

# NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

## Training Manual





Draft



## DIRECTORATE OF NATIONAL COHESION AND NATIONAL VALUES

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ISBN



## NATIONAL ANTHEM

Oh God of all creation	EeMungunguvuyetu
Bless this our land and nation	Ilete Baraka kwetu
Justice be our shield and defender	Hakiiwengaonamlinzi
May we dwell in unity	Natukaenaundugu
Peace and liberty	Amani nauhuru
Plenty be found within our borders.	Rahatupatenaustawi.
Let one and all arise	Amkeninduguzetu
With hearts both strong and true	Tufanyesotebidii
Service be our earnest endeavor	Nasitujitoekwanguvu
And our Homeland of Kenya	Nchiyetuya
Heritage of splendor	Kenya tunayoipenda
Firm may we stand to defend.	Tuwetayarikuilinda.
Let all with one accord	Natujengetaifaletu
In common bond united	Eendiowajibuwetu
Build this our nation together	Kenya istahiliheshima
And the glory of Kenya	Tuunganemikono pamoja kazini
The fruit of our labour	Kilasikutuwenashukrani.
Fill every heart with thanksgiving.	



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## ABBREVIATIONS AND ACRONYMS

AU	African Union
CAJ	Commission on Administrative Justice
CBTE	Competence-Based Education and Training
CEDAW	Convention on the Elimination of all forms of Discrimination Against
CRA	Commission on Revenue Allocation
CRPWD	Convention on the Rights of Persons with Disabilities
ESD	Education for Sustainable Development
FBOs	Faith Based Organizations
GoK	Government of Kenya
ICCPR	International Covenant on Civil and Political Rights (1965)
ICT	Information and Communication Technology
IEBC	Independent Electoral and Boundaries Commission
IEC	Information, Education and Communication
KNCHR	Kenya National Commission on Human Rights
MDAs	Ministries, Departments and Agencies
NCIC	National Cohesion and Integration Commission
NEPAD	New Partnerships for Africa's Development
NGEC	National Gender and Equality Commission
NLC	National Land Commission
OECD	Organization for Economic Co-operation and Development
PM	Prime Minister
PSC	Public Service Commission
PTA	Pre-Training Assignment
TEVETA	Technical, Entrepreneurial and Vocational Education and Training Authority
TSC	Teachers Service Commission
TVET	Technical and Vocational Education and Training
UDHR	Universal Declaration on Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
	Women



## PREFACE

The National Values and Principles of Governance espoused in Article 10 of the Constitution are patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; good governance, integrity, transparency and accountability; and sustainable development.

Article 4(2) of the Constitution provides that the Republic of Kenya shall be a multi-party democratic state founded on the National Values and Principles of Governance referred to in Article 10. Essentially, this affirms that the progress of the Kenyan nation-state and the realization of the aspirations of its citizens is predicated upon the institutionalization and infusion of these values by all segments of the Kenyan society. The importance of values is underscored by the fact that the President is required to once every year, report in an address to the nation, on all the measures taken and the progress achieved in the realization of the National Values referred to in Article 10 of the Constitution.

The Executive Office of the President through the Directorate of National Cohesion and National Values has committed to spearhead the promotion of National Values and Principles of Governance which is a key mandate of the President. Consequently, the Office, in conjunction with other stakeholders undertook to develop a National Values and Principles of Governance Training Manual. This was necessitated by the high number of requests for training and sensitization by diverse stakeholders.

It is expected that inculcation of National Values and Principles of Governance in the Kenyan society will create a positive influence on work ethics and productivity of Kenyans, as well as making substantial improvement in the quality of leadership, management practices and utilization of national resources at all levels and sectors. In addition, inculcation of the values and principles will lead to higher levels of investment, wealth and employment creation, besides promoting better understanding among Kenyans.

In a nutshell, promotion and inculcation of National Values and Principles of Governance in Kenya will be instrumental for the achievement of socio-cultural, economic and political transformation. This Training Manual is therefore a critical instrument for use by key actors



in the training and sensitization forums on National Values and Principles of Governance across the country.

I appeal to all stakeholders in the promotion of National Values and Principles of Governance to take advantage of this Training Manual and expose all Kenyans to its content. This will help in transforming Kenya into a progressive society founded on the values and principles as espoused in Article 10 of the Constitution.

**Joseph K. Kinyua, EGH**

**Chief of Staff and Head of the Public Service**



## FOREWORD

The promotion of National Values and Principles of Governance outlined in Article 10 of the Constitution involves all state organs, state officers, public officers and all persons whenever any of them applies, interprets or enacts laws or when they make or implement public policy decisions. However, there is no standardized reference material on National Values and Principles of Governance to facilitate training, sensitization and guiding stakeholders.

This Training Manual provides a structured way of sensitizing and training on National Values and Principles of Governance and enhances implementation by Ministries, Counties, Departments and Agencies (MCDAs) and other stakeholders.

The Manual further ensures uniformity of content and methodology for training and sensitization on National Values and Principles of Governance. In addition, the Manual will assist MCDAs in the preparation of the annual President's Report on all measures taken and progress achieved in the realization of National Values and Principles of Governance

**Steven K Kirogo, CBS**  
**Principal Administrative Secretary**  
**Office of the Chief of Staff & Head of Public Service**



## STATEMENT FROM THE SECRETARY

One of the mandates of the Directorate of National Cohesion and National Values is to spearhead the building of a value driven Kenyan society. To achieve this mandate, one of the strategies that the Directorate has employed is sensitizing the Kenyan citizenry on National Values and Principles of Governance. This necessitated the development of a training and sensitization tool on the subject area to enable the Directorate and other stakeholders execute this mandate effectively and efficiently.

The Training Manual ensures uniformity in content and other information on National Values and Principles of Governance disseminated by the Directorate's staff and other trained facilitators. This further ensures that Kenyans obtain information devoid of ambiguities and irrelevance. The Training Manual thus professionalizes presentations in the various national values training and sensitization forum so that the same core concepts; approaches and methods are used with necessary modifications to suit the peculiarities of specific regions or forums. This Manual thus serves as the key instrument to be used by stakeholders involved in sensitizing and training Kenyans on National Values and Principles of Governance.

The Training Manual therefore provides the guiding framework through which the message of National Values and Principles of Governance will be disseminated. It is therefore a key tool for the realisation of a value based society.

**Michael M. Ndung'u, HSC**  
**Secretary, National Cohesion and Values**



## ACKNOWLEDGEMENT

I would like to acknowledge the leadership offered to the staff of the Directorate of National Cohesion and National Values by the Chief of Staff and Head of Public Service, Mr. Joseph K. Kinyua, during the preparation of this Training Manual. His able guidance during the preparation of this Manual was invaluable.

I am most indebted to the Principal Administrative Secretary, Mr. Stephen Kirogo, for availing the requisite logistical and technical support required for the preparation of this training manual. Most significantly, the Principal Administrative Secretary availed the resources needed for the preparation of the Manual.

I also extend my gratitude to the Secretary, National Cohesion and National Values, Mr. Michael Maina Ndung'u, for his tireless guidance throughout the process that culminated into this informative document.

I also wish to sincerely appreciate the contribution of the lead consultants Prof. Jesse Mugambi of the Department of Philosophy of Religious Studies, University of Nairobi, and Sister (Dr.) Elizabeth Nduku, Director, Centre for Social Justice and Ethics of the Catholic University of Eastern Africa. Their wealth of experience, borne out of years of research and practice, greatly enriched the document.

Lastly, I thank the staff of the Directorate for their dedication and commitment in the process of preparing this Training Manual. The staff sacrificed valuable time during working sessions which involved undertaking research, analyzing information, collating and compiling the Manual.

**Dr. Francis O. Owino, PhD**  
**Director, National Cohesion and Values**



## EXECUTIVE SUMMARY

National Values and Principles of Governance are fundamental beliefs or ideals that guide the choices, actions and behavior of a nation. They are critical in building national identity and national character that guides the realization of national development. In addition, National Values exert influence on the way individuals relate with one another, how communities engage one another and how citizens and government interact to promote peace, national unity and cohesion.

National Values and Principles of Governance are key in managing diversity and building national social capital that surpasses ethnic, religious, class and racial limitations. They cultivate internal social and cultural coherence which are based on national norms and interests that govern interactions focused on achieving national common good.

It is because of the central role of values in organising, inspiring, transforming and guiding Kenyans that they are enshrined in Article 10 of the Constitution. The National Values and Principles of Governance facilitate the building of bridges among communities, ethnic, religious and racial traditions and establish constitutionalism that binds and integrates Kenyans into a unitary nation-state. They provide opportunities to individuals and groups to pursue freedoms and happiness in a diverse society and a firmly united nation.

The National Values bind all state organs, state officers, public officers and all persons whenever any of them: a) applies or interprets the Constitution; b) enacts, applies or interprets any law; or c) makes or implements public policy decisions. The National Values and Principles of Governance referred to in Article 10 of the Constitution include: (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; (c) good governance, integrity, transparency and accountability; and (d) sustainable development.

Article 132 (c) (i) of the Constitution requires the President to report annually on the measures taken and progress achieved in the realization of National Values and Principles of Governance. To achieve this mandate, the Government developed the policy on National Values and Principles of Governance to provide a framework for operationalization and





realization of National Values and Principles of Governance by all state organs, state officers, public officers and all persons. The policy provides broad goals, objectives and guidelines to government, non-state actors and individual citizens to develop action plans to mainstream National Values and Principles of Governance, as provided for in Article 10 of the Constitution, into their day-to-day programmes and activities and ultimately ensure that the values become a way of life for the Kenyan people.

This training manual on National Values and Principles of Governance is a product of efforts by various stakeholders coordinated by the Executive Office of the President. It was developed through a widely consultative and research-based approach to ensure quality, clarity and to highlight strategies for mainstreaming of National Values and Principles of Governance. It is envisaged to be a tool and resource of first choice for facilitators, practitioners and participants in training and sensitization on National Values and Principles of Governance.

The Manual covers a wide range of topics on National Values and Principles of Governance. These include an overview of the manual, introduction and background, concepts of values and principles of governance, policy, legal and institutional frameworks and administrative actions for the promotion of National Values and Principles of Governance, understanding National Values and Principles of Governance, opportunities and challenges in the promotion of national values, strategies for promoting national values, roles of stakeholders, monitoring and evaluation and reporting.

The Manual proposes appropriate learning activities for each unit of study, necessary materials and participative methods of delivering the training to various groups of people. The graphical illustrations contained in each unit make reading not only enriching, but also informative. The references provided enable the facilitators to enrich their training through wide reading and research on National Values and Principles of Governance.

Unit One underlines the historical background, the essentials, goals and objectives of National Values and Principles of Governance. Unit Two provides the policy, legal and institutional frameworks and administrative actions for the promotion of National Values and Principles of Governance. It discusses policies that promote the realisation of National Values and Principles of Governance, legal instruments that facilitate promotion of National



Values and Principles of Governance, institutions that facilitate the promotion of National Values and Principles of Governance and administrative actions.

Unit Three focuses on understanding National Values and Principles of Governance and extensively discusses and highlights indicators and challenges faced in the promotion of: Patriotism and National Unity, Sharing and Devolution of Power, the Rule of Law, Democracy and Participation of the People, Human Dignity and Human Rights, Equity, Equality, Social Justice and Inclusiveness, Non Discrimination and Protection of the Marginalized, Good Governance and Integrity, Transparency and Accountability and Sustainable Development.

Unit Four deals with opportunities and challenges in the promotion of national values. It outlines the prospects and possible hinderances to the promotion of National Values and Principles of Governance. It also outlines the strategies for promoting national values which include the Associative Approach, Recruiting and Mobilizing Change Agents, Mainstreaming Values for Behavior Change in all spheres, Affirming National Values and their Champions, Legislation, Media Campaign and Advocacy, Sensitisation and Training.

Unit Five deals with the roles of stakeholders who include the family, communities, educational institutions, religious and faith-based organizations, national and county governments, Ministries, Departments and Agencies (MDAs), state officers, public officers, private sector, professional associations, media, civil society, political parties, art, music and entertainment sector, sports associations, all persons and individuals. This unit is key because it emphasizes the need for close collaboration between the stakeholders in the promotion of National Values and Principles of Governance.

Unit Six provides a basic understanding of monitoring, evaluation and reporting. It addresses the need for understanding monitoring, evaluation and reporting, the purpose of monitoring, evaluation and reporting, approaches and tools of monitoring, evaluation and reporting, legal and policy mechanisms of monitoring and reporting. The role of the Executive Office of the President, role of MDAs, Performance Contracting reports, report by the Public Service Commission, County Public Service Board report, Baseline survey on national values, Benefits of Monitoring, Evaluation and Reporting, Challenges of Monitoring, Evaluation and Reporting.



It is envisaged that the Training Manual will be an important tool for the promotion, and mainstreaming of National Values and Principles of Governance in society with the ultimate goal of transforming Kenya and facilitating the realization of Kenya Vision 2030.

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## GUIDELINES FOR THE TRAINER

Welcome to this Manual on National Values and Principles of Governance. The Manual is borne of the fact that for a long time there have been several unresolved issues which have affected the cohesiveness of the people of Kenya. Such issues include deteriorating family values, broken institutional, religious, cultural and societal values. It is in this light therefore, that national values have been identified by the Constitution as the vehicle for social transformation.

### Goal of the Training Manual

The Manual intends to operationalise core concepts and methods of delivery as well as provide customized material to the Kenyan situation for reference and further research. The Training Manual also aims at providing a structured way of sensitizing and training stakeholders on National Values and Principles of Governance thus ensuring uniformity of content disseminated by trained resource persons.

### Objectives of the Training Manual

The objectives are to:

- i. Provide a brief introduction and background to national values and principles of governance
- ii. Introduce the concepts, objectives and categories of National Values and Principles of Governance:
- iii. Provide information on policy, legal and institutional frameworks and administrative actions for the promotion of National Values and Principles of Governance;
- iv. Discuss the National Values and Principles Of Governance as espoused in the Constitution:
- v. Discuss the opportunities and challenges in the promotion of National Values and Principles of Governance;
- vi. Explore the strategies for the promotion of National Values and Principles of Governance;
- vii. Discuss the roles of stakeholders in the promotion of National Values and Principles of Governance;



- viii. Explore the strategies for monitoring, evaluation and reporting in the promotion of National Values and Principles of Governance.

### **1.1 Principles of Adult Learning**

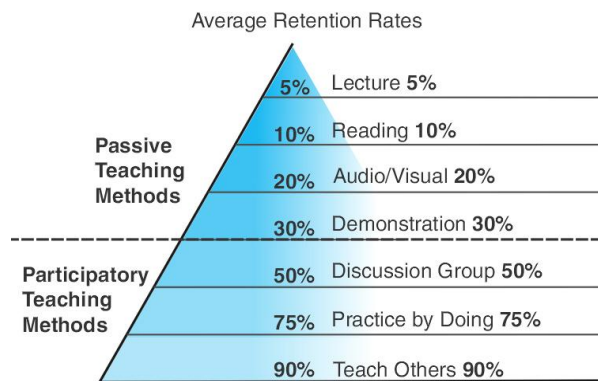
According to Knowles (n.d) adults learn best from a problem and collaborative based approach rather than the traditional lecture method. One of the reasons for this is the fact that adults are generally self-motivated and self-directed to learn. They also tend to bring their past experiences into the learning environment. In addition, adult learners benefit the most from learning that is relevant to their current problems and goals. They seek relevance and practical solutions in whatever they learn. Furthermore, adults gain the most in an atmosphere of mutual respect and participatory learning. Communication also plays a key role in adult learning when adults give and receive timely feedback. In addition to this, you should be aware of the fact that learners have different learning orientations –visual, auditory and kinesthetic.

### **1.2 Methodology of Content Delivery**

This manual is intended for use by facilitators in training different stakeholders on National Values and Principles of Governance. Different methods of delivery should be employed to ensure effective content delivery. Research has established that only 5% of information is retained when the lecture method is used; 10% when reading is used as a teaching method.

When audio visual teaching methods are used, only 20% of information is retained, while demonstration accounts for only 30% of information that is retained. You should engage the participants in group discussions (using case studies, comparative analysis and other participatory methods) which account for 50% of information retained and allow them to practice what they have learned whose retention rate is 75%. Ideally, the most effective method is asking participants to teach one another through role play, hot seating and other participatory methods which allow them to retain over 90% of the information.

## The Pyramid Learning



### Teaching Methods

The manual has endeavored to provide a variety of teaching methods as listed below:

#### a. Teaching others

When adults learn from one another they tend to retain more because peer-to-peer learning occurs in a non-threatening environment. As one participant teaches the others he too is relearning the content. Guide participants on the content and process to save guard against incorrect information being transferred from one participant to the other. In addition, such team teaching should take place under your supervision. To ensure that learning is taking place a clear check-list on the information to be transmitted should be prepared in advance and used in evaluating the effectiveness of peer-to-peer teaching.

#### b) Practice by doing

Some of the methods that you might use include role play, hot seating, simulation and other methods that involve the participants practicing what they learnt. When participants practice what they have learned in a safe environment they gain the confidence to replicate the same in the real world.

#### c) Group discussions

Group discussion is a method of instruction which gives participants an opportunity to express their views and opinions orally on a subject. . It also involves sharing of ideas and experiences, solving problems and promoting tolerance and understanding (Mandal, 2006).

#### d) Case studies and comparative analysis

Case studies and comparative studies are useful in enabling participants to evaluate situations and make value judgements. They are a powerful means of learning



because they appeal to higher levels of cognitive and attitudinal dimensions of learning. Case studies are, by nature, multidisciplinary and “allow the application of theoretical concepts therefore bridging the gap between theory and practice” (Davis & Wilcock, n.d.). The method exposes participants to realistic issues and provides them with an opportunity to analyse and explain the relationships among events, identify options and draw lessons from these cases. This method imparts participants with critical thinking, communication and interpersonal skills.

Comparative analysis refers to comparison of two or more alternatives, processes, sets of data, systems; or drawing up similarities, differences and making generalisations. Some of the comparisons may countries, individuals or institutions.

**e) Demonstration**

Most concepts tend to be rather abstract in nature therefore the use of demonstration enables participants to relate theory to practice. Examples of demonstration include experiments and modelling of behavior among others. To ensure effective use of this method clear step must be outlined before the process begins. Safety and comfort of the participants should be ensured at all times.

**f) Audio/Visual**

This method refers to the use of an audio-visual medium for teaching and learning. Video method can effectively communicate complex information to participants and, if used creatively, can become a powerful expressive tool (Jisc Digital Media, 2014). Research has established that about 65% of learners are visual by nature. To cater for this huge percentage of learners you should use methods that engage the visual realm such as demonstration. One of the advantages of this method is its ability to enable participants to relate visual cues in the learning environment to the real world

**g) Reading**

This method is limiting because it has little interactions among learners. Research shows that reading does reading only accounts for 10% of content retained by a learner.

**h) Lecture method**

Lecture is a passive teaching method where the facilitator is the main source of information while the participant is an empty slate that receives information which goes against the principles of adult learning.

Traditionally, this method has been adopted by facilitators due to its ease of use. It is however recommended that where possible facilitators seek to engage variety of teaching methods to enrich the learning experience.





## **Planning and Conducting a Workshop**

Training situations vary greatly; (and) therefore, the materials provided in this Manual should be viewed as a guide to conducting a workshop for the promotion of National Values and Principles of Governance. Planning and conducting a workshop may be divided into three phases namely pre-training activities, activities during training and activities after training.

### **a) Pre-training Activities**

As part of the planning process you should ensure that you carry out training needs assessment in order to establish the purpose and objectives of training as well as the scope and content to be covered. In addition, establish criteria and activities for evaluating training as well as the outcomes to be achieved. You should also identify required resources such as time, finances, venue, equipment, learning aids, facilitators etc. In doing this you should pay close attention to the needs of the participants.

Other pre-training activities include selecting and visiting the training site. Some of the factors to consider when selecting the training site include:

- i. Adequacy of security provision;
- ii. Accessibility by basic means of transport;
- iii. Adequacy of physical space for the participants to be engaged optimally;
- iv. Accessibility to internet services; and
- v. Suitability of the general environment such as the prevailing weather conditions, accessibility by PWDs etc.

Additionally you are required to select and invite participants putting into consideration the following factors:

- i. Gender balance;
- ii. Group diversity such as ethnic, religious, persons with special needs, race, marginalized;
- iii. Area of specialization or position in society;
- iv. Education levels of the participants; and
- v. Commitment, ability and availability of participants and organizations to undertake follow up activities.

### **b) Activities during Training**

Ensure that you have the relevant training materials for the day and that you have selected a variety of activities to deliver the content. As you commence training, establish expectations



of the participants for the course and their levels of knowledge. In the course of conducting the training, you should:

- i. Provide a short description of the unit;
- ii. Provide an overview of the overall aims and objectives;
- iii. Outline the content of the unit; and
- iv. List all the unit activities and their estimated duration.

Clear procedural instructions are provided for each of the activities to help you align the content to meet the participants' expectations. You should provide opportunities for participants to take part in different aspects of the workshop delivery. These include:

- i. Carrying out energizers and reflections;
- ii. Facilitating some of the activities and discussions during the workshop;
- iii. Preparing flipcharts and assisting in other aspects of the training;

Undertaking evaluation process which includes distributing and collecting written questionnaires, analyzing data and presenting preliminary findings to the group; and

- iv. Participating in the daily briefing and debriefing.

At the end of each day, you should plan a debriefing session with other facilitators and a select group of participants. During debriefing, discuss the issues, concerns or challenges related to the training and make adjustments accordingly. Make note of any significant challenge or occurrence in relation to the training. This will form part of your final report. Do not hesitate to get in touch with the coordinators in case of a major challenge or issues. Once the debriefing is over, you should review the next day's outlook with the team of participants.

A proposed agenda for debriefing includes:

- i. Reviewing the day's activities and events;
- ii. Handling and reporting on any logistical issues; and
- iii. Planning for the following day's programme

### **(c) Post-training Activities**

At the end of the training programme compile a comprehensive report based on the following:

- i. A summary of each day's issues and recommendations;
- ii. An evaluation of each facilitator and an end of event evaluation by the participants; and
- iii. Any observation you made during training.



At the end of each training workshop you will be required to carry out a follow up of training to gather feedback on the relevance and applicability of the training. You will be required to use the evaluation data collected after each unit and in a general evaluation questionnaire at the end of the training.

The information gathered from the evaluation should be used to produce a report on the training to be shared with all relevant stakeholders. A discussion on plans for follow up should be in-built into the training design.

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## UNIT 1: INTRODUCTION AND BACKGROUND TO NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

**Time: 90 minutes**

### Introduction

This unit consists of the definition of concepts, categories of values, historical background and objectives of national values and principles of governance in Kenya.

### Learning outcomes

At the end of the unit the participants should be able to:

Define concepts related to national values and principles of governance;

Identify the categories of values;

Appreciate the historical development of national values and principles of governance in Kenya; and

Appreciate and promote the national interests.

### Note to facilitator:

1. Begin the session by explaining to participants the learning outcomes for the session.
2. Ask participants to discuss in groups the meanings of the following terms:
  - **Values;**
  - **National Values;**
  - **Principles of Governance; and**
  - **National Values and Principles of Governance.**
3. Write down their responses in a flip-chart.

Explain to them that the meaning of the terms is as follows:

### Values

Values refer to beliefs or ideals shared by the members of a culture about what is good or bad, desirable or undesirable. They are standards of conduct, efficiency or worth which a society endorses, maintains and even transmits to her members. (Amaele, 2009).

### Principles of Governance

These are normative principles that guide the state to perform its functions in a manner that promotes the general wellbeing of its people. (GoK, 2013).



## 1. Categories of Values

There are various categories of values as discussed below.

- i **Personal/ Individual Values** are core beliefs, values and philosophies that an individual holds about life and its purpose. These values determine and influence what actions a person chooses and may include integrity, generosity, commitment, acceptance, perseverance and hard work. The society defines and identifies individuals based on the values they hold.
- ii **Family Values** refer to ideals which guide family life and are passed down from one generation to another. They define behaviour in various situations, help one make good choices and solidify the bond in families. They may include forgiveness, respect, honesty and responsibility.
- iii **Cultural/ communal/ Societal Values** are the assumptions, beliefs or principles that guide people's decision-making and actions in society (Sowey, 2013). They are also the norms that are embraced by people who share a common identity and ancestry. These may include sharing, respect for authority, obedience and love.
- iv **Religious/ Spiritual Values** define what people expect of themselves and of others based on the beliefs common to the religions they practise. Such values represent the core principles that guide daily decision making. They may include faithfulness, compassion, modesty, honesty, love, chastity, simplicity, righteousness and obedience.
- v **Organizational/ Institutional Values** are norms that inform an organisation's conduct. They are also the 'guiding beacons' directing the process of organizational development and growth. They may include teamwork, commitment, excellence, professionalism and communication.
- vi **(f) Public Service Values and Principles:** These values have been espoused by Article 232(1) of the Constitution. The Values and Principles of Public Service include:
  - (i) high standards of professional ethics;
  - (ii) efficient, effective and economic use of resources;



- (iii) responsive, prompt, effective, impartial and equitable provision of services;
- (iv) involvement of the people in the process of policy making;
- (v) accountability for administrative acts;
- (vi) transparency and provision to the public of timely, accurate information;
- (vii) fair competition and merit as the basis of appointments and promotions;
- (viii) representation of Kenya's diverse communities; and

(ix) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of men and women, the members of all ethnic groups; and persons with disabilities.

- i **National values and Principles of Governance** are a representation of the paramount values upheld throughout the common cultural experience of the nation. They also define the worldview and guide the They refer to aspects that define a people's identity including who they are, what they believe in, what they stand for and how others perceive them. They are seventeen and are outlined in Article 10(2) of the Constitution and include: patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.

## ii **National Values and Principles of Governance**

National Values and Principles of Governance are fundamental beliefs of a nation guiding the choices, actions and behaviour of its citizens. In addition, National Values exert influence on the way individuals relate with one another, how communities engage one another, and how citizens and government structures interact, hence defining a people's identity.

## 2. Historical Background

### **Note to the facilitator:**

1. Begin the session by asking participants to discuss amongst themselves some of the African cultural values that were practiced in the pre-colonial period.
2. Ask them to discuss some of the current cultural; practices relating to religion, birth,

elders among others.

Explain to participants that African cultural values as practiced in the pre-colonial traditional societies basically included the following: a sense of community life; good human relations; the sacredness of life; hospitality; the sacred nature of religion; time; respect for authority and the elders; and language and proverbs. These are the traditional values that refer to beliefs and moral codes that have been passed down from generation to generation within the family, culture, sub-culture or community.

The colonial period witnessed the systematic erosion of African traditional values through the introduction of formal education, Christianity and a centralized administration that encouraged the natives to abandon them for European values that propagated westernisation. The advent of African Independent Churches was part of the fight for independence that advocated for the return of these traditional values.



*Figure 1: Kenya's Historical Background*

Kenya emerged from the oppressive colonial rule as an aggregation of diverse communities in a unified nation-state (Hornsby, 2013). Kenya's independence Constitution established institutions that helped to forge a common front on socio-economic and political development and to build a cohesive and integrated nation. However, national values that





could have helped to cultivate a national identity, core ideals and beliefs beyond ethnic, racial or group values were given less consideration and emphasis.

Institutionalisation of national values was necessary for the modeling of a new Kenya with a new identity and belief system so as to guide nation building and development. In addition, identification and implementation of national values could also have enabled the country to de-link itself from the colonial hangovers and partisan ethnic values in order to motivate and inspire political, economic and social development (GoK, 2013).

However, various post-colonial administrations in Kenya adopted strategies aimed at promoting and integrating values into the national psyche. These include: the *Harambee* spirit of pooling resources together for the development of socio-economic projects after 1963; the *Nyayo* philosophy of peace, love and unity to rally Kenyans towards peaceful and harmonious coexistence; and the working nation (*Uhuruna Kazi*) that was aimed at promoting hard work, innovation and thrift among Kenyans.

#### **Discussion:**

1. Ask participants to discuss challenges that weaken the drive towards a cohesive, united and peaceful and prosperous nation.

Lack of national values and principles of governance however weakened the drive towards a cohesive, united and peaceful nation. Similarly, the absence of agreeable and systematic national values and principles of governance to motivate and guide attitudes and actions of citizens towards nation building and development led to patronage, an ethnicised citizenry and poor governance. At the community level, Kenya's traditional social support systems and social values were eroded due to the negative influence of globalisation and westernisation.

The society was then characterised by poor parenting, appallingly low levels of social etiquette and values focused on materialism and conspicuous consumption. Citizens glorified acquisition of wealth by any means, including the abuse of human rights, misappropriation of public funds, drug trafficking, corruption and general plunder of national resources resulting in ineffective and inefficient implementation of government policies. Consequently, the country became divided along ethnic, class, gender, radicalisation, terrorism, religious and political orientations expressed through deep hatred, negative ethnicity, discrimination and marginalization, unemployment, human rights violations, corruption, assassinations,

inequality and inequity, impunity and underdevelopment. The weak values system in the Kenyan society contributed to the 2007/ 2008 Post-Election Violence.



*Figure 2: weak values system in the Kenyan society contributed to the 2007/ 2008 Post-Election Violence.*

The Kenya Vision 2030 and subsequent Medium Term Plans (MTP I & II) were anchored on a common value system and aimed at transforming Kenya into a Newly Industrialised Country (NIC). Further, the Constitution provides a legal framework on national values and principles of governance. In addition, the Government has developed various policies, legislations and institutional frameworks aimed at promoting National Values and Principles of Governance.

### **National Values and Principles of Governance**

The National Values and Principles of Governance are enshrined in the Constitution as a deliberate effort to facilitate far reaching transformation on the interaction between the governance structure and its citizenry. Commitment to National Values and Principles of Governance transcends communal, ethnic, religious or racial traditions and norms that bond and integrate Kenyans into a unitary nation state. It underscores the citizens' aspirations and desire to appreciate their diversity but remain firmly united by National Values and Principles of Governance.



**Note to the facilitator:**

1. Ask participants to list down the national values and principles of governance. Write down their answers on a flip-chart and display them in the classroom.

Explain to the participants that National Values and Principles of Governance are also enshrined in critical clauses including Articles 4(2), 10(2) and 132(1)(c). Article 4(2) states that “*The Republic of Kenya shall be a multi-party democratic state founded on the National Values and Principles of Governance referred to in Article 10.*” The National Values and Principles of Governance provided in Article 10 bind state organs, state officers, public officers and all persons whenever they apply, interpret or enact laws or when they make or implement public policy decisions. Article 10 (2) highlights the following National Values and Principles of Governance:

Patriotism, National Unity, Sharing and Devolution of power, The rule of law, Democracy, Participation of the people;

Human dignity, Equity, Social justice, Inclusiveness, Equality, Human rights, Non-discrimination, Protection of the marginalized;

Good governance, Integrity, Transparency, Accountability; and Sustainable development.

In addition, Article 132 (1) (c) requires the President to report, in an address to the nation, on all the measures taken and the progress achieved in the realization of National Values and Principles of Governance referred to in Article 10. To operationalise Articles 4(2), 10(2) and 132(1) among others, the Government spearheaded the development of Sessional Paper No. 8 of 2013 on National Values and Principles of Governance that was approved by the National Assembly in December, 2015. The provisions of the Sessional Paper will be implemented through the partnerships and collaborations with the various value carriers and drivers who include the arts, music and entertainment, private sector, civil society, educational institutions, family, government, media, political parties, professional associations, religious and faith-based organizations and sports. This policy also recognizes the paramount role that individual citizens shall play in the transformation of the national values system. (GoK, 2013)

**Activity:**

1. Divide participants into groups and ask them to draw on papers without naming the



seventeen national values and display them on the walls.

2. Ask them to walk around in groups and identify each of the national values.
3. Ask each group to reveal the value that their drawings represent in real life.

### 3. National Symbols and Religiosity

The history of Kenya as a sovereign nation is underpinned by four critical covenantal symbols of National Ethos that act as our foundation. Further, these symbols have kept the country united even through difficult and uncertain periods such as the 2007/ 2008 post elections violence. These symbols include:

- i. **National Anthem:** The National Anthem reflects the nation's world-view and aspirations as expressed by the nation's founders and is a summary of our national values such as social justice, patriotism, democracy and participation of the people, and national unity among others. The National Anthem is a prayer that starts by acknowledging the Almighty Lord and expresses the deepest convictions and the highest aspirations of the people as a whole;
- ii. **National Flag:** The national flag depicts the nation's most cherished ideas, concerns and aspirations as espoused by the founding fathers and has four colours. The black colour represents the African people, white represents peace, red represents blood that was shed during the independence struggle and green represents the land and environment; and
- iii. **National Emblem (Coat-of-Arms):** The emblem of a nation is embossed on coins and other national instruments, reminding everybody of the self-perception of the nation. The coat-of-arms of Kenya features two lions, a symbol of protection, holding spears and a shield. The shield and spears symbolize unity and defence of our freedom.
- iv. **National Religiosity:** The religiosity indicates the presuppositions which are predominant in a nation's self-perception in relation to other nations, cultures, species and future generations. A nation with a secular outlook will trivialise religious identity, whereas a nation with a religious outlook will magnify religious adherence (Saffer, 2002).

Kenya has a secular Constitution which recognizes and appreciates the constructive role of religion. This is a unique constitutional dispensation, which has been retained in the Constitution promulgated in 2010. Furthermore, all state and senior public officers must take



an oath or solemn affirmation that ends as “so help me God” before taking office as stated in the Third Schedule of the Constitution (GoK, 2010).

As a whole, these symbols authenticate the collective identity of the Republic of Kenya under the titular and actual oversight of the Presidency that is the symbol of national unity. The right to freedom of expression under the Bill of Rights (Article 20 (4)) cannot be evoked as an excuse for explicit disrespect of, or contempt for these symbols of the National Ethos. The sanctity of these four symbols of National Ethos provides the fulcrum for national cohesion and integration, irrespective of any differences pertaining to interpretation of any specific clauses in the Constitution. Compliance with the National Values and Principles of Governance will be evaluated on the basis of respect for, appreciation of and compliance with these four symbols of the National Ethos.

