (2006) described how public participation in Canada from the 1960s and 1970s has evolved, with decisions by government without public participation being rare. The Canadian Centre for Foreign Policy Development was established in 1966 to help the public contribute to all matters foreign policy. In the

1996 Geneva conference, the government heavily involved the civil society in securing a global ban on landmines. In the Ottawa conference in 1997, the programme to eradicate poverty was employed as a basic tool in transforming relations between the state and civil society. It is imperative to note that Canadian laws are not as rigid in demanding for public participation. This has rather come as an appreciation that the public may sometimes be more informed on specific issues than the government itself. Once bills have been introduced in the House, public participation is facilitated at the committee stage through online consultation under a portal, '*Consulting with Canadians*', and through public hearings.

In its second report of the 2013/14 session, the House of Commons' select committee on Public Administration observed that in June 2012, the government introduced an 'open policy-making' approach to policy. This invariably meant moving participation beyond Parliament to the people, but retaining responsibility. The report encouraged 'digital' engagement with the public, which includes the social media. This allows citizens who are digitally enabled to interact with government in new ways, plus allow the government to expand its reach in a cost effective way. This medium is sure to tap into the increasingly savvy but often aloof middle class.

The multifaceted nature of public participation as sampled above shows that there is no homogenous solution to ensure effective public participation in processes of governance. To identify relevant solutions, a society should examine its own unique circumstance and involve citizens in democratic decision-making.

Finally, Abelson & Gauvin (2006) in expressing the difficulty of determining effectiveness of participation in affecting final outcome of policies identified a range of citizen participant attributes that the bulk of outcome oriented research have focused on; these include increased levels of interest in and knowledge of public issues, improved capacity for future public involvement, increased propensity for social bond formation and improved trust of fellow citizens. Process approach on the other hand focuses on agencies that are responsive, participants are motivated, high quality of deliberation and participants have at least a moderate degree of control over the process. The two authors describe the difficulty in evaluating effectiveness due to the abstract nature of the 'end-point' of a participation exercise. It must be noted that government agencies will always retain decision-making authority.

### **2.5 Gaps in literature reviewed**

Evaluating effectiveness of public participation (rather than the process) has remained an elusive subject. What exists however has a dichotomy of process and outcome. Rowe & Frewer (2004) posit that this stems largely from uncertainty in the research community on how to conduct evaluations.

As Abelson & Gauvin (2006) noted as the difficulty in evaluating effectiveness due to the abstract nature of the end of the process, the end-point for the purposes of this research shall be construed to mean the assenting of a bill by the President, save for those challenged in a constitutional court. This clarity on our success pointer will make evaluation of the effectiveness of public participation model used possible, and covers both process and outcome.

Further, the role of non-state actors in public policy in Kenya has not been clearly defined. Bosuyt et al (2002) in identifying those civil society organizations that have been previously involved in public participation in Kenya did not confirm that they spoke in the interests of the public or in their own narrow and partisan interest. Input by lobby groups that clearly represent interests of the public has not been clearly documented in Kenya. Parliament of Kenya has also not documented or at least publicly disclosed record of memoranda submitted by members of the public during legislative processes.

Literature reviewed has concentrated on either process or outcome. This research used both to determine effectiveness. Emphasis on both enabled the research conduct a multi-dimensional study; to expose whether public participation gave a desired effect, whilst appreciating that the design has a bearing on the quality of outcome.

Despite the unanimity of the benefits of public participation as espoused by works of research in Kenya on devolved functions, there has been no information on the national level. This study will illuminate the parallels with national legislation since the two operate at different levels.

## **2.6 Theoretical Framework**

The theory that anchored this study is that of participatory democracy. Public participation can be traced to advancement in democracy since the end of the Cold War. The quality has however been questioned with the mere participation in elections by the citizenry adjudged inadequate. This crisis of democracy since the

1990's has seen the need to engage the public in decision making. Cooper et al (1995) argued that traditional representative democracy has become dysfunctional and unable to adequately respond to declining public participation in political processes. Indeed, democracy without public participation makes it meaningless.

Solutions to the above crisis have emerged and developed into several theoretical perspectives. Jean Jacque Rousseau's social contract theory in 1762 laid the ground for subsequent theories of participatory governance. His main thesis was that laws are binding only when the people willingly subordinate themselves to them. This argument also espoused by eminent scholars John Locke and Thomas Hobbes is the basis for bottoms-up approach and participatory governance in policy formulation.

Pateman (1970) described the theory of participatory democracy first as the capacities and skills of the public being interrelated with bureaucratic structures through participation. Bureaucracies then are not just abstract institutions but must prioritize the needs of the citizenry in their functions. With the opaque form that bureaucracies usually tend to take, participation is a constant check on these processes through democratization.

