

# Who is Being Left Behind? Participatory Exclusion of Marginalized Groups in Kenya

Gloria Nyambura Kenyatta

Ph.D. Student in Political Science, University of Freiburg, Germany  
ALMA Research Fellow, Arnold Bergstraesser Institute, Freiburg, Germany

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## ABSTRACT

People's participation is part of participatory democracy and development thinking. Recent administrations are increasingly embracing this concept in their governance processes. Therefore, it is essential to assess their performance and the participation levels of the more disadvantaged groups. Based on extensive fieldwork undertaken in two devolved governments in Kenya in 2022 and secondary documentation analysis, this paper demonstrates how public administrations can exclude significant segments of society (marginalized groups) from participation in governance processes, such as women who are the majority but placed low on the social structures due to the deep-rooted patriarchal norms. It also provides the constitutional provisions that support and protect these marginalized groups in Kenya. Further, through qualitative analysis, it maps major promoters of participatory exclusion in government activities, which include lack of information, inaccessibility of participating sites, and societal norms. Finally, the paper acknowledges that despite Article 27 of the Constitution of Kenya, 2010, shielding parity and liberty from discrimination of all persons, social exclusions promote discrimination and negate the efforts towards equal participation and inclusive development. Therefore, there is a need for the administrations to deliberately include disadvantaged groups such as women, youth, people living with disabilities (PWDs), and the aged in governance processes and enforce laws that promote participatory democracy.

## 1. Introduction

Social exclusion of various disadvantaged groups varies throughout time and in different contexts (United Nations Department of Economic and Social Affairs [UNDESA], 2016). Religious, societal, public administrations, and private institutions occasionally disregard and institutionalize exclusion (UNDESA, 2016; Korir, 2012). Groups prone to social exclusion remain the same and comprise those from underprivileged settings, e.g., women, youth, and persons with disabilities (Evans & Deluca, 2000). Exclusion based on various dimensions, e.g., disability, sex, age, race, religion, ethnicity, migration status, place of residence,

\* Corresponding author E-mail address: kenyattagloria@yahoo.com

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socioeconomic status, and sexual orientation, clearly targets marginalized groups. Duffy (1995) states that the incapacity to engage successfully in fiscal, societal, and cultural life alienates and distances these groups from society. Therefore, the idea of social exclusion concentrates on the dynamics of the interaction between people and society.

Before the approval of the 2010 Kenyan Constitution, the government's strategy concerning minorities was indecisive (Korir, 2012). It, therefore, focused on what seemed to be an 'ethnically blind' outlook, justifiable on the grounds of national solidarity but subtly concealing the racial privileges enjoyed by particular groups in the society (Muhula, 2009). Makoolo and Ghai (2005) state that the marginalized groups remained "invariably" side-lined from Kenyan society's procedures and institutions. For example, Kenyatta (2023) states that the country is predominantly patriarchal; women were excluded from the public spaces, e.g., governance and politics, and their roles were confined to individual private spaces as homekeepers. Nevertheless, under the National Accord<sup>1</sup>, the post-electoral violence of 2007-2008 forced Kenya to address alleged ethnic discrimination.<sup>2</sup> This advancement led to the adoption of terminologies, e.g., 'marginalized group' or 'marginalized community' to define minorities in the Kenyan Constitution of 2010.<sup>3</sup>

According to the 2010 Kenyan Constitution, marginalized groups consist of socially excluded people who, because of the legislation, are disadvantaged by prejudice based on, e.g., race, sex, pregnancy, marital status, health status, ethnic or societal origin, color, age, disability, religion, conscience, belief, language or birth.<sup>4</sup> Korir (2012) states that the constitution protecting these groups suffering from discrimination demonstrates a significant awareness of the dynamic character of the exclusionary forces at play in the nation. Given the constitution description, marginalized groups that this paper focuses on include women (discriminated against on gender grounds and their lack of influence position), people living with disabilities (discriminated against based on being numerically disadvantaged to others and their lack of influence position, and the youth (discriminated against due to their lack of influence position) (Henrard, 2001). UNDESA (2016) states that not all socially discriminated groups are economically deprived; however, the three mentioned groups, women, youth, and people living with disabilities, fall into this category (Ghai, 2003).