National Interests are a nation's perceived needs and aspirations in relation to its international environment (Yarger & Barber, 1997). They refer to the basic determinants that guide state policy in relation to the external environment (foreign policy) and public interest (domestic policy) are fundamental for National Values and Principles of Governance (The Government Press, 2007). They comprise both strategic and economic capabilities of the state which are important to its survival and around which the population is mobilized to protect and preserve. They include among others; territorial integrity, state sovereignty, protection of citizens and economic resources, peace and stability, peaceful coexistence, respect for international law and human rights, sustainable economic development and active membership in regional and international organizations.

Kenya's national interests determine our involvement in the rest of the world. They provide the focus of our actions, and are the starting point for determining national objectives and the formulation of national policies and strategies. The Constitution gives prominence to national cohesion and National Values and Principles of Governance. In this regard, a cohesive society with shared national values and responsibility enhances the capability of the state to protect its national interests.

National Values and Principles of Governance are important to the emergence of a socially, economically and politically transformed Kenyan society. Key institutions such as the Presidency, the Judiciary, Parliament, Kenya National Audit Office (KENAO), the National



Police Service (NPS), the Office of the Director of Public Prosecutions (ODPP) and Ethics and Anti- Corruption Commission (EACC) play a vital a role in spearheading the inculcation of National Values and Principles of Governance as a strategy to curb impunity, corruption, radicalisation, terrorism, political incitement, hate messages and lack of patriotism among others. This will therefore promote national cohesion, reconciliation and peaceful coexistence among the various ethnic, religious and racial segments of the population and enhance the realisation of the Kenya Vision 2030.

#### **4. Objectives of National Values and Principles of Governance**

The main objective of national values and principles of governance is to foster societal transformation in Kenya. The specific objectives are:

- i. To shape our beliefs, our worldview and the paradigm that we operate from;
- ii. To transform institutional and individual behavior to foster ethical conduct;
- iii. To enhance positive influence on the work ethics and productivity of Kenyans;
- iv. To improve the quality of leadership, management practices and utilization of national resources at all levels;
- v. To brand and promote a positive image about Kenyans;
- vi. To promote national cohesion and stability among Kenyans;
- vii. To promote good governance in both state and non- state entities;
- viii. To improve the social, economic, political and environmental development of the country;
- ix. Promote transparency, accountability, trust, perception on Kenyans and hence lead to higher levels of investment, wealth and employment creation; and
- x. Improved quality and standard of life of the people.

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## **UNIT 2: LEGAL, INSTITUTIONAL, POLICY FRAMEWORKS AND ADMINISTRATIVE ACTIONS FOR THE PROMOTION OF NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE**

**Time: 2 Hours**

### **Introduction**

This unit covers the legal, institutional, policy frameworks and administrative actions for the promotion of National Values and Principles of Governance. The unit also discusses the benefits and the challenges of the policy, legal, institutional frameworks and administrative actions.

### **Learning outcomes**

By the end of this unit, the participants should be able to:

- a) Identify and understand the policies and legislations that facilitate the promotion of National Values and Principles of Governance;
- b) Identify and appreciate the role of different institutions in the promotion of National Values and Principles of Governance;
- c) Facilitate compliance to rules, regulations and guidelines arising from administrative actions; and
- d) Appreciate the benefits and challenges of the policy, legal, institutional frameworks and administrative actions in the promotion of National Values and Principles of Governance.

### **1. Legal Frameworks that Facilitate Promotion of National Values and Principles of Governance**

#### **Note to the facilitator:**

1. Begin the session by explaining to the participants the learning outcomes for the session.
2. Ask the participants to discuss in groups what they understand by the term, legal framework.



Explain to the participants that a legal framework refers to the system of rules, regulations and guidelines which are enforced through institutions of governance. These are national, regional and international as discussed below:

## **2. International Legal frameworks**

The Constitution of Kenya under Article (2)(6) provides that any treaty or convention ratified by Kenya shall form part of the laws of Kenya. Kenya is legally bound by international instruments which provide a critical foundation for the development and implementation of National Values and Principles of Governance. These instruments include:

### **i. The United Nations International Covenant on Civil and Political Rights**

Article 2 of this Covenant states among others that each party state undertakes to respect and ensure that all individuals within its territory and subject to its jurisdiction enjoy the rights recognized in the present Covenant, without discrimination of any kind, whether on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The member states are further required to adopt legislative or other measures as may be necessary to give effect to the rights recognized in the Covenant in accordance with its Constitutional processes.

Article 27 of the covenant requires member states to ensure that ethnic, religious or linguistic minorities enjoy their own culture, profess and practice their own religion, or use their own language.

### **ii. The United Nations International Covenant on Economic, Social and Cultural Rights, 1966**

Article 3 of this Covenant states that member states should ensure equal rights of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant.

### **iii. The Universal Declaration of Human Rights, 1948**

Article 2 of this Declaration stipulates that everyone is entitled to all the rights and freedoms set forth in the Declaration, without discrimination of any kind, whether on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no discrimination should be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, non-self-governing or under any other limitation of sovereignty.

### **iv. International Convention on the Elimination of All Forms of Racial Discrimination (1965)**



This Convention provides for elimination of racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination.

**v. Convention on the Rights of the Child, 1989**

The Convention provides for the promotion and protection of child rights. Children are defined as persons below 18 years of age which is also the case in Kenya. Article 2 stipulates that the rights in the Convention must be guaranteed without discrimination on the basis of, among other qualities, race, colour, language, and religion, national or ethnic origin.

**vi. Convention on the Elimination of All Forms of Discrimination Against Women, 1979**

The convention focuses on the rights of women which include the right to equal treatment under the law; equality in education, political participation, employment, health, and the economy; freedom from sexual exploitation; and the possibility of temporary special measures to overcome inequality. Member states are required to eliminate discrimination against women by “any person, organization or enterprise”, member States agree to take appropriate measures “to modify or abolish existing laws, regulations, customs and practices” that discriminate against women.

**vii. 2007 Declaration on the Rights of Indigenous People**

The Declaration focuses on the individual and collective rights of indigenous people, as well as their rights to culture, identity, language, employment, health, education and other issues. It emphasizes the rights of indigenous peoples to maintain and strengthen their own institutions, cultures and traditions, and to pursue their development in keeping with their own needs and aspirations. It prohibits discrimination against indigenous peoples, and it promotes their full and effective participation in all matters that concern them and their right to remain distinct and to pursue their own visions of economic and social development.

**viii. Rio Declaration on Environment and Development, 1992**

This Declaration provides for achievement of sustainable development and a higher quality of life by ensuring that states reduce and eliminate unsustainable patterns of production and consumption and promotes appropriate demographic policies.

**IX. United Nations Convention against Corruption, 2004**

The purpose of this Convention is to:



- a. promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- b. Promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption including in asset recovery; and
- c. Promote integrity, accountability and proper management of public affairs and public property.

### **3. Regional legal instruments that Facilitate Promotion of National Values and Principles of Governance**

Kenya is a signatory to regional treaties which facilitate the promotion of National Values and Principles of Governance. The treaties among other things recognize collective rights with special emphasis on the rights and duties of the child, the family, the community, the society and the nation. They also recognize the rights to peace, solidarity, a healthy environment and development. These instruments include:

- a. The African Charter on the Rights and Welfare of the Child (African Child Charter, 1999) which provides for the promotion and protection of the rights and welfare of the Child.
- b. The African Charter on Human and People's Rights (Nairobi 1981) and the Grand Bay Declaration and Plan of Action on Human rights whose focus is on promotion of Human and People's Rights in the Continent.
- c. The Charter on Popular Participation adopted in 1990 which places the African citizen at the center of development and decision-making.
- d. The 2000 Solemn Declaration on the Conference on Security, Stability, Development and Cooperation which establishes the fundamental principles for the promotion of Democracy and Good Governance in the Continent.
- e. African Union Convention on preventing and combating corruption, 2003 which offers guidance in the areas of prevention, criminalization, international cooperation and asset recovery.

### **4. National Legal Frameworks**

Most of the initiatives that promote National Values and Principles of Governance are grounded in various legal documents. It is through these instruments that various institutions



and bodies find their mandate and obligation to ensure the promotion of National Values and Principles of Governance. Some of these major documents include:

**a) The Constitution of Kenya**

**Note to the Facilitator:**

1. Ask the participants to identify articles in the Constitution which are key in the promotion of national values and principles of governance.

Explain to the participants that the Constitution of Kenya provides a strong platform for the promotion of National Values and Principles of Governance. The Articles that focus on national values include :

- a. The Preamble which affirms that Kenyans recognize the supremacy of the Almighty God; celebrates Kenya's ethnic, cultural and religious diversity; asserts that Kenyans desire to live as one indivisible sovereign nation; validates Kenyans' resolve to nurture, protect and sustain the environment for their benefit and that of the future generation; recognizes the desire by Kenyans to be governed on the basis of essential values of human rights , equality, freedom , democracy, social justice and the rule of law, among others.
- b. Article 4(2) which states that, "The Republic of Kenya shall be a multi-party democratic state founded on the National Values and Principles of Governance".
- c. Article 10 (1) of the Constitution which provides that the National Values and Principles of Governance bind all State organs, State officers, Public officers and all persons whenever any of them:
  - i Applies or interprets the Constitution;
  - ii Enacts, applies or interprets any law; or
  - iii Makes or implements public policy decisions.
- d. Article 10 (2) highlights the National Values and Principles of Governance:

Patriotism, National Unity, Sharing and Devolution of power, The rule of law, Democracy, Participation of the people

  - i. Human dignity, Equity, Social justice, Inclusiveness, Equality, Human rights, Non-discrimination, Protection of the marginalized
  - ii. Good governance, Integrity, Transparency, Accountability
  - iii. Sustainable development.



e. Article 73 (2) provides for the guiding principles of leadership and integrity which include:

i. selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;

ii. objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;

a. selfless service based solely on the public interest, demonstrated by—

(i) honesty in the execution of public duties; and

(ii) the declaration of any personal interest that may conflict with public duties;

b. accountability to the public for decisions and actions; and

c. discipline and commitment in service to the people.

iii. Article 131 states that the President performs numerous functions which include promotion and enhancement of the unity of the nation. In this regard, he is expected to lead Kenyans towards a collective heritage and vision regardless of their diversities.

iv. Article 132 (1)(c), of the Constitution which provides that the President shall once every year, report in an address to the nation, on all the measures taken and the progress achieved in the realization of the national values, referred to in Article 10.

The President is further required to publish in the Kenya Gazette the details of the report.

v. Article 234 (2)(h) which requires the Public Service Commission to evaluate and report to the President and Parliament on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service.

vi. Article 249 (1) (b) which requires all constitutional commissions and independent offices to secure the observance of democratic values and principles by all State organs.

Other relevant provisions in the constitution include; Articles 1, 5, 7, 11, 19, 20, 22, 27, 28, 33, 40, 43, 48, 52 – 57, Chapter 5 and 6, Articles 100, 104, 174, 202, and 204. These Articles emphasize the following elements of National Values and Principles of Governance:



- i Sovereignty of the people;
- ii National, official and other languages;
- iii National symbols and national days;
- iv Culture;
- v The bill of rights particularly Articles 53 (children), 54 (persons with disability), 55 (youth), 56 (minorities and marginalized groups) and Article 57 (older members of the society);
- vi Land and environment;
- vii Representation of the people;
- viii Promotion of representation of marginalized groups in the legislature (Article 100) and the right to recall a member of parliament (Article 104);
- ix Devolution of Government; and
- x Equitable sharing of national revenue (Article 202) and the Equalization fund (Article 204).

#### **b) Leadership and Integrity Act, 2012**

The Leadership and Integrity Act, 2012 was enacted in accordance with Article 80 of the Constitution of Kenya. The Act establishes procedures and mechanisms ensure that state officers uphold and respect the values, principles and requirements of the constitution while discharging public duty. this include:

- i. national values and principles of governance;
- ii. rights and fundamental freedoms;
- iii. responsibilities of leadership and principles governing the conduct of state officers;
- iv. educational, moral and ethical requirements for persons seeking elective office;
- v. Objectives of devotion; and
- vi. Values and principles if public service.

#### **c) Public Service (Values and Principles) Act, 2015**

The Act seeks to:

- i Provide a general code on the values and principles of pubic service;
- ii Enhance pubic participation in the promotion of the vaues amnd principles of, and policy making by the public service; and

Enhance reporting on the status of the promotin of vaues and principles of public service.

#### **d) Fair Administrative Action Act, 2015**



The Act seeks to give effect to Article 47 of the Constitution that provides for the rights of individuals to administrative actions that is expeditious, efficient, lawful, reasonable and procedurally fair.

**e) Other Legal Instruments**

The following Acts of Parliament form part of the legal framework for the promotion of national values and principles of governance:

- i. National Cohesion and Integration Act No. 12 of 2008
- ii. The Commission on Administrative Justice Act, 2011
- iii. The National Gender and Equality Commission Act, 2011
- iv. The Transition to Devolved Government Act, 2012
- v. Kenya National Commission on Human Rights Act, 2011
- vi. The Public Audit Act No.12 of 2003
- vii. Independent Electoral and Boundaries Commission (IEBC) Act No.9 of 2011
- viii. Commission on Revenue Allocation Act, 2011
- ix. Ethics and Anti-Corruption Commission Act, 2011
- x. County Governments Act, 2012
- xi. Salaries and Remuneration Commission Act, 2011
- xii. National Police Service Commission Act, 2014
- xiii. Anti-Corruption and Economic Crimes Act, 2003
- xiv. Public Officer Ethics Act, 2003
- xv. Public Procurement and Asset Disposal Act, 2015
- xvi. Public Finance Management Act, 2015
- xvii. Proceeds of Crime and Anti-Money Laundering Act, 2014

**Note the facilitator:**

1. Ask the participants to discuss benefits and challenges of legal frameworks.
2. Write down their responses in a flip-chart.

Explain to the participants that the benefits of the legal frameworks include:

- i. Establishing of the institutions that are charged with the promotion of the national values and principles of governance;





- ii. Giving the institutions the necessary legal basis for enforcement and adherence to the values; and
- iii. Providing powers to the established institutions to promote National Values and Principles of Governance.

Explain to the participants that some of the challenges of the legal framework include:

- i Impunity and Corruption;
- ii Limited access to legal resources by stakeholders;
- iii Weak enforcement of laws;
- iv Limited awareness and civic education on National Values and Principles of Governance.

## 5. Institutional Frameworks

### **Note to the facilitator:**

1. Ask the participants to enumerate the institutions which have contributed to the promotion of national values and principles of governance.
2. Write down their responses in a flip-chart.

Explain to the participants that various institutions have been established to facilitate the promotion of National Values and Principles of Governance. These include:

### **a) The Presidency**

The Presidency plays a critical role in the promotion of national unity. Article 131 of the Constitution of Kenya, 2010 indicates that the President is a symbol of national unity. The President is required to lead the nation towards a collective heritage and vision regardless of the existing diversities. Specifically, the Constitution provides that the President; respects, upholds and safeguards the Constitution; safeguards the sovereignty of the Republic; promotes and enhances unity of the nation; promotes respect for the diversity of the Kenyan people and communities of Kenya; and ensures protection of human rights and fundamental freedoms and the rule of law.

In Article 132, the president is required to report in an address to the nation on the measures taken and progress made in the realization of National Values and Principles of Governance



(GoK, 2012). It therefore follows that the role of protection, prioritization and promotion of National Values and Principles of Governance is cited as a function of the Presidency.

Executive Order No. 1 of 2016 moved the function of national cohesion and values to the Executive Office of the President. In respect to the promotion of National Values and Principles of Governance, the Executive Office of the President through the Directorate of National Cohesion and National Values undertakes the following functions:

- i. Formulation , development and implementation of policies, strategies and plans for the achievement of national values;
- ii. Spearheading the promotion of national values;
- iii. Formulation, coordination and implementation of programmes for the promotion of national values in liaison with other stakeholders;
- iv. Liaising with other Government Ministries, Departments and Agencies (MDAs) in mainstreaming National Values within the public service;
- v. Advocacy, Public Education and Sensitization on national values;
- vi. Conducting research in areas of national values;
- vii. Undertaking Monitoring and Evaluation of national values programmes in the country and their respective impact; and
- viii. Advising the presidency on promotion and reporting on national values.

**NOTE:***The Directorate's primary mandate is the promotion of National cohesion and Values.*

#### **b) Ministry of Interior and Coordination of National Government**

The Ministry of Interior and Coordination of National Government is responsible for the following functions: National Government coordination at counties; internal state functions; printing of government documents; Disasters and Emergency Response coordination; National Disaster and Operation center; Policy on training of security Personnel among others.

The Ministry's overall Vision is 'to be an excellent agency in the provision and promotion of a secure, cohesive and crime free society, for Kenya's prosperity.' The Mission is 'to promote the provision of security and safety, maintain a comprehensive national population database, enhance nationhood, facilitate administration of justice, provide correctional services and coordinate national government functions for socio-economic and political development in Kenya.



### **c) Ministry of Education, Science and Technology**

The Executive Order No. 2/2013 assigns the Ministry of Education, Science and Technology the responsibility of education policy management, curriculum development, schools administration and programmes amongst others. The education sector provides an avenue through which life skills, principles and values for personal, social and economic development are propagated. The national goal of education emphasizes the promotion of values such as national unity, moral and religious values, social equality and responsible citizenship. Further, the Ministry provides for co-curriculum activities such as music, drama and clubs which provide a learning platform for inculcating National Values and Principles of Governance. Further, the peace education programme initiated by the Ministry is critical in inculcating values of tolerance, appreciation of diversity and peaceful co-existence which are key tenets of national unity.

### **d) Ministry of Sports, Culture and the Arts**

The Executive Order No. 2/2013 assigns the Ministry of Sports, Culture and the Arts the responsibility of management of the sports policy, national culture and national heritage management, development of fine, creative and performing Arts. Overall, sports, culture and the arts are valuable tools for national cohesion and de-ethnicization of the Kenyan society and are critical in the promotion of national unity.

### **e) Ministry of Devolution and Planning**

The Executive Order No. 2/2013 assigns the Ministry of Devolution and Planning the responsibility of steering devolution. Further, the Ministry coordinates special interest groups policies and special areas including arid and pastoralist lands among others. These targeted policy priority areas and initiatives provide a platform for the promotion of National Values and Principles of Governance such as equity, equality, non-discrimination and protection of the marginalized among others.

### **f) Ministry of Public Service, Youth and Gender Affairs**

The Ministry coordinates the mainstreaming of the Gender Policy, 2011 as well as Kenya National Youth Policy, 2006. In this way, the Ministry is promoting the values of human dignity, human rights, inclusiveness, equality, protection of the marginalized and non-discrimination.

### **g) Devolved Governments**

Devolved governments are critical in the promotion of National Values and Principles of Governance as it provides for promotion of democratic and accountable exercise of power,



fostering of national unity by recognizing diversity, giving powers of self-governance to the people and hence participation of the people in the exercise of powers. It also provides for protection of the interests of the minorities and marginalized communities to promote social and economic development through ensuring equitable distribution of resources across the country, especially the regions that have been marginalized. It further provides for accessible services throughout the country through management of governance and public service to the smallest units in the counties.

The devolved governments also provide a mechanism through which the County Public Service Boards and the County Chief Executive Officers spearhead programs to promote national values and monitor measures taken and progress achieved in the realization of National Values and Principles of Governance.

#### **h). National Cohesion and Integration Commission (NCIC)**

Established by an Act of Parliament No. 12 of 2008, National Cohesion and Integration Commission facilitates and promotes equality of opportunity, good relations, harmony and peaceful co-existence between persons of the different ethnic and racial communities of Kenya, and advise the Government on all aspects thereof. These elements are key in the realization of national values in Kenya.

#### **i). Commission on Administrative Justice**

The Commission on Administrative Justice (CAJ), also known as the Office of the Ombudsman is an independent commission established by the Commission on Administrative Justice Act, 2011 pursuant to Article 59 (4) of the Constitution of Kenya. The commission is mandated to address all forms of maladministration, promote good governance and efficient public service delivery by enforcing the right to fair administrative action. The Commission investigates abuse of power, manifest injustice and unlawful, oppressive, unfair or unresponsive official conduct. As their slogan goes, '*Hata Mnyonge ana Haki*' (the weak or disadvantaged have rights too), the Commission works to ensure that the dignity of every Kenyan citizen is respected. Its primary function is to ensure public officers and public institutions respect sovereignty of the people of Kenya and contribute immensely to the realization of social justice.



#### **j). National Gender and Equality Commission**

The National Gender and Equality Commission was established by NGEC Act, 2011 to promote gender equality and freedom from all forms of discrimination which is one of the basic foundational principles for the realization of national values. The functions of the Commission include:

- i. To promote gender equality and equity and coordinate gender mainstreaming in national development;
- ii. To initiate and advocate for legal reforms on issues affecting women, and to formulate laws, practices and policies that eliminate all forms of discrimination against women and all institutions, practices and customs that are detrimental to their dignity;
- iii. To institute proposals and advise on the establishment and strengthening of institutional mechanisms which promote gender equity and equality in all spheres of life, and in particular access to benefits of education, healthcare, nutrition, shelter, employment and control of economic and national resources;
- iv. Plan, supervise and coordinate education programmes to create public awareness and support for gender issues;
- v. Conduct and coordinate research activities on gender issues; and
- vi. To carry out investigations on gender-based rights, and violations, and forward recommendations to the relevant authorities.

#### **k). Kenya National Commission on Human Rights**

The Kenya National Commission on Human Rights (KNCHR) is mandated to enhance the promotion and protection of human rights in public and private institutions. The Commission is further mandated through the Act to monitor, investigate, research and report on human rights issues. Further, it is tasked with formulating programmes that enhance the profile of human rights in society. In these endeavours, the law requires it to liaise with the commissions on gender and equality and administrative justice to ensure efficiency, effectiveness and complementarity. Given the history of gross violations of human rights in Kenya, the KNCHR is a crucial institution for restoring public confidence in the rule of law.

#### **l). The Kenya National Audit Office**

The Kenya National Audit office (KENAO) was established by the Public Audit Act No. 12 of 2003. The Act mandates KENAO to provide for the audit of government, state



corporations and county governments, to provide for efficiency and effectiveness in examinations of the books of account and revenue collection. In these endeavours, the Act requires KENAO to submit to Parliament audit reports of various public institutions, the viability of government corporations, whether lawful procedures were followed in government spending and collection of government revenues, financial accountability of government offices and makes appropriate recommendation to other relevant enforcement agencies. The office therefore enhances the realization of integrity, transparency and accountability in public institutions.

**m). Independent Electoral and Boundaries Commission (IEBC)**

The Independent Electoral and Boundaries Commission was established by an Act No. 9 of 2011. The Commission is responsible for conducting or supervising referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament. The Act mandates the Commission to undertake continuous registration of citizens as voters; the delimitation of constituencies and wards in accordance with the Constitution; the settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding election petitions and disputes subsequent to the declaration of election results; voter education; the facilitation of the observation, monitoring and evaluation of elections; the development and enforcement of a code of conduct for candidates and parties contesting elections; the investigation and prosecution of electoral offences by candidates, political parties or their agents pursuant to Article 157(12) of the Constitution; and other functions as are provided for by the Constitution or any other written law. The IEBC therefore enhances democracy by ensuring the right to vote and the opportunity to vote, what is referred to as universal suffrage and also good governance by resolving disputes of elections

.

**n). Commission on Revenue Allocation**

The Commission was established by the Commission on Revenue Allocation Act, 2011 as required under Article 215 and 216 of the Constitution of Kenya. While discharging its mandate as outlined by the Act, the Commission promotes National Values and Principles such as protection of the marginalized, equity by ensuring equitable sharing of revenue raised by the national government between the national and county governments. It further enhances the revenue sources of the national and county governments and encourages fiscal



responsibility. Thus, the Commission ensures that development is spread out to all the counties in Kenya.

**o). Ethics and Anti-Corruption Commission**

The Commission was formerly established under the Anti-Corruption and Economic Crimes Act, 2003 which was repealed to Ethics and Anti-Corruption Commission Act, 2011. It is mandated to spearhead the promotion of ethics and fight against corruption and economic crimes in Kenya. It provides for strategies employed in the fight against corruption. It undertakes investigation, prevention, education, and asset recovery. The objective of the Commission is to reduce and eliminate opportunities for corruption and inspire behavioral and attitude change to ensure a corruption free nation.

The Commission is guided by laws such as the Leadership and Integrity Act, 2012, the Public Finance Management Act, 2012 and the Proceeds of Crime and Anti-Money Laundering Act, 2009. The Commission therefore promotes and enforces the value of integrity in the society especially among public and state officers.

**p). Salaries and Remuneration Commission**

The Commission is established by the Salaries and Remuneration Commission Act, 2011. It is mandated to set and regularly review the remuneration and benefits of all state officers; and advise the National and County governments on the remuneration and benefits of all other public officers. In executing their mandate, they promote the value of equity, non-discrimination, transparency and accountability as well as sustainable development.

**q). National Police Service Commission**

The commission is established the National Police Service Commission Act, 2014 to:

- i. Recruit and appoint persons to hold or act in office in the police service, confirm appointments and determine promotions and transfers within the National Police Service
- ii. Observing due process, exercise disciplinary, control over and remove persons holding or acting in offices within the Service

In executing this mandate the Commission promotes the values of national unity, rule of law, and inclusivity.





**r). Judicial Service Commission**

The Judicial Service Commission is established under Article 171 (1) of the Constitution of Kenya. It is mandated to promote and facilitate the independence and accountability of the Judiciary and efficient, effective and transparent administration of justice. In implementing their mandate they promote values of good governance, rule of law, transparency and accountability and human rights.

**s). Public Service Commission**

The Commission is established under Article 234 of the Constitution of Kenya. It is mandated to establish and abolish office in the public service; appoint persons to act or hold public offices, and confirm appointments; and exercise disciplinary control over and removes persons holding or acting in those offices among others. In implementing this mandate, the Commission promotes the values of equity, sustainable development, national unity and non-discrimination.

**t). Parliamentary Service Commission**

The Commission is established under Article 127 (1) of the Constitution of Kenya. The Commission is mandated to among others providing services and facilities to ensure the efficient and effective functioning of Parliament, exercising budgetary controls and promoting ideals of democracy. In executing their mandate, the Commission promotes the values of national unity, patriotism, democracy and participation of the people, and transparency and accountability.

**u). Teachers Service Commission**

The Commission is established under Article 237 (1) of the Constitution of Kenya. It is mandated to among others to register, recruit and employ trained teachers, review the standards of education and training of persons entering the teaching service and advise the national government on matters relating to the teaching profession. In executing their mandate the Commission promotes human rights, social justice, inclusiveness and sustainable development.

**v). National Land Commission**

The Commission is established under Article 67 (1) of the Constitution of Kenya. It is mandated to manage public land on behalf of the national and county governments; advise the national government on a comprehensive program for the registration of title in land throughout Kenya and to initiate investigations, on its own initiative or on a complaint into present or historical land injustices and recommend appropriate redress. In executing their





mandate the Commission promotes sustainable development, social justice, human rights and human dignity.

**w). Asset Recovery Agency**

The Agency is established under the Proceeds and Anti Money Laundering Act, 2014. It is mandated to track and recover public funds lost in past corruption by freezing bank accounts and property acquired through suspected corruption. In executing this mandate, they promote the values of integrity, transparency and accountability and good governance.

**2.3 Benefits of the Institutional Framework**

- a) Providing a platform for the promotion of National Values and Principles of Governance;
- b) Mobilizing resources needed for the promotion of national values;
- c) Creating structures necessary for the promotion of national values; and
- d) Providing guidance in the processes of promoting national values.

**2.4 Challenges of the Institutional Framework**

- a) Inadequate human capacity to implement National Values and Principles of Governance;
- b) Inadequate budgetary allocation for the promotion of National Values and Principles of Governance; and
- c) Limited coordination and synergy among institutions charged with the responsibility of promoting National Values and Principles of Governance.

**6. Policies that promote the Realization of National Values and Principles of Governance**

**Note to the facilitator:**

1. Ask the participants to define the term policy and enumerate various policies which contribute to the promotion of national values and principles of governance.
2. Write down their responses in a flip-chart.

Explain to the participants that a policy is a course of action by a government or organization chosen to solve a problem or guide in determining present or future decisions regarding matters of concern. Policies are the basic principles by which a government is guided. They

are the declared objectives that a government or party seeks to achieve and preserve in the interest of the national community.



**Figure 3. Instruments that promote National Values and Principles of Governance**  
*Graphic representation. By Musambai*

The promotion of National Values and Principles of Governance is guided by a number of policies and these include:

### **I. Kenya Vision 2030**

The Kenya Vision 2030 aims at transforming Kenya into a newly industrializing, middle income country providing a high quality of life to all its citizens in a clean and secure environment and thus make Kenya a globally competitive and prosperous nation.

The Vision is anchored on three pillars:

The **Economic Pillar** that aims to achieve and sustain an average growth rate of 10% per annum until 2030. The key sectors are tourism; agriculture, livestock and fisheries; trade; manufacturing; Business Process Outsourcing (BPO), Information Technology Enabled Services (ITES); financial services and oil and other mineral resources.



The **Social Pillar** seeks to create a just, cohesive and equitable social development in a clean and secure environment. The key transformative social sectors include education and training; health; environment; water and sanitation; population, urbanization and housing; gender, vulnerable groups and youth; sports, culture and the arts.

The **Political Pillar** aims to realize a democratic political system founded on issue based politics that respects the rule of law and protects the rights and freedoms of every individual in Kenya. It comprises institutional, administrative and judicial reforms, legal aid and awareness, national cohesion and integration, leadership, ethics and integrity, civic education programmes, correctional services (prison and probation), development of laws to implement the Constitution and witness protection programmes.

The economic, social and political pillars are anchored on enablers and macro or the foundations. The enablers and macro consist of infrastructure, information and communication technology (ICT), science, technology and innovation (STI), land reforms, policy sector reforms, labor and employment, national values and ethics, ending drought emergencies, security, peace building and conflict resolution.

National values are instrumental for the realization of the aspirations of Kenya Vision 2030.

## **II. Sessional Paper No. 8 of 2013 on National Values and Principles of Governance**

This Sessional Paper supports transformational leadership, promotes a sense of common identity, better understanding, and social harmony, enhances national cohesion, and thereby lay a firm foundation for nationhood and sustainable development.

The Sessional paper provides for interventions to address challenges which impact on realization of National Values and Principles of Governance. These challenges include lack of a strong national identity, lack of effective representation and leadership, inequitable distribution of resources, among others. The interventions outlined by the Sessional paper include; development of a strong national identity through inculcation of values of patriotism, national unity and rule of law; effective representation and leadership by inculcating values of sharing and devolution of power and resources, democracy and empowerment of the people; equitable allocation of resources and opportunities; good governance; and sustainable development among others.

The Sessional paper further provides for various strategies critical for the promotion of national values, namely; associative approach which entails use of neighborhoods, self-help



groups, community-based organizations, non-governmental groups among others to promote the realization of national values and principles of governance. Other strategies include recruiting and mobilizing change agents; mainstreaming values for behavior change in all spheres; and affirming national values and their champions.

### **III. Sessional Paper No. 9 of 2013 on National Cohesion and Integration**

The Sessional Paper No. 9 of 2013 on National Cohesion and Integration is aimed at ensuring that Kenya becomes an equitable society that is politically, economically and socially cohesive and integrated where the citizens have a shared vision and sense of belonging while appreciating diversity which are key tenets of a values-based society.

This Sessional paper is critical in the promotion of National Values and Principles of Governance through addressing socio-economic inequalities, managing ethnic and socio-cultural diversities, preventing and reconciling conflicting situations which often impact negatively on national unity, ensuring the rule of law, security and order, entrenching national values in all segments of the society, addressing unemployment challenges and promoting participative communication which is key in enhancing democracy and participation of the people.

### **IV. Sessional paper No. 5 of 2014 on National Policy for Peace Building and Conflict Management**

This Sessional paper aims at re-focusing peace building and conflict management efforts and practices towards measures that increase the potential for peaceful co-existence and human security as precursors for sustainable development, and a just and peaceful society. The Sessional paper also espouses the following values hinged in the Constitution of Kenya: national unity and nationhood; equality before the law and application of the rule of law; integrity, honesty and accountable leadership; equitable distribution of wealth among others. It therefore forms a foundation for the promotion of National Values and Principles of Governance.