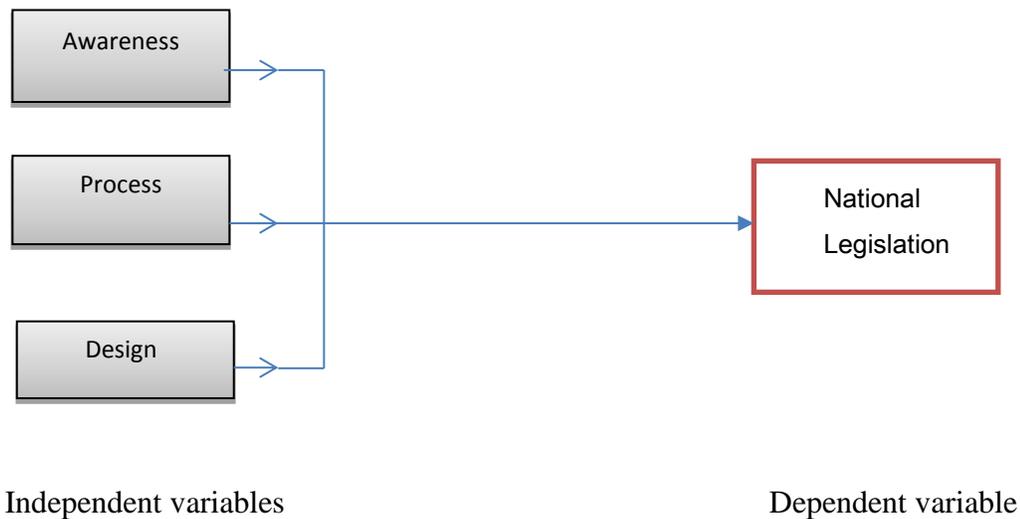
The theory of participatory democracy is central to this study because even though Members of Parliament as representatives of the people are thought to act in their interest, the ultimate power rests with the people themselves and can be exercised directly. This is loudly articulated in Article 1(2) of the Constitution of Kenya.

Gaventa (2007) espoused deliberative democracy as going beyond the simple set of rules, procedures and institutional designs like elections, to deeper control over decisions in a variety of fora. Legitimation is obtained through a representative Parliament as well as the public sphere. Participants seek acceptability of decisions, not just acceptability for the sake of it.

The study also relied on theories of communicative action which is concerned with the quality of dialogue by creating a rational basis for constructing ends and means in a democratic society. Habermas (1984) defines communicative rationality as a communication that is ‘oriented to achieving, sustaining and renewing consensus.’

## 2.7 Conceptual framework

The project proceeded on the basis of the dependent variable being legislations with desired outcome, having been influenced by public participation and the entire legislative process, as diagrammatized below.



The independent variables in this study were the awareness levels, process employed and design of the participation exercise. These variables are what the study examined to see how the improvement of their quality affects the quality of the final outcome. Their indicators include the knowledge of, capacity and sheer numbers of the public participating in the legislative process as awareness, the means by which they are facilitated to participate as the process and the actual practice employed by the legislature to give adequate time and fora to the public for effective participation. These impact the dependent variable, national legislation.

## **CHAPTER THREE: RESEARCH METHODOLOGY**

### **1.0 Introduction**

This chapter outlines the research methodology used in the study. It describes the research design, population and sample to be covered in the survey, data collection procedures and data analysis.

### **2.0 Research design**

This study employed a descriptive research design to determine the current situation on public participation in regard to legislation in Kenya. This is because the research sought to describe and get answers to what the current situation on legislation is as regards the awareness levels of the public, and the process and design employed by the legislature.

### **3.0 Site of the study**

The study took place in Nairobi City County. The National Assembly was the site for interviewing the resource persons identified, as well as the Attorney General's chambers. Data from the public were collected from randomly sampled residents of the city, in order to get a representative sample. The random sampling technique was chosen due to the gaps identified in literature review that could not determine the interest and intent of those who regularly participated, being majorly civil society

groups. The study's theoretical foundation of participatory democracy was also best suited by getting views of individual members of the public directly.

However, to tap into the experience of previous participants, a civil society organization that had participated previously was interviewed.

#### **4.0 Study population**

The research population comprised the residents of Nairobi City County totaling three (3) million as per current estimates, and the three hundred and forty nine Members of the National Assembly who participate in legislation, as well as participating civil societies.

#### **5.0 Sampling techniques and sample size**

The sample was randomly selected to identify public respondents to establish the level of citizen awareness of constitutional provisions and their involvement in public participation. The random sample was obtained proportionately (stratified) using Neyman's optimal allocation from the seventeen constituencies in Nairobi County. The total number of respondents sampled here were two hundred (200). The sample size was deemed adequate on the basis of the fact that parameters of participation are already widely known, constrained budget of the research and the trend of low numbers of participants in previous public participation exercises in national legislation exercises.

Purposive sampling was used to interview seven (7) resource persons that are directly involved in the legislation process. The research interviewed the Leaders of Majority and Minority parties/coalitions in the House, The Clerk of the National Assembly or his appointee, a two-term Member of Parliament, the Attorney General or his appointee and sought heads of two civil society organizations.