Subsequently, Korir (2012) states that despite the marginalized groups being more acknowledged by the state from an identity viewpoint, this acknowledgment has not yet resulted in genuine veneration due to these groups' low level of engagement in public policy processes. Conventional governance systems have been continuously weakened throughout the years (Korir, 2010), leaving marginalized groups to battle against dominant groups in public policy-making processes and institutions where they are underrepresented. Therefore, with no opportunity, these groups lack representation by those individuals who share the same fiscal, societal, and cultural backgrounds and, therefore, lack the chance to influence the development and execution of policy decisions (Ghai, 2003), thus becoming increasingly alienated and socially vulnerable in the country. UNDESA (2016), Kabeer (2006), and Ghai (2003) state that poverty and economic constraints are critical in the social exclusion of marginalized groups. In the Kenyan context, women generally have less funds, which is a drawback to their participation in governance processes (Kenyatta, 2023; Tripp et al., 2014).

Further, because these groups lack numerical strength or non-dominance, they cannot influence policies because their lack of involvement diminishes their voices in public policymaking, heightening their exclusion (Korir, 2012). Bynner (1999) also states that the lack of dominance by these groups in various domains, such as education, employment, community life, and citizenship, contributes to their exclusion. Therefore, by being socially excluded, they need help in making their voices heard. Nevertheless, while the new

Constitution of Kenya, 2010 has addressed the challenge of people involvement, the lack of political resolve to execute clauses connected to marginalized groups continues to cause substantial dissatisfaction among these groups, further marginalizing them in society (Korir, 2012; Ghai, 2003).

Ghai (2003) states that ensuring marginalized groups have a voice in major decisions that affect their livelihoods is essential for the safety of their civil liberties. Therefore, for public administrations to be genuinely democratic, they must allow marginalized groups to articulate their distinct issues and seek redress. These groups should participate in policymaking and have a stake in the system. Ghai (2003) states that administrations that welcome these groups' participation and integration tend to become more stable and prosperous. Nevertheless, marginalized groups often become alienated from mainstream national governance processes since they see no role for themselves in these processes or believe they cannot influence the outcomes (Ghai, 2003).

### **1.1. Social Exclusion**

Exclusion comprises dynamical, multi-dimensional processes driven by imbalanced power relationships that intermingle economic, political, social, and cultural dimensions at different levels, e.g., individual, household, group, community, country, and global (Popay et al., 2008). These processes result in a continuum of exclusions illustrated by unequal access to opportunities and services that lead to inequality in well-being (Kabeer, 2006; Makoolo & Ghai, 2005). The word social exclusion was initially utilized by René Lenoir (1974), who was the French Secretary of State for Social Action, to refer to the condition of specific groups of people, e.g., the physically and mentally disabled and the socially maladjusted (Evans & Deluca, 2000; UNDESA, 2016). Lenoir termed people who were socially excluded as helpless because they did not have access to the communal welfare structures of the country. Therefore, Lenoir recognized the need to improve the economic conditions and strengthen the social cohesion of these groups that were left behind (Evans & Deluca, 2000). Thus, the idea of social exclusion strongly emphasizes relational characteristics that enable a better assessment of processes that lead to deprivation and capability deficiency, and most of its features are shared by regions with varying levels of advancement (Sen, 2000). Later, this concept was embraced by other countries worldwide, and 2010 was committed as the European Year for Combating Poverty and Social Exclusion by the European Union (UNDESA, 2016).

Subsequently, when people do not have access to assets such as revenue, work, land, housing, or public services, e.g., education and health care, which are fundamental components of welfare as outlined by Agenda 2030, then their involvement is hindered (UNDESA, 2016). Further, participation is restricted when the public is not able to express its views, e.g., when its civil liberties and dignity are not given equivalent respect and safeguard. Social exclusion, therefore, includes material deficit, absence of engagement in significant public policy decisions, and sentiments of estrangement and inferiority. In most countries, differing degrees of factors such as sex, age, race, disability, migration status, ethnicity, place of residence, religion, socioeconomic status, sexual orientation, and gender identity have historically led to social exclusion (UNDESA, 2016). Rutto and Iravo (2018) claim that social exclusion is a severe issue in Kenya, which exhibits itself in the approach that the dominating majority groups, including the government, treat the marginalized groups.

