



REPUBLIC OF KENYA

OYUGIS MUNICIPALITY

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OYUGIS.



COUNTY GOVERNMENT OF HOMABAY

HOMABAY COUNTY GENDER INCLUSION AND PARTICIPATION POLICY FOR MUNICIPALITIES.

2023

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Where Diversity thrives for Co-existential Prosperity

#Endlesspotential

*Approved by
C.A. 11/17/12*

11/17/12

[Handwritten signatures]



Approved for
OFFICE OF THE SPEAKER
HOMABAY COUNTY ASSEMBLY
09 AUG 2012
RECEIVED
P.O. BOX 10300, HOMA BAY

**HOMABAY COUNTY ASSEMBLY
THIRD ASSEMBLY (SECOND SESSION)**

P. 9 2012 2013

REPORT

OF

**THE YOUTH, SPORTS, TALENT DEVELOPMENT, GENDER
INCLUSIVITY, CULTURAL HERITAGE AND SOCIAL
SERVICES COMMITTEE**

ON:

**HOMA BAY COUNTY GENDER INCLUSION AND
PARTICIPATION POLICY FOR MUNICIPALITIES**

Published By:

DEPARTMENT OF LEGISLATIVE AND COMMITTEE SERVICES
HOMABAY COUNTY ASSEMBLY
HOMABAY
AUGUST 2012

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(i) Gender Inclusivity and Participation Framework Municipal Board	

1.0 PREFACE

1.1 General mandate of the Committee

Youth, Sports, Talent Development, Gender Inclusivity, Cultural Heritage and Social Services Committee is established pursuant to the provisions of the Standing Order No.195 (1) and the general functions outlined in the Standing Order No. 195(5) which include:

- Investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments.
- Study the program and policy objectives of departments and the effectiveness of the implementation.
- Study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives
- Investigate and inquire into all matters relating to the assigned department as it may deem necessary and as may be referred to them by the House.
- Study and review all County legislation referred to it.
- Vet and report on all appointments where the Constitution or any law requires the House to approve, except those under Standing Order 188(committee on Appointments)
- Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.
- Scrutinize the resolutions of the House on adopted Committee reports.

Specific mandate

The committee was specifically mandated to scrutinize the Homa Bay County Gender Inclusion and Participation Policy in Municipalities and table a report in the House as soon as practicable.

1.2 COMMITTEE MEMBERSHIP

The committee comprises the following members:

NO.	NAME	WARD	RANK
1.	Hon. Miruka Paul Barry	Kakelo Kokwanyo	Chairperson
2.	Hon. Onyango Susan Akoth	Gwasssi South	Vice-Chairperson
3.	Hon. Odhiambo Billy Noah	West Kamagak	Member
4.	Hon. Obuya Victor Okoth	Wangchieng'	Member
5.	Hon. David Hamilton	Kagan	Member
6.	Hon. Ware Patrick Ogeja	West Gem	Member
7.	Hon. Oloo David Odhiambo	Kanyamwa Kologi	Member
8.	Hon. Molo Reuben Odhiambo	Gembe	Member
9.	Hon. Omollo Erick	Homa Bay East	Member
10.	Hon. Oking Samwel Okomo	Rusinga Island	Member
11.	Hon. Odundo Caroline	MCA	Member
12.	Hon. Orony Milka Adoyo	MCA	Member
13.	Hon. Owidi Erick	MCA	Member
14.	Hon. Otieno Evalyne	MCA	Member
15.	Hon. Oweje Margaret Akinyi	MCA	Member

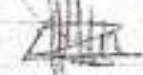
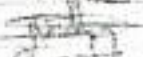
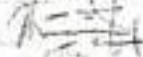
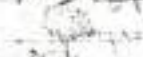
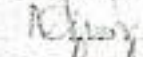
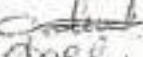
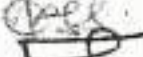


1.3 Committee Secretariat

1. Ms. Osuri Dorcas -Legal Officer
2. Mr. Stephen Ojako -Committee Clerk
3. Ms. Vera Oteng' -Committee Clerk
4. Mr. Calvince Wambalo - Sergeant-at-arms
5. Ms. Sharon Anyango - Hansard
6. Ms. Eunice Ombati -Human Resource officer

1.4 ADOPTION OF THE COMMITTEE REPORT

We, the members of Committee on Youth, Sports, Talent Development, Gender Inclusivity, Cultural Heritage and Social Services pursuant to standing order 180, have adopted this report and append our signatures to affirm our approval and confirm its accuracy and authenticity:

Date: 03-08-2022

1. Hon Paul Bamy	Chairperson	
2 Hon Susan Oryango	Vice Chair	
3 Hon EMMY NDAH	MEMBER	
4 Hon NANCY EMMET	MEMBER	
5 Hon NINA ERUY	Member	
6 Hon CAROLINE ODUNDO	Member	
7 Hon SAMUEL OROMO	Member	
8: Hon VICTOR OBU74	Member	
9. PAUL O. OLOO	Member	


1.5 Acknowledgement

The Sectoral Committee on Youth, Sports, Talent Development, Gender Inclusivity, Cultural Heritage and Social Services takes this opportunity to thank the offices of the **Speaker** and of the **Clerk** for the support accorded to it during the preparation of this report.