## **6.0 Data Collection**

Clearance for research was obtained from the National Commission for Science, Technology and Innovation (NACOSTI), as well as Graduate School, Kenyatta University. The permission to access Parliament and other offices was sourced from the respective heads of the institutions.

Primary and secondary data was collected by administration of interview questionnaires, and review of journals and Hansard reports in Parliament. The questionnaires were administered face to face to allow for follow-up questions and elaborations for clarity. This also allowed the researcher in-depth understanding of responses. The questionnaires had both closed and open ended questions to achieve maximum responses. Journals and Hansard reports were availed in the Parliamentary library; their examination was important in establishing patterns in practice.

## **7.0 Validity and reliability**

Maximum external validity of the research instrument was obtained by use of piloting. The interview questionnaire was administered to 30 respondents outside the

sample to assess effectiveness and adequacy in responses in relation to the research objectives. Reliability of data was ensured through use of test-retest technique to establish consistency of information received by use of the research instruments.

### **8.0 Data analysis**

Questionnaires administered to the respondents were tabulated and measures of central tendency including means and percentages of responses to questionnaires. Data gathered from face to face interview of the identified resource persons were analyzed through content analysis for similarities and differences. Secondary data collected from journals and Hansard records were analyzed through content analysis.

### **9.0 Data management and ethical considerations**

Respondents consented to participating in the research were accorded anonymity and confidentiality to boost confidence and respond candidly. This was expressly communicated before interviews and provided for in writing in the questionnaires. All responses were carried as is and reported objectively and strictly for use for the sole purpose of the study.

## **CHAPTER FOUR: DATA ANALYSIS, PRESENTATION AND DISCUSSION**

### **4.1 Introduction**

This chapter presents findings of the descriptive study conducted through semi-structured questionnaire interviews for primary data, and review of existing documents for secondary data. Other than random members of the public, key actors in the legislative process were interviewed to get first-hand information from authorities. The study sought to examine the level of awareness of residents of Nairobi City County and their participation in the legislative process as facilitated by the process and design of the exercise, and establish whether their contributions made impact. Findings have been presented in a descriptive manner and illustrations and tables used for clarity.

### **4.2 Rate of response**

Out of the 200 questionnaires issued to the public, 142 were responsive, representing 71% as summarized in the table below, while six out of seven resource persons gave their input, representing 86%.

Table 4.1: Rate of response

	Responsive	Non-responsive
Number of respondents	142	58
Percentage	71	29

Source: Researcher (2019)

### **4.3 Demographics**

The research established a pattern of response that appeared influenced by key characteristics of the respondents. Of note was that out of the 142 members of the public that were responsive, 64% (91) were male, while 73% (104) lay between the 31-35 age bracket. 82 respondents (58%) held a diploma and above qualification. Income range was not indicative of a trend.

### **4.4 Findings**

#### **4.4.1 Responses by members of the public**

##### **4.4.1.1 Awareness**

The research examined awareness from the points of view of general civic enlightenment and knowledge of constitutional provisions.

On general enlightenment and awareness of the national legislative process, 63 of the respondents were generally aware of their civic responsibilities and rights in the national legislative process. On constitutional provisions, from two options, in the affirmative or negative, respondents were asked to indicate whether they were aware of provisions of the Constitution that have improved how the public can interact with government more and make their voice known. An almost similar number of respondents (68) were alive to their constitutional guarantees as they were to general awareness of the national legislative process. Table 4.1 below summarizes the responses;

Table 4.2: Awareness

<b>Question</b>	<b>Yes</b>	<b>No</b>
Are you generally aware of your civic responsibilities to participate in national legislation?	63	79
Are you aware of any constitutional provision that guarantees your rights towards participation in national legislation?	68	74
Approval that the new constitution has improved legislation	44	98

Source: Researcher (2019)

From the responses, almost half (48%) were aware of constitutional provisions that guaranteed public participation, with an even lower figure of 44 out of the 142 respondents approving that the new constitution has improved legislation.

#### **4.4.1.2 Parliamentary outreach**

On efforts by the National Assembly to reach out to the public to facilitate their participation, interviewees gave the following responses;

Table 4.3: Parliamentary outreach

<b>Question</b>	<b>Yes</b>	<b>No</b>
Have you experienced any deliberate effort by Parliament to reach out to you?	11	131
Do you know of any Bills passed by the National Assembly between March 2013 & December 2015?	9	133

Were you aware of the Bills before they were passed?	7	135
If yes to the above, did you attempt to convey your opinions?	2	140
Have you ever visited your constituency office?	26	116

Source: Researcher (2019)

92% of respondents said that they had not seen Parliament make effort to reach out, with 94% not knowing about Bills passed. Six respondents confirmed having seen calls for memoranda in the local dailies, with all of them not remembering the content of the advertisement. None made effort to respond, with respondent No. 19 instructively saying, “I did not find it important because they would do what they want anyway”.

18% of respondents confirmed having visited a constituency office. However, all of them did so to apply for bursary funds or bid for tenders for their relatives or themselves. Staff at the offices did not volunteer any information outside of this.