## **1.2. Kenya's Constitution of 2010 and Protection of Marginalized Groups**

The Constitution of Kenya, 2010, protects marginalized groups in several aspects. It provides a fundamental provision to solve the explicit interests of these groups, further mainstreaming them into public organizations, and forms organizations and strategies that, if successfully executed, can emancipate these groups (Korir, 2012). First, on specific concerns, the constitution acknowledges the complexity and richness of rights: political, civil, social-economic, and groups. It, therefore, provides the charter of rights in the constitution, which promotes the protection of individual and collective dignity, the fostering of equity, and the fulfillment of people's capability.<sup>5</sup> According to Article 21 of the 2010 Kenyan Constitution, the government must uphold, safeguard, defend, and fulfill the liberties and fundamental freedoms in the Charter of Rights and tackle marginalized groups' necessities. Further, Article 20 (1) states that the Charter of Rights is obligatory for everyone, including public institutions and individuals. Notable is Article 24 (1), which states that protected civil liberties can only be restricted by laws and only when this restriction is sensible and justified in a democratic society grounded on human respect. (Korir (2012), therefore, claims that the Bill of Rights in place curtails the administrations in limiting these rights in the name of public order.

Second, on mainstreaming the concerns of marginalized groups, the constitution provides for non-discrimination, fiscal, societal, and cultural rights, and affirmative actions for these groups. Article 27 (4) of the Constitution forbids bias based on racial or social origin, religion, conscience, belief, culture, dress, or language. Further, Article 27(6) mandates the government to develop legislation and other procedures to rectify any drawbacks individuals or these groups have suffered due to historical prejudice. Hence, this article forbids direct and indirect prejudices (Korir, 2012). Direct prejudice has procedures approved by the public administration that deliberately handicap these groups, and indirect prejudice occurs with impartial provisions that unreasonably affect persons or groups without fair and rational explanation.<sup>6</sup> Therefore, the constitution acknowledges that historical prejudices exist, and the necessity for affirmative action plans and strategies to remedy them is timely and significant towards achieving social inclusion.

Subsequently, regarding fiscal, societal, and cultural liberties, most marginalized groups do not have access to necessities, including food, water, and shelter (Korir, 2012; Ghai, 2003). Ghai (2003) states that marginalized groups have been economically or socially disadvantaged in many countries. Therefore, the right to participation is only meaningful if the groups have the ability and the resources to exercise this. Article 43 guarantees fiscal and societal liberties, which include the right to clean and safe water, health, social security, adequate housing, and education. Although these liberties are to be attained gradually, the state contends that more funding is needed to ensure their realization (Korir, 2012). However, the courts have a role in deciding administrations' priorities in resource distribution to ensure the administration does not evade its obligations to fulfill the societal and fiscal liberties that are safeguarded in the Constitution and, more essentially, to be receptive to the susceptibility of certain groups and individuals.<sup>7</sup>

Further, on affirmative action for vulnerable groups, the constitution stipulates specific liberties be applied to these groups, e.g., women, youth, persons with disabilities, and the aged. Article 56 stipulates the implementation of affirmative action initiatives to support these groups. These initiatives are intended to guarantee the involvement of these groups in governance, access to fiscal and educational opportunities, employment opportunities, the development of their societal norms, languages, and customs, as well as access to infrastructure, water, and health services. Article 260 of the Constitution defines affirmative

action as “any measure designed to overcome or ameliorate an inequity or the systemic denial or infringement of a right or fundamental freedom.” For example, the gender principle provided by Article 81 (b) of the Constitution of Kenya 2010 expanded the democratic space of women's participation in governance processes by ensuring at least a third of either gender in all governmental posts. Therefore, affirmative initiatives aim to boost vulnerable groups' involvement in public policy decision-making processes. Korir (2012) reinforces this and states that there is a significant divide between regulation and practice due to the current state of existence for most of these groups in the country.

Third, on creating institutions and mechanisms that can empower marginalized groups, the constitution embraced a devolved system of governance that created forty-seven devolved governments.<sup>8</sup> These devolved governments enable the participation of people in governance processes at the local level. Jacob (1997) states that the transfer of decision-making to devolved levels is an essential strategy for increasing the participation of marginalized groups in government activities. Some scholars have blamed the excessive concentration of power at the former central governments for several disputes observed in the country, including the Post-Election-Violence in 2007 (Korir, 2012; Marine, 2018). Therefore, devolution is an effective governance strategy in promoting the representation and participation of marginalized groups; however, these devolved governments should make deliberate efforts to enable the participation of marginalized groups due to their non-dominance. Further, Korir (2012) states that the complexity of the devolution requires the sustained focus of minority advocacy groups if their inclusion is to be successful. Nevertheless, devolution establishes a bottom-up administration approach that results in inclusive democracy and fair resource distribution.