The Chairperson takes this opportunity to thank the Committee members for their input and valuable contributions during deliberations and report writing exercise.

The Committee is grateful to the staff of the County Assembly attached to the committee for services rendered to the committee. Their effort and input made the work of the committee and the production of this report possible.

On behalf of the Committee on Youth, Sports, Talent Development, Gender Inclusivity, Cultural Heritage and Social Services, it is therefore my pleasant duty to present this report to the House.

Signed.....

Hon. Miruka Paul Barry

Chairperson,

Youth, Sports, Talent Development, Gender Inclusivity, Cultural Heritage
and Social Services Committee

Date: 08-08-2023

1.6 Committal to the Committee

On 13th July 2023, Office the Speaker received the Homa Bay County Gender Inclusion and Participation Framework for Municipal Boards 2023 from the department of Gender Equality and Inclusivity, Youth, Sports, Talent Development, Cultural Heritage and Social Services aimed at addressing issues hampering gender equality within the Homa Bay County municipalities. The policy also aims at reinforcing legislative framework already in force alongside other legislations.

During a plenary sitting held **on 25th July 2023**, the Honourable Speaker vide Communication No. (037)2023 committed the document to Youth, Sports, Talent Development, Gender Inclusivity, Cultural Heritage and Social Services committee for scrutiny and tabling of a report in the House as soon as practicable.

The Policy was developed and submitted to the County Assembly pursuant to the provisions of Article 185(2) of the Constitution of Kenya, 2010.

Article 185 (2) of the Constitution of Kenya, 2010 provides that;

“A County Assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the fourth schedule.

2.0 BACKGROUND

Gender inequality is discrimination on the basis of sex or gender causing one sex or gender to be routinely privileged or prioritized over another. Gender equality is a fundamental human right and that right is violated by gender-based discrimination.

3.0. GENERAL OUTLOOK OF THE POLICY

Chapter one of the policy introduces the gender inclusion and participation framework for Municipal Boards and gives a history of what the gender imbalances have been like in the community and its effect.

The overall objective is to ensure gender inclusion and participation in the planning and design process of the project as stakeholders and partners with shared decision-making power in Homa Bay County Municipalities.

Chapter two is in regards to the situation analysis. This section provides a broad sectoral overview of the critical issues which impact on Homa Bay County's progress towards gender equality. The situational analysis focuses on key development sectors that are thematically sequenced for action and gender related treaties and conventions. This policy has also been aligned with current development blueprints. A range of gender-related challenges and problems have been identified in each thematic area and key issues identified. The framework also emphasizes the relationships between and among students and teachers and boys and girls, implying the need to transform deeply ingrained behaviours and gender norms that have negative impacts on the aspirations and life choices of girls and boys. The girl child is discriminated against from the earliest stages of life, through her childhood and into adulthood. In some communities' girls are exposed to female genital mutilation, child marriages, sexual abuse, and sexual exploitation. Due to the entrenched social-cultural and religious attitudes, girls are often treated as inferior and are socialised to consider themselves of less value compared to men. This leads to a lifetime marginalisation of girls. Statistics indicate that girls in rural areas are more likely to be married by the time they turn 18 years, than their peers who live in urban areas..

There is an urgent need to ensure that the interests of the girl child are considered. Some of the key areas that are ripe for Analysis of the underlying Causes of Gender disparities and Inequalities include; Uneven access to education, lack of employment

equality, job segregation, lack of legal protections, poor medical care, lack of adequate political representation and societal mindsets.

Chapter three is about the strategies and interventions to promote gender inclusion and participation. This is to expound on how the County Government of Homa Bay will put certain measures in place to bridge the gap on gender inequality. The policy framework is geared towards ensuring gender equality and women empowerment in the social, economic, political and cultural spheres as envisaged in the Constitution. The framework will endeavour to establish and strengthen Affirmative Action efforts aimed at reducing gender inequalities and geographical disparities in the distribution of natural resources and access to productive resources such as land, labour, finances, information and technology. The development of this policy is influenced by international and national instruments for Gender Equality that emphasize gender mainstreaming as the key strategy for the achieving development. It is also informed by the constitutional dispensation and transformation, the socio-economic environment and other national orientations. Those measures to be taken include;

1. Increasing female labour market participation and economic independence of women and men.
2. Reducing the gender pay, earnings and pension gaps and thus fighting poverty among women.
3. Promoting equality between women and men in decision-making.
4. Combating gender-based violence, protecting, and supporting victims.
5. Increasing and support women's representation in leadership and decision-making to redistributing care-work and productive resources.