#### **4.4.1.3 Suggested ways to improve participation**

Respondents had varied reactions on their views to improve public participation, with most common responses collated in table 4.3 below;

Table 4.4: Suggested ways to improve participation

<b>Proposal</b>	<b>Number</b>
Run advertisements on television stations	66
Run advertisements on radio stations	101
Conduct regular barazas	18
Avail information in constituency offices and conduct civic education	49

Source: Researcher (2019)

From the foregoing, it is important to note that the medium employed by the National Assembly, i.e newspapers, was not sufficient in reaching out to the public. The highest proposal was 71% of respondents who favoured radio advertisements, with 46% preferring television advertisements. Next preferred means of outreach was civic education, coupled with information being availed in constituency offices. Three respondents who were students in tertiary institutions suggested that the National Assembly and Parliament as a whole ought to conduct campaigns in these institutions of higher learning.

Importantly, even though secondary data indicated that the National Assembly holds annual public outreach days within its precincts, none of the respondents was aware. However, analysis of this information shows that the agenda of the open days was to ‘sensitize the public on operations of the National Assembly’, and not on any specific legislation.

Other studies including Innes & Booher (2004), have shown that in peri-urban areas, use of public barazas (public hearings) and addresses by local administration in public gatherings e.g. funerals, could be effective because citizens usually gather in such fora. It is however instructive to note that literature review was strong towards tailoring public participation to the unique needs of each exercise.

#### **4.4.2 Responses by government officials**

The responses under this section involved five offices, including those of the leaders of Majority and Minority Coalitions of the National Assembly, the Clerk's office, one ranking Member of Parliament and an official of the Kenya Law Review Commission, domiciled at the Attorney General's chambers. Information gathered here was buttressed with secondary data collected from existing documentation including parliamentary journals, Hansard and publications.

##### **4.4.2.1 Operationalization of constitutional provisions**

Respondents Nos. 201, 202, 203 and 204 stated that the National Assembly had operationalized various provisions of the Constitution as regards public participation. These Articles include Article 10(2)(a) that called for participation of the people as a national value. Further, Article 35 demands access to information by citizens on any matter as well as Article 118 that called for openness in parliamentary proceedings and facilitation of public participation. The Constitution also provided in Article 119

for the right to petition Parliament reinforced by Article 232(1)(d) that provides for involvement of the people in policy making.

They added that these provisions had been operationalized in statutes and the Standing Orders. Respondent No. 203 specifically submitted that Standing Order 127 provides for participation by the public in legislation, and expressly states that this is through, ‘...an appropriate mechanism, including;

- a) Inviting submission of memoranda;
- b) Holding public hearings
- c) Consulting relevant stakeholders in a sector; and
- d) Consulting experts on technical subjects’

He added that Standing Order 198 and 252 also provides for access to the public of all Committee proceedings, except under exceptional circumstances provided for by the Speaker. The Committee on Parliamentary Broadcasting and Library is also expected to, under Standing Order 215 (b), advise the Houses of Parliament on matters related to public participation in Parliament. Article 119 of the Constitution operationalized through Standing Order 220 that provides for the right of any person to submit a petition on any matter.

All the respondents under this section stated that these provisions were largely not expressly provided for in procedures of the House pre-2010. They were thus a deliberate exercise to operationalize provisions of the Constitution that provided for public participation and to general access to the public.

#### **4.4.2.2 Practice and design employed in public participation**

Respondent No. 203 submitted that the National Assembly had relied on advertisements in the local daily newspapers of nationwide circulation for its call for memoranda. From records adduced from this office, 126 advertisements specific to Bills were run between March 2013 and December 2015, of which 113 were calls for written submissions, with 13 calling for appearance before respective committees of the House within the precincts of Parliament. The numbers of advertisements were corroborated by payment vouchers to media houses for the same. Efforts by the researcher to obtain independent official figures from the media were unfruitful.

Of the 13 meetings for oral submissions, 3 allocated a full day, 9 used half a day, while 1 utilized more than one day. Of note in the latter category was the Health Act that aroused major interest in the health sector. It was reported that the two days spent was however still not adequate as each respondent was given fifteen minutes to prosecute their case. These meetings took place in the National Assembly's Main Chamber, the Mini-chamber at County Hall building and other committee rooms within Parliament buildings. The first two were appropriate venues as they were fitted with audio equipment and had sufficient room, while the rest were inappropriate for public participation exercises. Respondent No. 203 submitted that Parliament would soon have adequate and appropriate rooms for participation as construction of its new multi-story building was in progress.

Respondent No. 201 said that due to competing interests in legislation, Committees were not obliged to incorporate any specific suggestion. The House was however guided by the need to ensure the outcome reflected public interest, and attained a middle ground for competing interests. In fact, the High Court in case *Institute for Social Accountability v. National Assembly & 4 Others (2015)*, observed that the National Assembly met its constitutional duty in public participation and did not need to factor in views collected. A plain reading of this ruling would however defeat the very spirit and purpose of conducting public participation, as the exercise is not done for its own sake but to genuinely incorporate views of the public.

