



REPUBLIC OF KENYA



PUBLIC SERVICE COMMISSION

**TRAINING MANUAL FOR THE ADMINISTRATIVE OFFICERS'
REGULATIONS AND EXAMINATION SYLLABUS
REVISED 2019**



Reform, Perform, Transform Kenya
October 2020



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PUBLIC SERVICE COMMISSION

**TRAINING MANUAL
FOR THE ADMINISTRATIVE OFFICERS'
REGULATIONS AND EXAMINATION SYLLABUS
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PUBLIC SERVICE COMMISSION

VISION

A Citizen-Centric
Public Service

MISSION

To transform the public service
For efficient and effective service
Delivery

CORE VALUES

Citizen Focus
Professionalism
Innovation
Teamwork

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FOREWORD

The Government recognizes that an effective and efficient public service contributes immensely to the transformation of the country into a globally competitive economy. This is achieved through developing the requisite competencies for all public servants and growing the right leadership based on national values and principles of governance; principles of leadership and integrity; and values and principles of public service as enshrined in the Constitution.

The National Government Administrative Officers (NGAOs) examination is one of the requirements for advancement in the administrators' career progression guidelines. NGAOs are deployed in the National Government and in Counties to coordinate National Government functions. They are expected to be conversant with the philosophy, culture, organization and ethos guiding the operations of Government. The Administrative Officers Curriculum is designed to equip the NGAO with knowledge, skills, attitudes and values to enable him or her co-ordinate National Government functions and cope with the pressure of work.

To facilitate the attainment of the curriculum objectives and in line with Section 34(1) (b) of the Public Service Commission Regulations, 2020 the Commission in conjunction with the Kenya School of Government embarked on the development of a training manual that is aligned to the curriculum. The manual covers areas necessary to equip the NGAO with knowledge, skills and attitudes to enable him/her to perform his/her duties effectively in the provision of public service.

The Manual covers the following subjects: Law; Government Organization, Management and Practice; Values and Principles in Public Service; Public Finance Management; Socio-Economic and Entrepreneurship Development; Regional and International Cooperation; Effective Communication; and Peace, Safety and Security Management.

It is envisaged that this manual will prove invaluable to the intended users as they seek to enhance their competencies and efficiency in the provision of citizen- centric public service.

Simon K. Rotich, EBS

Secretary/Chief Executive Officer

Public Service Commission

1.0 LAW – 101

1.0.1 Introduction

Your work as an Administrative Officer involves settlement of disputes both at community and individual level. Further, you will also be involved in implementing government policies. You should therefore have a fair understanding of the various aspects of law governing the country. This course unit is therefore designed to equip you with knowledge, skills and attitudes that will enable you apply the provisions of law in the delivery of public services.

1.0.2 Course Unit Summary

	TOPIC	SUB-TOPICS
1.1	Introduction to Law	The nature of law Classifications/kinds of law Sources of Kenya Law The legal basis for application of various sources of law
1.2	General Principles of Law	Principles of Law of Contract, Principles of Law of Torts, Principles of Land Law Principles of Criminal Law Principles of Constitutionalism
1.3	Administrative Law	Legal principles of Administrative Law Adjudication agencies other than Courts Arbitration and other Alternative Dispute Resolution Mechanisms Remedies available to persons aggrieved by Administrative decisions Provisions of applicable statutes
1.4	Family Law	The concept of Family Requirements of a valid marriage in Kenya Recognised types of marriage in Kenya Grounds for Divorce and Nullity of marriage Rights of Children The Law of Succession
1.5	The Law of Persons and Other Business Organizations	Concept of legal persons/Personality Types of Corporations and Companies Distinction between Companies and Partnerships Contents of Memorandum of Association and Articles of Association Requirements and procedure for the registration and liquidation of a Society and Cooperative Society in Kenya

1.6	Elements of Commercial Law	Principles of sale of goods contract Nature and principles of Law of Agency Hire Purchase Law Role and fundamental principles of insurance Law Registration and protection of intellectual property in Kenya Principles of Bankruptcy/Insolvency Law in Kenya

1.1 INTRODUCTION TO LAW

Outline

- 1.1.1 Introduction
- 1.1.2 Specific objectives
- 1.1.3 Nature of law of Kenya
- 1.1.4 Classifications/kinds of law
- 1.1.5 Sources of Kenya Law
- 1.1.6 The legal basis for application of various sources of law
- 1.1.7 Summary
- 1.1.8 Activities
- 1.1.9 References

1.1.1 Introduction

The work of an administrative officer is based on the application of different types of laws under different circumstances. It is therefore important for you to have a general understanding of the various types of law in order to discharge your duties effectively. This topic is therefore intended to equip you with knowledge, skills and attitudes to enable you apply the law in provision of public services.

1.1.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the nature of law;
- ii) describe the classifications/kinds of laws;
- iii) describe the various sources of Kenya law; and
- iv) analyse the legal basis for the application of different sources of law.

1.1.3. The Nature of Law

Law is a set of rules and principles that are recognized and applied by the state in the administration of justice. The object of law is to enforce certain standards of behaviour among the citizens in the interest of peace and good order.

1.1.3.1 Characteristics of Law

Arising from the above, the following characteristics of law may be inferred:

- i) Set or body of rules: Law is composed of a set or body of rules that prohibit certain types of behaviour or require compensation to be paid for wrongs committed.
- ii) Applicable to a community: Law is applied to a particular community e.g. a sovereign state, a business community, an institution, etc.

- iii) Guidance of human conduct: Law must of necessity have the character of guiding human conduct or behaviour in society.
- iv) Dynamism: Law must not be static and changes over a period of time.
- v) Enforcement of law: Law must have the character of enforceability or else its objectives cannot be achieved.

1.1.3.2 Distinction Between Law, Norms, Rules and Regulations

As an Administrative officer, you should have a clear understanding of the distinction between law, norms, rules and regulations. These distinctions are examined as follows:

Law and norms: law is enacted by the authorities and is certain, enforceable and universally applicable throughout the country. On the other hand, norms are informal guidelines about what is considered normal (correct or incorrect) social behaviour in a particular group or social unit hence they are neither enforceable nor universally applicable.

Law and Rules: Rules are acceptable principles or instructions that states the way things are or should be and tells you what you are allowed or not allowed to do. Their distinction lies in the consequences. Rules carry lower consequences than law in case of breach.

Law and Regulations: Regulations refer to directives created by agencies as authorized by a statute. Laws govern everyone equally, while regulations only affect those who deal directly with the agency that is enforcing them.

1.1.4 Classifications of Law

Classification of law refers to how law is grouped in terms of their application and utility. The classifications are explained as below:

- i) Public law: This means the law that governs the relationship between the state and its citizens as well as the relationship among the various organs of the state. It consists of Constitutional law, Administrative law and Criminal law.
- ii) Private law: This is the law which is concerned with the relationships, rights and duties of persons towards other persons e.g. law of contract, law of property, law of succession, law of torts, law of trusts, etc.
- iii) Civil law: means the law which regulates the relations of individuals amongst themselves and it falls under private law.
- iv) Criminal law: This is the law that deals with wrongs committed against the state and it falls under public law.
- v) Procedural law: This is the body of legal rules which define or specify the steps to be taken or followed by a person who wants to do a lawful act.
- vi) Substantive law: This is the law which defines the actual civil and criminal wrongs (laws), outlines their essential elements and provides remedies for each of them.
- vii) Municipal law: This refers to all the laws existing or found within a particular country or state. It deals with the laws regulating the conduct of persons within a certain country. Municipal law includes many levels of law in a country e.g. all the laws in Kenya.
- viii) International law: is the branch of law which regulates the relations amongst different sovereign states.

1.1.5 Sources of Kenya Law

The phrase ‘source of law’ means where the rules of law may be found. It may also mean the origin of the legal rules which constitute the law of a country. As you apply the laws in the execution of your duties, it is important that you have knowledge of the sources of law of Kenya.

- i) **The Constitution of Kenya:** This is a body of written principles and rules that enable the people of Kenya to live together in peace and harmony. The Constitution is the supreme law of the land and any other law which is inconsistent with the Constitution shall be void to the extent of the inconsistency. It is the main source of law from which other sources of law derive their force and validity.
- ii) **Legislation or statutes:** Legislation means the process of making law. As a source of law, it means laws enacted by Parliament. It is the most important source of law because majority of laws in Kenya originate from Parliament.
- iii) **Delegated legislation:** Delegated legislation is the name given to laws made by bodies, persons or institutions other than Parliament. It may take two forms, namely:
 - **Statutory instruments, rules or orders:** These are normally made by Cabinet Secretaries of the government in charge.
 - **By-Laws:** These are rules made by County Governments.
- iv) **The common law of England:** The common law is the customary law of the people of England. The entire common law of England is not applicable in Kenya as a source of law. Only the part described as “the substance of the common law” is applicable. It applies as a source of law in Kenya as far as the local circumstances permit, it is not inconsistent with the local needs, it does not conflict with written laws of Kenya and it is necessary.
- v) **Doctrines of equity:** The word equity means justice or fairness. As a source of law, it means the body of English law that was developed to supplement the rules and procedures of the common law. Doctrines of equity are also a source of law of Kenya if they are found to be suitable to the circumstances of Kenya and its people. The courts in Kenya are free either to modify and make them suitable to the local situations or they may be rejected altogether.
- vi) **African customary laws:** A custom is a habit, norm or usage by a certain community that has lasted over time. For a custom to qualify and be accepted as a source of law of Kenya, it must satisfy the following statutory requirements:
 - It applies in civil cases only e.g. disputes on land held under customary tenure or system, marriage, divorce, maintenance or dowry, seduction or pregnancy by an unmarried woman or girl, etc.
 - It applies where one or more parties to the dispute are either subject to or affected by the custom in question.
 - It must not be repugnant to justice and morality. If it is unfair or immoral it is not accepted.
 - It must not be inconsistent with written laws.
 - It must not have been excluded by the parties by an express contract or by the nature of the transaction.
 - It must be applied without undue regard to technicalities of procedures and without undue delay.

- vii) Islamic laws: Islamic law means the law contained in the Holy Quran and the Hadith. It is applied as a source of law of Kenya in civil cases only if the following conditions are met:
- The dispute in question must be civil and not criminal in nature.
 - The parties to the dispute must both profess the Muslim faith or religion.
 - The dispute must relate to personal status, marriage, divorce, separation, maintenance, dowry or inheritance.
 - The parties to the dispute must have voluntarily submitted to the matter being settled by Islamic laws.
- viii) Judicial precedents or case laws: Precedents are decisions of superior courts which are binding on other courts to follow as law. They are found in Law Reports.
- ix) Other sources: These include:
- General Rules of International law.
 - Conventions and Treaties ratified by Kenya.

1.1.6 The legal Basis for the Application of Various Sources of law

legal basis for the application of various sources of law refers to the rationale or reason behind the existence of the laws. Every law sourced and existing in Kenya has a legal basis for its application. These include the following:

- i) For the maintenance of law and order in a given community, state or society.
- ii) For the attainment and maintenance of peace and security in the society.
- iii) In order to ensure socio-economic and political stability.
- iv) In order to provide justice to the members of the society generally.
- v) For the attainment of a welfare state through enacting of social welfare laws.
- vi) In order to regulate the conduct or behaviour of persons in society.
- vii) For the protection of rights and fundamental freedoms of individuals.
- viii) In order to establish procedures and regulations regarding dealings amongst individuals.

1.1.7 Summary

In this topic, we have examined the nature and classifications of law as well as the distinction between law, norms, rules and regulations. We have also discussed the various sources of Kenya law. We have further analysed the legal basis for the application of various sources of law. In the next chapter, we shall discuss the principles of law relating to Contract law, Torts law, Land law, Criminal law and Constitutionalism.

1.1.8 Activities

1. You are an Administrative Officer in a county that secretly practices FGM. A group of elderly women have approached you for guidance on how they can maintain their custom without being in conflict with the law. Guide them.
2. Tobacco growing companies in your area of jurisdiction have been bribing members of the National Assembly not to pass punitive laws that would hurt their trade. A faith-based organisation has approached you for advice on how they can intervene in this matter. Advise them.

1.1.9 References

1. The Constitution of Kenya, 2010
2. The Judicature Act, cap 8, revised 2012
3. Saleemi, N. A. (2010). General Principles of Law Simplified, Nairobi, Kenya: Saleemi Publications Ltd.

1.2 GENERAL PRINCIPLES OF LAW

Outline

- 1.2.1 Introduction
- 1.2.2 Specific objectives
- 1.2.3 Principles of law of Law of Contract
- 1.2.4 Principles of Law of Torts
- 1.2.5 Principles of Criminal Law
- 1.2.6 Principles of Land Law
- 1.2.7 Principles of Constitutionalism
- 1.2.8 Summary
- 1.2.9 Activities
- 1.2.10 References

1.2.1 Introduction

As an Administrative officer, you are often faced with issues requiring the application of general principles of law at the workplace. As such knowledge of various laws is important in effective delivery of public service. This topic is therefore designed to equip you with the general principles of law public service delivery.

1.2.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Examine the principles relating to law of contract;
- ii) Examine the principles relating to torts;
- iii) Assess the principles relating to criminal law;
- iv) Analyse the principles relating to land law; and
- v) Analyse the principles of constitutionalism.

1.2.3 Principles Relating to Law of Contract

As an Administrative Officer, you may be required to arbitrate in commercial disputes where you require to apply principles relating to the law of contract. The law of contract is the most important branch of business law because majority of transactions in trade, commerce and industry are carried out through contracts. It is the branch of civil law which determines how promises made by the parties are to be binding and enforceable. It deals with rules defining the remedies available in a court of law in case the contract is breached or violated.

1.2.3.1 Meaning of Contract

A contract means an agreement entered into by two or more parties which the law would enforce. A contract therefore consists of two elements, namely, an agreement and its enforceability by law. An agreement refers to a promise.

1.2.3.2 Essential Elements of a Valid Contract

A contract is valid and binding between the parties only if it is supported by certain essential elements. These essential elements are summarized as follows:

- i) Offer and Acceptance: For an agreement to come into existence, there must be a lawful offer or proposal by one person and a valid acceptance of the offer by another person.
- ii) Capacity to contract: The parties to a contract must be persons who are competent to contract i.e. they must be of the age of majority, sound mind and not disqualified by law from contracting e.g. a bankrupt.
- iii) Intention to create legal relations: For an agreement to qualify as a contract, the intention of the parties must be that of creating a legal relationship between them.
- iv) Lawful objectives: For an agreement to be valid as a contract, its aim, and purpose or objective must be lawful.
- v) Lawful consideration: Consideration means the price for which the promise of the other party is obtained. Every contract must be supported by consideration otherwise it is void.
- vi) Free consent: The parties to a contract must engage themselves in the contract freely without any elements of coercion or duress, undue influence, fraud, misrepresentation or mistake.
- vii) Possibility of performance: For an agreement to be binding as a contract, it must be based on something which is capable of being executed or performed by the parties otherwise it cannot be enforced by law.
- viii) Other formalities: For an agreement to be valid as a contract, it must have been entered into by the parties in the manner required by law in terms of witnesses, signatures, stamp duty, registration, etc. where applicable.

1.2.3.3 Classifications of Contract

Contracts may broadly be classified as follows:

- i) Express contract: Express contract is one whose terms and conditions are stated in oral or written words between the parties.
- ii) Implied contract: Implied contract is one which can be determined or presumed from the conduct, relation or situation of the parties e.g. where A enters a bus, there is an implied contract by A's conduct that A will pay the fare and that the bus driver will convey A to his/her destination.
- iii) Valid contract: A valid contract is one which has all the essential elements required of a contract.
- iv) Void contract: A void contract is one which is not binding or enforceable by law e.g. a contract made without consideration is generally void.
- v) Voidable contract: A voidable contract is one which is enforceable only at the option of one of the parties e.g. where consent to an agreement is obtained by fraud, the agreement is voidable at the option of the party defrauded.
- vi) Illegal contract: An illegal contract is one which is prohibited by law or which violates the provisions of law. Such a contract cannot be enforced by any of the parties to it.
- vii) Unenforceable contract: An unenforceable contract is one which is valid, but which cannot be enforced by the courts because of some technical defects e.g. lapse of time.
- viii) Unilateral contract: A unilateral contract is one which, at the time of making it, only one party is bound to perform his obligations under it.

- ix) **Bilateral contract:** Bilateral contracts take place where both the parties are bound to perform their obligations at the time of making the contract.
- x) **Executed contract:** Executed contract is one in which the parties have completely performed their obligations, and nothing remains to be done by either party.
- xi) **Executory contract:** Executory contract is one in which the parties have yet to perform their obligations arising under it.
- xii) **Specialty contract:** A specialty contract is one which is made in writing, signed, sealed and delivered by the person making it to the other party for whose benefit it was made.
- xiii) **Simple contracts:** A simple contract is one which may be express or implied between the parties i.e. it may be made either orally or in writing or it may be determined from the conduct or relation of the parties.
- xiv) **Contracts of Uberrimae fidei:** These are contracts which require the parties to observe good faith while dealing with each other. Failure by the parties to observe good faith will make the whole contract void.
- xv) **Quasi Contracts:** Quasi contracts are based on the doctrine of restitution. It places obligations on the parties without any formal agreement between the parties e.g. obligations on finder of goods.
- xvi) **Contracts of Record:** A contract of record is a judgment of the court i.e. an obligation imposed by a court upon one or more persons in favour of another or others. These contracts derive their binding force from the authority of the judgment.

1.2.3.4 Formation of Contract

Formation of a contract means the process of creating a contract from the time an offer or proposal is made until the actual contract is realized. It also includes the rules that make the whole process legal, binding and enforceable. These processes are as follows:

1.2.3.4.1 Offer

An offer means a proposal made by one person to another person. It is made with the intention that it shall become binding on the person making it as soon as it is accepted by the person to whom it is addressed.

Legal Rules Governing Offers

For an offer to be valid, it must comply with the following rules:

- i) An offer may be made orally, in writing or it may be implied from the conduct or relation of the parties, especially the offeror.
- ii) An offer must be definite, certain, clear and unambiguous.
- iii) An offer must be such that it is capable of being accepted and give rise to a legal relationship.
- iv) An offer must be communicated to the offeree.
- v) An offer must be made with a view or intention of obtaining consent of the other party.
- vi) An offer may be made to a specific person, group of persons or even to the world at large.
- vii) An offer should not contain any condition the non-compliance of which may be assumed to amount to acceptance.

Termination of Offer

An offer can be terminated as follows:

- i) By counteroffer: A counteroffer occurs where an offer is accepted with some modifications on the terms of the original offer or with some other condition(s) not forming part of the original offer.
- ii) By death or incapacity: Death or incapacity of either party terminates the offer because it makes it practically impossible for the parties to reach an agreement.
- iii) By revocation: Revocation means withdrawal of the offer by the offeror at any time before it is accepted by the offeree.
- iv) By rejection: An offer comes to an end when it is rejected by the offeree. Such a rejection must be communicated to the offeror or his agent by the offeree or through a reliable source.
- v) By Expiry or Lapse of Time: An offer comes to an end when the period specified for its acceptance has lapsed or expired. Where the period of the offer is not specified, then the offer must be accepted within reasonable time.
- vi) By acceptance: An offer also comes to an end when it is accepted by the offeree.
- vii) By occurrence or non-occurrence of a condition: An offer which is meant to terminate on the occurrence or non-occurrence of some condition cannot be accepted after that condition has occurred and vice versa.

1.2.3.4.2 Acceptance

Acceptance means the final and unqualified expression of assent to the terms of the offer.

Legal Rules Governing Acceptance

To be legally effective, acceptance of an offer must comply with certain legal rules. These rules are summarized as follows:

- i) Acceptance may be made orally, in writing or it may be implied from the conduct or the relation of the parties, especially the conduct of the offeree.
- ii) Acceptance must be communicated to the offeror.
- iii) Acceptance must be in conformity with all the terms and conditions of the offer otherwise it is invalid.
- iv) Acceptance must be made according to the mode prescribed by the offeror or in any other usual and reasonable mode.
- v) Acceptance of an offer must be made within the time prescribed or within reasonable time.
- vi) Acceptance cannot precede an offer i.e. it cannot be made before an offer comes into existence.

1.2.3.4.3 Consideration

Consideration is the price for which the promise of the other party is obtained. When a party to an agreement promises to do something, he/she must get or receive something in return for his/her promise. This something in return is known as consideration.

Legal Rules Governing Consideration

To be legally effective, consideration must comply with certain legal rules. These rules are summarized as follows:

- i) Consideration must be based on something which is real and not illusory or imaginary.

- ii) Consideration must not be illegal, immoral or against public policy. This is because no action arises from an illegal promise.
- iii) Consideration must not be based on what a promisor is already bound by law to do.
- iv) Consideration need not necessarily be adequate or sufficient, but it must be something which has value in the eye of the law.
- v) Consideration must move at the desire of the promisor and not a stranger or third party.

1.2.3.4.4 Capacity to Contract

The word capacity here means competence. Capacity to contract therefore means competence of the offeror and the offeree to enter into a valid contract. The contractual capacity of parties is limited under the following conditions:

- i) **Minors or infants:** These are persons who have not attained 18 years of age. They are protected by law against adults as they are inexperienced and subject to manipulation because their mental faculties are not yet fully developed. As a general rule, any agreement entered into with or by a minor is void and inoperative from the beginning except where such minors are provided with necessary goods or services.
- ii) **Persons of unsound mind:** These are persons who cannot understand the contract and form rational judgement of its effects on their interests.

The contractual capacity of persons of unsound mind may be examined as follows:

- **Lunatics-** These are persons who are mentally deranged due to some mental strain or personal experiences. They suffer from intermittent intervals of sanity and insanity. Such persons can enter into valid contracts during sanity intervals.
- **Idiots-** These are persons who have completely lost their mental powers and cannot exhibit understanding of even elementary matters. A contract entered into with or by an idiot is void ab initio i.e. from the beginning.
- **Drunken or intoxicated persons-** These are persons who suffer from temporary incapacity to contract. They cannot enter into a valid contract at the time when they are so drunk or intoxicated and not able to form rational judgment.
- iii) **Corporations:** These are artificial legal persons created by law and having a legal existence which is quite separate from the natural persons occupying them. They can enter into contracts based on either their Memorandum of Association or the relevant statute establishing them.
- iv) **Alien enemies:** An alien means a person who is not the subject of the Republic of Kenya. An alien friend can enter into a valid contract. An alien enemy cannot enter into a valid contract during the period of war. Any contract entered into before the outbreak of war are either suspended or dissolved.
- v) **Insolvents:** these are persons who are adjudged insolvent or bankrupt. They can only enter into contracts through the Official Receiver.
- vi) **Convicts:** These are persons who have been tried by competent courts for criminal acts and sentenced accordingly. They cannot enter into contracts when undergoing imprisonment.

1.2.3.4.5 Free Consent

Consent is the act of accepting an offer. It is essential that parties engage in agreements freely and genuinely. However, there are certain factors which interfere with freedom of consent. These are:

- i) Coercion or duress: This means the use of force or threat to compel a person to enter into a contract. When consent to an agreement is obtained by coercion, it is voidable at the option of the party who is coerced.
- ii) Undue influence: This occurs where one party is in a position to dominate and influence the will of another party to enter into a contract e.g. the relations between parent and child, guardian and ward, doctor and patient, religious leader and their followers etc. The contract is voidable at the option of the party unduly influenced.
- iii) Misrepresentation: This means a false statement which a person makes honestly believing it to be true or which he does not know to be false with the intention of inducing the other party to enter into a contract. It allows the party who relied on it to avoid the contract or in the alternative seek compensation for the loss caused by it.
- iv) Fraud: It means a false statement which a person makes knowingly or without belief in its truth or recklessly not caring whether it is true or false with the intention of deceiving the other party to enter into a contract. A contract induced by fraud is voidable at the option of the party defrauded.
- v) Mistake: This means erroneous belief about something. It may be in the form of mistake of law or of fact.

1.2.3.5 Discharge of Contract

Discharge of contract means the termination of a contractual relationship between the parties. A contract may be discharged in any one or more of the following ways:

- i) By agreement/consent: This takes place where the parties themselves through their mutual agreement or consent agree to bring to an end an agreement initially entered.
- ii) By performance: A contract is discharged by performance when the parties to it fulfil all their obligations and nothing remains to be done by either party.
- iii) By frustration/impossibility: An agreement to perform an act which is impossible is void from the beginning as it does not create an obligation.
- iv) By expiry/lapse of time: A contract intended to last for a specified period is automatically discharged at the expiry of the agreed period.
- v) By operation of law: A contract may be discharged independently of the wishes of the parties i.e. in cases of death, insolvency, alteration of terms of contract, merger of rights and liabilities etc.
- vi) By breach of contract: This occurs where a party to a contract does not fulfil his/her contractual obligation without any lawful excuse. In this case the other party is freed from the obligation of performing the contract.

1.2.3.6 Remedies for Breach of Contract

A remedy means the solutions provided by law to enforce the rights and obligations under a contract. When a contract is breached, the aggrieved party may have any one or more of the following remedies:

- i) Rescission/cancellation of contract: When a contract is violated by one party, the other party may sue to treat the contract as rescinded and refuse further performance.
- ii) Sue for damages: Damages refers to monetary compensation awarded to the injured party by the court for the loss or injury suffered by him for breach of contract.
- iii) Sue for injunction: An injunction is an order of the court restraining (preventing) or compelling a person to perform or not to perform an obligation under a contract.

- iv) Sue for specific performance: This is an order of the court directing the party in breach to perform what he/she promised to do i.e. carry out the promise according to the terms of the contract.
- v) Sue upon quantum meruit: The phrase “quantum meruit” literally means as much as earned, merited or deserved. It is a claim for the value of the work done by a party to the contract.

1.2.4 Principles Relating to Law of Torts

As an Administrative Officer, you will be required to settle disputes between people and even communities. This is because human beings relate with each other as a matter of necessity. Therefore, problems are bound to occur in the course of human interactions. This sub-topic thus engages you in a discussion of principles of civil law of torts and their application in human relations. These principles bring about peaceful co-existence required for service delivery.

1.2.4.1 Meaning and Purpose of Law of Torts

A tort is a civil wrong which arises from the breach of a certain duty fixed by law for which the remedy is unliquidated damages i.e. damages whose quantity or assessment is not predetermined but left for the court to determine.

A person who commits a tort is called a tortfeasor and if they are more than one, they are known as joint tortfeasors. Such persons are liable to be sued jointly and separately.

The broad objectives of law of torts are:

- i) To determine rights between parties to a dispute by obtaining court declaration on such rights.
- ii) To protect certain rights recognized by law e.g. a person’s reputation or good name is protected.
- iii) To prevent the continuation or repetition of harm e.g. by giving order of injunction in the case of trespass.
- iv) To restore property to its rightful owner e.g. where property is taken wrongfully from the owner, an order for restitution may be sought.

1.2.4.2 Liability in Torts

To determine or make a person liable in tort, the following essential elements must be proved:

- i) There must have been some wrongful act or omission by the wrongdoer.
- ii) There must be legal damage/injury to the injured party i.e. some of his legal rights must have been violated.
- iii) The wrongful act must be of such a nature as to give rise to a legal remedy in the form of compensation for damages.

1.2.4.3 Tort and Crime

A tort differs from a crime in the following respects:

- i) A tort is breach of duty to an individual for which he is entitled to obtain reparation from the wrongdoer whereas a crime is a breach of duty to the public for which the perpetrator is liable to punishment.

- ii) Torts are civil wrongs whereas crimes are criminal wrongs. Therefore, torts are governed by the civil procedure and tried in civil courts while crimes are governed by the criminal procedure and tried in criminal courts.
- iii) Under the law of torts, the purpose of payment of damages is to compensate the plaintiff for the loss suffered whereas criminal justice aims at punishment and reformation of the individual accused.
- iv) In tort the injured party presents his claim as an individual while in crime, the injured party is the state which will prosecute the case.
- v) In tort the proof is on a ‘‘balance of probabilities’’ while in crime the proof is ‘‘beyond reasonable doubt.’’
- vi) In tort punishment is usually by financial compensation known as damages, rescission, specific performance, etc. while in crime punishment is severe and includes imprisonment, capital punishment, etc.

1.2.4.4 Tort and Contract

A tort differs from a contract in the following respects:

- i) A tort is a civil wrong independent of a contract for which the remedy is a common law action for un-liquidated damages whereas a contract is an agreement between two or more persons which defines their rights and obligations and is legally enforceable.
- ii) In tort the duties are imposed by law e.g. no one should act negligently. On the other hand, in contract the duties are fixed by the parties themselves.
- iii) In tort the duty is owed to the world at large while in contract the duty is owed to a particular person or persons.
- iv) In tort damages are always un-liquidated because they cannot be precisely calculated while in contract, damages may be liquidated or un-liquidated.
- v) In tort the limitation period starts running from the time damage occurs up to a period of 3 years while in contract it starts running from the moment breach occurs up to a period of 6 years.
- vi) In tort the element of consent does not arise and where it exists, it automatically makes the wrong excusable. On the other hand, a contract is founded upon the consent of the parties.

1.2.4.5 Capacity of Parties in Torts

Capacity of parties in torts means competence of parties or persons to sue or be sued in torts. The capacity of various persons to sue or be sued may be summarized as follows:

- i) Minors or infants: Minors or infants may sue or be sued in the same way as other persons. However, the age of an infant may be relevant in some specific torts e.g. where intention, malice or negligence are the main cause of the tort. An infant may not have reached the age of mental development where he/she may be responsible for his negligent acts.
- ii) Husband and wife: A married woman/man is liable in tort and may sue and be sued as if she were a single woman/man.
- iii) The Government: The government is liable for:
 - Torts committed by its servants or agents.
 - Breach of duties a person owes to his agents or servants as their employer.

- Breach of duties attaching to the ownership, occupation, possession or control of property.
 - Statutory torts i.e. torts arising from breach of a duty imposed by statutes.
- iv) Persons of unsound mind: Persons of unsound mind are generally liable in tort except where intention is a necessary element of the tort and it is proved that they could not have formed that intent.
 - v) Judicial officers: Judicial officers are protected from civil liability for any act done or ordered by them in the discharge of their judicial duties. Thus, they cannot be prosecuted in such circumstances.
 - vi) The President: The President has immunity from criminal and civil proceedings while still in office, but this immunity does not extend to a crime for which the president may be prosecuted under any treaty to which Kenya is a party and which prohibits such immunity.
 - vii) Heads of foreign states and diplomats: The heads of foreign States, diplomats of foreign missions and certain other persons connected to them enjoy immunity from criminal, civil and administrative jurisdiction of the local courts.
 - viii) Trade unions: A registered trade union is regarded by law as a body corporate with perpetual succession and a common seal with capacity to sue and be sued. Trade Unions may therefore sue in torts but suits against them are limited.
 - ix) Corporations: Corporations are artificial legal persons created by law and having the capacity to sue and be sued in their own names. They are therefore liable for the torts committed by their servants and agents.

1.2.4.6 General Defences in Torts

The following general defences can be relied on in case a person is sued for torts:

- i) Consent (*Volenti Non Fit Injuria*): If the plaintiff voluntarily agrees to suffer some harm, he/she is not allowed to complain and his consent is a good defence against him e.g. a boxer, footballer or rugby player cannot seek a remedy if injured while in the game to which they consented to be involved.
- ii) Inevitable Accident: This is an accident which cannot be prevented by the exercise of ordinary care, caution or skill i.e. it occurs where there is no negligence on the part of the defendant.
- iii) Act of God (*Vis Major*): An act of God is an act which is caused by the elementary forces of nature not connected with human agency. The injury in this case is not connected to anyone's fault hence it is not actionable in tort.
- iv) Necessity: When an act causing damage is done under necessity to prevent a greater evil, the defence of necessity can be raised e.g. pulling down a house on fire to prevent it from spreading to other property.
- v) Self or private defence: Everyone whose person (life) is threatened is entitled to defend him/herself and may use force in doing so. However, the force used must be reasonable and proportionate to that of the attacker.
- vi) Statutory authority: When an act is done under the authority of a statute, it is a complete defence and the injured party has no remedy.
- vii) Mistake: The general rule is that mistake, whether of law or fact, is no defence in tort. Mistake of law is absolutely no defence. However, mistake of fact may be relevant as a

defence in tort in some exceptional circumstances e.g. malicious prosecution, false imprisonment and deceit.

1.2.4.7 Vicarious Liability.

Vicarious liability means making a person liable for the wrongs committed by another person. Generally, every person is liable for his/her own wrongful acts and one does not incur any liability for the acts done by others. However, in certain circumstances, a person may be held liable for the torts or wrongful acts committed by another person.

For one person to be liable for the acts of another, there should be a certain kind of relationship between them. For example, the relationship of:

- i) Master and servant.
- ii) Principal and agent.
- iii) Government and its servants.
- iv) Firm and its partners.
- v) Company and its directors.
- vi) Guardian and ward.

1.2.4.8 Specific Torts

There are four specific torts or wrongs which include trespass, nuisance, negligence and defamation. These are discussed below:

1.2.4.8.1 Trespass

This means an unlawful interference with a person, his land or goods without any lawful justification. It is the unlawful interference with the rights of another or an act of infringement of the rights of another without justification. There are three types of trespass, namely, Trespass to Land, Trespass to Person and Trespass to Goods.

- a) **Trespass to Land:** This means the unjustifiable interference with the possession or unjustifiable entry on the land of another. Trespass to land may take place in any one or more of the following ways:
 - i) By wrongful entry to the land of another person.
 - ii) By walking through the land of another person without permission.
 - iii) By throwing or placing objects on the land of another person.

Defences Against Trespass to Land

The defences against trespass to land are:

- i) **Prescription:** Land acquired by possession is said to have been acquired by prescription. In this case the new owner may claim title by prescription as a defence against the previous owner.
- ii) **Entry by license:** An entry authorized or licensed by the plaintiff is not trespass unless the authority or license is abused by the defendant.
- iii) **Act of necessity:** Entry upon the land of another person is justifiable on the ground of necessity. In this case the plaintiff is saying that it was actually necessary to trespass e.g. entry or trespass to put out fire for public safety or in defence of the country.

- iv) Statutory authority: Where the authority is given by a statute (law), there is no trespass to land e.g. brokers, auctioneers, etc. have been given right by the court to enter the land of the plaintiff.
- v) Involuntary act: An involuntary act means an act that happens without negligence on the part of the plaintiff for example a cow running from the plaintiff's land into that of the defendant.

Remedies for Trespass to Land

The remedies against trespass to land are:

- i) Damages: This is monetary compensation recoverable from the defendant for the trespass. It depends on the value of the land in question.
- ii) Injunction: This is an order of the court stopping or preventing a trespass. It may be obtained to prevent or stop a threatened or a continuing trespass.
- iii) Ejection: The plaintiff is entitled to use reasonable force to eject, remove or dispossess the trespasser or to obtain a court order for his ejection.
- iv) Action for recovery of land: In case the plaintiff is wrongfully dispossessed of his/her land, he/her can sue for the recovery of the land from the defendant.
- v) Distress damage feasant: In case of trespass by animals, the plaintiff has the right to seize and retain the animals until the owner pays compensation.

b) Trespass to Person: This is the direct interference with the person (body) of another without lawful justification. There are three types of trespass to person, namely, assault, battery and false imprisonment. These are:

- i) Assault: This happens when a person threatens to use force against the person (body) of another thus putting the other person in fear of immediate and real danger e.g. shaking a fist, pointing a gun menacingly at another, etc. Assault is a tort as well as a crime.
- ii) Battery: This means the intentional and actual application (use) of force against the person/body of another without lawful justification. However, there must be actual bodily contact between the plaintiff and the defendant e.g. punching of a person's nose, slapping him/her, etc.
- iii) False imprisonment: This means the total restraint or deprivation of the liberty of a person without lawful excuse. It arises where a person is totally deprived of his freedom without lawful justification. The duration of the detention is immaterial.

Defences Against Trespass to Person

The following are the defences against trespass to person:

- i) Consent: A person who has voluntarily consented to come into actual bodily contact with another e.g. in sports, etc. cannot complain against another person who touches him in the course of playing the game.
- ii) Private defence: A person is within his/her legal rights to defend himself, his/her property and family and can use reasonable force to do so. Therefore, a person who uses reasonable force under such circumstances is not liable for trespass to person.
- iii) Statutory authority: A person with legal authority to do an act cannot be sued for trespass to person e.g. a police officer has statutory authority to arrest a person in the preservation of public peace.

- iv) Forceful entry: The rightful owner of property is entitled to use reasonable force to prevent forcible entry on his/her land or to repossess his/her land or goods which are wrongfully in possession of another person.
 - v) Parental authority: People such as parents, teachers, etc. can inflict reasonable punishment for the correction and benefit of the children. Therefore, a parent can chastise or even lock-up a child reasonably without being guilty of assault, battery or false imprisonment.
- c) **Trespass to Goods:** - This means the direct and intentional interference with goods which are in possession of another person without lawful justification.

Defences to Trespass to Goods

Following are the defences against trespass to goods:

- i) Right of lien: This is the right given to a person over the property of another e.g. an unpaid seller has a right of lien (right to keep and possess the goods until the goods are paid for in full).
- ii) Statutory authority: A statute may also permit a person to interfere with the goods of another without incurring liability on trespass to goods.
- iii) Judicial authority: Courts of law and judicial officers may authorize interference with the goods of another e.g. authority to auctioneers to attach and sell property of another.

Remedies Against Trespass to Goods

Following are the remedies against trespass to goods:

- i) Repossession: The plaintiff is entitled to repossess or recapture his/her goods which have been wrongfully taken from him/her provided he uses reasonable force in doing so.
- ii) Order for specific restitution: This is an order of the court requiring the person wrongfully holding goods to restore them to the owner.
- iii) Damages: The plaintiff is entitled to claim the full value of the goods and damages for any inconvenience suffered by him/her while deprived of their use.

1.2.4.8.2 Nuisance

Nuisance is committed where a person's rights on his/her land are wrongfully disturbed either physically or allowing noxious things to escape to his/her land e.g. to allow a structure to overhang precariously on the another's land or to allow smoke to escape on to the another's land thereby inconveniencing him/her. Nuisances are of two types, namely, Private Nuisance and Public Nuisance. These are explained as follows:

Private Nuisance: This occurs where a person's private rights in his/her land are wrongfully interfered with. It is a wrongful act which affects some particular individual or individuals and not the public at large.

Public Nuisance: This is an act which interferes with the enjoyment of a right which all members of a community are entitled to. It affects the comfort or convenience of a cluster of persons but not necessarily everybody.

Defences to Nuisance

The defences available against nuisance are:

- i) Prescription: A right to commit a private nuisance may be acquired by prescription as an easement.
- ii) Statutory right: Where a statute authorizes the defendant's activity, the defendant will not be liable for the interference which arises from that activity.
- iii) Consent: Where a person allows the defendant to make unreasonable use of his property, he/she cannot complain of nuisance unless he/she withdraws the consent and informs the defendant of such withdrawal.
- iv) Triviality: The defendant can plead that the damage caused due to the nuisance is so trivial, minimal, minor or negligible that no reasonable person would complain.
- v) Reasonableness: The defendant may prove that the act complained of as a nuisance is the result of lawful and reasonable use of his land.
- vi) Grant: It is normally a valid defence to an action for nuisance if the defendant can show that the nuisance complained of was under the terms of a grant or license.

Remedies Against Nuisance

Following are the remedies available against nuisance:

- i) Damages: The plaintiff is entitled to full compensation in monetary terms so as to make good the damage caused by the plaintiff's nuisance.
- ii) Abatement: A person is entitled to remove the nuisance himself without a court order e.g. by cutting the branches of an overhanging tree on his/her side of the land.
- iii) Injunction: This remedy is given to restrain or prevent a person from committing or continuing to commit the nuisance.
- iv) Conviction: A person can be charged and convicted for public nuisance where the act amounting to nuisance is criminal in nature.

1.2.4.8.3 Negligence

Negligence means the breach of a duty caused by the omission to do something which a reasonable person would do or doing of something which a prudent and reasonable person would not do. In order to maintain an action for negligence, the following essential elements must be proved:

- i) That the wrongdoer was under a legal duty to exercise care.
- ii) That the duty of care was towards the complainant.
- iii) That there was breach of duty of care by the wrongdoer.
- iv) That the complainant has suffered damage as a consequence of the breach.

Defences to Negligence

The defences against negligence are:

- i) Contributory negligence: This is an act or conduct of the party injured which may have contributed to the injuries received. This means that the complainant has shown lack of reasonable care for his own safety.
- ii) Act of God: Where the act complained of by the complainant is the result of things beyond human control or anticipation, the wrongdoer is not liable for negligence.

- iii) Inevitable accident: This is an accident which cannot be avoided by the exercise of care, knowledge, skills or diligence. Therefore, where the act is as a result of inevitable accident, the wrongdoer is not liable.

Remedies Against Negligence

The following are the remedies against negligence:

- i) Damages: This is monetary compensation awarded to the injured party due to negligence on the part of the wrongdoer.
- ii) Injunction: This is a court order preventing the commission or continued commission of the negligent act complained of.

1.2.4.8.4 Defamation

This means the publication of a false statement regarding another person, without lawful justification, which tends to lower his/her reputation in the estimation of right-thinking members of society. Defamation may also cause a person to be shunned or avoided by others. Further, defamation may lead to a tendency to injure a person in his/her office, profession or trade.

Essentials of Defamation

For a person to be held liable for defamation, the following conditions should prevail:

- i) That the statement made by the defendant is false.
- ii) That the statement of the defendant is defamatory.
- iii) That the statement referred to the plaintiff.
- iv) That the statement was published.

Types of Defamation

- i) Slander: This means a defamatory statement which is made in a non-permanent form e.g. by word of mouth, gestures, etc.
- ii) Libel: This means a defamatory statement which is made in a permanent form e.g. in writing, printing, carving, effigy, radio and television broadcasting.

Defences to Defamation

The defences to defamation are:

- i) Truth/justification: Truth is a complete defence to an action on slander or libel. Here the defendant claims that the statement is true.
- ii) Fair comment: Making of fair comment on a matter of public interest is a defence on an action for defamation. The word “fair” means honest, relevant and free from malice or improper motive.
- iii) Absolute privilege: Absolute privilege arises where the statements made are completely protected no matter how damaging, false or malicious they are e.g. statements made during parliamentary proceedings.
- iv) Qualified/conditional privilege: This is recognized where a person making or communicating a defamatory statement is doing so in the discharge of a duty, social or moral, and without malice.
- v) Apology/offer of amends: Once the defendant makes an apology in the mode required, he shall be released from liability if the complainant accepts the apology.

- vi) Consent/assumption of risk: Consent is a complete defence in defamation. A person who gives false information about oneself will not be able to sue in defamation when a newspaper publishes it.

Remedies Against Defamation

A person defamed can claim the following remedies:

- i) Damages: The plaintiff can recover damages i.e. monetary compensation for injury to his/her reputation as well as his/her feelings.
- ii) Injunction: This is an order issued by the court restraining or preventing the publication or continued publication of a libel.
- iii) Apology: Apology is another remedy available to the complainant as it has the effect of correcting the impression previously made by the offending statement about the complainant.

1.2.5 Principles of Criminal Law

An Administrative Officer is expected to deal effectively with crimes committed in his/her area of jurisdiction in the performance of his/her duties in accordance with the law. Criminal law is the body of law that relates to crime. It disallows conduct perceived as threatening, harmful, or otherwise endangering to the property, health, safety and moral welfare of people inclusive of one's self. Criminal law includes the punishment and rehabilitation of people who violate such laws. It is supported by criminal procedure which is the formalized official activity that determines the fact of commission of a crime and authorizes punitive or rehabilitative treatment of the offender.

1.2.5.1 Objectives of Criminal Law

The objectives of criminal law include the following:

- i) Retribution: this requires criminals to be punished as they have taken improper advantage or inflicted unfair detriment upon others.
- ii) Deterrence: individual deterrence is aimed toward the specific offender. The aim is to impose a sufficient penalty to discourage the offender from criminal behaviour. By doing this, other individuals in society are discouraged from committing those crimes.
- iii) Incapacitation: this is designed to keep criminals away from society so that the public is protected from their misconduct. This is often achieved through death penalty and imprisonment.
- iv) Rehabilitation: this aims at transforming an offender into a valuable member of the society. Its primary goal is to prevent further offense by convincing the offender that the conduct was wrong.
- v) Restoration: this is a victim-oriented theory of punishment. The purpose is to repair, through state authority, any injury inflicted upon the victim by the offender. Restoration is commonly combined with other main goals of criminal justice and is closely related to concepts in the civil law, i.e. returning the victim to his or her original position before the injury.

1.2.5.2 Elements of Criminal Law

An element of crime means a set of facts that must be all proven to convict a person charged with a criminal offence. Before a court finds a person guilty of a criminal offense, the

prosecution must present evidence that is credible and sufficient to prove beyond reasonable doubt that the person accused committed each element of the particular crime charged. These elements include the following:

- i) Mental state (Mens rea): Mens rea (Latin for guilty mind) is the mental element of a person's intention to commit a crime. It is the state of mind which an accused person possessed at the time the crime was committed. It delves into the offender's mental status by questioning the intention of committing the crime. Mens rea varies depending on the offense e.g. in murder, the mental element requires the murderer to have acted with "malice aforethought"
- ii) Conduct (Actus reus): Actus reus, sometimes called the "the external element," or the objective element of a crime, is the Latin term for "guilty act" which when proved beyond a reasonable doubt in combination with the mens rea (guilty mind), produces criminal liability. This is based on the principle that an act does not make a person guilty unless their mind is also guilty. Therefore, the general test of guilt requires proof of fault, culpability or blameworthiness both in thought and action.
- iii) Concurrence: Concurrence, also known as contemporaneity or simultaneity, is the apparent need to prove the simultaneous occurrence of both actus reus (guilty action) and mens rea (guilty mind), to constitute a crime, except in crimes of strict liability. In theory if the actus reus does not hold concurrence in point of time with the mens rea, then no crime has been committed.
- iv) Causation: Many crimes include an element that actual harm must occur. In other words, causation must be proved. For example, murder requires a killing, aggravated battery requires serious bodily injury and without these respective outcomes, the crimes would not be said to have been committed. A causal relationship between conduct and result is demonstrated if the act would not have happened without direct participation of the offender. Therefore, the cause of the act and the forbidden result must be proximate or near in time.
- v) Strict liability: This refers to criminal or civil liability without fault (mens rea or intent) by the accused. Strict liability often applies to vehicular traffic offences. For example, in a speeding case, whether the accused driver knew that the posted speed limit was being exceeded is irrelevant. The prosecutor need only prove that the driver was driving the vehicle in excess of the posted speed limit.
- vi) Criminal negligence/carelessness: Criminal negligence is not, strictly speaking, mens rea because it refers to an objective standard of behaviour expected of a person and does not refer to the mental state. The degree of culpability is determined by applying a reasonable person standard. Criminal negligence becomes gross when the failure to foresee involves a wanton disregard for human life.
- vii) Recklessness: In criminal law and law of tort, recklessness means the state of mind where a person deliberately and unjustifiably pursues a course of action while consciously disregarding any risks flowing from such action. A person cannot be guilty of an offense for his/her actions alone. There must also be the requisite intention, knowledge, recklessness or criminal negligence at the relevant time.
- viii) Knowledge: This occurs where the offender is certain that his/her conduct will lead to the result. In this case, the person knows the falsity or wrongfulness of his/her actions and its likely occurrence but still proceeds anyway. It includes wilful blindness and recklessness e.g. the offense involving possession of contraband.

1.2.5.3 Classification of Crimes

Crimes are classified as follows:

- i) Fatal offenses: These are offenses which involve the illegal killing of a person either with or without an intention to kill. They include murder and manslaughter.
- ii) Personal offenses: These are offenses against the physical body of a person. Many criminal codes protect the physical integrity of the body. Such offenses include assault, battery, rape, sexual abuse, etc.
- iii) Property offenses: Property is often protected by criminal law as many criminal codes provide penalties against interfering with property rights. Such offenses include theft, robbery, extortion, burglary, criminal trespass, fraud, conversion etc.
- iv) Participatory offenses: These are offenses that criminalize any association with a criminal venture or involvement in criminality that does not actually come to fruition. Such offenses include aiding, abetting, conspiracy, attempt, etc.

1.2.5.4 Defences to Criminal Offences

The following are defences against criminal offenses:

- i) Insanity (mental disorder): Insanity or mental disorder may negate the intent of any crime. It is in effect an argument that the accused is not responsible for his/her own actions. This is because the accused is incapable of distinguishing right from wrong. It is also known as Mc’Naghten rule.
- ii) Automatism: This is a state where the muscles act without any control by the mind, or with a lack of consciousness. One may fall ill, into a dream-like state as a result of post-traumatic stress, or even attacked by a swarm of bees and go into an automatic spell.
- iii) Intoxication: In criminal law, the intoxication defence is one by which an accused may claim diminished responsibility on the basis of substance intoxication. With regard to punishment, intoxication may be a mitigating factor.
- iv) Mistake of fact: This is a defence if the mistake is about a fact and is genuine. Mistake of fact may sometimes mean that, while a person has committed the physical element of an offense, because they were labouring under a mistake of fact, they never formed the required men’s rea, and so will escape liability for offenses that requires men’s rea.
- v) Necessity/Lesser harm: Generally, a criminal act can be justifiable if it is necessary to prevent a foreseeable greater harm than the harm created by the act e.g. trespass to put out a fire or to rescue a person drowning in a pool on the property.
- vi) Lawful capacity of office: This defence is generally available to public servants and first responders like police officers, fire fighters, etc. It protects the first responder from responsibility for otherwise criminal actions that the first responder must perform as an appointed agent in the course and scope of their duties.
- vii) Self-defence: This refers to some reasonable action taken in protection of self. An act taken in self-defence is not a crime at all and no punishment will be imposed provided the defensive force used is proportionate to the threat faced.
- viii) Coercion or duress: This is the practice of forcing another party to act in an involuntary manner by use of force or threats. It occurs where one is forced into committing an unlawful act. In this case, the accused is not liable because he/she did not intend the result of his/her actions.

- ix) Impossibility defence: This is a criminal defence used when a person is accused of a criminal attempt that failed only because the crime was factually or legally impossible to commit.

1.2.6 Principles of Land Law

Land issues are emotive as land is traditionally an important component of wealth in Kenya. As an Administrative officer, you are at the core of land issues in your area of jurisdiction hence you should be well versed with the legal principles governing land matters in the country.

1.2.6.1 Meaning of Land

The word land means the surface of the earth and everything beneath and over the land surface. Land also means anything permanently attached to the earth so as to form a permanent part of it. These include minerals, rentals and other interests attached to the soil.

1.2.6.2 Principles of Land Policy

The principles of land policy are found in the Constitution which provides that land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable. These principles are:

- i) Equitable access to land;
- ii) Security of land rights;
- iii) Sustainable and productive management of land resources;
- iv) Transparent and cost-effective administration of land;
- v) Sound conservation and protection of ecologically sensitive areas;
- vi) Elimination of gender discrimination in law, customs and practices related to land and property in land; and
- vii) Encouragement of communities to settle land disputes through recognized local community initiatives consistent with the Constitution.

1.2.6.3 Classification of Land

All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals. Land in Kenya is classified as public land, community land and private land

i. Public land

Public land is:

- i) Land which was delineated government land at the effective date of the Constitution;
- ii) Land lawfully held, used or occupied by any State organ, except those occupied by the State organ as lessee under a private lease.
- iii) Land transferred to the State by way of sale, reversion or surrender;
- iv) Land in respect of which no individual or community ownership can be established by any legal process;
- v) Land in respect of which no heir can be identified by any legal process;
- vi) All minerals and mineral oils as defined by law;
- vii) Government forests, except community forests, government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas;

- viii) All roads and thoroughfares provided for by an Act of Parliament;
- ix) All rivers, lakes and other water bodies as defined by an Act of Parliament;
- x) The territorial sea, the exclusive economic zone and the seabed;
- xi) The continental shelf;
- xii) All land between the high and low water marks;
- xiii) Any land not classified as private or community land under the Constitution; and
- xiv) Any other land declared to be public land by an Act of Parliament

ii. Community land

Community land shall vest in and be held by communities identified on the basis of ethnicity, culture or similar community of interest. Community land consists of:

- i) Land lawfully registered in the name of group representatives under the provisions of any law;
- ii) Land lawfully transferred to a specific community by any process of law;
- iii) Any other land declared to be community land by an Act of Parliament; and
- iv) Land that is:
 - Lawfully held, managed or used by specific communities as community forests, grazing areas or shrines;
 - Ancestral lands and lands traditionally occupied by hunter-gatherer communities; or
 - Lawfully held as trust land by the county governments, but not including any public land held in trust by the county government.

iii. Private land

Private land consists of:

- i) Registered land held by any person under any freehold tenure;
- ii) Land held by any person under leasehold tenure; and
- iii) Any other land declared private under an Act of Parliament.