Table 1 highlights the rights of those marginalized, protected to varying degrees in the 1963 Independence Constitution and the new 2010 Constitution of Kenya (CoK). Five issues of concern have been highlighted: non-prejudice, recognition of identity, political participation, affirmative action to address historical drawbacks, and gender issues.

Therefore, having the mentioned legal provisions in place protects these vulnerable groups against the special status and authority of the dominating majority. However, Korir (2012) states that despite these groups' rights recognition in the current constitution, 2010, the relevant provisions, e.g., on devolution and representation, are least understood and thus ineffectively implemented by the administrations. In addition, Cottrel-Ghai et al. (2013) state that the Constitution's vague phrasing and the absence of clear regulations regarding these clauses' applicability to marginalized groups have made it difficult for these groups to participate.

Consequently, as people's participation is part of participatory democracy and development thinking, the public administration in Kenya is increasingly embracing this concept in its governance and policy-making processes. However, limitations mapped out by this paper include lack of information, inaccessible participation sites, and societal norms that contribute to participatory exclusions of marginalized groups in government activities, thus promoting discrimination and negating the efforts towards equal participation and inclusive development. Further, these limitations hinder safeguarding parity and liberty from the prejudice of all persons as stipulated by Article 27 of the 2010 Kenyan Constitution.

Table 1.  
*Rights of marginalized groups in Kenyan constitutions.*

<b>Matter on Interest</b>	<b>1963 Constitution</b>	<b>2010 Constitution</b>
Non – prejudice	-It forbade prejudice based on racial, ethnic, or national basis.	-The forbade categories regarding prejudice are stretched to include marital status, health status, disability, culture, dress etc. as per Article 27(4)
Acknowledgement of identity	-It is silent on this.	-It recognizes the communal liberties, and the liberty to culture, which reflect a sturdy acknowledgement of identity. -It also defines the marginalized communities and groups in Article 260 on interpretation and provides for the designing of affirmative action programmes for these groups in Article 56.
Political participation	-It provided regional assemblies that enabled minorities and marginalized groups to get involved in political developments. -It provided the quota system for special interest groups.	-It emphasizes the involvement of people in public policy making. Parliament is required to make laws that support the involvement of marginalized groups in the senate and national assembly as per Article 100. -Also, these groups are to be represented in the county assemblies as per Article 177 (c).
Affirmative action to address historical wrongs	-It is silent on this.	-It provides for the affirmative action for the marginalized groups as per Article 56, for persons with disabilities as per article 54(2), and for youth as per Article 55.
Gender issues	-It is silent on this.	-It mandates the state to ensure through legislations that not more than two-thirds of a similar gender hold elective or appointive positions in public institutions as per Article 27(8). -This safeguards women’s inclusion and participation in leadership by providing the gender quota.

*(Source: CoK, 1963; CoK, 2010)*

## 2. Materials and Methods

This paper employed a qualitative research design. Qualitative studies apply an interpretive and naturalistic approach to social reality, allowing the investigator to create a level of depth by participating in real-life situations (Atkinson et al., 2001; Creswell, 2009). Qualitative research enables the researcher to deeply understand the phenomena under investigation (Domholdt, 1993). This paper is an extract of a larger project conducted in two devolved governments in Kenya (Nairobi City and Lamu) on the effects of participatory processes on public policy development. The paper, therefore, focused on the implementation phase of the participatory processes, which sought to establish the extent to which these processes are inclusive by representing all the segments of the society groups, including the vulnerable groups: women, youth, and people living with disabilities (PWDs).

The two case settings (Nairobi City and Lamu counties) selected were of vital interest in answering the research questions. Yin (1994) states that every case selected for a study “should serve a specific purpose within the overall scope of the inquiry.” Further, the “Most Different System Design” (MDS) was used in the comparative analysis (Przeworski & Teune, 1970; Faure, 1994). The two counties were classified as “most different” cases since they have different settings; Nairobi City is a densely populated urban county, while Lamu is

the least populated rural county. The study, therefore, sought to identify the key features that are common to account for the observed outcome (Landman, 2008).