Chapter four is about resource requirements. The successful implementation of this policy will require adequate financial, human and technical resources to ensure effective and efficient implementation for desired policy outcomes.

Funding will be sought from the county government of Homa Bay which will commit a fraction of the budget to address the gender inequality issues. Additional support will be sought from development partners and Non-State Actors. The strategies include:

1. Needs assessment and analysis for each municipality
2. Advocacy and communication to all stakeholders in the municipalities
3. Coordination and information management across the project cycle.

4. Partnership development across all the municipalities
5. Lobbying for resources from various stakeholders
6. Fund Drives

Chapter five is in regards to Monitoring and Evaluation. The monitoring framework will outline the indicators and monitoring processes to be adapted. The monitoring and evaluation framework will include policy objectives, programmatic strategies, activities, outcomes, outputs and indicators that will guide performance and policy progress reviews. The framework will be evaluated at Municipalities levels through the key monitoring activities which will consist of: Stakeholder monitoring visits to measure progress of output and measure indicators; Develop framework for measuring milestones; Mid and end term reviews of the framework; Identify best practices as informed by programmatic mechanisms; and Quarterly review meetings to measure the performance indicators.

FINDINGS ON HOMA BAY COUNTY GENDER INCLUSION AND PARTICIPATION POLICY IN MUNICIPALITIES

1. It conforms to various provisions of the constitution and other relevant legal frameworks. This includes the following;

[a] Article 232[1][d] of the constitution of Kenya, 2010 which provides that;

'The values and principles of public service include involvement of the people in the process of policy making.'

There was evidence that relevant stakeholders were involved when the policy was being drafted hence it meets the required constitutional thresh hold.

[b] Article 27[3] of the Constitution of Kenya, 2010 which provides that;

'Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.'

The policy aims at ensuring that women and men have the right to equal treatment in the five municipalities of Homa Bay County.

[c] Article 27[6] of the constitution of Kenya 2010 which provides that;

'To give full effect to the realisation of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.'

The policy is one of the legislative steps taken by Homa Bay County Government as an affirmative action program designed to redress any disadvantage likely to be suffered by individuals or groups within the five municipalities.

[d] Article 60[1][f] of the constitution of Kenya, 2010 which provides that;

'Land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable, and in accordance with the following principles; elimination of gender discrimination in law, customs and practices related to land and property in land'.

The policy will help in ensuring that there is elimination of gender discrimination related to land ownership within the five municipalities.

[e] **Sessional Paper No. 02 of 2019 on National Policy on Gender and Development** which became operational on October 2019 aimed at creating a just, fair and transformed society free from gender-based discrimination in all spheres of life practices in Kenya.

[f] **Section 5[2] of the Succession Act, 2012** which provides that;

'A female person, whether married or unmarried, has the same capacity to make a will as does a male person.'

This implies that any person, whether a male or female, married or unmarried has the same capacity to make a will within the five municipalities. This is aimed at ensuring that there is gender parity in matters of succession which play critical role in social and economic development.

[g] **Section 4 of the Matrimonial Property Act, 2013** which provides that;

'Despite any other law, a married woman has the same rights as a married man; (a) to acquire, administer, hold, control, use and dispose of property whether movable or immovable; (b) to enter into a contract; and (c) to sue and be sued in her own name.'

2. The title of the document had various alterations that should be incorporated such as;

(a) Reference to the legislative document as a **"framework"** is broad since it is not a legislative term to be processed and possibly passed by a legislative body such as the County Assembly hence ought to be replaced with the word **"policy"**.

(b) reference to the Municipal Boards is erroneous as it gives the implication that the policy will only be limited to the day -to-day management of the Municipal Boards within Homa Bay County and not the municipalities as a whole. This can be problematic as the Municipal Board is a semi-autonomous body corporate with the mandate to come up with its own regulations.

(c) The title ought to begin with **"Homa Bay County"** in order for the policy to be identified as a legislation of Homa Bay County.

3. There was public participation conducted on the document in consonance with the provisions of Articles 10, 196 and 232

Article 196(1) of the constitution of Kenya 2010 provides that; a County Assembly shall-

(a) conduct its business in an open manner and hold its sittings and those of committees in public; and

(b) facilitate public participation and involvement in the legislative and other business of the assembly and its committees.