Respondent No. 203 however decried disinterest of the public in legislation, except on controversial matters. Responses were usually from sector groups or interested associations, with very few individual submissions. This seemed to concur with observations of Bosuyt et al (2002) that only few professional bodies participated in legislation, and only in matters that directly affected them.

Respondent No. 203 added that on matters of budget, the Budget and Appropriations Committee made selected town hall meetings in various parts of the country. Parliament also held annual open days to sensitize members of the public on its operations, to encourage participation in various aspects of the legislature. These open days consisted of all departments within the National Assembly showcasing their services, including achievements thus far. Staff held face to face discussions with the public in an effort to demystify the legislative process.

On the language used in publishing of Bills, respondent No. 203 stated that all Bills published by the National Assembly were done in English. This may play a role in limiting participation by those who may not be proficient in the language, but he justified it based on financial constraints and other logistical challenges including translation.

Further, Respondent No. 203 confirmed having a budget for public participation, with its lion's share going to newspaper advertisements. This budget would need to be enhanced to incorporate other media of outreach.

#### **4.4.2.3 Suggested areas of improvement**

Respondents were unanimous that newspapers may not reach out to all sectors of the populace, and plans were being made to make use of radio advertisements. Respondents in the political offices were strong in their advocacy for well-funded constituency offices, including availing publications, the advertisements and other information pertaining to the legislative agenda. These multi-faceted suggestions to improve public participation agrees with Creighton's (2005) submission that there is no one-size-fits-all design. Each exercise should be tailored to the needs of uniqueness of the moment.

It also emerged that the practice employed and discussed in 4.3.2.2 above was majorly as a result of expedience for the involved committees. Nothing barred committees from conducting town hall meetings if they deemed it fit. The process may also be improved by training parliamentary staff of effective public

participation, including strengthening the public relations office. This will address the fact that there does not exist a dedicated office for public participation, other than that of normal public relations.

Respondents also submitted that Bills should be published in Kiswahili language to have a wider outreach.

#### **4.4.3 Responses by the non-governmental organizations**

##### **4.4.3.1 Awareness and participation**

Only one civil society organization who had hitherto participated in consideration of four Bills was responsive to the interview (Respondent No. 207) and provided valuable insights. In the first instance, it emerged that civil society organizations and indeed other non-state actors are not able to participate effectively in all legislations passed by the National Assembly. The respondent stated that they sift out matters that they feel have overwhelming public interest. This was as a result of limited resources and capacity that runs across many of these organizations.

Indeed, a review of the Departmental Committee reports confirmed that non-state actors participate in matters that affect their own industry or has overwhelming public interest. A report of the National Assembly's Committee on Health on the Health Bill 2017, of which public participation was done in 2015, reveals that of 43 public memoranda received from independent organizations, 39 of them, representing 90% of the total, were associations representing health sector

practitioners, with the remainder being organizations representing other interests, but in the same health sector. This trend was evident in other reports reviewed including those of the Mining Bill 2014, Water Bill 2014 and Forest Bill 2015. This tallies with Bosuyt's (2002) findings that professional bodies were only keen on matters directly affecting them, and not those of wider public interest.

Consistent with the above data, respondent No. 207 submitted that during the period of March 2013 and December 2015, they had made 8 submissions to the National Assembly, with 2 being orally given and 6 being written. It was evident that the submissions were predominantly (86%) on Bills that the respondent had a direct interest. Submissions to the National Assembly were made during the Committee stage. In some instances, the respondent lobbied the ministries in charge, as well as media campaigns through interviews and social media postings.

The respondent stated that in the 8 cases of the Bills they have participated in, they learnt of the process of legislation through the print media, specifically in newspapers. The respondent had also been proactively following the process through enquiries at the National Assembly and through its portal.

On how the respondent arrived at the views it submitted for consideration, focus group discussions was the most common means of consensus building, including use of expert opinion, research on benchmarking with best practice, and 'public opinion'.

#### **4.4.3.2 Practice and design of the public participation process**

Respondent No. 207 observed that the mode of public participation employed by the National Assembly was not effective as it was 'elitist' and out of reach of a vast majority of the population. Newspaper advertisements could only reach a few of those who could afford them, especially in major cities and towns. Moreover, reporting by Committees of the House was not consistent with some clearly stating the number and substance of memoranda received and others simply giving the number. This obviously handicapped the outside observer in his analysis whether the submissions were considered or totally ignored. This practice is at variance with the progressive practice seen in Canada as described by Abelson (2006) where the public and the civil society are genuinely appreciated as being important.