The non-probability sampling method of purposive selection procedures was used for in-depth investigation and a deeper understanding of participatory processes from the key informants in both case settings. This sampling technique allowed the study to choose informants due to the qualities they possess deliberately. The selected informants had knowledge and experience of the phenomena under investigation (Bernard, 2002; Lewis & Sheppard, 2006). They, therefore, are concerned with developing public policies and thus mandated to undertake participatory processes (e.g., legislators and administrators) or participate in these processes and play a significant role in advocating for people's participation (civil society organizations and Special Interest Groups- SIGs). The key respondents included nine legislators, twenty-seven administrators, ten representatives of civil society organizations, and six SIGs representing women, youth, and people living with disabilities (PWDs). Data for this study was collected between January to March 2022. Structured interviews were used for the mentioned key informants. At the same time, six Focus Group Discussions (FGDs) of about four to ten participants per group were conducted with the members of the SIGs. Data collected was evaluated using MAXQDA. The primary data from the interviews and the FGDs was analyzed using thematic analysis, while data collected through documentary analysis was analyzed through content analysis.

### **3. Results and Discussions**

This part presents the descriptive results of the established three major promoters of participatory exclusions of the marginalized groups in Kenya from governance processes. These limitations include a lack of information on participatory processes, inaccessible sites for participation, and societal norms that alienate these groups from participation.

#### **3.1. Lack of Information**

This study's findings exposed that both counties (Nairobi City and Lamu) have a challenge in sharing information, such as civic education is not being conducted, public notices on participatory processes are inaccessible to many people, and those received are on short notice, and also documents for reference during the participatory processes are unavailable. Civic education is essential because it creates awareness of the importance of people's participation in government activities and enables people to be aware of the opportunities for their participation. Therefore, when people, especially vulnerable groups, are unaware of such opportunities, their participation is limited. Interviews with the administrators in both counties stated that civic education is not conducted due to inadequate funds within the counties. However, the same administrators claim that civil society organizations create awareness of public participation; however, on a smaller scale, they target only the densely populated areas, e.g., urban centers, as opposed to remote areas; hence, they do not reach a vast populace.

N5, an administrator in Nairobi City, states that "...we have not built the capacity of the public to participate .....and as a public institution we are really constrained resource wise...." Further, N14, a civil society representative in Nairobi City, states that "... there is a hidden component that is not brought out properly by the county government on how people can participate from the inception stage of proposing activities until they actually slide it into the proposed budget." These findings expose that a lack of civic education limits public participation in government activities. Further, the marginalized groups are even disadvantaged more because they need special assistance to participate effectively, and when

there is a lack of clarity in the participatory processes because civic education is not conducted, this hinders their participation.

Subsequently, this study's research findings expose that while both counties give public notifications on participatory processes for government activities, most communication channels are inaccessible to many people, including marginalized groups. The communication channels used in both counties include online platforms, e.g., websites and social media, telephone, radio, print media (only used in Nairobi City), and other means, e.g., posters, letters, word of mouth, and *town criers*<sup>9</sup>. Of note is that the findings from the interviews and the FGDs in Lamu expose that the print media is not used as it is inaccessible to most people in the county. Similarly, this is the case in Nairobi City, especially in the informal settlements. N3, a legislator in Nairobi City, reinforces this and states that the print media is not accessible to many people, especially those from informal settlements. Further, this study's findings expose that print media and online platforms, e.g., websites, are inaccessible to vulnerable groups, e.g., women, youth, PWDs, and the aged in both counties due to their economically disadvantaged positions.

Further, the study's findings expose that public notices on participatory processes reach the people less than a week before the participation date in both counties. This period is termed as short notice for the public to prepare for participation adequately. The short notice is mainly attributed to the communication channels inaccessible to many, e.g., the print media and the county websites. Given this, N14, a civil society representative in Lamu, states that "... last year (2021) December, there was one (participatory process), I cannot remember the exact date.....and it was on the dailies a day before...." Further, N25, an administrator in Nairobi City, states that "...most of the times it is fire shooting, someone wakes up in the morning and says 'ooh we are too late....the Fiscal Strategy Paper meeting....Monday of next week,' they have just remembered that it is part of the budget cycle, so we have to dash to finish, so it is like they are not planned for....." Therefore, these findings reveal that notifications for participatory processes are given on short notice, less than a week before the participation day, hence limiting the effective and meaningful participation of the public as it is not adequately prepared. Also, the marginalized groups are limited in participation as they face difficulties accessing the communication channels because they require funds to access these channels, e.g., procuring internet to access the county websites or buying the print media. Kenyatta (2023) states that since women are economically incapacitated, their participation in governance processes is limited.