1.2.6.4 Land Holding by Non-citizens

A person who is not a citizen may hold land on the basis of leasehold tenure only, and such lease shall not exceed 99 years. A provision in any agreement, deed, conveyance or document which purports to confer on a person who is not a citizen an interest in land greater than 99-year lease shall be regarded as conferring on the person a 99-year leasehold and no more.

For this purpose:

- i) A body corporate shall be regarded as a citizen only if it is wholly owned by one or more citizens; and
- ii) Property held in trust shall be regarded as being held by a citizen only if all of the beneficial interest of the trust is held by persons who are citizens.

1.2.6.5 Regulation of Land Use and Property

The State may regulate the use of any land, or any interest in or right over any land, in the interest of defence, public safety, public order, public morality, public health, or land use planning.

1.2.7 Principles of Constitutionalism

There are various legal principles and concepts relating to the Constitution which an Administrative Officer must be conversant with as they are important for public service delivery. This sub-topic examines the critical constitutional principles, concepts, tenets and values you need for effective delivery of public services. These constitutional principles are:

- i) The Rule of Law: This implies a system of government that is founded on generally accepted legal rules.
- ii) The Doctrine of Separation of Powers: This means that the powers of the three organs of the State must be clearly described in the Constitution and the powers must be exercised by different persons as laid down in the Constitution.
- iii) Supremacy of the Constitution: This is a principle which states that the provisions of the Constitution are superior to any other law of the land.
- iv) Independence of the Judiciary: Means the existence of a judiciary which is free from the dictates of the Executive, the Legislature or any other private person or body.
- v) Rights and fundamental freedoms: Rights are the normative rules about what is allowed of people or owed to people according to our legal system, social convention or ethical theory. Freedom, on the other hand, refers to permission for the right-holder to do something and there are no obligations on other parties to do or not to do anything.

1.2.8 Summary

In this topic, we have examined the principles of law governing contracts, torts, crimes land, and constitutionalism which are fundamental to administrative officers for their effective service delivery. In the next topic, we shall discuss aspects of Administrative Law that are pertinent to their work.

1.2.9 Activities

1. Discuss, with relevant examples, how the following constitutional principles are being observed in Kenya today:
 - a) Doctrine of separation of powers
 - b) Independence of the judiciary
 - c) Rights and fundamental freedoms
2. You have sent out police officers to arrest a suspect within your jurisdiction. Provide them with the constitutional guidelines they need to observe in order to effect a lawful arrest of the suspect in question.

1.2.10 References

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1.3 ADMINISTRATIVE LAW

Outline

- 1.3.1 Introduction
- 1.3.2 Specific objectives
- 1.3.3 Legal Principles of Public Administrative Law
- 1.3.4 Composition, powers and functions of adjudication agencies other than court.
- 1.3.5 Arbitration and other Alternative Dispute Resolution Mechanisms
- 1.3.6 Remedies available to persons aggrieved by administrative decisions
- 1.3.7 Provisions of applicable statutes
- 1.3.8 Summary
- 1.3.9 Activities

1.3.1 Introduction

As an administrative officer, your work often involves the exercise of discretion and power. In doing so, fair administrative justice and action is crucial in ensuring effective and prudent public service delivery. This topic therefore discusses the legal aspects of public administrative law that will equip you with knowledge, skills and attitudes you require in providing effective public services.

1.3.2 Specific Objectives

By the end of this topic, you should be able to:

- i) interpret the basic legal principles of public administrative law;
- ii) describe the composition, powers and functions of adjudication agencies other than Courts;
- iii) analyse the principles of law governing arbitration proceedings and other alternative dispute resolution mechanisms;
- iv) assess the remedies available to persons aggrieved by administrative decisions; and
- v) analyse the provisions of applicable statutes.

1.3.3 Legal Principles of Administrative Law

Administrative law is a branch of public law which deals with or concerns the exercise of power by public authorities to execute public functions. The principles of public administrative law are:

1.3.3.1 Natural Justice

The term natural justice has been defined to mean “fair play in action.” The principles of natural justice are those fundamental rules, the breach of which will prevent justice from being seen to be done. They constitute the basic elements of a fair hearing, fair play and justice.

Natural justice encompasses two important rules, namely:

- i) the rule against bias under the maxim “nemo iudex in causa sua” i.e. no one can be a judge in his own cause; and

- ii) the rule of hearing under the maxim “audi alteram partem” i.e. nobody should be condemned unheard.

1.3.3.2 Doctrine/Rule Against Bias

Bias means an operative prejudice, whether conscious or unconscious, in relation to a party or issue. One of the essential elements of judicial process is that any administrative authority acting in a quasi-judicial manner should be impartial, fair manner free from bias. Bias are of three types. These are:

- i) Pecuniary bias: This is bias that is related to money or that can be valued in terms of money. Pecuniary interest, however small, will invalidate the proceedings. Therefore, pecuniary interest, however insufficient, will disqualify a person from acting as a judge.
- ii) Personal bias: This arises from a certain relationship between the person in authority and the person against whom the decision is made. This may develop from friendship to a party, relation to a party or professional hostility.
- iii) Bias on the subject matter: This arises where the deciding officer is a party or has some direct connection with the subject- matter of the case so as to constitute a legal interest.

1.3.3.3 Fair Hearing Rule

The doctrine of natural justice embodies the principle that a judicial or quasi-judicial tribunal ought not and shall not condemn any person unheard. Failure to comply with the rule of fair hearing, as a general rule nullifies a decision. However, the following are the exceptions to this rule:

- i) Where the functions of the authority are policy oriented.
- ii) Where the functions of the agency are held to be administrative or discretionary.
- iii) Where an obligation to give notice and an opportunity to be heard would obstruct the taking of prompt action of a preventive remedial nature.
- iv) Where disclosure of relevant information to the party affected would be prejudicial to the public interests.
- v) Where the action taken constitutes denial of a privilege as distinct from interference with a right.
- vi) Where for any other reasons it is impracticable to give prior notice or opportunity to be heard.
- vii) Where appropriate substitutes for prior notice and opportunity to be heard are available.
- viii) Where the legislation expressly requires notice and hearing for certain purposes but imposes no procedural requirement for the purpose.
- ix) Where the matter in issue or the monetary value of the interest at stake is too trivial to justify an implication that notice or opportunity to be heard be afforded before action is taken.

1.3.3.4 Administrative Discretion and its Judicial Control

Discretion means the power, usually given by the statute, to make a choice among competitive considerations. According to law, it refers to having something to be done according to private opinion. However, there are certain circumstances that would necessitate the review of discretionary powers which include:

- i) Where the exercise of the discretion is in excess of the authority, i.e., ultra vires.

- ii) Where there is abuse of discretionary power or improper exercise of the discretion. This is also known as illegality.

The judiciary may control administrative action by issuing writs or orders of mandamus, Certiorari, habeas corpus, quo warranto, damages, injunction, and prohibition. We shall discuss these writs in detail in sub-topic 1.3.6 headed “remedies available to persons aggrieved by administrative decisions.”

1.3.4 Adjudication Agencies Other than Courts

Adjudication agencies are also known as tribunals. Tribunals are bodies with judicial or quasi-judicial functions set up by a statute and they exist outside the usual judicial hierarchy of courts. They are institutions setup to adjudicate over issues of an administrative nature.

1.3.4.1 Reasons for Setting Up Adjudication Agencies/Tribunals

The reasons for setting up tribunals include the following:

- i) The desire for a procedure that avoids the formality of the ordinary courts.
- ii) The desire for a speedy cheap and decentralized determination of a very large number of individual cases.
- iii) The need for expert and specialized knowledge on the part of the tribunal which courts may not have despite it having a wide jurisdiction.
- iv) The need to avoid the danger of imposing too many burdens to the ordinary courts.
- v) The need not to be bound by law to follow their previous decisions (precedents). Such decisions are flexible as they take into account current government policy and public welfare.
- vi) The litigation procedure does not produce the right atmosphere for the working of certain schemes like social insurance schemes.

1.3.4.2 Functions of Administrative Tribunals

The functions of Administrative Tribunals are:

- i) To settle disputes that may arise between individuals and public authorities.
- ii) To settle disputes between private individuals which relate to policy implementation.
- iii) To regulate socio-economic activities.

1.3.4.3 Types of Tribunals

There are various types of tribunals which include the following:

1.3.4.3.1 Rent Restriction Tribunal

This tribunal is established by the provisions of the Rent Restriction Act [cap.296]. The tribunal is composed of a Chairperson, Deputy Chairperson and such number of members as the Cabinet Secretary may think fit. The tribunal is established to hear and determine disputes between landlords and tenants in residential premises. The tribunal exercises the following powers:

- i) To determine reasonable rents payable for the dwelling [residential] houses.
- ii) To impose restrictions for increasing rents for dwelling houses.
- iii) To investigate complaints referred to it by landlords or tenants regarding the tenancy of any dwelling house.
- iv) To assess the standard rent of any dwelling house.
- v) To appoint and employ valuers, inspectors and clerks to enable it to perform its functions.

1.3.4.3.2 Business Premises Rent Tribunal

This tribunal is established by the Landlord and Tenant [Shops, Hotels and Catering Establishments] Act (cap.301). The tribunal deals with controlled/protected tenancies. The tribunal is established by the Cabinet Secretary for the time being in charge of trade. It is established with the following powers:

- i) To determine whether or not any tenancy is a controlled tenancy.
- ii) To determine or vary rent payable in respect of any controlled tenancy.
- iii) To fix the amount of service charges if it is required in any controlled tenancy.
- iv) To make orders for the recovery of possession of premises by a landlord from a tenant.
- v) To make orders for the recovery of any arrears of rent by a landlord from a tenant.
- vi) To permit the landlord to levy/impose distress for rent.
- vii) To award compensation to a tenant for the loss of business or goodwill in a dispute relating to a controlled tenancy.

1.3.4.3.3 Cooperative Tribunal

This tribunal is established by the Cooperative Societies Act [cap.490]. The tribunal is composed of a Chairperson, a Deputy Chairperson and three members. The Cooperative Tribunal exercises the following powers:

- i) To determine disputes among members, past members and persons claiming through members, past members and deceased members.
- ii) To determine disputes between members, past members or deceased members and the society, its committee or any officer of the society.
- iii) To determine disputes between the society and any other cooperative society.

1.3.4.3.3 National Environment Tribunal

This tribunal is established under the Environment Management and Coordination Act, 1999. It is composed of the following:

- i) A person nominated by the Judicial Service Commission, who shall be a person qualified for appointment as a judge of the Environment and Land Court of Kenya;
- ii) An advocate of the High Court of Kenya nominated by the Law Society of Kenya;
- iii) A lawyer with professional qualifications in environmental law appointed by the Cabinet Secretary;
- iv) Three persons with demonstrated competence in environmental matters, including but not limited to land, energy, mining, water, forestry, wildlife and maritime affairs.

The tribunal has powers to hear disputes arising from the National Environmental Management Authority on issuance, denial or revocation of licenses. It also deals with offences from the Kenya Wildlife Management Act and the Kenya Forest Act.

1.3.4.3.4 Licensing Boards

These are bodies established by specific Acts of Parliament to deal with issues relating to special matters. They perform quasi-judicial functions when dealing with licensing matters. They include:

- i) Transport Licensing Appeals Board established by the National Transport and Safety Authority Act, 2012.
- ii) Land Control Boards established by the Land Control Act, 2012.

1.3.5 Arbitration and Other Alternative Dispute Resolution Mechanisms

Administrative officers do preside over disputes resolution in the course of their work hence the need for them to have knowledge of arbitration and other alternative dispute resolution mechanisms. These mechanisms include:

1.3.5.1 Arbitration

Arbitration is a proceeding by which parties have their disputes referred to an independent and impartial third person called an arbitrator instead of the usual ordinary courts. The arbitrator takes time to listen to both sides and then comes up with a decision known as an award which is usually binding on the parties. The parties may appear before the arbitrator in person or through their legal representatives. In case the parties are not satisfied by the arbitrator's award, they may appeal to a higher court.

Arbitrators may be appointed by the parties themselves or by the Court. Where the arbitrators are even in number, they can appoint another arbitrator called an umpire. Arbitrators have the following powers:

- i) To administer oath to the parties and witnesses appearing.
- ii) To state a special case or the award as a special case for the opinion of the court.
- iii) To make the award conditional or in the alternative.
- iv) To correct any clerical mistake or error in an award.
- v) To administer to any party to arbitration such interrogations as they may think necessary.

Advantages of Arbitration

Advantages of Arbitration are as follows:

- i) It avoids publicity as the proceedings are held in camera (private).
- ii) It has simple procedures as the proceedings are held more informally.
- iii) It reduces expenses in most cases.
- iv) It saves time as the proceedings are quicker than a trial in a normal court.
- v) It enables the appointment of a person having the required technical qualification as arbitrator, should the matter be of a technical nature.
- vi) It creates social efficacy (bonding) as the award of the arbitrator is generally based on the consent of the parties.

Disadvantages of Arbitration

The following are the disadvantages of Arbitration:

- i) The arbitrator may be compromised in the performance of his/her duties and become biased.
- ii) Because the proceedings are normally conducted in camera, this may derail the requirements of natural justice obtained in public hearing.
- iii) As the awards by arbitrators are final, they restrict people's rights of appeal.
- iv) Arbitration proceedings are confined to civil cases hence criminal matters are excluded from their jurisdiction.
- v) There might be injustice arising from the informality of procedure in arbitration proceedings.

1.3.5.2 Adjudication

This is the process of solving disputes by referring them to an independent third party called an adjudicator for determination. The adjudicator must be an experienced expert in the subject matter in dispute. The decision of the adjudicator is not binding and therefore the parties are at liberty to explore other options of resolving the disputes if they are dissatisfied with the decision of the adjudicator.

In some instances, the adjudicator may only rely on the documents in the contract without requiring the parties to appear before them. The parties may agree in the contract that their dispute shall be resolved through an adjudicator.

Advantages of Adjudication

Adjudication may realise the following advantages:

- i) It is expedient.
- ii) The parties have control over the process and can determine the timelines.
- iii) It is confidential as only the disputing parties are privy to the proceedings.
- iv) It is flexible as the decision of the adjudicator is not binding.

Disadvantages of Adjudication

Adjudication may experience the following disadvantages:

- i) It is quite costly.
- ii) The decision of the adjudicator is not final.
- iii) Being an outsider, the adjudicator may not understand the different positions of the parties.

1.3.5.3 Mediation

This is a method of dispute resolution whereby the disputing parties engages a neutral third party called a mediator who facilitates negotiations between them. The process is voluntary as the parties choose to go for mediation on their own accord. The work of the mediator is simply to facilitate the negotiations. It is the disputing parties who negotiate. The process of mediation may be classified into three phases, namely, pre-mediation, mediation and post-mediation.

Advantages of Mediation

Mediation may realise the following advantages:

- i) The process is very friendly.
- ii) The parties are in charge of the outcome themselves.
- iii) The process is confidential as no other parties are allowed in the negotiations.
- iv) The process is flexible.
- v) The process is less costly as compared to litigation.
- vi) The dispute is solved expeditiously.
- vii) Parties are willing to comply with their agreement at the end of the process because the process is voluntary.

Disadvantages of Mediation

Mediation may have the following disadvantages:

- i) It is too informal thus all the details of the dispute may not be brought to light.
- ii) The mediator may not fully understand the circumstances of the dispute.

- iii) The mediator's decision is not final.

1.3.5.4 Conciliation

Conciliation is an alternative dispute resolution (ADR) process whereby the parties to a dispute use a conciliator, who meets with the parties both separately and together in an attempt to resolve their differences. They do this by lowering tensions, improving communications, interpreting issues, encouraging parties to explore potential solutions and assisting parties in finding a mutually acceptable outcome.

Advantages of Conciliation

Conciliation may realise the following advantages:

- i) It ensures party autonomy.
- ii) It is time and cost efficient.
- iii) It ensures the expertise of the decision maker.
- iv) It is flexible.
- v) It is expeditious.
- vi) It ensures confidentiality.

Disadvantages of Conciliation

Conciliation may have the following disadvantages:

- i) It does not consider evidence so it may lead to inequitable settlement.
- ii) The conciliation process is not final hence the parties may still move to court after wasting valuable time.

1.3.6 Remedies Available to Persons Aggrieved by Administrative Decisions

The remedies are the means or solutions provided by the Constitution to ensure that the rights and fundamental freedoms are protected. Any person aggrieved may apply to the High Court for redress. This is done through judicial review.

The High Court has the original jurisdiction to determine any such question, make such orders, issue such writs and give such directions, as it may consider appropriate for the purpose of enforcing or securing the enforcement of the rights and fundamental freedoms. A writ is a prerogative or priority order issued by the High Court for the speedy redress of wrongs committed against the individual. The remedies that are granted by the High Court regarding the enforcement of the rights and fundamental freedoms are as follows:

- i) **Writ of Habeas Corpus:** One of the most valuable writs for personal liberty is the writ of 'Habeas Corpus' which literally means "produce the body." It is a writ which orders a person who has detained another to produce the detained person before the court. The detaining authority or person is required to give reasons or justifications for the detention. If there is no valid reason for the detention, the court orders the immediate release of the detainee.
- ii) **Writ of Mandamus:** Mandamus is a Latin word which literally means "we command." A writ of mandamus is an order of the High Court which compels a public authority to perform some duty which is imposed upon it by a statute. Its purpose is to ensure that the authority to whom it is directed will carry out a public duty imposed upon it by law.

iii) Writ of Certiorari: Certiorari literally means to be “informed” It may be granted by the court where it has been shown that an inferior court or body exercising judicial or quasi-judicial function has:

- Acted in excess of or without jurisdiction.
- Abused its jurisdiction.
- Contravened the principles of natural justice.
- Committed an error of law apparent on the face of the record of the decision.
- Practiced biasness.

iv) Writ of Quo Warranto: The phrase “Quo warranto” literally means “by what authority.” This writ is issued to restrain or prevent a person from acting in a public office to which he/she is not entitled. If a person occupies a public office without being qualified for the office, then the writ of Quo Warranto is issued to restrain/ prevent the person or authority from discharging his duties.

v) Order of Prohibition: The order of Prohibition is normally issued to a subordinate to cease/stop doing something which it is not supposed to do. It may also be issued in a situation where certain persons are infringing upon the rights of others through their physical presence.

vi) Order of Injunction: This is an order of the High Court which restrains/prevents a person from committing or continuing to commit an illegal act or commanding him/her to perform a certain act.

vii) Order for Damages: Damages refer to monetary compensation awarded to the injured party. The main purpose of damages is to compensate a person for the harm he has suffered

viii) Declaratory Orders: An order of declaration is an order of the High Court which states the legal position of the parties before the court. It may be asked for by the party who is aggrieved by the decision of an inferior court or tribunal.

1.3.7 Provisions of Applicable Statutes

As an Administrative Officer you are expected to be familiar with the provisions of the statutes applicable in resolving administrative disputes. They include:

- i) Republic of Kenya (2010) The Constitution of Kenya, [Article 159 (2)]: Government Printer
- ii) Republic of Kenya (2015) Fair Administrative Actions Act: Government Printer
- iii) Republic of Kenya (2015) Arbitration Act: Government Printer
- iv) Republic of Kenya (2010) The Rent Restriction Act:
- v) Republic of Kenya (2012) The Landlord and Tenant Act: Government Printer
- vi) Republic of Kenya (2012) National Transport and Safety Authority Act; Government Printer.

1.3.8 Summary

In this topic, we have discussed the legal basis for the application of administrative law and the grounds for judicial review of administrative action. We have also examined the role of administrative agencies as well as arbitration and other alternative dispute resolution mechanisms. We have further analysed the various remedies available to persons aggrieved by administrative actions as well as the provisions of applicable statutes. In our next topic, we shall engage you in the discussion of family law.

1.3.9 Activities

Mr. Tinga Tinga has been tormented by decisions made by various administrative authorities in your area. He claims that these administrative authorities have breached fundamental principles of natural justice against him and that he needs to take remedial action against them. He requires your advice.

1. Advise him on:
 - a) The possible grounds upon which he may sue the authorities for breach of the principles of natural justice mentioned above.
 - b) The possible remedial actions available to him against the decisions of the administrative authorities.
2. Discuss any other alternative dispute resolution methods Mr. Tinga Tinga may opt for in trying to solve his disputes with the administrative authorities.

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1.4 FAMILY LAW

Outline

- 1.4.1 Introduction
- 1.4.2 Specific objectives
- 1.4.3 The Concept of family
- 1.4.4 Requisites of a valid marriage
- 1.4.5 Recognized systems of marriage in Kenya
- 1.4.6 Grounds for Divorce and Nullity of Marriage
- 1.4.7 Rights of Children
- 1.4.8 Basic principles of Law of Succession
- 1.4.9 Summary
- 1.4.10 Activities
- 1.4.11 References

1.4.1 Introduction

As an Administrative Officer, you will be expected to resolve various family issues in the course of your duties. A harmonious family system provides an environment of peace and tranquillity necessary for effective delivery of public service. This topic therefore aims at equipping you with knowledge, skills and attitudes to enable you apply provisions of family law in public service delivery.

1.4.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the concept of family;
- ii) analyse the requirements of a valid marriage;
- iii) assess the recognised systems of marriage in Kenya;
- iv) examine the grounds for divorce and nullity of marriage;
- v) analyse the rights of children; and
- vi) interpret the basic principles of the law of succession of Kenya.

1.4.3 The Concept of Family

The family is regarded as a basic social unit which consists normally of a husband, wife and children. It is not necessary that all these persons should be members of the family at the same time. A husband and wife can be considered as comprising of a family before the birth of their first child or after all their children have left home to marry and establish homes of their own. Some families may even remain childless throughout their lives. Some families will consist of a child or children living with only one parent.

Article 45 of the Constitution provides that the family is the natural and fundamental unit of society and the necessary basis of social order and shall enjoy the recognition and protection of the state. Every adult has the right to marry a person of the opposite sex based on free consent of the parties. Parties to a marriage are entitled to equal rights at the time of the marriage, during the marriage and at the dissolution of the marriage.

1.4.4 Requirements of a Valid Marriage in Kenya

Marriage means the voluntary union of a man and a woman, whether in a monogamous or polygamous union, and registered in accordance with the Marriage Act, 2014. It is the voluntary union of a man and a woman intended to last for their joint lives. Following are the requirements of a valid marriage in Kenya:

- i) Sex/gender: The parties intending to be married must be male and female.
- ii) Minimum age: A person shall not marry unless that person has attained the age of 18 years.
- iii) Free consent: No marriage shall be contracted except by free-will (consent) of each of the parties.
- iv) Subsisting marriage: A person married in a monogamous marriage shall not contract another marriage. Also, a person married in a polygamous or potentially polygamous marriage shall not contract another marriage in any monogamous form.
- v) Prohibited relationship: A person shall not marry within prohibited degree of consanguinity or affinity (blood relation).
- vi) Witnesses to a marriage: A marriage conducted under the Marriage Act shall be witnessed by two competent witnesses.

1.4.5 Recognized Systems of Marriage in Kenya

The following systems of marriage are recognized in Kenya:

- i) Christian marriages: This is the marriage celebrated between persons who profess the Christian religion. It is the marriage celebrated according to the rites of a Christian denomination.
- ii) Civil marriages: This is a marriage celebrated by the Registrar in the place determined by the Registrar.
- iii) Customary marriages: These are marriages celebrated according to the customs of the communities of one or both of the parties to the intended marriage.
- iv) Hindu marriages: These are marriages applicable to and celebrated by persons who profess the Hindu faith or religion.
- v) Islamic marriages: These are marriages applicable and celebrated by persons who profess the Islamic faith or religion. They are officiated by a Kadhi, Sheikh or Imam as may be authorized by the Registrar. They are celebrated according to Islamic laws.

1.4.6 Grounds for Divorce and Nullity of Marriage

Divorce means the permanent dissolution of marital relationship between the parties who were legally married. On the other hand, nullity of marriage is a declaration by a court that the supposed marriage is null and void (never existed/happened), and that no marriage exists between the parties.

The various valid grounds for divorce are as follows:

- i) Adultery i.e. one or more acts of adultery committed by the other party.
- ii) Cruelty, whether mental or physical, inflicted by one party on the other party or on the children of the marriage.
- iii) Desertion i.e. where either party has deserted the matrimonial home for at least 3years immediately preceding the date of presentation of the petition.
- iv) Depravity i.e. where there is exceptional depravity by either party.
- v) Breakdown of marriage i.e. where the marriage has irretrievably broken down.

The various grounds for nullity of marriage are as follows:

- i) That the marriage has not been consummated since its celebration.
- ii) That at the time of the marriage and without the knowledge of either party, the parties were in a prohibited relationship.
- iii) That in the case of a monogamous marriage, at the time of the marriage one of the parties was married to another person.
- iv) That the petitioner's consent was not freely given.
- v) That a party to the marriage was absent at the time of the celebration of the marriage.
- vi) That at the time of the marriage and without the knowledge of the petitioner, the other party suffers recurrent bouts of insanity.
- vii) That at the time of the marriage and without the knowledge of the husband, the wife is pregnant and that the husband is not responsible for the pregnancy.

1.4.7 Rights of Children

The rights of children in Kenya are catered for in various statutes including the Constitution of Kenya, 2010; The Penal Code, cap 63; The Evidence Act, cap 80; The Employment Act, 2007 and the Children Act 2001. These are summarized as follows:

1.4.7.1 The Constitution of Kenya, 2010

The supreme law under Article 53 provides that a child's best interests are of paramount importance in every matter concerning the child. It further provides that every child has the right:

- i) to a name and nationality from birth;
- ii) to free and compulsory basic education;
- iii) to basic nutrition, shelter and health care;
- iv) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and all hazardous or exploitative labour;
- v) to parental care and protection, which includes equal responsibility of the father and mother to provide for the child, whether they are married to each other or not; and
- vi) not to be detained, except as a measure of last resort, and when detained, to be held:
 - For the shortest appropriate period of time; and
 - Separate from adults and in conditions that take account of the child's sex and age.

1.4.7.2 The Kenya Penal Code

The Penal Code protects children, in that acts and omissions which amount to child abuse, are classified as punishable offenses. These include:

- i) Sexual abuse i.e. rapes, defilement, indecent assault, incest and unnatural offences.
- ii) Physical abuse i.e. common assault, assault causing actual bodily harm and grievous bodily harm.
- iii) Other offenses include concealment of birth, killing of the unborn and procuring of an abortion.
- iv) The Penal Code further protects the child by reducing the age of criminal responsibility to 8 years.

1.4.7.3 The Evidence Act, cap 80

This Act protects children by providing that where in a criminal case involving a sexual offense the only evidence is that of a child of tender years who is the alleged victim of the offense.

1.4.7.4 The Employment Act, 2007

The Act protects all children under the age of 16 years from employment in industrial undertaking except for internship or training. Further, the Act outlines children's employment rules, which provide for protection of children at work.

1.4.7.5 Children Act, 2001

This Act was enacted with the objective of putting together the various laws affecting children in terms of rights and welfare of the child. These include the following:

- i. The Government and the family have the responsibility of ensuring the survival and development of every child.
- ii. Every child has the right to live with and be cared for by his/her parents.
- iii. Every child is entitled to free and compulsory primary education the provision of which shall be the responsibility of the Government and the parents.
- iv. Every child has a right to religious education and parents have the responsibility of providing children with appropriate guidance in religious education.

- v. Every child has a right to health and medical care of which parents and the Government shall have the responsibility of providing it.
- vi. Every child shall be protected from economic exploitation and any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
- vii. Children should not be recruited in armed conflict or take part in hostilities. Where armed conflict occurs, respect for and care of children shall be maintained in accordance with the law.
- viii. Every child has a right to a name and nationality. Where a child is deprived of his identity, the Government shall provide appropriate assistance and protection with a view to establishing his or her identity.
- ix. Every child with a disability has a right to be treated with dignity, and to be given appropriate medical treatment, special care and education.
- x. Every child is entitled to protection from physical, psychological, sexual, neglect and any other form of exploitation including sale, trafficking or abduction by any person.
- xi. No child should be subjected to female circumcision, early marriage or other cultural rites, customs or traditional practices that are likely to negatively affect the child's life, health, social welfare, dignity or physical or psychological development.
- xii. All children shall be protected from sexual exploitation, prostitution, inducement or coercion to engage in any sexual activity and exposure to pornographic materials.
- xiii. Every child shall be protected from the use of all drugs and from being used in their production, trafficking or distribution.
- xiv. A child has the right to leisure, play and to participate in cultural and artistic activities.
- xv. No child shall be subjected to torture, cruel treatment or punishment, unlawful arrest or deprivation of liberty.
- xvi. Every child has a right to privacy subject to parental guidance.

It is important to note that these rights are to be practiced with the following underlying principles:

- i. Best interests' principle: In all actions concerning children, whether undertaken by public or by private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of children shall be a primary consideration.
- ii. Non-discrimination: No child shall be subjected to discrimination on the ground of origin, sex, religion, creed, custom, language, opinion, conscience, colour, birth, social, political, economic or other status, race, disability, tribe, residence or local connection.
- iii. The child's opinion: When working with children, it is always important to allow the child to air their views or opinion on an issue and also to ensure that the views or opinions are respected and given due weight.
- xvii. Minimum survival and development: All actions affecting children should be directed in ensuring that their lives are protected and that they develop in the best possible way.

1.4.8 The Law of Succession

As an Administrative Officer, your work will include determining succession related issues and hence you need to be grounded on the law of succession. The law of succession is the branch of civil law which regulates the transmission of property on the demise (death) of a person. Succession matters in Kenya are regulated by the provisions of the Succession Act (cap 160, revised in 2012). The law of succession is important in the following ways:

- i) It enables a person to maintain, control, preserve and protect his property pending distribution upon his/her demise.
- ii) It creates an opportunity for orderly and equitable machinery for the proper adjustment of the rights and duties of the deceased person's creditors and debtors.
- iii) It provides machinery for orderly distribution of the property of the deceased person and finds a balance among the beneficiaries entitled to those properties.
- iv) It helps in the identification of the properties of a deceased person through the making of a will.
- v) It creates rules for distribution of property intestate i.e. where a person dies without having made a will so that disputes are avoided.
- vi) It also enables a person to transfer his/her property under emergency situations i.e. illness without following the legal process of transfer of title.
- vii) It makes it possible to identify his or her legal and legitimate dependants of the person
- viii) It enables the estate of a deceased person to be administered effectively by allowing for the appointment of administrators and executors.

1.4.8.3 Wills and Capacity to Make a Will

A will means a declaration made by a person during his lifetime regarding how he wishes or intends to dispose of his property after his death. The person who makes a will is called a *testator* (male) or *testatrix* (female). Property disposed of by a will is called *legacy* and the person to whom property is given by a will is known as *legatee* or *beneficiary*. Any person can make a will provided the person is of sound mind and of the age of majority.

The reasons for making a will are:

- i) It enables the person to take charge and control over his property and distribute it according to his/her wishes.
- ii) It gives a person an opportunity to avoid the rules of intestacy by considering his own affairs and deciding who is getting what from his estate.
- iii) It enables the testator to appoint a personal representative of his own choice thus leaving his estate to be administered by a person he has trust and confidence in.
- iv) It enables in the identification of the properties of a deceased testator which would have been lost in case the deceased died intestate.
- v) It helps in avoiding disputes over the estate by providing how and to whom property is to pass upon the demise (death) of the testator.
- vi) It allows persons who are outside the immediate family of the testator to benefit.
- vii) It enables a parent with minor children to appoint a guardian to take parental responsibility for the children. This is important especially where the parent is single.
- viii) It provides administrative convenience because executors derive their authority from the will hence, they begin to administer the estate from the date of the testator's death unlike administrators appointed by the court.

A will is valid if it meets the following requirements:

- i) A will may be made either orally or in writing. In either case, it is valid, and binding provided it satisfies all the essential elements required for its validity.
- ii) An oral will is valid only if it is made before and in the presence of two or more competent witnesses.
- iii) An oral will is valid only if the testator died within a period of three months after the date of making it, unless it is renewed.
- iv) An oral will made by a soldier in active assignment or in the marine service during war remains valid even after the expiry of the three months provided the person died while still in active service i.e. during war.
- v) An oral will is valid only if it is not contrary to any written will which the testator has made, and which has not been validly revoked.
- vi) For a written will to be valid, it must contain the signature or affixed mark of the testator or it must be signed by some other person in the presence and under the direction of the testator.
- vii) For a written will to be valid, the signature or mark of the testator or the signature of the person signing for him is to be placed so that it shall appear that it was intended to give effect to the writing as a will.
- viii) A written will is valid only if it is attested (signed) by two or more competent witnesses who must have been present and seen the testator sign or affix his mark to the will or have seen some other person sign the will for the testator, or have received personal acknowledgement from the testator of his signature or mark, or of the signature of the other person.
- ix) For an oral or written will to be valid, the testator must have intended to make a will. This intention may be interfered where the will is obtained by fraud, coercion, undue influence. Misrepresentation, mistake, etc.

1.4.8.8 Administration of Wills

A will takes effect only after the death of the testator. This means that someone else must take charge of the property of the deceased and distribute the property. This someone else is known as a personal representative. Where a personal representative is appointed in the will by the will, he/she is called an *executor* (male) or *executrix* (female). Where the personal representative is appointed by the court, they are known as *administrators* (males) or *administratrix* (females).

Powers of Personal Representatives

Personal representatives have the following powers:

- i) To take over cases which survive or arises out of the death of the deceased.
- ii) To sell the assets of the deceased vested in them where necessary.
- iii) To give consent granting specific property of the deceased to a particular beneficiary.
- iv) To invest the funds of the estate to provide for more properties.

Duties of Personal Representatives

The duties of personal representatives are:

- i) To collect and take into custody and control all the properties of the deceased.
- ii) To determine and pay out of the estate all the debts of the deceased.
- iii) To pay out of the estate the expenses of a reasonable funeral of the deceased.
- iv) To pay out of the estate all the reasonable expenses of administration.

- v) To produce to court a full inventory of assets and liabilities of the deceased.
- vi) To distribute or retain in trust all the assets remaining after payments of expenses and debts.

Grant of Letters of Administration

A personal representative accepts the functions of his office by applying for letters of administration. An application for letters of administration must contain the following information and particulars:

- i) The full names of the deceased.
- ii) The place and date of death of the deceased.
- iii) The last known place of residence of the deceased.
- iv) The relationship of the applicant with the deceased.
- v) The present addresses of the executor(s) appointed in the will.
- vi) The names and addresses of the dependants of the deceased.
- vii) A full inventory of all the assets and liabilities of the deceased.
- viii) Whether or not the deceased left a valid will.
- ix) Where the deceased left a valid written will, the original must be attached to the application.
- x) If the will left is an oral will, the particulars of the witnesses must be given in the application.

1.4.8.10 Dependants

Dependants mean the persons recognized by law as having the right to inherit the property of the deceased. The following persons are recognized as the dependants of a deceased person:

- i) The wife or wives, the former wife or wives and the children of the deceased, regardless of whether or not they were being maintained by him immediately prior to his death.
- ii) The deceased's parents, stepparents, grand-parents, grand-children, stepchildren, children whom the deceased had taken into his family as his own, brothers and sisters, and half-brothers and half-sisters, only if they were being maintained by the deceased immediately prior to his death.
- iii) Where the deceased is a woman, her husband is a dependent only if he was being maintained by her immediately prior to the date of her death.

Gifts in Contemplation of Death

These are properties given as gifts by a person who is contemplating the possibility of imminent death. A gift can be made in contemplation of death and is valid even if the following conditions or requirements are met:

- i) Contemplation of Death: For the gift to be valid, the person making it i.e. the donor, must be contemplating, anticipating or expecting the possibility of his death as a result of a present illness or present imminent danger.
- ii) Movable property: The gift is valid and binding only if it is in the form of movable property which the donor could dispose of by a will.
- iii) Donee to survive the Donor: For the gift to be binding and enforceable, the intended donee or beneficiary must survive the donor i.e. the donee must remain alive at the time of the donor's death.

- iv) Delivery of Gift: For the gift to be valid, there must be delivery of possession of the gift by the donor to the donee or beneficiary.
- v) Death from any Cause: For the gift to be valid, the person making the gift may die from any cause without having survived the same illness or danger prompting giving of the gift.
- vi) Intention of Donor: The intention of the donor must be that if he survives the illness or danger, he can reclaim the gift from the donee at any time. This is because the gift is effective and binding only upon the death of the donor.
- vii) Suicide: No gift made in contemplation of death is valid if the death of the donor is caused by suicide.

1.4.9 Summary

This topic we have examined the concept of family, requirements of a valid marriage, systems of marriage recognized and practiced in Kenya as well as valid grounds for divorce and nullity of marriage. It has further examined the legal framework for the protection of rights of children and discussed the principles of law regulating succession matters in Kenya. In the next topic we shall discuss the law of persons and other business organizations.

1.4.10 Activities

Shangilia family have warned their only son, Mr Kengo, that he must not get married to Lady Pretty as their marriage will be a nullity. Shangilia family have further warned that they will disinherit Mr Kengo should he marry Lady Pretty. In the meantime, two children of the Shangilia family have alleged that they have been denied their rights as children in the family. As the Administrative Officer, you have been tasked to advise the family.

1. Explain to Mr Kengo the reasons that may make her marriage with Lady Pretty a nullity as asserted by his family.
2. Assuming the family goes ahead to disinherit Mr Kengo as threatened, guide him on the course of action he may take to regain his inheritance.
3. Highlight to the Shangilia family the various rights the two children may have been denied as children in the family.

1.4.11 References

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3. Musyoka, W. (2006). Law of Succession, Law Africa
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6. Republic of Kenya, (2015). The Law of Succession Act Cap 160: Government Printer.

1.5 LAW OF PERSONS AND OTHER BUSINESS ORGANIZATIONS

Outline

- 1.5.1 Introduction
- 1.5.2 Specific objectives
- 1.5.3 Concept of legal persons/personality

1.5.4 Types of Corporations and Companies

1.5.5 Distinction between Companies and Partnerships

1.5.6 Contents of Memorandum of Association and Articles of Association

1.5.7 Requirements and procedures for the registration and liquidation of a Society and Cooperative Society in Kenya

1.5.8 Summary

1.5.9 Activities

1.5.10 References

1.5.1 Introduction

As an Administrative Officer, you will be expected to give guidance to many different types of businesses in your area of jurisdiction including cooperative societies. This topic aims at equipping you with knowledge, skills and attitudes to enable you apply provisions of the law of persons and other business organizations in delivery of public services to such business organizations.

1.5.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the concept of legal persons/personality;
- ii) analyse the different types of Corporations and Companies;
- iii) differentiate between Companies and Partnerships;
- iv) analyse the contents of Memorandum of Association and the Articles of Association; and
- v) assess the requirements and procedure for registration and liquidation of a Society and a Cooperative Society in Kenya.

1.5.3 Concept of Legal Persons/Personality

Ordinarily, a person refers to a human being i.e. man or woman. However, in the legal sense, a person refers not only to human beings but to any other entity which the law recognizes as having certain rights and obligations recognized and enforceable by the courts.

Therefore, so far as legal theory is concerned, a person is any being whom the law regards as capable of rights and obligations. Any being that is so capable is a person, whether it is a human being or not. In other words, in law, there are persons who are not men or women e.g. a company.

A lay person thinks only of natural persons, but the law thinks of legal persons. Legal persons are persons who are given legal personality by the law. The phrase “legal persons” include natural and artificial persons. Personality therefore has a wider significance and application than the ordinary concept or perception.

There are two kinds or types of persons on whom the law confers rights and obligations. These are Natural persons and artificial persons.

Natural persons are human beings (men and women) who have their individual rights and freedoms and obligations or duties under the law. The legal personality of natural persons starts at birth and ends at death. Once a natural person dies, his/her rights dies with the person. This

concept applies in all cases except defamation, seduction and claims for damages on the grounds of adultery.

Artificial persons are entities, other than human beings, to which the law attributes personality. In creating artificial persons, the law personifies some real thing. Artificial persons are also known as corporations, body corporate or incorporated associations or company. It is where the law accords legal personality to a certain office and groups of persons.

1.5.4. Types of Corporations and Companies

1.5.4.1 Corporations

The law grants legal personality to certain groups of persons known as corporations or incorporated associations. A corporation means an association of persons who come together for some particular common object, usually to carry on business with a view of making profit. It is an artificial legal person created by law having rights and liabilities and independent from the individual members who compose it.

A corporation may be established in any of the following ways:

- By an Act of Parliament- also called statutory corporations.
- By Registration-also called registered corporations.
- By Charter-also called chartered corporations.

Once a corporation is established, it is endowed with the following features:

- i) Artificial legal person: it is recognized by law as an artificial legal person.
- ii) Separate legal entity: It is a separate legal entity which is distinct from the natural persons occupying it as its owners.
- iii) Perpetual succession: It has a continuous existence until it is brought down by liquidation or winding up process.
- iv) Limited liability: Members liability is limited to their shares or amounts guaranteed.
- v) Capacity to sue and be sued: -It can sue and also be sued by its own name.
- vi) Capacity to contract: It can enter into contracts in its own name.
- vii) Ownership of property: It has the capacity to acquire and own property in its own name.
- viii) Common seal: It has a common seal with which it authenticates its works.

Types of Corporations

There are two types of corporations. These are:

- i) Corporation Sole: This is an office or entity created by an Act of Parliament and occupied by only one natural person at any given time. These include the Office of the President, the Office of the Attorney General and the Office of the Director of Public Prosecution.
- ii) Corporation Aggregate: This is a legal entity composed of at least two or more persons associated together for some lawful common purpose. Examples of corporation aggregate include Safaricom Limited, Uchumi Supermarkets Limited and East African Breweries Limited.

1.5.4.2 Companies

A company means a legal and separate entity formed by either a single person or group of individuals that want to engage in and operate a business in a commercial capacity or an industrial enterprise. It is an association of person(s) who come together for some common object(s). It is an artificial legal person created by law.

The terms “corporation”, “company” and “incorporated association” may be used interchangeably to mean the same thing. Therefore, all the features of a corporation are equally found in companies.

Types of Companies

The various types of companies are:

- i) Public companies
- ii) Private companies
- iii) Limited companies
- iv) Unlimited companies
- v) Registered companies
- vi) Chartered companies

1.5.4.3 Partnerships

A Partnership means the relationship which subsists (exists) between two or more persons carrying on business in common with a view of making profit. The term business includes any trade, occupation or profession. To constitute business, there must be the existence of some commercial enterprise where goods and services are sold at a profit.

A Partnership may be formed by written or oral agreement. It may also be implied from the conduct or relation of the partners. The persons who have entered into partnership with one another are collectively called a “*firm*.” A partnership is not a body corporate because it has no separate legal personality of its own apart from its owners. It operates as an unincorporated association with no capacity to enter into a contract, own property or sue and be sued in its own name.

1.5.5 Distinction between Companies and Partnership

Companies are different from partnerships in the following ways:

- i) Mode of creation: A company comes into existence only after it is duly registered while a partnership is formed by a mere agreement, express or implied.
- ii) Legal status: A company is a body corporate whereas a partnership is an unincorporated association of individuals.
- iii) Liability of members: The liability of the members of a company (except an unlimited company) is limited whereas in partnership, the liability of the partners is unlimited.
- iv) Management: The affairs of a company are managed by its Directors, Managing Director or Manager whereas every partner of a firm may take part in its management unless this is prohibited by the partnership agreement.
- v) Transferability of interest: The shares of a public company are freely transferable. For a private company, the shares are transferable subject to restrictions in the Articles. On the other hand, the interests of a partner cannot be transferred unless all the other partners consent to the transfers.
- vi) Agency Factor: Each partner is an agent of the partnership firm and can enter into contracts whereas a shareholder/member is not an agent of the company.
- vii) Ultra vires rule: A partnership can do anything which the partners have agreed to do and there is no limit to its activities provided such activities are lawful whereas a company can only pursue the objectives contained in its Memorandum of Association.

1.5.6 Contents of Memorandum and Articles of Association

Persons intending to form a company, whether public or private, are required to prepare two documents for purposes of registration of such a company. These documents are:

i. Memorandum of Association

A Memorandum of Association is the charter of the company which lays down the scope of the company's operations and regulates the relations between the company and the public. A Memorandum of Association contains the following:

- i) The Name Clause: This provides the name with which the company is to be registered.
- ii) The Registered Office Clause: This part indicates both the physical and the postal address of the company.
- iii) The Objects Clause: This sets out the purposes for which the company is established and the business it proposes to conduct.
- iv) The Liability Clause: This clause indicates whether the liability of the company is limited or unlimited and whether it is limited by shares or by guarantee.
- v) The Capital Clause: This contains the amount of capital with which the company is registered, divided into shares of a fixed amount.
- vi) The Association Clause: In this clause, the subscribers to the memorandum declare that they desire to be formed into a company and agree to take shares stated against their names.

ii. Articles of Association

This is a document containing rules for the internal management of a company and its relationship with its members. It contains matters relating to:

- i) Capital, its classes and rights of shareholders.
- ii) The issue, calls, forfeiture and transfer of shares.
- iii) The methods and procedure of altering capital structure.
- iv) Procedure for general meetings and voting rights.
- v) Appointment, duties and powers of directors and secretary.
- vi) Declaration and payment of dividend and reserve.
- vii) Accounts, audit and borrowing powers.
- viii) The issue of notices, Capitalization of profits and Winding Up.

1.5.6.1 Societies and Cooperative Societies

Societies

A society is an association or partnership of ten or more people who have an office or headquarters, place or business which must be located in Kenya. Societies are unincorporated associations hence they have the same features and legal status as a partnership. Societies in Kenya include charitable organizations, private members' clubs, churches, welfare societies and political parties.

Cooperative Societies

A cooperative society is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned enterprise.

After registration, a cooperative society becomes a separate legal entity with capacity to own properties, enter into contracts and sue and be sued in its own name. A cooperative society must incorporate in its by-laws the following cooperative principles:

- i) voluntary and open membership;
- ii) democratic member control;
- iii) economic participation by members;
- iv) autonomy and independence;
- v) education, training and information;
- vi) co-operation among co-operatives; and
- vii) concern for community in general.

1.5.7 Requirements and Procedure for Registration and Liquidation of a Society and Cooperative society in Kenya

There are certain legal requirements to be met and procedures to be followed in order to register and liquidate a Society and a Cooperative Society in Kenya. These are explained as follows:

1.5.7.1 Requirements and Procedure for Registration and Liquidation of a Society

Societies in Kenya are regulated by the Societies Act. The provisions of the Act, relating to the requirements and procedure for the registration and liquidation of a society are as follows:

Requirements for Registration of a Society

For a society to be registered, the following requirements must be fulfilled:

- i) Proposed names for search and approval.
- ii) Objects of the society.
- iii) The number of members of the society (at least 10 members).
- iv) The names, occupation and postal address of the Chairman, treasurer and secretary.
- v) Proposed physical address of the society.
- vi) Constitution of the society.
- vii) Form A (Application for registration of a society).
- viii) Form B (Notification of registered office and address of a society).

Procedure for Registration of a Society

The procedure for registering a society is as follows:

- i) Name search: A name search is conducted to ascertain if the proposed names are available for registration.
- ii) Preparation of the constitution and relevant forms: The society's constitution is then prepared, and Forms A and B are filled.
- iii) Lodging of the documents for registration: The forms duly filled, and the constitution is then lodged with the Registrar of Societies together with the prescribed fee.
- iv) Issuance of a certificate: If the application is approved, a certificate of registration of society is then issued.

Liquidation of a Society

If the Registrar (after holding an inquiry or making an inspection or receiving an application made by at least three quarters of the members) is of the opinion that the society ought to be dissolved, he/she may in writing order its dissolution and subsequent cancellation of registration.

1.5.7.2 Requirements and Procedure for Registration and Liquidation of a Cooperative Society

Cooperative societies are regulated by the Cooperative Societies Act. The provisions of the Act, relating to the requirements and procedure for the registration and liquidation of a cooperative society are as follows:

Requirements for Registration of a Cooperative Society

In order to register a cooperative society, the following requirements must be met:

- i) The name of the proposed cooperative society.
- ii) The by-laws of the proposed cooperative society.
- iii) A draft constitution of the proposed cooperative society.
- iv) The names of a minimum of ten proposed members and copies their particulars.
- v) The names of a minimum of three officials i.e. Treasurer, Secretary General and Chairperson.
- vi) The postal and physical address of the proposed cooperative society.
- vii) The minutes of the meeting seeking registration and showing elected officials.
- viii) Copies of National Identity Card.

1.5.7.4 Procedure for Formation and Registration of a Cooperative Society

The procedure for registering a cooperative society is as follows:

- i) Organize yourselves as a group with intent of forming a cooperative.
- ii) Hold a meeting to appoint a board.
- iii) Draft the constitution and by-laws.
- iv) Make an application for registration in the prescribed form to the Commissioner of Cooperatives.
- v) Obtain letter of recognition as a pre-cooperative society to allow the group to operate as a pre-cooperative society for three years.
- vi) Obtain registration certificate and a certified copy of the by-laws at the end of three years.

Liquidation of a Cooperative Society

A cooperative society may be dissolved only by an order of dissolution by which the Commissioner cancels the registration of the society. If any party is aggrieved with the order, the right of appeal lies with the Cabinet Secretary. The final appeal lies with the High Court.

1.5.8 Summary

In this topic, we have discussed the concept of legal persons and types of companies. We have also examined the distinctions between companies and partnerships. We have further discussed the requirements and procedure for establishing a Society and Cooperative Society as well as their liquidation. In the next topic, we shall examine various elements of commercial law that are pertinent to the delivery of public service.

1.5.9 Activities

1. You have been asked to develop the requirements and procedure for establishing a society and a cooperative society for a certain group of people. Develop such requirements as per the existing laws in Kenya today.

2. A group of members intend to form a company by the proposed name Pluto Creations Limited. Draw for them the content of a Memorandum and Articles of association of the proposed company.

1.5.10 References

1. Republic of Kenya, (2015). The Companies Act Cap486: Government Printer.
2. Republic of Kenya, (2011). The Limited Partnership Act Cap. 30: Government Printer.
3. Republic of Kenya, (2012). The Partnership Act Cap. 29: Government Printer
4. Republic of Kenya, (2012). Co-operative Societies Act Cap. 490: Government Printer.

1.6 ELEMENTS OF COMMERCIAL LAW

Outline

- 1.6.1 Introduction
- 1.6.2 Specific objectives
- 1.6.3 Principles of law of contract of Sale of goods
- 1.6.4 Nature and principles of Agency law
- 1.6.5 Law relating to Hire-Purchase agreements
- 1.6.6 Role and fundamental principles of Insurance contracts
- 1.6.7 Basis for the registration and protection of Intellectual Property in Kenya
- 1.6.8 Principles of Bankruptcy/Insolvency Law in Kenya
- 1.6.9 Activities
- 1.6.10 References

1.6.1 Introduction

In carrying out your duties as an Administrative Officer, you will be expected to be involved in the commercial activities of people within your area of jurisdiction. Consequently, knowledge of the legal framework governing these businesses will facilitate your effectiveness in public service delivery. This topic is therefore intended to equip you with knowledge, skills and attitudes that will enable you apply the provisions of Commercial Law in delivery of public services.

1.6.2 Specific Objectives

By the end of this topic, you should be able to:

- i) interpret the principles of sale of goods contract
- ii) analyze the nature and principles of Law of Agency;
- iii) assess the Law relating to Hire-Purchase agreements in Kenya;
- iv) describe the role and fundamental principles of Insurance Law;
- v) examine the basis for the registration and protection of intellectual property in Kenya;
- and
- vi) Analyze the principles of bankruptcy/insolvency law in Kenya.

1.6.3 Principles of Contract of Sale of Goods

Sale of goods means a contract whereby the Seller transfers or agrees to transfer the property in goods to the Buyer for money consideration called Price. A contract of sale of goods has the following essential elements:

- i) Regulation by contract: It is regulated by the general principles of an ordinary law of contract.
- ii) Two parties: It must have two different parties, one being the Seller and the other, the Buyer.
- iii) Movable property: The goods involved must be in the form of movable goods only.
- iv) Money consideration: The consideration or price for a contract of sale of goods must be in the form of money.
- v) Transfer of ownership: It must effect transfer of property (ownership) of goods from the Seller to the Buyer.