### **V. Gender Policy, 2011**

This Policy seeks to contribute to strengthening gender equality through promoting equity and equality between women and men, girls and boys. It specifically seeks to: promote equity and equality of women and men, and ensure that interventions do not promote inequitable gender roles and relations, provide quantitative and qualitative information on



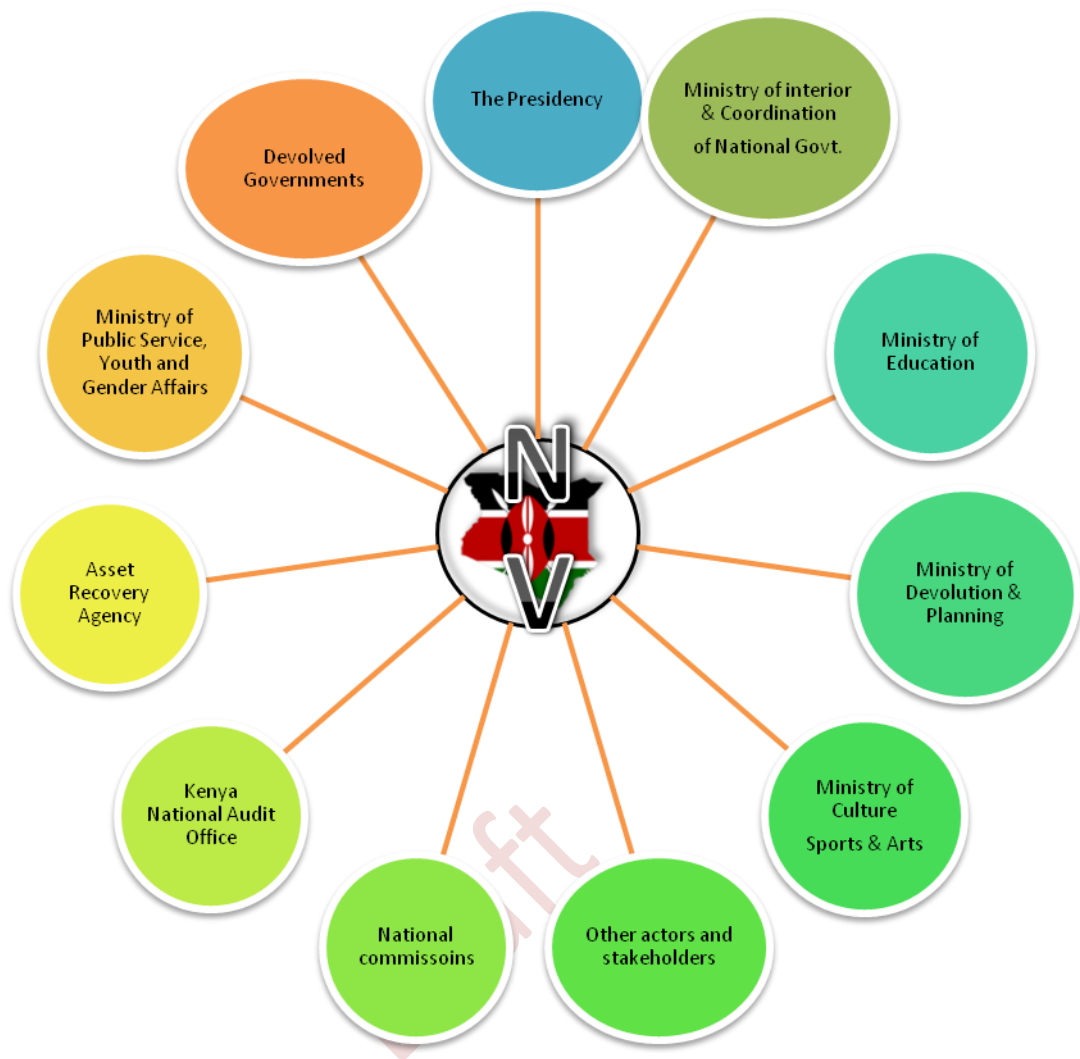
the influence of gender on diverse sectoral issues. The Policy further outlines support to be given to line ministries and state corporations when undertaking gender responsive planning, implementation and evaluation of policies, programmes and projects.

#### **VI. Kenya National Youth Policy, 2006**

The Policy aims at ensuring that the youth play their roles in the development of the country. Its goal is to promote youth participation in community and civic affairs and to ensure that youth programmes are youth-centered. It proposes guidelines and strategies that can be used to facilitate participation of the youth in national development. The Policy thus lays a foundation for promotion of national values such as democracy and participation of the people, equality, human rights and human dignity among others.

#### **VII. National Policy for the Sustainable Development of Northern Kenya and Other Arid Lands, 2015**

The goal of this Policy is to facilitate and fast-track sustainable development in Northern Kenya and other arid lands by increasing investment in the region and by ensuring that the use of those resources is fully reconciled with the realities of people's lives. One of the objectives of this Policy is to strengthen the integration of Northern Kenya and other arid lands with the rest of the country and mobilize the resources necessary to ensure equity and realize the region's potential. It highlights the gains for the country if the inequalities are removed and the ASALs brought into the mainstream of the national economy. Thus, this Policy promotes the values of equity, sustainable development, non-discrimination and protection of the marginalized.



*Figure 4. Key Institutions that promote National Values*

### Benefits of Policy Framework

**Explain to the participants that the benefits of a policy framework include the following:**

- Provides an understanding of the concept of national values and the need to promote them;
- Provides strategies that must be put in place to promote National Values and Principles of Governance; and
- Outlines roles and responsibilities of various institutions in the promotion of National Values and Principles of Governance.

### 2.5 Challenges of Policy Framework



**Explain to the participants that the challenges of a policy framework include:**

- a) Lengthy processes of developing on policy documents which facilitate promotion of National Values and Principles of Governance; and
- b) Inadequate budgetary provision/resources for effective implementation of the provisions of the policy on National Values and Principles of Governance.

**7. Administrative Actions**

**Notes to the facilitator:**

Ask the participants to discuss what they understand by the term administrative actions and enumerate administrative actions which facilitate the realization of national values and principles of governance in their respective organizations.

Explain to them that administrative actions refer to organizational initiatives which facilitate realization of National Values and Principles of Governance. These include but are not limited to the following:

- i. Continuous training, awareness creation and dissemination of programmes on National Values and Principles of Governance;
- ii. Mainstreaming National Values and Principles of Governance into the educational curriculum at all levels;
- iii. Provision of Information, Education and Communication (IEC) materials on National Values and Principles of Governance to both staff and other stakeholders;
- iv. Systemic and administrative actions put in place to hold the state and public officers to account for violating National Values and Principles of Governance such as vetting of persons appointed to hold certain public offices;
- v. Codes of conduct put in place to enforce compliance with the National Values and Principles of Governance;
- vi. Administrative and civil actions like warnings, reprimands, demotions or dismissals of staff who violate the provisions of Article 10;
- vii. Integration of National Values and Principles of Governance into the annual performance contracting procedures;
- viii. Development of customer service delivery charters in line with the provisions on National Values and Principles of Governance;
- ix. Judicial action and interpretation that have seen several court actions taken against those who flout National Values and Principles of Governance; and





- x. Alignment of policies and regulations to National Values and Principles of Governance.

## **8. Benefits of Administrative Action**

Explain to the participants that the benefits of administrative actions include:

- i. Enhancing efficiency and effectiveness in service delivery;
- ii. Providing for redress in case of violation of the values ; and
- iii. Enhancing the level of integrity in the society.

## **9. Challenges of Administrative Actions**

Explain to the participants that the challenges of administrative actions include:

- i. Weak enforcement of the administrative decisions; and
- ii. Inadequate capacity to promote National Values and Principles of Governance.

### **Activity:**

1. Ask participants to discuss how policies have contributed to the promotion of national values in their respective communities and organizations.
2. Guide participants to discuss the various legal instruments used in the promotion of the promotion of National Values and Principles of Governance in their respective communities and organizations.
3. Guide participants to discuss the challenges faced by institutions in promoting National Values and Principles of Governance

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## UNIT 3: UNDERSTANDING NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

### Introduction

This unit discusses the definitions, indicators, benefits and challenges of National Values and Principles of Governance as outlined in Article 10(2) of the Constitution.

### Learning Outcomes

By the end of this unit, participants should be able to:

1. Understand the definitions, indicators, benefits and challenges of National Values and Principles of Governance as outlined in Article 10(2) of the Constitution.

### 3.1 Patriotism and National Unity

**Time: 1 Hour**

#### Patriotism

##### Note to facilitator:

1. Begin the session by explaining to participants the learning outcomes for the session.
2. Ask participants to discuss in pairs their understanding of the term 'Patriotism'. Ask them to discuss in groups the indicators, benefits and challenges to Patriotism.
3. Write down their responses in a flip-chart.

Patriotism refers to loyalty to, love for, selfless service for, sacrifice for, devotion for, sense of belonging to, dedication to, sense of pride in, protection of one's own nation (GoK, 2013).

Nathanson (1993) defines patriotism as involving: special affection for one's own country; a sense of personal identification with the country; special concern for the well-being of the country; and willingness to sacrifice to promote the country's good.



*Figure 5. Patriotism*

## Indicators of Patriotism



The indicators of patriotism include:

- a) Loyalty to the Presidency as a unifying factor;
- b) Readiness to defend the Republic of Kenya;
- c) Respect for the supremacy of the Constitution;
- d) Appreciation to national symbols e.g. coat of arms and national flag; and
- e) Spirit of volunteerism.

### **Benefits of Patriotism**

The benefits of patriotism include:

- i Unified approach in confronting external threat to the nation;
- ii Commitment to the promotion national interests e.g. sovereignty of the country;
- iii Improved socio- economic and political development of the nation; and
- iv A shared sense of belonging.

### **Challenges to Patriotism**

The challenges to patriotism include:

- i Ineffective leadership;
- ii Marginalization;
- iii Increasing levels of corruption;
- iv Impunity and lack of accountability;
- v Low social, political and economic development;
- vi Undermined national interests; and
- vii Deteriorating morals and values - higher levels of crime, fear of crime and anti-social behavior.

### **Group Activity**

Guide participants to:

- i. List the characteristics of a patriot.
- ii. Identify two patriots and give reasons why you think they are.

OR

- i. Use a case study on patriotism (*see appendix 1*)



### 3.1.2 National Unity

**Note to facilitator:**

1. Ask participants to discuss in pairs their understanding of the term ‘National Unity’. Ask them to discuss in groups the indicators, benefits and challenges to National Unity.
2. Write down their responses in a flip-chart.

National unity refers to cohesion which results from shared values, vision, purpose and aspirations irrespective of the ethnic, cultural, economic, religious or any other superficial status in a unitary state, while recognising diversity, (GoK, 2013)

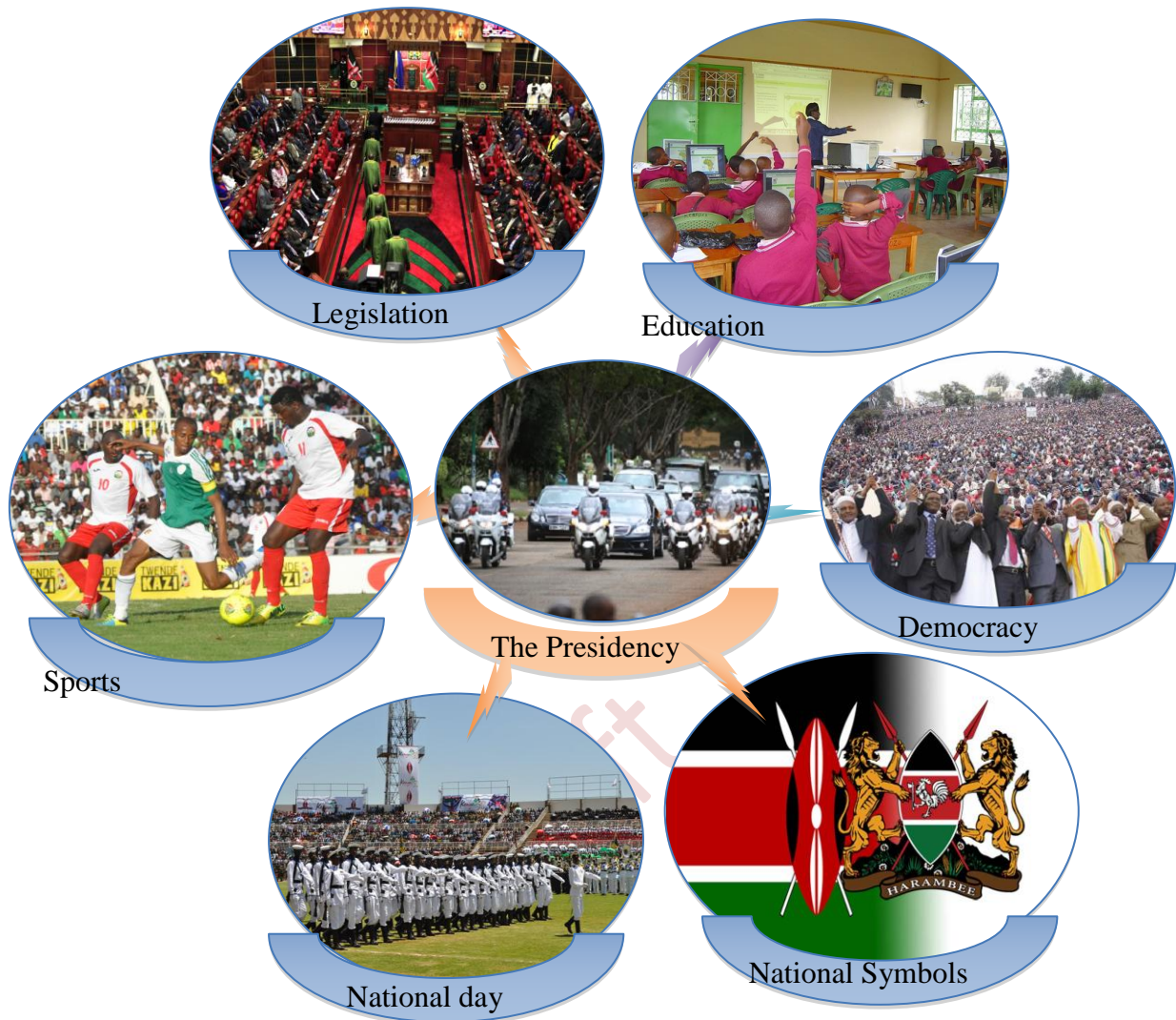
**Indicators of National Unity****Some of the indicators of national unity are:**

- i Common vision and sense of belonging;
- ii Shared challenges and opportunities;
- iii Appreciation of cultural, communal and ethnic diversity.
- iv Practicing equity in the sharing of state resources;
- v Appreciation of the national symbols; and
- vi Use of the national language.

**Benefits of National Unity**

- i Increased national solidarity and togetherness in tackling national development issues;
- ii Increased political stability;
- iii Builds a strong nationalism;
- iv Deconstructs mistrusts and stereotypes;
- v Enhanced social capital;
- vi Common attitudes and positive cultural ethos;
- vii Enhanced protection, promotion and prioritisation of national interests; and
- viii Satisfaction of the physical, emotional, psychological and spiritual needs of citizens;





*Figure 6. National Unity*

### **Challenges to National Unity**

Challenges to national unity include:

- i Polarization and division of the country along ethnic lines;
- ii Unfair distribution of national resources;
- iii Failure to address historical injustices;
- iv Complexity in migration and settlement patterns;
- v Proliferation of organized gangs and militia;
- vi Control of land, capital, technology and communication by the elites; and
- vii Undermined national interests.



**Note to facilitator:**

1. Ask participants to discuss in pairs their understanding of the principal of Solidarity and its relationship to 'National Unity'.
2. Write down their responses in a flip-chart.

**The Principle of Solidarity and its Relationship to National Unity**

Solidarity is a term closely related to national unity. It refers to the acceptance of a social nature and the affirmation of the bonds that we share as a nation. It creates an environment in which mutual service is encouraged. It is also the social condition in which human rights can be respected and nurtured. As a virtue, solidarity's context is freedom and justice. It yields a healthy society, a thriving economy, care for the marginalized, and structures that protect the nation.

We can show solidarity at many levels. As we go about our daily routine, we can show solidarity by making an effort to get to know a new participant (or a participant who is avoided or picked on by others) or by something as simple as not participating in office or neighborhood cleanliness. We show solidarity in our local communities whenever we work to solve problems that do not directly affect us.

At the global level, solidarity helps keep people living in rich nations from being indifferent to the poverty and lack of basic human rights experienced by people living in developing nations. Solidarity is determination to commit oneself to the common good, because we are all one family and we are responsible for each other.

**1. Activity:**

- i. Ask participants to list their individual contributions towards promoting national unity.

**ii. OR**

2. ii. Use a case study on national unity (*See appendix 1*)

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## 3.2 Sharing and Devolution of Power

**Time: 1hour**

### Sharing and Devolution of power

This section discusses the meaning of sharing and devolution of power.



**Figure 7: Power, sharing and devolution**

#### **Note to facilitator:**

1. Ask participants to discuss in pairs their understanding of the following terms:
  - i. Sharing of power
  - ii. Devolution of power
2. Write down their responses in a flip-chart.

#### **i. Elements of Power**

This Training Manual categorises power as follows: Sovereign power, Legislative power, and Executive power and Judiciary power.



## **ii. Sovereign Power**

The Law Dictionary defines sovereign power as the power and the authority to make and enforce the law of the land. The Constitution of Kenya states that “All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.” Kenyans exercise this power through democratically elected representatives. This power “...is also delegated to the following State Organs, which shall perform their functions in accordance with the Constitution –

- (a) Parliament and the legislative assemblies in the county government;
- (b) the national executive and the executive structures in the county governments; and
- (c) the Judiciary and independent tribunals.”

## **iii. Legislative Power**

This power entails the right and the competence to examine the mode of execution of laws. Ojwang’ (2016: 6) states that, “it is the power to make laws and to alter them; a legislative body’s exclusive authority to make, amend and repeal laws.” Additionally, Ojwang’ (1990:120 cited in Ojwang’ (2016)) states, the law-making power entails, firstly the making or repealing of laws (or simply, the power of law-making) and, secondly, the power to ensure due administration of the law. Ambani and Mbondenyi (2016) add that, in Kenya legislative power is derived from the people and, at the national level, is vested in, and exercised by Parliament. Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty.

## **iv. Executive Power**

This is the residue of the functions of government after legislative and judicial functions have been taken away, subject to the provisions of the Constitution. It comprises both the determination of the policy as well as carrying it into execution, the maintenance of order, the promotion of social and economic welfare, the direction of foreign policy, in fact the carrying on and supervision of the general administration of the Country (Jawaya, 1955 cited in Asher’s (2015: 97).

## **ix Judicial Power**

Judicial power is the authority both constitutional and legal vested in courts and judges to: preside over and make judgment; enforce or void statutes and laws when scope or constitutionally are questioned; and interpret statutes and laws when disputes arise (The Law

Dictionary). Asher's (2015) states, justiciable issues include matters of legal nature, affect legal rights and relations, and affect proprietary, personal or jurisdictional situations.

#### **x Sharing of Power**

Sharing of power can be defined as a political arrangement in which opposing groups in a society participate in government. In Kenya, the concept of sharing of power is a key flagship of the Constitution as espoused in Chapter 11. This is the political arrangement that involves the two levels of government i.e. one (1) National and forty seven (47) County governments. The Inter- Governmental Relations Act, 2012 is key to outlining the engagements between the two levels of government. Further, Schedule Four of the Constitution outlines the functions between the National and County Governments to ensure effective engagements. According to McEvoy & O'Leary (2013), the goal of power sharing is the arrangement of political institutions to prevent the monopoly (permanent or temporary) of executive, legislative, judicial, military or cultural power. Any system that seeks to share resources between different groups in a society will have power at its center because without power, there can be no power sharing. Sharing of power requires that the authority of the state be administered jointly, and not by only one narrow group. It requires the consent of a broad representation of groups in a given system (Noel, 2005).

It is, also, used to describe a system of governance in which all significant segments or identity groups of society are provided a permanent share of power in terms of representation and decision making on common issues and a degree of autonomy over issues of importance (Sisk, 2003).

#### **xi Sharing and Devolution of Power**

Sharing and devolution of power refers to "a governance system in which power, political, economic and social resources are distributed between the national and county levels of government and which empowers people at the grassroots to make decisions on matters that affect them" (GoK, 2013).

##### **a. Antecedents to Devolution in Kenya**

At independence in 1963, the Majimbo Constitution that Kenya adopted provided for devolution of government to regional assemblies in the context of a Bi-cameral, Westminster-type parliament with a Senate and National Assembly (the Lower and Upper Houses) respectively. These constitutional provisions were premised on the need to secure the rights of ethnic minorities grouped under the Kenya African Democratic Union (KADU) party,



against domination by the ‘big ethnic groups’ under the Kenya African National Union (KANU). However, barely a year later, the 1964 dissolution of the opposition KADU rendered devolution moribund as its very championing party integrated itself into KANU, which had demanded a unitary government during the constitutional talks at the Lancaster House in London. Not only had the KANU government hardly undertaken any substantive devolution of administrative functions and attendant budget and personnel resources to sub-national agencies by the time of KADU’s dissolution, but KANU soon even usurped functions such as social service delivery that the colonial government had allocated to local authorities.

In 1960s and 1970s, the Government of Kenya (GOK) projected its superior service delivery capacity as reflected in the aspirations of the development blueprint, Sessional Paper Number 10 of 1965 on African Socialism and its Application to Planning in Kenya (GOK, 1965 cited in Nyanjom, 2011). This led inevitably to various constitutional reforms that created an ‘imperial presidency’. During the third independence decade, however, deteriorating government service delivery raised questions about the efficacy of an excessively centralised government, leading to decentralisation measures such as the District Focus for Rural Development Planning and Budgeting framework. Persistent demands by the heavily repressed political opposition and a robust civil society for a return to political pluralism as a means of fostering greater government accountability, along with global liberalizing pressure, bore fruits in December, 1991 when Kenya returned to plural party politics.

The demands for extensive constitutional reforms, nevertheless, notably incorporating the devolution of government to sub-national agencies, were eventually only met in the new millennium. After a two-decade gestation, 27<sup>th</sup> August, 2010 saw Kenya adopt a new Constitution with far-reaching provisions for democratization, including the devolution of power from the Central Government to the forty seven (47) county Governments.

## **b. Objects of Sharing and Devolution of Power**

### **Discussion:**

1. Ask participants to discuss the objects of sharing and devolution of power with a focus on Kenya’s devolved system of government.
2. Write down their responses in a flip-chart.



Article 174 of the Constitution states the following as the objects of devolution:

- i. to promote democratic and accountable exercise of power;
- ii. to foster national unity by recognizing diversity;
- iii. to give powers of self- governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;
- iv. to recognize the right of communities to manage their own affairs and to further their development;
- v. to protect and promote the interests and rights of minorities and the marginalised communities;
- vi. to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;
- vii. to ensure equitable sharing of national and local resources throughout Kenya;
- viii. to facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya; and
- ix. To enhance checks and balances and the separation of powers.

#### **c. Concept of Separation of Power within the Three Arms of Government**

The three main organs of government – the Legislature (Parliament), Executive and Judiciary - operate independently of one another. To protect individual liberty and enhance efficiency, they each ensure that none has excessive power in carrying out its functions.

When the Constitution of Kenya Review Commission (the Yash Pal Ghai Commission) collected the views of Kenyans, one of the strongest points made was that executive power needed to be checked and redistributed.

Separating the functions of Parliament and the Executive means that neither Parliament nor the executive can act on its own. If the President intends to implement a particular policy, the approval of Parliament is necessary to ensure checks and balances.

Similarly, if MPs have projects that they want implemented, they will then require the executive to implement them. And, Parliament cannot get around resistance from the executive by passing a law instructing the executive to do something because the President



can refuse to sign laws (exercising a “veto”). If the President does veto a law, Parliament needs the support of two thirds of its members to pass it.

When Parliament or the executive wants to do something that the other organ does not support, a great deal of negotiation will be required. Separating functions may not be enough to control excessive power. So, various “checks” secure the “balance”. The Judiciary provides a check because it scrutinizes the actions of the executive and any laws passed by Parliament to see that they are constitutional. If they are not, the courts will declare them illegal. Other checks include regular elections, term limits and devolved governments.. Devolved government means that executive power is shared between the national and devolved governments and requiring the National Assembly to approve senior government appointments. In addition, the National Assembly’s power to dismiss Cabinet Secretaries is a check because cabinet members must have the support of the National Assembly and they face dismissal if they do not obey the law.

The Constitution also makes the National Assembly responsible for overseeing and checking the Executive to prevent excesses that might harm democracy in Kenya. The National Assembly ensures that programmes and projects have been properly implemented as the funds expended are public. The Constitution of Kenya provides that Cabinet Secretaries submit to Parliament periodic reports on their undertakings as may be required from time to time. Secondly, Cabinet Secretaries must attend Parliamentary Committees sessions and answer any queries raised in regard to their ministries.

Another way of controlling executive power is by removing some of its functions. For example, the Office of the Director of Public Prosecution (ODPP) is separate from the executive and in charge of prosecutions. The Director of Public Prosecution (DPP) is appointed by the President with the approval of the National Assembly but will not be a member of Cabinet and therefore independent. The DPP cannot be removed from office merely because the executive or Parliament is displeased with his or her decisions. The Constitution sets out limited reasons for removing the DPP and a strict procedure. These provisions ensure that decisions to prosecute are free of executive or parliamentary interference.

The Attorney General is the principal legal advisor to the government and represents it in legal proceedings and engagements. The objectives of the separation of powers are





additionally achieved through the division of powers between different layers of government and through Independent Commissions for specific functions as provided for in the Constitution.

A significant element in the relationship between institutions is the way they interact, thus promoting cooperation and harmony for the greater good, hence ensuring checks and balances when carrying out their mandates. Even if the powers and functions of each institution are distinct and separate from others, the institutions are not free to do what they like but must respect the constitutional limits of their powers.

In this regard a particular responsibility is placed on the Judiciary, because it is the ultimate custodian of the Constitution and the rule of law. In this way, checks and balances are an integral part of the separation of powers, a fact often ignored by members of these institutions.

Among the numerous countries that can legitimately claim that their constitutional and political systems are based on the separation of powers, there are significant variations in the structure of major institutions as well as in the precise relationship between them.

It is therefore widely recognised that as long as power is distributed and restrained and liberty protected, there is considerable degree of flexibility in its application, as is evident in differences between Kenya's independence Constitution and that of the Constitution of Kenya, 2010 both based on the separation of powers. This means that key political and legal issues on the relationship between the three key institutions cannot easily be disposed of by some general theories of the separation of powers.

Many discussions on the separation of powers are couched on the framework of parliamentary supremacy, in which a central place is accorded to Parliament as the representative of the people. But today, few countries give unlimited power to the legislature, not even UK which long proclaimed the sovereignty of parliament. Kenya is a constitutional democracy, which means that it is regulated by the Constitution. In the case of the legislative representation of women, the Supreme Court in its ruling explained, that "Our perception of the separation of powers concept must take into account the context, design and purpose of the Constitution; the values and principles enshrined in the Constitution; the vision and ideals reflected in the Constitution". The verdict was that gender parity in the





National Assembly and the Senate would be realised progressively by 2015. (Supreme Court Verdict on Principle of Gender Representation in the National Assembly and the Senate dated 18th, December, 2012).

### **Indicators of Sharing and Devolution of Power**

#### **Note to facilitator:**

Ask participants to discuss in Groups the indicators and benefits of Sharing and devolution of power.

Write down their responses in a flip-chart.

Some of the indicators of sharing and devolution of power include:

- i Increased political representation at the lowest level;
- ii Involvement of citizens in decision making;
- iii Development of infrastructure;
- iv Increased channels of participation;
- v Increased access to public services by citizens; and
- vi Improved linkages between citizens and government.

#### **3.2.1. Benefits of Sharing and Devolution of Power**

The benefits of sharing and devolution of power are as follows:

##### **3.2.1. Political Benefits:**

- i. The Principle of subsidiarity: Having power distributed from the State Authority to the County levels enables citizens to be assured that their concerns will be prioritised. Devolution increases the opportunities for political participation and that people can demand for effective provision of services. This is because physical proximity makes it easier for citizens to hold local officials accountable for their performance while in office, (IEA, 2010).
- ii. It creates sub-national entities which provide an additional accountability mechanism by reducing the concentration of power at the centre thus hindering its arbitrary exercise, (IEA, 2010).
- iii. It provides channels for the expression of regional sentiments and encourages national policies to become more sensitive to regional dynamics.



- iv. It provides the minority parties which have been excluded from political power the opportunity to exercise policy influence.
- v. By affording the local community opportunity to participate in the planning and implementation of development projects, devolution enhances their sense of ownership of the projects (Oloo, 2007 cited in IEA, 2010).
- vi. Devolution empowers communities to manage their own resources more effectively and simultaneously strengthens local institutions (IEA, 2010).
- vii. It ensures that varying interests of stakeholders are balanced, and that the decisions are made in a rational transformed and transparent manner. The decisions contribute to the overall efficiency and effectiveness of the institutions (ibid).
- viii. The devolved systems of governance enjoy a fair measure of legitimacy, or acceptance among the communities. A system of devolution not only provides greater opportunities for the people to participate in public affairs, but also compels leaders at the regional and national level to negotiate and reach compromises. Institutions and procedures for negotiation and cooperation are often built into the structure of a devolved state (Ghai, 2007). The enhanced possibilities of public participation, negotiations and cooperation between different levels of government can provide a kind of equilibrium or balance in the exercise of public power.

### **3.2.2. Economic Benefits**

- i. Devolved provisions in sub-national entities increase economic welfare of the constituents. “This is because the level of welfare is often higher if consumption occurs at each jurisdiction than if any single uniform level of consumption is maintained across all jurisdictions,” (Oates, 1999 cited in IEA, 2010).
- ii. Devolution assists in the reduction of poverty through the provision of a more effective governance structure for advancing pro-poor policies. Barrett *et al* (2007) argues that since sub-national institutions are likely to be more familiar with the local circumstances and cost conditions, they are better equipped to distribute resources more equitably. In so doing, they address poverty more efficiently. In the case of United Kingdom, for example, devolution saw falling levels of poverty and improving employment rates across the country after ten years of initiation (Kamande, 2013).
- iii. Devolved governments have the ability to effectively promote productive efficiency in the provision and use of public services and the allocation of resources. The logic is that sub-national entities by their proximity to the beneficiaries of policy outcomes



can allocate and extract resources more efficiently than central governments, (IEA, 2010). “This is because they have better access to local information, are more directly accountable to local constituents and can more effectively identify and articulate regional needs,” (Barrett *et al*, 2007 cited in IEA, 2010).

- iv. Devolution may reduce opportunities for bribery and rent seeking by introduction of inter-jurisdictional competition. Such opportunities are often created by the lack of competition that the central government monopoly supply of public goods and services present, (Barrett *et al*, 2007 cited in IEA, 2010).

### 3.2.3. Social Benefits

- i. One of the main objectives and principles of a devolved Government in Kenya’s Constitution is the right of communities to manage their own affairs and further their development. It is expected that this will give the people a sense of identity and self-empowerment. They will feel recognized in their contribution to the growth of their own county.
- ii. Devolution often creates new motivation on the local level for the citizens to commit and invest its engagement for local public interest. Thus, it helps to integrate citizens and to enhance nation building.
- iii. Devolution ensures gender equity. The Constitution of Kenya stipulates that not more than two-thirds of the members of any county assembly or county executive shall be of the same gender. This gives room for women to be considered in both local and national appointments either through competitive processes or by taking affirmative action.
- iv. In the United Kingdom, devolution saw to the improvement of social housing and social care which resulted in reduction of costs for older people, (Kamande, 2013).

### 3.2.4. Challenges to Sharing and Devolution of Power

#### **Note to facilitator:**

1. Ask participants to discuss in Groups the challenges to Sharing and devolution of power in Kenya.
2. Write down their responses in a flip-chart.

The challenges of sharing and devolution of power are as follows:



### 3.2.5.. Political Challenges:

- i. If not properly designed and implemented, devolution may facilitate emergence of weak institutions based on patron-client relations, and increase the risk of local politicians at the local level to use resources at their disposal to perpetuate themselves in power. They achieve this by skewing allocations in favour of their kinsmen, supporters and sycophants to purchase political loyalty (Barrett *et al*, 2007 cited in IEA, 2010).
- ii. People power- control or participation: The demands of people power could be about controlling government without necessarily having an alternative slate of more efficacious development priorities or interventions, or even commitment to participation as an ideology.
- iii. Non-existent or weak sub-national institutions: The heritages of nature and/ or ‘bad’ governance may result in glaring regional inequalities in capacities to manage devolved responsibilities often forming one basis of the demand for devolution. The dilemma is that decentralizing reform in the face of such initial inequalities could either deepen the inequalities or lead to a suboptimal operation of the chosen devolution framework.
- iv. Transfer of inefficiency: Where the cause of poor service delivery is unclear, devolution is unlikely to be the solution since national level bottlenecks are replicable at sub-national levels. There must, for instance, be concern not to transfer national level corruption to sub-national levels.
- v. Elite capture is a phenomenon where resources transferred for the benefit of the masses are usurped by few individuals, usually politically or economically powerful groups.. This impacts on the socio-economic development and provision of quality services at all levels of government. The question would be whether the shift from the mega corruption of the national elite to the devolved units represents a net saving or cost for service delivery.

### 3.2.6. Economic Challenges:

- i. It might lead to excessive taxation. The Constitution provides for taxation and gives County Governments power to generate revenue. The County Government may impose property rates, entertainment taxes and any other tax that it is authorised to impose by an Act of Parliament.
- ii. Devolution risks allowing greater levels of corruption and mismanagement of economic resources when a decision is moved further from local levels. It is



evidenced where community members lack awareness as to their roles and capacity to execute them. For instance, corruption is higher in the absence of structures to enable the community effectively monitor and evaluate usage of funds.

- iii. Devolution may also “diminish the power and value of the national government to redistribute resources which creates a drawback to the less developed units. This may result in dependency and eventually instability where dependency is chronic,” (CKRC, 2002a cited in IEA, 2010: pp.26).

### **3.2.7. Social Challenges:**

Devolution if inappropriately applied can undermine national unity and inflate ethnic, religious and cultural tensions. It has the potential to lead to even greater marginalisation and discrimination of minorities and minorities within minorities especially in county level decision making and resource allocation (as has sometimes been the experience in Nigeria and Bosnia-Herzegovina- Ghai, 2007; CKRC, 2002a cited in IEA, 2010).

- i. Decentralisation may bring development prioritization nearer prospective beneficiaries who are assumed to know their objective as opposed to interests. Yet, this is not always so; a majority or popular decision can be misinformed and parochial to the disadvantage of intended beneficiaries.
- ii. Incestuous socio-economic enclaves: this is where devolution creates socio-economic groupings– such as ethnic or religious ones that may inflame tensions and ultimately violence and thus hamper service delivery to the citizens.
- iii. Deepening of Inequalities: Poorly applied devolution could create socio- economic and political inequality and hence feelings of discrimination and marginalisation. This is one of the drivers of conflicts and violence.

### **3.2.8 Technological challenges**

- i. Where devolution creates inequalities among counties or institutions that are not equipped with infrastructure and technological facilities.
- ii. Lack of technological capacity.
- iii. Manipulation of technology for personal gain.