Subsequently, this study's findings expose that documents for reference are inaccessible to the public before the participation day. The interviews from the legislators and the administrators in both counties state that these documents are uploaded on their county websites, and the hard copies are distributed during the participation day. Therefore, most people do not have access to the policy documents in advance since these documents are only uploaded to the county websites, which are accessible to a limited population. N2, a legislator in Nairobi City, states, "... I want to confess that they are not given earlier, the official document is only uploaded on the website, so it is obviously there immediately it is read a first time .....the hard copies are only given out on that day...."

N14, a civil society representative in Nairobi City, argues that when reference materials are given on such short notice, they hinder the public from giving meaningful feedback. The exercise is then done for formality rather than enhancing the policy-making process. Further, interviews from the SIGs representing people living with disabilities in both counties state that the documents distributed are in an inaccessible format for blind people because the counties do not provide braille, hence locking out this group of people. Therefore, these



statements expose that the inaccessibility of reference documents limits the effective participation of these groups because they are unable to familiarize themselves with the contents of the policy documents in advance and, hence, unable to make meaningful contributions.

Among the primary objectives of people's involvement in government activities is for the governments to provide information on public issues under consideration (Delli Carpini et al., 2004; Jo & Nabatchi, 2019). Therefore, the public is informed and can make their contributions from a knowledgeable point of view. Godshalk and Stiffler (1981:599) state, "If participation is to be effective, there must be a *quid pro quo*." This scenario acknowledges that the fundamental channels for discussions during participation are the chances for engagement, information, and receptiveness to public issues. Thus, information on policy issues being deliberated should be openly available and readily shared. There is a need for administrations to ensure that they are at the forefront of sharing information regarding public participation with the public and, more specifically, with the marginalized groups who are disadvantaged in society for their effective participation. To ensure effective information sharing, the administrations should conduct civic education, use accessible communication channels for public notifications on public participation forums, and share policy reference materials before the participation day through accessible media channels, including braille for blind people.

### **3.2. Inaccessible Participation Sites**

Subsequently, this study's findings reveal that although the public participation forums are held at different levels in both counties, they are not accessible to all people, especially vulnerable groups. In Nairobi City, these forums are held at the sub-county level and in Lamu at the ward level. The devolved governments have four levels of decentralized units, which are supported by Article 176 (2) of the 2010 Kenyan Constitution, which stipulates that "... every county government shall decentralize its functions and the provision of its services to the extent that it is efficient and practicable to do so..." This article, therefore, gives the counties the power to establish other units below them for service delivery. The four levels of decentralized units include county headquarters, sub-counties, wards, and villages.<sup>10</sup> The interviews from the administrators in Nairobi City state that the county is geographically tiny, and the wards are proximate to each other. Therefore, participatory processes are held at the sub-county level, hosted in one of the wards within each sub-county. N6, an administrator in Nairobi City, clarifies that the public usually converges in one of the wards within a sub-county.

Further, interviews from the legislators and administrators in Lamu state that the participatory processes are held at the ward level due to the vastness of its wards. Lamu is vast compared to Nairobi City, and despite its low populace, it covers a land surface of 6,273.1 km<sup>2</sup>, with its dryland and about the 65 islands that create the Lamu archipelago, while Nairobi City covers 696 km<sup>2</sup> (Kenya National Bureau of Statistics [KNBS], 2019). In addition, interviews from the legislators and administrators in Nairobi City reveal that holding the participatory processes at the sub-county level is economically viable for the administration as it saves on costs, time, and logistics for undertaking these processes in only seventeen sub-counties as opposed to all the eighty-five wards. Further, these legislators and the administrators state that Nairobi City has a well-established transport system that enables people to move around easily. Nevertheless, interview findings from all the civil society organizations and the SIGs representatives, as well as the findings from all the six FGDs in both counties, reveal that the participation sites in both counties, whether at the sub-county level or ward level, are

inaccessible to vulnerable groups and people from peripheral areas since they have to travel to the participating sites. For example, wards in Nairobi City, far from the participation sites at the sub-county level, have a low turnout. Likewise, in Lamu, far-off villages rarely participate in the participatory processes held at the ward level. Also, sometimes, when the participants are not facilitated with transport due to budget limitations by the administrations, they are likely not to show up.