1.6.3.1 Rules of Delivery of Goods.

Delivery of goods means an act on the part of the Seller that has the effect of transferring possession and custody of the goods sold into the Buyer or the Buyer's agent. The following rules regulate delivery of goods:

- i) Mode of delivery: Delivery of goods may be in the form of actual, symbolic or delivery by atonement.
- ii) Delivery and payment: Delivery of goods and payment of the price must be done according to the terms of the contract.
- iii) Place of delivery: Delivery must be made at the specified place during business hours on a working day.
- iv) Time of delivery: Delivery must be made within the time specified or within a reasonable time, if no time is specified.
- v) Cost of delivery: All the expenses of delivery are to be borne by the Seller, unless otherwise agreed.
- vi) Delivery of wrong quantity: The Seller is under a duty to deliver the goods to the Buyer strictly according to the terms of the contract. A defective delivery is therefore not permitted.

1.6.3.2 Rights and Duties of the Buyer

Rights of the buyer are:

- i) To have delivery of the goods according to the terms of the contract.
- ii) To reject the goods if such goods are of wrong quantity or quality.
- iii) To examine the goods to ensure their conformity with the contract.
- iv) Not to accept instalment delivery unless otherwise agreed.
- v) To sue for damages if the Seller neglects or refuses to deliver the goods.
- vi) To sue for the price where he has paid the price and the goods are not delivered
- vii) To sue for interest on the amount of the price refunded.

The duties of the buyer are:

- i) To accept the goods and pay for them.
- ii) To apply for delivery of the goods, unless there is an agreement to the contrary.
- iii) To demand delivery of the goods at a reasonable hour.
- iv) To take delivery of the goods within a reasonable time after the tender of delivery.
- v) To notify the Seller where he decides to reject the goods.
- vi) To pay the price according to the terms of the contract.

- vii) To pay damages for non-acceptance where he wrongfully neglects or refuses to accept and pay for the goods.
- viii) To take risk of deterioration of goods where he accepts their delivery at his own risk.

1.6.3.3 Remedies for Breach of Contract of Sale

The remedies available to a Seller and a Buyer for breach of contract of sale are as follows:

Remedies to the seller are:

- i) Suit for price.
- ii) Suit for damages for non-delivery of goods.
- iii) Suit for damages for repudiation of contract by the Buyer before due date.
- iv) Suit for interest.

Remedies to the buyer are:

- i) Suit for damages for non-delivery of the goods.
- ii) Suit for specific performance.
- iii) Suit for breach of warranty.
- iv) Suit for damages for repudiation of contract by the Seller before due date.
- v) Suit for recovery of price.
- vi) Suit for interest.
- vii) Rejection of good

1.6.4 Nature and Principles of Law of Agency

The contract which creates the relationship of principal and agent is referred to as an agency. An agent means a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such an act is done is called the principal. An agent is authorized to create a contract between the principal and a third party.

1.6.4.1 Types of Agents

Agents may be of the following types:

- i) General agent: This is one who has authority to do all acts connected within a particular trade, business or employment
- ii) Special agent: This is one appointed to do a particular act or transaction
- iii) Universal agent: This is one whose authority to act for the principal is unlimited.
- iv) Brokers: This is a person employed to buy or sell goods on behalf of another. He/she is not in possession of the goods but makes bargains between the parties.
- v) Factor: This is an agent entrusted with the possession of goods and sells them upon the terms he deems fit.
- vi) Auctioneer: This is one appointed to sell goods by public auction for a reward known as commission.
- vii) Commission agent: This is a person employed to buy and sell goods or transact business generally for other persons and receives a money payment called commission.
- viii) Del Credere agent: This is one employed to sell the goods of his/her principal by giving an undertaking to make good the losses that may arise from the failure of the parties to whom he sells goods under the agency business.
- ix) Forwarding agents: These are persons who act as agents of either importers or exporters.
- x) Non-commercial agents: These include attorneys, solicitors, advocates and insurance agents.

1.6.4.2 Creation of Agency Relationship

The relationship of principal and agent (agency) may be created in any one or more of the following ways:

- i) By express agreement: This takes place where the Principal appoints an agent either by word of mouth or by an agreement in writing.
- ii) By implied agreement: Implied agency arises when the principal conducts himself towards the person alleged to be the agent or the third parties in such a manner as if the principal had conceded to the appointment of that person as agent.
- iii) By necessity: In certain urgent circumstances, the law gives authority to a person to act as an agent for the benefit of another as a matter of necessity.
- iv) By ratification: Where the principal affirms or adopts the unauthorized act of a person, he/her is said to have ratified that act hence agency by ratification.
- v) By operation of law: Sometimes an agency arises by operation of law e.g. a partner is the agent of the firm for the purposes of the business of the firm.

1.6.4.3 Rights and Duties of Agents

The rights of an agent against the Principal are:

- i) The right of retainer.
- ii) The right to receive remuneration.
- iii) The right of lien.
- iv) The right of indemnification.
- v) The right of compensation.
- vi) The right of stoppage in transit.

The duties of an agent towards the principal are:

- i) To act as per principals' directions and customs.
- ii) To work using reasonable care, skill and diligence.
- iii) To render proper accounts to his principal.
- iv) To communicate with principal in case of difficulty.
- v) Not to deal on his/her own account.
- vi) To pay sums received to principal.
- vii) To protect and preserve principals' interests on his/her death.
- viii) Not to use information obtained in course of agency against principal.
- ix) Not to make secret profits from agency.
- x) Not to set up adverse title.
- xi) Not to put himself in a position where interest and duty conflict.
- xii) Not to delegate authority.

1.6.4.4 Duties and Rights of Principal

The principal owes the following duties to an agent:

- i) To indemnify the agent against the consequences of all lawful acts done by such agent in exercise of the authority conferred upon him/her.
- ii) To indemnify the agent against the consequences of acts done in good faith.
- iii) To indemnify the agent for injury caused by the principal's neglect or want of skill.
- iv) To pay the agent the commission or other remuneration agreed.

The principal has the following rights against the agent:

- i) To recover damages due to loss caused by the agent's lack of requisite skill, care or diligence.
- ii) To obtain an account of secret profits and recover them...
- iii) To resist agent's claims for indemnity against any liability incurred by the agent.
- iv) To give instructions to the agent.
- v) To have proper and true accounts presented to him/her by the agent.
- vi) To withhold remuneration of the agent where the agent is guilty of misconduct.
- vii) To have the agent act with reasonable care, skill and diligence.
- viii) To be consulted in case of an emergency.
- ix) To have his/her property or proceeds of the agency contract surrendered to his/her personal representatives in case of personal or legal incapacity.

1.6.4.5 Personal Liability of Agents

The general rule is that only the principal can enforce and can be held liable on a contract entered into by the agent except when there is a contract to the contrary. However, an agent is personally liable in the following instances:

- i) Where the contract expressly provides.
- ii) When he/she acts for a principal country.
- iii) When he/she acts for an undisclosed principal.
- iv) When he/she acts for a principal who cannot be sued.
- v) Where he/she signs a contract in his own name.
- vi) Where he/she acts for a principal not in existence.
- vii) Where his/her authority is coupled with personal interest.

1.6.4.6 Termination of Agency

An agency relationship may be terminated in any one or more of the following ways:

- i) By agreement between the parties.
- ii) By revocation by principal.
- iii) By revocation by the agent.
- iv) By performance of the contract.
- v) By expiry of time.
- vi) By death or insanity of either party.
- vii) By insolvency of either party.
- viii) By destruction of subject matter.

1.6.5 Hire-Purchase Law

A hire-purchase agreement means an agreement whereby one person lets out the goods to another person on condition that the person to whom the goods are given may pay for them by periodic instalments. The person who lets out goods is called the owner while the person to whom the goods are given on hire is called as the hirer.

A hire-purchase agreement has the following characteristics:

- i) A hire-purchase agreement is an agreement for hiring goods with an option to purchase them. The option to purchase may or may not be exercised.

- ii) A hire-purchase agreement only transfers possession of the goods from the owner to the hirer but ownership of the goods remains with the owner.
- iii) A hire-purchase agreement allows the owner to repossess the goods from the Hirer if the Hirer fails to pay any instalment.
- iv) In a hire-purchase agreement, the hirer can terminate the agreement at any time before its due date and return the goods to the owner.
- v) Under a hire-purchase agreement, ownership of the goods is transferred from the owner to the Hirer upon payment of the last and final instalment.

1.6.5.1 Requirements of a Hire-purchase Agreement

The following are the requirements for a hire-purchase agreement to be valid and binding:

- i) Cash Price: The owner must notify the hirer of the cash price and the hire-purchase price of the goods in writing in the prescribed form.
- ii) Written Agreement: The agreement must be made in writing, signed by the Hirer personally and duly stamped.
- iii) Contents: The agreement must contain statements relating the cash price, the hire-purchase price, the amount of each instalment, the dates the instalments are payable, the rights of hirer to terminate the agreement, a description of the goods and restriction of the owner's rights to repossess the goods.
- iv) Copies of Agreement: The owner must furnish the hirer with at least one copy of the agreement which he/she has signed.
- v) Registration of Agreement: The agreement must be delivered to the Registrar of Hire purchase for registration within 30 days from the date of their execution.

1.6.5.2 Duties of Owner of Goods.

The owner of goods has the following duties:

- i) To notify the hirer of the cash price and the hire-purchase price of the goods in writing.
- ii) To disclose to the hirer any defects in the goods which cannot be detected by mere examination of such goods.
- iii) To deliver the goods on hire to the hirer according to the terms of the agreement.
- iv) To ensure the agreement is delivered to the Registrar for registration within 30 days.
- v) To supply or furnish the hirer with copies of the agreement within 21 days.
- vi) To receive and accept the instalments periodically as and when they are paid by the hirer.
- vii) To indemnify the hirer for any loss arising from the defects in the goods or owner's title.

1.6.5.3 Duties of Hirer of Goods

The hirer of goods has the following duties:

- i) To ensure he/she has signed the agreement personally.
- ii) To inspect the goods on hire and ensure that they are fit and suitable.
- iii) To take delivery of the goods.
- iv) To take reasonable care of the goods while in his/her possession, custody and control.
- v) To honour and pay the agreed instalments periodically as and when they fall and become due.
- vi) To continue hiring the goods for the agreed period unless he/she decides to exercise the option of terminate or complete it.

- vii) To notify the owner of his/her intention to terminate or complete the agreement before its due date.
- viii) To notify the owner of any change of his/her postal and physical address.
- ix) To pay repair charges or damages if he/she fails to take reasonable care of the goods.

1.6.5.4 Requirements for Termination of Agreement

A hirer can terminate the agreement after complying with the following requirements:

- i) He/she must give written notice to the owner indicating intention to terminate the agreement.
- ii) He/she must pay all the instalments due by that date together with any amounts that will make the total payment not less than one-half ($\frac{1}{2}$) of the total hire purchase price.
- iii) He/she must pay damages or repair charges where the goods are damaged.
- iv) He/she must return the goods back to the owner at his/her own expense.
- v) The owner must reimburse the hirer any additional expenses incurred in returning the goods.

1.6.5.5 Requirements for Completion of Agreement

The hirer can complete the agreement in two situations namely:

- i) At any time during the continuation of the agreement by:
 - Giving written notice to the owner showing his/her intention to complete the agreement.
 - Paying the owner, the net balance due under the agreement.
- ii) Within 28 days after the owner has repossessed the goods by:
 - Giving a written notice to the owner showing his/her intention to complete the agreement within 28 days of repossession of the goods by the owner.
 - Paying to the owner the net balance due under the agreement.
 - Paying the reasonable costs incurred by the owner in taking possession of the goods.
 - Paying the amounts in respect of storage, repair and maintenance of the goods.
 - Paying any additional interest which may be due under the agreement.

1.6.6 Role and Fundamental Principles of Insurance

Insurance is a contract by which a person called the insurer undertakes to make good the loss suffered by another person called the insured on the happening of some specified uncertain event. For this protection, the insured pays consideration or price called premium. Such premium may be paid at once or periodically.

1.6.6.1 Role of Insurance

The role of insurance in society is:

- i) Protection of the policy holder in the event of future loss.
- ii) Pooling of risks and compensating members of the pool.
- iii) Prevention of risk by avoiding the unfortunate consequences.
- iv) Provision of capital funds for investment in the society.
- v) Elimination of worries and miseries of losses hence efficiency is achieved.
- vi) Facilitation of granting of credit (loans) by financial institutions.

1.6.6.2 Types of Insurance

The various types of insurance are:

- i) Life insurance: This is a contract by which the insurer undertakes to pay a certain amount of money on the death of the person insured or on expiry of a certain period, whichever comes first.
- ii) Fire insurance: This is a contract whereby the insurer undertakes to make good any loss or damage caused by fire during a specific period.
- iii) Marine insurance: This is a contract whereby an insurer undertakes to indemnify the insured against marine losses.
- iv) Motor insurance: This insurance covers vehicles damaged or lost in accident.
- v) Theft or burglary insurance: This is a contract whereby the insurer undertakes to protect the insured against any loss caused by theft or burglary.
- vi) Fidelity insurance: This is a contract of insurance which protects the employer against financial loss caused by special employees handling cash i.e. cashiers and bursars.
- vii) Bad debts insurance: This is a contract of insurance which protects traders against losses caused by failure of their customers to pay their debts.
- viii) Employers' accident liability: This is a contract of insurance which safeguards the employer against any damage caused by his/her negligence or mistaken acts of his/her workers.

1.6.6.3 Fundamental Principles of General Insurance

A contract of insurance must satisfy all the requirements of an ordinary contract. It must also comply with the following principles:

- i) Insurable interest: In every contract of insurance, the insured must have insurable interest in the subject matter of insurance. Insurable interest means the financial loss or gain the insured has in existence or non-existence of the subject matter.
- ii) Utmost good faith: A contract of insurance is one based on utmost good faith, whereby the insured is required to disclose all the relevant material facts to the insurer.
- iii) Doctrine of indemnity: Indemnity means replacement of actual loss. All the contracts of insurance except life and personal accident insurances are contracts of indemnity.
- iv) Doctrine of subrogation: This doctrine provides that after the insurer has replaced the loss, he steps into the shoes of (subrogates) the insured and is required to recover any claims which the insured may have against any third party.
- v) Doctrine of contribution: This doctrine requires co-insurers to contribute to the loss after one co-insurer has paid the full amount of loss to the insured.
- vi) Proximate cause: According to this principle, the insured can recover the loss from the insurer only if the loss is caused by proximate cause i.e. the risk insured against.
- vii) Mitigation of loss: This principle requires that in case the risk event insured against occurs, the insured must take all the necessary steps to minimize or reduce the loss in the same manner he/she would have done if the subject matter was not insured.
- viii) Abandonment: This principle requires the insured to surrender the remains of the subject matter to the insurer in return for indemnity.
- ix) Attachment of risk: For a contract of insurance to be valid and binding risk must attach i.e. risk must be anticipated or expected but has not occurred.

1.6.6.4 Rights of the Insurer

The rights of the insurer in a contract of insurance are:

- i) To avoid the contract if there is non-disclosure or concealment of any relevant material fact on the part of the insured.
- ii) To take control over the property or goods when they are damaged or destroyed in order to safeguard his/her interests.
- iii) To enter the premises insured or premises where the things insured are lying on being notified of fire by the insured.
- iv) To subrogate where he has paid the amount of loss to the insured by stepping into the shoes of the insured.
- v) To salvage where the subject-matter of insurance is destroyed beyond repair before he is called upon to indemnify the insured.
- vi) To reinstate or replace the subject-matter destroyed instead of paying the loss to the insured in the form of money.
- vii) To contribute if the same subject-matter and the same risk are insured with two or more insurers i.e. double insurance.

1.6.6.5 Duties of the Insured

The duties of the insured in a contract of insurance are:

- i) To disclose all the relevant material facts regarding the subject-matter of the contract using utmost good faith.
- ii) To ensure they do not double insure where such double insurance is expressly prohibited by the insurer.
- iii) To ensure prompt payment of premiums as and when they become due in accordance with the terms of the contract.
- iv) To mitigate or reduce the loss as far as possible, in the same manner he/she would have done if the subject-matter is not insured.
- v) To report the occurrence of risk to the insurer as soon as it is practicably possible and without undue delay.
- vi) To protect and preserve the subject-matter before, during and after the occurrence of the risk insured.
- vii) To notify the insurer of his intention to abandon the subject-matter where the subject-matter is damaged beyond salvage.

1.6.7 Registration and Protection of Intellectual Property

Intellectual property refers to legal rights which may be claimed in respect of the production of human intellect i.e. mental skills and labour. Intellectual property law therefore protects things that are created by a person's skills, labour and investment of time. Protecting intellectual property is necessary for the following reasons:

- i) To encourage people to continue to invest and risk their capital by putting their works before the public without fear of being exploited.
- ii) To ensure fair play by protecting the products of person's skills and labour.
- iii) To act as a form of evidence of exclusive ownership and keep away potential infringers.
- iv) To distinguish one's products from those of others and help in developing trust, confidence and loyalty to them.
- v) To help in building strong brands and establish brand quality of the business.

- vi) To enable business to diversify their market strategies to meet the expectations of different target groups in society.
- vii) To avoid a situation where a person profits from the products of others.
- viii) To help consumers in decision making because choosing branded products is convenient as it provides shortcuts to decision making.

1.6.7.1 Types of Intellectual Property

The various types of intellectual property are:

- i) Copyright- A copyright means the right given to the creator of an original literary, artistic, dramatic and musical works to protect such works from being copied by another person for business or personal benefits. These rights are granted to the creator by law automatically without the need to register them.
- ii) Trademarks- A trade mark means a word, symbol, design or a combination of these, used to distinguish the goods or services of one person or organization from those of others. It is important to note that for a trademark to be recognized as a right, it must be registered with the Kenya Industrial Property Office as required by law.
- iii) Patents- A patent means an exclusive right granted to an inventor to make, use and sell his/her invention for a definite or limited period of time. For an invention to be registered as a patent right, it must satisfy the following requirements:
 - Novelty (newness): this means that the object invented must be something which is new i.e. it must not have been known to anyone before the inventor created it.
 - Inventive step: the object invented must have undergone some inventive step i.e. it should not be something which is obvious to a person who is skilled in the work or just a logical progress of some known process.
 - Industrial application: the invention must be something which can be applied usefully in the industry for the benefit of the society at large.
 - Patentable subject-matter: the invention must be one which is not prohibited by law from being patented.

1.6.7.2 Remedies Against Infringement of Intellectual Property

The remedies for breach of intellectual property are:

- i) Damages i.e. monetary compensation.
- ii) Interdict i.e. confiscation of the infringing products.
- iii) Injunction i.e. court order preventing further infringement of the rights.
- iv) Accounting for profits not taken care of while calculating damages.
- v) Delivery up of the infringing products or articles to the owner or some other authorized person.

1.6.8 Principles of Bankruptcy/Insolvency Law in Kenya

Bankruptcy is a proceeding by which a debtor, who is unable to pay his/her debts, has his/her property taken by the court and sold after which the proceeds are distributed amongst the creditors in proportion to their debts. Sometime the words insolvency and bankruptcy are used interchangeably. Bankruptcy matters in Kenya are regulated by the provisions of the Insolvency Act, 2015.

1.6.8.1 Acts of Bankruptcy

An 'act of bankruptcy' is the conduct or behaviour of a debtor which shows that s/he is financially embarrassed and is unable or unlikely to pay his/her debts. A bankrupt commits an act of bankruptcy if s/he does any one or more of the following acts:

- i) Transfers or assigns all or a substantial part of his/her property to a trustee for the benefit of his/her creditors generally.
- ii) Transfers of his/her property in a manner which constitutes a fraudulent preference.
- iii) Departs from or remains out of Kenya or out of his/her dwelling house or place of business or secludes him/herself with the intention to delay, defeat or deprive his/her creditors the means of communicating with him/her.
- iv) If any of his/her property has been sold or attached in enforcement of any court order.
- v) Files in court a declaration of his inability to pay his/her debts or presents a bankruptcy petition against himself/herself.
- vi) Gives notice to any of his creditors that he has suspended or is about to suspend payment of his/her debts.

1.6.8.2 Effects of a Bankruptcy Order

Once a bankruptcy order is granted by the court, it has the following legal effects:

- i) The Official Receiver is constituted the receiver of the bankrupt's property.
- ii) The bankrupt is required to keep the Official Receiver informed of his/her residential and postal address as well as particulars of his/her employment and income after every three months.
- iii) No legal action can be commenced against the bankrupt or his/her property without leave or permission of the court.
- iv) Any legal action instituted against the bankrupt or his/her property is stopped but may be continued only with the permission of the court.
- v) The bankrupt is personally disqualified from:
 - Holding any public office.
 - Being appointed as a judge or a magistrate.
 - Being elected as member of either house of parliament or county assembly.
 - Being appointed to any office of a county government.

1.6.8.3 Powers of Official Receiver

The powers of Official Receiver are:

- i) To sell all or any part of the property of the bankrupt.
- ii) To distribute money received from sale amongst the creditors from time to time.
- iii) To carry on the business of the bankrupt if it may be necessary for the benefit of winding up.
- iv) To institute, defend or continue with any case relating to the property of the bankrupt.
- v) To employ an advocate or an agent to take any legal proceedings or do any business which may be authorized by the court.
- vi) To accept money paid as consideration for the sale of any property on such terms as the court may think appropriate.
- vii) To mortgage any part of the property of the bankrupt to raise money to pay the debts or to continue the business of the bankrupt.
- viii) To refer any dispute arising from the bankruptcy proceedings to arbitration.

- ix) To compromise all the debts and liabilities on such terms as may be agreed upon.
- x) To divide any property of the bankrupt (which cannot be advantageously sold) amongst the creditors.

1.6.8.4 Duties of Official Receiver

The duties of Official Receiver are:

- i) To collect and take into custody and control all the books, documents and assets of the bankrupt.
- ii) To sell the properties of the bankrupt with all convenient speed and in the most profitable manner.
- iii) To conduct him/herself with honesty and impartiality while distributing money received by him/her amongst the creditors.
- iv) To maintain proper books of accounts and submit them to the court periodically as may be directed by the court.
- v) To call meetings of creditors from time to time and pay attention to their wishes at such meetings.

1.6.8.5 Discharge of a Bankrupt

The court may grant an order of absolute discharge to a bankrupt upon hearing the application and examination of the bankrupt's conduct as reported by the Official Receiver. The court may:

- i) Grant or refuse to grant an absolute order of discharge.
- ii) Suspend the operation of the discharge order for a specified period.
- iii) Grant an order of discharge subject to certain conditions.

If the court grants an order of absolute discharge, the debtor is released from all debts provable in bankruptcy except the debts due to the government and debts incurred by fraud or breach of trust.

1.6.9 Summary

In this topic, we have examined the elements of law governing contracts of sale of goods as well as the nature and principles of law of agency together with hire-purchase law. We have also explained the role and fundamental principles of insurance, the registration and protection of intellectual property. Lastly, we have discussed the principles of law relating to bankruptcy/insolvency in Kenya. This brings us to the end of our discussion on the Law course unit.

1.6.10 Activities

1. Mr Menudo entered into a contract with Jenna Enterprises in which Jenna Enterprises was to supply him with building material valued at Kshs. 2 million within two weeks. However, Jenna Enterprises has failed to supply the building materials as agreed. Advise Mr Muendo on the remedies, if any he may claim against Jenna Enterprises.
2. Peter obtained a loan of Kshs 200,000 from Pesa Bank Limited. However, Peter has since breached the terms of repayment as agreed with the bank. The bank now alleges that Peter has committed an act of bankruptcy and intends to file a bankruptcy petition against Peter. Explain to Peter what constitutes an act of bankruptcy in law.

1.6.11 References

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2.0 GOVERNMENT ORGANIZATION, MANAGEMENT AND PRACTICE-102

2.0.1 Introduction

As an Administrative Officer, you will be required to render government services to the public. It is therefore imperative that you have a good understanding of the organization of government and management practice.

This course unit is therefore intended to equip you with knowledge, skills and attitudes on the organization and management of Government that will enable you to effectively deliver public services.

2.0.2 Course Unit Summary

	TOPIC	SUB-TOPICS
2.1	Government Organization	- Concept of Government - Role of government in society - Devolved system of government in Kenya - Intergovernmental relations
2.2	National Government	- Structure and Functions of the National Government - Interrelationship between the various arms of Government - Roles of Constitutional Commissions, Independent Offices and State Corporations - Role of the Administrative Officer in the National Government
2.3	County Governments	- Structure of the County Government - Functions of County Governments - Functions of County Government institutions - Classification and management of urban areas and cities
2.4	Public policy	- Sources of Government policy - Policy making process - Interpretation and dissemination of policies - Implementation of Government policies and programmes - Challenges in implementing Government policies and programmes
2.5	Essentials of management	- Concept of management - Principles of management - Functions of management - Leadership approaches in government - Role of ICT in management
2.6	Decision making and problem solving	- Concept of decision making and problem solving - process of effective decision making and problem solving - approaches to decision making and problem solving
2.7	Role of Administrative Officer in Human Resource	- Concept of Human Resource Management - Legal and policy provisions on Human Resource Management - Terms and conditions of service - Change management techniques

	TOPIC	SUB-TOPICS
	Management	- Discipline management in the public service - Employee wellness and assistance - Staff Performance Appraisal System
2.8	Government Office Management	- Principles of office organization - Records management in Government - Management of Government property and assets

2.1 GOVERNMENT ORGANIZATION

Outline

2.1.1 Introduction

2.1.2 Specific Objectives

2.1.3 Concept of Government

2.1.4 Role of government in society

2.1.5 Devolved system of government in Kenya

2.1.6 Intergovernmental relations

2.1.7 Summary

2.1.8 Activities

2.1.9 References

2.1.1 Introduction

To operate within the government effectively as an Administrative Officer, it is important that you have adequate knowledge of the concept of government and the role of government in society. It is also important that you understand the two levels of government in the devolved system and how they interrelate. In this topic we are going to examine the ways in which the Government is organized for effective delivery of service.

2.1.2 Specific Objectives

By the end of the topic, you should be able to:

- Interpret the concept of Government;
- Describe the role of government in society;
- Illustrate the devolved system of government in Kenya; and
- Describe the relationship between the national and county governments.

2.1.3 Concept of Government

As communities became larger and more complex, there was need to create mechanisms that would afford some degree of cooperation and enhance safety of both the individual and his property. These mechanisms were the earlier simple forms of government in society. These earlier simple forms of cooperation have since evolved into the complex government systems prevalent in modern society. Government may therefore be said to be a group of people within a state or a country that has constitutional or legislative authority to make decisions that are binding on persons and organizations within its boundaries. Such a government derives its authority from the people, and it is enshrined in the Constitution. This then gives the government its legitimacy.

2.1.3.1 Characteristics of a Legitimate Government

A legitimate government is characterised by the following major features:

- i) It governs through public institutions such as parliament and legislative assemblies, national and county executive structures, and judiciary and independent tribunals;
- ii) The jurisdiction of Government extends to all members of the society/community within its boundaries;
- iii) It controls the use of physical force and coercion so as to preserve or restore order or to compel obedience to government decisions;
- iv) It has political legitimacy through the expression of the will of the people;
- v) Its decisions are authoritative and binding; and
- vi) Every decision or action of the government is the legitimate concern of the general public.

2.1.3.2 Government systems

A system of government denotes the way power is distributed among different parts and levels of the state. The amount of power held by the central government determines the system of government a state has. There are various systems of government adapted by different countries. These are:

- i) Unitary system: gives all key powers to the national or central government for example in Kenya.
- ii) Federal system: divides the powers of government between the national government and state/county/provincial governments. Each level of government has sovereignty in some areas. Such systems of government may be found in Nigeria and USA.
- iii) Confederation: is a loose union of independent states where the central government is weak, and the independent states are powerful such as the former Soviet Union.

2.1.4 Role of Government in Society

A government is expected to play a number of roles in enhancing the welfare of the society. As an Administrative Officer, you will be expected to play a central role in enabling the government to perform its duties and responsibilities. It is therefore imperative that you be well acquainted with the role of government. These roles include:

- i) Maintenance of social order – the government does this through making and enforcing laws to ensure preservation and protection of citizens' rights.
- ii) Provision of public goods and services – these include essential services that promote the general welfare of the community and that may not be feasible to provide through private institutions for example education, electricity, transport infrastructure, health services and waste management.
- iii) Provision of national security – this involves safeguarding against attacks and threats, maintaining cordial relations and treaties with other governments Promotion of economic growth and development - through enacting laws and policies that shape the economic environment, fostering industrialization, securing a broad tax base, controlling inflation and regulating the use of natural resources for sustainability. The government may also ensure economic security through favourable trade agreements with other governments.

2.1.5 The Devolved System of Government in Kenya

Devolution or devolved government is a political concept that denotes the transfer of political, administrative and legal authority, power and responsibility from the centre to lower level units of government created by the Constitution. The people of Kenya adopted a devolved system of government in 2010 which comprises of two levels of government namely National and County Governments. This was in accordance with the provisions of the Constitution promulgated in 2010 which devolved power and responsibility from the national government to the forty-seven (47) county governments.

The two levels of government are interdependent with their functions delineated by the Constitution. As an Administrative Officer, you may be required to work within the counties in collaboration with the county officers. You will also need to understand the reasons that made the people of Kenya adopt the devolved system as stipulated in the objects of devolution of Government of Kenya as contained in the Constitution. These reasons include:

- i) To advance of democratic governance and accountable exercise of power;
- ii) To nurture national unity by recognizing diversity;
- iii) To accord powers of self-governance to the people;
- iv) To recognize of the rights of communities in the management of their own affairs;
- v) To safeguard and promote the interests and rights of minorities and marginalized groups;
- vi) To promote of socio-economic development and take services nearer to the people;
- vii) To make provision for equitable sharing of resources;
- viii) To facilitate decentralization of state organs, their functions and services; and
- ix) To enhance checks and balances and the separation of powers.

2.1.6 Intergovernmental Relations

Intergovernmental Relations (IGR) is the interactions between and among governments within a devolved government system. As an Administrative Officer, you require knowledge and skills to foster good IGR. This is because your responsibilities have an effect on both levels of government.

To effectively operationalize devolution, there exists an intergovernmental relations framework that establishes a mechanism for cooperation, consultation and resolution of disputes between the National and County Governments, and amongst County governments. For effective intergovernmental relations, it is important that government at either level performs its functions in mutual respect, consultation and support of the other. Further, they should liaise with the other governments for the purpose of exchanging information, coordinating policies and administration, as well as enhancing capacity. In addition, they should create synergy by cooperating in performance of their functions e.g. by setting up joint committees to resolve common challenges.

2.1.6.1 Framework for Intergovernmental Relations

There are certain legal and institutional frameworks that guide the IGR in Kenya.

Legal framework

The legal framework for management of relationships within the levels of government includes:

- i) The Constitution in Articles 1, 6, 174, 186, 187, 189, 190, 191 and 192.

- ii) The Intergovernmental Relations Act, 2012 - This Act establishes a framework for consultation and cooperation amongst the levels of government and draws up a mechanism for resolution of intergovernmental disputes in accordance with the Constitution.
- iii) The County Government Act, 2012. This Act operationalises devolution by giving provisions for powers, functions and responsibilities of County governments in their delivery of services.
- iv) The Urban Areas and Cities Act, 2011 - this Act provides for the classification, governance and management of urban areas and cities and the criteria for establishing such urban areas.
- v) Public Finance Management Act, 2012 - This Act provides for: effective management of public finances by the national and county governments; the oversight responsibility of parliament and county assemblies; and the different responsibilities of government entities and other bodies in the management of public finance.

Institutional framework

The statutory institutions that support the implementation of IGR include:

- i) National & County Governments Coordinating Summit (IGR Act, 2012 Section 19)
- ii) Intergovernmental Relations Technical Committee (IGR Act, 2012 Section 11)
- iii) Intergovernmental Budget & Economic Council (PFM Act, 2012 Section 187)
- iv) County Intergovernmental Forum (CG Act, 2012 Section 54)
- v) Sectoral Forums (IGR Act, 2012 Section 13)
- vi) Joint Intergovernmental Technical Committee (PFM Act, 2012 Section 100)

2.1.7 Summary

In this topic, we have discussed the concept of Government with respect to characteristics of government and systems of government. In addition, we have looked at the role of government in society. We have further discussed the devolved system of government in Kenya and the aspects of intergovernmental relations. In the next topic, we shall have an in depth discussion of the National Government.

2.1.8 Activities

1. Evaluate each of the three systems of government discussed above.
2. Discuss likely disputes amongst levels of governments.
3. Discuss the functions of each of the IGR institutions
4. Discuss the role of the Senate in intergovernmental relations.

2.1.9 References

1. Republic of Kenya (2010), The Constitution of Kenya, Government Printer
2. Republic of Kenya (2012), The County Governments Act, Government Printer
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2.2 NATIONAL GOVERNMENT

Outline

- 2.2.1 Introduction
- 2.2.2 Specific Objectives
- 2.2.3 Structure and Functions of the National Government
- 2.2.4 Interrelationship between the various arms of Government
- 2.2.5 Roles of Constitutional Commissions, Independent Offices and State Corporations
- 2.2.6 Role of an Administrative Officer in the National Government
- 2.2.7 Summary
- 2.2.8 Activities
- 2.2.9 References

2.2.1 Introduction

As we have already discussed, Kenya adopted a devolved system of government that includes the National and County Governments. As an Administrative Officer, you will be expected to operate mainly within the National Government. This unit therefore aims at equipping you with knowledge skills and attitudes that will enable you interpret the structure, organization and functions of the National Government.

2.2.2 Specific Objectives

By the end of this topic, you should be able to:

- i. Illustrate the structure of the National Government;
- ii. Describe the functions of the National Government;
- iii. Assess the interrelationships between the arms of Government;
- iv. Interpret roles of Constitutional Commissions, Independent Offices and State Corporations; and
- v. Examine the role of an Administrative Officer in the National Government.

2.2.3 Structure and Functions of the National Government

As an Administrative Officer deployed to National Government institutions, it is important that you understand the constitutional and institutional functioning of the National Government.

The National Government comprises of three arms: Executive, Legislature and Judiciary.

2.2.3.1 The Executive

The Executive is composed of the President, the Deputy President and the rest of the Cabinet. A cabinet is a body of high-ranking state officials, typically consisting of the top leaders of the executive branch. The Cabinet consists of the President, Deputy President, the Attorney General and not less than fourteen (14) and not more than twenty-two (22) Cabinet Secretaries. The Cabinet assists and advises the President in governing the country. The President is Head of State and Government. The Deputy President is the Principal Assistant to the President.

2.2.3.1.1 Functions of the President

The functions of the President include:

- i) Addressing the opening of each newly elected parliament;
- ii) Addressing a special sitting of parliament once every year and may address parliament at any other time;
- iii) Reporting (in an address to the nation), on all measures taken and progress achieved in realization of the national values once every year;
- iv) nominating and with approval of National Assembly, appoint and may dismiss
 - Cabinet Secretaries
 - The Attorney General
 - Secretary to the Cabinet
 - Principal Secretaries
 - High commissioners/ambassadors and diplomatic consular representatives.
- v) Chairing cabinet meetings.

2.2.3.1.2 Role of Cabinet Secretaries

The Cabinet Secretaries (CSs) are responsible for ministries as per the appointing authority. They are accountable individually, and collectively, to the President for the exercise of their powers and the performance of their functions. These functions include:

- i) Attending committees of the National Assembly, or the Senate, when required by the Committee, and answering any question concerning a matter for which they are responsible.
- ii) Providing Parliament with full and regular reports concerning matters under their control.
- iii) Formulating policy and guiding and, where required, implementing the policy in respect of the respective Ministry, State departments or agencies under him or her.
- iv) Providing the link between the Ministry and the President or Parliament as the case may be.
- v) Is responsible for the functions assigned to him or her by the President, the Constitution, the National Government Coordination Act 2013, or any other written law.
- vi) Appointing board members of public institutions within the Ministry.

2.2.3.1.3 Secretary to the Cabinet

The Secretary to the Cabinet is nominated and with the approval of the National Assembly, appointed by the President. He/she performs the following functions:

- i) In charge of the Cabinet office.
- ii) Responsible for arranging the business and keeping minutes of the Cabinet.
- iii) Conveys decisions of the Cabinet to the appropriate persons or authorities.
- iv) Performs other functions as directed by the Cabinet.

2.2.3.1.4 The Attorney General

The Attorney General (AG) is nominated by the President and with the approval of the National Assembly, appointed by the President. The AG's functions include:

- i) Being the principal legal adviser to the Government;
- ii) Representing the National Government in court or in any other legal proceedings to which the National Government is a party, other than criminal proceedings;

- iii) Performing any other functions conferred on the Office by an Act of Parliament or by the President;
- iv) Appearing as a friend of the court in any civil proceedings to which the Government is not a party, with the leave of the court; and
- v) Promoting, protecting and upholding the rule of law and defend the public interest.

2.2.3.1.5 The Public Service

As an Administrative Officer in the public service, it is important to understand what Public service entails. The Public Service means the collectivity of all individuals performing a function within a State Organ. The Public Service is the principal organ of service delivery by the government. Through the Public Service, the government establishes control, presence and authority of the State. The Public Service is a key component of the government. An officer in the Public Service is expected to be faithful to the Republic, honour and abide by the Constitution.

The Civil Service is part of the Public Service. It is the policy implementation arm of the Government. In executing this role, it is guided by public policy pronouncements and the attendant development plans and circulars. The Civil Service is constituted by ministries and State Departments.

2.2.3.2 Legislature

The Legislature comprises of Parliament which consists of the National Assembly and the Senate as established by the Constitution. The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.

2.2.3.2.1 National Assembly

The National Assembly consists of:

- i. Two hundred and ninety members, each elected by the registered voters of single member constituencies;
- ii. Forty-seven women, each elected by the registered voters of the counties, each county constituting a single member constituency;
- iii. Twelve members nominated by parliamentary political parties according to their proportion of members of the national assembly to represent special interests including the youth, persons with disabilities and workers; and
- iv. The speaker, who is an ex officio member.

Role of the National Assembly

The roles of National Assembly are:

- i) To represent the people of the constituencies and special interests.
- ii) Deliberate on and resolve issues of concern to the people.
- iii) Enact legislation.
- iv) Determine the allocation of national revenue between the levels of Government;
- v) Appropriate funds for expenditure by the National Government and other national State organs;
- vi) Exercise oversight over national revenue and its expenditure.
- vii) Review the conduct in office of the President, the Deputy President and other State officers and initiate the process of removing them from office.

- viii) Exercise oversight of State organs.
- ix) Approve declarations of war and extensions of states of emergency.

2.2.3.2.2 Senate

The Senate consists of:

- i) Forty-seven members each elected by the registered voters of the counties, each county constituting a single member constituency;
- ii) Sixteen women members who shall be nominated by political parties according to their proportion of members of the senate elected;
- iii) Two members, being one man and one woman, representing the youth;
- iv) Two members, being one man and one woman, representing persons with disabilities; and
- v) The speaker, who shall be an ex officio member.

Role of the Senate

The role of the Senate is as follows:

- i. Represents the counties, and serves to protect the interests of the counties and their government;
- ii. Participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties;
- iii. Determines the allocation of national revenue among counties, and exercises oversight over national revenue allocated to the county governments.
- iv. Participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office.

2.2.3.3 Judiciary

Judicial authority is derived from the people and vests in, and shall be exercised by, the courts and tribunals established by or under the Constitution. The Judiciary consists of the judges of the superior courts, magistrates, other judicial officers and staff. It is headed by the Chief Justice.

2.2.3.3.1 System of Courts

There are two levels of courts, superior and subordinate courts.

The Superior Courts are:

- i) The Supreme Court
- ii) the Court of Appeal
- iii) the High Court
- iv) Employment and Labour Relations Court
- v) Environment and Land Court

Subordinate Courts consist of:

- i) Magistrates' Courts,
- ii) Kadhis Courts,
- iii) Court Martial and
- iv) Any other court or local Tribunal established by an Act of Parliament

2.2.3.4 Functions of National Government

Schedule four of the Constitution confers the National Government with responsibilities relating to the following:

- i) Foreign affairs, policy and international trade
- ii) Use of international waters and water resources
- iii) Immigration and citizenship
- iv) Relationship between religion and state
- v) Language policy
- vi) National defense
- vii) Police services
- viii) Courts
- ix) National economic policy and planning
- x) Monetary policies including regulation of banking, insurance and financial corporations
- xi) Data on population and economy
- xii) intellectual property rights
- xiii) Labour standards
- xiv) Social protection
- xv) Education policy and learning institutions, sports
- xvi) Transport and communication
- xvii) Public works and housing policy
- xviii) Land planning and co-ordination of planning by counties
- xix) Environment and natural resources protection
- xx) National referral health facilities and health policies
- xxi) Disaster management
- xxii) Agricultural, veterinary, energy, health and tourism policies
- xxiii) National betting and casinos

2.2.4 Interrelationship Between Various Arms of Government

Separation of powers denotes that power should not be vested in the hands of a few, but it is clearly donated to the three arms of Government so that none should have excessive powers. With a system of checks and balances, each of the three arms of Government can limit the powers of the others to ensure that no one arm exceeds its constitutional mandate. The checks and balances are evident in:

- i) The process of making laws where the Legislature introduces and votes on a bill while the Executive assents to the bill or vetoes it.
- ii) The Judiciary has power on the law passed when it rules for or against it following petitions by citizens, interest groups etc.
- iii) The Judiciary interprets the law. However, if the Legislature is not in agreement, it may cause the review of that affected legislation.
- iv) Appointments of State officers such as Cabinet Secretaries, Chief Justice, Judges of the Superior Courts is a function of two arms of government where the Executive nominates, and the legislature vets the candidates before appointment by the Executive.
- v) Each of the arms prepare their budget estimates. However, the Legislature determines the allocation, appropriates the resources and oversights the expenditure.

2.2.5 Roles of Constitutional Commissions, Independent Offices and State Corporations

2.2.5.1 Constitutional Commissions

The Constitution in Article 248(2&3) creates ten (10) Constitutional Commissions and two (2) Independent Offices. These entities are responsible for:

- i) Protection of the sovereignty of the people
- ii) Securing the observance by all State organs of democratic values and principles
- iii) Promotion of constitutionalism

The Constitutional Commissions and their roles are as described below:

- i) Kenya National Human Rights and Equality Commission: is responsible for promotion and protection of human rights and ensuring observance and respect for human rights and developing a culture of human rights in the country.
- ii) The National Land Commission: is responsible for the management of public land on behalf of the National and County Governments.
- iii) The Independent Electoral and Boundaries Commission: is responsible for conducting or supervising referenda and elections to any elective office established by the Constitution, voter education, registration of voters and candidates and delimitations of electoral boundaries.
- iv) Parliamentary Service Commission: this commission ensures smooth functioning of the houses of Parliament through the provision of required human resources, services and facilities.
- v) Judicial Service Commission: it promotes and facilitates the independence and accountability of the Judiciary and efficient, effective and transparent administration of justice.
- vi) Commission on Revenue Allocation: its principal function is to make recommendations concerning the basis for the equitable sharing of revenue raised by the National Government between the National and the County governments and among County governments.
- vii) The Public Service Commission: ensures the efficient and effective management of the Public Service through human resource management and development, establish and abolish offices in the public service; and promotion of values and principles mentioned in Articles 10 and 232 throughout the public service;
- viii) Salaries and Remuneration Commission: sets and regulates 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.
- ix) Teachers Service Commission: registers, recruits, develops and manages teachers.
- x) National Police Service Commission: is in charge of human resource management and development in the National Police Service

2.2.5.2 Independent Offices

There are two independent offices charged with the responsibility of ensuring that fiscal policies and legal spending of government budgets and use of resources are done within the Constitution and other laws. These offices are:

2.2.5.2.1 The Controller of Budget:

This office performs the following functions:

- i) Oversees the implementation of the budgets of the National and County governments by authorising withdrawals from public funds.
- ii) Approves withdrawal from a public fund which is authorised by law.
- iii) Submits to each House of Parliament a report on the implementation of the budgets of the National and County governments every four months.

2.2.5.2.2 The Auditor General:

This office is mandated to:

- i) Within six months after the end of each financial year, audit and report, in respect of that financial year, in respect of the accounts of:
 - The National and County governments,
 - Courts,
 - Constitutional commissions and Independent offices,
 - Parliament and County assemblies,
 - Political parties funded from public funds among others.
 - any entity that is funded from public funds.
- ii) Submit audit reports to Parliament or the relevant County assembly.

2.2.5.3 State Corporations

A state corporation is a legal entity that is wholly or partially owned by the government. It is synonymous with parastatal, public corporations and state-owned enterprises. A state corporation as a body corporate established either by charter or by an Act of Parliament to perform the functions specified. Every state corporation shall have all the powers necessary or expedient for the performance of its functions.

2.2.5.3.1 Classification of State Corporations

They are classified into eight broad categories based on functions and mandate as follows.

- i) Financial
- ii) Commercial/manufacturing
- iii) Regulatory
- iv) Public Universities
- v) Training and Research
- vi) Service
- vii) Regional Development Authorities
- viii) Tertiary Education and Training

2.2.5.3.2 Management of State Corporations

State Corporations are managed through management boards whose membership is between seven and nine members and comprise of:

- i) Chairperson who is appointed by the president,
- ii) Board members:
 - at least one board member shall be a financial expert;
 - at least one third of the members shall be independent upon appointment and maintain independence during their term.
- iii) Chief Executive Officer is an ex-officio board member with no voting rights.

2.2.5.3.2 Roles of State Corporations

State corporations play different roles dependent on the function they were established to serve. These roles include:

- i) Providing essential goods and services to the public that cannot be adequately provided for by the private sector due to their capital-intensive nature e.g. provision of electricity.
- ii) Increasing government revenue to finance development/capital expenditure and recurrent expenditure
- iii) Promoting fair trade practices and protecting consumers;
- iv) Promoting innovation and enforcing intellectual property rights;
- v) Promoting industrial development, research and appropriate technologies;
- vi) Creating an enabling environment for sustainable trade, tourism, investment and employment creation;
- vii) Formulating, reviewing, coordinating and implementing policies and programmes geared towards effective human resource development and utilization;
- viii) Developing, promoting and diversifying of products and services geared towards making Kenya a destination of choice for trade, tourism, and investment and sports activities;
- ix) Promoting participation of marginalized groups in national development;
- x) Researching and developing new products and services;
- xi) Regulating and standardizing products and services to ensure compliance with national and international standards;
- xii) Preserving and developing diverse cultures into a national culture;
- xiii) Rehabilitating and promoting training institutions and youth friendly resource centres

2.2.6 Role of the Administrative Officer in the National Government

As an Administrative Officer, you are responsible for the co-ordination of national government functions as set out in the Constitution, National Government Coordination Act 2013 and other relevant statutes. Specifically, your role shall include:

- i) Initiation, formulation, dissemination and implementation of National Government policies, plans and programmes;
- ii) Provision of strategic leadership and policy direction for effective implementation of government policies;
- iii) Promotion of statehood and nationhood;
- iv) Coordination of service delivery;
- v) Coordination of national security;
- vi) Fostering national cohesion and integration;
- vii) Facilitation of citizen participation in policy formulation;
- viii) Coordination of national and state functions;
- ix) Mobilization and identification of persons for national and civil registration in liaison with other stakeholders;
- x) Registration of births and deaths occurring at home;
- xi) Facilitation of printing and production of government documents;
- xii) Facilitation of agency services to other national government departments and other institutions;
- xiii) Mobilization of peace building and conflict management programmes in liaison with other stakeholders;

- xiv) Management and maintenance of national and international boundaries, security roads and airstrips and vital installations;
- xv) Articulation and implementation of policies on alcohol, drugs and substance abuse.
- xvi) Mobilization of disaster management and emergency response in liaison with other stakeholders; and
- xvii) Ensuring security of government assets, property, facilities and inventory.

2.2.7 Summary

In this topic, we have discussed in depth the structure and functions of the National Government, the interrelationship between the various arms of Government, the roles of Constitutional Commissions, Independent Offices and State Corporations and the role of the Administrative Officer in the National Government. In the next topic, we will discuss aspects of County Governments.

2.2.8 Activities

1. Discuss the composition and functions of superior and subordinate courts.
2. Discuss the role of an administrative officer in coordination of service delivery.

2.2.9 References

1. Republic of Kenya, (2010), Constitution of Kenya, 2010, Government Printer
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2.3 COUNTY GOVERNMENTS

Outline

- 2.3.1 Introduction
- 2.3.2 Specific Objectives
- 2.3.3 Structure of the County Government
- 2.3.4 Functions of County Governments
- 2.3.5 Functions of County Government Institutions
- 2.3.6 Classification and Management of urban areas and cities
- 2.3.7 Summary
- 2.3.8 Activities
- 2.3.9 References

2.3.1 Introduction

One of your key responsibilities as an Administrative Officer is to coordinate National Government functions in the counties, it is imperative that you are well apprised of the governance, management, structure and institutions of county governments. This topic is therefore intended to equip you with knowledge, skills and attitudes that will enable you, effectively discharge your role.

2.3.2 Specific Objectives

By the end of this topic, you should be able to:

- i. illustrate the structure of County Governments;
- ii. describe the functions of County Governments;
- iii. assess the functions of County Government institutions;
- iv. examine the classification and management of urban areas and cities.

2.3.3 Structure of County Governments

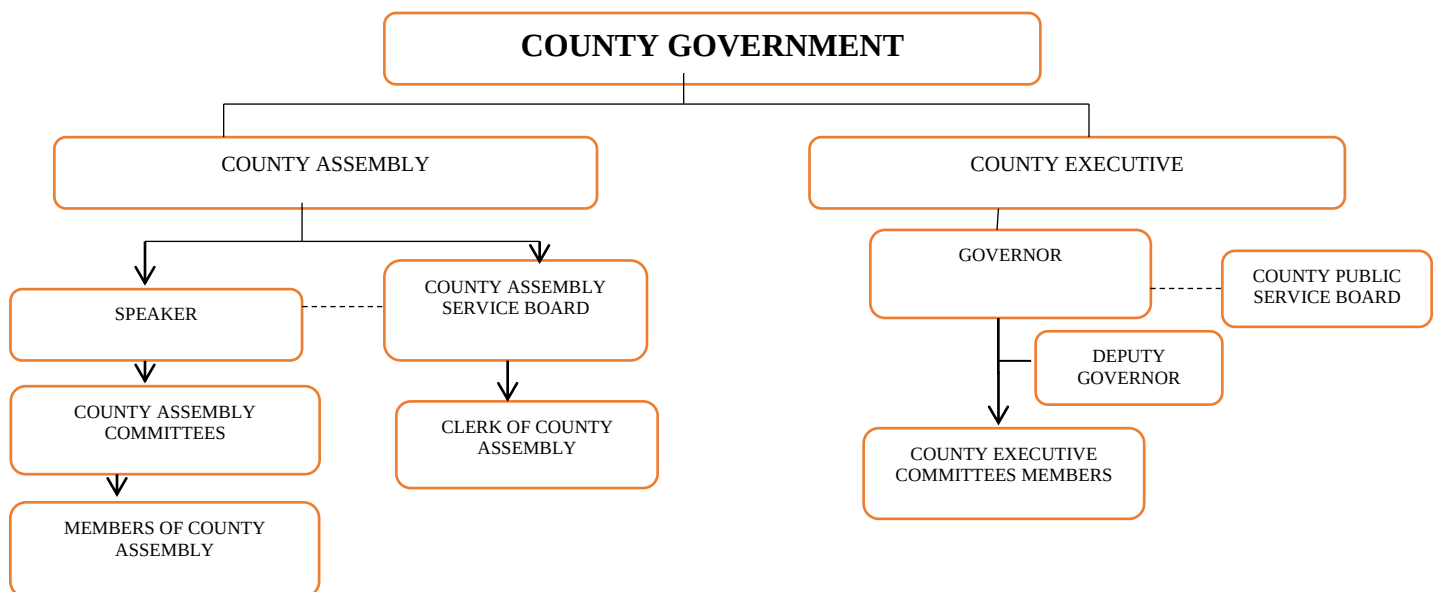
The Constitution establishes County Governments as pertains to their structure, roles and responsibilities in addition to naming the 47 counties in the First Schedule. A good knowledge of the structure of a county government will enable you, as an Administrative Officer to have a good grounding on the various levels of decision making and power within the county that may facilitate the effective undertaking of your role.

The county government comprises of:

- i) County Assembly
- ii) County Executive

2.3.3.1 The County Government Structure

The county government structure is as depicted in the figure below.



2.3.3.2 The County Assembly

This is the legislative arm of the county government with members elected by residents of the county or nominated by political parties to represent their interests. The County Assembly therefore comprises of:

- i. Members elected by the registered voters of the wards, each ward constituting a single member constituency;
- ii. The number of special seat members necessary to ensure that not more than two-thirds of the membership of the assembly are of the same gender;

- iii. Six members of marginalised groups, including persons with disabilities and the youth; and
- iv. The speaker, who is an ex officio member.