The respondent stated that when the process allows for oral submissions, not enough time is accorded to those who show up to make their case. He stated that in his experience, the Chairperson of the Committee gave all those who appeared an average of three minutes on each particular clause depending on the turnout, or a total of five minutes for entire bills that had much interest. The most damning assessment was that the respondent felt that the National Assembly simply conducted public participation, in his words, 'to satisfy the technicalities of the constitution', rather than a genuine attempt to involve the citizenry in making decisions that affect them. Indeed, court decisions that have upheld legislation on the basis of public participation have been swayed by arguments by Parliament that newspaper advertisements were done, rather than the substance of submissions received. The

respondent submitted that those submissions that they felt were reflected in the outcome of the various pieces of legislation may have been as a result of general congruence by Members of Parliament, rather than the respondent's persuasive value. The respondent however understood the difficulty of accommodating varied views.

The respondent submitted that they had been involved in several efforts to sensitize the public. The respondent had in 2014 conducted estate town hall meetings in a programme sponsored by development partners. The respondent also had active social media accounts which they used to reach out to the public, especially the youth.

Finally, the respondent submitted that they felt the process of public participation could be enriched by first conducting thorough civic education on rights and responsibilities of the public in legislation and general public policy. In their interaction with the public, they found that most people did not know that they indeed had this privilege guaranteed by the constitution. Secondly, the National Assembly should go out of its way and conduct regular town hall meetings in various parts of the country to sensitize the public. In fact, the National Assembly's Committee of Budget and Appropriations usually did this and their reports reflected views of the public. In addition, the respondent felt that Parliament can also enhance its reach through use of vernacular radio stations to conduct calls for memoranda and public campaigns. Finally, it was felt that Committee reports by the National

Assembly should consistently indicate substance of submissions received from each quarter, with justification for incorporating or rejecting proposals.

## **CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS**

### **5.1 Introduction**

This research study examined the effects of public participation by residents of Nairobi City County on legislation passed by the National Assembly. The study sought to achieve three objectives; first, how the awareness of residents of Nairobi City County affected their participation in national legislation. Second was the extent to which the procedure used by the National Assembly to call for public participation affected eventual participation on national legislation and finally how the design of the actual public participation exercise impacted effective participation.

### **5.2 Summary of findings**

#### **5.2.1 Awareness of residents of Nairobi City County of their rights and constitutional provisions**

The awareness that the study examined as a variable leans heavily on civic education. This is because people do not just become aware of new phenomenon unless provoked. Effective public participation requires more than a good constitutional foundation. This participation is only possible when the public is educated on issues affecting their lives and how to influence the relevant decision-makers on such issues. In this regard, civic education is a critical tool for enhancing public participation.

According to the research, residents of Nairobi County are inadequately aware of their civic responsibilities and constitutional rights. This therefore hampered

effective participation by members of the public. A majority view the legislative process as a closed exercise that is out of their reach, notwithstanding constitutional provisions for their engagement. It was clear from the findings that even those who are aware, were passive and did not take advantage of the opportunities.

Communication as a means to awareness is manifest through deliberate efforts to make the public be in the know of various issues affecting them. Communication is done through various media, including radio, television, newspaper advertisements, and even through face to face engagements.

The National Assembly has not gone out of its way to improve on civic awareness, other than the bare minimum that they do to call for public participation. The civil society has also not contributed to the awareness of the populace, with them engaged majorly in matters that directly affect them. The low level of awareness has hampered effective participation of the people in national legislation as it has acted as a handicap.

### **5.2.2 Procedure used by the National Assembly to call for public participation**

The predominant procedure used by the National Assembly is that of newspaper advertisements calling for memoranda from the public. These advertisements were placed in the two major dailies, The Standard and Daily Nation. Most of the advertisements gave interested participants seven days to submit mostly written views via email, post office or through physical delivery to the Clerk's office. This

means of media was found by the research to be ineffective in reaching the wider population, who preferred radio, television, constituency offices and barazas. The procedure used by the National Assembly therefore negatively affected participation by the public. The outcome of the pieces of legislation can therefore not be said to reflect the will of the public.

### **5.2.3 The design of the actual public participation exercise and its impact on effective participation**

The actual public participation exercise was found to impact negatively on effective participation as its structure did not encourage dialogue. Submission of written memoranda was the main design of the exercise, with an underwhelming preference for what would be most effective, oral submissions. Once these memoranda are received, the Clerk's office reported that the Committee secretariats analyzed the submissions and briefed Members of the Committee who would accept or reject the proposals. There were no experts engaged in any of the various fields, with Members of the Committee deemed to be competent enough to handle the various issues.

During the few oral sittings, time allocated is barely enough as respondents are given an average of fifteen minutes to contribute on Bills that may contain hundreds of clauses.

With respondent No. 203 having reported that the Budget and Appropriations Committee usually has countrywide town hall meetings, it can be deduced that legislation has not been taken with the same enthusiasm. Members of the public

away from the capital who may wish to take part in the legislative process would need to go out of their way, and at their cost, to travel to Parliament, or simply send written submissions.

Finally, there was no express provision for acknowledgement of submissions received, or whether the Committees would indeed factor in the proposals. The failure to have an accommodative design of public participation has negatively affected national legislation.