### **3.2.9 Legal challenges**

- i. Lack of capacity to formulate legislations.
- ii. Conflicting and unharmonised legislation.
- iii. Lack of participatory decision making.

### **3.2.10 Ecological challenges**

- i. Competition for resources within and across counties
- ii. Pollution due to proliferation
- iii. Deforestation
- iv. Human-wildlife conflicts
- v. Lack of adherence to institutional and legal frameworks to ensure environmental protection.

### **3.2.11. Principle of Subsidiarity**

The concept of sharing and devolution of power is drawn from the principle of subsidiarity whose general aim is to guarantee a degree of independence for a lower authority in relation to a higher body. It therefore involves the sharing of powers between several levels of authority, a principle which forms the institutional basis for devolution.

According to the South African Local Government Project (2008) subsidiarity is a general principle that governance should take place as close as possible to the citizens. It translates into protection of lower levels of government against undue interference by other spheres and into a preference for placing functions and powers at lower levels of government where possible.

The following are the different modes of subsidiarities: strategic, jurisdictional and institutional.

### **3.2.12. Strategic Subsidiarity**

Du Plessis (2006, 209 cited in Local Government Project, 2008: pp. 8) introduces the concept strategic subsidiarity as a principle of legal interpretation; if two or more legal norms are applicable to a given situation, an external directive may instruct one of those legal norms to ‘step down’ in favour of the other. The permission to use force to make an arrest, only in instances where no lesser means are available is an example of the application of strategic subsidiarity. Another example is the principle that holds that, where it is possible to solve a case without reaching a constitutional issue, the case must be solved without recourse to constitutional argument.

### **3.2.13 Jurisdictional Subsidiarity**

This type of subsidiarity refers to a scenario where the Courts of Law such as Appeal and Supreme are instrumental in the development of common law. For example, the notion that



the Constitution Court leaves the development of Courts of Law to the Court of Appeal and Supreme Courts, Du Plessis (2006), 11 cited in Local Government Project, (2008: pp. 9). Generally, it is said that the South African court structure, much like the German court structure, is based on the subsidiarity principle (Carpenter 1999, 46); matters are only referred to a higher court when the court is prevented from hearing the matter (Van Wyk 1998, 255, cited in Local Government Project (2008: pp. 8).

#### **3.2.14. Institutional Subsidiarity**

This is where an institution is cited either through the Constitution, Legal, Policy or any other framework such as Executive Orders to perform critical mandates. For instance the Ministry of Interior and Coordination of National Government was tasked with the mandate to promote National Values and Principles of Governance in Kenya vide the Executive Order No. 2 of 30<sup>th</sup>, May, 2013. Du Plessis (2006) defines institutional subsidiarity as the identification and empowerment of an appropriate institutional actor to perform a certain function. The Directorate was created through the Executive Order No. 1 of May, 2008 as part of the Ministry of Justice and Constitutional Affairs.

#### **3.2.15. Examples on sharing and devolution of power**

Devolution provides for the most progressive societies in the world such as USA, India, Germany, and China. Unitary government systems such as France, and Italy adopted devolution to allow local communities full responsibility for managing local resources and political control of developmental processes at local levels (Carroll, 2012). The following are of Kenya, Ghana and Netherlands to demonstrate the devolution processes.

#### **3.2.16. The Kenyan Experience of devolution**

Kenya is one of the African countries where devolution process was born out of political turmoil. Historically, Kenya has been characterized by centralisation of political and economic power in the hands of the elites in an uneven and unfair resource distribution and access to social services defusing the aspect of inclusivity since attaining political independence in December, 1963 (Kangu, 2010). The devolution process generated remarkable hope within the local communities. The Constitution provides a two-tier system of government at both the National and the County level.





The structure of County Governments largely mirrors that of the national government. There are a total of 47 county governments each consisting of a County Assembly and a County Executive. The membership of the County Assembly is comprised of (a) one elected member for each ward; (b) the number of special seat members necessary to ensure that no more than two thirds of the membership of the assembly are of the same gender; (c) the number of members of marginalized groups, including persons with disabilities and the youth; and, (d) the speaker, who shall be an ex officio member (Oyugi, 2013).

On the other hand, the County Executive consists of the governor, deputy governor, and a maximum 10-member County Executive Committee that is appointed by the governor and approved by the County Assembly. Like the national president, a county governor can serve only two terms of five years each, and can be removed from office for serious misconduct, or incapacity (Oyugi, 2013).

In order to ensure that a system of checks and balances is embedded in the emerging architecture, the County Public Service Board (CPSBs) that is established operates under the County Executive with the County Assembly exercising oversight roles on it. However, the scope of the County Public Service Boards shall definitely be determined by the viability of the individual counties and their abilities to perform certain functions allocated to the county level of government (Oyugi, 2013).

Article (176[2]) of the Constitution requires the County Governments to decentralise their functions and provision of services to the extent that is efficient and practical to do so, (Government Press, 2010). It was in response to this provision that the County Governments Act, 2012 proceeded to create three lower levels of governance below the County level that is Ward, Town and Village.

There is a provision in the Constitution to the effect that a County Assembly may make any laws that are necessary for, or incidental to effective performance of the functions and exercise of its powers as provided for in the Fourth Schedule of the Constitution (Article 185 of the Constitution). It is still too soon to know whether any County will feel the need to take advantage of the provision, but it is quite likely (Government press, 2010).

Apart from the County Assembly, the County Governments Act also provides for a Village Council that is competitively appointed by the Village Administrator subject to approval by



the County Assembly. It has a small membership of three to five members with the Administrator as its chairperson. The Council's major role is to assist the Village Administrator in the governance of the village through 'legislation' and coordination of policy implementation {(Section 53) (Oyugi, 2013)}.

Cities and municipalities have Boards, with members who are either appointed by the County Executive or nominated by certain types of associations or organizations. Boards have management functions including making by-laws. Sub-counties (constituencies) and wards have only administrators.

The other County- level body with deliberative function is the County Inter- Governmental Forum (Section 54 of the Act) chaired by the Governor, and comprising heads of all National Government department rendering services in the county as well as County Executive Committee members. The major function of the forum is the harmonisation of services rendered in the county by the Central Government and County Government as well as coordination of development activities in the county and other inter-governmental functions. The law also empowers the governor to chair such other committees and fora as might be established. In addition, he is entitled to receive regular briefings from the County Security Committee pursuant to Articles 6(2), 189(2) and 239(5) of the Constitution, (Oyugi, 2013).

It is worth mentioning that, the Constitution has established a number of accountability measures which the centre can rely on to ensure that counties operate according to the stipulations in the Constitution and Acts of Parliament.

The right of intervention by the Central Government includes where a County Government is unable to perform its functions or does not operate a financial management system that complies with the legal requirements as outlined by the Public Financial Management Act which gives the National Treasury overall responsibility for public financial management as well as sanction powers. And the County Governments Act (Section 131) provides that county financial management "shall be as provided under the law relating to public finance". In a nutshell, County Treasuries are subject to the authority and direction of the National Treasury on matters of financial policy and management, (Oyugi, 2013).

The mandates of County Governments as outlined in Article 174 of the Constitution include to: promote democratic and accountable exercise of power; foster national unity by recognising diversity; give powers of self-governance to the people and enhance the



participation of the people in the exercise of the powers of the State and in making decisions affecting them; recognise the right of communities to manage their own affairs and to further their development; protect and promote the interests and rights of minorities and marginalised communities; promote social and economic development and the provision of proximate, easily accessible services throughout Kenya; ensure equitable sharing of national and local resources throughout Kenya; facilitate the decentralisation of State organs, their functions and services, from the capital of Kenya; and enhance checks and balances and the separation of powers.

### **3.2.18. The Ghanaian Experience**

Ghana's contemporary devolution process arose prior to the democratic transition in the early 1990s. When the government introduced the Local Government Law as a legislative reform in 1988, 110 districts were created in Ghana's ten regions operating on democratic platforms of governance. (World Bank, 2003 cited in Chirisa *et al*, 2013).

Further, the decentralisation reform in Ghana is enshrined in the 1992 Constitution and the subsequent national legislations. This has led to substantial divergence between Government intentions for decentralisation including the intentions as stated in the Constitution and the actual practices in the country. The variety of laws results to the divergent practices, especially in the choices made by sectors that tend to define decentralisation as "deconcentration". The divergence can be in part explained by lack of clarity of the Local Government Act No. 462 of 1993. It does not assign functions to different levels of government clearly enough, pays very limited attention to sub-district levels, and does not adequately define the extent to which the region level should be considered a fully fledged local government unit.

The 1992 Constitution consolidated the aims of devolution and the objectives of devolution were centered on concretising and expanding local democracy, facilitating social and economic development; eradicating poverty as well as enhancing people's choices, (Government of Ghana, 2008 cited in Chirisa *et al*, 2013). This Constitution recognized the diversity of local government system by decentralising "the administrative and financial machinery of government to the regions and districts and by affording all opportunities to the people to participate in decision-making at every level," (Government of Ghana, 2008 cited in Chirisa *et al*, 2013). Yet crucial democratic elements remained compromised, especially



through the retention of presidential appointments and non-partisan local elections (Government of Ghana, 2008 cited in Chirisa *et al*, 2013).

The Ghanaian decentralisation policy intentions are aimed at devolving power and governance structures closer to the people, which can be noted for example in the Local Government Act of 1993. The sub-structures of the Assemblies play a vital role in ensuring that people are able to participate in local governance.

### **3.2.19. The Netherlands Experience**

As an intermediary level between the state and the municipalities, the twelve Dutch provinces have limited powers and largely carry out minor administrative duties and serve as links between the top and lower echelons of Government,” (Wordpress cited in Carroll, 2012). This is clearly the description of a unitary system. It is interesting that provincial legislatures are responsible for electing the Senate or First Chamber, which has the power to veto legislation. This gives importance to provincial elections. Still, the Constitution is quite clear on the place of provinces in the Dutch political system: Article 123 of the Dutch Constitution states that “provinces and municipalities may be dissolved and new ones established by an Act of Parliament,” by Dutch Civil Law. In fact, the role played by provinces in the Dutch system has been characterized as “invisible,” (Toonen, 2010: pp.14 cited in Carroll, 2012: pp.6).

Nevertheless, the provinces are responsible for implementing policies beyond their scope, such as environmental management, physical planning, economic and social policy, countryside policy, public and youth welfare, and culture. The provinces are tasked with implementing European Union (EU) policy and upholding European regulation, referring to the EU Cohesion Policy and Agriculture.

The provinces work together through the Association of the Provinces of the Netherlands (IPO) whose responsibility is to promote the provinces’ joint interests. Further, the IPO maintains contact with the Council of European Municipalities and Regions, the Assembly of European Regions, the Conference of Peripheral and Maritime Regions of Europe, and the European Industrial Regions Association. Finally, the elected Provincial Councilors serve on the advisory Committee of the Regions (CoR) of the EU. The CoR has become an important advisory and representative body in the EU, (Carroll, 2012).

#### **Activity**

In groups, ask the participants to:



1. Explain which government services have been devolved and how they are being executed in their respective counties.
2. Illustrate in which ways devolution has succeeded and or failed in their respective counties.

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### 3.3 The Rule of Law

**Time: 1Hour**

#### **Introduction**

This Sub-module discusses the concept of the principle of the rule of law, its benefits and associated challenges.

#### **Understanding the Principle of the Rule of Law**





**Note to facilitator:**

Ask participants to discuss in pairs their understanding of the Rule of Law.

Write down their responses in a flip-chart.

The rule of law refers to the legal maxim that each person within the state should respect and obey the law. It is a legal principle that stresses that matters of governance have to be based on established laws and principles rather than the personal whims of the leaders. In its most basic form, the rule of law refers to the supremacy of the law and equality of all before the law (Amollo, 2012). According to the United Nations, rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that have been publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. The core of the principle is that all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefits of laws publicly made and publicly administered in the courts

### 3.3. Indicators of the Principle of the Rule of Law

**Note to facilitator:**

1. Ask participants to discuss in groups the indicators, benefits and challenges of the Rule of Law.
2. Write down their responses in a flip-chart.

In order to establish the level of adherence to the principle of the rule of law, the following are the indicators among others:

- i. Equality before the law;
- ii. Accessibility, intelligibility, clarity and predictability of the law;
- iii. Existence of a system of legal representation;
- iv. Existence of institutions and procedures capable of speedily enforcing the law;
- v. Presence of law that possesses characteristics of certainty, generality and equality;
- vi. Recognition of the Sovereignty of the People;
- vii. Practice of National Values and Principles of Governance;
- viii. Reforms in the government structures as envisaged in the Constitution;

- ix. Provision of principles of leadership and integrity in the Constitution;
- x. Inclusion of the broad bill of rights in the Constitution;
- xi. Facilitation of public participation in governance;
- xii. Establishment and strengthening of institutions supporting good governance;
- xiii. Reforms of institutions on administration of justice;
- xiv. A fundamental change in the appointment to public officers;
- xv. Adherence to the rule of law;
- xvi. Public confidence and faith in the rule of law;
- xvii. Speedy determination of judicial matters before courts;
- xviii. Fair, impartial and consistent judicial rulings; and
- xix. Respect, recognition and prioritisation of national interests, national symbols and national institutions.



*Figure 7: Rule of law*

### **3.4. Benefits of Adherence to the Principle of Rule of Law**

The rule of law remains a key ingredient to social, economic and political development in any society. The following, among others, are some benefits of adherence to the rule of law:

- i Enhanced of accountability;
- ii An enduring social order;
- iii Social economic and political stability;
- iv Free and fair elections;



- v Provides for an independent and effective judiciary;
- vi Provides for equal rights for men, women, minorities, people with disabilities, elderly and children;
- vii Participation by civil society in decision making;
- viii Promotion of free and independent media;
- ix Protection of human rights and dignity;
- x Enjoyment of fundamental rights and freedoms;
- xi Promotion of cohesion in the society;
- xii Promotion of servant leadership that conforms to the tenets of integrity and good governance; and
- xiii Protection, promotion and prioritization of national interests, and respect for national symbols and institutions.

### **3.5. Challenges towards Adherence to the Principle of the Rule of Law**

The promotion of the principle of the rule of law continues to face impediments in its implementation processes. The following are some challenges:

- i Impunity and Corruption;
- ii Slow adoption of ICT in service delivery;
- iii Inadequate forensic laboratories to aid in criminal investigations;
- iv Limited awareness of the existing laws;
- v Reduced personal commitment;
- vi Lack of value-based leadership;
- vii Insecurity;
- viii Terrorism;
- ix Political polarisation especially during campaigns;
- x Elitism;
- xi Inaccessibility of justice to the marginalised;
- xii Long procedures of the judicial processes; and
- xiii Negative ethnicity.

### **3.6. Comparative Studies**

A number of countries in the region and also outside Africa have made great strides in the promotion of the principle of the rule of law with varying degrees of success as illustrated in the following case studies:



### 3.6.1 Kenya

**Note to facilitator:**

1. Ask participants to:
  - i. List the institutions mandated to promote the rule of law in Kenya.
  - ii. Discuss that status of the promotion of the rule of law in Kenya.
2. Write down their responses in a flip-chart.

In the last decade, the Government of Kenya has made great strides in regard to the promotion of the principle of the rule of law. This was enhanced by the promulgation of the Constitution in August, 2010, which has elaborate provisions towards the promotion of the rule of law.

The establishment of an independent Judiciary is a major milestone towards the promotion of the principle of the rule of law. The Judiciary has seen administrative and institutional reforms such as reduction in formalities in terms of court addresses, simplified procedures to access courts, customer oriented service charter, sensitive and friendly court staff and a responsive judicial service.

In addition, the Judicial Service Commission (JSC) has embraced public communication as part of its operations. Courts have greatly enhanced efficiency in their work systems through reduction of technicalities and preference for substantive justice. A major benefit of the reformed judiciary has been an emerging activist jurisprudence as evidenced by the bold past court decisions which have annulled unilateral executive appointments.

Further, the Constitution lays the foundation for the transformation not only of the Judiciary but also of the Kenyan society as a whole. This is through the normative values and principles that have been adopted and enshrined in it. All facets of public and private life are governed by national values and principles of governance that are founded on human dignity, equality and the rule of law among others. Legislation has been, and continues to be enacted to further elaborate and actualize these constitutional values and principles. In addition, the leadership of the Judiciary has embraced transformative approaches and embarked on



building institutional service delivery mechanisms to fulfill the Judiciary's mandate. It is also significant that the mandate of the Judiciary has been expanded by strategically placing it at the helm of the National Council on the Administration of Justice (NCAJ) (Amollo, 2012).

In Kenya, there are a number of institutions whose mandate is to enforce the rule of law and they include:

***i. Kenya National Commission on Human Rights (KNCHR)***

Article 59 (1) of the Constitution establishes the Kenya National Commission on Human Rights (KNCHR), whose mandate includes to “receive and investigate complaints about alleged abuses of human rights and take steps to secure appropriate redress where human rights have been violated” - Article 59 (2) (e).

***ii. Kenya National Audit Office (KENAO)***

The mandate of KENAO is to carry out audits within statutory set deadlines, and to assess the economy, efficiency and effectiveness of the national and county governments, courts, the parliament and county assemblies, statutory bodies and States corporations, commissions, and submit reports to the Parliament. It plays a major role in promoting accountability and good governance in the utilization of the national resources.

***iii. National Cohesion and Integration Commission (NCIC)***

The Commission was established through the National Cohesion and Integration Act of 2008. As a law enforcement agent, the Commission is mandated among others to prosecute hate speech offenders under Sections 13 and 62 on hate speech and the offence of ethnic and racial contempt respectively.

In order to curb hate speech, the commission has put in place a number of measures which include: establishing of a toll free reporting number (15666) to gather information from the public on issues of hate speech.

It has also established a cybercrime unit to monitor social media to identify and prosecute persons found breaching the provisions of the National Cohesion and Integration Act of 2008 as far as hate speech is concerned.

***iv. Ethics and Anti-Corruption Commission (EACC)***

The functions of the Ethics and Anti-Corruption Commission is to: (a) develop and promote standards and best practices in integrity and anti-corruption; (b) develop a code of ethics for public officers ; (c) receive complaints on the breach of the code of ethics by public officers; (d) investigate and recommend to the Director of Public Prosecutions the prosecution of any acts of corruption or violation of codes of ethics or other matter prescribed under this Act or



any other law enacted pursuant to Chapter Six of the Constitution; (e) recommend appropriate action to be taken against State officers or public officers alleged to have engaged in unethical conduct; (f) oversee the enforcement of codes of ethics prescribed for public officers; raise public awareness on ethical issues and educate the public on the dangers of corruption and enlist and foster public support in combating corruption but with due regard to the requirements of the Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003), as to confidentiality; (g) subject to Article 31 of the Constitution, monitor the practices and procedures of public bodies to detect corrupt practices and to secure the revision of methods of work or procedures that may be conducive to corrupt practices; and (h) institute and conduct proceedings in court for purposes of the recovery or protection of public property, or for the freeze or confiscation of proceeds of corruption or related to corruption, or the payment of compensation, or other punitive and disciplinary measures.

This Commission therefore plays a critical role in the promotion and enforcement of the principles of integrity, transparency and accountability among state and public officers.

***v. The National Police Service***

The major role of the National Police Service towards the promotion of the rule of law is to maintain law and order. The National Police Service is responsible for enforcing the law and investigating offences.

***vi. The Judiciary***

This legal arm of government plays a critical role in ensuring the rule of law and promotion of human rights. The Judiciary is independent and impartial and is proactive in exercising its judicial authority for public interest.

***vii. Law Society of Kenya (LSK)***

The Law Society of Kenya (LSK) has played a significant role in ensuring adherence to the rule of law. Over the years, LSK has played a leading role in challenging oppression, lawlessness, impunity and poor governance in the country. The LSK employs a number of strategies to achieve its objectives which include advocacy, education and litigation on matters of national importance. In the present set up, LSK has played an important role in the governance process in Kenya, particularly, in ensuring full implementation of the Constitution, the appointment of individuals to public offices, vetting of judges and legal discourse.

**3.6.2 Ghana**





Ghana's justice system has seen many encouraging developments since the restoration of civilian rule and the proclamation of the Fourth Republic by former President Jerry Rawlings on 7<sup>th</sup> January, 1993. There have been many interesting and useful initiatives to improve justice system performance, ranging from an increasingly merit-based system for appointment of judges, to a rapid expansion of legal aid, and to procedures to reduce delays and promote out-of-court settlements in the higher courts. Both civil society organisations and constitutionally mandated oversight institutions have played an important role in promoting these reforms.

More broadly, the government has shown, an increasing respect for the rule of law, complying with difficult decisions handed down by the courts and appointing and respecting the findings of commissions of inquiry that have found government officials at fault. The government has also led an anti-corruption campaigns that has seen its own members as well as those of the past government arraigned in courts for corruption-related cases. The government has embarked on continued vigilance, as well as legal reforms, to ensure and promote respect for the proper separation of powers and independence of the courts. However, just like in many developing countries, there are challenges that threaten the effectiveness of the judicial system in Ghana. These include poor coordination among the different actors in the sector; long delays in hearing of cases; lack of legal aid to help the poor to access justice; overcrowded prisons; and critical allegations of corruption among the police, as well as court staff, including judges and magistrates.

### 3.7 Features of the Rule of Law

**Discussion:**

1. Ask participants to discuss in groups the various features of the Rule of Law
2. Write down their responses in a flip-chart.

In countries where the rule of law is entrenched, the following attributes will be demonstrated:

- a) A system of government in which all persons, including the government, are accountable under the law;
- b) A system based on fair, publicized, broadly understood and stable laws;
- c) A fair, robust, and accessible legal process in which rights and responsibilities based on laws are indiscriminately enforced;





d) Diverse, competent, and independent lawyers and judges

**Activity**

- 1) Ask participants to assess the merits of application of the principle of the rule of law in their community.
- 2) Ask participants to list the challenges faced in application of the principle of the rule of law in their locality.
- 3) Guide participants in discussing solutions to challenges faced in applying the principle of the rule of law in their community.

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### **3.4 Democracy and Participation of the People**

**Time: 1 Hour**

#### **Introduction**

This Sub- unit discusses the concepts of democracy and participation of the people, as well as the benefits and challenges towards the promotion of the principle of democracy and participation of the people.

#### **Learning Outcomes**

By the end of the session, participants should be able to:

- a) Demonstrate their understanding of democracy and importance of participation of the people;
- b) Identify national, regional, international instruments that promote democratic practices and participation of the people;
- c) Appreciate the role of democracy and participation of the people in governance; and
- d) Engage in democratic practices for the prosperity of the nation.

### **Understanding the Principle of Democracy and Participation of the People**

Note to facilitator:

1. Begin the session by explaining to participants the learning outcomes for the session.
2. Ask participants to discuss in groups the meaning of the following terms:
  - i. Democracy
  - ii. Participation
  - iii. Democracy and Participation of the People
  - iv. Types of Democracy
  - v. Elements of Democracy
3. Write down their responses in a flip-chart

Explain to them the meaning of the terms as follows:

#### **3.4.1. Democracy**

Democracy is a system in which the government is controlled by the people, and in which citizens are equal in the exercise of that control. In a democracy, citizens hold some level of power and authority, and they participate actively in the political or decision-making process of their government. Democracy, according to American statesman Abraham Lincoln, is the government of the people, by the people, and for the people. Democracy is largely practiced through the conduct of regular elections that are managed in a free, fair and transparent manner (Misra, 2014).

#### **3.4.2 Participation**

Participation is the practice of involving all people from diverse backgrounds in making decisions which ensures mutual respect and encourages shared responsibilities. According to Kwame (2008), leaders and representatives of the people should always bear in mind the interests of their constituents and should make decisions that are responsive to them.





*Figure 8 Democracy and Participation of the People*

### **3.4.3 Democracy and Participation of the People**

Democracy and participation of the people refers to a political culture of involving people at all levels of decision making; where everyone is equally bestowed with the powers to exercise personal skills, access information, utilize opportunities, elect their representatives, express their views, and participate in governance without prohibition. The extent to which governments open up public affairs to active citizen engagement, as well as the level of accountability are the hallmarks of democracy in the opinion of Makay (2006). According to Adili (2013), it also refers to the right to contribute to societal and national issues particularly in reference to leadership and governance.

Democracy and participation of the people go hand in hand. The key role of citizens in a democracy is to participate in public life. Citizen participation is one of the key building blocks of sustainable democracy. Citizens have the right to be informed about public issues, to watch carefully how their political leaders and representatives use their powers, and to express their own opinions and interests. It is widely recognised that the active and



meaningful participation of citizens in public affairs is the distinguishing feature of democratic societies.

#### **3.4.4 Types of Democracy**

There are two main types of democracy, namely, direct democracy and representative democracy.

##### **a. Direct Democracy**

Direct Democracy is a system where the people make the key political decisions by themselves. This abolishes any distinction between the state and the citizens as it is a form of self-government. The effectiveness of this model of democracy is directly proportional to the extent of popular participation. In a direct democracy, the people's influence on the state is not limited to electing representatives to the parliament or government. Citizens can express their views and intervene directly on their representatives activities through a popular initiative and/or referendum.

According to Ake Claude (1993), features of direct democracy include:

- i. Genuine democracy: It is the only pure form of democracy as it ensures popular participation and not representative democracy.-
- ii. Popular participation is direct: This is where citizens themselves make decisions.
- iii. Popular participation is unmediated: the people are the government, there is no separate elite or ruling-class between the government and their people.
- iv. Popular participation is continuous: Citizens engage in politics on a regular basis as all decisions are directly made by the people.

##### **b. Representative Democracy;**

Representative democracy is a form of indirect democracy in which professional politicians act for or on behalf of the people. This is typically expressed through a system of regular and democratic elections which enable politicians to be removed and made publicly accountable. It seeks to ensure that government and parliament reflect and respect the opinions of the people. Politicians seek legitimacy from elections. Representative democracy is the most prevalent form of democracy in the world today according to Ake (1993).

#### **3.4.5 Elements of Democracy**

Democracy as a system of government has four key elements according to Misra (2014). These elements are:-



- a. A political system for choosing and replacing the government through free and fair elections;
- b. The active participation of the people as citizens in politics and civic life;
- c. Protection of the human rights of all citizens; and
- d. A rule of law, in which the laws and procedures apply equally to all citizens.

### 3.4.6 Indicators of Democracy and Participation of the People

#### **Discussion:**

1. Ask participants to name and discuss indicators of democracy and participation of the people

Explain to the participants indicators of democracy and participation of the people as follows:  
The following among others are the key indicators of democracy and participation of the people:

- i Good governance;
- ii Regular, free and fair elections;
- iii Participation of the people in elections and public decision making;
- iv Adherence to the rule of law;
- v Protection of fundamental freedoms and rights;
- vi Improved welfare of the citizens;
- vii Freedom of assembly, demonstration, and open public discussion on all issues;
- viii Majority rule and respect of the rights of the minorities;
- ix Respect of human dignity and sanctity of life.

### 3.4.7 Methods of Citizen Participation

#### **Note to the facilitator:**

1. Write down their answers on a flip-chart and display them in the classroom.

Explain to the participants that In order to ensure effective and deliberate involvement and citizen participation, the following among others are key methods according to Pateman (1973):

- i Participation of the people in voting during elections;
- ii Offering oneself as a candidate for political office;
- iii Debating public issues;



- iv Attending community meetings;
- v Petitioning the government and even protesting;
- vi Active membership in independent non-governmental organizations or civil societies;
- vii Paying of taxes by the citizens; and
- viii Monitoring and evaluation of governance processes and activities including legislations, policy development, implementation and interpretation.

### 3.4.8 Benefits of Democracy and Participation of the People

#### Activity:

- i. Divide participants into groups and ask them to state Benefits of Democracy and Participation of the People
- ii. Ask them to in groups discuss each of the benefits
- iii. Ask each group to make presentation of the benefits of Democracy and participation of the people

Explain to them the Benefits of Democracy and Participation of the People as follows:

Democracy and participation of the people remain instrumental in enhancing sustainable social, economic, and political development and that the following are some of the benefits that accrue from democracy and participation of the people:

- i Increased citizen participation in local governance which leads to improved service delivery;
- ii Democracy gives citizens a guarantee that the will of everyone in the community shall be duly considered and that no one shall be neglected by the government;
- iii Democracy is an avenue for public education, stimulates interest and it provides a platform for information sharing. Participation promotes ownership of the decisions made;
- iv Participation promotes transparency by enabling checks and balances that guard against abuse of office by public servants and political leaders.
- v Public participation bridges the gap between state actors and non-state actors such as the civil society, private sector and the general public.
- vi Public participation encourages civic and community responsibility;
- vii Democracy and participation of the people empowers vulnerable groups to demand and exercise their rights;





- viii It is essential for good governance as it improves information flow, accountability, due process, and gives greater voice to those most directly affected by public policy;

### 3.4.9 Challenges to the Principle of Democracy and Citizen Participation

#### Discussion:

1. Ask participants to discuss challenges that weaken the drive towards the Principle of Democracy and Citizen Participation

Explain to them the numerous challenges that weaken the drive towards the Principle of Democracy and Citizen Participation as follows:

The promotion of democracy and participation of the people has faced numerous challenges which may differ from one country to another. These include:

- i Inadequate and inappropriate international approaches in supporting democratic development. The delivery of international support is not always compatible with the national values of democracy;
- ii Inability to establish and in some cases re-establish, the political infrastructures and ideologies that support sustainable democracy and participation of the people;
- iii Inability by some democratic countries to enhance a self-nourishing relationship between authority, accountability and responsibility;
- iv Electoral conflicts and political violence that reflect the problems of transition to democracy associated with managing elections and building institutions of competition that are widely accepted by winners and losers;
- v Political parties that have weak internal processes and lack internal democratic system and acrimonious inter-party relations and weak civil society involvement in the electoral cycle;
- vi In some democratic societies, institutions that get involved in elections and other political processes exhibit weaknesses, for example, election management bodies that appear to lack capacity, public trust and in some cases legitimacy;
- vii Poor political leadership resulting from disrespect for the constitution;
- viii The lack of resolve by the democratic countries to empower important social economic actors that could mitigate against economic conditions such as the abject poverty, illiteracy, deprivation and hunger shocks;
- ix Democratisation takes place in often still authoritarian environments that resist change, in countries with weak states that provide insufficient security to their



citizens, in countries with incomplete processes of nation-building, and in countries with poorly developed or skewed economies;

- x Lack of sufficient attention to the non-existent or poor economic and social infrastructure including the building of roads, railways, harbours, and communication systems; and
- xi Inability by the democratic countries to achieve economic self-reliance and independence as a result of internal and external mismanagement of the economy.

### **3.4.11 Comparative Studies**

Countries the world over have made great strides in the promotion of democracy and participation of the people with varying degrees of success. To illustrate the noble initiatives in the promotion of the principle of democracy and participation of the people, the case studies of Kenya, Canada and Ghana are presented hereunder.

#### **3.4.11 Kenya**

Kenya has operationalized the principle of democracy and participation of the people as illustrated thematically as follows:

##### **a) The Constitution**

The Constitution underpins democracy and public participation as a value and principle of governance stipulated under Article 10(2). Public participation is a theme that runs through all the Chapters of the Constitution and is a requirement of not only the electoral processes but also a culture of the entire structure of governance under the Constitution. The Parliament and County Assemblies are required to open their proceedings to the public. State agencies and public officials are required to involve the public in making policy, legal and institutional decisions including having input in financial management.

Articles 118 and 196 requires Parliament and County Assemblies respectively to conduct their business in an open and transparent manner, and hold their sittings and those of their committees, in public and to facilitate public participation and involvement in the legislative and other business of the assembly and its committees. More importantly, the Constitution prohibits both houses from excluding the public, or any media, from any sitting unless in exceptional circumstances where the speaker has determined that there are justifiable reasons for doing so.

Article 119, provides that a 'person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation'. Given these



provisions versus the mandate of Parliament, it is clear that the Constitution is anchored on the provision that the people may exercise their sovereign power either directly or through their democratically elected representatives.

Among the human rights and fundamental freedoms likely to confer greater ability upon the citizens to participate more meaningfully in policy processes are guarantees for freedom from discrimination; freedom of conscience, religion, belief and opinion; freedom of expression; access to information; and the freedom of association, assembly, demonstration, picketing and petition. Generally, the Constitution guarantees more space for citizens' political participation.

In addition, Article 56 of the Constitution requires the State to put in place affirmative action programmes designed to ensure that minorities and marginalized groups participate in governance and other spheres of life.

#### **b) The County Governments Act No. 17 of 2012**

The County Government Act provides further guidelines for the realization of the goal of the Constitution of Kenya, 2010 of ensuring the participation of the people in governance. Section 87 of the Act provides that citizen participation in county governments shall be based upon the following principles:

- a) Timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;
- b) Reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;
- c) Protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information;
- d) Legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;
- e) Reasonable balance in the roles and obligations of county governments and non-state actors in decision-making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight;
- f) Promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted actions on sustainable development; and



g) Recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight.

Further, the County Governments Act also provides for citizen participation in a number of areas. Section 15 of the Act, grants any person power to petition the County Assembly to consider any matter within its authority, including enacting, amending or repealing any of its legislation.

Section 27 of the Act empowers the electorate in a County Ward to recall their member of the County Assembly before the end of the term of the member, where:

- a) The member is found, after due process of the law, to have violated the provisions of Chapter Six of the Constitution;
- b) The member is found, after due process of the law, to have mismanaged public resources; and
- c) The member is convicted of an offence under the Elections Laws, (Amendment) Act, 2016.

Section 45 of the Elections Laws, (Amendment) Act, 2016 provides for the right of recall of Members of Parliament based on similar reasons as the recall of County Assembly members cited above. In addition, section 88 of the Act gives the people the right to petition the County Government on any matter under the responsibility of the County Government. Section 89 of the Act makes it a duty to County Government authorities, agencies and agents to respond expeditiously to petitions and challenges arising from citizens.

Moreover, Section 90 of the Act allows the conduct of referenda on local issues such as county laws and petitions; or planning and investment decisions affecting the county for which a petition has been raised and duly signed by at least twenty five percent of the registered voters where the referendum is to take place.