2.3.3.3 The County Assembly Service Board

The Board generally facilitates the effective and efficient functioning of the County Assembly and comprises of;

- i) the speaker of the county assembly, as the chairperson;
- ii) two members of the county assembly nominated by the political parties represented in the county assembly according to their proportion of members in the county assembly one of whom shall be elected Vice-chairman by the Board; and
- iii) one man and one woman appointed by the county assembly from amongst persons who are experienced in public affairs but are not members of the county assembly.

Just like the National Assembly, the County Assembly also has various committees constituted to facilitate effective undertaking of its business.

2.3.3.4 The County Executive

The County Executive is headed by the Governor. The County Executive Committee consists of the county governor and the deputy county governor; and members appointed by the county governor, with the approval of the County Assembly.

2.3.3.5 County Public Service Board

Every county government has a public service that supports the executive by implementing laws, policies and regulations. The County Public Service Board (CPSB) is therefore responsible for the management of the county public service. All the members of CPSB are nominated and appointed by the county governor with the approval of the county assembly.

It consists of:

- i) a chairperson;
- ii) not less than three but not more than five other members; and
- iii) a certified public secretary of good professional standing, who is the secretary to the board.

2.3.4 Functions of County Governments

A county government is in charge of governing and managing the affairs of the county as conferred by the Constitution and various legislations. Understanding the specific roles of county governments will enable smooth collaboration between you, and officers of the county government, in the execution of your duties.

A county government shall be responsible for:

- i. Enacting county legislation;
- ii. Exercising executive functions;
- iii. Undertaking functions provided for in the Constitution;
- iv. Performing any other function that may be transferred to county governments from the national government;

- v. Performing any functions agreed upon with other county governments under the Constitution;
- vi. Establishment and staffing of its public service; and
- vii. Any other function assigned to it under the Constitution or by an Act of Parliament.

2.3.5 Functions of County Government Institutions

Various institutions in the county government have been assigned different responsibility areas in order to enable the government effectively and efficiently execute its functions as we have discussed in 2.3.4.

2.3.5.1 Role of the County Assembly

This is the legislative body which is responsible for:

- i) Making laws necessary for effective performance of county government functions;
- ii) Vetting and approving nominees for appointment to county public offices;
- iii) Exercising oversight over the county executive committee and any other county executive organs;
- iv) Receiving and approving plans and policies on county development and management;
- v) Approving the budget and expenditure of the county government;
- vi) Approving the borrowing by the county government; and
- vii) Performing any other role as may be set out under the Constitution or legislation.

2.3.5.2 Role of the County Executive

The county executive is the execution arm of the county government that deals with the implementation of both national and county legislations, policies and regulations. It performs the following functions:

- i) Implementing county legislation and the required national legislations.
- ii) Preparing proposed legislation for consideration by the county assembly.
- iii) Providing the County Assembly with full and regular reports in matters of the county.
- iv) Managing and coordinating functions of the county administration and its departments.
- v) Supervising the administration and delivery of services in the county and all decentralized units and agencies in the county.
- vi) Monitoring the process of planning, formulation and adoption of the integrated development plan by a city or municipality within the county.
- vii) Assisting a city or municipality with the planning, formulation, adoption and review of its integrated development plan
- viii) Facilitating the coordination and alignment of integrated development plans of different cities or municipalities within the county with the plans, strategies and programmes of national and county governments;
- ix) Taking appropriate steps to resolve any disputes or differences in connection with the planning, formulation, adoption or review of an integrated development plan

2.3.5.3 Functions of County Assembly Service Board (CASB)

The CASB provides support services to the County Assembly that is aimed at facilitating the assembly to operate effectively and efficiently. Therefore, the CASB is responsible for:

- i) Providing services and facilities to ensure efficient & effective functioning of the county Assembly.

- ii) Establishing offices in the county assembly services.
- iii) Appointing and supervising office holders.
- iv) Preparing annual budgets/estimates of expenditures of county assembly service and submitting them to the county assembly for approval.
- v) Exercising budgetary control over the service.
- vi) Undertaking singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy.
- vii) Performing other functions necessary for the wellbeing of the members and staff of the county assembly.
- viii) Performing any other function as prescribed by national legislation.

2.3.5.4 Functions of County Public Service Board (CPSB)

The execution of the functions of the county governments and implementation of laws and policies is the responsibility of the various offices and office holders in the county public service. The county public service is managed by the County Public Service Board (CPSB)., The CPSB performs the following functions:

- i) establishing and abolishing offices in the county public service;
- ii) appointing persons to hold or act in offices of the county public service including in the Boards of cities and urban areas within the county and to confirm appointments;
- iii) exercising disciplinary control over, and removal of, persons holding or acting in those offices;
- iv) preparing regular reports for submission to the county assembly on the execution of the functions of the Board;
- v) promoting in the county public service the national values and principles of governance (Article 10) and values and principles of public service (Article 232);
- vi) evaluating and reporting 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;
- vii) facilitating the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
- viii) advising the county government on human resource management and development;
- ix) advising county government on implementation and monitoring of the national performance management system in counties; and
- x) making recommendations to the Salaries and Remuneration Commission on the remuneration, pensions and gratuities for county public service employees.

2.3.6 Classification and Management of Urban Areas and Cities

The Constitution requires that legislation be enacted to provide for the classification, governance and management of urban areas and cities. Consequently, the Urban Areas and Cities Act, 2011 was enacted. As an Administrative Officer, you need to understand the provisions of this Act to enhance your collaborative endeavours with relevant county government departments.

Urban areas and cities are categorised as follows:

- i. Cities
- ii. Municipalities
- iii. Towns

2.3.6.1 Cities

An area may be eligible for classification as a city when it meets the following criteria:

- i) has a population of at least five hundred thousand (500,000) residents according to the final gazetted results of the last population census;
- ii) has an integrated urban area or city development plan;
- iii) has demonstrable capacity to generate sufficient revenue to sustain its operation;
- iv) has demonstrable good system and records of prudent management;
- v) has the capacity to effectively and efficiently deliver essential services to its citizens;
- vi) has institutionalised active participation by its residents in the management of its affairs;
- vii) has infrastructural facilities, including but not limited to roads, street lighting, markets and fire stations, and an adequate capacity for disaster management; and
- viii) has a capacity for functional and effective waste disposal.

2.3.6.2 Municipalities

A town is eligible for the conferment of municipal status when it meets the following set criteria:

- i) A population of at least two hundred and fifty thousand (250,000) residents according to the final gazetted results of the last population census;
- ii) An integrated development plan;
- iii) Demonstrable revenue collection or revenue collection potential;
- iv) Demonstrable capacity to generate sufficient revenue to sustain its operations;
- v) The capacity to effectively and efficiently deliver essential services to its residents;
- vi) Institutionalised active participation by its residents in the management of its affairs;
- vii) Sufficient space for expansion;
- viii) Infrastructural facilities, including but not limited to street lighting, markets and fire stations; and
- ix) A capacity for functional and effective waste disposal.

2.3.6.3 Towns

An area shall be eligible for the grant of the status of a town if it has:

- i) A population of at least ten thousand (10,000) residents according to the final gazetted results of the latest population census;
- ii) Demonstrable economic, functional and financial viability;
- iii) The existence of an integrated development plan;
- iv) The capacity to effectively and efficiently deliver essential services to its residents as provided in the first schedule; and
- v) Sufficient space for expansion.

2.3.6.4 Management of Urban Areas and Cities

The management of cities, municipalities and towns shall be guided by set principles as provided by law. These principles are:

- i) Recognition and respect for the constitutional status of county governments;
- ii) Recognition of the principal and agency relationship between the boards of urban areas and cities and their respective county governments including:
 - The carrying out by a board of such functions as may be delegated by the county government;
 - Financial accountability to the county government; and

- The governance by each board for and on behalf of the county government;
- iii) Promotion of accountability to the county government and residents of the urban area or city;
- iv) Institutionalised active participation by its residents in the management of the urban area and city affairs;
- v) Efficient and effective service delivery; and
- vi) Clear assignment of functions.

The management of cities and municipalities is vested in the county government and administered on its behalf by a board and a manager. Members of the board shall hold office for a term of five years, on a part-time basis.

A city county such as Nairobi shall be governed and managed in the same manner as a county government. Where it is not a city county, the city or municipal manager is responsible for the implementation of the decisions and functions of the board and is answerable to the board.

The management of towns shall be by a committee appointed by the county governor and approved by the county assembly. Each town shall have an administrator responsible for performance of such functions as the committee may determine.

2.3.6.4.1 Boards of Management

The board of a city consists of not more than eleven members, six of whom shall be appointed through a competitive process by the county executive committee, with the approval of the county assembly.

At least five of the eleven board members shall be nominated by:

- i) an umbrella body representing professional associations in the area;
- ii) an association representing the private sector in the area;
- iii) a cluster representing registered associations of the informal sector in the area;
- iv) a cluster representing registered neighbourhood associations in the area; and
- v) an association of urban areas and cities.

The board of a municipality comprises nine members, four of whom are appointed and five elected.

2.3.6.4.2 Committees of a Board

For effective undertaking of its role, the board of a city may constitute various committees. A board may therefore:

- i) Establish such committees for any general or special purpose with the objective of enhancing efficiency in regulating or managing its affairs;
- ii) Delegate to such committee such functions as are necessary for the efficient performance of its duties in respect to the whole or any part of the area under the jurisdiction of a board.

2.3.6.4.3 Functions of a City or Municipal Board or Town Committee

A board of a city or municipality and a town management committee shall perform the following functions:

- i. Oversee the affairs of the city or municipality or town;
- ii. Develop and adopt policies, plans, strategies and programmes, and may set targets for delivery of services;
- iii. Formulate and implement an integrated development plan;
- iv. Control land use, land sub-division, land development and zoning by public and private sectors for any purpose, including industry, commerce, markets, residential areas, and recreational areas as may be delegated by the county government;
- v. Promote and undertake infrastructural development and services as may be delegated by the county government;
- vi. Develop and manage schemes, including site development in collaboration with the relevant national and county agencies;
- vii. Maintain a comprehensive database and information system of the administration and provide public access thereto upon payment of a nominal fee to be determined by the board;
- viii. Administer and regulate its internal affairs;
- ix. Implement applicable national and county legislation;
- x. Enter into such contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions;
- xi. Monitor and regulate city, municipal and town services where those services are provided by service providers other than the board of the city or municipality or committee of the town;
- xii. Prepare and submit its annual budget estimates to the relevant county treasury for consideration and submission to the county assembly for approval;
- xiii. Collect rates, taxes, levies, duties, fees and surcharges on fees as may be delegated by the county government;
- xiv. settle and implement tariff, rates and tax and debt collection policies as delegated by the county government;
- xv. Monitor the impact and effectiveness of any services, policies, programmes or plans;
- xvi. Establish, implement and monitor performance management systems;
- xvii. Promote a safe and healthy environment;
- xviii. Facilitate and regulate public transport; and
- xix. Perform such other functions as may be delegated to it by the county government or as may be provided for by any written law.

2.3.7 Summary

In this topic, we have discussed in depth the structure and functions of the county government. We have also studied the role that each county government institution plays in ensuring that the county governments effectively execute their functions and responsibilities. Further discussions as guided by the set activities have enhanced our knowledge and understanding on the functioning of county governments. In the next topic we shall discuss issues related to public policy.

2.3.8 Activities

- i. Discuss the roles of various committees in the County
- ii. Review functions of County Governments as set out in the fourth Schedule of the Constitution
- iii. Discuss the structure and functions of the decentralized units in a county government
- iv. Discuss the requirements for appointment of a member to a board of a city or a municipality

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2.4 PUBLIC POLICY

Outline

- 2.4.1 Introduction
- 2.4.2 Specific Objectives
- 2.4.3 Sources of Government policy
- 2.4.4 Policy making process in Government
- 2.4.5 Dissemination of Government policies
- 2.4.6 Implementation of Government policies and programmes
- 2.4.7 Challenges in implementing Government policies and programmes
- 2.4.8 Summary
- 2.4.9 Activities
- 2.4.10 References

2.4.1 Introduction

Governments the world over face a myriad of public issues that require attention and sound policies to address them. As an Administrative Officer, your work will involve participating in formulation, implementation and dissemination of government policies. This topic therefore aims at equipping you with knowledge, skills and attitudes that will enable you understand the sources, development process and implementation of government policy.

2.4.2 Specific Objectives

By the end of the topic, you should be able to:

- i) analyse sources of Government policies;
- ii) describe the process of policy making in Government;

- iii) interpret and disseminate policies;
- iv) coordinate the implementation of Government policies and programmes; and
- v) assess the challenges in implementing Government policies and programmes.

2.4.3 Sources of Government Policy

Policy refers to the laws, regulations, courses of action and funding priorities related to a given issue. A policy is a statement of government intent, which articulates basic principles to be pursued to attain specific goals and actions. In the context of legislation, a policy is a document which outlines what a government or individual aims to achieve for a society as whole.

Public policy can be generally seen as the course of action or inaction taken by governmental entities (the decisions of government) with regard to a particular issue or set of issues. Public Policy is a definite course of action by a government or organization. It is chosen to solve a problem or to guide in determining present and future decisions regarding matters of public concern. Government policy finds expression in general programmes and specific decisions, or in policy declarations of decision makers.

There are a variety of triggers that necessitate policy formulation by government. These include:

- i) New/changing demands that governments are faced with, hence the need to rationalise its course of action;
- ii) Need to optimise resource utilization in order to achieve desired results amid scarce resources;
- iii) Growing internationalisation creating need to work in the ‘global village’; and
- iv) Need to appear credible due to problems of legitimacy.

There is no one fixed source of public policy. Some issues from which public policy may emanate include:

- i) Debate on presidential speech at the beginning of each new session of parliament-The speech is debated and passed to senior civil servants who come up with a cabinet paper;
- ii) Cabinet Secretary of National Treasury’s budget speech;
- iii) Public commissions constituted to address specific issues of public concern; and
- iv) Stakeholder meetings which result in Sessional Papers.

2.4.4 Policy Making Process in Government

The development and implementation of a public policy typically goes through a number of phases that are referred to as the policy cycle. Public policy making process involves the following steps:

- i) Policy initiation. Government Ministries, State Departments and Agencies (MDAs), county governments’ departments, citizens, political parties, institutions, and stakeholder groups among others can initiate policy. The relevant MDA formulates policy guidelines for discussion within the MDA and other government departments.
- ii) Research. The respective MDA conducts comprehensive research on the policy issue and seeks expert opinion on the problem. To guarantee acceptability and ownership, views from all relevant MDAs and other actors are sought through taskforces, committees and other consultative forums.

- iii) Negotiation and public participation. Debates and negotiations on content of the draft policy framework take place. Various stakeholders are involved including the public, opposition parties, non-governmental organizations and all interest groups. Stakeholders participate by attending parliamentary committee hearings, meetings with the Cabinet Secretary, CEC or departmental heads, workshops, seminars and or retreats.
- iv) Finalization of the draft policy. After considering all the issues raised by various stakeholders and options available, the MDA draws up a final draft policy document.
- v) Cabinet or county committee approval. The Cabinet Secretary or County Executive Committee member reviews the final policy document to ensure that proper analysis has been conducted; different approaches have been identified and discussed. Further, s/he ascertains that the policy document provides the best option available to redress a situation. S/he also ensures that the fiscal, constitutional and other possible implications of the policy are clearly brought out in the policy. Once satisfied, the policy document is submitted to the Cabinet or the County Executive Committee for approval. Some policies upon cabinet or CEC approval will be gazetted and implemented.
- vi) Parliamentary or County Assembly Approval. Once the policy document is approved by the Cabinet or the County Executive Committee, it is published and tabled in the respective House or Assembly for debate and approval. The respective legislative body, in accordance with the Standing Orders, introduces the policy document in the House and subjects it to the relevant House Committee for scrutiny and further consideration. The policy document may be approved by the House with or without amendments. The views of the Executive may be sought for value addition and further clarification.
- vii)Gazettement. Once the policy is approved by the respective House, the Clerk of the respective House submits the approved policy to the respective CS or CECM for gazettement and implementation.

2.4.5 Dissemination of Government Policies

As an administrative officer, you need to read and understand contents of policies and to enable you to oversee implementation. Implementation should be done in accordance with procedures provided in the regulations.

It will be your responsibility as an Administrative Officer to disseminate these policies to the public using channels with wide coverage to the population. The choice of channels will depend on social economic factors like age, literacy level, environment and probably level of income. Some of the channels include the following.

- i) Electronic e.g sms, e-mail;
- ii) Public gatherings (barazas);
- iii) Websites,
- iv) Circulars; and
- v) Social institutions.

2.4.6 Implementation of Government Policies and Programmes

Policy implementation is the execution of decisions made by policy makers so that the goals and objectives intended are achieved. It is the realization of an application, or execution of a plan, idea, model, design, specification, standard, or policy.

In most countries the bureaucracy which comprises the public service is charged with responsibility to implement policies. The authority for implementation may be constitutionally provided or be implied in practice.

Implementation of public policies is done by the following agencies:

- i) **Civil Servants:** They are major players in providing inputs in policy implementation. They bring expertise, skills and competencies that drive public service to achieve policy goals. Their neutrality from social and political sub process is a major advantage in policy implementation.
- ii) **Executives:** This category includes the presidency, cabinet and other top officials in the government. Their roles in policy implementation include overseeing, supervising, coordinating and managing administrative agencies, departments and corporations.
- iii) **The Judiciary:** This refers to a body of judges, magistrates that interpret laws and adjudicates conflicts between organizations, groups and individuals. The powers of adjudication, interpretation and review of laws make the judiciary an actor in public policy implementation. The Judiciary makes pronouncements as to propriety, fairness, legality and constitutionality of laws. Further, the Judiciary can change a course of activity and action to alternative and moderate implementation.
- iv) **Political parties:** They influence policy implementation through electoral process. They seek to win control of government machinery by articulating their members' demands and interests and aggregate them into courses of policy actions. Implementation of programmes is based on the basis of policy activities.
- v) **Interest groups:** These are groups of people who come together to pursue common interests. They do so by interacting with government and non-governmental organizations since their activities are dictated by government interventions and regulations. They initiate linkages with the government in order to influence their considerations in implementation of policies that affect them. They facilitate effective implementation of the policy through critical oversight and monitoring.
- vi) **Private sector:** The private sector participates in government policy implementation through award of government contracts which are monitored by government.

2.4.7 Challenges in implementing Government Policies and Programmes

As an Administrative Officer, it is prudent to note that implementation of government policies and programmes are not always easy. You are likely to face various challenges including:

- i) Lack of a clear-cut guidelines in areas that relate to the policy to be implemented;
- ii) Duplication and conflict in institutional roles related to policy management;

- iii) Gaps between policy and existing legislation;
- iv) Low level of policy implementation capacity due to poor planning;
- v) Absence of policy review mechanism, meaning that it is often difficult to tell how well the policies are dealing with the identified problem;
- vi) Slow movement of the bureaucratic machinery in the process of policy execution and management; and
- vii) Existence of divergences in attitudes towards concerted action and cooperation.

2.4.8 Summary

In this topic, we have discussed the process of policy making in government. In addition, we have looked at the dissemination and implementation of government policies and programs. In the next topic we shall discuss essentials of management.

2.4.9 Activities

1. Describe the situations when an Administrative officer may use the public policy dissemination channels outlined above.
2. Discuss the challenges that an Administrative Officer may face while implementing government programs in your area of jurisdiction.
3. Describe the bottom-up and up-bottom approaches of implementing public policies in Kenya.

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2.5 ESSENTIALS OF MANAGEMENT

Outline

- 2.5.1 Introduction
- 2.5.2 Specific Objectives
- 2.5.3 Concept of management
- 2.5.4 Principles of management
- 2.5.6 Functions of management
- 2.5.7 Leadership approaches in government
- 2.5.8 Role of ICT in Management
- 2.5.9 Summary
- 2.5.10 Activities
- 2.5.11 References

2.5.1 Introduction

In the execution of your duties as an Administrative Officer, you will be expected to manage both human and capital resources efficiently and effectively. As such, you require to be grounded in the essentials of management. This topic is therefore intended to equip you with knowledge, skills, and attitudes that will enable you execute managerial functions in public service.

2.5.2 Specific Objectives

By the end of the topic, you should be able to:

- i) describe the concept of management;
- ii) apply the principles of management in the workplace;
- iii) interpret the functions of management;
- iv) assess leadership approaches in delivery of government services; and
- v) apply ICT in enhancing provision of government services.

2.5.3 Concept of Management

Management is the act of getting things done through and with people in formally organized groups. It is the act of creating an environment in which people can work either as individuals or as teams to attain goals. In other words, it is a process of getting things done through and with people by directing and motivating them towards common objectives. As an Administrative Officer, you ought to create conducive environment wherein employees can work together and effectively achieve organizational goals.

2.5.3.1 Characteristics of Management

Management exhibits the following characteristics:

- i) It is universal.
- ii) It applies to all levels of organizations.
- iii) It is purposeful.
- iv) It is concerned with productivity.
- v) It involves allocation and control of human, money and other physical resources.
- vi) It is an integrative process.

2.5.4 Principles of Management

In the words of Koontz and O' Donnell, "Management principles are fundamental truths of general validity." These truths are the guiding pillars in the managerial execution of functions and solution to problems. Management as a social science has developed a number of management principles from time to time. These principles serve as guidelines for decision making. They are drawn by means of observation and analysis of events that managers encounter in practice. Henry Fayol synthesized 14 principles after several years of study. The principles are:

- i) **Division of Work:** This is the principle of specialization. An organization has diverse professionals, and each specialize in specific fields. Specialization promotes efficiency and increase productivity, speed and accuracy. As an Administrative Officer, it is necessary to recognize this principle and deploy employees under you appropriately.

- ii) **Authority and Responsibility:** As a manager, you will have right or powers to give directives to employees in order to get work done. However, you will still be accountable for their actions.
- iii) **Discipline:** Discipline entails obedience to rules and regulations. Efficiency in the public service can only be achieved if people are disciplined by complying with service regulations as outlined in the code of conduct and ethics and other guidelines provided from time to time.
- iv) **Unity of Command:** The principle of unity of command means taking orders from one supervisor and be answerable to that particular officer. It is your responsibility to make employees know their immediate supervisors in order to avoid confusion, low productivity and conflict among employees.
- v) **Unity of Direction:** The principle provides that there should be only one leader and one plan for a series of activities seeking accomplishment of the same objective. As an Administrative Officer, you should lead employees under you to work together in achieving set objectives.
- vi) **Subordination of Individual Interest:** This principle means that the interest of the organization is above the interests of the individual and the group. As a manager, you will require to set a good example of honesty, integrity, fairness and justice. Further, it will involve you having an attitude and a spirit of sacrificing your interests for the common good.
- vii) **Remuneration:** Employees in an organization should be motivated by remunerating them appropriately. As an Administrative Officer, it will be necessary to provide good working conditions by regularly recommending better terms and conditions of service for your staff.
- viii) **The Degree of Centralization:** The principle refers to the extent to which authority is concentrated or dispersed in an organization. Individual circumstances determine the level of centralization that yields the best results. In compliance with this principle, you will be expected to sometimes involve other employees in decision making considering that you are all working towards a common goal.
- ix) **Scalar Chain:** Scalar chain explains hierarchy in an organization. This principle indicates that, there should be a clear line of authority from top to bottom. This will make it possible for employees to contact their seniors without challenging authority.
- x) **Order:** This refers to both material and social order i.e. arrangement of things and persons in an organization. As an administrative officer, it is your responsibility to ensure that there is a fixed place for everything to facilitate smooth working and avoid wastage of resources.

- xi) **Equity:** Equity means combination of fairness, kindness and justice. As an Administrative Officer you should treat employees with equity for them to be devoted to their duties.
- xii) **Stability of Tenure of Personnel:** This principle states that in order for an organization to run smoothly, personnel must not frequently enter or exit an organization. As an Administrative Officer it will be necessary to adhere to stipulated regulations to guard against high staff turnover.
- xiii) **Initiative:** This principle allows employees to be creative in formulating new ideas. It will be your responsibility as an Administrative Officer to create conducive environment that will give employees an opportunity to come up with innovative ideas that are prudent in promoting the image of the Government.
- xiv) **Esprit de Corps:** Esprit de Corps means team spirit. This stands for ensuring involvement and unity of employees in order to promote trust and understanding. In this regard, you will be expected to create unity and team spirit among staff working under you.

2.5.5 Functions of Management

Management entails effective planning and regulation of the activities of an organization in the realization of set objectives. It is therefore a dynamic process involving different functions. The functions include:

- i) **Planning:** This involves projection of activities in an organization for future implementation based on available resources. As a manager in the public service, it is appropriate to design work plans to identify activities for continuous implementation within a specified time of the year.
- ii) **Organizing:** It is the process of bringing together physical, financial and human resources and developing productive relationships amongst them for achievement of organizational goals. Good results can only be achieved with good organization. The organization structure should be well outlined both horizontally and vertically to clearly indicate the departments and their functions. Further, resources both human and non- human need to be provided.
- iii) **Staffing:** This entails having workers that are suitable to perform functions of the organization. The right staff should have qualifications which are in congruence with the functions of the organization and also reflects diversity. As an Administrative Office, you may not be involved in the recruitment process but will be involved in the staff appraisal process. Staff appraisal is one of the determinants of promotion in the public service. As such, you need to ensure fair appraisals so as to have the right employees promoted to senior positions.
- iv) **Directing:** This involves influencing, guiding, supervising and motivating subordinates for the achievement of organizational goals. As an Administrative officer you will

require to direct staff working under you through proper supervision, motivation, providing leadership and communicating effectively.

- v) Controlling: It implies measurement of performance against standards and correction of deviations if any to achieve organizational goals. As an Administrative Officer, you will be required to sign a performance contract with your supervisor. The contract will be reviewed periodically to assess the progress and be guided appropriately if not on course.

2.5.6 Leadership Approaches in Government

Leadership is about influence i.e. ability to ethically influence your subordinates, peers and bosses in a work context to accomplish shared objectives. It operates in groups engaged for a common purpose. As an Administrative Officer, you will play a leadership role in the execution of your function. It is therefore important that you understand the various leadership approaches. Leaders usually apply one or a combination of the following leadership approaches:

- i) Transactional Approach: This approach is grounded on the notion that leaders lead through social exchange to maintain normal flow of operations. As an Administrative Officer there are instances that you will require to offer rewards to your subordinates to accomplish set goals and withhold rewards if you consider productivity and performance deficient.
- ii) Transformational approach: This approach involves inspiring subordinates to extra ordinary performance and a shared sense of commitment to the vision and mission of the organization. As an Administrative Officer, you will need to encourage and challenge subordinates to be creative and innovative in order to provide solutions to organizational problems. Further, you may also build teams and promote collaboration with stakeholders.
- iii) Strategic approach: It is the ability to influence others to voluntarily make decisions that are geared towards the realization of the organization's long-term goals while maintaining short term financial stability. As an Administrative Officer, you will be required to steer your team in implementing strategies devised to achieve long term strategic objectives of the ministry, state department or agency.
- iv) Democratic/participatory approach: This leadership approach recognises that employees are stakeholders in the organization and are entitled to their own voice. While using this approach, you will consult other people to provide inputs for decisions that you intend to make. This is after realizing that people are resourceful, and the intended decisions will directly affect them.
- v) Charismatic approach: This approach involves encouraging particular behaviours in others by way of eloquent communication, persuasion and force of personality. As an Administrative Officer, you will be required to use charisma especially when addressing members of the public for ease of embracing government directives.
- vi) Situational approach: This involves choosing the right leadership style for the right people and situation. In this approach, it is the leader to change his style not the

subordinate to adapt to the leader's style. As an administrative officer, you will need to adjust your leadership style to fit the developmental level of your subordinates. Further, different situations may require different leadership styles.

- vii) Behavioural/value-based approach: This approach focuses on the use of core values to motivate subordinates. As an Administrative Officer, you will be expected to set a good example to your subordinates by modelling all the core values of the organization, the values and principles of governance and the values and principles of the public service.
- viii) Functional approach: This approach places greater emphasis on how an organization or task is being led rather than who has formally been assigned a leadership role. It advocates for participation of employees at different levels in decision making by focusing on three areas namely task, team and individual. As an Administrative Officer you should seek assistance of other employees to make decisions.
- ix) Trait approach: This approach is of the view that leaders are born and not made. Such leaders have virtues that are prudent to good leadership. In this regard, since these characteristics are not acquired through formal training it is necessarily that you identify subordinate with leadership traits and place them in leadership positions e.g. when selecting village elders.

2.5.7 Role of Information Communication Technology (ICT) in Management

Use of ICT in Government is referred to as E-Government. E-Government is about conducting government transactions with citizens and business and within government using ICT. It is about transforming processes in government by leveraging on technology in service delivery. You will therefore be expected to make use of technology in service delivery from time to time.

As an Administrative Officer and in the course of duty, you may interact with the following information systems:

- i) Integrated Records Management System (IRMS)
- ii) Government Human Resource Information System (GHRIS);
- iii) E-citizen;
- iv) Integrated Population Registration System (IPRS);
- v) I-tax; and
- vi) Transport Information Management System (TIMS).

2.5.8 Summary

In this topic, we have discussed the concept of management, principles of management as well as functions of management. Further we have analysed the various leadership approaches that may be used in delivery of government services as well as the use of ICT in management. In the next topic we shall discuss decision making and problem solving.

2.5.9 Activities

1. Leaders are made, born or poorly chosen. Discuss.
2. As an Administrative Officer, you are both a manager and a leader. Discuss

3. Describe the strategies you may use to implement the principle of 'esprit de corps' in your department
4. Discuss the situations whereas an administrative officer you may use laissez faire leadership approach.
5. Discuss the strategies you may use to ensure political interests do not impact on your leadership choices.
6. Discuss the various ways in which an Administrative Officer may apply the information systems identified above in the course of duty.
7. Discuss ways in which an Administrative Officer can safeguard information while using information communication technology in delivery of public services.

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2.6 DECISION MAKING AND PROBLEM SOLVING

Outline

- 2.6.1 Introduction
- 2.6.2 Specific Objectives
- 2.6.3 Concept of decision making and problem solving;
- 2.6.4 Process of effective decision making and problem-solving in-service delivery;
- 2.6.5 Approaches to decision making and problem solving
- 2.6.6 Summary
- 2.6.7 Activities
- 2.6.8 References

2.6.1 Introduction

Solving problems whether simple or complex is at the centre of what Administrative Officers do in their day to day assignments. It is a fundamental responsibility of every administrative officer to device ways of solving them. Being an effective problem solver is to a large extent determined by skills and knowledge possessed by the officer.

This topic therefore aims at equipping you with knowledge, skills and attitudes that will enable you make decisions and solve problems effectively in the delivery of public services.

2.6.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of decision making and problem solving;

- ii) Describe the process of effective decision making and problem-solving in-service delivery; and
- iii) Assess the approaches to decision making and problem solving.

2.6.3 Concept of Problem Solving and Decision Making

Problem solving refers to a process in which we perceive and resolve a gap between a present situation and a desired goal, with the path to the goal blocked by known or unknown obstacles. A decision on the other hand is a judgment that you make in selecting best options between two or more alternative solutions to problems.

In your line of duty as an Administrative Officer, you will be required to evaluate alternative solutions to problems in order to make appropriate decisions. It is therefore necessary that you should possess knowledge, skills and attitudes for making effective decisions.

2.6.3.1 Types of Decisions

As an Administrative Officer, you will be required to make different types of decisions depending on prevailing circumstances. These decisions may be either programmed or non-programmed.

Programmed (Routine) Decisions: These are decisions where you will be guided by government policies and procedures. Some of structured decisions include, taking disciplinary action on an officer working under you. There is a clear procedure of what should be done while disciplining employees in the public service.

Non- programmed Decisions: These are decisions that you will make when you encounter unexpected, exceptional and non-recurring problems such as those made during times of disaster. Non-programmed decisions may also be made in difficult situations where there is no easy solution.

2.6.4 Process of Effective Decision Making and Problem Solving

As an Administrative Officer, there are certain steps you will be required to follow in making decisions and solving problems. These are as follows:

- i) **Define the problem:** In order to make good decisions to problems, you will be required to identify symptoms/indicators and root cause of particular problems. You will also be required to analyse it further by asking questions that will guide you to understand the underlying factors that may have contributed to a particular problem. Some of these questions include, why, what, how, when or any appropriate question that will lead to an acceptable decision.
- ii) **Gather information:** You will be required to gather relevant facts and data in order to derive the best alternative. Always consider approved sources of information and authenticated data to avoid misleading the people you are serving. Some sources of information include review of records, brainstorming, etc.
- iii) **Identify alternatives:** With the relevant information regarding the problem, generate possible solutions. There is usually more than one way of solving a problem.

- iv) Evaluate alternatives and select the best option: Once you have identified multiple alternatives, evaluate the evidence for or against each alternative. You can do evaluation by determining the cost benefit analysis of each alternative, prioritize and come up with the most beneficial.
- v) Implement the best alternative: Once you have made your decision, act on it. Develop a plan to make your decision tangible and achievable.
- vi) Monitoring and evaluation: After implementation of the chosen option, it will be necessary that you track the extent to which the problem at hand has been solved. This will be done by collecting and analysing information relating to the decision and measuring success. If the problem has been solved, take note of what has worked for future reference. If not, learn from your mistakes as you begin the decision-making process again.

2.6.5 Approaches to Decision Making and Problem Solving

As an Administrative Officer, you will be making decisions and solving problems in the course of service delivery. It is important therefore to use an appropriate approach to make decisions. The appropriate approach will depend on prevailing situations and impact of the decision on the people you will be serving. Some of the approaches include:

- i) Logical/Rational approach: Rational approach is a systematic, step by step process for making decisions. This is based on objectivity of managers who have complete information. Rational decision makers follow the decision-making process outlined above to reach at solutions.
- ii) The Behavioural approach: This approach assumes that decision-makers operate with bounded rationality rather than with the perfect rationality assumed by the rational approach. At times, decisions makers cannot deal with information about all the aspects and alternatives pertaining to a problem. They therefore arrive at a decision after evaluating two or three alternatives. Thus, this process is neither exhaustive nor completely rational and therefore, solutions arrived at are not entirely ideal. This approach utilizes the following:
 - Use of procedures and rules of the thumb which reduce uncertainty in decision making.
 - Sub optimizing which refers to knowingly accepting less than the best possible outcome to avoid unintended negative effects on other aspects of the organization.
 - Satisfying which refers to examining alternatives only until a solution that meets minimal requirements is found and then making no further efforts to look for a better one. The search for alternatives is generally a sequential process based on procedures and rules of thumb guided by previous experiences with similar problems.
- iii) The practical approach: This approach combines the steps of the rational approach with the worthwhile features and conditions in the behavioural approach to create a more realistic process for making decisions in institutions. Rather than generating all alternatives, the decision-maker should try to go beyond rules of thumb and satisfying

limitations and generate as many alternatives as possible within the given time, money and other practicalities of the situation.

- iv) Quantitative approach: This approach utilizes mathematical models and statistics in decision making. However, this approach produces best results when the problem is clearly defined, several alternatives exist, and decision outcomes are easily measurable. As an Administrative Officer you can employ this approach while making decisions on fleet management.
- v) Participatory decision making: In this approach, you will be inviting people who will benefit from the decision and involve them in deliberating on the problem at hand in order to arrive at the best solution. This approach reduces execution risks and also promotes ownership of the decision by the community.
- vi) Autocratic decision making: This is when you make decisions without input from beneficiaries. This approach is appropriate if decision at hand is unpopular or inconsistent with the community's cultural practices. For instance, in a case when you intend to implement policies on Female Genital Mutilation (FGM).
- vii) Democratic approach: In this approach you will be making decisions by considering views of the majority. A good example of democratic approach is when the views of the majority guide the decision to be arrived at during a public participation forum.

2.6.6 Summary

In this topic we have explained the concept of decision making and described the process of rational decision making and problem solving. We have further examined the various approaches applicable in decision making. In the next topic, we shall examine the role of the Administrative Officer in human resource management.

2.6.7 Activities

1. Imagine a situation with indicators of a problem requiring your attention as an administrative officer and explain how you can solve such a problem in reference to the steps outlined above.
2. As an Administrative Officer, you are required to always make logical/rational decisions. Discuss
3. Reversibility is a factor related to the speed in which a decision can be reversed, and the difficulty involved in making that reversal. Discuss practical work-related instances where you have had to reverse a decision.

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2.7 ROLE OF THE ADMINISTRATIVE OFFICER IN HUMAN RESOURCE MANAGEMENT

Outline

- 2.7.1 Introduction
- 2.7.2 Specific Objectives
- 2.7.3 Concept of Human Resource Management
- 2.7.4 Legal and policy provisions on Human Resource Management
- 2.7.5 Terms and conditions of service
- 2.7.6 Change management techniques
- 2.7.7 Discipline management in the public service
- 2.7.8 Employee wellness and assistance
- 2.7.9 Staff Performance Appraisal System
- 2.7.10 Summary
- 2.7.11 Activities
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2.7.1 Introduction

As an Administrative Officer, you will be required to coordinate human resources under your jurisdiction. To effectively coordinate human resources, it will be necessary for you to have an understanding of guiding principles, policies, legislations and regulations governing human resource management in the public service in Kenya.

This topic is therefore aimed at equipping you with knowledge, skills and attitudes that will enable you coordinate human resources under your purview effectively.

2.7.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the concept of Human Resource Management;
- ii) interpret the legal and policy provisions of Human Resource Management;
- iii) analyse the terms and conditions of service;

- iv) apply the techniques of managing change in government;
- v) conduct disciplinary proceedings in the public service;
- vi) design strategies for addressing employee wellness and assistance; and
- vii) conduct staff performance appraisal.

2.7.3 Concept of Human Resource Management

Human Resource Management (HRM) is the process of managing people in organizations in a structured manner. Human resources in government are the officers employed and deployed to work at national government, county government, autonomous and semi-autonomous government agencies. As an administrative officer, you will be discharging some aspects of human resource management including:

- i) Orientation of newly recruited/transferred staff;
- ii) Recommending officers for re-designation;
- iii) Recommending officers for promotion;
- iv) Recommending officers for transfer;
- v) Training: As a supervisor you will be expected to provide on-the job training to your subordinates through modelling, coaching and mentoring. Further, you will be expected to recommend appropriate training for the staff that you will be supervising;
- vi) Initiating disciplinary action; and
- vii) Staff performance appraisal.

2.7.4 Legal and Policy Provisions on Human Resource Management

In Kenya, the management of public officers is done in strict adherence to legislation on labour matters, policies, regulations and guidelines which govern Human Resource Management and Development (HRM&D). Such regulations are contained in several documents. As an Administrative Officer, you will be expected to discharge your duties in a manner congruent to the provisions of the Constitution, legislations, policies and regulations. You need therefore to familiarize yourself with the following:

- i) The Kenya Constitution 2010;
- ii) The Public Service Commission Act 2017;
- iii) The Pensions Act (Cap 189);
- iv) Employment Act, 2007;
- v) Labour Relations Act, 2007;
- vi) Labour Institutions Act, 2007;
- vii) The Work Injury Benefits Act, 2007;
- viii) The Occupational Safety and Health Act, 2007;
- ix) Fair Administrative Action Act, 2015;
- x) Public Officer Ethics Act, 2003;
- xi) Anti-corruption and Economic Crimes Act, 2003;
- xii) Public Service (Values and Principles) Act, 2015;
- xiii) Widows and Children's Pension Act (Cap.195);
- xiv) National Social Security Fund Act, 2013;
- xv) National Hospital Insurance Fund Act (Cap 258);
- xvi) The Persons with Disabilities Act No. 15, 2003;

- xvii) Leadership and Integrity Act, 2012;
- xviii) Public Service Superannuation Act, 2012.

You will find the following policies helpful when making decisions on human resource matters.

- i) Policy on Career Management in the Civil Service
- ii) Disability Policy and Guidelines for the Public Service
- iii) Guidelines on Managing Training in the Public Service
- iv) Internship Policy and Guidelines for the Public Service
- v) Diversity Policy for the Public Service
- vi) Human Resource Policies and Procedures Manual for the Public Service
- vii) Human Resource Development Policy for the Public Service
- viii) Discipline Manual for the Public Service

2.7.5 Terms and Conditions of Service

Terms and conditions of service are the rights and obligations of an employee and an employer in the employment contract. These include salary, allowances, housing, transport, terminal benefits, leave, conducive work environment, and employee welfare and wellness as specified in various policy documents.

The Public Service Commission reviews and makes recommendations to the National Government in respect of conditions of service in the public service. As an Administrative Officer, you will need to familiarize yourself with these provisions that will guide you when dealing with public officers under your jurisdiction.

2.7.6 Change Management Techniques

Change can be described as alteration to the status quo in a government department, institution or organization that impacts upon either or both the work and the work environment of an individual. In the course of your work, you will encounter change and you will also be expected to manage change in the work environment.

2.7.6.1 Change Management

Change management refers to the process, tools and techniques you use to manage the people-side of change to achieve the required government department outcome(s).

2.7.6.2 Causes of Organizational Change

Change may be provoked by a number of factors, which may include:

- i) Adoption of a new strategy by government to accomplish some overall goal or a certain objective or outcome.
- ii) Response to external forces, e.g., reduction in funding.
- iii) Need to evolve to a different level in their life cycle, e.g. from traditional management approach in government to e-government.
- iv) Change as a survival tactic for a department.
- v) Change as a way of staying competitive and ensuring growth.
- vi) Change due to dynamism of the human environment.

2.7.6.3 Change Management Process

As an Administrative Officer, you will be responsible for managing change in your area of jurisdiction. The change management process is as follows:

- i) Assess changes in the environment – Scan the environment with respect to changes in culture, politics, economy, competition, policy to help you to determine what needs to be done to be able to cope.
- ii) Determine the Performance Gap – this is the difference between ‘what could be’ and ‘what is’, to take advantage of opportunities
- iii) Diagnose organisational problems: This involves identifying the nature and extent of the problems before taking action. The reason for this is that most organizational problems have multiple causes, and so the need to gather more data or information throughout an organization
- iv) Identify possible sources of resistance - Most changes encounter resistance. You should think through what causes people or members to resist change before charging right into implementing.
- v) Set objectives: Objectives should be set before any change effort is started. Objectives should be specific, measurable, attainable, realistic, time-bound and consistent with organizational needs.
- vi) Search for change strategies– practical change strategies must be identified. Change can only be successfully implemented by modifying certain forces in the organization.
- vii) Implement the change: The change should be installed and reinforced over a period of time. The ability to sustain change depends primarily on how well the organization reinforces newly learned behaviours during and after the change.
- viii) Follow-up – This is the evaluation time, whether the change process has been successful or not. The success is based on the level of satisfaction, productivity, the magnitude of improvement and the duration of improvement.

2.7.6.4 Techniques for Managing Change

As an Administrative Officer, one of the greatest challenges you may face in change management will be resistance to change. Below are some of the techniques you may use to ensure effective change management:

- i) Sponsorship: ensuring there is active sponsorship for the change at a senior executive level within the organization and engaging this sponsorship to achieve the desired results.
- ii) Buy-in gaining buy-in for the changes from those involved and affected, directly or indirectly.
- iii) Involvement: involving the right people in the design and implementation of changes, to make sure the right changes are made.
- iv) Impact: assessing and addressing how the changes will affect people.
- v) Communication: telling everyone who's affected about the changes.
- vi) Readiness: getting people ready to adapt to the changes, by ensuring they have the right information, training and help.

Some of the activities you may have to undertake in managing change can include:

- i) Ensuring that there is clear expression of the reasons for change, and helping the sponsor communicate this.

- ii) Identifying "change agents" and other people who need to be involved in specific change activities, such as design, testing, and problem solving, and who can then act as ambassadors for change.
- iii) Assessing all the stakeholders and defining the nature of sponsorship, involvement and communication that will be required.
- iv) Planning the involvement and project activities of the change sponsor(s).
- v) Planning how and when the changes will be communicated and organizing and/or delivering the messages.
- vi) Assessing the impact of the changes on people and the organization's structure.
- vii) Planning activities needed to address the impacts of the change.
- viii) Ensuring that people involved and affected by the change understand the process change.
- ix) Making sure those involved or affected have help and support during times of uncertainty and upheaval.
- x) Assessing training needs driven by the change and planning when and how this will be implemented.
- xi) Identifying and agreeing the success indicators for change and ensure that they are regularly measured and reported on.

2.7.7 Discipline Management in the Public Service

Discipline means conforming to service rules and regulations which prescribe expected conduct and behaviour of individual officers. The Public Service Commission is constitutionally mandated to exercise disciplinary control over persons appointed to hold offices in the public service. As an Administrative Officer, you will be responsible for ensuring that officers in your department uphold absolute discipline necessary to ensure smooth service delivery.

2.7.7.1 Disciplinary Procedure in the Public Service

The procedure shall apply when an officer fails to reform despite having been issued with verbal and written warnings or where he/she commits a serious offence(s). There are different procedures for the different ranks of staff as outlined in the Discipline Manual for the Public Service.

2.7.7.2 Gross Misconduct

The offences that amount to gross misconduct which may lead to summary dismissal are, but not limited to the following:

- i) Absence from duty without leave or other lawful cause.
- ii) Negligence of duty.
- iii) Intoxication during working hours.
- iv) Using abusive or insulting language or behaving in a manner likely to cause a breach of the peace.
- v) Insubordination.
- vi) Criminal conviction.
- vii) Incarceration for more than fourteen (14) days following arrest for cognizable offence.
- viii) Wilful destruction of government property.
- ix) Theft by a public servant.
- x) Unauthorized use or disclosure of confidential information.

- xi) Falsification of information or references on appointment.
- xii) Acceptance of any bribe, secret profit or unauthorized commission.

2.7.7.3 Penalties

All penalties inflicted on a public officer shall be within the law and the Public Service Commission Regulations. The following are the penalties which may be inflicted on an officer facing disciplinary action:

- i) Recovery of cost or part of the cost of any loss or breakage caused by default or negligence provided that no such cost has been recovered by surcharge under the appropriate financial instructions or regulations.
- ii) Reprimand.
- iii) Stoppage, withholding and deferment of salary increment.
- iv) Deferment of promotion.
- v) Reduction in rank or seniority.
- vi) Dismissal/termination of contract.

2.7.8 Employee Wellness and Assistance

As an Administrative Officer, you may be confronted by situations requiring you to implement government initiatives or programmes on employee wellness and assistance. Such programmes will include:

- i) Guidance and Counselling Services.
- ii) HIV/AIDS and Support Programme.
- iii) Drug and Substances Abuse.

2.7.8.1 Guidance and Counselling in the Public Service

The current challenges in the workplace and family environment affects the performance and wellbeing of officers. To address these challenges as an administrative officer, you will be required to implement the Government policy on guidance and counselling. Regulations require that you:

- i) Refer public officers working under you to the established unit for provision of guidance and Counselling services within your MDA. The service is intended to address the psychological needs of public servants during their entry, stay and exit.
- ii) To only refer officers seeking guidance and Counselling when faced with psychological challenges.
- iii) To refer an officer for Counselling when you notice signs of low productivity.
- iv) To refer an officer for counselling when the officer is a danger to himself and others or in case of an indiscipline problem.
- v) To comprehend that an officer will have freedom to accept or reject counselling, including freedom to remain in the counselling relationship after it has been initiated.
- vi) To advise officers that Counselling Services in the public service is done free of charge and limited to Public Servants. However, consultation with family members or support system may be extended when deemed necessary.

2.7.8.2 HIV/AIDS Support Programme

HIV and AIDS is a major challenge facing officers in and out of the office. It poses a big threat

to the individual, the family and the public service. It is in cognizance of this that the Government has put in place a policy and developed policy guidelines to address HIV/AIDS challenges affecting Public Servants in the workplace.

Your role as an Administrative Officer will be to:

- i) Ensure that an officer is not discriminated or stigmatised on the basis of HIV/AIDS status;
- ii) Be at the forefront in providing a conducive working environment for the infected and affected officers; and
- iii) Minimize the risk of HIV transmission by adopting First Aid/Universal infection control precautions at the workplace.

2.7.8.3 Drug and Substances Abuse

The Government has a policy in place on how to manage issues related to drug and substances abuse at the workplace. You are required to:

- i) Treat drug and substance abuse by officers like any other disease.
- ii) Recommend officers who are determined to deal with drug and substance abuse problem to in-patient and out-patient rehabilitation services within the limits provided by the prevailing legislation/regulations.

2.7.9 Staff Performance Appraisal System (SPAS)

As an Administrative Officer, you will be required to set performance targets with your subordinates and evaluate their performance bi- annually. Therefore, you need to be grounded on the staff performance appraisal system in the public service.

Staff Performance Appraisal system (SPAS) is predicated upon the principle of work planning, setting of agreed performance targets, feedback and reporting. It is linked to other human resource systems and processes including staff development, career progression, placement, rewards and sanctions.

2.7.9.1 Objectives of Performance Appraisal

Staff Performance Appraisal is a critical component of the human resource management function in the Public Service. The overall objective of the appraisal system is to manage and improve performance in the Public Service by enabling a higher level of staff participation and involvement in planning, delivery and evaluation of work performance.

2.7.9.2 Work Planning and Setting of Performance Targets

Prior to the beginning of the performance period, you will need to cause the officers to prepare work plans based on the department's objectives. The departmental objectives are derived from the MDA's strategic plan and performance contract. The MDA's strategic objectives are cascaded to the department, division and individual employees.

The departmental work plans should include the departmental priority objectives from which individual performance targets will be derived. Departmental heads will meet with staff under their direct supervision to discuss and ensure that the objectives and performance targets of the department are understood.

The individual officers work plans will be derived from the departmental work plans and officer's job description. The work plan will briefly describe the performance targets or expected results on specific assignments. It will further indicate the activities for which the staff member is responsible during the performance year;

The Appraisee will hold discussions with the immediate Supervisor to agree on the work plan. The performance targets shall thereafter be set as agreed in the discussions by latest 31st July of each year. For each performance target to be assessed there will be performance indicators.

2.7.9.3 Appraisal Period

The appraisal period will cover one (1) year starting from 1st July to 30th June of the following year. Performance appraisal is an on-going process throughout the performance period. It is usually undertaken every end of quarter. Milestones over the review period should be documented and maintained in the Appraisee's personal file. The Performance Appraisal reflects the summation of the year's performance including quarterly and mid-year reviews.

2.7.9.4 Performance Measurement

Note that Performance Measurement shall be undertaken in accordance with the SPAS guidelines issued to the Service. You will need to familiarize yourself with these guidelines.

2.7.9.5 Mid-Year Performance Review

The main purpose of the mid-year Performance Review is to accord both the Supervisor and appraisee the opportunity to jointly review the progress made by the appraisee in accomplishing the assignments agreed on at the beginning of the appraisal period. The following principles should apply:

- i) The review to be in form of discussions centred on what has been achieved, any constraints experienced and whether there is need to vary the initial assignments in order to accommodate any unforeseen circumstances.
- ii) Any changes, additions or removal of performance targets are only made in the event that there have been significant changes in the nature of functions carried out by the appraisee and which may necessitate revision of performance targets.
- iii) The supervisor should, after discussions with the appraisee at the Mid-year performance review comment on the appraisee's performance.
- iv) In the event that the supervisor leaves the Department/Ministry, he/she will be required to appraise the performance of the Appraisee(s) on pro-rata basis.

2.7.9.6 End of Year Appraisal Process

The End of Year Appraisal takes place at the end of the reporting period. The following will constitute the end of year evaluation process.

- i) The supervisor and appraisee are required to meet at the end of the year to discuss the overall performance for the whole appraisal period.
- ii) Prior to the meeting the appraisee should prepare a preliminary report on the extent to which set targets were achieved as agreed at the beginning of the performance year with clear performance indicators.

2.7.9.7 Rewards and Sanctions

The overall goal of the rewards and sanctions is to establish a basis for rewarding exemplary performance and administering sanctions for poor performance, motivate employees to have positive attitude to work and to enhance productivity in the public service. This will also create linkages between institutional and individual performance. As an Administrative Officer, you may not award monetary rewards, but you can offer non-monetary rewards for exemplary performance such as a letter of commendation or just acknowledge the performance. Such rewards ensure that the good performance is sustained by the officer.

The Public Service Commission is responsible for the administration of the rewards and sanctions policy. Further, the Commission recognises public officers and teams that have performed exemplary during the year at the Public Service Excellence Awards (PSEA) forum.

2.7.10 Summary

In this chapter we have discussed the pertinent issues of human resource management and the legal and policy provisions in the Public Service. We have also examined the terms and conditions of service; change management techniques and discipline management system in the public service. We have further discussed employee wellness and assistance programmes and staff performance appraisal system. In the next topic we shall discuss government office management.

2.7.11 Activities

1. Review the provisions of the legislations and policy documents on human resource management in the public service in Kenya.
2. Review the Discipline Procedures as per the Discipline Manual for the Public Service
3. Distinguish between interdiction and suspension as practiced in the disciplinary process for the public service.
4. Review the terms and conditions for public service as per the Human Resource Policies and Procedures manual for the Public Service.
5. Discuss the benefits your department is bound to accrue through implementation of employee wellness and assistance programmes.