In addition, the participation sites are inaccessible to people living with disabilities (PWDs) due to distance and transportation challenges. For example, the physically disabled require special assistance and transport facilitation to enable their participation. Key respondents from the civil societies and SIGs in both counties state that the long distances to the participating venues limit their participation. N16, a civil society representative in Nairobi City, reinforces this and states that the counties do not provide accessible venues for physically challenged people. The lack of participation venues that are disability friendly may seem like a small thing, but they prevent those with disabilities from participating in public affairs. Further, as most women are confined to private spaces as homekeepers, sites closer to their homes (such as at the village or neighborhood level) would be easy to access for participation. Therefore, both counties hold public participation forums at various levels and sites, which are perceived to be centrally placed for the public; however, these sites limit the participation of marginalized groups, which are far-off and in peripheral areas.

Proximity to participation sites is significant for successful public participation. Therefore, there is a need for administrations in both counties to decentralize their participation sites to the lowest levels, e.g., villages, to ensure that marginalized groups and more people can participate effectively in governance processes. Most people, especially those in peripheral and far-off areas from participation sites, cannot participate in public participation forums due to long distances and logistical challenges. It is evident from this study research that proximity to the participation sites brings about ease of participation.

### **3.3. Societal Norms**

The findings of this study reveal that societal norms hinder the participation of marginalized groups in both counties. The findings of the interviews and FGDs from both counties expose that women must be better represented in these forums due to their gendered roles. These findings show that women's commitment to their private confined work, e.g., housework and small-scale businesses, has affected their participation in public affairs, as well as the lack of permission for those who are married from their husbands to participate because they may not want their wives to get engaged in public affairs which they perceive to be political. The findings from this study expose that women in both counties, mainly from Islamic communities, are excluded from participatory processes. Their exclusion is linked to the entrenched Islamic culture, an obstacle to their participation in the public sphere. For example, N5, an administrator in Nairobi City, claims that "... I have gone to places like Majengo (in Pumwani ward, Nairobi City), which is heavily Muslim. So, in those communities, the women will show up, but they will not say a word. If you go to a place like Eastleigh (a ward in Nairobi City), the women will show up, but they will not say a word; even if you give them the microphone, they will not say a word..."

Further, this study's findings reveal that the gendered roles confine women to homecare, limiting their participation in public affairs. L1, a SIG representative in Lamu, claims that most women in Lamu County have not gone to school compared to men. Therefore, this has contributed to their less participation in public forums. Also, N5, an administrator in Nairobi City, states, "..... sometimes when you go for those forums, women do not show up, and the

youth do not show up, and those with disabilities will not show up....” Therefore, to support this lack of women representation in public participation forums, N14, a civil society representative in Nairobi City, argues that “.... participatory processes remain a reserve of a few .....and the majority of the participants are men....” Therefore, it is evident from this study’s findings that women are the most affected by societal norms compared to men due to the deep-rooted patriarchal values that exclude them from the public sphere, such as their participation in leadership and politics.

Subsequently, this study’s findings reveal that PWDs must be better represented in public participatory processes. Both counties lack disability etiquette to facilitate disability inclusiveness. The low population of PWDs in both counties (KNBS, 2019) puts them in a disadvantaged position regarding their consideration by the administrations in public participation. For example, N7, an administrator in Nairobi City, states, “.... we may not have been able to cater for their (people living with disabilities) needs completely.....” Similarly, N14, a civil society representative in Nairobi City, states that the turnout of PWDs who are both blind and deaf is low because this group lacks surety of their participation as they require special assistance, which the administrations do not provide. Further, the dismissal of this group’s participation by L6, an administrator in Lamu, indicates their discrimination in governance processes. L6 states that “.... this is a small place (referring to the county); we do not have the blind or the deaf here. If the number is minute, do you really expect them to come for public participation?”

In addition, the findings from the FGDs that represent PWDs in both counties reveal that PWDs are stigmatized regarding their participation. For example, RO, a participant in the FGDs that represent PWDs in Nairobi City, states that PWDs are always perceived as if they attend the public participation forums to seek help. Therefore, their views are not treated as applicable or valued like the other participants who are not disabled. This is reinforced by EA, a participant in the FGDs in Nairobi City that represents PWDs, who states that “when you look at PWDs, they only need to be helped....,” referring to how the administrations and the public view the PWDs during the public participation forums. Nevertheless, the two participants (RO and EA) state that PWDs’ views should be treated similarly to the rest because they have public issues that must be addressed equally.