Further, Section 113 of the Act makes public participation in County planning processes mandatory. It also requires that it is facilitated through various measures under Part VIII of the Act and the provision to the public of clear and unambiguous information on any matter under consideration in the planning process, including clear strategic environmental assessments, clear environmental impact assessment reports, expected development outcomes, and development options and their cost implications.



The Act specifies the structures that the County Governments should put in place to facilitate citizen participation. These include:

- a) Information Communication Technology based platforms;
- b) Town hall meetings;
- c) Budget preparation and validation fora;
- d) Through Notice boards: Announcing jobs, appointments, procurement, awards and other important announcements of public interest;
- e) Development project sites;
- f) Avenues for the participation of peoples' representatives including but not limited to members of the National Assembly and Senate; and,
- g) Establishment of citizen fora at County and decentralized units.

**c) The Urban Areas and Cities Act, 2011**

The Urban Areas and Cities Act, 2011 accords residents of a city or urban area the right to:

- i Contribute to the decision-making processes of the city or urban area by submitting written or oral presentations or complaints to a board or town committee through the city or municipal manager or town administrator;
- ii Prompt responses to their written or oral communications;
- iii Be informed of decisions of a board, affecting their rights, property and reasonable expectations;
- iv Regular disclosure of the state of affairs of the city or urban area, including its finances;
- v Demand that the proceedings of a board or committee and its committees or sub committees be conducted impartially and without prejudice and untainted by personal self-interest;
- vi The use and enjoyment of public facilities; and,
- vii Have access to services which the city or municipality provides.

Further, that a city or urban area should develop a system of governance that encourages participation by residents in its affairs, taking into account illiterate, disabled, youth, minorities, and marginalized groups. These include:

- a) To create appropriate conditions for participation in the preparation, implementation and review of the integrated development plan; the establishment, implementation and review of its performance management system; the monitoring and review of its



performance including the outcomes and impact of its performance; the preparation of its budget; and making of strategic decisions relating to delivery of service;

- b) To contribute to building the capacity of the residents to enable them participate in the affairs of the city or urban area and for members of the board or town committee and staff to foster community participation;
- c) To apply its resources, and allocate funds annually as may be appropriate for the implementation of paragraphs (a) and (b); and
- d) To establish appropriate mechanisms, processes and procedures for the receipt, processing and consideration of petitions and complaints lodged by residents; petitions and public comments procedures, when appropriate; notification of public meetings and hearings organized by a board or town committee; consultative sessions with locally recognized resident organizations; and, reporting to the residents.

**d) The Public Financial Management Act, 2012**

Section 10 of the Public Financial Management Act, 2012 requires the Parliamentary Budget Office to observe the principle of public participation in budgetary matters. Further, Sections 35 and 125 require the Cabinet Secretary in-charge of finance and County Executive Committee member for finance respectively, to ensure public participation in the budget process. Moreover, in section 175, it requires the accounting officer of an urban area or city to ensure that the public is given an opportunity to participate in the preparation process of the strategic plan and the annual budget estimates.

**e) The National Government Constituencies Development Fund Act, 2015**

Under the National Government Constituencies Development Fund Act, 2015, the public can participate in the implementation of constituency development projects in several ways. Under Section 24 citizens can either nominate persons or be nominated to serve in the Constituency Development Fund Committee. In addition, a member of the public can submit proposals for community development projects to the Committee for consideration and by actively participating in, and monitoring their implementation.

**f) Kenya Vision 2030 Blueprint:**

Kenya Vision 2030 is the country's development blueprint covering the period 2008 to 2030. The Vision itself was developed through an all- inclusive and participatory stakeholder consultative process, involving Kenyans from all sectors and parts of the country. During the periodic evaluation reports prepared by the Secretariat on the Vision's progress, members of



the public are invited to give their views on the progress achieved, as well as to make contribution towards enhancing the Vision's programmes and activities.

**g) The Sessional Paper No.8 of 2013 on National Values and Principles of Governance:**

One of the implementation strategies of the Policy on National Values and Principles of Governance is mainstreaming national values for behavior change in all spheres. The objective is to make values a fulcrum around which national activities and programs are anchored. In the process, values will become a central rallying ingredient and theme in the planning and execution of national programs. It is envisaged that all actors shall take action to mainstream national values, at county and national level, in arts and entertainment, communities, educational institutions, families, government, political organizations, private sector, religious and faith-based organizations, and sports. The mainstreaming process will require legislative as well as administrative action, awareness programmes, and media campaigns to carry out information, education and communication initiatives. It involves value-smart citizen service delivery charters aimed at increasing the transparency, accountability and citizen-friendliness of institutions. It also involves dissemination exercises, meetings, workshops and learning fora. The above engagement provides an opportunity to stakeholders/participants to make suggestions on strategies towards effective promotion of national values and principles of governance (in the spirit of democracy and participation of the people).

**3.4.12 Canada**

Canadian citizens elect someone to represent them in making decisions at the different levels of government as part of their representative democracy. The Leader of Canada is a Prime Minister, who is the leader of the party in power. One becomes the Prime Minister when their party garners the highest number of seats in Parliament. The term of government for the Canadian system is 3-5 years. When there is a minority government, the term is shorter because of the possibility of a vote of no-confidence. But usually the Prime Minister calls elections, if he or she doesn't, the Governor General has the right to remind and force the Prime Minister to call an election hence:-

- i. The people choose the government;
- ii. The Prime Minister is responsible to the people because he can be replaced; and
- iii. An unpopular minority government can be voted out through a vote of no-confidence.





Canada's democracy promotion efforts are not exhausted by their relationship to national security. Indeed, the promotion of democracy is taken to have ramifications in every sector of Canada's national interest: in economics, cultural development, and the provision of government services. Canada's interests are furthered, therefore, by the promotion of an acceptable style of democratic governance.

### **3.4.13. Ghana**

In recent years, Ghana has made significant progress towards democratic ownership. Important initiatives have been set in motion and many opportunities have been opened where democratic processes can take place.

In the democratic context, Ghana has made progress in the following areas: building an enabling environment for civil society; ownership, accountability and participation of social actors in aid management and decision-making; transparency in financial management; and conditionality linked to aid disbursements.

Successive administrations have since the restoration of democratic politics in January, 1993, pursued a development agenda that emphasizes the urgency of economic growth, poverty reduction, and investment in human development. Relative to the periods preceding the 1990's, and beyond, policy reforms and investments have been somewhat extensive and meaningful. Consequently, the economy within the period under review, has recorded growth levels that has restored Ghana to its immediate post-independence promise. Beginning, particularly from 2001, the economy has accelerated to new historic growth levels and in nominal terms expanded fourfold by the close of 2008 from its 2000 levels. By this development, relative to average growth prospects in SSA, Ghana appears particularly promising and has re-emerged again, as a model state of development in Africa according to Naude (2010) and Fosu (2009).

### **Group Activity**

#### **Discussion:**

:

- Ask participants to Enumerate activities in which they have participated as part of promoting democracy and participation of the people.
- Ask participants to Identify challenges faced in their surrounding environment in the promotion of democracy and participation of the people



- Guide participants in discussing possible solutions to challenges faced in the promotion of democracy and participation of the people

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### **3.5 Human Dignity and Human Rights**

**Time: 2 Hour**

#### **Introduction**

This session discusses the values of human rights and human dignity. It covers the definition of the concepts, the basis for their observance, promotion, indicators, benefits and challenges of realising a human rights and human dignity based society.

#### **Learning outcomes**



**Note to facilitator:**

2. Begin the session by explaining to participants the learning outcomes for the session.

**Explain to them the outcomes as follows:**

By the end of the session, participants should be able to:

1. Appreciate human dignity as the foundation of all human rights;
2. Engage in activities that promote and protect human rights and dignity; and
3. Employ the use of different human rights instruments in spearheading human rights based approach in solving societal issues.
4. Implement human rights; respect, promote and fulfillment all levels

### 3.5.1 Understanding Human Dignity

**Note to facilitator:.**

1. Ask participants to discuss in class the meaning of the following terms/concepts :
  - human rights
  - Human dignity
2. Write down their answers on a flip-chart and display them in the classroom.

**Explain to them the meaning of the terms as follows:**

**Human dignity**

Dignity is a term used to signify that a human being has an innate right to be valued and to be accorded ethical treatment. Human dignity refers to the inherent right of an individual to be treated with respect. According to Lebech and Mette (2004), human dignity means the status of human beings entitling them to respect and not to be taken for granted. Article 28 of Constitution of Kenya 2010 states that ‘Every person has inherent dignity and the right to have that dignity respected and promoted.’ When specific rights are promoted or respected, by default human dignity is promoted. To ensure promotion of human dignity, there is need to ensure that rights of specific groups are respected, promoted and fulfilled.

### 3.5.2 Basis of Human Dignity



**Note to the facilitator:**

1. Ask participants to discuss amongst themselves in groups the Basis of Human Dignity

Explain to participants bases for human dignity as follows:

The bases for human dignity are historical, religious and legal: They are discussed as follows:

**3.5.3. Historical Basis**

The concept of *dignity* is a classical Roman thought which means ‘status to be accorded to whom honour and respect is due’. Indeed, *dignity* was not confined to persons only, but also applied to institutions and the state.

**3.5.4. Religious Basis**

In the religious view, the dignity of the human person is rooted in his or her creation in the image and likeness of God and that all human beings, are created in the image of God.

**3.5.6 Legal Basis**

A major step in the recognition of dignity in the International sphere was the adoption of dignity as the central organizing principle of the Vienna World Conference on Human Rights in 1993. The Declaration and Programme of Action adopted human dignity as foundational not just to human rights in general, but also the concept of dignity in the provisions dealing with particular areas of human rights such as the treatment of indigenous peoples, the prohibition of torture, the prohibition of gender-based violence and harassment, the abolition of extreme poverty, and the issue of biomedical ethics.

Increasingly, the role of human dignity has expanded beyond the preambles to International human rights documents and into the texts of their substantive articles. References to human dignity have been expanded to include not only rights relating to conditions of (and treatment during) detention and the right to education, but also other rights: rights in the criminal justice process, rights to be provided minimum conditions of welfare, the right to health, the right of disabled persons to be treated as autonomous individuals, the right of children to be treated with dignity following abuse, rights to reputation, rights of indigenous cultures, rights to control access and use of personal data, and the conduct of biomedical experimentation.

By 1986, human dignity had become so central to United Nations’ conceptions of human rights that the UN General Assembly provided, in its guidelines for new human rights instruments, that such instruments should be of fundamental character and derive from the



inherent dignity and worth of the human person'. Since then, not surprisingly, the major conventions on the Rights of Children (1989), the Rights of Migrant Workers (1990), Protection of all Persons from Enforced Disappearance (2006), and the Rights of Disabled Persons (2007) have all included references to dignity, asserting the centrality of dignity to human rights in general. In addition, International instruments in other more specific spheres as far apart as those dealing with the right to food and the death penalty have also adopted dignity language in their preambles.

### 3.5.7 Indicators of Human Dignity

#### Discussion:

1. Ask participants to name and discuss Indicators of Human Dignity

Explain to participants indicators of human dignity as follows:

- i Ability to work for a decent life.
- ii Being free from extreme poverty.
- iii Participation in decision making processes; and
- iv Fair treatment by others including by state.
- v Lowering levels of organized crimes such as human trafficking and human smuggling.
- vi Freedom from physical, sexual and mental harassment.

### 3.5.4 Benefits of Upholding Human Dignity

#### Activity:

1. Divide participants into groups and ask them to state Benefits Upholding Human Dignity
2. Ask them to in groups discuss each of the benefits
3. Ask each group to make presentation of the benefits of Democracy and participation of the people

Explain to participants benefits of safeguarding human dignity as follows:

The following are the key benefits of safeguarding human dignity.

- i Human dignity enables citizens to fully exploit their potential.
- ii Enables individuals satisfy their physical and spiritual needs.



- iii Respect for human dignity limits internal and external conflicts and strengthens national unity.
- iv Creates social harmony and cohesion in society.
- v Boosts self-esteem of individual citizens.

### 3.5.8 Threats to Human Dignity

#### **Discussion:**

Ask participants to discuss Threats to realization of Human Dignity

Explain to participants threats to realisation of human Dignity as follows:

The following are the key threats to the realization of human dignity.

- i Increasing levels of poverty.
- ii Ignorance of people on their rights.
- iii Poor governance.
- iv Human trafficking and smuggling.
- v Limited resources to promote the respect to human dignity.
- vi Marginalisation of certain sections of population .
- vii Natural calamities such as floods, droughts, earthquakes that impact on human dignity.
- viii Terrorism that affects people's dignity.
- ix Insecurity and breakdown of law and order.
- x Sexual harassment.
- xi Domestic violence.
- xii Ethnic tensions and conflicts.
- xiii Socio-cultural and political intolerance that breeds violence.
- xiv Impunity and disregard for the law.

#### **Note to the facilitator:**

Ask participants to discuss what Human Rights is

Explain to them the meaning of Human Rights as follows:

### 3.5.9 Understanding Human Rights

A right is that which a person is entitled to have, to do, or to receive from others and which is enforced by law. Human rights are the fundamental freedoms and inherent entitlements which human beings are entitled to Human rights are inherent to human beings. They are





basic standards without which people cannot live in dignity as human beings. These rights are legally guaranteed by law which protects individuals and groups against actions which interfere with fundamental freedoms and human dignity. They reflect the dignity and worth of every person. Human beings are all equally entitled to these rights without discrimination regardless of nationality, place of residence, sex, ethnic origin, birth, age, race, religion, language, or any other status. Observing human rights demands that human dignity be respected and in turn one respects the dignity of other human beings. According to Mother Teresa, human rights are not a privilege conferred by government. They are every human being's entitlement by virtue of their humanity (Asirvatham and Misra, 2013).

Human rights were first set down in the Universal Declaration of Human Rights (UDHR) by the United Nations (UN) on 10<sup>th</sup>, December, 1948 and were consequently grounded in other International policies and laws. In the Kenyan context, human rights represent one of the systems of values that lay rightful claim to national and universal validity. These are effectively embodied as the supreme legal norms of the Constitution and adopted, and to a varying extent ratified as International human rights treaties.

**Discussion:**

Ask participants to name ,and discuss adopted and ratified International human rights treaties by Kenya

**Human Rights Mechanisms**

Kenya has adopted and ratified International human rights treaties and committed herself under International law to respect, protect and fulfill these fundamental rights of human beings as per the Human Rights Manual (2010).

**Note to the facilitator:**

**Explain to participants International human rights instruments ratified by Kenya:**

- **Internationally**
- **Regionally**
- **local level**

The International human rights instruments ratified by Kenya include;

- i. International Covenant on Civil and Political Rights (ICCPR), (1966). The ICCPR focuses on rights such as the right to life, freedom of speech, religion and voting.



- ii. International Covenant on Economic, Social and Cultural rights (ICESCR), (1966). The ICESCR focuses on the right to food, education, health, shelter, etc.)
- iii. Convention on the Elimination of All Forms of Racial Discrimination (CERD), (1966). It condemns racial segregation and apartheid.
- iv. Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) (1979). Some of the rights therein include non-discrimination in all its forms and suppression of all forms of trafficking of women.
- v. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984). The convention parties to take measures to end torture within their territorial jurisdiction and to criminalize all acts of torture Convention on the Rights of Children (CRC) (1989). Examples of the rights in the CRC are the right to a name and nationality, freedom of expression, protection of privacy, education, health and health services.

### **Regional Instruments**

The African region has human rights conventions that have been entered into by states. They include:

- i. The African Charter on Human and People's Rights (1986). The civil and political rights recognized in the Charter include the right to freedom from discrimination, the rights to life, personal integrity, and freedom from slavery.
- ii. The African Charter on the Rights and Welfare of the Child (1990). Examples of the rights in that Charter include the right to life, non-discrimination, parental care and protection and protection from armed conflict.

### **At the local level;**

States have enshrined these rights in their domestic legislation. For some of these countries, these rights are found in the Constitution. In Kenya these rights are contained in the Constitution under Chapter four.

### **Principles of Human Rights**

#### **Discussion:**

Ask participants to discuss Principles of Human Rights

Explain to participants Principles of Human Rights as below:

The principles of human rights as adopted from the Kenya National Commission on Human Rights Training Manual (2015) guide the process of developing public policy and are as follows.



- i Equality and non-discrimination:** The principle refers to the notion that all human beings are entitled to the same human rights without any distinction. No discrimination on grounds of race, color, ethnicity, disability, gender, age, language and religion.
- ii Participation and inclusion:** All people are entitled to active, free and meaningful participation in contribution to and enjoyment of all the rights. Through participation, people are empowered to claim their rights rather than become perceive recipients of services. The goal of participation is to give people the power and capabilities to improve their own communities and influence their own destinies.
- iii Transparency and accountability:** This entails identifying who the duty bearer and who the right holder is. The state and other duty bearers are answerable for the observance of human rights. Human Rights Approach implies accountability of those with duties or obligations. This requires monitoring at all levels of society and the use of the information to design new actions to respect, protect, facilitate, and fulfill human rights. The identification will point out the obligation by the duty bearer upon which they can be held accountable where they fail to meet them.
- iv Universal and Inalienable:** Universality requires that no particular group be left out of the reach of development assistance programmes e g right to health whereas inalienable means that the rights cannot be removed/ denied.
- v Interdependent:** All rights are interlinked and for enjoyment of one right the rest have to be in place, the right to education can only be realized if the beneficiaries are in good health.
- vi Indivisible and Interdependent/ Inter- related:** The quality of enjoyment of one human right is dependent on the presence or absence of enjoyment of another human right.

### **National Human Rights Institutions in Kenya**

Article 21 of the Constitution gives obligation to state and every state organ to observe, respect, protect, and fulfil the rights and fundamental freedoms in the Bill of Rights. The Constitution of Kenya 2010 provided for establishment of Kenya National Human Rights and Equality Commission (KNHREC).The KNHREC was operationalized and restructured into three separate commissions in accordance with Article 59(4) of the constitution. The three Commissions were established with the mandates focusing on different aspects of human



rights. These commissions include the Kenya National Commission on Human Rights (KNCHR), the National Gender and Equality Commission (NGEC) and the Commission on Administrative Justice (CAJ).

### **Fundamental Rights guaranteed under the Constitution of Kenya**

#### **Discussion:**

Participants to name and discuss rights and fundamental freedoms

Explain to participants rights and fundamental freedoms as follows:

Human Rights are enshrined in the Bill of Rights chapter 4 of the Kenyan Constitution. Article 19- 57 of the Constitution lists and explains all rights and fundamental freedoms to be enjoyed by all Kenyans without discrimination. These rights are categorized in two groups;

#### **i. Economic, Social and Cultural Rights**

- The highest attainable standard of health, this includes the right to health care services, including reproductive healthcare.
- Access and adequate housing and to reasonable standards of sanitation.
- Clean and safe water in adequate quantities.
- Social security.
- Education.
- a) A person shall not be denied emergency treatment.
- b) Social security to persons who are unable to support themselves and their dependents.
- c) Right to language and culture.
- d) Right to family and thus to marry a person of the opposite sex.
- e) Right to property.
- f) Right to property.
- g) Right to labour relations.
- h) Right to clean and healthy environment.

#### **Civil and Political Rights**

Among these rights include:-

- (i) Right to life;
- (ii) Equality and Freedom from discrimination;
- (iii) Every person has inherent dignity;
- (iv) Freedom of Security of a person;



- (v) Freedom from torture, slavery, servitude and forced labour;
- (vi) Right to privacy;
- (vii) Freedom of expression;
- (viii) Right to access information;
- (ix) Freedom of association;
- (x) Political Right to vote and be voted for;
- (xi) Freedom of movement and residence;
- (xii) Right to bodily integrity;
- (xiii) Everyone is presumed innocent until proven guilty in a fair trial;
- (xiv) Torture and other inhuman or degrading treatment is absolutely prohibited;
- (xv) Freedom of thought; and
- (xvi) Right to freedom of expression.

### 3.5.10. Indicators of Human Rights

#### Discussion:

1. Ask participants to name and discuss indicators of Human Rights

Explain to participants indicators of Human Rights as follows:

The following are the indicators of human rights.

- i Observance of the rule of law.
- ii Equality of all people before the law.
- iii Equal access to social services/ amenities.
- iv Freedom of choice.
- v Freedom of expression.
- vi Shared visions and challenges.
- vii Living in a secure environment.
- viii Safety of property and life.

### 3.5.11 Benefits of Upholding Human Rights

#### Activity:

1. i) Divide participants into groups and ask them to state Benefits of safeguarding, respecting and promoting human rights
2. ii) Ask them to in groups to discuss each of the benefits
3. iii) Ask each group to make presentation of the benefits of Democracy and

### participation of the people

**Explain to participants benefits as below:**

**The benefits of safeguarding, respecting and promoting human rights include:**

- i Defining the relationship between the state and its people;
- ii Providing a framework for the entire Constitution;
- iii Empowering citizens and residents by; giving them a central role in decision-making, in organs of the State and the right to associate; and protecting their vital interests against violation by the State;
- iv Limiting state power and protect against the excesses of majoritarianism;
- v Justifying special treatment of minorities and other disadvantaged communities;
- vi Establishing and protecting democracy, including accountability of public authorities;
- vii Efficiency and effectiveness in public service delivery; and
- viii Ownership and participation in public discourse and other processes.

### 3.5.12 Threats to Human Rights

#### **Discussion:**

1. Participants to name and discuss threats to human rights

**Explain to participants threats to human rights as below:**

The threats to human rights include the following.

- i Authoritarian/ dictatorial/ hegemonic/ despotic governments or regimes.
- ii Persistent violent conflicts.
- iii Entrenched impunity in the society.
- iv Ignorance of the provisions law on human rights.
- v Religious and cultural extremism.
- vi Increasing levels of corruption.
- vii Poor governance in the responsible institutions.
- viii Environmental challenges.
- ix Evolutionary nature of rights.
- x Flawed electoral system.
- xi Inequality especially in gender and ethnic lines.

### 3.5.13 Limitations to Human Rights and Human Dignity



Article 24 of the Constitution provides that the Bill of Rights shall not be limited except by law and the limitation shall be reasonable and justifiable. The limitation must be “reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom”. The important thing is that in most cases limits on rights must pass the limitation-clause test. The Bill of Rights indicates that, laws limiting rights must specify what right they limit. Rights can’t be limited accidentally.

The limitation clause says that, with only four exceptions, all rights may be limited by law but it sets a test that laws limiting rights must pass. Article 25 on fundamental rights and freedoms that may not be limited are: freedom from torture and cruel, inhuman or degrading treatment or punishment; freedom from slavery or servitude; the right to a fair trial; and the right to an order of *habeas corpus*.

## **5.14 Comparative Studies**

### **1. Kenya- Cash Transfers**

In 2013, the Government of Kenya through an Act of Parliament approved the social protection framework to generate positive reforms for social assistance programs in the country through the enactment of Social Assistance Act, No. 24 of 2013. The framework referred to as the National Social Protection Policy (NSPP) aims to strengthen the delivery of social assistance to poor and vulnerable population segments of the national and county levels and promises progressive realization of the rights to social security and protection to persons who are unable to support themselves and their dependants. The policy is further grounded on the reform based Social Assistance Act, No. 24 of 2013 and is expected to raise the social profile of Kenya by the year 2030.

The first step in the reform agenda on social safety and protection for the vulnerable populations is the establishment of the National Safety Net Program (NSNP), which aims to strengthen operational systems while expanding the coverage of five cash transfer programs; the Older Persons Cash Transfer (OPCT), the Cash Transfer for Orphans and Vulnerable Children (CT-OVC), the Hunger Safety Net Program (HSNP), the Urban Food Subsidy Cash Transfer (UFS-CT), and the Persons with Severe Disability Cash Transfer (PWSD-CT). The program has attracted attention of development partners as well. In July, 2013, the transformational National Safety Net Program received significant financial support through the World Bank zero-interest credit of \$250 million to help fight extreme poverty and together with other initiatives reach up to 3.3 million of the country’s poorest people by 2017.





The Government through the Ministry of Labour, Social Security Services implemented cash transfer programs since mid-2000. The program was initially rolled out on a pilot basis before implementation in 2000.

## 2. USA - Human Rights

The protection of fundamental human rights was a foundation stone in the establishment of the United States on 4<sup>th</sup>, July, 1776 AD. Since then, a central goal of U.S. foreign policy has been the promotion of respect for human rights, as embodied in the Universal Declaration of Human Rights of December 1948 (UDHR). The United States appreciates that the existence of human rights helps secure the peace, deter aggression, promote the rule of law, combat crime and corruption, strengthen democracies, and prevent humanitarian crises.

Because the promotion of human rights is an important national interest, the United States seeks to:

- (i) Hold governments accountable to their obligations under universal human rights norms and International human rights instruments;
- (ii) Promote greater respect for human rights, including freedom from torture, freedom of expression, press freedom, women's rights, children's rights, and the protection of minorities;
- (iii) Promote the rule of law, seek accountability, and change cultures of impunity;
- (iv) Assist efforts to reform and strengthen the institutional capacity of the Office of the UN High Commissioner for Human Rights and the UN Commission on Human Rights; and
- (v) Coordinate human rights activities with important allies, including the European Union (EU), and regional organizations.

The Bureau of Democracy, Human Rights, and Labor (DRL) applies *three key principles* to its work on human rights:

**First**, *DRL strives to learn the truth and state the facts* in all of its human rights investigations, reports on country conditions, speeches and votes in the UN, and asylum profiles. The DRL develops, edits, and submits to Congress a 5,000-page report on human rights conditions in over 190 countries that is respected globally for its objectivity and



accuracy. DRL also provides relevant information on country conditions to the Immigration and Naturalization Service and immigration judges in asylum cases.

**Second,** DRL takes consistent positions concerning past, present, and future abuses. With regard to past abuses, it actively promotes accountability. To stop ongoing abuses, the bureau uses an "inside-outside" approach that combines vigorous, external focus on human rights concerns (including the possibility of sanctions) with equally robust support for internal reform. To prevent future abuses, it promotes early warning and preventive diplomacy. Each year DRL ensures that human rights considerations are incorporated into U.S. military training and security assistance programs; promotes the rights of women through International campaigns for political participation and full equality; conducts high-level human rights dialogues with other governments; coordinates U.S. policy on human rights with key allies; and raises key issues and cases through diplomatic and public channels.

**Third,** *DRL forges and maintains partnerships* with organizations, governments, and multilateral institutions committed to human rights. The bureau takes advantage of multilateral fora to focus International attention on human rights problems and to seek correction. Each year, DRL provides significant technical, financial, or staff support for U.S. delegations to the annual meetings of several International human rights organizations; conducts regular consultations with Native American tribes and serves as the Secretary's Principal Advisor on International indigenous rights issues; maintains relations with the UN High Commissioner on Human Rights; and supports the creation of effective multilateral human rights mechanisms and institutions for accountability. (US Department of State, 2010)

#### **Group activity**

1. Ask participants to discuss circumstances within their communities that predispose individuals to violation of human rights and propose intervention measures.
2. Ask participants to present a skit on human rights promotion.

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### **3.6 Equity, Equality, Social Justice and Inclusiveness**

**Time: 2 Hour**

**Introduction**



**Note to facilitator:**

1. Begin the session by explaining to participants the learning outcomes for the session.
2. Ask participants to discuss in class the meaning of the following terms/concepts :
  - Equity
  - Equality
  - Social Justice
  - Inclusiveness
3. Write down their answers on a flip-chart and display them in the classroom.

Explain to participants the outcomes of the session and the meaning of the terms as below:

This session discusses the values and principles of equity, equality, social justice and inclusiveness. It provides the definition of the concepts, the indicators, the benefits and the resultant challenges in their promotion.

**Learning outcomes**

By the end of the session, participants should be able to:

1. Understand the concepts of equity, equality, social justice and inclusiveness;
2. Identify the indicators, benefits and challenges on the realization of equity, equality, social justice and inclusiveness;
3. Appreciate the contribution of equity, equality, social justice and inclusiveness in the promotion of a just and inclusive society.

**3.6.1 Equity**

Equity refers to the quality of being fair and impartial and has attributes such as fairness, justice, impartiality and egalitarianism. It is the quality of being reasonable and fair in all decisions and actions according to Locke (1996). In law, it is about natural justice and fair conduct. It dejects biasness, favoritism and unjustified preference.

Equity is not always about treating everyone in the same way; is about treating people in such a way that the outcome for each person can be the same. This means putting measures in place to support people achieve similar outcomes. Quality of outcome can be achieved by ensuring that everyone has access to resources and decision making and at the same time be recognized, valued and respected.



Figure 9:  
Understanding equity (fairness)

ss)

### 3.6.1.1 Indicators of Equity

#### Discussion:

Ask participants to name and discuss Indicators of Equity

Explain to participants indicators of equity as follows:

The indicators of equity include the following.

- i Reduced disparities in wage and incomes.
- ii Comparable development in all regions.
- iii Fair distribution of infrastructure among groups.
- iv Social cohesion and harmony.
- v Fair distribution of resources.
- vi Good governance.

### 3.6.1.2 Benefits of Equity



**Discussion:**

Ask participants to name and discuss Benefits of Equity

Explain to participants the Benefits of Equity as follows:

The benefits of equity include:

- i Poverty reduction;
- ii Reduced cases of marginalization;
- iii Improved self-esteem;
- iv Balanced economic growth;
- v Efficient and effective utilization of resources amongst others;
- vi Social cohesion and harmony; and
- vii Enhanced gender balance.

### **3.6.1.3 Challenges in Achieving Equity**

**Discussion:**

1. Ask participants to name and discuss challenges in achieving Equity

Explain to participants the challenges to the achievement of equity as follows:

The following are the challenges to the achievement of equity.

- i Political intolerance.
- ii Bad governance.
- iii Corruption and unethical behavior.
- iv Ignorance on issues of equity.
- v Limited resources.

### **3.6.2 Equality**

Equality exists where all people within a group have the same status in a certain respect. It includes equal rights under the law such as right to security and voting, freedom of speech, access to education, health care and other social securities. It also includes equal opportunities and obligations. Equality implies absence of social class or caste boundaries and the lack of unjustified discrimination motivated by an inalienable part of a person's identity. For example, gender, age, origin, caste or class, income or property, language,



religion, convictions, opinions, health or disability must not result in unequal treatment under the law and should not reduce opportunities unjustifiably.

Equality is ensuring individuals or groups of individuals are treated fairly and equally and no less favorably according to Nickel (2013). Equality as a national value represents a common national interest in an equal society.



*Figure 10: Understanding Equality*

### 3.6.2.1 Indicators of Equality

#### **Discussion:**

1. Ask participants to name and discuss Indicators of Equality

#### **Explain to participants Indicators of Equality as follows:**

Some of the indicators to the realization of equality are:

- i Equal access to opportunities and resources;
- ii Equal treatment of citizens;
- iii Equal opportunities in employment;
- iv Involvement of all in decision making;





- v Inclusiveness in the society;
- vi Balanced socio-economic development across regions; and
- vii Equal representation at all levels of governance.

### 3.6.2.2 Benefits of Equality

#### Discussion:

1. Ask participants to name and discuss benefits of Equality

#### Explain to participants benefits of equality as follows:

Benefits of equality include:

- i Fostering nationalism/ patriotism and the enhancement national unity;
- ii Social economic, technological and industrial development;
- iii Individual development and self-fulfillment;
- iv Social equality and responsibility;
- v Improved service delivery;
- vi Improved standards of living; and
- vii Reduced levels of crime and improved security.

### 3.6.2.3 Challenges to achieving Equality

#### Discussion:

1. Ask participants to name and discuss challenges to achieving Equality

#### Explain to participants as follows:

Challenges to the realisation of equality include:-

- i Inadequate financial and human resources;
- ii Lack of political goodwill;
- iii Corruption and unethical behavior;
- iv Nepotism and tribalism;
- v Ignorance on the provisions of law;
- vi Cultural/ religious barriers; and
- vii Ethnic conflicts and tensions.



### 3.6.3 Social Justice

Social justice refers to creating a society that is based on the principle of equality, where human rights and the dignity of every citizen are recognized. Social justice is about a society which gives individuals fair treatment and a just share of the benefits of society. This includes access to education, health care, social security, labour rights, as well as a broader system of public services, progressive taxation, control of monopoly, encouragement of competition and regulation of markets as per the Competition Act No. 12 of 2010 (Revised in 2012), to ensure fair distribution of wealth and equality of opportunity.

It also refers to the enjoyment of the rights that enhance the well-being of an individual in all aspects of their interaction with one another and promotes solidarity. It also refers to philanthropy and other initiatives to address injustice and poverty. Social justice enables people to lead fulfilling lives and actively contribute to the development of their community.

#### 3.6.3.1 Indicators of Social Justice

##### Discussion:

1. Ask participants to name and discuss indicators of Social Justice

##### Explain to participants:

Indicators of on the realisation of social justice include as follows:

- i Empowered citizens who can earn their own living;
- ii A wage system that enables employees to afford a decent living;
- iii Fair distribution of tax burden;
- iv Subsidies on basic goods and services;
- v Enjoyment of public services for example health, education and infrastructure;
- vi Support to the vulnerable members of the society such as the aged, persons living with disability and orphans among others; and
- vii Empowerment of segments of society such as hawkers, pastoralists, artisans among others.

#### 3.6.3.2 Benefits of Social Justice

##### Activity:

1. Divide participants into groups and ask them to state Benefits of Social Justice
2. Ask them to in groups discuss each of the benefits



3. Ask each group to make presentation of the benefits of Social Justice of the people

**Explain to participants:**

Benefits realised from the attainment of social justice include as follows:

- i Enhanced social cohesion;
- ii Reduced political conflicts;
- iii Improved living standards of individuals and communities;
- iv Improved public confidence in the state; and
- v Sustainable national development.

**3.6.3.3 Challenges to achieving Social Justice**

**Discussion:**

Ask participants to name and discuss challenges hindering the achievement of social justice

Explain to participants as follows:

Challenges hindering the achievement of social justice include:

- i. Political differences and competition;
- ii. Legal impediments and challenges;
- iii. Limited resources;
- iv. Corruption and unethical behavior;
- v. Ignorance to the provisions of the law; and
- vi. Poor governance and practices.