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2.8 GOVERNMENT OFFICE MANAGEMENT

Outline

- 2.8.1 Introduction
- 2.8.2 Specific Objectives
- 2.8.3 Principles of office organization
- 2.8.4 Records management in Government
- 2.8.5 Management of Government property and assets
- 2.8.6 Summary
- 2.8.7 Activities
- 2.8.8 References

2.8.1 Introduction

Government office management is a critical component that facilitates seamless flow of work hence effective provision of government services. As an Administrative Officer, you will be deployed in an office and will be expected to manage the office by ensuring it is properly organized. Further, you will be expected to ensure proper management of records, government property and assets. This topic therefore aims at equipping you with knowledge, skills and attitudes to effectively play this role.

2.8.2 Specific Objectives

By the end of this topic, you should be able to:

- i) apply the principles of office management at the workplace;
- ii) implement records management processes at the workplace; and
- iii) Coordinate the management of Government property and assets.

2.8.3 Principles of Office Organization

2.8.3.1 Office

An office is a building or room in which people work at desks doing business or professional activities. As an Administrative Officer, you will operate from an office although you may be required to interact with members of the public outside the office in some instances. You therefore require competencies of office organization.

2.8.3.2 Office Organization

Office organization is the arrangement of work such that the activities of an enterprise are divided among its personnel and duties and responsibilities are allocated. It comprises the formal interrelationship among the personnel by virtue of their duties and responsibilities.

As an Administrative Officer, you will be deployed in a government office where you will be expected to play your role and ensure everybody else play theirs for efficiency and effectiveness of operations.

There is no tailor-made way of organizing the office to meet all situations. Some principles are used as guidelines for organizing the office. These principles are briefly explained below:

- i) Principle of objectivity: Government should set up certain aims for the achievement of which various departments/offices should work. As an Administrative Officer, your office should only be geared to achieve the national government agenda in matters of national security and coordination of government programmes.
- ii) Principle of specialisation: A Government department should be set up in such a way that every individual should be assigned a duty according to his/her skill and qualification. A person should specialise in his/her work to increase productivity.
- iii) Principles of co-ordination: Coordination is necessary to bring unity of action. As an Administrative officer, your office will play a major role in coordinating other national government departments in your area of jurisdiction.
- iv) Principle of authority and responsibility: Authority flows downward in the hierarchy. Every individual is given authority to get the work done. Though authority can be delegated but responsibility lies with the officer who has been given the work. As an Administrative officer you should note that even if you delegate duties in the office, you will still remain responsible.
- v) Principle of definition: The scope of authority and responsibility should be clearly defined. Every person should know their work with definiteness. If the duties are not clearly assigned, then it will not be possible to fix responsibility. As the officer in-charge, you should define every person's duties and responsibilities in the office.
- vi) Principle of span of control: Span of control refers to the number of subordinates under a supervisor. The number of subordinates should be such that the supervisor should be able to control their work effectively.
- vii) Principle of balance: The principle means that assignment of work should be such that every person should be given only that much work which s/he can perform well. The work should be divided in such a way that everybody should be able to give their maximum effort.
- viii) Principle of continuity and flexibility: Government office should be adaptable according to the changing situations. The office should be dynamic. There should

always be a possibility of making necessary adjustments.

- ix) Principle of uniformity: The office should provide for the distribution of work in such a manner that uniformity is maintained. Each officer should be in-charge of his/her respective area so as to avoid dual subordination and conflicts.
- x) Principle of unity of command: There should be a unity of command in a government office. An officer should be answerable to one boss only. If an officer is under the control of more than one superior, then there is a like-hood of confusion and conflict. This principle creates a sense of responsibility to the officer. It also leads to consistency in directing, coordinating and controlling.
- xi) Principle of exception: This principle states that top management should interfere only when something goes wrong. If things are done as per plans, then there is no need for the interference of top management. The management should leave routine things to be supervised by lower cadres. It is only in exceptional situations when attention of top management is drawn. As the officer in-charge you should not micromanage your staff.
- xii) Principle of simplicity: Office structure should be simple so that it is easily understood by each and every person. The authority, responsibility and position of every officer should be made clear so that there is no confusion.
- xiii) Principle of efficiency: The office should be able to achieve government objectives at a minimum cost. As the Administrative officer ensure efficiency in the utilization of resources at your disposal in line with the budget.
- xiv) Scalar principle: This principle refers to the vertical placement of supervisors starting from top and going to the lower level. The scalar chain is a pre-requisite for effective and efficient government office.

2.8.4 Records Management in Government

Management of public records in Kenya is governed by the Public Archives and Documentation Service Act, Cap 19, 1965 (Revised 2003) of the laws of Kenya alongside polices, rules, regulations and circulars. As evidence of official business, records have continuous use as a tool for management, accountability, risk management, operational continuity and legal evidence.

2.8.4.1 Legal and Regulatory Framework

Other than Public Archives and Documentation Service Act (Cap. 19), you will find the following legislations and policies useful as sources of regulations on management of records.

- i) The Records Disposal Act, Cap. 14, 1962.
- ii) The Anti-Corruption and Economic Crimes Act, 2003.
- iii) Public Officer Ethics Act, 2003.
- iv) Statistics Act, 2006.
- v) Public Procurement and Disposal Act, 2005.
- vi) Public Audit Act, 2003.
- vii) Value Added Tax Act, Cap. 476, 1990
- viii) Directorate of National Intelligence Service Act, 1998.

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- xvi) Government of Kenya Security Manual, 2005. Departmental Records Retention Schedules.
- xvii) National Policy on Records Management (April 2009).

2.8.4.2 Records Management Systems and Procedures in the Public Service

Based on National Policy on Records Management (April, 2009) you will be expected to adhere to systems and procedures designed by the MDA to ensure that accurate and reliable records are created and maintained. Such systems and procedures cover the following areas:

- i) Mail management
- ii) Records use and maintenance
- iii) Records disposal
- iv) Electronic records management
- v) Security of records
- vi) Access to records and information

2.8.4.3 Classified Correspondence

The Government of Kenya Security Manual contains instructions regarding classified correspondence. You will be expected to ensure the appropriate classification is clearly marked at the top and bottom of every page of all classified documents. There are four security classifications as follows:

- i) Top secret – Information and material where unauthorized disclosure would cause exceptional or grave damage to the Republic.
- ii) Secret – Information and material where unauthorized disclosure would cause serious injury to the interest of the Republic.
- iii) Confidential - Information and material where unauthorized disclosure would be prejudicial to the interest of the Republic.
- iv) Restricted – Information and material where unauthorized disclosure would cause extreme embarrassment to the Republic.

2.8.4.4 Use of Password

Where data is of a confidential nature and electronically stored, officers to whom passwords are entrusted should take precautions to keep them confidential and safeguarded or otherwise be held accountable.

2.8.5 Management of Government Property and Assets

As an Administrative Officer, you will be in charge of a number of Government assets. Such assets will need to be managed in a way that it supports effective provision of government services.

The condition of assets must be managed effectively for the assets to continue delivering services and in realizing the objects of the department, Records must be complete and maintained continuously. Long-term deferring of asset maintenance and renewals can lead to more breakdowns and service disruption, substandard services and in the end, failure of services.

2.8.5.1 Government Assets

There are various types of government assets which can be classified as:

- i) Moveable or immovable;
- ii) Tangible or intangible; and
- iii) Current or non-current assets.

2.8.5.2 Importance of Government Asset Management

Assets are an integral part of public service delivery. Asset management is therefore key for the following reasons:

- i) It promotes social and economic development and the provision of proximate, easily accessible services;
- ii) Governments require assets to facilitate service delivery;
- iii) Assets represent a significant investment that needs to be protected;
- iv) Assets management may prevent loss of credibility/reputation/image of the management and leaders as well as financial losses;
- v) Assets assist government departments in meeting a required level of service in the most cost-effective way. Further, they ensure long term sustainability of a government department.

2.8.5.3 Principles of Government Asset Management

Good governance entails a well-functioning assets and liabilities management system free from unethical practices. It involves transparency, accountability and predictability in the decision-making process and oversight mechanism to ensure prudent use of public resources. As an Administrative Officer, you should ensure compliance with the following principles of asset management:

- i) Professionalism and integrity;
- ii) Maximization of value for money;
- iii) Compliance and conformity to all applicable laws of Kenya, regulations, policies and guidelines relating to asset management;
- iv) Transparency and accountability;
- v) Prudent planning;
- vi) Reliability of data or information provided on assets; and
- vii) Regular reporting on the status of assets in an accurate manner to the relevant authorities.

2.8.5.4 Asset Management Phases

Asset management in government involves the following phases

- i) Planning: planning for assets should be linked to the strategic objectives of the public entity. Further, assets must be planned for, budgeted and approved. In addition, only those assets that are necessary for effective, efficient and economical delivery of the MDA's mandate should be planned for.

- ii) Acquisition: Asset acquisition to be based on approved procurement plans and budgets. The plans are based on the needs of the public entity in view of its mandate and strategic objectives. The decision on the acquisition of any asset to consider future operational costs of the asset in question especially if it is donated.
- iii) Operation and maintenance: All assets to be maintained in a manner which will ensure such assets attain their useful lives. Further, security and control of all assets should be ensured all the time. In addition, a complete and accurate asset register should be maintained. Replacement of assets should be based on its useful life and condition.
- iv) Disposal: The disposal of an asset must be fair, equitable, transparent, competitive and consistent. Further, all assets due for disposal need to be valued so as to determine a reserve price, based on guidelines issued by the National Treasury. In addition, assets should be disposed on “as is, where is” basis.

2.8.5.5 Control Systems in Government Property and Assets Management

The government has put in place control systems to effectively manage public assets. As an Administrative Officer, you will be expected to adhere to these systems. They include:

- i) Preventative mechanisms to eliminate theft, security threats, losses, wastage and misuse of government property and assets;
- ii) Systems to track movement and condition of assets;
- iii) Maintenance of stock levels at an optimum and economical level;
- iv) Processes and procedures for effective, efficient, economical and transparent use of assets;
- v) Clarity on management of inventories including handing over procedures for assets and liabilities; and
- vi) Handling of losses and write offs after investigation.

2.8.5.6 Assets Management Policy

You will have to implement the department asset management policy which is a formal statement adopted by the MDA. It outlines the MDA’s objectives, principles, targets on asset management and how these will be pursued. Further, it establishes a platform for service delivery and provides the framework (guiding principles) that enables the asset management strategy and plans to be produced.

2.8.5.7 Assets Management Strategy

An asset management strategy is the means by which the MDA proposes how to manage assets to meet the department’s goals and objectives most effectively. The strategy outlines how the department’s asset portfolio will meet the future needs and enable the achievement of the asset management policy in the most cost-effective manner.

2.8.5.8 Assets Management Plan

An Asset Management Plan (AMP) is a plan developed for the management of one or more infrastructure asset classes with a view to operating, maintaining and renewing the assets within the class in the most cost-effective manner possible, whilst providing a specific level of service.

You will also be expected to establish and operationalize an asset management plan for managing your department's infrastructure and assets. It is a plan to deliver an agreed standard of practice in a cost-effective manner now and in future. It can be divided into two areas:

- i) Asset operations plan: refers to the day to day activities required to provide service delivery to users of assets e.g. how to schedule a fleet of vehicles within the MDA for maximum impact; and
- ii) Asset maintenance plan involves functional checks, monitoring, measuring, servicing, repairing or replacing of necessary equipment, infrastructure and supporting utilities so that assets can perform the required functions and achieve the intended service delivery objectives throughout their expected life.

2.8.5.9 Accounting and Reporting of Government Property and Assets

Regardless of the size of the asset portfolio, you should maintain a record of each asset in an asset register. This should contain both monetary and non-monetary information over the entire lifecycle of each asset for the purposes of:

- i) accountability
- ii) asset planning
- iii) monitoring performance
- iv) for assisting in legislative compliance and
- v) meeting accounting standards

Your department's register of land and buildings should record;

- i) Each parcel of land and each building
- ii) The terms on which it is held, with reference to the conveyance,
- iii) Address, area,
- iv) Dates of acquisition,
- v) Dates of disposal or major change in use,
- vi) capital expenditure, lease hold terms, maintenance contracts
- vii) Other pertinent management details.

All major items including furniture and equipment, large tools and vehicles should be recorded in a register.

2.8.5.10 Assets Risk Management

As an Administrative Officer, you must consider the department's exposure to risk throughout the asset management process. Risk management is a structured way to identify and analyse potential risk, and devise and implement appropriate responses according to classes of risks. It provides a level of assurance that the systems and equipment that comprise assets will deliver the capabilities. It further requires performance monitoring of the assets themselves against key objectives and performance monitoring of the management system itself. In order to fully manage risk associated with assets, you may adopt the following model:

- i) Establish context
- ii) Assess the risk
- iii) Respond to the risk
- iv) Monitor and review

Responses you may undertake to address identified risk may entail:

- i) Risk prevention;
- ii) Risk transfer;
- iii) Minimizing the impact of the risk/mitigate; and
- iv) Acceptance of risk.

A combination of these strategies may be applied to manage different individual risks within a particular activity or project. Staff should understand the risk management framework and its application within the asset management system processes (identification, reporting, and action)

2.8.5.11 Benefits of Proper Assets Management

A Government department stands to enjoy the following benefits from proper assets management:

- i) Improved financial performance;
- ii) Informed asset investment decisions;
- iii) Managed risk;
- iv) Improved services and outputs;
- v) Demonstrated social responsibility;
- vi) Demonstrated compliance to legal, statutory and regulatory requirements;
- vii) Enhanced reputation;
- viii) Improved organizational sustainability;
- ix) Improved efficiency and effectiveness; and
- x) Better focus on priorities: optimal choices.

2.8.5.11 Challenges in Property and Asset Management

You may face the following challenges in assets management:

- i) Focus is mainly on benefit to customers/citizens which may subordinate interests of the department;
- ii) Collecting and managing data for implementing asset management may be costly and time consuming;
- iii) Low level of IT application in asset management in the public sector;
- iv) Management responsibility and, accountability may not be exercised;
- v) Minimal integration of planning and management processes;
- vi) Resources challenges due to inadequate budgets.

2.8.6 Summary

In this topic we have examined the principles of office organization; we have further discussed records management in Government and management of Government property and assets. This brings us to the end of our discussion on Government Organization and Management Practices course unit.

2.8.7 Activities

1. The Government is in the process of automating its record management processes. As an Administrative Officer, devise ways of safeguarding electronic records from unauthorized access.

2. Discuss the personal security and “secure behaviour” that may compromise security of public records which an Administrative officer should guard against.
3. “A reliable and comprehensive asset register is central to asset management activities. Determining the level of risk associated with an asset related failure is of utmost importance. Automating the underlying foundation of this process calls for an Asset Management System”. As an Administrative Officer, discuss this sentiment in light of your experience in managing your department’s fleet.

2.8.8 References

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3.0 VALUES AND PRINCIPLES IN PUBLIC SERVICE- 103

3.0.1 Introduction

As an Administrative Officer, you will be interacting with different types of people, institutions and communities. As such you need to embrace Kenya's national and public service values and principles in the provision of public services. You therefore need to have a proper understanding of these values and principles.

This course unit is therefore intended to equip you with knowledge; skills and attitudes that will enable you uphold and demonstrate values and principles in public service delivery.

3.0.2 Course Unit Summary

	TOPIC	SUB-TOPICS
3.1	Overview of values and principles	– Concepts of values and principles – Categories of values – Rationale for values and principles in Kenya
3.2	Legal, Policy and Institutional Framework	– Legal framework – Policy framework – Key institutions in promotion of national and public service values and principles
3.3	National Values and Principles of Governance	– Creation of a National Identity and Exercise of Sovereign Power – Sharing and devolution of power – Protection of the Bill of rights – Good governance – Sustainable development
3.4	Values and Principles of Public Service	– Rationale for values and principles of public service – Public service values and principles under Article 232(1) of the Constitution
3.5	The Public Service Code of Conduct and Ethics	– Concepts of code of conduct and ethics – Provisions of the Code of Conduct and Ethics for Public Officers – Challenges on compliance with the code of conduct and ethics – Strategies to enhance adherence to the code of conduct and ethics
3.6	Mainstreaming values and principles in the public service	– Concept of mainstreaming – Strategies for mainstreaming values and principles – Role of the Administrative Officer in mainstreaming values and principles – Challenges in mainstreaming values and principles – Measures to address challenges in mainstreaming values and principles

3.1 OVERVIEW OF VALUES AND PRINCIPLES

Outline

- 3.1.1 Introduction
- 3.1.2 Specific Objectives
- 3.1.3 Concepts of values and principles
- 3.1.4 Categories of values
- 3.1.5 Rationale for values and principles in Kenya
- 3.1.6 Summary
- 3.1.7 Activities
- 3.1.8 References

3.1.1 Introduction

In the course of service delivery as an Administrative Officer, you will be expected to be a role model in society. Further, you need to demonstrate values and principles that portray the government positively. This topic is therefore intended to equip you with knowledge, skills and attitudes that will enable you to justify the role of values and principles in Kenya.

3.1.2 Specific Objectives

By the end of the topic, you should be able to:

- i) describe the concepts of values and principles;
- ii) classify values into various categories; and
- iii) justify the need for values and principles in Kenya.

3.1.3 Concepts of Values and Principles

3.1.3.1 Values

Values refer to beliefs or ideals shared by 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.

Your values are important because they help you to grow and develop. They help you to create the future you want to experience. The decisions you make are a reflection of your values and beliefs and should always be directed towards a specific purpose.

3.1.3.2 Principles

Principles are universal truths based on natural laws. However, there is usually a very thin line between values and principles. While values govern behaviour, principles govern the consequences of that behaviour. While values may vary from person to person, principles will always remain constant in the universe. The main difference between values and principles is that principles are based on a person's values. Thus, values act as the foundation for principles.

3.1.3.2 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).

3.1.4 Categories of Values

There are various categories of values as discussed below.

- i) **Personal/Individual values:** These are core beliefs, values and philosophies that an individual hold 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 to make good choices and solidify the bond in families. They may include forgiveness, respect, honesty and responsibility.
- iii) **Cultural/Communal/Societal values:** Refers to the assumptions, beliefs or principles that guide people's decision-making and actions in society. They are also the norms that are embraced by people who share a common identity and ancestry. These may include values of sharing, respect for authority, obedience and love.
- iv) **Religious/Spiritual values:** They 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:** These 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) **Public Service Values and Principles:** These are values espoused in Article 232(1) of the Constitution. They define the manner in which public officers are expected to discharge their duties and what members of the public should expect of them.
- vii) **National Values and Principles of Governance:** These 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 with each other, and how citizens and government structures interact, hence defining a people's identity.

3.1.5 Rationale for Values and Principles in Kenya

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

- i) Shape our beliefs, our worldview and the paradigm that we operate from;
- ii) Transform institutional and individual behaviour to foster ethical conduct;
- iii) Enhance positive influence on work ethics and productivity of citizens;
- iv) Improve the quality of leadership, management practices and utilization of national resources at all levels;
- v) Brand and promote a positive image about citizens;
- vi) Promote national cohesion and stability among citizens;

- vii) Promote good governance in both state and non- state entities;
- viii) Improve the social, economic, political and environmental development of the country;
- ix) Promote transparency, accountability, trust, perception on citizens and hence lead to higher levels of investment, wealth and employment creation; and
- x) Improve quality and standard of life of the people.

3.1.6 Summary

In this topic we have discussed the concepts of values and principles. In addition, we assessed the various categories of values, and the rationale for having values and principles in Kenya. In the next topic we will examine Policy, Legal and Institutional Framework for national and public service values and principles in Kenya.

3.1.7 Activities

Discuss the role of national and public service values and principles in Kenya's social economic transformation.

3.1.8 References

1. Republic of Kenya (2010), *The Constitution of Kenya*, Nairobi, The Government Press.
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3.2 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK FOR VALUES AND PRINCIPLES

Outline

- 3.2.1 Introduction
- 3.2.2 Specific objectives
- 3.2.3 Policy framework for values and principles
- 3.2.4 Legal framework for values and principles
- 3.2.5 Key institutions in promotion of values and principles
- 3.2.6 Summary
- 3.2.7 Activities
- 3.2.8 References

3.2.1 Introduction

As an Administrative Officer, you will be in the glare of the public while performing your duties. As such you will need to adhere to the national and public service values and principles as stipulated in different legislations and policies. This unit therefore intends to equip you with knowledge, skills and attitudes that will enable you to comply with legal and policy provisions in relation to national and public service values and principles.

3.2.2 Specific Objectives

By the end of this topic, you should be able to:

- i. Describe the legal framework that provides for the implementation of national and public service values and principles;
- ii. Assess policies that facilitate the promotion of national and public service values and principles; and
- iii. Explain the role of the key institutions in the promotion of national and public service values and principles.

3.2.3 Legal Framework for Values and Principles

Most initiatives that promote national values and principles are grounded in various pieces of legislation. The legislations, in effect, provide the mandates of various institutions and commit them to ensure the promotion of national values and principles. Some of the legislations include:

3.2.3.1 The Constitution of Kenya

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:

- i) 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.
- ii) Article 4(2) which provides that, "The Republic of Kenya shall be a multi-party democratic state founded on the National Values and Principles of Governance".
- iii) Article 10 (1) 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:
 - applies or interprets the Constitution;
 - enacts, applies or interprets any law; or
 - makes or implements public policy decisions.
- iv) Article 10 (2) highlights the National Values and Principles of Governance
- v) Article 73 (2) provides for the guiding principles of leadership and integrity which include:
 - selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
 - objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;
 - selfless service based solely on the public interest, demonstrated by-
 - honesty in the execution of public duties;
 - the declaration of any personal interest that may conflict with public duties;

- accountability to the public for decisions and actions; and
 - discipline and commitment in service to the people.
- vi) Article 131 provides that the President performs numerous functions which include promotion and enhancement of the unity of the nation. In this regard, the President is expected to lead Kenyans towards a collective heritage and vision regardless of their diversities.
- vii) Article 132 (1)(c) 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 and principles of governance referred to in Article 10. The President is further required to publish in the Kenya Gazette the details of the report.
- viii) Article 232(1) outlines the values and principles of the public service which prescribe how public officers should discharge their duties and what members of the public should expect of them.
- ix) Article 234 (2)(h) 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.
- x) Article 249 (1) (b) 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 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).

3.2.3.2 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 to ensure that state officers uphold and respect the values, principles and requirements of the Constitution while discharging public duty. These 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 devolution; and
- vi) Values and principles of public service.

3.2.3.3 Public Service (Values and Principles) Act, 2015

The Act seeks to:

- i) Provide a general code on the values and principles of public service;
- ii) Enhance public participation in the promotion of the values and principles and policy making by the public service; and
- iii) Enhance reporting on the status of the promotion of values and principles of public service.

3.2.3.4 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 are expeditious, efficient, lawful, reasonable and procedurally fair.

3.2.3.5 Other Legislations

These include:

- 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, 2012
- xvii) Proceeds of Crime and Anti-Money Laundering Act, 2014

3.2.4 Policy Framework for Values and Principles

The promotion of National Values and Principles is guided by a number of policies that include the following:

3.2.4.1 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. This

will make Kenya a globally competitive and prosperous nation. The Vision is anchored on three pillars namely Economic, Social and Political pillars. These pillars are anchored as enablers or foundations, key among them being the national values and principles.

3.2.4.2 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 lays 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:

- i) lack of a strong national identity,
- ii) lack of effective representation and leadership,
- iii) inequitable distribution of resources,

The interventions outlined by the Sessional paper include;

- i) development of a strong national identity through inculcation of values of patriotism, national unity and rule of law;
- ii) effective representation and leadership by inculcating values of sharing and devolution of power and resources,
- iii) democracy and empowerment of the people;
- iv) equitable allocation of resources and opportunities;
- v) good governance; and
- vi) sustainable development.

The Sessional paper further provides for various strategies critical for the promotion of national values, namely;

- i) associative approach which entails use of neighbourhoods, self-help groups, community-based organizations and non-governmental groups;
- ii) recruiting and mobilizing change agents;
- iii) mainstreaming values for behaviour change in all spheres; and
- iv) affirming national values and their champions.

3.2.4.3 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. Such a society 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:

- i) addressing socio-economic inequalities;
- ii) managing ethnic and socio-cultural diversities;
- iii) preventing and reconciling conflicting situations which often impact negatively on national unity;
- iv) ensuring the rule of law, security and order;
- v) entrenching national values in all segments of the society;

- vi) addressing unemployment challenges; and
- vii) promoting participative communication which is key in enhancing democracy and participation of the people.

3.2.4.4 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 on the Constitution of Kenya:

- i) national unity and nationhood;
- ii) equality before the law and application of the rule of law;
- iii) integrity, honesty and accountable leadership; and
- iv) equitable distribution of wealth.

It therefore forms a foundation for the promotion of National Values and Principles of Governance.

3.2.4.5 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.

3.2.4.6 Kenya National Youth Policy, 2006

The policy aims at ensuring that the youth play their role 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 centred. 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.

3.2.4.7 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 Arid and Semi-Arid Lands (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.

3.2.5 Key institutions in Promotion of Values and Principles

There are certain institutions that are critical in the promotion of values and principles in Kenya. These are:

3.2.5.1 Office of the President

The Office of the President plays a critical role in the promotion of national unity. Article 131 of the Constitution provides 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:

- i) respects, upholds and safeguards the Constitution;
- ii) safeguards the sovereignty of the Republic;
- iii) promotes and enhances unity of the nation;
- iv) promotes respect for the diversity of the Kenyan people and communities of Kenya; and
- v) 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. 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 President.

3.2.5.2 Ministry incharge of Interior and Coordination of National Government

The Ministry through the Directorate of National Cohesion and 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 President on promotion and reporting on national values.

3.2.5.3 Ministry in Charge of Education

Among the key functions of the Ministry in charge of Education, are education policy management, curriculum development, schools' administration and programmes. 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. In addition, 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.

3.2.5.4 Ministry in Charge Sports , Culture and the Arts

The Ministry in charge of Sports, Culture and the Arts has the responsibility of development of the sports policy and national culture. It also has the responsibility for the management of national heritage and development of fine, creative and performing Arts. Overall, sports, culture and the arts are valuable tools for promotion of national values, cohesion and de-ethnicization of the Kenyan society.

3.2.5.5 Ministry in charge of Devolution

The Ministry responsible for Devolution is responsible for steering measures aimed at entrenching devolution. Further, the Ministry coordinates the development and implementation of policies for special interest groups and special areas including arid and pastoralist lands. 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.

3.2.5.6 State Department for Gender Affairs

The State Department coordinates the mainstreaming of the Gender Policy, 2011. In this way, the State Department is promoting the values of human dignity, human rights, inclusiveness, equality, protection of the marginalized and non-discrimination.

3.2.5.7 Devolved Governments

Devolved governments are critical in the promotion of National Values and Principles of Governance. They 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.

3.2.5.8 National Cohesion and Integration Commission (NCIC)

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 advises the Government on all aspects thereof. These elements are key in the realization of national values in Kenya.

3.2.5.9 Commission on Administrative Justice

The Commission on Administrative Justice (CAJ), also known as the Office of the Ombudsman 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 cases of abuse of power, manifest injustice and unlawful, oppressive, unfair or unresponsive official conduct. 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.

3.2.5.10 National Gender and Equality Commission

The National Gender and Equality Commission promotes gender equality and freedom from all forms of discrimination which is one of the basic foundational principles for the realization of national values.

3.2.5.11 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.

3.2.5.12 Office of the Auditor General

The office therefore enhances the realization of integrity, transparency and accountability in public institutions through the execution of its mandate as granted by the Constitution.

3.2.5.13 Independent Electoral and Boundaries Commission (IEBC)

The Commission is responsible for ensuring the fair conduct of elections to any elective body or office. 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.

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

3.2.5.15 Ethics and Anti-Corruption Commission

The Commission 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 behavioural and attitude change to ensure a corruption free nation.

3.2.5.16 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.

3.2.5.17 National Police Service Commission

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

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

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

3.2.5.18 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.

3.2.5.19 Public Service Commission

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

As one of its core mandates, the Commission is required to promote national and public values and principles throughout the Public service. Further, the Commission is required to evaluate and report to the President and Parliament on the extent to which national and public service values and principles are complied with in the public service.

3.2.5.20 Parliamentary Service Commission

The Commission is established under Article 127 (1) of the Constitution of Kenya. The Commission is mandated to among others to provide services and facilities to ensure the efficient and effective functioning of Parliament, exercise budgetary controls and promote 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.

3.2.5.21 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.

3.2.5.22 National Land Commission

The Commission is established under Article 67 (1) of the Constitution of Kenya. It is mandated to:

- i) manage public land on behalf of the national and county governments;
- ii) advise the national government on a comprehensive program for the registration of title in land throughout Kenya
- iii) 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.

3.2.5.23 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 cases 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.

3.2.6 Summary

In this topic, we have discussed the legal and policy frameworks for the promotion of national and public service values and principles. In addition, we have analysed the roles of various institutions responsible for promotion of the national and public service values and principles. In the next topic, we will have an in-depth analysis of national values and principles of governance.

3.2.7 Activities

Discuss ways in which an Administrative Officer can work with various national institutions in the promotion of national and public service values and principles.

3.2.8 References

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3.3 NATIONAL VALUES AND PRINCIPLES OF GOVERNANCE

Outline

- 3.3.1 Introduction
- 3.3.2 Objectives
- 3.3.3 Creation of a national identity and exercise of sovereign power
- 3.3.4 Sharing and devolution of power
- 3.3.5 Protection of the bill of rights
- 3.3.6 Good governance
- 3.3.7 Sustainable development.
- 3.3.8 Summary
- 3.3.9 Activities
- 3.3.10 References

3.3.1 Introduction

In exercising your authority as an Administrative Officer, you are expected to be guided by the tenets of national values and principles of governance. We have already defined these national values and principles of governance in the previous topic. This topic is therefore intended to equip you with knowledge, skills and attitudes necessary to enable you apply national values and principles of governance in service delivery.

3.3.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the values in the creation of a national identity and exercise of sovereign power;
- ii) Interpret the principle of sharing and devolution of power;
- iii) Interpret the values in the protection of the bill of rights;
- iv) Apply the principles of good governance; and
- v) Promote the application of the principle of sustainable development.

3.3.3 Creation of a National Identity and Exercise of Sovereign Power

Values in this classification include the following:

3.3.3.1 Patriotism:

This 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. Patriotism may also be defined 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.

As an Administrative Officer, you should demonstrate patriotism through the following:

- i) Loyalty to the President as a unifying factor;
- ii) Readiness to defend the Republic of Kenya;
- iii) Respect for the supremacy of the Constitution;
- iv) Appreciation of national symbols e.g. coat of arms and national flag;
- v) Having a spirit of volunteerism in community service; and
- vi) Acts of sacrifice that brings honour to the Republic of Kenya.

3.3.3.2 National Unity

This refers to cohesion which results from shared values, vision, purpose and aspirations irrespective of one's ethnic, cultural, economic, religious or any other superficial status in a unitary state, while recognising diversity.

As an Administrative Officer, you should foster national unity through:

- i) Appreciation of cultural, communal and ethnic diversity.
- ii) Appreciation of the national symbols;
- iii) Use of the national languages; and
- iv) Working with people from diverse identities in pursuit of national interests.

3.3.3.3 The Rule of Law

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. 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.

As an Administrative Officer, you should endeavour to observe and obey the law and ensure that all people are subjected to the law in the same way in the course of your duty.

3.3.3.4 Democracy and Participation of the People

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 is largely practiced through the conduct of regular elections that are managed in a free, fair and transparent manner.

Participation on the other hand is the practice of involving all people from diverse backgrounds in making decisions. It ensures mutual respect and encourages shared responsibility.

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.

As an Administrative officer, you should ensure democracy and participation of the people by sensitizing them on the need to actively participate in politics and civic life.

3.3.4 Sharing and Devolution of Power

This value constitutes a classification on its own. 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. National and the forty-seven (47) County governments. The Inter- Governmental Relations Act, 2012 outlines the engagements between the two levels of Government. Further, Schedule IV of the Constitution outlines the functions of the National and County Governments to ensure effective engagements.

It is also a governance system in which 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.

As an Administrative Officer, your work will involve representing the national government in county governments. In this role, you should ensure:

- i) Involvement of citizens in decision making;
- ii) Increased channels of participation;
- iii) Increased access to public services by citizens; and
- iv) Improved linkages between citizens and the National Government.

3.3.5 Protection of the Bill of Rights

Values under this classification include:

3.3.5.1 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. Article 28 of the Constitution provides 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 promote human dignity as an Administrative Officer, there is need to ensure that rights of individuals and specific groups are respected, promoted and fulfilled.

3.3.5.2 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. These rights are legally guaranteed by law which protects individuals and groups against actions which interfere with fundamental freedoms and human dignity. Human beings are all entitled to these rights without discrimination regardless of nationality, place of residence, sex, ethnic origin, birth, age, race, religion, language, or any other status.

As an Administrative Officer, you should promote human rights through sensitizing residents in your jurisdiction on the bill of rights and the need to adhere to them.

3.3.5.3 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 detests biasness, favouritism and unjustified preference.

Equity is not always about treating everyone in the same way. It 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.

As an Administrative Officer, you should safeguard equity by ensuring:

- i) Comparable development in all locations within your jurisdiction.
- ii) Social cohesion and harmony.
- iii) Fair distribution of resources.
- iv) Good governance.

3.3.5.4 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.

As an Administrative Officer, you should guarantee equality through treating citizens equally. Further, you should involve staff under you in decision making especially in matters that affect them.

3.3.5.5 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, 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.

As an Administrative Officer, you may ensure social justice by sensitizing residents on the need for interacting with one another to promote solidarity. Further, you should ensure that all children of school going age are enrolled in schools. In addition, you should support citizens in their endeavour for economic empowerment.

3.3.5.6 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. To uphold inclusiveness as an Administrative Officer, you should ensure:

- 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.

3.3.3.7 Non-Discrimination

It refers to fairness in treating people without prejudice irrespective of their gender, ethnicity, class, religion, race, geographical or even generational differences. All decisions, programmes and activities whether by public or private institutions must avoid any form of discrimination whatsoever.

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 provides protection to the minority and marginalized communities.

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 workplace;
- 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.

As an Administrative Officer, you should discourage any form of discrimination by ensuring:

- 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.

3.3.3.8 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);* 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.

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) The elderly;
- vii) People with low academic attainments;
- viii) People in the low-income bracket;
- ix) People suffering from terminal diseases; and
- x) People living in arid and semi-arid regions.

As an Administrative Officer, you should mitigate against marginalization through the following ways:

- i) Creating special opportunities for the marginalized in educational and economic fields;
- ii) Enhancing access to employment opportunities for the marginalized;
- iii) Implementing affirmative action and special programmes; and
- iv) Enforcing existing policies and legislations.

3.3.6 Good Governance, Transparency and Accountability

Values in this classification include the following:

3.3.6.1 Good Governance

This 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 made and implemented.

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 behaviour that ensure an organization performs by achieving its intended purpose and conforms to all relevant laws, agreements and directions, and meets the expectations of the society.

Principles of good governance

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.

As an Administrative Officer, you should promote good governance by:

- i) Creating awareness among members of the public through civic education;
- ii) encouraging members of the public to be whistle-blowers whenever they come across cases of corruption;
- iii) Observing and implementing the code of conduct for state and public officers; and
- iv) Encouraging citizens to participate in governance processes.

3.3.6.2 Integrity

The word integrity is derived from the Latin word “*integritas*” which literally means wholeness, soundness, oneness, completeness and uprightness. 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 an Administrative Officer you will be expected to pursue wider moral principles in the public interest, such as 'justice, fairness, individual rights, equity, respect for human dignity, and pursuit of the common good.'

3.3.6.3 Transparency and Accountability

Transparency can be defined as openness, lack of hidden agendas and 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. Accountability is the acknowledgment and assumption of responsibility for actions, products, decisions, and policies. It also includes administration, governance, and implementation within the scope of the role or employment position. Further, it encompasses the obligation to report, explain and be answerable for resulting consequences.

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.

Elements of Transparency

The following are the 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 behaviour: this involves being open and not having hidden agendas.

Elements of Accountability

The following are the key elements of accountability:

- 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.

As an Administrative Officer, you should ensure transparency and accountability in service delivery.

3.3.7 Sustainable Development

Sustainable development is 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. 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”.

Sustainable development can be realized through:

- i) Establishing and implementing proper succession plans.
- ii) Implementing capacity-building and mentorship programs.
- iii) Optimally utilizing locally available resources and opportunities in national development.
- iv) Efficient, effective and economic use of resources.
- v) Embracing modern technological advancement and innovations e.g. in manufacturing and service delivery.
- vi) Recycling and buying products made with recycled materials.
- vii) Supporting legal frameworks on sustainable development.

As an Administrative Officer, you should ensure sustainable development by:

- i) Promoting effective environmental management in your area of jurisdiction;
- ii) Promoting an entrepreneurial culture among the residents of areas of your jurisdiction; and
- iii) Encouraging development of business activities and investments that improve the economic status of residents for future generations.

3.3.8 Summary

In this topic we have discussed our national values in relation to the creation of a national identity and the exercise of sovereign power. We have also examined the values in the protection of the bill of rights as well as the principles of sharing and devolution of power, good governance and sustainable development. In the next topic we shall discuss the values and principles of the public service.

3.3.9 Activities

Assess opportunities available for Administrative Officers to promote national values and principles of governance.

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3.4 VALUES AND PRINCIPLES OF PUBLIC SERVICE

Outline

- 3.4.1 Introduction
- 3.4.2 Specific Objectives
- 3.4.3 Rationale for values and principles of public service
- 3.4.4 Public service values and principles
- 3.4.5 Summary
- 3.4.6 Activities
- 3.4.7 References

3.4.1 Introduction

Values and principles of the public service are instrumental in ensuring an effective and efficient, citizen-centric public service delivery. As an Administrative officer, you will be operating as the coordinator of national government functions in your area of jurisdiction. In this respect, you will be expected to espouse the values and principles of the public service in service delivery. This topic is therefore intended to equip you with knowledge, skills and attitudes to enable you apply these values and principles in the course of your work.

3.4.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Justify the need for values and principles of public service; and
- ii) Interpret the public service values and principles under Article 232(1) of the Constitution.

3.4.3 Rationale for Values and Principles of Public Service

Kenyans expect a public service that is citizen-focused and result-oriented and one that delivers services in a predictable manner. There are also expectations of high professional standards and adherence to the principles of inclusiveness, equity and competence. They also expect a culture of excellence in service delivery and the provision of impartial, efficient and effective services. The taxpayer expects value for money in the delivery of public services.

The Government has undertaken numerous reforms geared towards improving efficiency and effectiveness in the public service. Areas of focus in the reform process include:

- i) Establishment of fundamental principles of the public service;
- ii) Representation of Kenya's diverse communities in the public service;
- iii) Enhancing a sense of ownership and care for public property, projects and programmes; and
- iv) Attitudes towards work and a sense of public duty and responsibility.

It is against this background that Article 232(1) of the Constitution sets out the values and principles of public service that guide and regulate the manner in which the public service operates. The implementation and enforcement of these values and principles is expected to ensure:

- i) Kenya is able to contribute to the achievement of the national development agenda;
- ii) Achievement of quality and effective services to the citizens;
- iii) Establishment of a transparent and accountable public administration system;

- iv) Progressive achievement of the Bill of Rights for all Kenyans;
- v) Attainment of sustainable development, thereby, improving the quality of life of the citizenry; and
- vi) Achievement of constitutionalism and the rule of law in the public service.

3.4.4 Public Service Values and Principles

The public service values and principles are espoused under Article 232(1) of the Constitution and are enforced through the Public Service (Values and Principles) Act, 2015. They include:

3.4.4.1 High Standards of Professional Ethics

A public officer maintains high standards of professional ethics if that officer:

- i) Is honest,
- ii) Displays high standards of integrity,
- iii) Is transparent when executing his/her functions,
- iv) Can account for his/her actions,
- v) Is respectful towards others,
- vi) Is objective,
- vii) Is patriotic, and
- viii) Observes the rule of law.

High standards of professional ethics in the public service can be effectively realized by strengthening linkages between disciplinary control in the public service and professional associations in relation to the misconduct of professionals in the public service. There is, therefore, a need to create a partnership between the public service and professional associations to promote high standards of professional ethics in the public service. Further, the enforcement of measures for holding professionals in the public service accountable for their decisions and actions should be strengthened.

In order to grow and enhance your professional standards as an Administrative Officer, you will need to:

- i) Strictly adhere to the code of conduct for public officers;
- ii) Seek to understudy and be mentored by successful role models and best practices of your seniors; and
- iii) Register with your respective professional association and comply with its professional codes of practice.

3.4.4.2 Efficient, Effective and Economic Use of Resources

Efficiency and effectiveness in the public service may be hampered by insufficient linkages and consultation in planning, target-setting and the budgeting process *vis-a-vis* the expected results. All public officers are required to use public resources efficiently, effectively and prudently. A public officer will be accused of failing to use public resources in an efficient, effective and economic manner if there is unreasonable loss. To enhance efficient, effective and economic use of resources as an Administrative Officer therefore, you should ensure:

- i) Deployment of officers is based on competencies and requisite skills.
- ii) serving officers declare any conflict of interest
- iii) strong support to technical departments by support services departments is provided

- iv) Appropriate information and communications technology (ICT) is adopted to enhance service delivery.

3.4.4.3 Responsive, Prompt, Effective, Impartial and Equitable Provision of Services

Public servants should offer effective, prompt and responsive services in an impartial and equitable manner. Therefore, public officers should ensure there is no unreasonable delay in the provision of services. Indicators of poor service delivery in the public service include:

- i) unreasonable loss of information/equipment;
- ii) public complaints made against a public officer regarding the provision of services;
- iii) public grievances against a public institution;
- iv) discrimination during the provision of public services, and
- v) failure to give accurate information.

As an Administrative Officer, you will be expected to enhance service delivery through:

- i) providing appropriate reward for outstanding performance by staff;
- ii) enforcing conflict resolution mechanisms;
- iii) operationalizing complaints and feedback systems from customers; and
- iv) providing adequate and appropriate resources to field offices.

3.4.4.4 Involvement of the People in the Process of Policy Making

It is required that the public is given adequate opportunity to review draft policies and guidelines by allowing them to give their comments and input. This will ensure that all developed and or reviewed guidelines incorporate the views of the people. There is need for improvement of mechanisms, strategies and platforms for informing, educating and communicating government policies. This is one of your key responsibilities as an Administrative Officer.

3.4.4.5 Accountability for Administrative Acts

The law guides that every public officer shall be accountable for his/her administrative acts. Public officers are therefore required to ensure accountability by keeping and maintaining an accurate record of administrative acts. In addition, they should maintain a record of relevant documents they prepare and establish a mechanism to address complaints arising out of the administrative acts. However, there have been instances where public officers have failed to be accountable for their administrative actions. As an Administrative Officer, you should be accountable for your administrative actions.

3.4.4.6 Transparency and Provision to the Public of Timely, Accurate Information

Public officers are required to give accurate information at all times. Further, officers should avoid undue delay in the provision of any information they may be required to provide. Provision of timely and accurate information will enable the public service to be more transparent. As an Administrative Officer, you will be required to relay information to the public on government policies. You should also ensure that such information is accurate, timely and accessible to all persons.

3.4.4.7 Fair Competition and Merit as the Basis of Appointments and Promotions

It is required that the public service shall ensure that public officers are appointed and promoted on the basis of fair competition and merit. However, through affirmative action, appointments

may be made on other considerations other than merit such as ethnicity, gender and persons living with disabilities (PWDs) representation. As an Administrative Officer, you should ensure that you recommend all public officers under your jurisdiction for relevant training opportunities for career advancement in the public service especially if such training is used as a criterion for promotion.

3.4.4.8 Representation of Kenya's Diverse Communities

Kenya is composed of diverse communities that include racial, ethnic, religious, and persons living with disabilities among others. This diversity should be adequately reflected in the public service. This however has not been fully realized as exemplified by the over-representation of some communities, and under-representation or nonrepresentation of others.

As an Administrative Officer, you should adhere to the provisions of the diversity policy for the public service especially when recommending officers for training or promotion.

3.4.4.9 Affording Adequate and Equal Opportunities

It is required that the public service shall ensure adequate and equal opportunities for Kenyans from all ethnic groups including persons with disabilities across all levels of the public service. Public officers should therefore ensure adherence to these guidelines during recruitments, trainings and promotions. Consequently, in communicating available positions in the public service, there is need for use of appropriate communication channels to ensure all communities and groups are reached.

As an Administrative Officer, you should ensure that there is equal access to information relating to available job opportunities and training to staff and members of the public in your area of jurisdiction through use of targeted communication channels.

3.4.5 Summary

In this topic, we have discussed the rationale for values and principles of public service in Kenya. Further, we have examined the public service values and principles, as espoused under Article 232(1) of the Constitution. In the next topic, we shall discuss the provisions of the public service code of conduct and ethics.

3.4.6 Activities

Assess the ways in which an Administrative Officer may comply with each of the values and principles of public service in service delivery.

3.4.7 References

1. The Constitution of Kenya, 2010
2. The Public Service (Values and Principles) Act, 2015
3. The Public Service Commission Act, 2017
4. A Framework for the Implementation of Values and Principles in Articles 10 and 232 of the Constitution in the Public Service, 2015
5. Values and Principles of Public Service Draft Policy, 2013

3.5 THE PUBLIC SERVICE CODE OF CONDUCT AND ETHICS

Outline

- 3.5.1 Introduction
- 3.5.2 Specific Objectives
- 3.5.3 Concepts of code of conduct and ethics
- 3.5.4 Provisions of the Code of Conduct and Ethics for Public Officers
- 3.5.5 Challenges on compliance with the code of conduct and ethics
- 3.5.6 Strategies to enhance adherence to the code of conduct and ethics
- 3.5.7 Summary
- 3.5.8 Activities
- 3.5.9 References

3.5.1 Introduction

Ethical behaviour is important both at the workplace and in our personal lives. Everywhere public service is offered, ethics must take the centre stage. As an Administrative Officer you are required by law to demonstrate commitment to abide and serve by observing the provisions of the Public Service Code of Conduct and Ethics. This topic therefore aims at equipping you with knowledge, skills and attitudes necessary to enable you not only comply with the provisions of the Public Service Code of conduct and ethics, but also guide the enforcement processes.

3.5.2 Specific Objectives

By the end of the topic, you should be able to:

- i) describe the concepts of code of conduct and ethics;
- ii) interpret the provisions of the code of conduct and ethics for public officers;
- iii) analyse challenges in adhering to the code of conduct and ethics for public officers; and
- iv) assess strategies to enhance adherence to the code of conduct and ethics for public officers.

3.5.3 Concepts of Code of Conduct and Ethics

3.5.3.1 Code of conduct

A code of conduct is a management tool for setting out an organization's values, responsibilities and ethical obligations. It represents a commitment to integrity and high ethical standards in an organization's business operations. A code of conduct defines acceptable practice and behaviour in the workplace and helps guide organizational employees.

Having a code of conduct and making it visible to employees, shareholders and any other stakeholders demonstrates a commitment to ethics and integrity in every aspect of running the organization's operations. This commitment is essentially embedded in the organization's mission statement and is inherent in its strategic objectives.

An organization's code of conduct showcases its principles and values, giving clarity and unified purpose to the organization's employees and other stakeholders. A code of conduct is important in that it protects employees' rights. Further, it creates guidelines that leaders can follow when making decisions while managing people.

3.5.3.2 Ethics

Ethics refers to the science of morals. It is about rules of conduct that guide behaviour. Ethics is concerned with the moral principles and values that govern beliefs, actions and decisions. Work ethics are therefore the expected standards of behaviour at the workplace. In this regard, ethical culture manifests in an officer, when he/she performs his/her duty efficiently, displays discipline, dignity, integrity, equity, impartiality, fairness, public spiritedness and courtesy in his/her actions.

Ethics in the workplace is instrumental in facilitating efficiency and effectiveness in service delivery. Sound ethical conduct by public officers in dealing with clients is essential to the creation of good governance and the establishment of public goodwill.

3.5.4 Provisions of the Public Service Code of Conduct and Ethics

The general objective of the Public Service Code of Ethics, 2016 is to guide implementation of Chapter Six of the Constitution on leadership and integrity and to give effect to Section 5(1) of the Public Officer Ethics Act, 2003. The Code is specifically meant to ensure accountability by public officers for their decisions or actions, promote discipline and honesty, provide mechanisms for the management of conflicts of interest, protect the integrity of the public service and provide a framework for reporting of misconduct by public officers. As an Administrative officer, you are expected to comply with all the provisions of the code of conduct for public officers. The provisions of the Code include:

3.5.4.1 Responsibility and Duties

The Code requires a public officer to be responsible for the consequences of any acts or omissions arising from performance of his or her duties.

3.5.4.2 Performance of Duties

A public officer is required to carry out his/her duties efficiently, honestly, transparently and in an accountable manner. Officers should also keep accurate records and documents relating to their duties, abstain from absenteeism, and not to engage in private business during official working hours.

3.5.4.3 Professionalism

A public officer is required to carry out duties in a manner that protects the integrity of his/her office, treat members of the public and other public officers with courtesy and respect, and not discriminate against any person. Officers should ensure the efficient, effective and economic use of resources, be accountable for his/her administrative acts, maintain an appropriate standard of dress and personal hygiene, and for officers who are members of a professional body, observe and subscribe to the ethical and professional requirements of that body.

3.5.4.4 Financial Integrity

The Code provides that a public officer shall not use his/her office to unlawfully or wrongfully enrich self or any other person, shall not seek or accept a personal loan or benefit that may compromise his/her integrity, and shall not incur any financial liability that he/she cannot satisfy but will live within his/her means.

3.5.4.5 Moral and Ethical Requirements

All public officers are required to be honest in the conduct of public affairs and accurately and honestly present information to the public. In this regard, officers should not engage in activities that amount to abuse of office, misuse public resources or falsify records.

3.5.4.6 Gifts and Benefits

A gift or donation given to a public officer in his official capacity is treated by the Code as a gift or donation to his office. Further, a public officer shall not accept or solicit gifts, hospitality or other benefits from a person where there is likely to be a conflict of interest. It is also required that a public officer who receives a gift or donation shall declare the same, and that his/her organization shall maintain a register of all gifts received/given by public officers in that organization.

3.5.4.7 Conflict of Interest

The Code requires a public officer to avoid being in a situation where personal interests appear to conflict with his/her official duties. Public officers are therefore required to declare personal interests that may be in conflict with his/her official duties. It is also required that public organizations shall maintain a register of conflicts of interest in which an affected officer shall register the particulars of registrable interests, stating the nature and extent of the conflict.

3.5.4.8 Participation in Tenders

The Code guides that a public officer shall not participate in a tender for the supply of goods or services to the public organization in which he/she serves.

3.5.4.9 Conduct of Private Affairs

It is required that a public officer must conduct private affairs in a manner that maintains public confidence in his or her integrity.

3.5.4.10 Tax, Financial and Legal Obligations

The Code requires a public officer to pay any taxes due from him/her within the prescribed period and should also not neglect his/her financial or legal obligations.

3.5.4.11 Wrongful and Unlawful Acquisition of Property

The Code guides that a public officer should not use his/her office to wrongfully or unlawfully acquire or influence the acquisition of property.

3.5.4.12 Collections and Harambees

The Code guides that a public officer shall not use his/her office or place of work as a venue for soliciting or collecting harambees. The Officer should also not preside at a harambee or appear as a guest of honour.

3.5.4.13 Bank Accounts Outside Kenya

It is required that a public officer should not maintain a bank account outside Kenya except with the approval of the Ethics and Anti-Corruption Commission (EACC) or in accordance with any written law.

3.5.4.14 Acting for Foreigners

The Code guides that a public officer shall not further the interests of a foreign government, organization or individual in a manner that may be detrimental to the interests of Kenya.

3.5.4.15 Care of Property

Public officers are required to ensure that any public property in their possession is taken care of and is in good condition. Further, one shall not use public resources for activities for which they were not intended. In addition, a public officer shall return all the public property in his/her possession at the end of his/her appointment or employment.

3.5.4.16 Misuse of Official Information

The Code requires a public officer to ensure that confidential or secret information or documents entrusted to him/her are adequately protected from improper disclosure.

3.5.4.17 Political Neutrality

A public officer is required to remain politically neutral during his/her term of employment. Therefore, an officer shall not publicly indicate support for or opposition against any political party or political candidate at an election.

3.5.4.18 Impartiality

The Code requires a public officer to carry out his/her duties with impartiality and neutrality at all times. In addition, the officer should not practice favouritism, nepotism, tribalism, cronyism, religious bias or any other kind of bias or discrimination or engage in corrupt or unethical practices.