Further, the study’s findings expose that youngest people in both counties are unemployed and will channel their time and energy searching for work rather than participating in government activities. N23, an administrator in Nairobi City, states that those who are unemployed, especially the youth, will focus on searching for jobs rather than attending the public participation forums. In addition, when these groups participate, they expect a stipend that allows them not to go to work or compensates them for the day’s work lost. Therefore, this study shows that when people attend the participatory processes, which last for half a day, they may not go to work and expect incentives, e.g., a stipend to cater for lunch or transport.

Therefore, administrations need to address retrogressive societal norms that exclude marginalized groups, especially women, by establishing inclusive social structures. Administrations should ensure that the participants for public forums represent the wider public or those affected by the public issue being addressed rather than having participants from self-selected subgroups (Rowe & Frewer, 2000). Therefore, as this study research exposes, the poor representation of marginalized groups due to societal norms and stigmatization reflects social exclusion as their voices are not represented in participatory processes. For example, it fails logic when women are the majority in Kenyan society (KNBS, 2019). However, societal norms make them lack influential positions, so they are

excluded from governance and decision-making processes. Further, when these vulnerable groups, e.g., women, youth, and PWDs, are excluded, this exhibits participatory inequalities.

Nevertheless, public participation should embrace all people to alleviate these existing inequalities (Young, 2000). N25, an administrator in Nairobi City, states that inclusion reflects fairness in the process, and when some voices are not represented, the process is as good as dead. Thus, for administrations to be more inclusive, there is a need to ensure that all segments of society groups, including the vulnerable ones, are represented in governance processes (Gastil & Wright, 2019).

#### **4. Conclusion**

Several studies have been carried out in Kenya that point out the social exclusion of minorities (Ghai, 2003; Kabeer, 2006; Korir, 2012; Rutto & Iravo, 2018). Nevertheless, despite the new Constitution of 2010 protecting these groups from the special status and authority of the dominating majority, the legal provisions are open-ended and least understood by the administrations and thus ineffectively implemented, e.g., on representation and devolution. Therefore, there is a lack of clarity on these provisions' applicability regarding vulnerable groups, especially women, which has limited their participation in governance processes.

Given this, there is a need for administrations at the devolved level to remove these barriers to participation by defining the "rules of the game" for social inclusion by actively promoting inclusiveness and assisting these groups in participating, e.g., by giving them special invitations to the public participation forums to safeguard their voices in public decision-making processes. Also, the administrations must develop and enforce policies, regulations, procedures, and structures that clarify social inclusions and participatory democracy while executing public participation forums. Since Kenya has a constitutional gender parity threshold in governance processes, its enforcement by both houses is paramount to rectifying past prejudices towards women. The administrations must acknowledge that social inclusiveness is a more intentional undertaking that incorporates all persons and accepts greater parity and lenience (UNDESA, 2016). Consequently, as Article 27 of the 2010 Kenyan Constitution shields parity and liberty from discrimination of all persons, it must be jealously guarded to prevent the discrimination of marginalized groups to avoid negating the efforts made towards inclusive and equal participation of all societal groups.

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<sup>1</sup> Kofi Annan arbitrated the National Accord, pinpointing strategies needed to stop surging violence and plan for more elongated plans to address the fundamental causes of disputes during the Kenyan elections.

<sup>2</sup> Refer to the 2008 Truth, Justice, and Reconciliation Act and the 2008 National Cohesion and Integration Act.

<sup>3</sup> This is provided in Articles 260 of the 2010 Kenyan Constitution.

<sup>4</sup> This is provided by Article 27 (4) of the 2010 Kenyan Constitution.

<sup>5</sup> Chapter four of the 2010 Kenyan Constitution grants the charter of rights.

<sup>6</sup> Refer also to the European Union, Council Directive Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin, 2000/43, Article 2(2).

<sup>7</sup> This is provided by Article 20(5) of the 2010 Kenyan Constitution.

<sup>8</sup> Chapter 11 of the Constitution, 2010, provides for the devolved governments in Kenya.

<sup>9</sup> *Town criers* travel from one village to another on foot, a donkey, or a motorcycle while communicating to the public through the public address system.

<sup>10</sup> This is also provided by Article 176 (2) of the Constitution of Kenya, 2010, which mandates every devolved government to decentralize its tasks. Further, Section 119 of the County Governments Act, 2012 provides for the four units as citizen service centres.