**3.6.4. Inclusiveness**

Inclusiveness refers to affording all people an opportunity to participate in activities that affect their lives including decision making. It is a sense of belonging and feeling respected and valued for who one is. It engages each individual and makes him or her feel valued and is essential to the success of a group, an organization or a country. Inclusiveness therefore means that every person has an opportunity to make his or her contribution to the society's development agenda.

The process of inclusiveness engages each individual and makes people feel valued and essential to the success of a group or an organization. In a society where there is inclusiveness, individuals function at full capacity, feel valued and included in the general mission of their society.

#### 3.6.4.1 Indicators of Inclusiveness

**Discussion:**

Ask participants to name and discuss the indicators of inclusiveness

Explain to participants Indicators of Inclusiveness as follows:

The following are some of the indicators of inclusiveness.

- i Involvement of all stakeholders in decision making.
- ii Citizen participation in political processes.
- iii Reduced feelings of marginalization among citizenry.
- iv Enjoyment of public services by all citizens.
- v Balanced development across regions and groups.

#### 3.6.4.2 Benefits of Inclusiveness

**Discussion:**

1. Ask participants to name and discuss Benefits of Inclusiveness

Explain to participants Indicators of Inclusiveness as follows:

Benefits of Inclusiveness include:

- i Creation of investor confidence;
- ii Promotion of human capital that is necessary for socio- economic development;
- iii Boosting of self-esteem and self-confidence in individuals;
- iv Promotion of equitable distribution of resources;
- v Enhancement of cohesion and social harmony;
- vi Promotion of public participation on national issues;
- vii Promotion of sustainable development; and
- viii Reduction on the levels of crime.

#### 3.6.4.4 Challenges to achieving Inclusiveness

**Discussion:**

1. Ask participants to name and discuss Challenges to achieving Inclusiveness

Explain to participants Challenges to achieving Inclusiveness as follows::

Challenges to the achievement of inclusiveness include:



- i Corruption and unethical behavior;
- ii Misplaced priorities of programmes, projects and activities;
- iii Nepotism and tribalism;
- iv Limited financial and human resources;
- v Lack of political goodwill;
- vi Poor communication; and
- vii Exclusion at societal, cultural, geographical, economic and political arena.

### **3.6.12. Comparative Studies**

#### **South Africa**

The Apartheid Government (1948-1994), as a matter of state policy, favoured white-owned companies and partly as a result of this, the majority of employers in South Africa was white people. The aforementioned policy achieved the desired results, but in the process they marginalized and excluded black people. Skilled jobs were also reserved for white people, and blacks were largely used as unskilled manual labour. This was enforced by legislation which included the Mines and Works Act, the Job Reservations Act, the Native Building Workers Act, the Apprenticeship Act and the Bantu Education Act, creating and extending the "Colour Bar" in South African labour. In early 20th century, South Africa mine owners preferred hiring black workers because they were cheaper and easily available. Then the whites successfully persuaded the government to enact laws that highly restricted the blacks' employment opportunities as recorded by Okoth- Ogendero (1993).

The economic and political structure of the society during the apartheid regime ultimately caused disparities in employment, occupation and income within labour markets, which provided advantages to certain groups of people. This in due course was the motivation behind the introduction of affirmative action in South Africa, following the end of Apartheid (Okoth-Ogendero, 1993).

The introduction of the Constitution with its entrenched Bill of Rights in 1996 marked the decisive moment when the State left the era of Apartheid and moved forward under new political dispensation. According to Okoth- Ogendero, (1993)) it is generally accepted that a democratic government that is constrained by strong institutions and a Constitution will be less likely to commit human rights abuses against citizens.



### 3.6.13. Group Activity

1. Ask participants to discuss their individual roles in the promotion of equity, equality and inclusiveness.
2. Ask participants to discuss examples of inequality and social injustices in their communities.
3. Ask participants to discuss a case study on equity, equality and inclusiveness.

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## 3.7 Non-Discrimination and Protection of the Marginalized

**Time: 2 Hour**

### Introduction

This Sub-unit discusses the values and principles of non-discrimination and protection of the marginalized. It provides the definitions, the indicators, the benefits and challenges of these values.

### Learning outcomes

At the end of the session, participants should be able to;

- i. Identify the different forms of discrimination and marginalization in the society;
- ii. Identify the indicators, benefits and challenges of non-discrimination and protection of the marginalized;
- iii. Appreciate the role of all stakeholders in the promotion of non-discrimination and protection of the marginalized; and
- iv. Acknowledge practices that curb discrimination and marginalization in society.

#### Note to facilitator:

1. Begin the session by explaining to participants the learning outcomes for the session.
2. Ask participants to discuss in groups the meaning of the following terms:
  - i. non-discrimination
  - ii. marginalized people
3. Write down their responses on a flip-chart.

Explain to them that the meaning of the terms is as follows:

### 3.7.1. Understanding Non Discrimination and Protection of the Marginalized

#### 3.7.1.1 Discrimination

- i. Refers to a negative attribute and practice of unfairly treating a person or group of people differently from other people or groups of people (International Encyclopedia of the Social Sciences, 2008).



- ii. Distinct treatment of an individual or a group to their disadvantage; treatment or consideration based on class or category rather than individual merit; partiality; prejudice and bigotry. (Oxford English Dictionary, 2008).

### Non-discrimination

- i. Refers to fairness in treating people without prejudice irrespective of their gender, ethnic, class, religious, race, geographical or even generational differences (International Encyclopedia of the Social Sciences, 2008).
- ii. An act or policy of not engaging in discrimination (Oxford English Dictionary, 2008)

All decisions, programmes and activities whether by public or private institutions must avoid any form of discrimination whatsoever.

The Constitution provides the meaning of non-discrimination in the Kenyan context. In Chapter four on the Bill of Rights, the Constitution spells out all the rights and fundamental freedoms that all individuals are entitled to which the state is obliged to protect. The Constitution also offers protection to the minority and marginalized communities in Kenya.

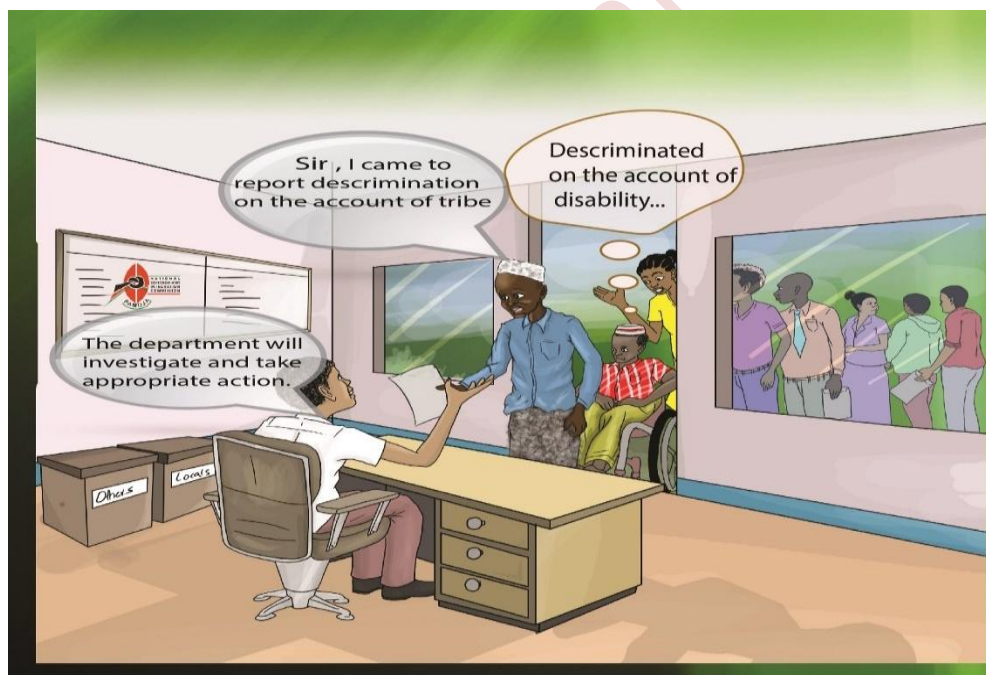


Figure 11: Discrimination

### 3.7.2 Forms of Discrimination

The various forms of discrimination include:

- i. Unequal access to public goods and services such as education and healthcare;



- ii. Discrimination in access to employment opportunities and unequal treatment at the work place;
- iii. Discrimination in land ownership exhibited through homelessness, housing, unsettled land claims and squatters;
- iv. Discrimination in access to security;
- v. Unequal enjoyment of human rights; and
- vi. Exclusion in political participation and decision-making.

### **3.7.3 Causes of discrimination**

The following are some of the causes of discrimination.

- i. Limited resources.
- ii. Ethnic prejudices/ stereotypes/ bias.
- iii. Cultural socialization.
- iv. Levels of education and exposure.
- v. Geographical location.
- vi. Political affiliation.

### **3.7.4 Sources of discrimination**

Discrimination maybe be based on the following:

- i Gender;
- ii Ethnicity/ race;
- iii Education levels;
- iv Social status;
- v Political persuasion;
- vi Age;
- vii Religion;
- viii Marital status;
- ix Language; and
- x Geographical location.

### **3.7.5 Indicators of non- discrimination**

A society free from discrimination is characterized by:

- i Free expression of cultural values, language and practices by the members of the community;
- ii Access by all to public goods and services;



- iii Participation by all in decision making processes;
- iv Access to opportunities for all;
- v Equitable distribution of resources;
- vi Free association and interactions in public and social places;
- vii Access to social justice; and
- viii Equality.

### **3.7.6 Benefits of non-Discrimination**

The benefits of non- discrimination include:

- i Nationalism/ patriotism and the enhancement of national unity;
- ii Balanced development across all regions;
- iii Respect for and development of Kenya's rich and varied cultures;
- iv Creation of an environment for exploitation of individual and group potential;
- v Motivation of citizens to participate in the national economic growth activities;
- vi Political stability; and
- vii Expression of free will.

### **3.7.7 Challenges to the Realisation of Non-Discrimination**

Key challenges to realising non- discrimination include:

- i Limited resources;
- ii Lack of political goodwill;
- iii Illiteracy and ignorance;
- iv Deep seated religious, cultural beliefs and practices;
- v Corruption and unethical behaviour;
- vi Tribalism, nepotism, favouritism; and
- vii Radicalisation and terrorism.

#### **Note to the facilitator:**

1. Ask participants to identify social institutions that can spearhead the fight against non-discrimination.
2. Ask them to discuss some of the strategies that may be employed in the fight.



### 3.7.8 Protection of the Marginalized

Being marginalized refers to being separated from the rest of the society and not being involved in the affairs of the larger society.

Article 260 of the Constitution defines a “marginalised group” as a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27 (4);

Marginalization is a process by which individuals and groups are ignored or relegated to the sidelines of political debate, social negotiation and economic bargaining (Gallie, 2004). Homelessness, age, language, employment status, skill, ethnicity, race and religion are some of the basis that has historically been used to marginalize. Marginalized groups tend to overlap; groups excluded in one arena, for example exclusion in the political arena, may lead to exclusion in other arenas such as in economic activities.

### 3.7.9 Who are the marginalized?

In most societies, categories of marginalized persons include:-

- i Women;
- ii Youth;
- iii People living with disabilities;
- iv Minority groups;
- v People living in agriculturally low potential areas;
- vi Elderly;
- vii People with low academic attainments;
- viii People in the low income bracket;
- ix People suffering from terminally ill diseases; and
- x People living in arid and semi-arid regions.

#### Activity:

Divide participants into groups

1. Ask each group to:
  - i. to propose a group/community in Kenya they consider marginalized
  - ii. identify ways in which the group/community is marginalized
  - iii. propose possible remedial measures

### 3.7.10 Protection of the marginalized in Kenya



The Government has put in place requisite legislation for affirmative action programmes designed to ensure participation and representation of minorities and marginalized groups in governance and other spheres of life. All persons are equal before the law and have the right to equal protection and benefit of the law. The consequence of this provision is that all Kenyans, regardless of their ethnic or social origin, race or other status, will be protected equally. The state and other persons shall not discriminate any person on the grounds of ethnicity, health or other social status. In order to give full effect to the realization of the rights guaranteed under the Bill of Rights, the state has the obligation of taking legislative and other measures, including affirmative action and policies designed to redress any disadvantages suffered by individuals or groups because of past discrimination.

Parliament has enacted the requisite legislation for the institutionalization and operationalisation of non-discrimination and protection of the marginalised. The enactment of the National Cohesion and Integration Act, 2008 for example has advanced the actions of government in protecting the marginalized and advancing the principle of non-discrimination. Other institutions that play a key role in militating against marginalization include: The Kenya National Commission on Human Rights, the Commission on Revenue Allocation, Ministry of Devolution and Planning and the Directorate of National Cohesion and National Values amongst others.

### **3.7.11 Indicators of protection of the marginalized**

The following are some of the indicators of a society which protects the marginalized:

- i Existence of special opportunities for the marginalized in educational and economic fields;
- ii Access to employment opportunities for the marginalized;
- iii Affirmative action and special programmes; and
- iv Existence of policies and legal framework(s) for enforcement.

### **7.12. Benefits realised from the protection of the Marginalized**

Many benefits arise as a result of the protection of the marginalized. These include:

- i Poverty reduction amongst marginalized persons, communities and regions;
- ii Enhanced social cohesion;
- iii Reduction of political conflicts;
- iv Enhanced well-being of individuals and communities;
- v Proper utilization of national resources;



- vi Enhanced national development;
- vii Social inclusion; and
- viii National identity.

### **7.13. Challenges in Protection of the Marginalized**

The challenges to the protection of the marginalized include:

- i Natural or physical barriers to access to opportunities and resources;
- ii Weak enforcement of legislation;
- iii Corruption and unethical behaviour;
- iv Limited resources;
- v Bad governance;
- vi Tribalism; and
- vii Inadequate policy, legal and institutional frameworks that support protection of the marginalized.

### **7.14. Comparative Studies**

#### **India**

In much of Asia and parts of Africa, distinct groups suffer from discrimination which is based on their descent. India has a total population of 1 billion people. Caste discrimination in India affects the largest number of people because 16% of the population-160 million people-are at the bottom of the cast hierarchy. Despite formal protections in law societal norms continue to pose challenges to change.

#### **Caste Context**

Caste is determined by one's birth into a particular social group. It is based on descent and is hereditary in nature. In much of Asia and parts of Africa, caste is the basis of discrimination and exclusion of distinct groups. Over 250 million people worldwide suffer from this form of discrimination which is an obstacle to the fulfillment of civil, political, economic, social and cultural rights.

#### **Background in India**

In India, the nearly 3,000years old caste system is imbedded in the Hindi religious culture. The Indian society was originally divided by categories of work or Varna. This system developed into more complicated divisions of society - castes. Dalits, formerly known as 'untouchables', are viewed by many as separate from or below the caste system. Despite attempts during the last 100 years to break down caste barriers, the caste system is still a dominating feature of Indian society.





## **Legal Framework**

Under the Indian Constitution, discrimination on the basis of caste is illegal. In 1989 the Indian government enacted legislation to combat discrimination based on caste when it passed the Scheduled Castes and Scheduled tribes (Prevention of Atrocities) Act. The government has also enacted legislation which provides quotas for people from low castes in politics and government jobs. The Indian Constitution reserves a proportional number of seats in both Union and State assemblies for Scheduled Castes. Despite these formal legal protections, in many areas, Dalits are either unaware of their legal rights or don't have the resources to seek redress, thus discriminatory treatment continues. In India, Dalits, now known by the Indian government as Scheduled Castes, make up 16% of India's population.

Status as a Dalit affects every dimension of an individual's life. Dalits are among the poorest of Indians. Their status is frequently the basis for violence, including land encroachment, murders, attacks, rapes and arson. They suffer from wage discrimination, infringement of the right to vote and run for elections, discrimination in schools, disproportionately high dropout rates and levels of illiteracy, dehumanizing living and working conditions, impoverishment and malnourishment. They generally do not own land and are often relegated to separate villages or neighbourhoods and to low paying and undesirable occupations such as street sweeping and removing human waste and dead animals.

They are often not allowed to use the same wells or attend the same temples as higher-castes. Dalit women are affected by the burden of both caste and gender and even further removed from legal protections.

## **Dalit Voices**

In Uttar Pradesh, India's most populous state, the Dalits have a strong political presence and parties representing their interests are central to forming the state government. In May 2002, the leader of the low-caste dominated BahujanSamaj Party (BSP), MayawatiKumari, was sworn in as the Chief Minister of Uttar Pradesh. According to BBC's Ram DuttTripathi, for the first forty years of elected governments in Uttar Pradesh, every single chief Minister belonged to upper caste communities. He said, "It was only in 1977, with the election of a lower-caste Chief Minister, that these [Dalit] communities were able to see a link between power and decisions that directly benefited them." One Dalit voter in Uttar Pradesh claimed, "What we want is izzat" (dignity in Hindi). Now Ms. Mayawati struggles to reconcile Dalit demands with those of the broader population.



## **Equality Movement**

Dalit movements have been fighting casteism since the 1920s. Today the National Campaign on Dalit Human Rights, a movement led by Dalit human rights activists works to protect and promote the human rights of Dalits. The Campaign seeks solidarity from authorities in countries where the caste system continues to marginalise the Dalit population. It addresses the governments of particular countries as well as the International Human Rights bodies of the United Nations. The work carried out by the National Campaign on Dalit Human Rights, to end caste discrimination, has been significant. Despite resistance from the Indian government about putting the issue of caste on the agenda at the World Conference against Racism in Durban, the National campaigns on Dalit Human Rights as well as other advocates were successful. Their contributions to the conference in Durban helped raise the International profile of the issue.

## **Human Rights Resolution**

In August 2000, the United Nations Sub-commission on the Promotion and protection of Human Rights passed a resolution on Discrimination Based on Work and Descent. The resolution, aimed at addressing the issue of caste, reaffirmed that discrimination based on work and descent is prohibited under International human rights law. The Sub-commission also decided to further identify affected communities, examine existing constitutional, legislative and administrative measures for the abolition of such discrimination, and make concrete recommendations for the effective elimination of such practices.

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### 3.8 Good Governance and Integrity

**Time: 2 hrs**

#### **Introduction**

This Sub-unit defines good governance and integrity, outlines the principles of good governance and integrity, discusses the indicators, benefits as well as challenges in the realization of good governance and integrity. It also highlights key institutions involved in the promotion of good governance and integrity and concludes with a case study.

#### **Learning outcomes**

At the end of this session, participants should be able to:

1. Explain the concepts of good governance and integrity;
2. appreciate the benefits of good governance and integrity; and
3. Share experiences on good governance and integrity in their respective organization.

#### **Note to facilitator:**

1. Begin the session by explaining to participants the learning outcomes for the session.
2. Ask participants to discuss in groups the meaning of the following terms:
  - i. Governance
  - ii. Principles of governance
  - iii. Integrity
3. Write down their responses in a flip-chart.

#### **3.8.1. Good Governance and Integrity**

Governance is a process in which societies or organizations make their important decisions, determine whom to involve in the process and how to render them accountable. It is about how governments and other social organizations interact, how they relate with citizens and how decisions are taken and implemented.

There are three types of governance, first, economic governance which entails decision making processes on a country's economic activities. It influences the production and distribution of wealth in society. Second, political governance refers to political decision making and policy implementation of a legitimate state. A legitimate state is founded on



separation of powers, checks and balances and participation of citizens in political processes. Thirdly, administrative governance, refers to a system of administration and policy implementation which is carried out through efficient, independent, countable and open public sector.

Good governance involves transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. It is also the process and behaviors that ensure an organization performs by achieving its intended purpose and conforms with all relevant laws, agreements and directions, and meets the expectations of the society according to the Office of the High Commissioner for Human Rights of the United Nations (2001).

Good governance ensures that the processes for the identification and delivery of goods and services are concrete in terms of being;

- i. Responsive to public needs and demands;
- ii. Transparent in the allocation of resources;
- iii. Equitable in the distribution of goods and services;
- iv. Sustainable in exploitation of natural resources and opportunities;
- v. Public participation and accountability;
- vi. Political stability and absence of violence; and
- vii. Control of corruption.

The word integrity is derived from the Latin “*integritas*” which literally means wholeness, soundness, oneness, completeness, uprightness etc. When applied in reference to human attributes, it refers to honesty, moral uprightness, purity, incorruptibility, goodness, sincerity, virtue and decency.

Integrity is the consistency between one’s values, words and action and includes soundness of moral principles and character, as shown by a person’s dealing with others (Mwatha, n/d, p. 16). Integrity could also be defined as the quality that enables a person to do the right thing at all times even when he is not being watched. The Oxford Dictionary defines integrity as “the quality of being honest and having strong moral principles ... the condition of being whole and not divided”

However, public sector integrity goes beyond having good character, avoiding corruption, being responsive to the government of the day, being efficient or providing quality service. It involves pursuing wider moral principles in the public interest, such as ‘justice, fairness,



individual rights, equity, respect for human dignity, and pursuit of the common good.' Without this underlying moral purpose, integrity remain a hollow shell.

### **3.8.1.1. Qualities of a Person of Integrity**

The standards of integrity expected of public officials have been stipulated under the General Leadership and Integrity Code set out under part II of the Leadership and Integrity Act, 2012. According to the code a person of integrity:

- i. Observes the rule of law;
- ii. Promotes public interest at all times;
- iii. Takes personal responsibility for their actions and omissions;
- iv. Accountable and transparent in the discharge of duties;
- v. Efficient and effective in their work;
- vi. Maintains high standards of professionalism;
- vii. Upholds high moral and ethical standards;
- viii. Take care of public property in their custody or possession;
- ix. Impartiality and objectivity in the discharge of duties;
- x. Gives honest, accurate and impartial advice;
- xi. Conducts private affairs in a manner that maintains public confidence;
- xii. Does not engage in conflict of interest;
- xiii. Maintains accurate records; and
- xiv. Does not compel or coerce others to act wrongly or unlawfully.

### **3.8.2. Principles of good governance and Integrity**

The principles of good governance include:

- i. Openness: strengthening and liberalizing communication policies to facilitate accessibility of the general public to the decisions of the government;
- ii. Participation: involvement and ownership by stakeholders – Citizens, Parliament, Private Sector, Vulnerable Groups, National and County Governments, Faith Based Organizations, Community Based Organizations, Civil Society Organizations and media;
- iii. Fairness: all men and women have equal opportunities to improve or maintain their well- being;
- iv. Decency: rules are implemented without harming people;
- v. Accountability: political actors are responsible for actions to the electorates; and

vi. Efficiency: use of limited resources for greatest outputs and for public good.



*Figure 12: Principles of good governance*

### **3.8.3. Indicators of Good Governance and Integrity**

Some of the indicators of Good Governance and Integrity include:

- i. Regulatory quality through sound policies and regulations;

Organizations demonstrate good governance through the development of sound policies and regulations to guide their operations.

- ii. Established robust governance and oversight frameworks

Organizations have to ensure that the authority, roles and responsibilities of its governance, management and operating structures are clearly defined, documented and understood.

- iii. Clearly allocated and understood organization responsibilities.

The role, responsibilities and authority in the organization should be clearly defined and communicated to all staff.

- iv. Well defined strategic direction for the organization and its services.

Organizations should have clear and relevant plans for meeting their statutory mandates and objectives.

- v. Established systems to monitor financial and service delivery performance.

Appropriate systems should be in place to ensure/secure the efficiency and effectiveness of resource utilization by the organization and for regular reviewing of the financial and service delivery performance of the said organization.





**vi. Maintained high standards of professional and ethical conduct.**

Organizations should have systems and processes in place to ensure that staff and contractors are aware of and abide by their respective code of conduct. They should also have policies, procedures and systems in place to ensure that any alleged breaches of recognized standards of conduct or legislation are managed efficiently and appropriately.

**vii. Involvement of stakeholders in decisions that affect them.**

Organizations should have systems and processes in place to ensure the rights and interests of key stakeholders are incorporated into their plans and they are provided access to balanced and understandable information about the organization and its programs.

**viii. Established sound audit and risk management practices.**

Organizations must establish and maintain an effective internal audit function that is responsible for overseeing the adequacy and effectiveness of the organizations system of internal control, risk management and governance (UNDP 1997).

**Activity:**

1. Divide participants into groups
2. Ask each group to:
  - i. Assess causes of corrupt practices in the society
  - ii. to identify institutions responsible for enforcing good governance
  - iii. Propose strategies, for each institution of combating corrupt practices

### **3.8.4. Institutionalization of Good Governance and Integrity**

The Constitution brought a paradigm shift on how public affairs are managed and significantly altered governance structures and placed heavy responsibilities on holders of public office. One of the notable milestones was the entrenchment of issues of ethics, integrity and good governance in the Constitution. In particular, Chapter Six of the Constitution seeks to achieve servant and transformational leadership by demanding high standards of integrity and ethical conduct for State and Public Officers.

The Leadership and Integrity Act provide mechanisms and procedures for enforcing Chapter Six of the Constitution. The Act further seeks to ensure that State and Public Officers perform their duties in a manner that promotes public interest. Members of the public are therefore empowered to demand accountability, transparency, responsiveness, efficiency and effectiveness in their quest for public services. The Act further requires that upon appointment or election, a state officer shall sign and commit to specific leadership and



integrity code issued by the relevant public entity at the time of taking oath of office or within seven days of assuming a state office.

Other measures taken to institutionalize good governance and integrity include

- i. Training of all State and public officers on good governance;
- ii. Implementation of the Mwongozo Code of Governance for State Corporations;
- iii. Establishment and strengthening of corruption prevention committees in public institutions;
- iv. Development of whistleblowers and witness protection initiatives;
- v. Development and implementation of code of conduct for state and public officers;
- vi. Enactment and operationalization of access to information laws and regulations;
- vii. Empowerment of citizens to participate in governance processes;
- viii. Partnership and collaborations by various actors in the promotion of good governance; and
- ix. training of integrity officers, conducting corruption risk assessments, developing, implementing and monitoring of corruption risk mitigation plans in public institutions

### **3.8.5 Benefits of good Governance and Integrity**

The following are some of benefits of Good Governance and Integrity:

#### **i. Promotes community confidence**

People are more likely to have confidence in their organization/government if decisions are made in a transparent and accountable way. This helps people feel that their organization/government will act in their interests, regardless of differing opinions.

It also encourages governments to remember that they are acting on behalf of their community and helps them to understand the importance of having open and ethical processes which adhere to the law and stand up to scrutiny.

#### **ii. Leads to inclusive decisions**

Decisions informed by participation, openness, fairness decency, accountability and efficiency will generally reflect the broad interests of the community. This will be achieved through sharing of information and data which enables stakeholders to have an open and honest debate before a decision is made.

#### **iii. Helps organizations meet their legislative responsibilities.**

If decision-making process is guided by principles of good governance, it is more likely that organizations will comply with the relevant legal requirements.

#### **iv. Supports ethical decision making.**



Good governance creates an environment where leaders ask themselves ‘what is the right thing to do’ when making decisions?

Making choices and having to account for them in an open and transparent way encourages honest consideration of the choices facing those in the governance process. This is the case even when differing moral frameworks between individuals means that the answer to ‘what is the right thing to do’ is not always the same.

Other benefits of good governance include: Enhanced social economic development; reduced crime rate; political and social stability; increased investor confidence and lower cost of living.

### **3.8.6. Challenges to the Realization of Good Governance and integrity**

Challenges to the realization of good governance and integrity include:

- i. Weak policy, legal and institutional frameworks;
- ii. Corruption;
- iii. Lack of visionary and ethical leadership;
- iv. Impunity;
- v. Political patronage;
- vi. Inadequate political will;
- vii. Breakdown/erosion/perversion of societal values and norms;
- viii. Tribalism, favoritism, nepotism and cronyism;
- ix. Misuse of discretionary power vested in individuals or offices; and
- x. Weak civil society and public apathy.

### **3.8.7. Case study**

*Mwangaza* County Assembly finally approved the long awaited benchmarking tour to *Hatucheki* County on local socio-cultural and economic development initiatives. The team comprised of *Embeas* the team leader, *Ndiziand Nanasi* from the line departments.

On the day they travelled, it rained heavily and they never made it to the *Mwangaza* county headquarters where they were to put up for the night. This was because the bridge that they could have used was washed away by the water although that evening they that heard that shoddy works earlier made during construction of the bridge had led to the damage. It was even confirmed that the contractor was actually the Governor’s brother-in-law.

Getting accommodation that night at the nearby *Matopeni* center was a nightmare as the only available facility did not have clean water and also housed a night club that really made the



night a long one. Early in the morning, the trio was ferried to the other side of the river by a boat whose crew not only overcharged them but was also rude to passengers.

As earlier communicated and agreed, the *Sitojali* MCA was expected to welcome them at the county offices in readiness for the initial briefing meeting with other county officials. Unfortunately, *Embe* and his colleagues could not reach the host MCA as his phone was “*mteja*”. The team however managed to get to the venue of the meeting at around 9am after much struggle. To their surprise, no one had arrived although the meeting was scheduled to start at 8.45am. After a long wait, one member of the host team showed up at around 10am and informed the visitors that the meeting had been postponed. This was necessitated by the fact that the county officials were attending homecoming parties for their colleagues for the rest of the week.

Not ready to go home empty handed, the visitors decided to pass through the office of public communication to pick some Information, Education and Communication (IEC) materials about *Hatucheki* County that could be useful to them. They were however informed that most of the county officers, including that of the PRO, had not reported on duty that week as an audit team from the national government was said to have camped in town in readiness for the county’s annual audit process. The visitors therefore went back home disappointed and agonized about their ‘benchmarking’ visit that never became.

- i. What are the issues raised in the above case?
- ii. What values and principles of Governance are being violated in the above scenario?
- iii. State four (4) intervention measures you would take to address the issues raised in the scenario?



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### 3.9 Transparency and Accountability

**Time: 1 hr**

#### **Introduction**

This Sub-module discusses the concepts of transparency and accountability, their elements, their indicators as well as the challenges encountered in the promotion and realization of transparency and accountability. The section also discusses the institutional framework to address transparency and accountability and concludes with a case study.

#### **Learning outcomes**

By the end of this session, participants are expected to:

- explain the concept of transparency and accountability;
- highlight the challenges associated with the process of promoting transparency and accountability; and
- Recommend practical solutions to be put in place to achieve transparency and accountability.

#### **Note to facilitator:**

1. Begin the session by explaining to participants the learning outcomes for the session.

#### **Consider presenting a CaseStudy such as:**

Kamili is the managing director of one of the parastatals in the country. About four months ago, he decided to put up a palatial family home in up market in Nairobi. Kamili took many trips locally and abroad and has on several occasions taken hefty allowances, however been unable to account for the allowances.

Kamili has influenced the procuring process in the parastatal to award his friends' tenders; Kamili receives a percentage of all payments made to them as a sign of their gratitude.

Kamili would like to run for a parliamentary seat in the next general election and to this end, he has employed many people from his constituency in the parastatal.

1. Which value /s and principle of governance have been violated in the above scenario?
2. If you were Kamili, what could you have done differently?

#### **3.9.1. Transparency and Accountability**

Transparency can be defined as openness, lack of hidden agendas and conditions accompanied by availability of full information required for collaboration, cooperation and collective decision making. It also refers to the provision of relevant and reliable information. This requires those in authority to provide accurate and timely information to facilitate effective decision making. Transparency in decision making and implementation reduces uncertainty and can curb corruption among public officials, (Schnackenberg, 2014).

Accountability is the acknowledgment and assumption of responsibility for actions, products, decisions, and policies including the administration, governance, and implementation within the scope of the role or employment position and encompassing the obligation to report, explain and be answerable for resulting consequences according to Williams (2006).

Public accountability means the obligations of persons or authorities entrusted with public resources to report on the management of such resources. It also requires them to be answerable for the fiscal, managerial and programme responsibilities that are conferred on them.

### **3.9.2. Elements of Transparency**

There are seven elements of transparency:-

- i. Right information: Information shared needs to be correct;
- ii. Right stakeholders: The information needs to reach the relevant stakeholders;
- iii. Right format: The information provided must be structured appropriately to enhance communication;
- iv. Right time: Successful transparency should be timed to enable stakeholders improve possible outcomes;
- v. Right frequency: this entails giving information on regular basis;
- vi. Right intentions: it refers to being genuine about why information is being made available; and
- vii. Right behavior: this involves being open and not having hidden agendas.

### **3.9.3. Elements of Accountability**

There are four key elements of accountability which include:-

- i. Setting standards. This includes legal, policy and administrative frameworks developed to ensure compliance;
- ii. Acquiring information about actions. Access to information that facilitate decision making;





- iii. Making decisions about appropriateness. Making decisions based on the set standards; and
- iv. Identifying and sanctioning unsatisfactory performance (Joshi, 2010, p. 21).

### **3.9.4. Indicators of Transparency and Accountability**

Some of the indicators of transparency and accountability include:-

- i. Availability of legal and policy frameworks;
- ii. Established clear processes for information sharing and decision making;
- iii. Established participative communication frameworks;
- iv. Established oversight mechanisms that ensure standards are met;
- v. Enforcement of oversight mechanisms;
- vi. Reduced excessive centralization and bureaucratization;
- vii. Established systematic and impartial prosecution of violators; and
- viii. Fostered popular participation that ensures responsiveness, accountability and transparency of governance.

### **3.9.5. Institutionalization of Transparency and Accountability**

Transparency and accountability has been institutionalized in Kenya through legal, policy and institutional frameworks. The Constitution provides a broad framework for addressing transparency and accountability and consequently the National Assembly has enacted various legislations to give effect to and establish institutions to promote transparency and accountability in public service and private organization.