3.5.4.19 Gainful Employment

A public officer who is serving on a full-time basis shall not participate in any other gainful employment during his term of employment.

3.5.4.20 Offers of Future Employment

A serving public officer shall not be influenced in the performance of his/her duties by expectations or offers of future employment or benefits from any person.

3.5.4.21 Bullying

It is required that a public officer shall not bully any other person. The Code describes bullying as offensive behavior which is vindictive, cruel, malicious or humiliating and which is intended to undermine another person.

3.5.4.22 Sexual Harassment

Public officers are discouraged from sexually harassing a member of the public or another public officer. Sexual harassment includes making a request or exerting pressure for sexual activity or favours, making intentional or careless physical contact that is sexual in nature, making gestures, noises, jokes or comments including innuendos regarding another person's sexuality, or sending of sexually suggestive texts, pictures or videos.

3.5.4.23 Submitting of Declarations

The Code requires every public officer to, once every two years, submit a declaration of income, assets and liabilities of himself/herself, his/her spouse or spouses and his/her dependent children under the age of 18 years.

You should also note that a breach of the Code amounts to misconduct, for which a public officer may be subjected to disciplinary proceedings as provided for by Section 35(1) of the Code.

3.5.5 Challenges on Compliance with the Code of Conduct and Ethics

Enforcement of the Code of conduct and ethics has continued to face challenges which include:

- i) Inadequate implementation of the Constitution regarding governance, leadership and integrity.
- ii) Poor enforcement of service regulations, policies and guidelines.
- iii) Failure to align all service policies, regulations and guidelines to values and principles of the public service, as well as the national values and principles of governance.
- iv) Lengthy judicial and administrative processes.
- v) Impunity- Instances where public officers violate the code but are not punished.

3.5.6 Strategies to Enhance Adherence to the Code of Conduct and Ethics

In order to ensure effective implementation of the provisions of the Code of Conduct and Ethics, there is need to develop strategies which include:

- i) Aligning existing service regulations and guidelines to values and principles of the public service, as well as the national values and principles of governance.
- ii) Development and implementation of comprehensive induction, mentorship and coaching programmes on the provisions of the Code.
- iii) Signing of the commitment form on adherence to the code of conduct and ethics by all appointed public servants.
- iv) Continuous training and sensitization programmes on the provisions of the Code across the public service by responsible training institutions.
- v) Establish and strengthen integrity and values committees within public organizations.
- vi) Instituting an internal code of conduct and ethics to enhance implementation of the Code and give further effect to the values and principles of public service.

3.5.7 Summary

In this topic, we have discussed the concepts of code of conduct and ethics and their role in enhancing organizational performance. In addition, we have discussed the provisions of the Code of Conduct and Ethics for Public Officers, as well as the challenges faced in ensuring compliance with the code of conduct and ethics. We have also highlighted the strategies employed to enhance adherence to the code of conduct and ethics. In the next topic, we shall discuss a discuss the processes towards the mainstreaming of values and principles in the public service.

3.5.8 Activities

Discuss ethical dilemmas that a public servant may face in the workplace.

3.5.9 References

1. The Constitution of Kenya, 2010

2. The Public Service Code of Conduct and Ethics, 2016
3. The Public Officer Ethics Act, 2003
4. The Leadership and Integrity Act, 2012
5. The Public Service Commission Act, 2017
6. Professional Association for Compliance and Ethics (www.pacecompliance.com)

3.6 MAINSTREAMING VALUES AND PRINCIPLES IN THE PUBLIC SERVICE

Outline

- 3.6.1 Introduction
- 3.6.2 Specific Objectives
- 3.6.3 Concept of mainstreaming
- 3.6.4 Strategies for mainstreaming values and principles
- 3.6.5 Role of the Administrative Officer in mainstreaming values and principles
- 3.6.6 Challenges in mainstreaming values and principles
- 3.6.7 Measures to address challenges in mainstreaming values and principles
- 3.6.8 Summary
- 3.6.9 Activities
- 3.6.10 References

3.6.1 Introduction

Article 234(2) (c) mandates the Public Service Commission to promote values and principles mentioned in Articles 10 and 232 of the Constitution throughout the public service. One way of promoting the values and principles is through mainstreaming them. As an Administrative officer, you will be expected to mainstream values and principles in service delivery. This unit is therefore intended to equip you with knowledge, skills and attitudes on various strategies of mainstreaming values and principles.

3.6.2 Specific Objectives

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

- i. Describe the concept of mainstreaming;
- ii. Assess the strategies for mainstreaming values and principles;
- iii. Examine the role of the administrative officer in mainstreaming values and principles;
- iv. Analyse challenges in mainstreaming values and principles; and
- v. Formulate measures to address challenges in mainstreaming values and principles.

3.6.3 Concept of Mainstreaming

Mainstreaming is a strategy to ensure that concerns and experiences about a particular issue are included in the design, implementation and evaluation of policies and programs. In that case, mainstreaming values and principles refers to the process of assessing the implications and the envisaged outcome on ethical practices in the enactment of legislations and development of policies and programs. It is a deliberate effort to ensure an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres whose ultimate goal is a value-based society.

3.6.4 Strategies for Mainstreaming Values and Principles

Sessional paper No. 8 of 2013 on National Values and Principles of Governance identifies 4 broad strategies of mainstreaming the national values and principles of governance as outlined:

3.6.4.1 Associative Approach

This strategy mandates citizens in voluntary and democratically self-governing associations to own and drive the process of promoting, inculcating and enforcing national values and principles of governance. Such associations include: neighbourhood groups and self-help groups; community-based organizations; non-governmental organizations; religious and faith-based organizations; societies, sports associations; professional associations; trade unions, labour unions, co-operative societies; and business associations.

3.6.4.2 Recruiting and Mobilizing Change Agents

This strategy seeks to recruit and empower change agents to become value carriers in different spheres of society such as - arts and entertainment, communities, educational institutions, families, government, political organizations, private sector, religious and faith-based organizations, and sports.

3.6.4.3 Mainstreaming National Values for Behavior Change in All Spheres

This strategy involves infusing national values and principles of governance in the planning and execution of national and county programmes, projects and activities. The objective of this strategy is to make values a fulcrum around which national activities and programs are anchored.

3.6.4.4 Affirming National Values and Their Champions

The strategy seeks to profile and give visibility to Kenyan heroes and heroines who represent a commitment in the promotion of national values and principles of governance.

3.6.4.5 Mainstreaming Values and Principles in the Public Service

In the public service, the values and principles are mainstreamed through the following ways:

- i) Citizen service delivery charters: public service institutions usually commit to customer service delivery standards that adhere to values and principles. As an Administrative Officer, you should ensure you offer public services as per the respective service charter.
- ii) Performance management system: Values and principles have been mainstreamed by inclusion in the performance management systems and instruments. These include uploading them into the performance contracting platform, making them part of the scored areas in the performance management instruments like the staff appraisal form, organizational performance contract and individual performance contracts. As an Administrative Officer, ensure to mainstream values and principles as you set performance targets with your staff and as you evaluate their performance.
- iii) Public service honours and awards: The public service excellence awards has a category for values and principles which recognizes individuals and teams that distinguish themselves in adherence to values and principles in service delivery. As an Administrative Officer, aspire to win such awards.

3.6.5 Role of the Administrative Officer in Mainstreaming Values and Principles

As an Administrative Officer, you will be expected to mainstream values and principles in service delivery. You may play this role through the following ways:

- i) Role-model values and principles in service delivery;
- ii) Mobilize associations to establish a common front in the promotion of values and principles;
- iii) Enhance the capacity of existing associations to undertake the promotion of values and principles;
- iv) Sensitize and train stakeholders including members of the public;
- v) Set performance targets on values and principles and evaluate and rank staff on the same.
- vi) Establish consultative forums for sharing best practices;
- vii) Form values and principles committees;
- viii) Nominate values and principles focal persons;
- ix) Identify and profile leading role models, champions and ambassadors of values and principles; and
- x) Develop mentoring schemes that will enable the role models, champions and ambassadors to pass on their skills and experiences to others.

3.6.6 Challenges in Mainstreaming Values and Principles

While mainstreaming values and principles in the public service, Administrative Officers may face many challenges. Such challenges include:

- i) Behaviour change may take time especially among adults;
- ii) Groups may lack the necessary resources;
- iii) Multiplicity of actors may cause coordination challenges;
- iv) Identifying change agents may be difficult considering acceptability in the community and character;
- v) Difficulties in mobilising change agents for a forum;
- vi) Value champions may be rejected;
- vii) The mentoring schemes need resources; and
- viii) Difficulty in identifying value champions.

3.6.7 Measures to Address Challenges in Mainstreaming Values and Principles

In order to minimize challenges experienced while mainstreaming values and principles in service delivery, the following measures may be put in place:

- i) Incorporating values and principles training in the school curriculum to shape behaviour from an early age.
- ii) Allowing as much of the process as possible to be managed by citizens in voluntary and democratically self-governing associations;
- iii) Creating mass awareness across the country on values and principles;
- iv) Utilizing existing structures; and
- v) Identifying value champions and role models from within the society.

3.6.8 Summary

In this topic, we have identified and discussed strategies that may be used in mainstreaming values and principles. We have also examined the role of the Administrative Officer in mainstreaming values and principles as well as challenges they may face in the process. We have further analysed the measures that may be instituted to address challenges in mainstreaming values and principles. This brings us to the end of our discussion on Values and Principles in Public Service course unit.

3.6.9 Activities

Assess opportunities available for Administrative Officers to mainstream values and principles in the course of their work.

3.6.10 References

1. Government of Kenya (2013), Sessional Paper No. 8 of 2013 on National Values and Principles of Governance. Nairobi: Government Printer.
2. Government of Kenya (2013), Sessional Paper No. 9 of 2013 on National Cohesion and integration. Nairobi: Government Printer.

4.0 PUBLIC FINANCE MANAGEMENT- 104

4.0.1 Introduction

Financial resources are the lifeblood of public organizations. Their prudent management to a large extent determines many of the outcomes that matter to effective public service delivery. As an administrative officer, you will be expected to be prudent in the utilization of financial resources in service delivery.

This course unit is therefore intended to equip you with knowledge, skills and attitudes that will enable you exercise prudent management of public finances.

4.0.2 Course Unit Summary

	TOPIC	SUB-TOPIC
4.1	Introduction to Public Finance Management	- Concept of Public finance management - Legal and Policy Framework of Public Finance in Kenya - Principles of Public finance management - Sources of Government Revenue - Role of Revenue collectors and receivers in management of public finance - Role of the Central bank, Treasury and the Legislature in public finance management
4.2	Government Budgetary Process	- Concept of budget and budgetary cycle - Role of Treasury, Executive and Legislature in budget process. - Role of Commission on Revenue allocation and Controller of Budget - Role of stakeholders in budgetary process
4.3	Public Expenditure Management	- Concept of public expenditure management - Public Funds - Types of Government expenditure - Role of Accounting Officers in Public expenditure management - Types of imprest; acquisition and surrendering process
4.4	Government Financial Control System	- Concept of control of public finance - Public finance control systems - Role of institutions involved in control of public funds - Risk management in public finance
4.5	Public Procurement and Disposal	- Concept of public procurement and disposal - Principles of public procurement - Methods of Procurement - Asset Disposal Methods - Procurement and disposal Committees - Roles and responsibilities of Institutions involved in Public Procurement and asset disposal - Ethical issues in public procurement and asset disposal

4.1 INTRODUCTION TO PUBLIC FINANCE MANAGEMENT

Outline

- 4.1.1 Introduction
- 4.1.2 Specific Objectives
- 4.1.3 Concept of Public finance management
- 4.1.4 Legal and Policy Framework of Public Finance in Kenya
- 4.1.5 Principles of Public finance management
- 4.1.6 Sources of Government Revenue
- 4.1.7 Role of Revenue collectors and receivers in management of public finance
- 4.1.9 Role of the Central bank, Treasury and the Legislature in public finance management
- 4.1.10 Summary
- 4.1.11 Activities
- 4.1.11 References

4.1.1 Introduction

Public finance in government is managed in accordance with the principles set out in the Constitution and other relevant legislation. As an Administrative Officer, you will be expected to manage public resources as per the stipulated principles in the course of service delivery. This topic intends to equip you with knowledge on the principles and the legal and policy framework of public finance management. Further, you will be equipped with an understanding on how the government raises its revenue and the role played by key institutions in management of public finance.

4.1.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of public finance management;
- ii) Interpret the legal and policy framework of public finance in Kenya;
- iii) Analyse the principles of public finance management;
- iv) Classify various sources of government revenue;
- v) Assess the role of collectors and receivers of revenue in management of public finance; and
- vi) Examine the role of central bank, Treasury and the Legislature in management of public finance.

4.1.3 Concept of Public Finance Management

Public finance deals with the finances of the public under the institution of government as an organized group. It thus deals with the finances of government which includes raising, disbursing and control of government funds. Since government operates at two levels in Kenya, public finance is concerned with the financial problems and policies at the two levels. Further, it addresses how the two levels of government interrelate in financial matters.

By public finance management therefore we refer to the set of laws, rules, systems and processes adopted by the Government to mobilize revenue, allocate public funds, undertake public spending, account for funds and audit financial results.

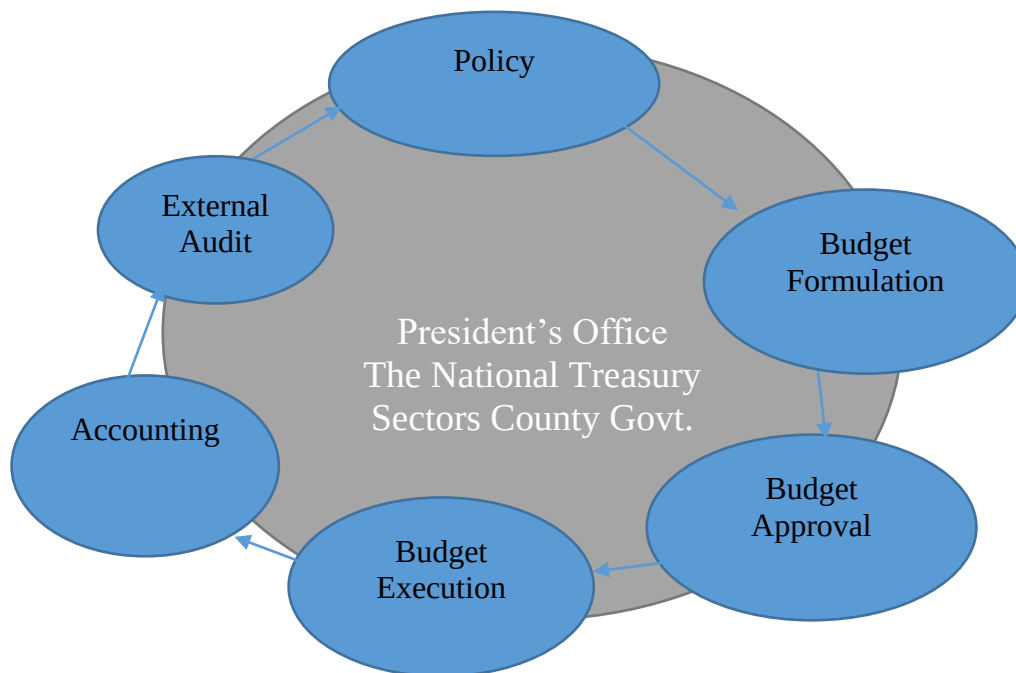
4.1.3.1 Rationale for Public Finance Management in Kenya

As an Administrative Officer, it is important for you to justify the need for prudent management of public finances by public officers. The reasons are:

- i) For robust economic growth using fiscal and monetary tools in order to increase both aggregate demand and supply.
- ii) Fiscal discipline or the balance between revenues and expenditure of government.
- iii) For easier allocation of resources to priority needs.
- iv) For efficient and effective allocation of public services like construction of infrastructure.

4.1.3.2 Public Finance Management Cycle in Kenya

The management of public finance in Kenya follows a cycle as indicated in the diagram below.



The cycle as depicted in the diagram is explained below

1. Policy: This is usually the first step in the public finance management cycle and involves the preparation of the governments finance policy that determines the priority areas in funds allocation. This policy is informed by public finance management principles as stated in the Constitution, relevant Acts of Parliament, political parties' manifestos, research, stakeholders and the prevailing economic environment.
2. Budget formulation: This is the role of the national treasury (executive) working in conjunction with line ministries, other arms of government, counties and other government agencies. The budget formulation starts at the user levels and the budget allocations are based on the data from all those entities funded through public finances and consolidated by the National Treasury.

3. Budget approval: The budgets prepared by the national treasury are usually presented to the legislature at the national and county levels for approval. No funds can be expended without the approval of parliament and county assemblies for both levels of government through enactment of the appropriations bills.
4. Budget execution: The executive has the mandate to execute the budget through provision of public goods and services as it has the machinery to do so. However, all funds must be approved by the Controller of Budget before they are withdrawn from the exchequer account.
5. Accounting: The executive as the executer of the budget must account for the funds allocated to it through maintenance of proper records as required by the Constitution and other relevant legislation. It must maintain a record of all the public funds received and how they have been utilised.
6. External audit: The use of public finances is subject to oversight by independent bodies as stipulated in the constitution. The Office of the Auditor General must audit the financial records of all entities funded through public funds and report to parliament on the use of such funds. Parliament exercises oversight by seeking answers from public entities that are not able to fully account for all the public funds advanced to it as reported by the auditor general. Similarly, the public and activists provide extra oversight by seeking court intervention where the public finances may have been misused.

4.1.4 Legal and Policy Framework of Public Finance in Kenya

Public finance management in Kenya is anchored in the Constitution of Kenya 2010 Chapter XII. The Constitution provides guidelines on how public finance management shall be executed. It mandates Parliament to provide a legal framework within which public finance management policies shall be implemented.

The figure below shows the Public Finance Management legal and policy framework hierarchy in Kenya.

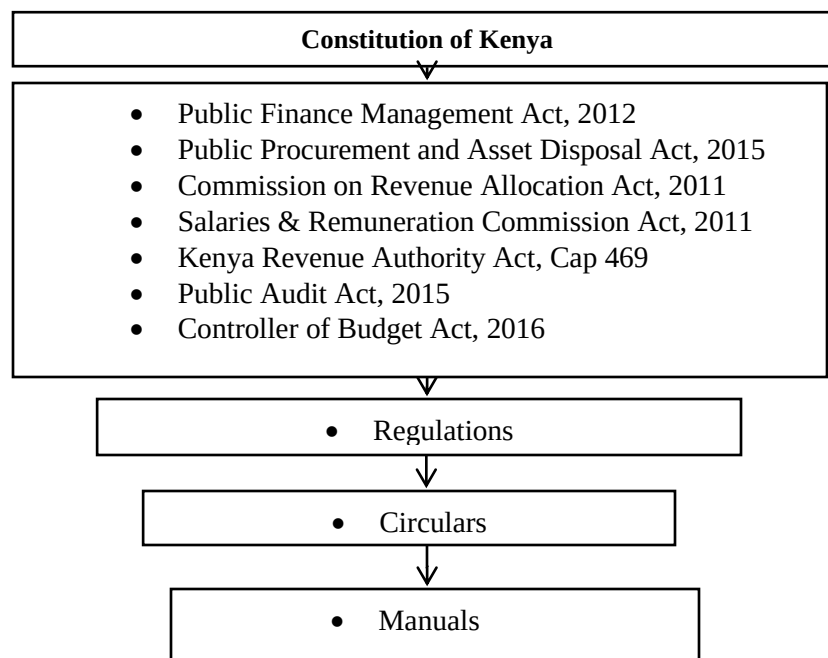


Figure 4.1.2

The items in the figure above are explained below.

1. The Constitution is the supreme law in the management of public finances. All other legislation is based on the Constitution and must be aligned to the Constitution.
2. All the Acts listed in figure 4.1.2 are laws that were enacted by Parliament as part of the implementation of the Constitution. The laws regulate the management of public finances by assigning responsibilities in public finance management and creating the various institutions as stipulated in the Constitution.
3. The regulations guiding the management of public finances are developed by the national treasury to provide line ministries with the procedures and policies that guide financial management on a daily basis.
4. The national treasury will periodically issue circulars to public entities on the handling of particular financial issues. These are meant to clarify grey areas in regulations or introduce new procedures due to a change in a law or policy.
5. Manuals are also developed by the National treasury as a guide to the conduct of public financial affairs by those who handle them. They provide the practitioners with the procedures to be followed in handling financial matters at the workplace.

4.1.5 Principles of Public Finance Management

There are principles that shall guide you in all aspects of public finance for democratic governance, macro-economic stability and effective use of resources available. Application of these principles can also help prevent corruption and foster resource use effectiveness and accountability.

These principles are as follows:

- i) Openness and accountability, including public participation in financial matters.
- ii) Promotion of an equitable society, and in particular:
 - the burden of taxation shared fairly;
 - revenue raised nationally shall be shared equitably among national and county governments; and
 - expenditure shall promote the equitable development of the country, including by making special provision for marginalised groups and areas;
- iii) Burdens and benefits of the use of resources and public borrowing be shared equitably between present and future generations.
- iv) Prudent and responsible use of public money.
- v) Responsible financial management.
- vi) Clear fiscal reporting.

4.1.6 Sources of Government Revenue

Government revenue is money received by a government from taxes and non-tax sources to enable it undertake government expenditures. The different sources of government revenue include:

- i) Taxation - a compulsory contribution to state revenue, levied by the government on workers' income and business profits, or added to the cost of some goods, services, and transactions e.g. Custom tax, VAT, income tax;
- ii) Rent - a tenant's regular payment to a public entity for the use of property or land;
- iii) Fees - a payment made to the government or government agency for services rendered;
- iv) Appropriations-In-Aid (A.I.A) – it is the internally generated financial resource. A.I.A are incidental receipts which could be in the form of fees charged or from the sale of old stores which an accounting officer is allowed to spend in addition to voted provisions;
- v) Fines and penalties - money that a court of law or other authority imposes as punishment for a crime or other offence. The amount of a fine can be determined case by case, but it is often announced in advance;
- vi) Receipts from sale of government property –government frequently has property which it makes available for sale or lease by qualified parties;
- vii) Borrowing - The government borrows money internally and externally to make up the difference between revenues and expenditures (meet budget deficits);
- viii) Rates – refers to levies collected by government from the services provided. They may be collected on market stalls, motor parks and shops; and
- ix) Grants/donations – are resources made available to government to help it carry out its programmes. These can be block grant based on population, matching grant that aids government on larger projects or special grant that assist government in providing some services of national importance like education and health.

4.1.7 Role of Revenue Collectors and Receivers in Management of Public Finance

Revenue collectors are agents responsible for ensuring that businesses and individuals pay the appropriate amount of taxes and fees as prescribed by laws and regulations. They determine how much is owed collect the same from individuals and businesses on behalf of the government.

They are in charge of:

- i) All taxes and fees;
- ii) The collection of rents for the occupation of public lands, buildings and shopping complexes;
- iii) Collection of rents from stalls and collection of rents from corporation; and
- iv) Collection of advertisement taxes.

The Kenya Revenue Authority is the collector of the national government revenue. The county treasury is responsible for collection of county revenue. Moneys collected by the national or county should be deposited in an exchequer account at the Central Bank of Kenya (CBK).

A receiver of revenue is responsible to the National Treasury/ County Treasury for ensuring that the revenue in respect of which he/she is appointed is collected, received and accounted for. A receiver of revenue for the national government provides monthly statements to the National Treasury and the Commission on Revenue Allocation.

4.1.8 Role of the Central bank, Treasury and the Legislature in Public Finance Management

These three institutions strengthen financial and fiscal relations between the National Government and County Governments and assist the government in allocation of public resources. Let us now discuss the role of each institution:

4.1.8.1 The Central Bank

The Central Bank is a national bank that provides financial and banking services for its country's government and commercial banking system, as well as implementing the government's monetary policy and issuing currency.

The Central Bank of Kenya (CBK) plays a key role in the management of public finance in the following ways:

- i) It is responsible for formulating monetary policy, promoting price stability and issuing currency.
- ii) It serves as a lender of last resort to commercial banks and also to the government.
- iii) It encourages the adoption of financial systems according to the changing needs of the markets.
- iv) It administers external reserves through exchange controls and handles external financial relations.
- v) It manages the national financial reputation. It takes into account accumulated borrowings undertaken by the government to finance its expenditure.
- vi) It has the sole responsibility of issuing currency.
- vii) The bank is the Government banker. It does not maintain the accounts of businesses and individuals in the private sector. It only maintains the accounts of government departments.
- viii) The CBK acts as an agent to the Government through implementing the monetary policy in the pursuit of the government's national economic development. As part of this process, the bank acts as a medium for a two-way transmission between the Government and the financial markets through collection of extensive statistical information on all financial institutions.
- ix) CBK has a duty to supervise the banking industry in general. The bank can issue directives to commercial banks and other financial institutions indicating how much they should be lending (quantitative directives). This has been done through what is known as moral persuasion (friendly persuasion). The bank is mandated to inspect and supervise the directives given to non-bank financial institutions and commercial bank.

4.1.8.2 The National Treasury

The National Treasury is responsible for developing and managing the macroeconomic policies of the country. Its roles also include;

- i) Administers both the consolidated fund and the Equalisation Fund.
- ii) Administers and reports financial statements in respect of the Contingencies Fund.
- iii) Establishes a Parliamentary Fund and other national government public funds.

We shall discuss more of these funds in the Public Expenditure Management topic.

4.1.8.3 The Legislature

The Legislature in Kenya includes Parliament and the county assemblies. Parliament consists of the National Assembly and the Senate. Legislature is mandated by the Constitution to control public finances. No money can be spent or raised by the executive without the consent and approval of parliament or county assembly. It exercises supervision over the financial administration through the Public Accounts Committee and public investment committee.

In Kenya the Legislature has three critical functions with regard to Public Finance. These are;

- i) Revenue mobilization (imposition of taxes and setting borrowing ceilings)
- ii) Allocation of resources
- iii) Oversight- Ensuring resources are well utilized for the purpose intended.

4.1.9 Summary

In this topic we have examined the concept of public finance management and described the legal and policy framework of public finance in Kenya. We have further analysed the principles of public finance management and examined the sources of government revenue. In addition, we have also assessed the role of revenue collectors, the Central Bank, the National Treasury and the Legislature in the management of public funds. In the next topic, we shall discuss the government budgetary process.

4.1.10 Activities

1. Discuss the applications of the provisions of the PFM law in your administrative duties.
2. Assess the role of the Public Accounts Committee and public investment committee in the management of public funds.
3. Review the public finance management legal and policy framework in Kenya.
4. Review the role of Kenya Revenue Authority as a collector of revenue and challenges it encounters in carrying out its role.
5. Examine other ways in which the national government can raise revenue.
6. Assess various ways in which county governments raise revenue.

4.1.11 References

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4.2 GOVERNMENT BUDGETARY PROCESS

Outline

4.2.1 Introduction

4.2.2 Specific objectives

- 4.2.3 Concept of Budget and Budgetary cycle
- 4.2.4 Role of Treasury, Executive and Legislature in budget making process
- 4.2.5 Role of Commission on Revenue Allocation and Controller of Budget
- 4.2.6 Role of stakeholders in budget making process.
- 4.2.7 Summary
- 4.2.8 Activities
- 4.2.9 References

4.2.1 Introduction

The government usually publicises its intentions and policies which it intends to pursue during the forthcoming financial period through a financial plan (budget). As an Administrative Officer, you will be expected to participate in the budgetary process. This topic therefore is intended to equip you with knowledge, skills and attitudes to enable you participate in the government budget process effectively.

4.2.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the Government budget cycle and calendar in Kenya;
- ii) Analyse the roles of Treasury, Executive and Legislature in budget making process;
- iii) interpret the roles of the Commission on Revenue Allocation and the Controller of Budget in relation to budgetary process;
- iv) Describe role of stakeholders in the budgetary process.

4.2.3 Concept of Budget and Budgetary Cycle

A budget is a quantitative document prepared by an entity showing its projected revenues and expenditure for future financial periods mostly the next financial year. A government budget refers to a quantitative document prepared by the government showing its projected revenues, projected expenditure and priorities for the next financial year. It is also a set of procedures by which the government allocates resources and controls spending among the various government agencies. A government budget is used as an instrument for economic policy, management and accountability. It is an allocation mechanism that aims to maximise the contribution of public expenditure to national welfare.

The budget cycle refers to the various stages of the budget process and the related timelines that need to be observed through that process. The responsibility of preparing the government budget is vested on the Cabinet Secretary in charge of the National Treasury and the County Executive Committee Member (CECM) responsible for finance prepares the county government budget. The government budget is presented by the national or county treasury to the national or county assemblies, passed by the legislature, and approved by the chief executive

4.2.3.1 Budget Process

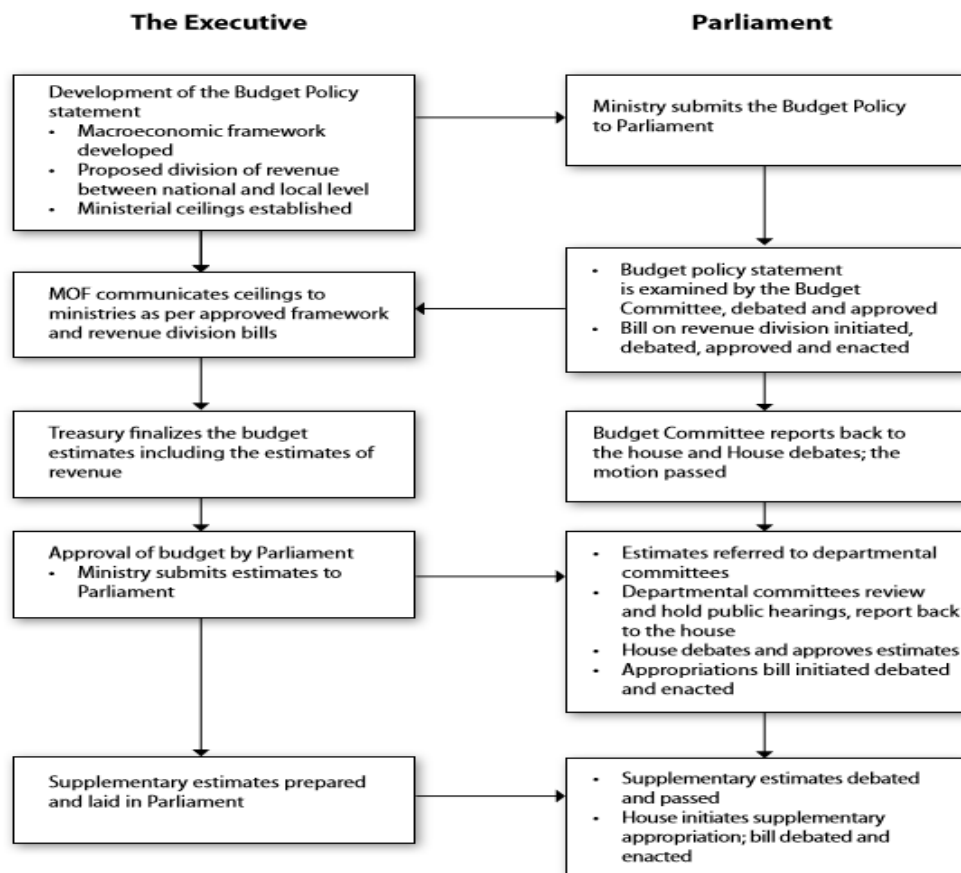
The budget process for the national government in any financial year comprises the following stages as per the PFM Act:

- i) integrated development planning and determining financial and economic policies and priorities at the national level which shall include both long term and medium-term using guidelines from treasury.

- ii) preparing overall estimates in the form of the Budget Policy Statement of national government revenues and expenditures;
- iii) adoption of Budget Policy Statement by Parliament as a basis for future deliberations;
- iv) preparing budget estimates for the national government;
- v) submitting those estimates to the National Assembly for approval;
- vi) enacting the appropriation Bill and any other Bills required to implement the National Government's budgetary proposals;
- vii) implementing the approved budget;
- viii) evaluating and accounting for, the National Government's budgeted revenues and expenditures; and
- ix) reviewing and reporting on those budgeted revenues and expenditures every three months by the Controller of Budget.

The National Governments budget process is as depicted in Fig 4.1.

Figure 4: Figure 4.1: The Budget Process in Kenya



Source: Public Finance under Kenya's New Constitution by N Kirira, 2010

The budget process for the county government in any financial year shall comprise almost similar stages but the person in charge of the process shall be the County Executive Committee in charge of finance. The budget documents such as the county budget policy statement, county budget estimates, county appropriation bill and any other documents shall be presented to the county assembly for approval as outlined in the above process.

The PFM Act prescribes the specific timelines that must be observed in the budget process from when budget formulation starts to its approval, implementation and evaluation. The budget timelines for the national government budgeting process has been summarized in table 4.1.

Table 4.1: Kenya's Budget Calendar for National Government – Key timelines

Date	Budget Process Activities
30 August	The National Treasury releases a circular to all government agencies, starting the process and setting out guidelines for public participation. The budget circular provides budget process key policy directions as well as specifying the medium-term expenditure framework.
30 September	The Budget Review and Outlook Paper (BROP) is submitted to the National Treasury and then to the Cabinet for approval. The BROP compares the previous year's revenue and spending with what was planned in the budget. It also updates the current year's economic expectations in respect of inflation and growth and proposes the provisional ceilings for each sector for the coming year's budget.
21 October	After the Cabinet's approval, the BROP must be tabled before the National Assembly for review and approval
15 November	National government should publish the in-year report (1st quarter implementation report).
31 December	The Auditor General should produce and publish an audit report on the previous financial year.
1 January	The Commission on Revenue Allocation (CRA) submits its recommendations on both vertical and horizontal sharing of revenue between and within the two levels of government. (The recommendations are meant to inform the Division on Revenue Bill tabled in the National Assembly by 15 February annually.)
15/28 February	The Budget Policy Statement (BPS), accompanied by the Debt Management Strategy (DMS) paper, is tabled in the National Assembly for approval within two weeks. Before approval, the BAC and other departmental committees review the BPS and the medium-term DMS and make recommendations to the National Assembly for consideration and approval by 28 February. The Division of Revenue Bill and the County Allocation of Revenue Bill are also tabled in the National Assembly for consideration and approval.
30 April	The National Budget Estimates are submitted to the National Assembly for consideration. Parliament's and judiciary's budget estimates are also submitted separately. However, before approval of the budget estimates, the Budget and Appropriations Committee (BAC) is required to review, and seek public input on, the estimates and make recommendations to the National Assembly.
May	Between May and June, the BAC scrutinises the budget estimates and makes

	amendments with or without changes in the estimates. The committee also begins with public forums on the budget estimates as required by the Constitution.
15 May	Marks the deadline for the Cabinet Secretary for Finance to comment on the judiciary's and Parliament's budget proposals. The National Government publishes the 2nd quarter implementation report.
30 June	This marks the end of financial year. The National Assembly should have approved the budget estimates and the Appropriation Bill, which allows government to spend against the budget from 1 July. The Finance Bill tabled in Parliament before the approval of the budget must also be approved within 90 days of the passing of the Appropriation Act.
1 July	Beginning of the new financial year

4.2.4 Roles of Treasury, Executive and Legislature in Budget Process

4.2.4.1 Role of Treasury

The role of Treasury in the budget process is set out in Section 36 of the PFM regulations (2015) with the responsibility vested on the Cabinet Secretary in charge of finance. The Cabinet Secretary shall manage the budget process at the national level and kick starts the process by:

- i) issuing to all national government entities a circular setting out guidelines on the budget process to be followed. The guidelines should be in line with the PFM Act and the role of Treasury is to ensure the same are followed.
- ii) The Cabinet Secretary shall, within a period allowing time to meet the deadlines as specified in the PFM Act submit to the Cabinet for approval the budget estimates and other documents supporting the budget; and the draft Bills required to implement the national budget.
- iii) The Cabinet Secretary shall submit to the National Assembly, the budget estimates excluding those for Parliament and the Judiciary and documents supporting the submitted estimates and any other Bills required to implement the national government budget.
- iv) The Cabinet Secretary shall submit to the National Assembly not later than the 15th May any comments of the National Treasury on the budgets proposed by the Parliamentary Service Commission and the Chief Registrar for the Judiciary. The Cabinet Secretary shall issue regulations prescribing the procedures on how, when and where members of the public shall participate in the budget process at the national level.
- v) The Cabinet Secretary shall ensure that the budget process is conducted in a manner and within a timeframe sufficient to permit the various participants in the process to comply with the requirements of the Constitution and the PFM Act.
- vi) The Cabinet Secretary shall publicise the budget estimates and other documents submitted to the National Assembly and upon approval of the budget estimates, prepare and submit an Appropriation Bill of the approved estimates to the National Assembly. The Cabinet Secretary shall submit to the National Assembly a summary of budget policies on revenue, expenditure, debt and deficit financing.

- vii) The Cabinet Secretary shall also submit an explanation of how the budget relates to the fiscal responsibility principles and to the financial objectives and a memorandum explaining how the resolutions adopted by the National Assembly on the Budget Policy Statement have been taken into account in the budget.

The role of the National Treasury in the budget process can be summarized as follows:

- i) Coordination and consolidation of the preparation of annual estimates of revenues and expenditures;
- ii) Preparing supplementary estimates;
- iii) Ensuring that allocation of resources is consistent with Government policy priorities;
- iv) Ensuring that the approved budget estimates are prepared and publicised in a form that is clear and easily understood by, and readily accessible to, members of the public;
- v) Preparing the Format of estimates of revenue;
- vi) Providing the automated integrated financial management system (IFMIS) for preparation and submission of estimates; and
- vii) Specifying the measures taken by the national government to implement any recommendations made by the National Assembly with respect to the budget for the previous financial year or years.

4.2.4.2 The Role of the National Assembly in the Budget Process

The National Assembly shall consider the budget estimates of the National Government, including those of Parliament and the Judiciary, with a view to approving them, with or without amendments. This is done in time for the Appropriation Bill and any other relevant Bills, except the Finance Bill, required to implement the budget to be assented to by the 30th June each year. Before the National Assembly considers the estimates of revenue and expenditure, the relevant committee of the National Assembly shall discuss and review the estimates and make recommendations to the National Assembly, taking into account the views of the Cabinet Secretary and the public on the proposed recommendations.

The National Assembly may amend the budget estimates of the national government only in accordance with the Division of Revenue Act and the resolutions adopted with regard to the Budget Policy Statement ensuring that:

- i) an increase in expenditure in a proposed appropriation is balanced by a reduction in expenditure in another proposed appropriation; or
- ii) a proposed reduction in expenditure is used to reduce the budget deficit.

Following approval of the budget estimates, and before the Appropriation Act is assented to, the National Assembly may authorise withdrawals in accordance with Article 222 of the Constitution, and such authority shall be communicated to the Cabinet Secretary responsible for finance by the Speaker of the National Assembly within seven days of that authority being granted by the National Assembly. The role of the National Assembly in the budget process is to:

- i) Discuss and adopt the Budget Policy Statement;
- ii) Discuss, review and approve the budget estimates taking into account the views of the Cabinet Secretary and the public;

- iii) Propose amendments after passing the budget estimates and the Appropriations Bill by Parliament;
- iv) Discuss and adopt the Finance Bill;
- v) Consider and approve with or without amendments the Division of Revenue and County Allocation of Revenue Bills;
- vi) Approve supplementary budget in support of money spent under Article 223 of the Constitution; and
- vii) Oversight budget implementation.

4.2.4.3 Role of the Executive in Budget Process

The role of the executive in the budget process is to:

- i) Provide a summary of programmes that are of national interest for the forthcoming year
- ii) List expenditure priorities as set out in national government policies;
- iii) Assent to the Finance Bill;
- iv) Implement the budget as authorized by the National Assembly.

4.2.5 Roles of Commission on Revenue Allocation and Controller of Budget in Budget Process

4.2.5.1 Commission on Revenue Allocation

The major function of the Commission is to make recommendations concerning the basis for the equitable sharing of revenue raised by the national government. The Commission also recommends on matters concerning the financing of both the national government and county governments. It also publishes and reviews the policy that sets out criteria for identifying marginalized areas for the equalization fund.

4.2.5.2 The Controller of Budget

The role of the Controller of Budget (CoB) is to oversee the implementation of budgets of the national and county governments by authorizing withdrawals from the Consolidated Fund, the Equalization Fund and the County Revenue Funds. The CoB then submits to each House of Parliament and County Assemblies (CAs) a report on the implementation of the budgets of the national and county governments every three months. The CoB also ensures that members of the public are given information on budget implementation both at the national and county government level in accordance with Article 228 of the Constitution.

4.2.6 Role of Stakeholders in Budgetary Process

The public has a right to participate in the public finance matters of the Republic, including budget making, as explicitly required in article 221 of the Constitution of Kenya. Article 221(5) mandates the relevant committee of the National Assembly, in discussing and reviewing the budget estimates, to “seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.”

The role of stakeholders in budgetary process is to:

- i) Make representations on the budget and identify expenditure priorities (for example the need to build new schools)
- ii) Recommend prudent and efficient spending through providing views on how best to reduce wastage or misuse of public money
- iii) Present proposals on taxation, tax rates, whether to raise or reduce taxes; country’s debt levels; sustainability of further borrowing.

- iv) Identifying segments of society whose needs should be addressed.

4.2.8 Summary

In this topic, we have discussed the government budget cycle and calendar in Kenya. We have also analysed the roles of Treasury, the Executive and the Legislature in the budget making process. We have further interpreted the roles of the Commission on Revenue Allocation and the Controller of Budget in the same process. Finally, we have discussed the role of stakeholders in the budget process. In the next topic, we shall discuss issues related to public expenditure management.

4.2.9 Activities

1. As an Administrative Officer, analyse the activities you may be involved in the budgetary process in your department.
2. Review the provisions of the Constitution and the PFM Act in relation to the budget making process.
- 3.

4.2.10 References

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4.3 PUBLIC EXPENDITURE MANAGEMENT

Outline

- 4.3.1 Introduction
- 4.3.2 Specific objectives
- 4.3.3 Concept of public expenditure management
- 4.3.4 Public funds
- 4.3.5 Types of Government expenditure
- 4.3.6 Role of Accounting Officer in public expenditure management
- 4.3.7 Types of imprest and their surrendering process.
- 4.3.8 Summary
- 4.3.9 Activities
- 4.3.10 References

4.3.1 Introduction

Prudent utilization of public funds is the hallmark of wholesome development in our country. As an Administrative Officer, you will be expected to exercise prudence in the utilization of public funds entrusted to you. This topic is therefore intended to equip you with knowledge, skills and attitudes to enable you utilize public funds in a prudent manner in the provision of services.

4.3.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of public expenditure management;
- ii) Analyse various Public Funds;
- iii) Differentiate the types of Government expenditure;
- iv) Analyse the role of Accounting officers in public expenditure management;
- v) Classify various types of imprest and their surrendering procedure.

4.3.3 Concept of Public Expenditure Management (PEM)

Public expenditure management (PEM) is an approach in government budgeting that seeks to align public expenditures with total revenues. It also aims at allocating government spending according to strategic priorities. Further, PEM seeks to provide quality public services at a reasonable cost. It also seeks to ensure that government spending is objective, sustainable and prudent.

PEM focuses on outcomes and views expenditures as a means to produce outputs. These outputs are needed to achieve desired outcomes using the right processes. Within this process, there should be autonomy/flexibility of line agencies to achieve the desired outcomes while maintaining public finance accountability.

4.3.4 Public Funds

Public Funds in Kenya refers to all the money that is generated by the national government, county governments and other government agencies which is intended to provide goods and services to the general public. The recognized public funds are created by the Constitution. They include:

- i) the Consolidated Fund;
- ii) Emergency/Contingency Fund;
- iii) Equalization Fund;
- iv) Revenue Funds;
- v) other funds that may be created by an act of parliament.

4.3.4.1 Consolidated Fund

This fund is established under Article 206 of the Constitution of Kenya. The Fund is where all money raised or received by or on behalf of the national government should be deposited. This omits money that is excluded from the Fund by an Act of Parliament and or retained by a State organ that received it for the purpose of defraying the expenses of the State organ. The National Treasury is mandated to maintain the Consolidated Fund in an account known as the National Exchequer Account, maintained at the Central Bank of Kenya.

The National Treasury can withdraw money from the Consolidated Fund only in accordance with an Act of Parliament and after seeking approval from the Controller of Budget. Withdrawals can also be made if the appropriation bill has not been passed by parliament (50% of the current year's estimates) or there is an emergency that may lead to loss of life or property. Withdrawals can also be made as a charge against the Fund as authorized by the Constitution such as the Judiciary Fund or the Equalization Fund. Any other withdrawals from any other national public fund must be authorized by an Act of Parliament.

The Judiciary Fund is a charge on the Consolidated Fund administered by the Chief Registrar of the Judiciary used for administrative expenses of this arm of government upon approval of its estimates.

4.3.4.2 Consolidated Fund Services

Consolidated Fund Services means a public service expense which is charged directly against and payable from the Consolidated Fund under or by virtue of the Constitution or any Act of Parliament other than an Appropriations Act.

Where the Constitution or an Act of Parliament provides for some specific categories of expenditure to be a direct charge on the Consolidated Fund, such expenditures shall be included in the recurrent budget estimates of the National Government and shall not be subject to Parliamentary debate nor to the expenditure limited by estimates nor vote on accounts.

4.3.4.3 Equalization Fund

This Fund is established by Article 204 of the Constitution, the Fund receives one half per cent of all the revenue collected by the national government each year calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly. The Equalisation Fund is used by the national government to provide basic services including water, roads, health facilities and electricity to marginalised areas to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation.

The Fund is expected to run for twenty years since the promulgation of the Constitution in the year 2010. However, the duration may be extended by parliament for a specified period subject to the extension being supported by more than half of the legislators in the National Assembly and more than half of all the county delegations in the Senate. The Commission on Revenue Allocation shall be consulted, and its recommendations considered before Parliament passes any Bill appropriating money out of the Equalisation Fund. Money shall not be withdrawn from the Equalisation Fund unless the Controller of Budget has approved the withdrawal.

4.3.4.4 County Revenue Fund

Each county government must establish a Revenue Fund as per Article 207 of the Constitution into which all money raised or received by or on behalf of the county government shall be paid except money excluded by an Act of Parliament. Withdrawals from the Revenue Fund of a county government can only be made as a charge against the Revenue Fund that is provided for by an Act of Parliament, by legislation of the county or as authorized by an appropriation legislation of the county subject to approval by the Controller of Budget.

4.3.4.5 Contingency/Emergency Fund

This Fund is established by Article 208 of the Constitution. A Contingencies Fund is created to provide advances to the government for meeting unforeseen and urgent expenditure needs for which there is no other authority. The Fund is operated by the Cabinet Secretary for finance in accordance with an appropriate Act of Parliament.

4.3.4.6 National Government Constituency Development Fund

The Constituency Development Fund (CDF) started operations in the year 2003/2004 and was created to support projects mainly in the areas of education, health, agriculture, roads, security,

environment and sports. However, the National Government Constituency Development Fund (NG-CDF) (Amendment) Act, 2016 introduced a major shift by providing a legal framework for the fund defining the amount of monies deposited in the fund as not being less than 2.5% of all the National Government's share of revenue as divided by the annual Division of Revenue Act enacted pursuant to Article 218 of the Constitution.

The Act also defines the scope of projects eligible for funding as only projects falling within the functions of the National Government as outlined in the Constitution of Kenya i.e. education, security, sports, environment sectors and other National Government residual functions can be funded. The Funds to NG-CDF are allocated by the National Assembly as a Vote Head of the Ministry of Devolution and Planning in line with the annual budgetary cycle.

4.3.5 Types of Government Expenditure

Government expenditure refers to all government consumption, investment, and transfer payments. It may be classified as follows:

- i) Government investment or development expenditure as defined in the Constitution of Kenya means the expenditure for the creation or renewal of assets such as roads, railways, government buildings, ports and production machinery;
- ii) Recurrent expenditure or government consumption refers to expenditure;
 - (a) In relation to the national government, i.e. the expenditure that is incurred in operating the services provided by the national government
 - (b) In relation to a county government, i.e. the expenditure that is incurred in operating the services provided by that county government
- iii) Wasteful expenditure as per the Constitution means any expenditure that was incurred which could have been avoided had due care and diligence been exercised by the accounting officer. e.g. "irregular expenditure which is expenditure incurred in contravention of or that is not in accordance with a requirement of any relevant legislation. It may also be expenditure that is unauthorized. This may be in terms of overspending of a vote or programme within a vote or expenditure not in accordance with the purpose of a vote or programme.

4.3.5.1 Constitutional Expenditure Limits

The National Government, Parliament, the Judiciary and county governments shall manage public finances in accordance with the Constitution, and the principles of fiscal responsibility set out in subsection (2) and enforced by the National Treasury as follows:

- i) Over the medium term, a minimum of thirty percent of the national and county government's budget shall be allocated to the development expenditure.
- ii) The national government's or county government's expenditure on wages and benefits for its public officers shall not exceed a percentage of the national government revenue as prescribed by regulations;
- iii) Over the medium term, the national government's borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure;
- iv) Public debt and obligations shall be maintained at a sustainable level as approved by Parliament for the national government and the county assembly for county government;

- v) Fiscal risks shall be managed prudently;
- vi) A reasonable degree of predictability with respect to the level of tax rates and tax bases shall be maintained, taking into account any tax reforms that may be made in the future.

4.3.6 Role of Accounting Officers in Public Expenditure Management

Section 67 of the PFM Act defines an Accounting Officer as the person appointed in writing by the Cabinet Secretary in charge of finance to be responsible for the proper management of the finances of a national government entity, except as otherwise provided by law. The Act also states that the person responsible for the administration of a Constitutional Commission or institution or Independent Office shall be the Accounting Officer responsible for managing the finances of that Commission, institution or Independent Office.

The Accounting Officer for the Judiciary shall be the Chief Registrar of the Judiciary and for the Parliamentary Service Commission, the Clerk of the Senate. The Accounting Officer for the County governments as per sect 148 of the PFM Act shall be the person appointed in writing by the County Executive Committee member for finance to be responsible for managing the finances of the county government entities as is specified in the designation, except as otherwise provided by law.

Accounting officers for any government entity (national or county) shall perform the following roles:

- i) Authorise payment of cash advances to public officers to enable them make payments for the entity or in the course of their duties.
- ii) Manage assets and liabilities of the national or county government entity in a way which ensures that the government entity achieves value for money in acquiring, using and disposing of those assets.
- iii) Dispose of assets only in accordance with the Public Procurement and Asset Disposal Act. The Accounting Officer should also ensure that the proceeds from all asset disposed are deposited into a bank account of the entity.
- iv) Ensure that a government entity does not loan or transfer assets to any person or organisation.
- v) The Accounting Officer should not permit any person or organisation to use assets for purposes other than carrying out the functions of the entity except in accordance with an Act of Parliament enacted pursuant to Article 227 of the Constitution.

4.3.5 Types of Imprest; Acquisition and Surrendering Process

An imprest means a form of cash advance or a float which the Accounting Officer may authorize to be issued to officers who in the course of their duty are required to make payments which cannot conveniently be made through the cash office of a government entity or bank account.

4.3.5.1 Types of Imprests

There are three types of imprests;

- i) Temporary or Safari imprest; Temporary imprests are issued mainly in respect of official journey. They are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

- ii) Standing Imprest; Standing imprest is intended to be in operation for a time and requires bringing the cash level of the advance continuously up to the agreed fixed level by systematic re-imbursement of expenses.
- iii) Special imprest: Any special imprest utilized for any expenditure on services of a confidential nature, the purpose and the particulars of which cannot be made public. Such expenditure is supported by a certificate that the money has been paid, and a declaration by the Cabinet Secretary responsible for the national government entity and the relevant Accounting Officer that they have satisfied themselves that the money has been properly expended. Further, the imprest should not be used to supplement the emoluments of any officer.

4.3.5.2 Imprest Acquisition

The officer authorized to hold and operate an imprest shall make formal application for the imprest through an imprest warrant. Funds disbursed for imprest shall not be kept or held in an official bank account, but in a separate or personal bank account operated by the imprest holder or in the form of cash under safe. The Accounting Officer or Authority to Incur Expenditure (AIE) holder shall approve the establishment of an imprest facility including the maximum amount for the specific purpose of that facility.

An imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purposes specified in the imprest warrant. Before issuing imprests, the Accounting Officer shall:

- i. Ensure that the applicant has no outstanding imprests;
- ii. The applicant has been recorded in the imprest register including the amount applied for; and
- iii. Adequate funds are available against the relevant items of expenditure to meet the proposed expenditure.