### **5.3 Conclusions**

From the findings of the study, we can conclude that public participation has had little effect on outcome of legislation by the National Assembly. This is due to many factors;

First, the public are unaware of various constitutional guarantees at their disposal to enable them actively participate in legislation. When the public is unaware and incapacitated, we can deduce that their participation will be hampered.

It is clear that the National Assembly has made effort towards compliance with the Constitution. It is however also clear that Parliament has conducted the bare minimum, through call for memoranda in nationwide newspapers, and occasionally conducting meetings for oral submission within the precincts of Parliament, and has not gone out of its way to facilitate the citizens to participate in legislation. Once it

has called for public memoranda, Committees deem that they have met the threshold, returns notwithstanding. This design has obviously hampered public participation.

This is however not at the entire fault of Parliament, as the processes of governance are every person's responsibility, including non-state actors.

Participation by individual members of the public is inadequate due to ignorance, disinterest, incapacity and general apathy. Associations and the civil society have however shown some aspects of participation in the legislative process. These non-state actors are however not as strong as has been evidenced in other jurisdictions.

## **5.4 Recommendations**

### **5.4.1 Public sensitization**

The National Assembly should conduct vigorous and continuous sensitization of the public. This will encourage interest and eventual participation of the public in legislation.

It may also be beneficial for Parliament to engage civil society organizations, sector groups and other organizations and associations in their day to day operations. This can be done through joint collaborative trainings and capacity building, and in public outreach.

### **5.4.2 Use of media with wider coverage**

The National Assembly should actively use radio and television stations to call for submissions from the public. The Kenya National Bureau of Statistics' Economic

Survey (2018) has shown that there are 176 radio stations countrywide with 109 in English and Swahili languages, and 67 broadcasting in vernacular. On the other hand, a total of 296,906 households have cable TV subscriptions, with a total of 4,890,347 digital subscriptions across the country. In comparison 89,631 persons access the daily newspapers published in English.

Committees of Parliament should also conduct mandatory visits to various towns across the country and conduct town hall meetings, for every piece of legislation they process.

To further see through response from the public, the National Assembly should consider use of easier forms of feedback, including toll free USSD text message service through which interested persons can submit their views. Parliament can also liaise with public offices including offices of county and sub-county administration, chiefs offices, public hospitals, postal services among others to have collection points across the country for free of charge (to the sender) submission of written submission for onward transmission.

Under this strategy of wide coverage, Bills and other parliamentary publications should be translated to Kiswahili language, with local dialects considered thereafter.

Lastly, with the increased literacy and access levels to ICT, the National Assembly should make use of social media to reach the large demography of youth.

### **5.4.3 Strengthening of constituency offices**

Due to the fact that each constituency has an office funded by Parliament, this nationwide footprint should be taken advantage of by strengthening it through logistical facilitation. Staff stationed at the offices must be competent and informed enough to avail information to the public orally and through notice boards in these offices. These staff can also be co-opted in public for including barazas, town hall meetings, funerals, weddings and other public gatherings.

### **5.4.4 Provision of adequate time for processing of Bills**

With Committees of the House given twenty one (21) days to process Bills, including conduct public participation, it seems that the process is constraining and may inadvertently conspire to frustrate public participation. While this period may be adequate for small non-controversial pieces of legislation, for most it is inadequate and produces an unsatisfactory outcome. The National Assembly should revise its standing orders and allow for adequate time for Bill scrutiny and public participation.

### **5.5 Suggested areas for further research**

From the findings, it was apparent that disinterest of the public was caused by many factors, most of which were not uncovered by this study. It may be of benefit to understand why citizens are passive in their own governance processes, only appearing interested every five years in the electoral cycle. Understanding the causes of this malaise will help tackle impediments to public participation.

Moreover, further research on participation in various levels of legislation and policy making, rather than a one-off exercise should be undertaken.

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## **Chapterization**

The study has been organized into five chapters. Chapter One introduces the study, consisting background of the study, statement of the problem, objectives of the study and the research questions, justification and significance of the study, and scope and limitations of the study.

Chapter Two entails related reviewed literature and the conceptual framework. Chapter Three entails the research methodology under research design, variables of analysis, site of study, study population, sampling techniques and sample size, research instruments, validity and reliability, data collection and analysis methods and data management and ethical considerations.

Chapter Four presents data analysis, presentation and discussion while Chapter Five summarizes conclusions and recommendations.

### **Respondent Codes**

Respondents Nos. 1- 200:	Randomly selected members of the public
Respondent No. 201:	Leader of Majority in the National Assembly
Respondent No. 202:	Leader of Minority in the National Assembly
Respondent No. 203:	Clerk of the National Assembly
Respondent No. 204:	Ranking Member of Parliament (having served 2+ terms)
Respondent No. 205:	Kenya Law Reform Commission
Respondents No. 206 & 207:	Civil Society

**RESEARCH INSTRUMENTS**

**QUESTIONNAIRE: MEMBERS OF THE PUBLIC**

Information given will be strictly used for academic purposes only and confidentiality of the information you are about to give is assured. To enable an accurate assessment, it is important that all information requested in the questionnaire should be provided as completely and accurately as possible.