Some of the institutions include:

- i. The Ethics and Anti-corruption Commission which established through the EACC Act, 2011. This is pursuant to Article 79 of the Constitution that provides for the functions and powers of the commission, qualifications and procedures for the appointment of chairperson and members of the commission, and connected purposes. The commission promotes standards and best practices in integrity and anti-corruption among other functions through implementation of Chapter Six of the Constitution and its enabling statutes. Some of these statutes include the Leadership and Integrity Act, 2012, Anti-Corruption and Economic Crimes Act, 2003, Public Officer Ethics Act among others.
- ii. The Public Service Commission under Article 233(1) with the responsibility of among others, to ensure high standards of professional ethics, efficient, effective and economic use of resources and accountability for administrative acts. Other



responsibilities include transparency in the provision of timely and accurate information, good governance, integrity, transparency and accountability. Nonetheless, the Commission has also delegated this role to other public institutions and departments.

- iii. The Public Procurement oversight Authority; Public Procurement oversight Advisory Board and Public Procurement Administrative Review Board that were established through the enactment of the Public Procurement and Disposal Act No. 33 of 2015 to guide the process of public procurement. The purpose of this Act was to establish procedures for procurement and the disposal of unserviceable, obsolete or surplus stores and equipment by public entities to achieve a number of objectives. These objectives include maximization of economy and efficiency, promotion of competition and fairness to each competitor and the integrity and fairness of procurement procedures.
- iv. Other institutions charged with promotion of transparency and accountability include Kenya National Audit Office, Office of the Controller of Budget, Commission for Revenue Allocation and all service commissions.

To ensure adherence to the public service regulations and requirements, the National Assembly enacted the Public Officer Ethics Act of 2003, Anti-Corruption and Economic Crimes Act of 2003, the Public Procurement and Disposal Act of 2005 and the Leadership and Integrity Act of 2012 among other laws. One of the most important regulation with regard to public service management is the Civil Service Code of Regulations of 2006 (Republic of Kenya, 2006, p. iv). This Code of Regulations provides the behavioral standards for all public servants during and after their service while safeguarding them from unfair labor practices.

**Note to the facilitator:**

1. Ask participants to share amongst themselves experiences that they have had where a lack of accountability was evident.
2. Have key experiences shared at plenary
3. Invite plenary to prescribe alternative, more transparent ways of dealing with the negative experiences

### **3.9.7. Challenges to the Realisation of Transparency and Accountability**

Challenges to the realization of transparency and accountability include:-



### **i. Unfavorable Environment**

Surveys conducted by various bodies have shown that lack of accountability, unethical behavior and corrupt practices have become pervasive and institutionalized. In addition, where patronage systems have remained intact, one can hardly expect to enforce measures against unethical behaviour with any degree of seriousness.

### **ii. Weak Enforcement Mechanisms**

The measures that have been introduced to enhance transparency and accountability have been partial in nature. There have not been adequate sanctions for violation of national values and principles of governance thus making enforcement processes ineffective. Effective sanctions will have deterrent effects in respect to adherence to national values and principles of governance.

### **iii. Inadequate Resources for Enforcement**

Most of the institutions that are established to promote transparency and accountability often lack the resources, public visibility, impartiality and public support that are critical for their success.

### **iv. Inadequate public support**

It is the failure of the public to perform their civic duties.

### **v. Inadequate Support at International level**

The cross boarder nature of some violation of the values of integrity such corruption requires involvement of other countries to ensure effective enforcement. In absence of such international cooperation through initiatives such mutual legal assistance, extradition of suspects offenders and detection and disclosure of relevant information have adversely affected the realization of transparency and accountability.

### **vi. Weak Systems for Transparency and Accountability in Public Service**

With strong and proper accountability of financial and physical resources in Kenya, people would not be fighting for survival or power to loot public properties and funds. Weak systems for transparency and accountability of public financial resources in government have induced persons to lobby for the opportunity to manage public institutions with impunity.

### **vii. Weak Administrative and Legislative System**

Where administrative and judicial systems' responses to illicit or illegal behaviour are consistently weak, this obvious incapacity may represent a significant challenge in the long term cycle during which the requirements of transparency and accountability weaken. Ultimately, corrupt practices may thrive undetected by the systems of financial management, and further, go unpunished if detected. The implication of this weakened systems of public



financial management is that they can be exploited, becoming a vehicle for corrupt activity. This often leads to considerable frustration particularly among the weaker sections of the society which creates apathy and lack of accountability from public servants.

viii. **Political interference**

Political interference in day to day work often affects the working of an administrative system. Instances are frequent when honest officers are penalized by way of transfers or other acts of political victimization. This greatly retards effective enforcement of transparency and accountability measures.

### **3.9.8 Benefits of Transparency and Accountability**

Some of the benefits of transparency and accountability include:

- i. Promotion of public participation in governance processes;
- ii. Facilitates community empowerment;
- iii. Facilitates appreciation of progress made by organizations and institutions in meeting the needs of the people;
- iv. Improved service delivery;
- v. Enhanced public participation in decision making;
- vi. Promotion of good governance and performance in organizations;
- vii. Enhance public confidence in governance;
- viii. Enhanced accessibility to information;
- ix. Enhanced social, economic and political development; and
- x. Enhanced cohesion and harmony which leads to political stability and democracy.

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### 3.10. Sustainable Development

**Time: 1hr**

#### **Introduction**

This Sub-module defines sustainable development and provides an overview of its elements, the indicators, the benefits and discusses the challenges inherent in the process of promotion of the principle of sustainable development. The section concludes with a case study to illustrate the concept of sustainable development.

#### **Learning outcomes**

By the end of this session, the participants should be able to:

- Explain the different elements of sustainable development;
- Highlight the challenges to the realization of sustainable development; and
- Engage in the activities that promote the realization of sustainable development.

#### **Note to facilitator:**

1. Begin the session by explaining to participants the learning outcomes for the session.
2. Ask participants to discuss in groups the meaning of the term sustainable development.

Write down their responses in a flip-chart.

#### **3.10.1. An Overview of Sustainable Development**

Development is the process of advancement and change. Development signifies expansion, enlargement, maturity and enhancement of existing technologies and procedures that dignify human lives. McMichael (2007) sees the expansion and the change to mean improvement regardless of the form.

The Longman's Dictionary of the English Language (1991), define the verb 'to sustain' as follows:

- i. To give support or relief to;
- ii. To supply with sustenance, nourish;
- iii. To cause to continue, prolong;
- iv. To support the weight of; and
- v. To bear up under, to endure.



These definitions underscore continuity which implies and connotes prolong; nourishing, supporting and enduring development. They are also positive, desirable and admirable.



*Figure 13: Sustainable development*

The dominant definition of sustainable development has undoubtedly been that of the Brundtland Report (1987), in *Our Common Future*: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Sustainability is an economic state where the demands placed upon the environment by people and commerce can be met without reducing the capacity of the environment to provide for future generations as defined by Hawken (1993). According to Adams (2005) sustainable development is “a dynamic process which enables all people to realize their





potential and improve their quality of life in ways which simultaneously protect and enhance the Earth's life support systems.

The Kenya Vision 2030 and the Second Midterm Development Plan broadly address sustainable development as social progress that recognizes the needs of everyone by 2030; effective protection of the environment; prudent use of natural resources and maintenance of high and stable levels of economic growth. This will transform the country into “a newly industrializing, middle income country providing a high quality of life to all its citizens in a clean and secure environment” (Kenya Vision 2030, p. 26)

### **3.10.2. Elements of Sustainable Development**

The process of sustainable development must remain flexible, because what works in one community may not work in another or may work for different reasons. For decisions and actions to be sustainable, they must be ever flexible, adoptable and creative. The three elements of sustainable development include;

#### **i. Economic**

This focuses on economic development plans that protect and/or enhance natural resources quantities and qualities through improvement on management practices/policies, technology, efficiency and changes in lifestyle. It emphasizes on compatibility of economic plans with nature.

The economic development is the generation of economic wealth of a country for the well-being of the inhabitants. From a policy perspective, economic development can be defined as efforts that seek to improve the economic well-being and quality of life for a community by creating and retaining jobs and growing incomes and the tax base. In broadest sense, economic development encompasses three major areas:

- i Policies that governments undertake to meet broad economic objectives such as price stability, high employment, expanded tax base, and sustainable growth. Such efforts include monetary and fiscal policies, regulation of financial institutions, trade, and tax policies.
- ii Policies and programs to provide infrastructure and services such as highways, parks, affordable housing, crime prevention, and education.
- iii Policies and programs explicitly directed at job creation and retention through specific efforts in business finance, marketing, neighborhood development, small business



development, business retention and expansion, technology transfer and real estate development (McMichael 2007, p. 281)

Therefore, development is essential in removing major sources of lack of freedom; poverty as well as tyranny, poor economic opportunities as well as synthetic social deprivation, neglect of public facilities as well as intolerance or interactivity of repressive states. However, development can be achieved in the contexts of sustainable environment.

## **ii. Ecology**

For sound economic development strategies, it is necessary to understand the natural system processes and integrity of landscapes, watersheds and aquatic ecosystems. It emphasizes on the capacity of the natural ecosystem to support the economic development strategies.

## **iii. Equity**

To achieve total societal welfare, equal access to jobs, education, natural resources and services for all people should be guaranteed. Every project that focuses its efforts in a sustainable context means we strive to link economic, social and ecological parts of the community to strengthen its overall fabric.

### **3.10.4. Indicators of Sustainable Development**

Indicators of sustainable development include:-

- i. Low levels of inflation;
- ii. Improved gross domestic product;
- iii. Reduced government borrowing and debts;
- iv. Improved life expectancy;
- v. Reduced environmental pollution;
- vi. Increased forest cover;
- vii. Reduced emission of ozone depleting substances;
- viii. Reduced expenditure on air pollution control;
- ix. Reduced levels of pesticides in rivers and ground water;
- x. Enhanced protection of the endangered wildlife species;
- xi. Reduced damage to designated and protected areas;
- xii. Increased agricultural productivity;
- xiii. Reduced industrial and commercial waste;
- xiv. Reduced impact disasters; and
- xv. Reduced costs of project maintenance.

#### **3.10.4. Benefits of Sustainable Development**

Realization of sustainable development has several benefits that include:-

- i. Reduced infant mortality rates;
- ii. Fair and equitable distribution of resources;
- iii. Increased employment opportunities for youth;
- iv. Access to clean and unpolluted environment;
- v. Access to resources by present and future generations;
- vi. Reduced levels of crimes in society;
- vii. Increased levels of harmony, peace and cohesion among communities;
- viii. Provision of opportunities for indigenous people to access benefits of modern, free market society; and
- ix. Improved social justice services.

#### **3.10.5 Challenges to Sustainable Development**

According to Robert, W. K., Thomas, P. M. & Anthony, A. L. (2005), realization of sustainable development is bedeviled by a myriad of challenges which include:-

- i. Impact of climate change that threatens to escalate in the absence of adequate safeguards hence the need to promote integrated and sustainable management of natural resources and ecosystems;
- ii. Hunger and malnourishment, while decreasing in many developing countries, remain persistent in other countries and nutrition security continues to be an elusive goal;
- iii. Income inequality within and among countries that has been rising and has reached an extremely high level, invoking the spectre of heightened tension and conflict;
- iv. Energy needs that are likely to remain unmet for many households unless significant progress in ensuring access to modern energy services is achieved (Rogers, et, al. 2008).
- v. Recurrence of financial crisis that needs to be prevented and financial system that has to be redirected towards promoting access to long-term financing for investments required to achieve sustainable development.
- vi. Lack of enabling environment, lack of accountability, unethical behavior and corrupt practices that have apparently become so pervasive and even institutionalized norms of behavior that undermine sustainable development.
- vii. Lack of Support from International Community. There is need for the developed countries to cooperate with the developing countries in addressing issues that



undermine sustainable development such as the emission of ozone depleting substances.

**Activity:**

1. Divide participants into groups and assign each a region of the country.
2. Ask them to:
  - a. Identify the natural resources available in the area
  - b. Identify challenges of exploiting the resources
  - c. Propose effective methods of sustainably exploiting the resources

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## **UNIT4: OPPORTUNITIES, CHALLENGES AND STRATEGIES FOR THE PROMOTION OF NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE**

**Time: 2hours**

**Time: 45 minutes**

Materials: Flip charts, marker pens, notebooks, pens, LCD projector, laptop

### **Introduction**

This Sub-unit discusses the opportunities that could facilitate the promotion of National Values and Principles of Governance besides identifying the possible challenges in the promotion processes.

#### **Note to facilitator:**

1. Begin the session by explaining to participants the learning outcomes for the session. The facilitator further should give some of the various opportunities that can be used to promote national values and principles of governance and challenges as well as strategies that could be used to address the identified challenges. These opportunities and strategies include;
  - Policies
  - Legal frameworks
  - Various Strategies and approaches
2. Write them down on a flip-chart.

### **Learning outcomes**

By the end of the session, the participants should be able to:

1. Identify the existing opportunities for the promotion of National Values and Principles of Governance;
2. Identify the challenges in the promotion of National Values and Principles of Governance; and
3. Identify strategies to address the existing challenges in the promotion of National Values and Principles of Governance.



## **4.1 Opportunities in the Promotion of National Values and Principles of Governance**

Despite the existing challenges in the promotion of national values processes, there exists numerous opportunities along which promotion of national values could be enhanced. Various opportunities in the Kenyan society can be identified for promoting the realization of the values and these include the existing policy, legal and institutional frameworks. Specifically, opportunities for the promotion of national values include the following:

### **a) Provisions of the Constitution**

The Constitution remains an overarching document for the implementation and sustainable promotion of national values. Right from the Preamble, there are diverse Articles that guide the legal and institutional frameworks for the promotion of the same (refer to Module 3 for details).

### **b) Existing Legal, Institutional and Policy Framework for the Promotion of National Values and Principles of Governance**

Besides the Constitution, there exists numerous other legal, institutional and policy frameworks that are well placed to enhance the promotion of national values. These include but not limited to Sessional Paper No. 8 of 2013 on National Values and Principles of Governance, Sessional Paper No. 9 of 2013 on National Cohesion and Integration and the County Government Act No. 17 of 2012, (refer to Module III for details).

### **c) Kenya Vision 2030**

The Government is committed to fully support the implementation of the Kenya Vision 2030. National Values are instrumental for the realization of the aspirations of Kenya Vision 2030 whose implementation will enhance promotion of National Values and Principles of Governance.

### **d) Devolved Government**

The existing devolved system of government structures has enabled the citizens to gain prompt access to services within their respective counties. The devolved governments therefore remain major players in the promotion of National Values and Principles of Governance. The County Public Service Boards, as required by the County Governments Act No. 17 of 2012, are instrumental in the promotion of National Values and Principles of Governance within the counties.

### **e) Independent Commissions**





Most of the existing constitutional and statutory commissions have a direct or indirect role in supporting the promotion of National Values and Principles of Governance. These include National Cohesion and Integration Commission (NCIC), Kenya National Commission on Human Rights (KNCHR), Commission on Administrative Justice (CAJ), Judicial Service Commission (JSC), National Gender and Equality Commission (NGEC), National Land Commission (NLC), Independent Electoral and Boundaries Commission (IEBC), Public Service Commission (PSC), Commission on Revenue Allocation (CRA) and Teachers Service Commission (TSC). These commissions have the necessary structures and resources to support the implementation and promotion of National Values and Principles of Governance.

**f) The Media**

The media industry in Kenya remains one of the fastest growing in the region. Besides adopting high-tech ICT infrastructure, the media has been able to reach all corners of the country and therefore remains instrumental in the promotion of national values.

**g) Executive Office of the President**

Executive Office of the President through the Directorate of National Cohesion and National Values coordinates the promotion of National Values and Principles of Governance. Among other things, it spearheads the implementation of national values by the MDAs through the performance contracting processes. Further, all government ministries, departments and agencies are critical in the promotion of National Values and Principles of Governance.

**viii. Reforms in the Country's Governance Institutions**

The ongoing institutional reforms in the various sectors of the economy provide a fertile ground and the good will necessary for the promotion of National Values and Principles of Governance. The reforms have further created the requisite structures for the implementation of national values especially through the performance contracting system. Key among the sectors undergoing reforms are the Judiciary, security, education, transport and agricultural sectors among others.

**ix. Administrative Actions**

Administrative actions within the workplaces in the mainstream civil service provide an opportunity for enhancing the promotion of National Values and Principles of Governance. These include development of customer service delivery charters in line with the provisions on National Values and Principles of Governance; continuous training, awareness creation



and dissemination of programmes on National Values and Principles of Governance; development and implementation of codes of conduct to enforce compliance with the National Values and Principles of Governance; administrative and civil actions like warnings, reprimands and demotions or staff dismissals for violations of the provisions of Article 10; recognition, honour, reward and celebration of staff who are exemplary values carriers and drivers; provision of Information, Education and Communication (IEC) materials on National Values and Principles of Governance to both staff and other stakeholders; and mainstreaming and strengthening of National Values and Principles of Governance compliance committees.

**x) . Religious Bodies and Faith Based Organizations**

The numerous religious and faith-based organizations in Kenya have continually played a crucial role in the promotion of National Values and Principles of Governance. Census results show that an overwhelming majority of Kenyans profess adherence to Christianity, Islam or Hinduism and therefore stand to benefit from the National Values and Principles of Governance promotion processes spearheaded through the respective religious structures.

**xi) Educational Institutions**

Educational institutions remain a great avenue for promoting the realization of the National Values and Principles of Governance. The existing educational structures could be used to create awareness of and application of national values amongst learners and staff through the use of appropriate projects. The institutions should therefore influence their members and surrounding communities to abandon negative and harmful practices and adopt practices consistent with National Values and Principles of Governance.

**xii. The Institution of the Family**

Considering that the family is the natural and fundamental unit of society, and a primary socialization institution, it remains a powerful organ for the promotion of national values. Therefore, parents and guardians are expected to mentor and nurture their children into effective, functional and useful members of the society who uphold national values.

**xiii. ICT and Public Communication**

The existing ICT infrastructure in Kenya today provides an efficient and affective avenue necessary for dissemination of messages and advocacy on National Values and Principles of Governance. Further, the Ministry of ICT has committed to support the implementation of national values through the diverse media.



xiv. Professional Bodies

There exists numerous professional bodies in Kenya that engage in initiatives across the country's economy. The bodies consist of individuals who have the requisite skills and knowledge in diverse field necessary for the promotion of National Values and Principles of Governance.

xv. Political Parties

Political parties in Kenya have been instrumental in guiding developmental initiatives in the country. They therefore remain a crucial avenue for the promotion of National Values and Principles of Governance. Besides reaching out to the citizenry across the country, political parties receive funding that could support such noble initiatives. Lastly, politicians remain an influential segment of the society capable of making great impact in the promotion of National Values and Principles of Governance.

xvi. Ethnic and Cultural Diversity

Kenya enjoys a rich ethnic and cultural diversity that is key in enhancing the promotion of National Values and Principles of Governance. Members of the diverse ethnic groups have unique skills and knowledge that could be instrumental in spreading messages on the need to live and practice National Values and Principles of Governance. Further, the rich cultural structures within the Kenyan ethnic communities subscribe to diverse cultural values that could enhance the promotion of National Values and Principles of Governance.

xvii. National symbols, Music and Drama Festivals

Kenya's national symbols which include the national emblem, national anthem and the national flag have continued to promote patriotism and national unity among other national values in Kenya. Further, the rich Kenya music and drama festivals celebrated annually in the country provide a fertile ground upon which the citizenry could be sensitized on the role of National Values and Principles of Governance in the overall social-economic and political development.

xviii. Society Based on the Rule of Law and respect for Human Rights

Kenya respects the rule of law and human rights. This has resulted from the numerous legal and institutional reforms in the country. The environment created therefore supports the promotion of the related National Values and Principles of Governance.



xix. Substantial Support from Development Partners

Kenya has continued to enjoy a good relationship with the donor community and this good will has, to a large extent enabled the country solicit funding for diverse development initiatives. Therefore, the promotion of National Values and Principles of Governance stand to benefit from similar support from the existing development partners, both within and without Kenya.

xx. The Prowess of Kenyan Sporting Personalities

The world over, sports have proved critical in the promotion of national values. In Kenya, there are numerous sports personalities who have continued to excel in different fields. Among others, the country has performed exemplary well in athletics, rugby, basketball, swimming and volleyball among other sorting activities. The sporting activities therefore have the potential to promote patriotism, and national unity among other national values.

Time: 45 Minutes

**ACIVITY (15 Minutes)**

Ask participants to discuss amongst themselves for 5 minutes some of the opportunities to the promotion of National Values and Principles of Governance in their environments.

Let them write them down in their notebooks.

In 10 minutes get feedback responses from the participants.

## 4.2 Challenges towards the promotion of National Values

In a guided brief discussion of 15 minutes, ask the participants to discuss some of the challenges they can be able to identify that hinder promotion and realization of the National Values and Principles of Governance in Kenya.

Write the main points on a flip chart and use their suggestions to expound on the challenges discussed in the presentation.

The promotion of national values continues to face challenges at various levels of the implementation processes. In general, the challenges faced have been categorized as political, social-cultural and economic.

### 4.2.1. Political Challenges

i Impunity



Impunity remains an obstacle to the promotion of national values. There have been incidences where some individuals and groups have been found to engage in activities that are in complete disregard of the rule of law. Misuse of funds, nepotism, flouting of procurement procedures, misuse of power, abuse of human rights, abuse of electoral laws, among others illustrate impunity in Kenya.

**ii Bad Governance and Corruption**

Cases of bad governance in Kenya have been associated with disregard for the rule of law, lack of people participation, lack of transparency and accountability, inequity and exclusion, inefficiency and ineffectiveness especially in leadership.

**iii Abuse of Human Rights**

Human rights watchdogs have continued to report mild cases of human rights abuse in diverse sectors of the country. Among others, some cases have been reported in regard to arbitrary arrests, insecurity and rise in crime, indignity, unlawful killings especially by suspected militia, excessive use of force by the security agents, communal violence, and forced evictions among others.

**iv Disregard for Meritocracy**

There have been a few instances where meritocracy, especially in recruitment processes has been disregarded. Such cases have been reported especially at the county levels by individuals and/or communities about nepotism, cronyism and outright favouritism in recruitment and other forms of opportunities.

**v Ethicized Politics**

Despite the enactment and review of various electoral laws, there still exist cases of ethnic and regional politics (both real and perceived). This is especially in regard to competition for political power and elections where certain regions have been perceived to incline to candidates from their ethnic communities, regions, or political groupings and blocks.

#### **4.2.2 Socio-cultural Challenges**

**i Intolerance of Diversity within the Society**

Although the country has made tremendous effort towards sustainable management of diversity, there still exist mild forms of intolerance. The occasional inter and intra ethnic conflicts and in some instances violence are a case in point. More so, there are few cases that have demonstrated cultural and even religious intolerance and these have to some extent affected the promotion of national values to the affected persons and regions.



## **ii Erosion of Social Etiquette**

Some members of different communities have been found to disregard social etiquette which poses a challenge to the promotion of national values. These include cases of lateness, rudeness, smoking in non-designated areas, improper dressing and grooming, and alcohol abuse among others.

## **iii Disintegration of the Family as a Basic Unit of Society**

Although the institution of the family remains a primary value driver and carrier, the periodic media reports on domestic violence, child abuse, property rights abuse, infidelity, homicide, abortion and parental negligence among others are all a pointer to a relatively disintegrated family. This has consequently interfered with the promotion of national values.

## **iv Disregard of Ethical Conduct**

Despite there being diverse procedures and documentation on institutional codes of ethics, there is continued disregard of the same by few individuals and institutions. This has equally affected processes towards the promotion of National Values and Principles of Governance.

## **v Diminishing National Pride**

The promotion of national values has faced challenges as a result of weakening national pride amongst the citizenry. This has resulted from increased crime/insecurity, terror threats, corruption, impunity, increased cost of living, unemployment, poverty, disregard for the rule of law, poor governance, and disrespect for national symbols among others.

## **vi Social Violence**

Although a lot has been achieved in promoting the rule of law and discouraging lawlessness, there are still some cases of violence in the society. This has resulted from perceptions of mistrust amongst members of certain communities and towards law enforcement agencies. This has become an obstacle in the promotion of related national values including national unity, rule of law, human rights and human dignity among others.

## **vii Weakening Social Institutions**

The inability of certain social institutions to provide the much required mentorship and role modeling on national values has become a challenge in the promotion of national values. Such social institutions include the family, schools and religious institutions.

## **viii Poor Work Ethics**

There are several instances where work related values have not been fully embraced. These include hard work, reliability, time consciousness, punctuality, reliability, transparency and accountability among others.



## **ix Religious Fanaticism, Bigotry and Fraud**

Although to a less extent, cases of religious fanaticism have equally affected the promotion of religious values. Media reports on extortion in some religious groupings are a case in point and this has resulted to religious vulnerabilities among community members.

### **4.2.3 Economic Challenges**

#### **i Exclusion**

This is the opposite of inclusion. When members of certain communities and regions harbour feelings of exclusion, they feel marginalized and discriminated against. This may be in the form of social-economic and political advancements. Consequently, it becomes a challenge to enhance the promotion of national values in such cases.

#### **ii Inequitable Distribution of Resources**

It is difficult to promote national values within communities and regions that feel marginalized and discriminated against as a result of inequitable distribution of resources.

#### **iii Prevalence of poverty**

Poverty levels in certain parts of the country have continued to undermine efforts towards the promotion of national values. This has worsened in places where poverty is perceived to be as a result of skewed or inequitable distribution of resources. In other instances, certain communities in poverty-stricken counties harbor feelings of exclusion, marginalization and discrimination, and this has become an impediment to the promotion of national values.

#### **iv Social Stratification**

Real or perceived social class differences in the Kenyan society have been a challenge towards the promotion of National Values and Principles of Governance. This is often associated with perceived increased social stratification, selfish remuneration increments at the expense of the taxpayer among others.

## **2.4 Environmental challenges**

### **i). Natural calamities and disasters**

The frequent incidents of natural calamities and disasters have affected the promotion of National Values and Principles of Governance. Disasters such as drought, floods, landslides, fire outbreaks and accidents have impacted negatively on such values and principles such as sustainable development, human dignity and patriotism.

### **ii). Climate change and desertification**





Climatic changes have had some negative effects on some regions especially in arid and semi-arid areas where desertification has increased conflicts among the communities residing in these regions.

iii). Conservation of environment leading to violent conflicts

The nationwide effort and initiatives to preserve the environment spearheaded by both the state and non-state actors have led to conflicts with the communities benefiting from such environment. This has led to perceived or real cases of marginalization, human rights abuse and social injustices.

#### 4.2.5 Legal challenges

These include lengthy procedures for development and review of legislations and others laws that are meant to guide the promotion of National Values and Principles of Governance. Other challenges include inadequate information on the rule of law by the citizenry, lengthy court cases and inadequate legal personnel.

#### ACTIVITY

In a short **plenary** session of 15 minutes, ask participants to suggest practical solutions to the outlined challenges.

**Facilitator** to guide them on efforts the Government and other stakeholders are making to address some of the challenges.

### 4.3 Strategies for Promoting National Values and Principles of Governance

#### Note to facilitator:

Begin the session by explaining to participants the learning outcomes for the session. The facilitator should enable participants identify some of the strategies that are key in promoting National Values and Principles of Governance in the Kenyan society; Appreciate the strategies that promote National Values and Principles of Governance; and how to employ the use of strategies in their areas of operation and in other partners.

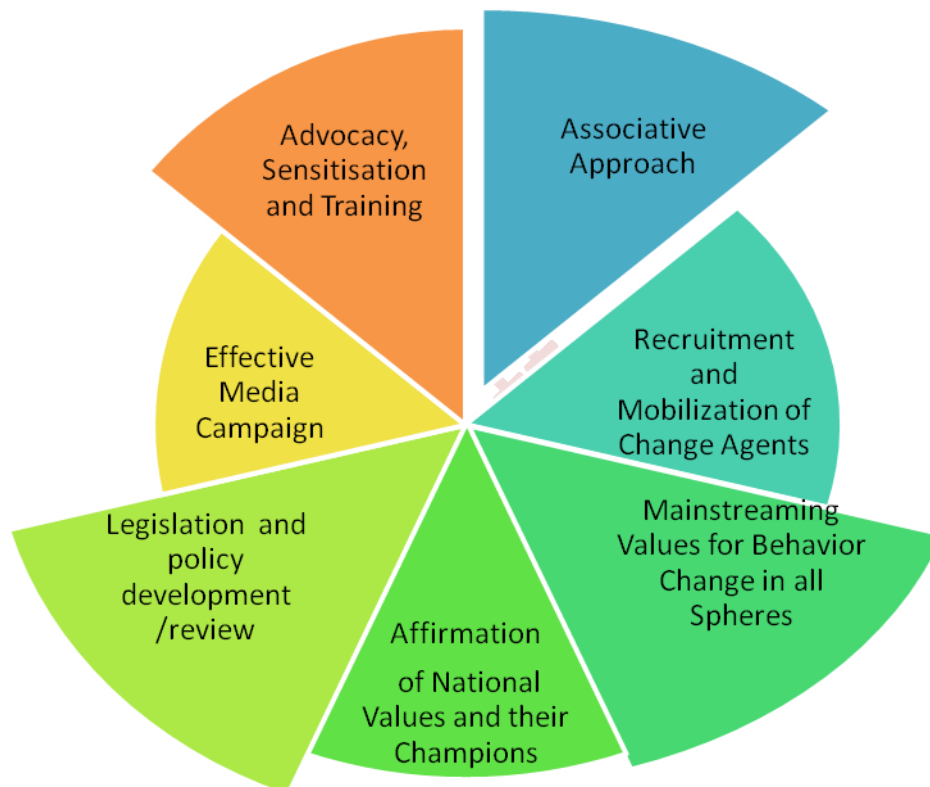
#### 4.3.1 Definition of the term Strategy

A strategy is a plan of action designed to achieve a long-term or overall aim. Strategies are long term plans of action or methods to help achieve certain desired goals. It may involve planning and mobilization of resources for efficient and effective use.

Strategies are important because the resources available to achieve set goals are usually limited. A strategy hence involves setting goals, determining actions to achieve the goals, and mobilizing resources to execute the actions. Strategies can be deliberate intention or a pattern of activity that an organization adapts to its environment to enable the realization of its vision and mission. It involves activities such as strategic planning and thinking that enhance the achievements of desirable outcomes from a given program, project or activity.

### Strategies for the promotion of National Values and Principles of Governance

These strategies are grouped into seven main categories and include:



*Figure 14 Strategies for the promotion of National Values and Principles of Governance*

#### 4.3.1 Associative Approach

The process of inculcating national values should be adopted and carried forward by all stakeholders in the society (Sessional Paper No. 8 of 2013). This can be realized by allowing the process to be managed by citizens in voluntary and democratically self-governing associations that include neighbourhood groups, self-help groups, Community-Based Organizations, religious and faith-based organizations, societies, sports associations, professional associations, trade unions, labour unions, co-operative societies, business associations and political parties. These groups will be mandated to own and drive the



process of promoting, inculcating and even enforcing National Values and Principles of Governance as carrier and drivers.

The objective is to enable the state and citizens' organizations to form a single delivery framework that transforms all layers of society with a new perspective based on National Values and Principles of Governance (Sessional Paper No. 8 of 2013). The associative approach aims at devolving regulatory functions to professional associations and local groups, societies and unions since they have knowledge on specific shortcomings related to National Values and Principles of Governance and of locally applicable solutions. In addition, these groups have extensive self monitoring and self-regulating capacities. Other sub strategies that support this approach include:-

- i. Organizing stakeholders' consensus building forums;
- ii. Organizing stakeholder consultative forums at the National and County levels;
- iii. Implementing programmes, projects and activities towards addressing youth unemployment;
- iv. Organizing community sporting activities with the youth to promote national values and principles of governance;
- v. Organizing Inter-community exchange programmes to promote national values and principles of governance;
- vi. Developing and implementing social investment programmes to promote national values and principles of governance;
- vii. Improving resource allocation and management;
- viii. Vetting of political leaders and persons applying for jobs in the state and public offices to verify their adherence to national values and principles of governance; and
- ix. Convening forums to hear and address complaints on people flouting national values and principles of governance.

#### **4.3.1.2 Benefits of the Associative Approach**

Some of the benefits of this approach are that:

1. It creates ownership among the citizenry on National Values and Principles of Governance;
2. It creates mass awareness on the issues of National Values and Principles of Governance in the general public;
3. It enables a single delivery framework covering a wide array of stakeholders; and



4. Facilitates extensive coverage of the various segments of society.

#### **4.3.1 Challenges of the Associative Approach**

The following are the challenges on Associative Approach.

1. Groups may lack the necessary resources able to carry out trainings and sensitization on National Values and Principles of Governance.
2. Multiplicity of actors involved in associative approach may cause confusion.

#### **4.3.2 Recruiting and Mobilizing Change Agents**

The strategy and measure for promoting National Values and Principles of Governance is by recruiting and mobilizing change agents within different sectors and strata of society. The objective of this strategy is to recruit as many value carriers as possible in all spheres of society such as; arts and entertainment, communities, educational institutions, families, government, political organizations, private sector, religious and faith-based organizations and sports (Sessional Paper No. 8 of 2013). Equipping, empowering and deploying the change agents' is key to the success of this strategy (Sessional Paper No. 8 of 2013). The strategy proposes the formation of national values committees in Ministries, Departments, Agencies (MDAs) and other private sector organizations and institutions. Related sub strategies include:

- i. Building capacity of the change agents;
- ii. Sensitization programme of National Values and Principles of Governance to various stakeholders;
- iii. Establishing mentorship programmes on National Values and Principles of Governance learning or training institutions; and
- iv. Rolling out exchange programmes amongst communities and institutions to promote National Values and Principles of Governance.

##### **4.3.2.1 Benefits of Change Agents Approach**

Some of the benefits of this approach are that:

1. It is a cross- cutting approach as it recruits value carriers and drivers from different segments of the society;
2. Change agents act as role models who inspire the uptake of National Values and Principles of Governance especially the youth and children;
3. It guarantees simultaneous transformation as the agents in various places; and
4. Many agents are created and hence a replica and effects of further societal transformation.