4.3.5.3 Imprest Surrender

A holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station. Where the imprest holder fails to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate. If the Accounting Officer does not recover the temporary imprest from the defaulting officer, the he/she commits an offence as provided for under the Act.

If an imprest is to be recovered from any public officer by instalments, the Accounting Officer shall personally authorize such recovery and such moneys shall no longer be an imprest but an unauthorized advance from Government funds. Further, in addition to the interest charged, the Accounting Officer shall take appropriate disciplinary action against the officer concerned for the abuse of the imprest.

4.3.5.4 Duties of Imprest holders

An officer holding an imprest shall ensure that:

- i. The imprest issued to him or her shall be used for the intended purpose only;

- ii. The imprest moneys and any payment vouchers awaiting replenishment are adequately safeguarded at all times;
- iii. Proper cash sale receipts are received for all payments out of the imprest;
- iv. The full amount of the imprest can be accounted for at all times in cash, stamps, money at bank and completed payment vouchers; and
- v. Goods purchased through imprest are delivered and a certificate issued.

4.3.6 Summary

In this topic, we have discussed the concept of public expenditure management and the various public funds as per the Constitution. We have also analysed the various types of government expenditure as well as the role of the Accounting Officer in public expenditure management. Finally, we have examined the different types of imprests, their acquisition and surrendering process. In the next topic we shall discuss issues pertaining to government financial control system.

4.3.7 Activities

As an Administrative Officer, assess ways in which you would ensure that finances under your jurisdiction are expended for the right things, prudently and sustainably.

4.3.8 References

1. Republic of Kenya, (2010). The Kenya Constitution: Government Printer.
2. Republic of Kenya, (2012). Public Financial Management Act: Government Printer
3. Republic of Kenya, (2015). Public Finance Management Regulations: Government Printer
4. Republic of Kenya, Treasury Circulars
5. Republic of Kenya, (2015). Public Procurement and Asset Disposal Act: Government Printer
6. Republic of Kenya, Public Finance Management Act Regulations, 2015, Government Printer
7. Public Finance under Kenya's new Constitution, Constitution Working Paper No. 5 Society for International Development (SID), (2010).

4.4 GOVERNMENT FINANCIAL CONTROL SYSTEM

Outline

- 4.4.1 Introduction
- 4.4.2 Specific objectives
- 4.4.3 Concept of control of public finance
- 4.4.4 Public finance control system
- 4.4.5 Role of institutions involved in the control of public finance
- 4.4.6 Risk management in public finance
- 4.4.7 Summary
- 4.4.8 Activities
- 4.4.9 References

4.4.1 Introduction

Government financial resources in developing countries like Kenya are scarce and should be utilized prudently. Consequently, the Government has put in place a control system to ensure responsibility and accountability in the use of public funds. As an Administrative Officer, you are expected to be responsible and accountable in the utilization of public funds under your authority. This topic is therefore intended to equip you with knowledge, skills and attitudes to enable you comply with the government financial control system.

4.4.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of control in public finance;
- ii) Assess aspects of the public finance control system;
- iii) Interpret the role of institutions involved in the control of public finance; and
- iv) Examine risk management in public finance

4.4.3 Concept of Control of Public Finance

Public financial control may be regarded as the set of systems developed by a government entity to ensure that financial resources are safeguarded, and their records are accurate, reliable and complete. The controls also ensure adherence to the management policies of the Government entity, for the orderly and efficient conduct of the Ministry, department or agency, as well as the proper recording and safeguarding of its assets and resources. In order to ensure proper control of public finances, the PFM Act has given the following broad principles for fiscal responsibility:

- i) A national government's expenditure on the compensation of employees (including benefits and allowances) shall not exceed 35 percent of the national government's equitable share of the revenue raised nationally plus other revenues generated by the national;
- ii) the national public debt shall not exceed 50 percent of Gross Domestic Product (GDP) in net present value terms;
- iii) the national government expenditure on development shall be at least thirty percent of total government expenditure;
- iv) The Cabinet Secretary shall, include a statement of fiscal risks arising from macroeconomic shocks, including matters touching on real GDP growth, inflation, commodity prices, policy decisions affecting revenue, interest and exchange rates and adverse impacts from regional and international economy; and
- v) Providing oversight as stipulated in the constitution through separation of duties of accounting and oversight through various independent institutions created by the Constitution.

4.4.4 Public Financial Control System

The National and County governments have the responsibility of ensuring accountability in resource use. The involvement of the legislature, Auditor General, the Controller of the Budget, and the National Treasury result in a continuous process of monitoring resource use by public

entities. The Cabinet Secretary responsible for finance has the power to stop transfer of funds to a state organ or any other public entity, as mandated under Article 225(3) of the Constitution of Kenya.

The PFM Act proposes that the Accounting Officer should directly report to Parliament. The report should show what was budgeted and how the resources were spent, and Parliament will play an oversight role of directly questioning any misuse of funds. This will ensure fool proof accounting for county resources. The Controller of Budget and the Auditor General are required to prepare reports on the use of financial resources at the county level. This is done independently without the interference of the County Governor. These reports are then consolidated and presented to the National Assembly. County treasuries are also required to prepare reports on resource use. This process results in clear fiscal reporting as demanded in Chapter 12 of the Constitution.

The Constitution establishes the office of the Controller of Budget, who oversees the implementation of the budgets as approved by the different levels of government. The holder of this office ensures that money is spent in accordance with the appropriations law or, in the case of money drawn from the Contingency Fund is subject to an Act of Parliament.

The Office of Auditor General in Kenya has the responsibility of oversight or assurance on the use of public finances and therefore enhances accountability within the three arms of government as well as the Constitutional Commissions and Independent Offices. This ensures that all those entities funded using public funds are utilising those funds as provided for in the budget otherwise they will be sanctioned by the Auditor General in his/her reports to parliament.

Treasury has created a department of internal audit that reports to the CS treasury on the use of funds within ministries as a self-assurance system to reduce financial risks in ministries and government departments.

There are specific clauses that require public participation in the financial management process. Most importantly, counties must provide forums that will allow people to come together to discuss the budget estimates. Further, counties develop priorities at the lower level and forums are expected to be held to get people's views on development priorities. This process should result in increased participation of the public in the development process. The PFM Act is clear on how resources are allocated at both levels of government.

4.4.5 Role of Institutions Involved in the Control of Public Finance

There are various institutions that are involved in the control of public finance as specified in the Constitution. These institutions are:

4.4.5.1 The National Treasury

The Cabinet Secretary responsible for finance is authorized by legislation to stop the transfer of funds to a State organ or any other public entity where there are serious material breach or persistent material breaches of the public finance control measures as established by various legislations subject to the following;

- i) A decision to stop the transfer of funds may not stop the transfer of more than fifty per cent of funds due to a county government.
- ii) A decision to stop the transfer of funds shall not stop the transfer of funds for more than sixty days. However, Parliament may renew a decision to stop the transfer of funds but for no more than sixty days.

4.4.5.2 Parliament

Parliament includes the National Assembly and the Senate.

4.4.5.2.1 The National Assembly

The National Assembly performs the following specific roles in relation to control of public finance:

- i) determines the allocation of national revenue between the levels of government, as provided in the Constitution;
- ii) appropriates funds for expenditure by the national government and other national State organs;
- iii) exercises oversight over national revenue and its expenditure;
- iv) exercises financial oversight of state organs.

In this regard, it is clear that the national assembly has been granted the role of allocating finances to the various government entities, determines how and where it is going to be spent and exercises oversight over national revenue and its expenditure by the state and its organs.

4.4.5.2.2 The Senate

The Senate represents the counties and serves to protect the interests of the counties and their governments. The Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties. The Senate determines the allocation of national revenue among counties and exercises oversight over national revenue allocated to the county governments.

4.4.5.3 Office of the Auditor General

The Office of the Auditor General is created by Article 229 of the Constitution as an independent office headed by the Auditor General. The Auditor General shall serve for a single term of eight (8) years. The Auditor General is expected to audit and report within six months after the end of each financial year, in respect of that financial year on:

- i) The accounts of the national and county governments;
- ii) The accounts of all funds and authorities of the national and county governments;
- iii) The accounts of all courts;
- iv) The accounts of every commission and independent office established by the Constitution of Kenya;
- v) The accounts of the National Assembly, the Senate and the county assemblies;
- vi) The accounts of political parties funded from public funds;
- vii) The public debt; and
- viii) The accounts of any other entity that legislation requires the Auditor General to audit.

The Auditor General may audit and report on the accounts of any entity that is funded from public funds. An audit report shall confirm whether or not public money has been applied

lawfully and in an effective way. Audit reports shall be submitted to Parliament or the relevant county assembly. Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.

4.4.5.4 The Salaries and Remuneration Commission

The Salaries and Remuneration Commission (SRC) is created by Article 230 of the Constitution. The SRC is responsible for setting and regularly reviewing the remuneration and benefits of all State officers and advising the national and county governments on the remuneration and benefits of all other public officers. The SRC shall take the following principles into account in exercising its mandate:

- i) The need to ensure that the total public compensation bill is fiscally sustainable;
- ii) The need to ensure that the public services are able to attract and retain the skills required to execute their functions;
- iii) The need to recognise productivity and performance; and
- iv) Transparency and fairness.

4.4.5.5 Controller of Budget

The CoB ensures prudent and efficient use of public funds and oversees the implementation of the budgets of the national and county governments by:

- i) Authorising withdrawals from the Equalization Fund, Consolidated Fund, County Revenue Funds and any other public fund which by an Act of Parliament requires approval of the Controller of Budget
- ii) Monitoring, evaluating, reporting and making recommendations to the national and county governments on measures to improve budget implementation in accordance with Article 228 the Constitution;
- iii) reviewing from time to time, the formats of requisitions and approvals of withdrawals of equalization, consolidated and county revenue funds in consultation with the national and county treasuries and the Public Sector Accounting Standards Board;
- iv) Enforcing budgetary ceilings by Parliament on national and county government expenditure.

The CoB shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorised by law.

Reports by the CoB

The Controller of Budget shall, in accordance with Article 228 (6) of the Constitution, submit to Parliament quarterly budget implementation reports for the national and county governments within thirty days after the end of each quarter. The reports submitted shall comprise of:

- i) a report on approved expenditures, authorised withdrawals, actual releases and actual expenditures;
- ii) the comparison between amounts provided for in the County Allocation of Revenue Act for each county in accordance with county government disbursement schedule approved by the Senate with the authorised withdrawals from the Consolidated Fund to county governments; and

- iii) a report on the receipts into the Consolidated Fund and the County Revenue Funds.

The reports submitted shall provide information relating to;

- i) The approved budget;
- ii) The total funds released by programmes;
- iii) The absorptive capacity of funds by projects; and
- iv) Reasons for the decline if any.

The CoB shall publish and publicise the reports not later than fourteen days after the reports are submitted to Parliament.

Special reports

The Controller of Budget shall prepare and submit the following special reports as provided for in the Constitution:

- i) A report to Parliament on funds withheld by the Cabinet Secretary giving a detailed account as to why the withholding should be continued or withdrawn;
- ii) A report to Parliament, the national executive, county assemblies or county executives, or any other state agency as may be appropriate, on any matters that have come to the attention of the Controller of Budget relating to the performance of his or her functions;
- iii) A report on a particular issue upon request by the President, National Assembly, or the Senate; and
- iv) A report on any particular issue as may be requested by a Governor or a county assembly.

4.4.5.6 Commission on Revenue Allocation

The Commission on Revenue Allocation performs the following functions in the control of public funds:

- i) makes recommendations for consideration by Parliament prior to any Bill appropriating money out of the Equalization Fund being passed in Parliament;
- ii) makes recommendations on the basis for allocating among the counties the share of national revenue that is annually allocated to the county governments upon request from the Senate;
- iii) submits recommendations to the Senate, National Assembly, national executive, County Assembly and county executive on the proposals made for equitable distribution of revenue between the national and county governments and amongst the county governments.

4.4.5.7 Internal Audit

Internal auditing refers to an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

The PFM Act provides that every national and county government entity shall ensure that:

- i) It has appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board; and
- ii) Where any regulations are in force, those regulations are complied with.

The National Treasury and County government shall ensure that adequate arrangements for conducting internal auditing are put in place to include:

- i) Reviewing the governance mechanisms of the entity and mechanisms for transparency and accountability with regard to the finances and assets of the entity;
- ii) Conducting risk-based, value-for-money and systems audits aimed at strengthening internal control mechanisms that could have an impact on achievement of the strategic objectives of the entity;
- iii) Verifying the existence of assets administered by the entity and ensuring that there are proper safeguards for their protection;
- iv) Providing assurance that appropriate institutional policies and procedures and good business practices are followed by the entity; and
- v) Evaluating the adequacy and reliability of information available to management for making decisions with regard to the entity and its operations.

A national and county government entity shall ensure that internal audits in respect of the entity are conducted in accordance with international best practices. Every national and county government entity shall also establish an audit committee whose composition and functions shall be as prescribed by the PFM regulations.

4.4.5.7.1 Audit Committees

Every public entity of sufficient complexity is expected to establish an audit committee made up of a minimum of three and maximum of five persons. The audit committee should exercise its duties independently and receives reports from the internal auditor. The purpose of the audit committee is to provide assistance to the accounting officer or governing body. An audit committee's roles and responsibilities can involve all or a combination of the following duties and responsibilities:

- i) Obtain assurance from management that all financial and non-financial internal control and risk management functions are operating effectively and reliably;
- ii) Provide an independent review of an entity's reporting functions to ensure the integrity of financial reports;
- iii) Monitor the effectiveness of the entity's performance management and performance information;
- iv) Provide strong and effective oversight of an entity's internal audit function.;
- v) Provide effective liaison and facilitate communication between management and external audit;
- vi) Provide oversight of the implementation of accepted audit recommendations; and
- vii) Ensure the entity effectively monitors compliance with legislative and regulatory requirements and promotes a culture committed to lawful and ethical behaviour.

4.4.6 Risk Management in Public Finance

Government entities should develop a risk management framework that forms the basis for conducting a risk-based internal audit (RBIA). RBIA allows internal audit department to provide assurance to the Accounting Officer/Board that risk management processes of the entity are adequate. In preparing the risk-based work plan, the Head of Internal Audit should take into

account the organization's risk management framework or use his/her own judgment in mitigating any risk. In doing so, he/she should consult with senior management and the Board. Development of risk-based audit work plans would ensure that resources are allocated for audit of the entity's activities is proportional to the risk level attached to the individual activities.

4.4.7 Summary

In this topic, we have discussed the concept of control in public finance as well as the aspects of the public finance control system. We have further interpreted the roles of institutions involved in the control of public finance. Further we have examined the aspect of risk management in public finance. In the next topic, we shall discuss the procurement of public goods and asset disposal.

4.4.8 Activities

1. As an Administrative Officer, assess the ways in which you will ensure control of public funds as an A-I-E holder.
2. Examine whether the risk management measures taken by government entities have achieved their objectives as specified in the Public Finance Management Regulations 2015.

4.4.9 References

1. Republic of Kenya, (2010). The Kenya Constitution: Government Printer.
2. Republic of Kenya, (2012). Public Financial Management Act: Government Printer
3. Republic of Kenya, (2016). Controller of Budget Act: Government Printer
4. Republic of Kenya, (2015). Public Audit Act: Government Printer
5. Republic of Kenya, (2011). Commission on Revenue Allocation Act: Government Printer
6. Republic of Kenya, (2015). Public Finance Management Regulations: Government Printer
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13. Public Finance under Kenya's new Constitution, Constitution Working Paper No. 5 Society for International Development (SID), (2010).

4.5 PUBLIC PROCUREMENT AND ASSET DISPOSAL

Outline

- 4.5.1 Introduction
- 4.5.2 Specific objectives
- 4.5.3 Concept of public procurement and asset disposal
- 4.5.4 Principles of Procurement

- 4.5.5 Methods of Procurement
- 4.5.6 Methods of asset disposal
- 4.5.7 Role of Committees involved in public procurement and asset disposal
- 4.5.8 Role of institutions involved in the regulation of public procurement and asset disposal
- 4.5.9 Ethical issues in public procurement and asset disposal
- 4.5.10 Summary
- 4.5.11 Activities
- 4.5.12 References

4.5.1 Introduction

Public authorities are expected to procure and dispose of goods in a manner that is ethical, equitable, efficient, and where practical maximises value for money. Further, public procurement and asset disposal ought to be carried out within the public procurement and disposal law enacted by parliament and regulations issued by the national treasury. As an Administrative Officer, you will be expected to play a major role in the procurement of goods and disposal of assets in your department.

This topic is therefore intended to equip you with knowledge, skills, and attitudes to enable you apply public procurement and disposal law and regulations for effective delivery of public services.

4.5.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the concepts of public procurement and disposal;
- ii) analyse the principles of public procurement;
- iii) assess various methods of procurement;
- iv) assess methods of asset disposal;
- v) analyse the role of committees involved in public procurement and asset disposal;
- vi) analyse the roles and responsibilities of institutions involved in the regulation of public procurement and asset disposal; and
- vii) evaluate ethical issues in public procurement and asset disposal.

4.5.3 Concepts of Public Procurement and Asset Disposal

4.5.3.1 Public Procurement

Procurement involves making buying decisions under conditions of scarcity. Public Procurement on the other hand is the purchase by government and state-owned institutions of goods, works and services for effective delivery of public services. An effective procurement strategy can save the government money by negotiating favourable terms and pricing, ensuring supplier quality and efficiency.

4.5.3.2 The Procurement Cycle

The procurement cycle follows specific steps for identifying a requirement or need of the organization up to the final step of the award of the product or contract. Responsible management of public funds is vital when handling this necessary process as depicted in the figure below.



Figure 4.5.1

The steps indicated in the figure above are briefly explained below.

- i) **Procurement planning:** Procurement planning is the process whereby public entities decide what to buy, how to buy, from whom as well as when. Procurement planning is the process by which public entities identify their purchasing needs. It also involves the allocation of finances for procuring the goods or services.
- ii) **Sourcing:** This involves the identification of the suppliers to provide goods, works and services to the public entity. This is done through the various methods of procurement or tendering for public goods and services.
- iii) **Contracting:** This is the award of the contract to the successful bidders identified in the previous step. The procuring entity should draw a written contract with the identified supplier spelling out the specific terms of engagement.
- iv) **Contract management:** The public entity must continually monitor the supplier of goods and services to ensure compliance with the contract terms. Goods or services supplied by the contracted supplier must be inspected to ensure they meet the contract specifications.
- v) **Storage and distribution:** This refers to how goods that require storage and maintenance should be handled. The public entity must ensure that all the stores received are properly

documented, stored in an appropriate place, routinely maintained and inspected and where distribution is required, transferred to the user departments as soon as possible. The issuing of stores should be accompanied by the necessary documentation in line with procurement guidelines.

- vi) Disposal and evaluation: The disposal of goods or government assets involves the sale or transfers to other entities and should be guided by existing legislation.

4.5.3.2 Asset Disposal

In government, assets include movable and immovable property, i.e. stores, equipment, land buildings, inventory, stock and natural resources like wildlife. The Public Procurement and Disposal Act defines disposal as “the divestiture of public assets including intellectual and proprietary rights and good will and other rights of a procuring entity by any means including sale, rental, lease, franchise, auction or any combination however classified.” A Public asset may be disposed of for the following reasons:

- i) It has outlived its useful life
- ii) It has fully depreciated and must be sold off
- iii) It is no longer needed/ has become obsolete

4.5.4 Principles of Public Procurement

Public procurement principles set the framework for managing public procurement requirements within which public officers must work. So, as public officers it is important not only to have a clear understanding of public procurement principles, but to apply them in decision-making process.

Public procurement and asset disposal by State organs and public entities are guided by the following values and principles of the Constitution and relevant legislations.

- i) National values and principles provided for under Article 10;
- ii) Equality and freedom from discrimination provided for under Article 27;
- iii) Affirmative action programmes provided for under Articles 55 and 56;
- iv) principles of integrity under the Leadership and Integrity Act, 2012;
- v) the principles of public finance under Article 201;
- vi) the values and principles of public service as provided for under Article 232;
- vii) Principles governing the procurement profession and international norms;
- viii) Maximization of value for money;
- ix) Promotion of local industry, sustainable development and protection of the environment; and
- x) Promotion of citizen contractors.

4.5.5 Methods of Public Procurement

The Public Procurement and Asset Disposal Act, 2015 (PPAD,2015) provides that all government acquisition shall be done using prescribed methods, other than items considered to be classified procurement and disposal.

4.5.5.1 Classified Procurement

The national security organs and other procuring entities that deal with procurements of a classified nature shall manage their procurements and disposals as follows:

- i) On the basis of a dual list maintained by the respective procuring entity
- ii) Request the Cabinet Secretary for approval of the classified list of items annually.
- iii) The dual list shall distinguish items subject to open and to classified procurement and disposal proceedings respectively.
- iv) Procuring entities that deal with classified items shall agree annually with the Cabinet Secretary on the category of classified items to be included in the classified list of procurements or disposals to be applied.
- v) The Cabinet Secretary shall submit the list of classified items to Cabinet for approval.
- vi) Any person carrying his or her duties or responsibilities under this category shall maintain confidentiality and shall not disclose any information that may otherwise compromise national security.
- vii) A person who in order to avoid open tendering, procures items that ought to be subjected to open tendering as though they were included in the list of classified items commits an offence.

Any other procurement that is not classified in nature must utilize the recommended methods of public procurement as directed by the PPAD Act, 2015. These methods include:

- i) open tendering
- ii) restricted tendering
- iii) request for proposals
- iv) two-stage tendering
- v) request for quotations
- vi) low value procurement
- vii) force account
- viii) electronic reverse auction
- ix) framework agreements
- x) direct procurement
- xi) design competition

4.5.5.2 Open Tendering

Open tendering refers to competitive bidding. It allows companies to bid on goods in an open competition or open solicitation manner. Open tendering requirements call for the public entity to:

- i) Advertise locally- this is done by the accounting officer of the entity using widely circulated newspapers, Kenya's dedicated tender's portal or any other electronic advertisements as prescribed.
- ii) Allow time for the preparation of tenders which shall not be less than 14 days for national tenders, 30 days for International tenders.
- iii) Have unbiased and coherent technical specifications prepared by user or technical experts and the procurement practitioner.
- iv) Have objective evaluation measures, which shall be the pre-set criteria prepared by the user in consultation with the procurement practitioner.

- v) Be open to all qualified bidders.
- vi) Consider the lowest responsive bidder for the award.

4.5.5.3 Restricted Tendering

Like open tendering, restricted tendering is considered a competitive procurement method. However, the competition is limited to agencies that are invited by the procuring entity. In restricted tendering the bidders to be invited are bidders already in the list of the prequalified suppliers. This means that the prequalification of bidders takes the open tendering process.

For public procurement the accounting officer of a procuring entity may use restricted tendering if any of the following conditions are satisfied:

- i) Competition for contract, because of the complex or specialized nature of the goods, works or services, is restricted to prequalified tenderers only;
- ii) The time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured; or
- iii) If there is evidence to the effect that there are only a few known suppliers in the whole market of the goods, works or services;
- iv) An advertisement is placed, where applicable, on the procuring entity website regarding the intention to procure through limited tender.

4.5.5.4 Request for Proposals (RFP)

RFP is applied when procuring services or a combination of goods and services, where the services to be procured are advisory or otherwise of a predominantly intellectual nature. RFP is thus used in the procurement of consultancy services in government.

Initiation of RFP shall be as follows:

- i) through invitation to tender;
- ii) Terms of reference shall be prepared;
- iii) Invitation of tenders shall be from the shortlisted firms;
- iv) Selection method for RFP to be based on quality and cost;
- v) Time for preparing RFP shall be not less than 7 days;
- vi) The evaluation of proposals shall be carried within maximum of 21 days;
- vii) Successful proposal is the proposal with the highest score as set out in the tender document;
- viii) Negotiation with the successful RFP tenderer and changes is allowed.

4.5.5.5 Two Stage Tendering

A procuring entity may engage in procurement by means of two-stage tendering. This could be due to complexity and inadequate knowledge on its part. It could also be due to advancements in technology. Under such circumstances it may not be feasible for the procuring entity to formulate detailed specifications for the goods or works in order to obtain the most satisfactory solution to its procurement needs.

The procedure for the two-stage tendering is as follows:

- i) At first stage Tenderers submit their proposals without a tender price.

- ii) At second stage, tenderers whose tenders were retained are invited to submit final tenders with prices.
- iii) In the second submission the procuring entity may modify any aspect, originally set forth in the tendering document.
- iv) Any modification or addition shall be communicated to tenderers in the invitation to submit final tenders.
- v) Tenderers wishing not to submit a final tender may do so without forfeiting any tender security that they may have been required to provide.

4.5.5.6 Request for Quotations (RFQ)

This procurement method is used for low value goods or services. Request for quotation is by far the least complex procurement method available. A procuring entity may use a request for quotations from the register of suppliers for a procurement if:

- i) the estimated value of the goods, works or non-consultancy services being procured is less than or equal to the prescribed maximum value for using requests for quotations as prescribed in the Procurement Regulations;
- ii) the procurement is for goods, works or non-consultancy services that are readily available in the market; and
- iii) the procurement is for goods, works or services for which there is an established market value.

The procedure for RFQ is as follows:

- i) Register suppliers for goods, works or non-consultancy services;
- ii) select a minimum of three suppliers or service providers;
- iii) invite the suppliers or service providers to quote;
- iv) the RFQ is delivered and dropped in a quotation box;
- v) open, compare and analyse the submitted quotations;
- vi) choose bid that satisfies requirements set in the RFQ.

It is important to note that the procurement of goods, works or non-consultancy services under RFQ should be within prescribed threshold Procurement Regulations in force.

4.5.5.7 Low - Value Procurement

A procuring entity may use a low-value procurement procedure if:

- i) the entity is procuring low value items which are not procured on a regular or frequent basis and are not covered in the framework agreement;
- ii) the estimated value of the goods works or non-consultancy services being procured are less than or equal to the maximum value per financial year for that low-value procurement procedure as may be prescribed.

The procedure and threshold for low value procurement is as prescribed in the procurement regulations.

4.5.5.8 Force Account

A procuring entity may use force account by making recourse to the state or public officers and using public assets, equipment and labour which are competitive and where:

- i) quantities of work involved are small and scattered or in remote locations for which qualified construction firms are unlikely to tender at reasonable price and the quantities of works cannot be defined in advance;
- ii) unforeseen and urgent work is required to be carried out without disrupting on-going operations;
- iii) the procuring entity is to complete works delayed by the contractor after written warnings did not yield any tangible results. This method shall only be applied:
 - i) with the prior approval of the accounting officer;
 - ii) within the limit prescribed in Procurement Regulations; and
 - iii) Where the total cost of procuring the goods, works and non-consultancy services are, at most, set at the prevailing market rate.

The procedure to use force account is as prescribed in the Procurement Regulations.

4.5.5.9 Electronic Reverse Auction

The Authority may in exceptional circumstances approve a system of electronic reverse auction method of procurement for goods, works or non-consultancy services by a procuring entity.

To use the reverse auction method, you should possess a procurement portal; an appropriate secure software with electronic procurement capabilities and functionalities approved by the Public Procurement Regulatory Authority (PPRA).

The Procedure for Electronic Reverse Auction is as follows:

- i) invite all registered suppliers in the specific category to compete;
- ii) Advertise tender requirements on its website including the period of time and goods specifications;
- iii) invite all registered suppliers in the specific category to compete;
- iv) the prices of bidders within the prescribed time shall be visible to other bidders without revealing the bidder's identity;
- v) A pre-qualified supplier shall not revise their bid upwards within the prescribed time; and
- vi) the successful bid shall be the bid with lowest price at the bid submission deadline.

4.5.5.10 Framework Agreement

A procurement entity may enter into framework agreement through open tender if:

- i) The procurement value is within the thresholds prescribed under Regulations to the Act;
- ii) When required quantity of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement; and
- iii) A minimum of seven alternative vendors are included for each category.

The maximum term for the framework agreement shall be three years. For agreements exceeding one year, a value for money assessment should be undertaken annually to determine whether the terms designated in the framework agreement remain competitive.

Implementing a framework agreement, may be done through call-offs order when necessary; or invite mini-competition among persons that have entered into the framework agreement in the respective category. A procurement management unit is expected to prepare and submit to the accounting officer with a copy to the internal auditor quarterly reports detailing an analysis of items procured through framework agreements. These reports shall include, an analysis of pattern of usage, procurement costs in relation to the prevailing market rates and any recommendations.

4.5.5.11 Direct Procurement

A procuring entity may use direct procurement as allowed as long as the purpose is not to avoid competition. A procuring entity may use direct procurement if any of the following conditions are satisfied:

- i. the goods, works or services are available only from a particular supplier or contractor, or a particular supplier or contractor has exclusive rights in respect of the goods, works or services, and no reasonable alternative or substitute exists;
- ii. due to war, invasion, disorder, natural disaster or there is an urgent need for the goods, works or services, and engaging in tendering proceedings or any other method of procurement would therefore be impractical;
- iii. owing to a catastrophic event, there is an urgent need for the goods, works or services, making it impractical to use other methods of procurement because of the time involved in using those methods;
- iv. the procuring entity, having procured goods, equipment, technology or services from a supplier or contractor, determines that additional supplies shall be procured from that supplier or contractor for reasons of standardization; and
- v. acquiring of goods, works or services provided by a public entity provided that the acquisition price is fair and reasonable and compares well with known prices of goods, works or services under the circumstances.

The procedure for direct procurement is as follows:

- i. issue a tender document which shall be the basis of tender preparation by tenderer and subsequent negotiations;
- ii. appoint an ad hoc evaluation committee to negotiate with a person for the supply of goods, works or non-consultancy services being provided;
- iii. ensure appropriate approvals under the Act have been granted; and
- iv. ensure the resulting contract is in writing and signed by both parties.

4.5.5.12 Design Competition

An accounting officer of a procuring entity may use a design competition procedure for the purpose of determining the best architectural, physical planning, engineering, graphic or any other design scheme for its use.

The procedure for design competition is as follows:

- i) invite design proposals through a public advertisement;
- ii) ensure the preparation of an invitation sets out the following:
 - the name and address of the procuring entity;
 - the tender number assigned to the procurement proceedings by the procuring entity;
 - description of technical and functional needs;
 - an explanation of where and when tenders shall be submitted and where and when the tenders will be opened;
 - a statement that those submitting tenders, or their representatives may attend the opening of the design proposals;
 - a statement that a copyright or other intellectual property of the top three shall vest in the State.
- iii) The evaluation of design proposals shall be undertaken by an evaluation committee established by the PPAD Act
- iv) The design process is as prescribed in the Procurement Regulations.
- v) Prior to publishing an invitation notice, an accounting officer of a procuring entity shall prepare tender documents and appoint at least one independent lay assessor, and technical assessors recommended by the professional regulatory body governing the design competition.
- vi) The best three assessed design schemes shall receive as a prize an honorarium as provided for in the internal policies of the procuring entity subject to the guidelines set out in the applicable county or national level or the Regulations to the Act.
- vii) In participating in design competitions, all bidders shall undertake to transfer all copyrights, intellectual property rights and patents relating to their designs to the procuring entity.
- viii) Upon completion of the design competition, all the submitted design schemes shall become property of the procuring entity.

4.5.6 Methods of Asset Disposal

Disposal is the process of getting rid of unserviceable, obsolete, obsolescent, or surplus stores, equipment or assets. In carrying out disposal of public asset(s) the following methods may be used:

- i) Transfer to another public entity or part of a public entity, with or without financial adjustment;
- ii) sale by public tender;
- iii) sale by public auction;
- iv) trade-in;
- v) waste disposal management; or
- vi) as may be prescribed.

4.5.7 Role of Procurement and Asset Disposal Committees

Independent procurement committees are part of an efficient and effective management of public resources and it is a way of promoting segregation of duties.

The following are procurement and asset disposal committees provided under public procurement legal framework:

- i) Tender opening committee: this is an ad hoc committee appointed by accounting officer to open tenders. The committee members are at least three with one of the members not having been involved in the processing or evaluation of tenders. The committee is expected to:

- Assign an identification number to each tender and record the number of pages received;
- Read out and record the name of the person submitting the tender, the total price and the tender security if applicable;
- Prepare tender opening minutes which should include the procedure followed and particulars of those submitting tenders or their representatives who are in attendance;
- Submit a report to the accounting officer.

Each member of the tender opening committee is expected to:

- Sign each tender on one or more pages as the committee may determine;
- Initial in each tender against the quotation of the price and any modifications or discounts where applicable.

- ii) Evaluation Committee: This is also an ad hoc committee consisting of three to five members appointed on a rotational basis. The membership is drawn from heads of user departments and two other departments. The committee can co-opt procured professionals or consultants whose role is to advise on the evaluation of tender documents and give recommendations to the committee within a reasonable time. The Committee deals with the technical and financial aspects of a procurement. It is also engaged in the negotiation process including evaluation of bids, proposals for pre-qualification, registration lists and Expressions of interest as the case may be.

- iii) Inspection and acceptance committee: This is a committee responsible for receiving goods, works, or services, and composed of a chairman and at least two other members. The role of the committee is to:

- Inspect and where necessary test the goods received;
- Inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract;
- Accept or reject on behalf of the procuring entity the delivered goods, works or services.

Further, the committee ensures that goods are delivered in the correct quantity and meets technical standards. In addition, goods should be delivered on time.

- iv) Disposal committee: this committee is established for the purpose of disposing unserviceable, obsolete, obsolescent, or surplus stores, equipment or assets. The committee verifies and processes all disposal recommendations in liaison with the head of procurement function.

4.5.8 Role of Institutions Involved in the Regulation of Public Procurement and Asset Disposal

The following are the institutions mandated by the Constitution to regulate public procurement and asset disposal:

- i) The National Treasury
- ii) Public Procurement Regulatory Authority
- iii) Public Procurement Administrative Review Board.

4.5.8.1 The National Treasury

The National Treasury plays the following roles in the public procurement and asset disposal process.

- i. Formulate, evaluate, promote and undertake research on national and county public procurement and asset disposal policy and standards.
- ii. Develop policy guidelines for the efficient procurement management and disposal system for national and county executive.
- iii. Design and prescribe an efficient procurement management system for the national and county governments to ensure transparent procurement and asset disposal.
- iv. Provide technical assistance on procurement and assist in the implementation and operation of the public procurement and asset disposal system.
- v. Carry out general research, develop and promote electronic procurement strategies and policies in both the national and county governments including state corporations and other government agencies.
- vi. Carry out review of procurement and supply chain management system to assist procuring entities achieve efficiency in procurement.
- vii. Develop and review policy on procurement of common user items in the public sector both at national and county government levels.
- viii. Develop policy on the administration of preference and reservations scheme and registration of target groups under preference and reservations scheme as prescribed.
- ix. Facilitate affirmative action for disadvantaged groups in accordance with the Constitution and advance their participation in the procurement process.
- x. Develop and review policies and guidelines on the management of assets.
- xi. Issue guidelines to public entities with respect to procurement matters.

4.5.8.2 Public Procurement Regulatory Authority

The Public Procurement Regulatory Authority is the body mandated to regulate procurement of goods, services and works in all public entities. It is headed by a Director General and managed by the Public Procurement Regulatory Board. The roles of the Authority are:

- i) Monitor, assess and review the public procurement and asset disposal system to ensure that they respect the national values and other provisions of the Constitution.
- ii) Monitor the public procurement system and report on its overall functioning and present to the Cabinet Secretary and the county executive member for finance in each county, such other reports and recommendations for improvements.
- iii) Enforce any standards developed under the PPAD Act.
- iv) Monitor classified procurement information, including that of specific items of security organs and make recommendations to the Cabinet Secretary.

- v) Monitor the implementation of the preference and reservation schemes by procuring entities.
- vi) Prepare, issue and publicise standard public procurement and asset disposal documents and formats to be used by public entities and other stakeholders.
- vii) Provide advice and technical support upon request by procuring entities.
- viii) Investigate and act on complaints received on procurement and asset disposal proceedings from procuring entities, tenderers, contractors or the general public that are not subject of administrative review.
- ix) Research on the public procurement and asset disposal system and any developments arising from the same.
- x) Advise the Cabinet Secretary on the setting of standards including international public procurement and asset disposal standards.
- xi) Develop and manage the State portal on procurement and asset disposal and ensure that it is available and easily accessible.
- xii) Monitor and evaluate the preference and reservations provided for under the PPAD Act and provide quarterly public reports.
- xiii) Create a central repository or database that includes:
 - complaints made on procuring entities;
 - a record of those prohibited from participating in tenders or those debarred;
 - market prices of goods, services and works;
 - benchmarked prices;
 - State organs and public entities that are non-compliant with procurement laws;
 - statistics related to public procurement and asset disposal;
 - price comparisons for goods, services and works; and
 - any information related to procurement that may be necessary for the public.
- xiv) Inform, as applicable, the Cabinet Secretary, Parliament, the relevant County Executive member for finance, the relevant County Assembly or Auditor-General on issues of noncompliance with procurement laws once the relevant State organ or public entity ignores the written directives of the Authority.
- xv) Report to Parliament and the relevant county assembly.
- xvi) Develop a code of ethics to guide procuring entities and winning bidders when undertaking public procurement and disposal with State organs and public entities.
- xvii) Cooperate with state and non-state actors with a view to obtaining recommendations on how public procurement and disposal can be improved.
- xviii) Ensure procurement entities implement the preference and reservations and provide data to the Authority disaggregated to indicate the number of disadvantaged groups that have benefitted.

4.5.8.3 Public Procurement Administrative Review Board

The role of the Public Procurement Administrative Review Board is to review, hear and determine tendering and asset disposal disputes. The Authority shall provide secretariat and administrative services to the Review Board.

4.5.9 Ethical Issues in Public Procurement and Asset Disposal

Ethics are moral principles governing or influencing conduct. Ethics is the basis on which most of the procurement related principles, such as fairness, integrity, and transparency, are based.

Typical characteristics, of Professional standards of ethics include commitments to:

- i. Behave honourably in all aspects of work and professional activity.
- ii. Conduct oneself in such a manner as to maintain trust and confidence in the integrity of the procurement process.
- iii. Avoid “clever” practices intended to take undue advantage of others or the system.
- iv. Uphold the organization’s standards and policies and all relevant legislation.
- v. Avoid conflicts of interest.

Some ethical concepts and principles that relate to the procurement process are:

- i. Loyalty and respect for rules and regulations
- ii. Integrity
- iii. Impartiality and fairness
- iv. Transparency
- v. Confidentiality
- vi. Avoidance of appearance of impropriety
- vii. Due diligence

4.5.9.1 Public Procurement Code of Conduct

Organizations and professions often seek to address standards of conduct through the adoption of codes of conduct. The authority has developed a public procurement code of ethics guided by the spirit of the law. The code of conduct clearly expresses the Government values, principles, rules and regulations and how procurement officers should regulate their conduct and perform their duties within the interests of the Government.

4.5.9.2 Ethical risks

Some of the common ethical risks in the procurement process include:

- i. Conflict of interest
- ii. Fraud
- iii. Corruption
- iv. Coercion
- v. Collusion

4.5.9.3 Potential Areas of Risk in the Procurement Cycle

Some potential areas of risk relating to ethics in the procurement cycle are listed in the table below.

Area of risk	Explanation and examples
Budgeting	Fraud and corruption must be paid for from somewhere. Lack of proper budgetary control, for example when all funds are not allocated to a specific purpose.
Financial approval policy	Without regular audits and strict management controls, there are opportunities for fraudulent use of a person’s own levels of authority, or of misusing someone else’s.
Perceived need	Requirements can be invented or falsified.

Area of risk	Explanation and examples
Specification development	Specifications can be written to favour a specific supplier. Clarifications on specifications can be provided to one of the invitees only during the tendering process.
Evaluation criteria	Evaluation criteria can be written, or amended, after receipt of offers to favour a particular supplier.
Pre-qualification	This process can be used to limit the field of competition to give a favoured supplier an advantage.
Invitation to tender/sourcing	This process can be used to give the illusion of competition where it does not really exist by inviting tenders from companies who are known to be unsatisfactory, or by not sending out complete specifications to all tenders at the same time etc.
Offer evaluation	Fraud at this stage occurs mainly when objective evaluation criteria has not been agreed upon in advance. It can also occur where technical staff is able to use their specialist knowledge to mislead other members of the evaluation team.
Negotiation	Favoured suppliers can be assisted or given useful information during negotiations.
Contract award	There are opportunities for fraud by the supplier either through deliberately fraudulent acts or through buyer incompetence.
Post award changes to specifications	This allows suppliers to increase profits, particularly when awarded the contract on an attractively low offer price.
Goods receipt	Examples are: Allowing under-deliveries of goods or non-performance to specifications or drafting false goods inward notes; deliberate over ordering; allowing inventory to dwindle so that emergency orders at a higher price will have to be processed.
Invoice certification	Deliberate overcharging, backdating orders to allow benefit from price changes, paying twice, failing to insist on or monitor retentions.
Decentralized procurement organization	In decentralized organizations the responsibilities are delegated to a large number of people, and it is difficult for the central procurement function to exercise total control and to be aware of what is going on in the decentralized units. Although decentralization can often improve efficiency and reduce costs, it can also increase the risks of corruption.

4.5.9.4 Potential Warning Signs of Unethical Practices

There are some typical signs that may indicate unethical practices. These include, but are not limited to the following:

- i) deviations from correct procedures;
- ii) overcharging by the supplier;
- iii) poor record keeping;
- iv) missing files;
- v) poor or no separation of duties (for example, the same person issues the order and approves the payment);
- vi) poor control (for example, only one person signs a contract);

- vii) buyer's extravagant lifestyle;
- viii) buyer's frequent absence from the office;
- ix) excessive entertaining by suppliers;
- x) resistance to audit;
- xi) reluctance to delegate;
- xii) excessive secrecy;
- xiii) dictatorial management style;
- xiv) unnecessary meetings with suppliers;
- xv) not allowing other staff to deal with certain suppliers;
- xvi) established suppliers' reluctance of entering competitive tendering;
- xvii) supplier cartels.

4.5.10 Summary

In this topic we have discussed the concept of public procurement and asset disposal. We have further analysed the principles as well as methods of public procurement and asset disposal in Kenya. In addition, we have examined the roles of committees and institutions involved in public procurement and asset disposal. Finally, we have evaluated ethical issues in public procurement and asset disposal. This now brings us to the end of our discussion on the Public Finance Management course unit.

4.5.11 Activities

1. As an Administrative Officer, assess the roles you may play in the procurement and asset disposal process in your organization.
2. Public procurement and asset disposal by State organs and public entities should be guided by the values and principles of the Constitution and relevant legislations. Discuss this statement in light of public procurement and asset disposal processes in the Kenyan public sector.
3. Review the provisions of the Public Procurement Code of Conduct.
4. Review the composition of the Public Procurement Regulatory Board and the Public Procurement Administrative Review Board.

4.5.12 References

1. Republic of Kenya, (2010). The Kenya Constitution: Government Printer.
2. Republic of Kenya, (2015). Public Procurement and Asset Disposal Act: Government Printer
3. Republic of Kenya, (2006). Public Procurement and Asset Disposal regulations: Government Printer
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5.0 SOCIO ECONOMIC AND ENTREPRENEURSHIP DEVELOPMENT-105

5.0.1 Introduction

As an Administrative officer, you will be involved in various socio-economic and entrepreneurship development activities in your area of jurisdiction. It is therefore imperative that you understand socio-economic and entrepreneurship development issues to enable you effectively promote and implement development activities.

This course unit is therefore designed to equip you with requisite knowledge, skills and attitudes to enable you promote socio- economic and entrepreneurship development initiatives in line with national development agenda.

5.0.2 Course Unit Summary

	TOPIC	SUB-TOPICS
5.1	National Economic Development	- Concept of National economic development - Factors which contribute and limit economic development - Vision 2030 and the National Government Development Agenda - SDGs Initiatives in Kenya - Role of development partners
5.2	Socio-Cultural Issues in Development	- Socio-Cultural issues affecting development - Socio-Cultural strengths, weaknesses, opportunities and threats; - Strategies for dealing with socio-cultural strengths, weaknesses, opportunities and threats affecting development
5.3	Entrepreneurship	- Concept of entrepreneurship - Entrepreneurial opportunities and resources - Acquisition of entrepreneurial skills - Strategies for sustaining competitive advantage - National Government initiatives for supporting entrepreneurship
5.4	Agriculture and the Blue Economy in Development	- Importance of agriculture in economic development in Kenya - Role of State and Non-State Actors in agricultural sector - Importance of irrigation in agriculture - Agribusiness, value addition and zero waste - Concept of Blue Economy - Potential of the Blue economy
5.5	Manufacturing Industry and Development	- Importance of Manufacturing industry in National Development - Factors that facilitate development of manufacturing industry - Role of State and Non-State Actors industrial development - Role of micro, small and medium enterprises (MSME) in Kenya's industrial development
5.6	Service Industry and Development	- Concept of service industry - Importance of service industry in development - Factors that contribute to development of service industry

	TOPIC	SUB-TOPICS
		– Role of State and Non-State Actors in the development of service industry
5.7	Development Planning and Implementation	– Concept of development planning – Importance of Development Planning – Process of preparing National and County Strategic plans – Development programmes and projects management cycle – Role of the AO in implementation, monitoring and evaluation of programmes and projects
5.8	Environment and Development	– Relationship between environment and development – Importance of environmental management – Legal framework for environmental management in Kenya – Principles of environmental protection – Challenges in Environmental management – Strategies for addressing challenges in environmental management
Total		

5.1 NATIONAL ECONOMIC DEVELOPMENT

Outline

- 5.1.1 Introduction
- 5.1.2 Specific Objectives
- 5.1.3 Concept of National economic development
- 5.1.4 Factors which contribute and limit economic development
- 5.1.5 Vision 2030 and the National Government Development Agenda
- 5.1.6 SDGs Initiatives in Kenya
- 5.1.7 Role of development partners
- 5.1.8 Summary
- 5.1.9 Activities
- 5.1.10 References

5.1.1 Introduction

Economic development is an important aspiration of any country as it is key in creating employment and facilitating an improved quality of life. As an Administrative Officer you are expected to play a key role in promoting and implementing development activities. It is therefore important for you to understand the national development issues in Kenya. This topic is therefore designed to equip you with knowledge, skills and attitudes to enable you promote participatory economic development activities in your area of jurisdiction.

5.1.2 Specific Objectives

By the end of this topic, you should be able to:

- i. Describe the concept of national economic development;
- ii. Analyse the factors which contribute and limit national economic development;
- iii. Examine the provisions of vision 2030 and the national government development agenda;
- iv. Analyse the initiatives under the sustainable development goals (sdgs); and

- v. Assess the role of development partners in national economic development.

5.1.3 Concept of National Economic Development

National economic development refers to progress in an economy or the adoption of new technologies. We also refer to the process whereby simple, low-income national economies are transformed into modern industrial economies and the general improvement in living standards. There are indicators of National Economic Development which include: Gross National Product (GNP) per capita, population growth, occupational structure of the labor force, urbanization, consumption per capita, infrastructure, and social conditions such as poverty rates, literacy rate, life expectancy, health care and infant mortality.

National economic development plays an important role in the country as it contributes to job creation, industry diversification, business expansion, economic fortification, increased tax revenue and improvements in quality of life.

5.1.4 Factors Which Contribute to and Limit Economic Development

Economic development initiatives will sometimes progress smoothly as expected and at other times will be hindered due to the following factors:

- i) Human resources- If a country has adequate and competent personnel to carry on with the national development agenda then this accelerates economic development. However, if there is lack of the same, this limits economic development
- ii) Investment in physical capital- The availability of physical capital such as machinery, buildings, office or warehouse supplies, vehicles, and computers accelerate economic development while in cases of shortages, economic development will be hampered.
- iii) Natural resources- Availability of natural resources such as water, oil, wind energy, natural gas and minerals facilitates industrial activity which leads to national economic development. However, countries with inadequate natural resources lag behind economically.
- iv) Technology- Technological developments have transformed economic activities in the country. Leveraging technology in economic activities therefore contributes to economic development. On the contrary, failure to keep pace with technological developments is a bottleneck to economic development.
- v) Conditions in foreign trade- For any meaningful economic development to take place, countries like Kenya must participate in foreign trade. If foreign trade conditions are favourable, this accelerates economic development while unfavourable foreign trade conditions hinder economic development.
- vi) Politics- Political factors e.g. national elections, referendum and leadership wrangles affect economic development in the country. In cases of political stability, the country experiences faster economic development as opposed to politically unstable situations in which development is limited.

5.1.5 Provisions of Vision 2030 and the National Government Development Agenda

In order to achieve a better society by the year 2030, Kenya developed a long-term blueprint through an all-inclusive and participatory process. This is referred to as Kenya Vision 2030. The aim of the Vision is to create a globally competitive and prosperous country with a high quality of life by 2030. Further, it seeks to 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. Implementation of Vision 2030 is done in successive five-year plans. In order to facilitate its achievement, the vision is anchored on three pillars. These are:

- i) **Economic-** This aims at improving the prosperity of all Kenyans through an economic development programme, covering all the regions of Kenya. It further aims to achieve an average Gross Domestic Product (GDP) growth rate of 10% per annum beginning in 2012. To enable realization of the aim of this pillar, tourism, agriculture, wholesale and retail trade, manufacturing, business process outsourcing/offshoring and financial services have been identified.
- ii) **Social-** This seeks to engender just, cohesive and equitable social development in a clean and secure environment. To enable realization of this pillar, education and training; health care delivery; health and the economy; water and sanitation; environmental management; gender; youth and vulnerable groups; housing and urbanisation; social equity and poverty reduction have been identified.
- iii) **Political-** This aims to realize an issue-based, people-centred, result-oriented and accountable democratic system. Strategic initiatives under this pillar include: Rule of law, electoral & political processes, democracy and public service delivery, transparency and accountability, security, peace building and conflict management.

5.1.5.1 National Government Development Agenda

In order to spur economic development, different regimes develop long-term agenda to implement their manifesto. This is a roadmap which analyses the country's objectives and priorities in relation to all the sectors in response to well identified national needs. The roadmap proposes and justifies an overall plan in which the role of individual sectors can be seen in context. It is essential for an Administrative Officer to understand the national Government development agenda for purposes of promoting, implementing and monitoring national development activities.

5.1.6 Sustainable Development Goals (SDGs) Initiatives

Sustainable Development Goals mean a collection of 17 global goals set by the United Nations General Assembly in 2015, as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030.

The SDGs were developed to succeed the Millennium Development Goals (MDGs) which ended in 2015. The gaps and shortcomings of MDGs encouraged a problematic dependence on donors but SDGs favoured collective action by all countries. As a member of the UN, Kenya is bound by the commitments provided under the SDGs. It is therefore imperative for you to understand their relevance since you will be involved in coordination and implementation of Government initiatives aimed at achieving the SDGs. The 17 SDGs are:

- i) No Poverty
- ii) Zero Hunger
- iii) Good Health and Well-being
- iv) Quality Education
- v) Gender Equality

- vi) Clean Water and Sanitation
- vii) Affordable and Clean Energy
- viii) Decent Work and Economic Growth
- ix) Industry, Innovation, and Infrastructure
- x) Reducing Inequality
- xi) Sustainable Cities and Communities
- xii) Responsible Consumption and Production
- xiii) Climate Action
- xiv) Life Below Water
- xv) Life on Land
- xvi) Peace, Justice, and Strong Institutions
- xvii) Partnerships for the Goals.

5.1.6.1 Sustainable Development Goals (SDGs) Initiatives in Kenya

Various initiatives have been undertaken by the Government towards achievement of these SDGs. Such initiatives include:

- i) Free primary education- This aims at making education affordable to all citizens and ensuring 100% transition to secondary schools.
- ii) Irrigation schemes- These have been set up to increase agricultural productivity and enhance food security. This will lead to reduction in poverty and inequalities.
- iii) Cash transfer to the elderly- This involves disbursement of funds to senior citizens which aims at reducing poverty, inequality and improve wellbeing,
- iv) Promotion of blue economy- The Government has prioritized the sustainable exploitation of marine resources to improve food security especially in the coastal and lake region.
- v) Environmental conservation- This refers to intensified efforts to conserve environment through protection of major water towers, afforestation and promotion of green energy.
- vi) Universal health care- This involves providing quality and affordable health care for good health and well-being to all citizens.
- vii) Infrastructure development- Infrastructure refers to the basic physical systems of a nation and includes transportation, communication, sewage, water, and electric systems. These are vital to a country's economic development and prosperity. The government has invested heavily on this to facilitate economic development. Examples include the Standard gauge railway (SGR), Lamu Port-South Sudan-Ethiopia-Transport (LAPSSET) Corridor project, Kisumu port and Thika Superhighway among others.
- viii) International partnerships- Kenya has forged various partnerships with development partners and economic blocs such as African Union (AU), Common Market for Eastern and Southern Africa (COMESA), Intergovernmental Authority for African Development (IGAAD) and European Union (EU) to boost economic development.