**PART A: DEMOGRAPHIC INFORMATION- tick where applicable**

**Age** (18-25\_\_)(25-30\_\_)(31-35\_\_)(36-40\_\_)(Above 40\_\_)

**Gender** (Male\_\_), (Female\_\_)

**Level of education** (O’level\_\_), (A’level\_\_), (Certificate\_\_), (Diploma\_\_), (Degree\_\_), (Postgraduate\_\_)

**Income range in Kes.** (Below 10,000\_\_), (10,000-20,000\_\_), (20,000-30,000\_\_), (Above 30,000\_\_)

**PART B: CONSTITUTIONAL AWARENESS- tick where applicable**

**Q1.1:** Are you generally aware of your civic responsibilities to participate in national legislation?

Y	N
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**Q1.2:** Are you aware of any constitutional provision that guarantees your rights towards participation in national legislation?

Y	N
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**Q1.3:** Do you feel the new constitution has changed how the Legislature handles matters that affect you?

Y	N
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**PART C: PARLIAMENTARY OUTREACH- tick where applicable**

**Q1.4:** Have you experienced any deliberate effort by Parliament or otherwise to reach out to you in your locality?

Y	N
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**Q1.5:** If yes to above, what means did the effort come through?

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**Q1.6:** Do you know of any bill passed by the National Assembly between March 2013 and December 2015?

Y	N
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**Q1.7:** If yes to above, how many? Kindly list them below;

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**Q1.8:** Were you aware of the bills before they were passed?

Y	N
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**Q1.9:** If yes to above, did you attempt to convey your opinions?

Y	N
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**Q1.10:** If yes to above, did the passed bill reflect your aspirations and to what extent? If no to the above, why not?

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**Q1.11:** Have you ever visited your constituency office? If yes, how many times.....

Y	N
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**Q1.12:** If yes to above, what information regarding proposed legislations did you receive?

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**PART D: ANY OTHER INFORMATION**

**Q1.13:** Can you suggest ways to improve outreach and public participation?

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**Q1.14:** Do you have any further information that you may want to share relevant to this research?

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**Thank you for your co-operation and response**

**INTERVIEW SCHEDULE FOR PARLIAMENTARY AND OTHER GOVERNMENT OFFICIALS**

Information given will be strictly used for academic purposes only and confidentiality of the information is assured. To enable an accurate assessment, it is important that all information requested in the questionnaire should be provided as completely and accurately as possible.

You may use a separate paper provided for further information.

**PART A: CONSTITUTIONAL FUNCTIONS**

**Q2.1:** Which constitutional provisions on public participation has the National Assembly operationalized between March 2013 and December 2015?

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**PART B: PUBLIC PARTICIPATION PRACTICE**

**Q2.2:** Does the National Assembly have a programme to encourage public participation and outreach? How is it facilitated?

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**Q2.3:** Do Committees of the House hold public hearings on bills before them? How is this done logistically?

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**Q2.4:** Does the National Assembly publish draft bills and other documents in languages other than English?

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**Q2.5:** Does the National Assembly have a budget for public participation? Is it adequate?

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**Q2.6:** Is there a specific office dedicated to public participation, including constituency offices?

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**Q2.7:** If yes to above, how many staff are seconded to the office? Do they have special training in the area of public participation?

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**Q2.8:** What is the procedure of calling for, and processing of public submissions/memoranda received and are Committees expected to justify their reasons for incorporating or rejecting received memoranda?

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**Q2.9:** What constraints does the National Assembly face in the above process?

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**Q2.10:** Would you say public response to calls for memoranda has been satisfactory in Bills passed between the mentioned period?

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**Q2.11:** To what extent would you say that public views have influenced outcomes of legislations within the period?

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**Q2.12:** In your view, what can be done to improve public participation?

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**Thank you for your co-operation and response**

**INTERVIEW SCHEDULE FOR CIVIL SOCIETY ORGANIZATIONS**

Information given will be strictly used for academic purposes only and confidentiality of the information given is assured. To enable an accurate assessment, it is important that all information requested in the questionnaire should be provided as completely and accurately as possible.

**Q3.1:** How many times and in which bills did you submit memoranda between March 2013 and December 2015?

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**Q3.2:** How did you learn of the process of legislation of these bills?

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**Q3.3:** In which form did you submit the memoranda?

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**Q3.4:** How did you arrive at the views contained in the memoranda?

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**Q3.5:** At what stages of legislation did you submit the memoranda?

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**Q3.6:** How would you define the effectiveness of the mode of public participation adopted by the National Assembly?

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**Q3.7:** Did your views reflect on the outcome of the legislations? To what extent?

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**Q3.8:** Are you involved in any sensitization activities to the general public either independently or in conjunction with the National Assembly?

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**Q3.9:** How can the process of public participation be improved by the National Assembly?

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**Thank you for your co-operation and response**