#### **4.3.2.2 Challenges of Change Agents Approach**

This approach has challenges that include:

1. Limited skills and resources;
2. Identifying change agents may be difficult considering their acceptability in the community and character; and
3. Mobilizing of the change agents for the national values fora may pose logistical challenges.

#### **4.3.3. Mainstreaming Values for Behaviour Change in all Spheres**

The objective of this strategy and measure is to entrench values as a fulcrum around which national programmes, projects and activities are anchored. In the process national values and principles of governance, values will become a central rallying ingredient and theme in the planning and execution of national programs. It is envisaged that all actors shall take action to mainstream national values, at county and national level, in arts and entertainment, communities, educational institutions, families, government, political organizations, private sector, religious and faith-based organizations, and sports (Sessional Paper No. 8 of 2013). Within the government, mainstreaming will involve including targets on the promotion of National Values and Principles of Governance in performance contracting of all MDAs.

The mainstreaming process requires legislative as well as administrative action, awareness programmes, media campaigns to carry out information, education and communication programmes. It involves value-smart citizen service delivery charters aimed at increasing the transparency, accountability and citizen-friendliness in institutions. To realize this strategy, dissemination exercises, meetings, workshops, learning for a will be necessary. It will require the inclusion of National Values and Principles of Governance in performance contracting and performance management in public sector institutions and private sector organizations, respectively (Sessional Paper No. 8 of 2013). Other sub strategies include:

- i. The development of a reporting mechanism on the status of National Values and Principles of Governance in Kenya;
- ii. Mainstreaming in the education curriculum to include content on National Values and Principles of Governance ; and
- iii. Mainstreaming National Values and Principles of Governance within community, programmes, projects and activities such as the *NyumbaKumi* Initiative.



#### **4.3.3.1 Benefits of Mainstreaming Values for Behaviour Change in all Spheres**

The benefits of this approach are:

1. Mainstreaming does not require additional human resource;
2. It may not require additional budget as it is mainstreaming within the programmes, projects and activities;
3. It obliges organizations to engage in the promotions of National Values and Principles of Governance since they have contracted to do so;
4. It enhances transformation in institutions or societies; and
5. The emergence of value carriers and drivers in society.

#### **Challenges of Mainstreaming Values for Behaviour Change in all Spheres**

The challenges associated with this approach are:

1. Lack of resources for training and sensitization;
2. Resistance to embrace the mainstreaming of national values; and
3. Compliance with the national values such as patriotism may be difficult to measure.

#### **4.4 Affirming National Values and their Champions**

This is the strategy and measure that seeks to profile and give visibility to Kenyan heroes and heroines who represent a commitment to national values in both historical and contemporary settings. This will include developing a criteria for identifying and recognizing leading role models, champions and ambassadors of National Values and Principles of Governance. In addition, it will involve the development of mentoring schemes that will enable the role models, champions and ambassadors to pass on their skills and experiences to others mainly the youth and children.

##### **4.4.2 Benefits**

Some of the benefits of this approach are:-

1. Easy acceptance of the role models since they are within the community;
2. Development of leadership skills;
3. Identity change and positive thinking;
4. The skills from the champions will be appreciated by the youth and children; and
5. Societal transformation will be enhanced.

##### **4.1.3 Challenges to affirming National Values and their Champions**

The main challenges to the approach are that:



1. Value champions may be rejected due to character;
2. The mentoring schemes need massive financial and human resources;
3. Difficulty in identifying value champions due to strict criteria; and
4. Challenges in the development of criteria to identify and recognize champions.

#### **4.5 Legislation**

Ministries, Departments and Agencies need to formulate policies aimed at promoting National Values and Principles of Governance. Existing policies should be aligned to Article 10.

Other sub-strategies are as follows:

- i. Enactment and formulation of value- smart laws and policies;
- ii. Enactment of appropriate legislation to address issues such as land grabbing, environmental degradation, food insecurity, poor health and sanitary care and wastage of public funds;
- iii. Periodic review of the Sessional Paper No 8 of 2013 on National Values and Principles of Governance to capture emerging issues;
- iv. Expeditionary action on people who flout National Values and Principle of Governance;
- v. Fair administrative action on perpetrators who violate the National Values; and
- vi. Develop a social protection policy.

##### **4.5.1. Benefits of legislation**

The benefits to the approach of legislation for the promotion of national values are:

- i. Legislation facilitates enforcement of National Values and Principles of Governance;
- ii. The National Values and Principles of Governance are entrenched in the law; and
- iii. Legislation will also ensure compliance to National Values and Principles of Governance.

##### **4.5.2 Challenges of legislation**

The challenges to this strategy include:

- i. It is difficult to legislate qualitative social issues such as national values;
- ii. Requires resources; and
- iii. The process of legislation is lengthy and requires a wide spectrum of stakeholders.





#### **4.6.1. Media Campaign**

This media campaign strategy involves the use of electronic, print and social media. Messages are developed to run on the media platform to enlighten and inspire members of the public to practice the national values. The media can be instrumental in publicizing outstanding individuals who uphold these values. Media talk shows, caravans, distribution of IEC materials and use of commercial messages are also useful tools that can be employed

The unprecedented use of social media by Kenyans makes it a very effective tool of reaching out to the youthful population who are the largest users and a target population of this message. The use of Short Message Service (SMS), WhatsApp, to reach a wider audience should be assigned priority. Other emerging media include Twitter, Facebook and LinkedIn that would be important in mass dissemination of information on National Values and Principles of Governance.

##### **4.6.1.1 Benefits**

The benefits of this strategy are:

1. Wide coverage in creating awareness on National Values and Principles of Governance;
2. Ease of adoption;
3. Possibility to tailor the message to specific target audiences; and
4. Adoption of new media to promote National Values and Principles of Governance.

##### **4.6.1.2 Challenges**

The challenges associated with this strategy are:

1. Misinterpretation of messages;
2. Lack of adequate resources to carry out advocacy on National Values and Principles of Governance; and
3. Social media may be subject to abuse.

#### **4.7.1. Advocacy, Sensitization and Training**

The objective of this strategy is to create awareness and develop skills and capacity among stakeholders on National Values and Principles of Governance. It involves convening forums for stakeholders where opportunity is provided for exposure to the concepts, strategies and importance of promoting and upholding national values. Advocacy can be enhanced through IEC materials and regular discussions among groups. Training forums are focused on



developing a pool of Trainer of Trainers (TOTs) within institutions, communities and groups.

Other sub strategies here include:

- i. Conducting advocacy on the adoption and practice of National Values and Principles of Governance by stakeholders;
- ii. Sensitization of members of the public on the provisions of the policy at the National and County levels; and
- iii. Mounting public campaigns to promote awareness and compliance National Values and Principles of Governance.

#### **4.7.1.1 Benefits on Advocacy, Sensitization and Training**

The benefits to this strategy are:

1. It has high visibility since it employs the use of IEC materials;
2. It creates ownership amongst stake holders;
3. Many people are trained;
4. Ensure flow effect as messages are transmitted to the society; and
5. Enhance societal transformation.

#### **4.7.1.2 Challenges to Advocacy, Sensitization and Training**

The challenges associated with this strategy are:

1. Lack of adequate resources; and
2. Inadequate staff for training and sensitization mainly in rural and disadvantaged areas.

#### **Group Activities: 30 MINUTES**

1. Ask participants to discuss key strategies for promoting National Values and Principles of Governance;
2. Ask participants to discuss the content of a video clip provided by the facilitator on a strategy to promote National Values and Principles of Governance.

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## UNIT 5: ROLES OF STAKEHOLDERS IN THE PROMOTION OF NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

**Time: 2 hours**

### Introduction

This module identifies and discusses the roles played by the various stakeholders involved in the promotion of National Values and Principles of Governance.

### Learning outcome

At the end of the presentation, the participants should be able to:

- i. Identify the roles of different stakeholders in the promotion of National Values and Principles of Governance;
- ii. Appreciate the efforts of different stakeholders in promotion of National Values and Principles of Governance; and
- iii. Identify their own role in the promotion of National Values and Principles of Governance.

Note to facilitator:

1. Begin the session by explaining to participants the learning outcomes for the session. Ask participants to;
  - i. Discuss in groups the meaning of the term, Stakeholder,
  - ii. List different stakeholders and their roles in the promotion of national values and principles of governance
2. Write down their responses in a flip-chart.

Explain to them that some of the stakeholders and their roles are as follows:

### Stakeholder Roles

Successful development and transformation of a shared national value system will require the concerted efforts of many actors. These include:



*Figure 15 Actors that influence development and transformation of national Value system*

#### **a. The Presidency**

Citizens hold the President accountable regarding National Values and Principles of Governance. This is because the Presidency is vested with sufficient powers and authority to oversee the infusion of the values and policies into various sectors of the Kenyan society. The President enjoys a national popular mandate, is the Head of State and Government, is a symbol of national unity, and the head of the executive arm of government responsible for the formulation, approval and implementation of the agenda of the government through policy, legislation, institutional framework and administrative actions.

The President is obligated to report to the nation, measures taken and progress achieved in the realization of National Values and Principles of Governance. (Article 132).

#### **b) Legislature**

The function of Parliament is to enact laws and regulations, adopt policies that promote national values and principles of governance. These include for example; Sessional Papers



No. 8 of 2013 on National Values and Principles of Governance and Sessional Paper No. 9 of 2013 on National Cohesion and Integration. Under Article 94(2)(4) of the Constitution, the role of Parliament in the promotion of National Values and Principles of Governance is:

- (i) To manifest the diversity of the nation, represent the will of the people, and exercise their sovereignty; and
- (ii) To protect the Constitution and promote the democratic governance of the Republic.

In addition, Parliament has established the Joint Parliamentary Committee on National Cohesion and Equal Opportunities whose mandate is to promote measures designed to enhance the equalization of opportunities and improvement in the quality of life and status of all persons, including persons who are marginalised on the basis of gender, age, disability, health status, ethnic, racial, cultural or religion background or affiliation or any other such ground. Further, the Committee also works with institutions such as the Directorate of National Cohesion and Values in enhancing the promotion of National Values and Principles of Governance.

#### **c) Judiciary**

The mandate of the institution of Judiciary is the enforcement of the rule of law, provision of justice and interpretation of the Constitution. This is exercised by the Courts and Tribunals established by or under the Constitution. In Article 159(2) the judicial authority, the courts and tribunals shall be guided by the following principles:

- a. justice shall be done to all irrespective of status;
- b. justice shall not be delayed;
- c. alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted;
- d. justice shall be administered without undue regard to procedural technicalities; and
- e. the purpose and principles of this Constitution shall be protected and promoted.

#### **d. National and County Governments**

Citizens expect national and county level governments to pursue National Values and Principles of Governance because they reinforce their rights-holder-to-duty-bearer



relationship with the state. Furthermore the government, besides its monopoly of coercive force, has an array of policy, legal mechanisms and administrative action to enforce national values. The National and County level Governments are therefore the principle stakeholders. At the County level, the Governor is particularly accountable regarding National Values and Principles of Governance. This is because as the County Chief Executive, the Governor is vested with sufficient powers and authority to oversee the infusion of the values and policies into the various sectors of the County. The Governor enjoys a popular mandate at the County, and has support from the County Assembly. Section 59 of the County Government Act No. 17 of 2012 vests the role of promoting National Values and Principles of Governance to the County Public Service Board.

The National and County governments shall establish an appropriate framework, in line with Article 187 and 189 of the Constitution, through which measures taken and progress achieved in the realization of the National Values and Principles of Governance shall be monitored so that they are incorporated into report to Parliament by the President (County Governments Act, 2012: Section 59).

***e. Ministries, Departments and Agencies (MDAs)***

Public institutions with the highest threshold in the promotion and enforcement of National Values and Principles of Governance in Kenya include: Ministries of Interior, Education, the National Treasury, Office of the Attorney General and the Department of Justice and Agencies such as EACC, TSC, KNCHR, CAJ, NGEC, NCIC and ODDP among others. MDAs should undertake the following responsibilities towards the realization of the National Values and Principles of Governance:

- i. Establish systems, structures, programmes and guidelines for the promotion of the National Values and Principles of Governance;
- ii. Integrate National Values and Principles of Governance into national, county and sectoral policies;
- iii. Establish continuous training, awareness and dissemination programs on the National Values and Principles of Governance in a language understood by its staff, key stakeholders and customers;
- iv. Institute and uphold a customer service delivery charter in line with the National Values and Principles of Governance;
- v. Provide resources and create an enabling environment for the mainstreaming of National Values and Principles of Governance by all public agencies;





- vi. Institute an internal code of conduct and ethics to give further effect to the National Values and Principles of Governance;
- vii. Establish systems and mechanisms to hold State Officers accountable for flouting National Values and Principles of Governance;
- viii. Establish mechanisms and systems to ensure upholding of national values, leadership integrity and values and principles of public service as a determinant factor in the recruitment, deployment and promotion;
- ix. Integrate National Values and Principles of Governance in their performance contracting processes and assign a significant weight to underscore their importance;
- x. Establish an internal National Values and Principles of Governance Committee;
- xi. Establish monitoring and evaluation mechanisms for annual and periodic reporting; and
- xii.** Promote role modeling and leadership competencies that demonstrate the realization of national values at MDAs.

#### ***f. Public Service***

The Constitution under Article 233 establishes the Public Service Commission (PSC) to among other things exercise disciplinary control over and remove persons acting or holding in those offices, and promote the values and principles mentioned in Articles 10 and 232 throughout the public service (Sessional Paper No.8 of 2013).

The Public Service is empowered by the Constitution to hear and determine appeals in respect of county governments' public service. It is also charged with evaluating and reporting to the President and Parliament on the extent to which the Public Service Values and Principles under Article 232 of the Constitution of Kenya are complied with in the public service. The Public Service is therefore a key value-carrier and value-driver.

The Public Service should, in contributing to the realization of the National Values and Principles of Governance, undertake the responsibility to promote, uphold and enforce values and principles of public service throughout the public service.

#### ***g. Public officers***

Every public officer should undertake the following responsibilities towards the realization of the National Values and Principles of Governance:

- i. Commit to continuous learning in order to advance knowledge and proper application of the National Values and Principles of Governance;



- ii. Dedicate to respect, support and collaborate with colleagues, relevant stakeholders and professionals in working towards the full realization of the National Values and Principles of Governance;
- iii. Refuse to condone or participate in acts of commission or omission that undermine the realization of National Values and Principles of Governance;
- iv. Uphold and, where necessary, improve the laws, regulations and policies relating to National Values and Principles of Governance;
- v. Commit to observe and uphold the provisions of the customer service delivery charters;
- vi. Promote compliance and enforcement of the National Values and Principles of Governance;
- vii. To individually or collectively make reports with respect to threatened or actual violations of the National Values and Principles of Governance; and
- viii. Seek to be outstanding examples in the upholding of National Values and Principles of Governance in execution of their duties and roles in the society.

#### ***h. Private sector***

The private sector requires a stable, enabling environment for private enterprise to thrive. Private enterprise should be the platform that enables national values to be translated into competitive advantage vis-à-vis other nations. The private sector should play a key role in wealth generation, employment creation and the spurring of overall national economic growth and development. All private sector associations should undertake the following responsibilities towards the realization of the National Values and Principles of Governance:

- i. Establish systems, structures, programmes and guidelines for the promotion of the National Values and Principles of Governance in the private sector;
- ii. Review regulations and codes of conduct and ethics, and establish systems and mechanisms to hold members of private sector associations accountable for compliance with the National Values and Principles of Governance;
- iii. Seek to promote compliance, including training and capacity building, and enforcement of the National Values and Principles of Governance in the sector;
- iv. Integrate National Values and Principles of Governance into sectoral policies; and
- v. Refuse to condone or participate in acts of commission or omission that undermine the realization National Values and Principles of Governance.

***i. Educational institutions***

Education is the single most valuable investment in the life of a child and society at large. The institutions that impart knowledge therefore play a very critical role in national development. A good education system should pass on knowledge, skills and values to the next generation. It should enable each new generation to develop the appropriate traits of public and private character that underpin a constitutional democracy.

All educational institutions should undertake the following responsibilities towards realization of the National Values and Principles of Governance:

- i. Create awareness of and practice national values amongst the pupil or student body and staff, including the use of appropriate methodologies;
- ii. Deliver instruction and training on civic education using a variety of age-appropriate techniques;
- iii. Collaborate and co-operate with state and non-state actors to ensure implementation of the National Values;
- iv. Influence pupils, students, staff and surrounding community members to abandon negative and harmful practices and adopt practices consistent with National Values and Principles of Governance;
- v. The state should leverage on existing institutions such as the National Youth Service, Girl guides and the Scouting movement to promote national values;
- vi. Every student should become familiar with the nation's fundamental instruments and values through age-appropriate instructional methodology;
- vii. The opportunity for school and community service should be available to all young people as part of their civic duty; and

The schools, colleges and universities should also identify, recognize and reward pupils, students, teachers and lecturers who are outstanding values champions.

***j. Religious and Faith-Based Organizations***

Religious and Faith Based Organizations provide a platform for inculcation of morals which heavily influence the choices and actions of a significant number of citizens. Further, religion provides spiritual nourishment to individuals and a platform for building consensus and peaceful co-existence and a platform for conflict prevention, management and transformation. Faith-Based Organizations thus play a critical role in building national cohesion by advocating for justice, peace, reconciliation, inclusiveness and harmony among



the people which are critical in the promotion of values such as national unity, social justice, and inclusiveness among others.

Further, religion provides spiritual nourishment to individuals for building consensus and peaceful co-existence. It provides a platform for conflict prevention, management and transformation. Census results show that an overwhelming majority of Kenyans profess to Christianity, Islam or Hinduism. Many of them attend regular weekly meetings in their places of worship. These fora enable religious leaders to impart spiritual principles to guide people in their daily life.

It is undeniable that religious and faith-based organizations heavily influence the choices and actions of a significant number of citizens. Religious leaders command public trust and confidence. They draw their membership across ethnic, economic and social cleavages. Their message resonates with a broad spectrum of citizens, and touches on both private and public spheres. The National Values and Principles of Governance touch on the public sphere in much the same way that religious teachings do. Notably, there is much congruence between them. Religious and faith-based organizations are therefore key stakeholders in the promotion and inculcation of National Values and Principles of Governance. Religion influences morals and defines acceptable behavior, tackles vices and promotes virtues. National Values and Principles of Governance, by defining acceptable practice, have a moral dimension.

Religious and faith-based organizations should therefore play a critical role in securing a conducive spiritual climate for the promotion of National Values and Principles of Governance for the development of this nation.

All religious and faith based organizations should undertake the following responsibilities towards the realization of the National Values and Principles of Governance:

- i. Design and deliver curricula that advance National Values and Principles of Governance from a religious perspective;
- ii. Promote participation of citizens in public affairs and social responsibility towards other Kenyans;

#### ***k. The Media***

The media is a trusted source of information and wields immense power that can be harnessed in promoting national values. It shapes public opinion and sets the public agenda. It is best placed to drive home the point that the National Values and Principles of Governance set minimum standards of acceptable behavior for all Kenyans. Mass media, far



from merely disseminating information and entertainment, transmits values. The media shall help maintain focus on National Values and Principles of Governance. It can be used to help prick the conscience of citizens and leaders regarding observing National Values and Principles of Governance. All media organizations should undertake the following responsibilities towards the realization of the National Values and Principles of Governance:

- i. Establish systems, structures, programmes and guidelines for the promotion of the National Values and Principles of Governance;
- ii. Review regulations and professional codes of conduct and ethics; and establish systems and mechanisms to hold members of their organizations accountable for compliance with the National Values and Principles of Governance;
- iii. Integrate National Values and Principles of Governance into media policies; and
- iv. Refuse to condone or participate in acts of commission or omission that undermine the realization National Values and Principles of Governance.

### ***1. Community Elders***

Elders are personalities respected and trusted in the communities for their character and spirit, demonstrated through their behavior, good judgment and sensitivity to the needs of the community. These are people of influence in their family and community and are often held in high esteem by their communities. Elders are often regarded as personalities of wisdom and humility who have the capacity to bring the community together when there is conflict and disorder. Their mode of leadership is always centred on the human core values of love, relationships, mutual respect and recognition. As the highest traditional socio-political institution, membership of the council of elders has always depended on personal integrity and the ability to listen to the voice of the people.

Elders should undertake the following responsibilities towards the realization of National Values and Principles of Governance:

- i. They are responsible for teaching positive moral conduct and upholding moral standards in the community;
- ii. They act as carriers and drivers of the national values in their respective communities; and
- iii. Refuse to condone or participate in actions or conduct that undermine or violate National Values and Principles of Governance.



### ***m. Communities***

Community usually refers to a social unit, larger than a household, which shares common kinship values as a basis of social cohesion. It indicates a group of people with a common identity. Communities are connected by common attributes, by kinship or by proximity of space or time. In Kenya, the binding relationship in communities is often clan or ethnic-based. It may also be based on residence, shared interest or on collective use or access to resources.

All communities should undertake the following responsibilities towards the realization of the National Values and Principles of Governance:

- i. Create awareness of and practice the communal values such as respect for elders, honesty, handwork and obedience; and
- ii. Collaborate and co-operate with state and non-state actors to ensure implementation of the National Values;
- iii. Influence community members to abandon negative and harmful practices and adopt practices consistent with National Values and Principles of Governance.

### ***n. The Family***

The family is the natural and fundamental unit of society, a primary socialization institution. Socialization is the creation of shared beliefs and ideals that lead to the norms of the family and help indicate to family members how one should interact within a society. In this regard, parents and guardians should mentor and nurture their children into effective, functional and useful members of the society who uphold national values. All families should undertake the following responsibilities towards the realization of the National Values and Principles of Governance:

- i. Parents and guardians should embrace the national values and act as role models;
- ii. Parents and guardians should provide basic needs for their children and create a conducive environment for positive socialization; and
- iii. Parents should mentor and nurture their children into functional and useful members of the society who uphold national values.

### ***o. Individuals***

All individuals should undertake the following responsibilities towards the realization of the National Values and Principles of Governance:

- i. Internalize, apply, embody and propagate the National Values and Principles of Governance and hence act as a value-carrier, value-driver and champions.



- ii. Demonstrate a culture of constitutionalism, adherence to the rule of law, public civility, social obligation and responsible behavior; and
- iii. Demonstrate leadership which is self-sacrificing, people-centered, value driven, service oriented and self-disciplined.

***p. Civil Society Organizations (CSOs)***

The civil society has played a big role in the fight for a new constitution and since 2010 when it became operational has been involved in operationalizing it. The presence of CSOs in all the forty seven counties gives it enormous capacity to reach citizens in all corners of the republic. Their expertise and experience in carrying out civic education cannot be gainsaid.

CSOs should be able to collaborate with the National and county governments in the promotion and initiation of the National Values and Principles of Governance. The CSOs have a critical role of inculcating values in their institutions and in several sectors of the public. They enjoy a wide range of National acceptance among the citizens and therefore will use their wide networks and numbers in the promotion of National Values and Principles of Governance.

**Group Activity**

1. Ask participants to list the stakeholders involved in the promotion of National Values and Principles of Governance.
2. Ask participants to discuss the roles of the various stakeholders in the promotion of National Values and Principles of Governance.
3. Ask participants to role play their roles in the promotion of National Values and Principles of Governance.

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## **UNIT 6: NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE**

### **REPORTING**

Time: 2 Hours

#### **Introduction**

This module discusses monitoring and reporting on national values and principles of governance. The module isolates the purposes of monitoring and reporting, benefits as well as the challenges encountered by actors involved in monitoring and reporting on National Values and Principles of Governance.

#### **Learning Outcomes**

By the end of this session, participants are expected to:

- i. Understand the purposes of monitoring and reporting on national values and principles of governance;
- ii. Appreciate the process of reporting on the national values and principles of governance; and
- iii. Discuss the challenges on reporting on the national values and principles of governance.

Note to facilitator:

Begin the session by explaining to participants the learning outcomes for the session. Ask participants to;

- ii. Discuss in groups the meaning of the terms, monitoring and reporting,
- iii. List challenges encountered by their respective institutions during monitoring and reporting on national values and principles of governance.

Write down their responses in a flip-chart.

Explain to them that the meaning of the terms is as follows:

#### **6.1 Monitoring and Reporting on National Values and Principles of Governance**

Monitoring is a process of gathering and analysis of information to determine progress made in the realization of National Values and Principles of Governance. It highlight whether there are any unintended (positive or negative) effects from a project, programme and activities on National Values and Principles of Governance.



Reporting is a process of compiling information and findings on measures taken and progress achieved in the realization of National Values and Principles of Governance as submitted by various stakeholders.

## **6.2 Purpose of Monitoring and Reporting on National Values and Principles of Governance**

Once every year, the Constitution requires the President in Article 132 (1) (c) (i) to report, in an address to the nation, on all the measures taken and the progress achieved in the realization of the National Values and Principles of Governance, referred to in Article 10. The President is further expected to publish in the Gazette the details of the measures and progress made under sub-paragraph (i).

Article 10 (1) of the Constitution mandates state organs, state officers, public officers and all persons to be guided by National Values and Principles of Governance whenever they: (a) apply or (b) interpret the said Constitution; or (c) enact, (d) apply or (e) interpret any other law. The institutions are required to report on the extent to which National Values and Principles of Governance have been domiciled in their legal and policy formulation processes especially during critical stages such as: development; interpretation; implementation; and application. Thus any law or policy that was enacted before the Constitution of Kenya, 2010 is assumed to have been reviewed to be in conformity with this clause.

The annual presidential report is expected to:

- i. Document the measures taken in the realisation of National Values and Principles of Governance by the respective public institutions and bodies;
- ii. Document the progress achieved in the realisation of the National Values and Principles of Governance by the respective public institutions and bodies;
- iii. Highlight challenges faced in the promotion of National Values and Principles of Governance; and
- iv. Make recommendations on strategies and interventions that will enhance the realisation of National Values and Principles of Governance (GoK, 2014).



### **6.3 Approaches and Tools for Monitoring and Reporting on National Values and Principles of Governance**

Among the methods that could be used in monitoring process of projects, programmes and activities on National Values and Principles of Governance by stakeholders include: The Most Significant Change Technique; Expert Panel Reviews; formal Surveys; semi Structured Interviews; Key Informant Interviews; Focus Group Interviews; Direct observation and community meetings.

### **6.4 Key Issues to be addressed in the Report**

#### **6.4.1 Application of National Values and Principles of Governance**

The state and public institutions in their reporting (using prescribed templates) on national values and principles of governance are expected to indicate the extent to which their projects, programmes and activities have:

- i. Enhanced patriotism, national unity, promoted the adherence to the rule of law;
- ii. Devolved power and national resources, promoted respect for separation of powers and participation of people in decision making
- iii. Promoted human rights, enhanced poverty alleviation, promoted equitable distribution of resources and opportunities and implemented affirmative actions for marginalized groups;
- iv. Promoted good governance and integrity practices, enhanced effective disposal of corruption cases and promoted transparency and accountability in the management of public resources;
- v. Sustainable and productive management of natural resources, conservation and protection of ecologically sensitive areas, effective management of institutions and prudent public borrowing with equitable impact on future generations.

#### **6.4.2 Integration of Values and Principles of Governance into Institutional Processes and Procedures**

Public and private institutions are required to integrate National Values and Principles of Governance in all their undertakings such as: recruitment of staff of high integrity; promoting those that espouse the values; and to continually identify, recognize, reward and celebrate values driven staff. The institutions, in liaison with key governmental institutions, are required to continually implement the National Values and Principles of Governance during the process of enactment, implementation and interpretation. The organizations are also

required to demonstrate how they have applied the National Values and Principles of Governance in creating their institutions and administrative infrastructure.

#### **6.4.3.4. Administrative Actions**

Administrative initiatives that may be undertaken by state offices, public offices and private entities to implement the National Values and Principles of Governance include:

- i. Development of Customer Service Delivery Charters in line with National Values and Principles of Governance as espoused in Article 10 of the Constitution such as: human dignity; human rights; equality and equity; social justice and inclusiveness; non-discrimination and protection of the marginalised;
- ii. Continuous training, awareness creation and dissemination of programmes on National Values and Principles of Governance in a user friendly language;
- iii. Systems and administrative actions put in place to hold the state and public officers to account for violating National Values and Principles of Governance as contained in Article 10 of the Constitution such as integrity;
- iv. Codes of Conduct put in place in organizations to enforce compliance with the provisions of Article 10 of the Constitution (National Values and Principles of Governance);
- v. Fair administrative and civil actions like warnings, suspensions, interdictions for staff who violate the provisions of Article 10 such as: integrity; good governance, accountability and transparency; sustainable development; rule of law; and sharing and devolution of power;
- vi. The extent to which National Values and Principles of Governance have been integrated into the annual Performance Contracting procedures;
- vii. The extent to which the public organizations recognise, honour, reward and celebrate staff who are exemplary values carriers and drivers within them;
- viii. Provision of Information, Education, and Communication (IEC) materials on National Values and Principles of Governance to both staff, customers and stakeholders explaining the provisions of Article 10;
- ix. Procedures for identification of National Values and Governance desk officers (champions) to be key values carriers and drivers in state and public bodies;
- x. The extent of operationalisation and strengthening of National Values and Principles of Governance compliance committees internally to: promote; monitor and evaluate; and periodically report on them; and



- xi. The extent to which the existing professional bodies such as those of: accountants; engineers; architects; legal officers among others are directed to: monitor; and discipline their members working in state and public offices for violating the provisions of Article 10 on National Values and Governance

In as much as every state organ, state officers, public officers and all persons have a role, in the promotion of National Values and Principles of Governance, particular public institutions have broader responsibilities in the promotion of specific National Values and Principle of Governance as outlined in the Executive order No.2 of May 2013. This is in addition to the provisions of the Constitution of Kenya, 2010. Organizations with direct mandates in the promotion of particular National Values and Principles of Governance are required to play critical roles in supporting and facilitating other public institutions to realize those specific values. They are also expected to report on measures taken and progress achieved in their realization.

#### **6.5.0 The Role of Executive Office of the President**

- i. Coordinate the development of necessary tools that facilitate the collection of information on National Values and Principles of Governance by MDAs;
- ii. Conduct capacity building for focal persons on National Values and Principles of Governance from MDAs;
- iii. To coordinate the collection, analysis and compilation of the final report to be submitted to the president; and
- iv. Disseminate to stakeholders the Annual President's Report on Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance (GoK, 2013).

#### **6.6 Role of other Ministries, Departments and Agencies**

The role of other Ministries, Departments and Agencies is to:

- i. Mainstream National Values and Principles of Governance in their programs;
- ii. Prepare and submit a report on measures taken and progress achieved in realization of National Values and Principles of Governance in their organizations;
- iii. Establish a structure to coordinate all activities in the promotion of National Values and Principles of Governance in their respective organizations; and



- iv. Implement the recommendations of the presidential report relevant to their organizations.

## **6.7 Performance Contracting Reports**

Under the performance contracting platform Ministries, Departments and Agencies within the performance contracting purview are required to contract to realize the National Values and Principles of Governance and prepare and submit reports on the measures taken and progress achieved.

## **6.8 Report by the Public Service Commission**

Article 234(2)(h) the Public Service Commission requires to evaluate and report to the President and Parliament on the extent to which the values and principles mentioned in articles 10 and 232 are complied with in the public service. This is in view of the provisions of article 234(2)(c) that requires the PSC to promote the values and principles mentioned in Articles 10 and 232 round the public service.

## **6.9 County Public Service Board Reports**

The County Government Act No. 17 of 2012, section 59(1)(f) requires the County Public Service Board to evaluate and report to the County Assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the county public service. The report by the County Public Service Board under subsection (1) (f) shall—

- (a) Be delivered each December to the county assembly;
- (b) Include all the steps taken and decisions made by the board;
- (c) Include specific recommendations that require to be implemented in the promotion and protection of the values and principles;
- (d) Include specific decisions on particulars of persons or public body that have violated the values and principles, including action taken or recommended against them;
- (e) Include any impediment in the promotion of the values and principles;
- (f) Include the programmes the board is undertaking or has planned to undertake in the medium term towards the promotion of the values and principles; and
- (g) The Board shall publish a report required under this section in the County Gazette not later than seven days after the report has been delivered to the county assembly.



## **6.10 Surveys on National Values**

Both the national and County Governments are required to continuously undertake surveys on the status of National Values and Principles of Governance across the country. The indices will serve as benchmarks for measuring future monitoring, evaluating and reporting on National Values and Principles of Governance programmes and activities. In addition, at the national level, findings of the baseline survey will enable the government, to establish the impact of programmes and activities of National Values and Principles of Governance on state officers, public officers and persons in Kenya.

## **6.11 Benefits of Monitoring and Reporting**

The benefits of monitoring and reporting on national values and principles of governance include:

- i. Improving mainstreaming and operationalization of national values and principles of governance in projects, programmes and activities;
- ii. Enable organizations to document the milestones achieved in the promotion of national values and principles of governance through their projects, programmes and activities;
- iii. Providing regular feedback on the mainstreaming of national values and principles of governance in projects, programmes and activities, and show any need for ‘mid-course’ corrections;
- iv. Early identification of challenges in the promotion of national values and principles of governance and possible solutions;
- v. Assessing the impact of projects, programmes and activities to the realization of national values and principles of governance.

## **6.12 Challenges of Monitoring and Reporting on National Values and Principles of Governance**

Challenges to monitoring and reporting include:

- i. Inadequate/Improper use of the reporting tools that undermines the quality of reports submitted;





- ii. Failure to adhere to timelines and set deadlines slows down the process of compilation of the Annual President's Report and submission of feedback to reporting institutions;
- iii. Inadequate or lack of sufficient information on national values and principles of governance by reporting institutions;
- iv. Lack of clarity of linkages between MDAs mandates and National Values and Principles of Governance;
- v. Inadequate capacity of focal point persons undermines the preparation and quality of the reports submitted.

### Group Activity

- i. The participants to demonstrate how to use the developed templates to prepare and submit reports on measures and progress achieved in the realization of national values and principles of governance; and
- ii. Participants to discuss ways of addressing the challenges to monitoring and reporting on National Values and Principles of Governance.

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