4. In Monitoring and Evaluation, there are no baseline surveys and performance indicators. Furthermore, the County Assembly is not considered yet it should be the last line of Monitoring and Evaluation given its oversight role provided in **Article 183(3) and 185[3]** of the constitution of Kenya, 2010 and **Section 8[1][b]** of the CGA, 2012.

Article 183(3) of the constitution of Kenya 2010 provides that;

'The County executive committee shall provide the County Assembly with full and regular reports on matters relating to the County.'

Article 185[3] of the constitution of Kenya, 2010 provides that;

'A County Assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.'

Section 8[1][b] of the County Government Act, 2012 provides that;

'The County Assembly shall perform the roles set out under Article 185 of the Constitution.'

5. The County Government has established clear plans, interventions and has further committed to allocate a fraction of the budget to finance the policy. It will further from time to time mobilize resources in collaboration with other partners on issues pertaining to gender inclusivity and participation in urban planning for the municipalities.

6. The policy has made reference to a couple of statistical data without providing the data source thus making the data referred to ambiguous.

7. The policy takes into account emerging issues in the world today such as **climate change**. While the link between gender and climate change has not always been obvious, there is increasing evidence to demonstrate that women and men experience climate change differently; that climate change increases women's vulnerability; and gender inequalities worsen women's coping capacities [Prof Patricia Kameri Mbote, 2018].

The policy takes into account the fact that climate change is predicted to accentuate the gaps between rich and poor, as people living in poverty are more vulnerable. Perspectives, responses and impacts surrounding disaster events vary for men and women. They experience environmental change differently because they have different sets of responsibilities and vulnerabilities, as well as unequal capabilities and opportunities for adjustment. Generalisations may also mask other **climate change** related causes of vulnerability, such as droughts, hazards and famine, including how these affect different groups of men and women.

This policy takes cognizance of the fact that the principal issues to consider in gender and climate change include the causal interrelationship between climate change and gender: climate change tends to exacerbate existing gender inequalities (gender inequalities result in women having to face larger negative impacts); women are not just victims but active agents of change and possess unique knowledge and skills, and; understanding the risks and different impacts of climate change on men and women is key to achieving Sustainable Development Goals.

The policy takes into consideration the gender climate change nexus which is usually conceptualised at three levels. Firstly, the negative impacts of climate change aggravate gender inequalities. Secondly, those gender inequalities result in different experiences for women during natural disasters such as floods and droughts. Thirdly, women tend to be perceived as victims only; for this reason they are sidelined when decisions are made that relate to adaptation measures. Thus, the knowledge and relevant ideas possessed by women from their day-to-day experiences are not taken into account.

8. The term "framework financing" has been erroneously included in chapter five which is about monitoring and evaluation yet it should have been included under chapter four on resource and funding since it is about the financing of the policy.

9. The policy draws clear distinctions and demonstrate interrelationship between the concept of gender parity, gender equity and gender equality. The policy also reinforces other key concerns in addressing the injustices resulting from gender bias, gender equality approach to achieving full participation.

5.0 RECOMMENDATIONS ON HOMA BAY COUNTY GENDER INCLUSION AND PARTICIPATION POLICY IN MUNICIPALITIES

1. The policy's title should be amended to read, "**HOMABAY COUNTY GENDER INCLUSION AND PARTICIPATION MUNICIPALITIES POLICY, 2023**"
2. The policy should be implemented in totality taking cognizance of the various provisions of the Constitution and other relevant legal frameworks.
3. Besides **climate change**, the policy should also take into consideration other emerging issues such as Blue Economy.
4. In Monitoring and Evaluation, the County Assembly should be considered as an external evaluator since it is the last line given its oversight role provided in **Articles 183, 185[3]** of the constitution of Kenya, 2010 and **Section 8[1][b]** of the County Government Act, 2012.
5. Clause 5.2 on financing framework in page 13 should be moved to page 12 under chapter 4 which is about resource requirements.
6. The policy should cite the data sources referred to in the policy so as to legitimize the said sources.
7. The department of Youth, Sports, Talent Development, Gender Inclusivity, Cultural Heritage and Social Services should strengthen their resource mobilization initiatives and partnerships to facilitate engagement with development partners in the county and national government dealing with gender inclusion and participation.

6.0 CONCLUSION

Upon the deliberation of the committee, it was unanimously agreed that the observations from the policy are few and do not have a grievous impact on it. The committee therefore recommends that the policy be approved taking into consideration the proposed recommendations.

7.0 PRAYER

The committee on Youth, Sports, Talent Development, Gender Inclusivity, Cultural Heritage and Social Services prays that this Honourable House do adopt this report.