5.1.7 Role of Development Partners

In your work as an Administrative Officer, you are expected to interact with various development partners. By development partner we refer to an organisation or country working in partnership with the government to provide development assistance.

In order to achieve its national economic development goals, the government works closely with these partners. The roles of such partners in economic development include the following:

- i) Funding Infrastructure development
- ii) Budgetary support- Development partners help fund budget deficits to help in the undertaking of development projects
- iii) Project support- This refers to the provision of technical support in project implementation, monitoring and evaluation e.g. Equipment necessary for undertaking development projects.
- iv) Capacity building- This involves provision of training to the human resource necessary for promoting development initiatives.

5.1.8 Summary

In this topic we have discussed the concept of national economic development and analysed the factors which contribute and limit it. We have further examined the provisions of Vision 2030 and the national Government development agenda, analysed the initiatives under SDGs, and assessed the role of development partners in national economic development. In the next topic, we shall discuss issues related to socio-cultural development.

5.1.9 Activities

1. Review the implementation of the current government development Agenda.
2. Analyse the progress made by the country in implementation of SDG number 4 on quality education.

5.1.10 References

1. Mudida R. *Modern Economics*. Second Edition, Focus Publishers, Nairobi 2009
2. Republic of Kenya, Vision 2030; Government Printer
3. Republic of Kenya, (2002-2007), *Economic Recovery Strategy for Wealth and Employment Creation*, Prepared by the Monitoring and Evaluation Directorate, Ministry of Planning and National Development
4. Todaro M.P. *Economics for a Developing World*. Third Edition (London Longman 1992
5. United Nations, The Millennium Development Goals Report 2013, 1 July 2013
6. United Nations, “Transforming our World: The 2030 Agenda for Sustainable Development,” 2015.

5.2 SOCIO-CULTURAL DEVELOPMENT ISSUES

Outline

- 5.2.1 Introduction
- 5.2.2 Specific Objectives
- 5.2.3 Socio-Cultural issues affecting development
- 5.2.4 Socio-Cultural strengths, weaknesses, opportunities and threats
- 5.2.5 Strategies for dealing with socio-cultural strengths, weaknesses, opportunities and threats affecting development
- 5.2.6 Summary
- 5.2.7 Activities
- 5.2.8 References

5.2.1 Introduction

As an Administrative Officer you will be expected to work closely with communities which have different socio-cultural practices. Such practices comprise the behaviours, beliefs, attitudes, ideals and values which shape the way of life in society and which may affect development activities in a region. This topic is therefore designed to equip you with relevant knowledge, skills and attitudes to enable you effectively interact with different communities and advise them appropriately on socio-cultural issues.

5.2.2 Specific Objectives

By the end of this topic, you should be able to:

- i) analyse the socio-cultural issues that affect development in Kenya;
- ii) assess the socio-cultural strengths, weaknesses, opportunities and threats affecting development; and
- iii) formulate strategies for dealing with socio-cultural strengths, weaknesses, opportunities and threats affecting development

5.2.3 Socio-Cultural Issues Affecting Development

There are various socio- cultural issues that affect national development. It is essential for you to understand them in order to formulate appropriate strategies to deal with their ramifications. Such socio- cultural issues include:

- i) Wife Inheritance- This is the practice in some communities whereby widows are taken over by close relatives of the deceased husband.
- ii) Early marriages - This is the marriage of young girls before attaining the age of consent and therefore denying them an opportunity to pursue education.
- iii) Female genital mutilation- This means forceful female circumcision based on traditional beliefs.
- iv) Gender inequalities in opportunities- This implies failure to ensure equality of gender representation in development matters.
- v) Dependency syndrome and poverty culture- This is a situation whereby due to unemployment and low-income levels; one person supports many people in a community
- vi) HIV/AIDS and drug/substance abuse.
- vii) Youth and development- This implies the situation whereby youth are excluded or fail to participate in development matters.
- viii) Teen pregnancies- This is sexual abuse of young girls leading to pregnancies.
- ix) Elder Abuse- The practice of killing aged people on accusations of witchcraft.

5.2.4 Socio-Cultural Strengths, Weaknesses, Opportunities and Threats

There are certain strengths, weaknesses, opportunities and threats associated with socio cultural issues in the various communities you will be serving. These include:

5.2.4.1 Strengths

Social-cultural strengths include:

- i) Some cultures create a sense of identity and belongingness.
- ii) They ensure continuity of the community.
- iii) Socio-cultural practices lead to development of norms and behaviours which encourage discipline in the society.

- iv) Some community values support rule of law.

5.2.4.2 Weaknesses

Social-cultural weaknesses include:

- i) Some socio-cultural practices are retrogressive and derail development.
- ii) Promotion of immorality is encouraged through some practices.
- iii) The desire to stick to socio-cultural practices leads to resistance to change.
- iv) Some community values contravene rule of law.
- v) The health of people is compromised through certain socio- cultural practices which do not support medical treatment.

5.2.4.3 Opportunities

Social-cultural opportunities may include:

- i) Community initiatives may be started to address negative effects of socio- cultural practices
- ii) Public education may be conducted to create awareness.
- iii) Beneficial socio-cultural practices can be showcased during national and cultural events.
- iv) Some socio-cultural practices can also be tapped as tourist attractions.
- v) Government intervention may be necessary in cases where cultural practices threaten the society.

5.2.4.4 Threats

Social-cultural threats may include:

- i) Poverty levels may increase due to some socio-cultural practices.
- ii) Vulnerability to diseases may be encouraged by certain practices.
- iii) Deaths may occur during performance of some cultural rites.
- iv) Illiteracy is prevalent in those societies with socio-cultural practices which do not support education.

5.2.5 Strategies for Dealing with Socio-cultural Strengths, Weaknesses, Opportunities and Threats Affecting Development.

. These strategies include:

- i) Inclusion of socio-cultural education in school curriculum.
- ii) Strengthening the family unit to encourage morality.
- iii) Initiating poverty eradication programmes.
- iv) Provision of social support for those affected by negative cultural practices.
- v) Guidance and counselling to the affected.
- vi) Youth empowerment strategies to discourage them from retrogressive practices.
- vii) Strict enforcement of the law to curb socio-cultural practices that contravene rule of law
- viii) Community involvement in decision making on policy matters regarding cultural practices.
- ix) Community education and sensitisation on available resources, services, values and practices.
- x) Health sensitisation to address vulnerability to diseases arising out of certain cultural practices.
- xi) Introduction of good alternative values for the negative cultural practice.

- xii) Encourage inter-community cultural exchanges.

5.2.6 Summary

In this topic we have discussed the socio-cultural issues affecting development in Kenya and assessed their strengths, weaknesses, opportunities and threats. We have also examined strategies which you will be expected to implement in dealing with the implications of these socio-cultural issues. In the next topic, we will discuss issues related to entrepreneurship development.

5.2.7 Activities

1. Explain the challenges facing the country in ensuring gender equality.
2. Discuss the strategies which an Administrative officer may employ to minimize teenage pregnancies in his or her area of jurisdiction.

5.2.8 References

1. Afshar, Haleh (ed.). (1991). *Women, Development and Survival in the Third World*. NY: Longman Group Ltd.,
2. Kabira, M. Wanjiku and Masinjila, Masheti (1997) *Towards Gender Responsive Politics*. Nairobi: Friedrich Ebert Foundations,
3. Ocholla-Ayayo, A. B. C. (1976). *Traditional Ideology and Ethics among the Southern Luo*. Uppsala: Scandinavian Institute of African Studies
4. Republic of Kenya, *Sessional Paper 10, 1965 African Socialism and its Application*
5. Republic of Kenya, Sessional Paper No. 2 of 2005 on Development of MSEs for Wealth and Employment Creation for Poverty Reduction; Government Printer
6. Public Service Commission (2007) *Administrative Officers' Regulations and Examination Syllabus*. Nairobi: Government printer

5.3 ENTREPRENEURSHIP

Outline

- 5.3.1 Introduction
- 5.3.2 Specific Objectives
- 5.3.3 Concept of entrepreneurship
- 5.3.4 Entrepreneurial opportunities and resources
- 5.3.5 Acquisition of entrepreneurial skills
- 5.3.6 Strategies for sustaining competitive advantage
- 5.3.7 National Government initiatives for supporting entrepreneurship
- 5.3.8 Summary
- 5.3.9 Activities
- 5.3.10 References

5.3.1 Introduction

In your work as an Administrative Officer, you will be expected to promote entrepreneurship activities in the communities you interact with. Entrepreneurship is a key driver of economic development. This topic is therefore designed to equip you with necessary knowledge, skills and attitudes to enable you effectively promote entrepreneurship activities in your area of jurisdiction.

5.3.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of entrepreneurship;
- ii) Assess the available entrepreneurial opportunities and resources;
- iii) Promote the acquisition of entrepreneurial skills;
- iv) Design strategies for sustaining competitive edge; and
- v) Disseminate information on national government initiatives for supporting entrepreneurship.

5.3.3 Concept of Entrepreneurship

Schumpeter (1965) defined “entrepreneurs as individuals who exploit market opportunity through technical and/or organizational innovation”. Entrepreneurship, according to Onuoha (2007), “is the practice of starting new organizations or revitalizing mature organizations, particularly new businesses generally in response to identified opportunities.” It therefore refers to the process of creating a new enterprise and bearing any of its risks, with the view of making the profit. It is an act of seeking investment and production opportunity, developing and managing a business venture, so as to undertake production function, arranging inputs like land, labour, material and capital, introducing new techniques and products, and identifying new sources for the enterprise.

Entrepreneurship is important for the following reasons:

- i) Creation of new businesses: New and improved offerings, products or technologies from entrepreneurs enable new markets to be developed and new wealth created.
- ii) Creation of social change: New goods and services offered by entrepreneurs result in new employment, which can produce a cascading effect or virtuous circle in the economy. The stimulation of related businesses or sectors that support the new venture add to further economic development.
- iv) Contributes to national income: Entrepreneurial ventures literally generate new wealth and therefore improve standards of living.
- v) Community development: Entrepreneurs regularly nurture entrepreneurial ventures by other like-minded individuals. They also invest in community projects and provide financial support to local charities.
- vi) Promotes research and development: Entrepreneurship is innovation and hence the innovated ideas have to be tested by experimentation. Therefore, entrepreneurship provides funds for research and development and this promotes research, and development in the economy.

5.3.3.1 Characteristics of Entrepreneurs

The characteristics of entrepreneurs include:

- i) Risk taking- Starting any new venture involves a considerable amount of failure risk. An entrepreneur should therefore be courageous and able to evaluate and take risks.
- ii) Innovation- **the** ability to generate new business ideas which can be used to start a business and make profits.
- iii) Visionary - have a clear picture on the future of the business venture.
- iv) Leadership- provides the required direction to ensure achievement of set business goals
- v) Open-minded- **ability** to realize that every situation is a business opportunity that can be utilized for the benefit of the organization.

- vi) Flexible- should be open to change depending on the situation.
- vii) Knowledgeable– should know the product offerings and be aware of the latest trends in the market.

5.3.4 Entrepreneurial Opportunities and Resources

Entrepreneurial resources refer to the inputs that are used in creating and producing a good or a service. These include finance, land, labour, capital, and knowledge of a particular field or technology as well as publicity.

An entrepreneurial opportunity refers to a situation where entrepreneurs can be able to undertake an action to make some profit. Some of these opportunities include:

- i) Network marketing- This is where one agrees to distribute goods or services offered by a company and also can recruit other distributors into the business as well. The other distributors recruited pay a commission based on their sales.
- ii) New technology- These are opportunities arising due to developments in technology. This may include internet related businesses.
- iii) Incubation centres- This is an opportunity where one can set up a business to help new and start-up firms to develop by providing services such as management training, and office space among others.
- iv) High population- This can create more market opportunities for entrepreneurs.
- v) Youthful population- This may create opportunities for business which deal with unique goods and services appealing to the youth.
- vi) Government funding- Entrepreneurs have access to various government programs such as small-business assistance, assistance for minorities and women, and environmental grants.
- vii) Training, research and education- Entrepreneurship training programmes have a positive impact on entrepreneurs, especially promoting better business practices
- viii) Franchise opportunities- By this we refer to making use of an established and well-known name, company or brand to enjoy the benefits of that name and then pay for it.

5.3.5 Acquisition of Entrepreneurial Skills

Entrepreneurial skills help to create and develop enterprise in various areas in the society. These entrepreneurial skills are associated with various activities such as; innovativeness, imitateness, creativity, resourcefulness, need achievement driven, profit oriented, persistent and persevering, adjustment to challenges and future looking. These skills include the following:

- i) Technical skills, which are those skills necessary to produce the business product or service.
- ii) Managerial skills, which are essential to the day to-day management and administration of the company.
- iii) Entrepreneurial skills, which involve recognizing economic opportunities and acting effectively on them.
- iv) Interpersonal skills, which include self-awareness, accountability, emotional skills and creative skills.

Entrepreneurship skills may be acquired through:

- i) Starting a business- This provides the opportunity to grow skills such as business planning, negotiation, sales and marketing.
- ii) Getting a mentor- This can be a local businessman or a successful family member. There are valuable lessons to learn from a mentor that probably can't be learned from other people. Business mentors usually give very specific advice about business and can help one improve entrepreneurial skills.
- iii) Reading business books and magazines- This helps to expand the knowledge of entrepreneurs and gives them new insights into business management.
- iv) Networking with other entrepreneurs- This helps tap the collective knowledge of other business professionals and find people who can help add to your knowledge and skills base.
- v) Attending entrepreneurship training/ seminars- spending time with other entrepreneurs will help grow entrepreneurial skills.
- vi) Community workshops/ barazas- Being an entrepreneur is about solving problems with the resources that you have. The more you help others solve problems with their own businesses, the more your own skills will grow.
- vii) Community exchanges and field visits- Conferences, tradeshows, webinars, and other events provide the perfect opportunity to learn how to be better at what you do.

5.3.6 Strategies for Sustaining Competitive Advantage

A competitive advantage is something you do that is unique and that other entrepreneurs who are competitors cannot easily imitate. It refers to what a person, group, company or department does better than anyone else in terms of resources, skills, culture, and investment over time. Sustaining means that one has the ability to continue to do those things over a long period of time.

The strategies for sustaining competitive advantage include:

- i) Product quality- Ensuring the product is of high standards and provide value for money to customers.
- ii) Product differentiation- A unique product or service builds customer loyalty and is less likely to lose market share to a competitor than an advantage based on cost. The quality, number of models, flexibility in ordering (i.e. custom orders), and customer service are all aspects that can positively differentiate a product or service.
- iii) Good customer service- Develop an understanding of what customers really want and establish a value proposition that grabs their attention.
- iv) Distinctive branding- giving products a unique name or symbol which stands out from the rest.
- v) Leverage new technology- Businesses with excellent research and development might have valuable strategic assets.
- vi) Investment in building good customer relationships.
- vii) Appropriate marketing strategies e.g. market segmentation and appropriate pricing. This calls for clear understanding of customers and targeting specific markets.
- viii) Patenting- This is a form of intellectual property that gives its owner the legal right to exclude others from making, using, selling, and importing an invention for a limited period of years. It usually refers to the right granted to anyone who invents something new, useful and non-obvious.

- ix) Copyrighting- In simpler terms this means the right to copy. This means that the original creators of products and anyone they give authorization to are the only ones with the exclusive right to reproduce the work.

5.3.7 National Government Initiatives for Supporting Entrepreneurship

The Government supports entrepreneurship in a number of ways. These include:

- i) Buy Kenya build Kenya initiatives- This refers to a deliberate effort in promoting consumption for locally produced goods and services amongst the citizens in order to stimulate industrial and economic growth.
- ii) Entrepreneurship training in government institutions.
- iii) Government funding through targeted initiatives such as Biashara Fund.
- iv) Supportive government policies and programmes- These include such policies as establishment of e-citizen portal, innovation hubs, business incubators, automation of business registration and incentivised tax laws.
- v) Establishment of relevant institutions to promote entrepreneurship.
- vi) Supportive laws such as Access to Government Procurement Opportunities (AGPO), science and innovation opportunity Act, Technical Vocational Education and Training Act, Micro Medium and Small Enterprises Act among others.

5.3.8 Summary

In this topic we have described the concept of entrepreneurship and entrepreneurial opportunities and resources. We have also examined how entrepreneurs can acquire entrepreneurial skills and the strategies the government can put in place for sustaining competitive advantage. Finally, we have explored the various National Government initiatives for supporting entrepreneurship in the country. In the next topic, we shall discuss issues related to agriculture and blue economy in development.

5.3.9 Activities

1. Assess the progress made by the Government in supporting entrepreneurship activities in your area of jurisdiction.
2. Discuss the factors that affect the effectiveness of various institutions established for promoting entrepreneurship in the country.

5.3.10 References

1. Mohanty S.K. *Fundamentals of Entrepreneurship*. Eastern Economy Edition. PHI Learning Private Limited. New Delhi, 2005
2. Onuoha G., (2007) Entrepreneurship, AIST International Journal 10, 20-32.
3. Republic of Kenya, Sessional Paper No. 2 of 1992 on Small Scale Enterprise Development; Government Printer
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5.4 AGRICULTURE AND THE BLUE ECONOMY IN DEVELOPMENT

Outline

- 5.4.1 Introduction
- 5.4.2 Specific Objectives
- 5.4.3 Role of agriculture in economic development in Kenya
- 5.4.4 Role of State and Non-State Actors in agricultural sector
- 5.4.5 Importance of irrigation in agriculture
- 5.4.6 Importance of Agribusiness, value addition and zero waste
- 5.4.7 Concept of Blue Economy
- 5.4.8 Potential of Blue Economy
- 5.4.9 Summary
- 5.4.10 Activities
- 5.4.11 References

5.4.1 Introduction

As an Administrative officer you are expected to promote agricultural and blue economy activities in your area of jurisdiction. The agricultural sector plays a strategic role in the process of economic development and is the engine of economic growth in Kenya. This topic is therefore designed to equip you with necessary knowledge, skills and attitudes that will enable you to play this role effectively in public service delivery.

5.4.2 Specific Objectives

By the end of this topic, you should be able to:

- i) assess the role of agriculture in the socio/economic development of Kenya;
- ii) analyse the role of State and Non-State actors in agricultural sector;
- iii) assess the importance of irrigation in agriculture;
- iv) examine the importance of agribusiness, value addition and zero waste;
- v) describe the concept of Blue Economy; and
- vi) Assess the potential of the Blue economy in development.

5.4.3 Role of Agriculture in Economic Development in Kenya

Agriculture plays vital roles in stimulating economic development in the country. These include:

- i) It generates employment as people are engaged in various agriculture related activities.
- ii) It contributes to industrial development through provision of raw materials for industries.
- iii) It generates incomes to farming communities and therefore improves livelihoods.
- iv) It reduces poverty levels and the dependency culture.
- v) Infrastructure such as transport and communication will develop to support agricultural activities.
- vi) Food security is enhanced as communities will be able to feed themselves and surplus preserved for future use.
- vii) Forward and backward linkages develop as a result of agriculture.
- viii) It contributes to foreign trade as some agricultural produce is exported and farm inputs are imported.

5.4.4 Role of State and Non-State Actors in Agricultural Sector

As an Administrative Officer, you are expected to interact with various actors who play different roles in the agricultural sector. Such actors may be categorised as state or non-state actors.

State actors are governments or their agencies of foreign countries while non-state actors are individuals or organizations that have economic, political or social power and are able to influence at a national and international level while not belonging to or ally themselves to any particular country or state. The roles played by such actors in the agricultural sector include:

- i) Funding of agricultural activities.
- ii) Infrastructure development to facilitate agricultural development.
- iii) Development of relevant policies to provide guidelines in the sector.
- iv) Provision of extension services e.g. training and sensitization to farmers to boost agricultural production.
- v) Provision of agricultural inputs.
- vi) Marketing of agricultural products.
- vii) Helping farmers to undertake value addition activities.
- viii) Provision of networks and linkage to markets.
- ix) Advocacy for farmers' rights.

5.4.5 Importance of Irrigation in Agriculture

In your work as an Administrative Officer, you are expected to interact with communities which are involved in irrigation. Irrigation refers to the practice of supplying water to land or crops to help growth, typically by means of channels. Some of the benefits of irrigation include:

- i) It increases crop yield.
- ii) It helps to cultivate superior crops as they will get adequate water.
- iii) It contributes to economic development.
- iv) It improves water conditions in the soil, increases the water content of plant fibres, dissolves nutrients and makes them available to plants.
- v) Multiple cropping in a year is possible through irrigation.
- vi) It enables cultivation of more land.
- vii) It guards against drought and famine which are typical in areas which rely on rain fed agriculture.

5.4.6 Importance of Agribusiness, Value Addition and Zero Waste

In order to benefit more from agriculture, there are certain practices which agricultural communities are involved in. Such activities are agribusiness, value addition and zero waste. Agribusiness refers to agriculture conducted on strictly commercial principles while value addition is the process of changing or transforming a product from its original state to a more valuable state. In addition, zero waste is the conservation of all resources by means of responsible production, consumption, reuse, and recovery of all products, packaging, and materials. The importance of these activities includes:

- i) Increase in foreign exchange earnings from export of high value agricultural products.
- ii) Adding value to products thereby increasing the net profits to farmers.
- iii) Providing crucial forward and backward linkages.

- iv) Meeting current demand of consumers in domestic and world markets.
- v) Strengthening of infrastructural facilities.
- vi) Employment creation as people are engaged in various agriculture related entities.
- vii) Industrial development due to availability of raw materials.
- viii) Poverty reduction since communities will generate more income and improve their livelihoods.
- ix) Food and nutrition security as food production will be maximized and post-harvest losses minimized.
- x) Creating of brand identity and loyalty through packaging and marketing the products.

5.4.7 Concept of Blue Economy

The Government of Kenya has prioritized the blue economy in its development agenda to achieve vision 2030 and ensure food security. Blue Economy encompasses promotion of economic and trade activities that integrate the conservation and sustainable use and management of biodiversity, including maritime ecosystems.

It is based on the principles of equity, low carbon development, resource efficiency and social inclusion. It conceptualizes oceans as “Development Spaces” where spatial planning integrates conservation and sustainable use of living and non-living resources, and advocates incorporating ocean values and services into economic decision-making processes.

Activities of blue economy include harvesting of living resources such as sea food and marine biotechnology, extraction of non-living resources (seabed mining), entertainment and sporting and generation of new resources (energy and fresh water).

5.4.8 Potential of the Blue Economy

As an Administrative Officer, you may be expected to promote blue economy activities. The blue economy in Kenya has great potential given that the country has a maritime territory of 230,000 square kilometres and a distance of 200 nautical miles offshore, which is equivalent to 31 of the 47 counties. The potential of the blue economy include contribution to the following:

- i) Food security- Marine resources can be exploited for food consumption purposes and therefore avoid reliance on traditional food sources.
- ii) Employment- Full exploitation of blue economy can provide employment to households and therefore improve living standards.
- iii) Poverty eradication- Participation in blue economy activities can help households earn a decent income and therefore reduce dependency levels.
- iv) Industrial development- Through value addition, blue economy related industries, services and business opportunities will develop.
- v) Infrastructure development- Full exploitation of blue economy activities can lead to development of relevant infrastructure and auxiliary services.

5.4.9 Summary

In this topic we have explored the role of agriculture in socio economic development, analysed the role of state and non-state actors in the agricultural sector and examined the importance of irrigation, agribusiness, value addition and zero waste in agriculture. We have further discussed

the concept and potential of the blue economy in the country. In the next topic, we shall discuss issues related to manufacturing industry and development.

5.4.10 Activities

1. Discuss the challenges facing the agricultural sector in Kenya.
2. Examine the contribution of blue economy in economic development in Kenya.

5.4.11 References

1. Republic of Kenya, (2008), *The Kenya Vision 2030*: Government Printer
2. Republic of Kenya, (2002-2007), *Economic Recovery Strategy for Wealth and Employment Creation*, Prepared by the Monitoring and Evaluation Directorate, Ministry of Planning and National Development
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5.5 MANUFACTURING INDUSTRY AND DEVELOPMENT

Outline

5.5.1 Introduction

5.5.2 Specific Objectives

5.5.3 Importance of manufacturing industry in National Development

5.5.4 Factors that facilitate development of manufacturing industry

5.5.5 Role of State and Non-State Actors in industrial development

5.5.6 Role of micro, small and medium enterprises (MSMEs) in Kenya's industrial development

5.5.7 Summary

5.5.8 Activities

5.5.9 References

5.5.1 Introduction

The manufacturing sector plays an important role in driving economic development by stimulating and sustaining high productive growth, boosting employment opportunities for semi-skilled labour and building country competitiveness through exports. As an Administrative Officer, you will be expected to promote manufacturing activities in your area of jurisdiction. This topic is therefore designed to equip you with necessary knowledge, skills and attitudes that will enable you play this role effectively in the provision of public services.

5.5.2 Specific Objectives

By the end of this topic, you should be able to:

- i) assess the importance of manufacturing industry in national development;
- ii) analyse factors that facilitate development of manufacturing industry;
- iii) interpret the role of State and Non-State actors in industrial development; and
- iv) examine the role of micro, small and medium enterprises (MSMEs) in Kenya's industrial development.

5.5.3 Importance of Manufacturing Industry in National Development

The manufacturing sector plays important roles in stimulating national development. These include:

- i) Employment- The sector is a major source of employment in the country and possesses substantial backward and forward linkages to the rest of the economy especially for the increasing number of youths entering the job market.
- ii) Economic growth- Manufacturing industry is a crucial engine for sustaining economic growth and development, job creation and poverty alleviation.
- iii) Market for agricultural products-The sector provides a good market for the produce of agriculture industries which serves as their raw materials.
- iv) The industries also buy agricultural products for value addition from the agricultural sector.
- v) Income generation- Industrial activities create jobs, increase GDP and contribute to wealth accumulation. This leads to improvement of living standards.
- vi) Development of auxiliary services- Auxiliary services are usually established alongside major industries. These services include insurance, communication, banking and others which play an important role in the growth and development of industries.
- vii) Availability of variety of products-Through manufacturing a wide range of products are availed to the market from all the manufacturing sectors.
- viii) Conservation of foreign exchange through production of goods that would have been imported.

5.5.4 Factors That Facilitate Development of Manufacturing Industry

These are factors whose availability is critical for the success of the manufacturing industry. Such factors include:

- i) Availability of land where the industries will be established.
- ii) Availability of labour-If labour is readily available this will assure the manufacturing sector of low production cost spurring more production.
- iii) Availability of capital- Generally, a well-developed system of financial institutions transfers funds from savers to investors in the manufacturing sector for investments.
- iv) Availability of credit facilities- Most sectors of the economy in the country have poor sources of funds making it hard for them to get ways of expanding. This makes it necessary for the sector to pay attention to the financial institutions for credit facilities to ensure that there is enough money to expand the industrial sectors.
- v) Availability of market demand- This is necessary as it will spur further production for the market. Low market demand will lead to production stoppages and high stocks in stores.
- vi) Availability of auxiliary services- In particular, existence of efficient banking system, insurance, transport and warehousing reinforce manufacturing capabilities.
- vii) Suitable infrastructure- Energy and transport affect the day-to-day running of a manufacturing firm. Well-developed transport reduces cost of goods and services. Manufacturing activity requires energy resources, whether to manufacture goods, provide transportation run computers and other machines.
- viii) Government policies- Favourable government policies promote the sector.

5.5.5 Role of State and Non-State Actors in Industrial Development

This refers to the institutions that are owned by the Government and those that are from the private sector and which play a critical role in the development of the manufacturing sector in the country. They include the Kenya Industrial Estates (KIE) and Kenya Industrial Research and Development Institute among others. The roles played by these institutions include:

- i) Funding- Few MSMEs have the required level of collateral or security. This may be provided through Government agencies.
- ii) Infrastructure development- This is done by the Government and private sector through such agencies like Kenya Urban Roads Authority (KURA) Kenya Rural Roads Authority (KERRA) and Kenya National Highways Authority (KENHA).
- iii) Training of entrepreneurs- This is where the actors provide business management training to the managers and employees in the manufacturing sector to improve their skills in business management in different fields.
- iv) Marketing of industrial products.
- v) Linkage to markets.
- vi) Lobbying with foreign investors.

5.5.6 Role of Micro, Small and Medium Enterprises (MSMEs) in Kenya's Industrial Development

The term micro and small enterprises (MSEs) or micro, small and medium enterprises (MSMEs), is used to refer to SMEs in Kenya and under the Micro and Small Enterprise Act of 2012. The Micro and Small Enterprise sector in Kenya play important roles in the social and economic development of the country. Some of these roles include:

- i) They provide employment opportunities and therefore contribute to poverty reduction
- ii) Industrialization of rural areas- SMEs have contributed to the growth of manufacturing services and agricultural sectors, as well as ICT services, in terms of output, value addition, employment and exports.
- iii) Equitable wealth and income distribution.
- iv) Contributes to exports- SMEs are also producers of finished goods and services.
- v) Encourage local entrepreneurship- MSMEs provide a sustainable opportunity to create numerous jobs and raise incomes for many households. This they do through enhancing enterprise culture and acting like a seedbed for entrepreneurial pursuits.
- vi) Promotes innovation and creativity- They are the primary vehicles by which new entrepreneurs provide the economy with a continuous supply of ideas, skills, and innovations. They thus introduce new business methods, products, and services.

5.5.7 Summary

In this topic we have examined the Importance of manufacturing industry in National Development, factors that facilitate development of manufacturing industry and also the role of State and Non-State Actors in industrial development. In the next topic we shall discuss issues related to service industry and socio-economic development.

5.5.8 Activities

1. Examine the extent to which the micro, small and medium enterprises (MSMEs) have stimulated growth and development in your area of jurisdiction.
2. Assess the challenges faced in the promotion of manufacturing industry in Kenya.

5.5.9 References

1. Republic of Kenya, Sessional Paper No. 2 of 2005 on Development of MSEs for Wealth and Employment Creation for Poverty Reduction; Government Printer
2. Republic of Kenya, Sessional Paper No. 2 of 1992 on Small Scale Enterprise Development; Government Printer

5.6 SERVICE INDUSTRY AND SOCIO-ECONOMIC DEVELOPMENT

Outline

- 5.6.1 Introduction
- 5.6.2 Specific Objectives
- 5.6.3 Concept of service industry
- 5.6.4 Importance of service industry in development
- 5.6.5 Factors that contribute to development of service industry
- 5.6.6 Role of State and Non-State Actors in the development of service industry
- 5.6.7 Summary
- 5.6.8 Activities
- 5.6.9 References

5.6.1 Introduction

The services sector has emerged as the largest segment in and driving force of the economy. The sector contributes to productivity and economy wide growth as it provides essential inputs to other products and services. As an Administrative officer, you will be expected to promote the development of service industries in your area of jurisdiction. This topic is designed to equip you with the knowledge, skills and attitudes to enable you to perform this role effectively in the provision of public services.

5.6.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the concept of service industry;
- ii) assess the importance of service industry in development;
- iii) analyse factors that contribute to the development of the service industry; and
- iv) Examine the role of State and Non-State actors in the development of service industry.

5.6.1 Concept of Service Industry

A service industry is an area of business activity involved in the provision of services only but no physical products. Such businesses include accounting, tradesman ship (like mechanic or plumber services), computer services, restaurants, tourism, banking, retail, transport, distribution, and insurance that provides a service but does not produce anything. The key characteristics of services are: intangibility which implies that services cannot be seen, touched, felt or smelled; inseparability which means services cannot be detached from the provider; perishability because services cannot be stored for future use, and variability which implies that it's difficult to standardise service provision. By its very character, the attention of a service industry has primarily to be cantered on marketing and customer service.

5.6.2 Importance of Service Industry in Development

The service industry contributes to development in the following ways:

- i) It generates employment as people are engaged in various service-related activities.
- ii) It contributes to industrial development through provision of support services like banking, transport, distribution among others.
- iii) It reduces poverty levels and the dependency culture as it improves living standards.
- iv) It facilitates business transactions through provision of support services, like computers, communication, logistics, energy among others.
- v) It contributes to foreign trade as foreign firms are involved in the service sector.
- vi) It contributes to development of other sectors through provision of essential services, like health, insurance among others.
- vii) It provides a market for goods produced in other sectors thereby promoting growth of those sectors.

5.6.3 Factors That Contribute to Development of Service Industry

The development of service industries will depend on the following factors:

- i) Government policies which may encourage the development of certain service industries which are prioritized in the national development agenda.
- ii) Availability of demand for the services provided will lead to development of such related industries.
- iii) Customer tastes and preferences which may favour certain services will lead to the development of such service industries.
- iv) Entrepreneurship skills development may lead to establishment and growth of service industries.
- v) Availability of needed infrastructure may lead to development of service industries.
- vi) Technological advancement leads to development of technology related service industries.
- vii) The availability of skilled labour promotes development of service industries.

5.6.4 Role of State and Non-State Actors in the Development of Service Industry

The roles played by state and non-state actors in the development of service industry include:

- i) Provision of funding and credit facilities for establishment or funding of service industries.
- ii) Facilitation of infrastructure development.
- iii) Establishment of support institutions to enhance service sector development.
- iv) Development of relevant laws and policies to promote and provide guidelines in the service sector.
- v) Provision of capacity building and training of service entrepreneurs.
- vi) Provision of networks and linkage to markets.

5.6.5 Summary

In this topic we have discussed the concept of service industry and examined its importance in development. In addition, we have analysed factors that contribute to development of the service industry. Further, we have examined the role of State and Non-state actors in development. In the next topic, we shall discuss issues related to development planning and implementation.

5.6.7 Activities

1. Discuss the contributions of the Standard Gauge Railway to the socio- economic development of Kenya.
2. Examine the contributions of Information Communication Technology in the development of service industries in Kenya.
3. Assess the challenges faced by the Government of Kenya in the promotion of service industries.

5.6.8 References

1. Kibera, F.N and Waruingi, B.C(1998) Fundamentals of Marketing: An African Perspective; Nairobi: Kenya Literature Bureau; 1998.
2. Kotler, P (2016), Marketing Management, 15th Edition: Pearson Publishers
3. Republic of Kenya, Sessional Paper No. 2 of 2005 on Development of MSEs for Wealth and Employment Creation for Poverty Reduction; Government Printer
4. Republic of Kenya, Sessional Paper No. 2 of 1992 on Small Scale Enterprise Development; Government Printer

5.7 DEVELOPMENT PLANNING AND IMPLEMENTATION

Outline

- 5.7.1 Introduction
- 5.7.2 Specific Objectives
- 5.7.3 Concept of development planning
- 5.7.4 Importance of Development Planning
- 5.7.5 Process of preparing National and County Strategic plans
- 5.7.6 Development programmes and projects management cycle
- 5.7.7 Role of the AO in implementation, monitoring and evaluation of programmes and projects
- 5.7.8 Summary
- 5.7.9 Activities
- 5.7.10 References

5.7.1 Introduction

The purpose of development planning is to promote sustainable and stable development of the country and to improve the people's quality of life. The aim should therefore be to utilise the available resources more effectively to achieve well-defined objectives. As an Administrative Officer you will be expected to implement, monitor and evaluate Government programmes and projects in your area of jurisdiction. This topic is therefore designed to equip you with knowledge, skills and attitudes to enable you effectively perform this role in provision of public services.

5.7.2 Specific Objectives

By the end of this topic, the officer should be able to:

- i) describe the concept of development planning;
- ii) assess the importance of development planning;
- iii) describe the process of preparing National and County Strategic Plans;

- iv) describe the programmes and projects management cycle; and
- v) examine the role of the Administrative Officer in implementation, monitoring and evaluation of programmes and projects.

5.7.3 Concept of Development Planning

Development planning is a deliberate government attempt to implement, monitor, supervise as well as coordinate economic decisions made on economic issues of a nation. It is a process by which key economic decisions are made or influenced by central Governments. The goal is to create and maintain a strong and vibrant economy. The economic development plan arising thereof provides a comprehensive overview of the economy, sets policy direction for economic growth and identifies strategies, programmes and projects to be implemented in order to improve the economy.

5.7.4 Importance of Development Planning

Development planning is important to a country's economic growth in the following ways:

- i) Good governance- With clear goals and objectives as stipulated in development planning then good governance is likely to be exercised. Accountability for actions and decisions to be made are clearly identifiable in development plans
- ii) Clear direction- Development planning provides a roadmap for those in charge of implementation of the plans. A good plan will guide us to answer questions such as what
- iii) is to be done; why must it be done; where will it be done; when will it be done; and who will do it.
- iv) Risk and uncertainty reduction- Planning also reduces the risks of uncertainty as the threats and opportunities are clearly identified. Improve quality of decision making- Development planning provides certainty and improves the quality of decisions made.
- v) Resource mobilization- With good development planning it is easy to source development resources from donors and other development partners. It also involves making better use of, and maximizing, existing resources.
- vi) Proper resource allocation and utilization- With development planning, it is possible to identify priority areas for resource allocation so that the resources allocated are utilized in the most optimal manner. This is in terms of both regional and sector allocation.
- vii) Marshal public support- Involvement of the public in development planning process ensures their support in the implementation of the plan. Development planning leads to fairness in the distribution of available scarce resources.
- viii) Development planning helps in poverty alleviation through the creation of employment opportunities and social opportunities like education, health among others.

5.7.5 Process of Preparing National and County Strategic plans

In developing their strategic plans, both National and County Governments follow a specific process as indicated below:

- i) Hold consensus building meetings with all Heads of Departments in the Department/Ministry or Key Senior Staff in the State Corporation;
- ii) Identify national priorities and describe how the organisation's priorities will contribute to the achievement of these priorities;

- iii) Conduct a Situational Analysis (SWOT) and/or review the implementation of the previous Strategic Plans (where applicable), identify emerging issues, key strategies to address them and key success factors;
- iv) Undertake a Stakeholder Analysis; Political, Economic, Social, Technological, Environmental and Legal (PESTEL) analysis and integrate emerging issues in the Strategic model;
- v) Review the Vision and Mission Statements and core values, where they exist and recast where necessary;
- vi) Review and refine the core functions and policy priorities, determine areas of focus and elaborate the Departments/Ministries’/SAGAs’ strategic goals and objectives and planned outcomes in relation to its focal areas. Focal areas and planned outcomes must be shown with their linkages to the Medium-Term Plan and the SDGs)
- vii) Assess any risks and prioritise them with suggested action for mitigation, monitoring and reporting;
- viii) Review the organizational structure and develop an appropriate structure;
- ix) Evaluate the staffing levels and skills gap against the desired organizational structure and identify areas of staff surplus and deficit (by category of staff); and
- x) Hold consensus meetings with stakeholders.

5.7.6 Development Programmes and Projects Management Cycle

The project life cycle refers to the process that is followed when moving through stages of project completion. It provides a framework for managing any type of project in a community. This includes the following:

- i) Initiation: This is the starting point of any project or idea. A feasibility study should be conducted to investigate the need for the project.
- ii) Planning: This phase typically involves determining resource availability, creating a project budget and allocating resources to tasks. A project plan is also created outlining activities, dependencies and time frames.
- iii) Implementation: This is the phase in which the actual execution of the project is carried out. It involves the operationalization of the project activities. It is about building deliverables that satisfy the customer done through allocating resources and keeping team members focused on the assigned tasks.
- iv) Monitoring and Evaluation: Project progress is continuously monitored, and appropriate adjustments made and recorded as deviations from the original plan. It is continuously reported through regular team meetings.
- v) Closing or termination: In this phase the emphasis is on releasing the final deliverables to the customer, handing over project documentation, terminating supplier contracts, releasing project resources and communicating the closure of the project to all stakeholders. There is need to document all lessons learnt to examine what went well and what did not in the project cycle.

5.7.7 Role of the Administrative Officer in Implementation, Monitoring and Evaluation of Programmes and Projects.

Your role as an Administrative Officer in implementation, monitoring and evaluation of programmes and projects include:

- i) Report progress- This involves making detailed periodic reports to the relevant authorities on the progress of the project.
- ii) Ensure security- ensure that there is peace and security not only for the community members and those carrying out the project but also for the resources in use throughout the project phase.
- iii) Sensitise public on importance of project- create awareness to the community on the importance of the project to the community and the benefits that the community will enjoy once the project is completed.
- iv) Ensure prudent utilization of public resources- ensure that all the resources intended for the project go into effective use and there is minimal wastage of the same.
- v) Assist in project conflict resolution-In case of a dispute or conflict during the implementation of the project, provide direction and mechanisms for arbitration.
- vi) Participate in project meetings- attend and participate in meetings called to discuss the project and shed light on the government position as far as the project is concerned.
- vii) Communicate government policy- communicate all government policies relevant to the community and ensure compliance throughout the process.

5.7.8 Summary

In this topic we have discussed the concept of development planning and assessed the importance of development planning. We have also described the process of preparing National and County Strategic Plans and the programmes and projects management cycle. The role of the Administrative Officer in implementation, monitoring and evaluation of programmes and projects has also been assessed. In the final topic we shall explore issues related to environment and development.

5.7.9 Activities

1. Discuss the relevance of strategic plans in public sector organizations in Kenya.
2. Assess the role of stakeholder involvement in the strategic planning process.
3. Using the project management cycle concept analyse a government funded community project in your area of jurisdiction.

5.7.10 References

1. Mudida R. *Modern Economics*. Second Edition, Focus Publishers, Nairobi, 2009
2. Republic of Kenya, Sessional Paper 10, 1965 African Socialism and its Application; Government Printer
3. Republic of Kenya, (2002-2007), *Economic Recovery Strategy for Wealth and Employment Creation*, Prepared by the Monitoring and Evaluation Directorate, Ministry of Planning and National Development
4. Republic of Kenya, (2018-2022), *Draft Guidelines for the Preparation of Fourth Generation Strategic Plans*, Ministry of Devolution and Planning.
5. Todaro M.P. *Economics for a Developing World*. Third Edition (London Longman 1992)

5.8 ENVIRONMENT AND DEVELOPMENT

Outline

- 5.8.1 Introduction
- 5.8.2 Specific Objectives
- 5.8.3 Relationship between environment and development
- 5.8.4 Importance of environmental management
- 5.8.5 Legal framework for environmental management in Kenya
- 5.8.6 Principles of environmental protection
- 5.8.7 Challenges in Environmental management
- 5.8.8 Strategies for addressing challenges in environmental management
- 5.8.9 Summary
- 5.8.10 Activities
- 5.8.11 References

5.8.1 Introduction

Coordinated approaches are necessary for solving the environmental and sustainability problems facing the country. As an Administrative Officer, you will be expected to promote initiatives for environmental conservation as a way of enhancing development in your area of jurisdiction. This topic is therefore designed to equip you with knowledge, skills and attitudes to enable you perform this role in public service.

5.8.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the relationship between environment and development;
- ii) assess the importance of environmental management in development;
- iii) interpret the legal framework for environmental management in Kenya;
- iv) examine the principles of environmental protection;
- v) assess challenges in environmental management; and
- vi) formulate strategies for addressing challenges in environmental management.

5.8.3 Relationship Between Environment and Development

Development, which embraces the economy and society, and human-induced environmental change are intimately connected. Human-induced environmental change arising from development has been mostly negative. It involves two processes i.e. depletion, such as of oil resources, and degradation of air, land or water through pollution.

It cannot be disputed that no development is possible without some adverse effects on ecology. Therefore, it is necessary to find a balance between interest of the people and the need for maintaining the environment.

5.8.4 Importance of Environmental Management

Environmental management refers to initiatives to prevent ecological disaster as well as aiding in environmental crises and finding appropriate solutions. It looks at land, marine and atmospheric conditions, such as global warming, marine-life preservation and deforestation. Environmental management is important for the following reasons:

- i) Prevents and solves environmental problems such as land, water and air pollution.
- ii) Ensures optimal use of earth's resources.
- iii) Ensures environmental planning.
- iv) Ensures environmental conservation.
- v) Ensures sustainability of development activities.
- vi) Ensures health concerns arising out of environmental pollution are managed and therefore save lives.
- vii) Minimizes adverse effects of climate change, for example through afforestation initiatives.

5.8.5 Legal Framework for Environmental Management in Kenya

Environmental management is governed by the Constitution, relevant legislation and regulations. These include:

- i) The Constitution of Kenya, 2010.
- ii) Environmental Management and Coordination Act (EMCA), 1999.
- iii) Environmental impact assessment and audit regulations, 2003.
- iv) Noise regulations, 2009.
- v) Wetland regulations, 2009.
- vi) Water quality regulations, 2006.
- vii) Waste management regulations, 2006.
- viii) Controlled substances regulations, 2007.
- ix) EMCA (conservation of biological diversity resources, access to genetic resources and benefit sharing) regulations, 2006.

5.8.6 Principles of Environmental Protection

These principles include:

- i) Precautionary Principle- The main objective of this principle is to ensure that a substance or activity posing a threat to the environment is prevented from adversely affecting the environment.
- ii) Prevention Principle- This calls for taking action as early as possible to minimize potentially large-scale problems and irreversible effects,
- iii) "Polluter Pays" Principle- This requires that firms discharging polluting effluents to the environment should be made to pay a price for such discharges related to the amount of environmental damage caused.
- iv) Integration Principle- Ensuring that environmental concerns are integrated with planning and activities in other sectors.
- v) Public Participation Principle- It requires all persons to participate in collectively environmental decision-making activities.
- vi) Proportionality Principle- It is based on the concept of balance. A balance is to be maintained between economic development on one hand and environmental protection on the other.
- vii) Responsibility Principle- It places responsibility on all persons, corporations and states to maintain the ecological processes and therefore act in an ecologically sustainable, economically efficient and socially fair manner.

- viii) Principle of Effectiveness and Efficiency- It requires prudent utilization of resources to achieve the intended goals.

5.8.7 Challenges in Environmental Management

There are various challenges which are faced in environmental management endeavours. These challenges include:

- vi. Unsustainable land use practices.
- vii. Poor soil and water management practices.
- viii. Human activities such as settlements and overgrazing leading to encroachment on forests, deforestation and soil erosion.
- ix. Pollution arising from industries and other human activities.
- x. Poverty and unemployment which lead to environmentally degrading activities in search of livelihoods.
- xi. Human-wildlife conflict.
- xii. Weak institutions which result to poor enforcement and implementation of environmental laws.
- xiii. Depletion of non-renewable resources.
 - a. Ignorance on the part of communities regarding the essence of environmental management.

5.8.1 Strategies for Addressing Challenges in Environmental Management

There are various strategies which may be taken to address environmental challenges. Such strategies include:

- i) Afforestation and reforestation.
- ii) Environmental education and awareness
- iii) Community participation in environmental management initiatives.
- iv) Conservation of biodiversity.
- v) Initiate pest control programmes.
- vi) Encourage alternative sources of wood fuel.
- vii) Strengthen environmental law enforcement.

5.8.9 Summary

In this topic we have described the relationship between environment and development, assessed the importance of environmental management in development, and interpreted its legal framework in Kenya. We have also examined the principles of environmental protection, assessed challenges in environmental management and formulated strategies for addressing them. This now brings us to the end of our discussion on socio- economic development and entrepreneurship course unit.

5.8.10 Activities

1. Discuss the impact of climate change on socio-economic development in Kenya.
2. Discuss the effects of the ban on plastic bags on environmental management and economic development in Kenya.

5.8.11 References

1. Angwenyi, A. (2008): *An overview of the Environmental Management and Co-ordination Act* in Okidi CO et al (eds) *Environmental governance in Kenya: Implementing the framework Law*
2. Okidi C.O (2010): *Review of the policy framework and legal and institutional arrangement for the management of environment and natural resources in Kenya*, 1994
3. Republic of Kenya, *Environment Management and Coordination Act 2015*; Government Printer
4. *The Constitution of Kenya* (2010)

6.0 REGIONAL AND INTERNATIONAL COOPERATION- 106

6.0.1 Introduction

Countries in a geographical region usually strive to strengthen cooperation and promote peaceful coexistence. Regional and international cooperation is a platform for addressing regional and global challenges, with a focus on global public goods for trade, knowledge, peace and security, and financial stability. As an Administrative Officer you will be involved in efforts to achieve regional and international cooperation. This course unit, therefore, is intended to equip you with knowledge, skills and attitudes that will enable you foster the spirit of cooperation with other countries in the course of your duties.

6.0.2 Course Unit Summary

	TOPIC	SUB-TOPICS
6.1	Kenya's Foreign Policy	- Introduction to foreign policy - Importance of establishing an appropriate foreign policy - Factors that influence foreign policy - Elements of Kenya's foreign policy and its influence on regional and international cooperation - Impact of Kenya's foreign policy on socio-economic and political development.
6.2	Diplomacy	- Concept of diplomacy - Importance of diplomacy in regional and international cooperation - Qualities of a diplomat - Functions of diplomatic missions in a country - Classification of diplomatic missions - Privileges and immunities of diplomatic staff - Conventional ways of dealing with diplomatic staff
6.3	Regional Integration	- Concept of regional integration - Major regional blocs in Africa - Role of regional integration in respect to Kenya's socio-economic and political development
6.4	Multi-lateral and International Organisations	- Concept of multi-lateral and international organizations - Objectives and functions of the multi-lateral and international organizations - Benefits emanating from multi-lateral and international organizations to Kenya - Emerging trends within multi-lateral and International organizations
6.5	Trans-border	- Trans-border co-operation

	TOPIC	SUB-TOPICS
	management	– Trans-border conflict resolution – Refugee management and repatriation – Trans-border development and resource sharing – Border relations management – Border trade management
Total		

6.1 KENYA'S FOREIGN POLICY

Outline

6.1.1 Introduction

6.1.2 Specific Objectives

6.1.3 Concept of Foreign Policy

6.1.4 Importance of establishing an appropriate foreign policy

6.1.5 Factors that influence foreign policy of a country

6.1.6 Elements of Kenya's foreign policy and their influence on regional and international co-operation

6.1.7 Impact of Kenya's foreign policy on socio-economic and political development.

6.1.8 Summary

6.1.9 Activities

6.1.10 References

6.1.1 Introduction

As an Administrative Officer, you will be expected to observe the requirements of Kenya's foreign policy as you perform your duties. This course unit is therefore, intended to equip you with knowledge, skills and attitudes that will enable you articulate the internal and external foreign factors that influence Kenya's foreign policy.

6.1.2 Specific Objectives

By the end of this topic, you should be able to:

- Describe the concept of foreign policy;
- Assess the importance of establishing an appropriate foreign policy;
- Analyse the factors that influence the foreign policy of a country;
- Describe the elements of Kenya's foreign policy and its influence on regional and international co-operation; and
- Assess the impact of Kenya's foreign policy on the country's socio-economic and political development.

6.1.3 Concept of Foreign Policy

It is important that the relationship between countries is organised in a proper manner. This is done through her foreign policy. Foreign policy contains guidelines of how a country wishes to engage other Countries for her own benefit. These guidelines are developed taking into consideration a country's geographical location, its main trading partners, its cultures and its history. As an Administrative Officer, you will be required to follow these guidelines in your duties in the public service to foster peaceful co-existence.

6.1.4 Importance of Establishing an Appropriate Foreign Policy

Foreign policy is of importance to a country for the following reasons:

- i) It dictates how it will relate with other countries in pursuit of its national interest; socially, economically, politically and militarily.
- ii) It enables a country to attract foreign investments and hence benefit from revenue from these investments.
- iii) It creates employment opportunities.
- iv) It leads to increase in both quantity and quality of goods and services.
- v) It enables global issues to be resolved through multilateral coordination, arrangements and groupings.

6.1.5 Factors that Influence Foreign Policy of a Country

There are a number of factors that influence the foreign policy of a country. These can be categorised as internal and external factors.

6.1.5.1 Internal Factors

These are factors within the territorial boundaries. They include the following:

- i) **Historical and National Values:** A country's history and national values determines the manner in which she will relate with other countries.
- ii) **Geography, Size and population:** The geographical location of a country, the size of its territory, and its population greatly influence its foreign policy implementation. States with Large territories and population may have more influence and say than small states with small populations in international affairs.
- iii) **Public-Opinion:** The public could exert influence by selecting parties or candidates whose foreign policy positions best match their own.
- iv) **Culture:** A nation inherits a style and culture which in turn influence and decide the course of actions; the nation has to follow in relation to other sovereign states.
- v) **The Political Organization:** The political organization and institutions in a country, also greatly influence the foreign policy of that country. Generally, under authoritarian or totalitarian forms of government, easier and faster foreign decisions are possible because the decision-making power rests with an individual assisted by his clique.

6.1.5.2 External Factors

These factors arise from external forces. They include the following:

- i) **The International system or power structure:** The interaction between states takes place at the international level. It plays a significant role in shaping and moulding the foreign policies of those interacting states. Foreign policy is essentially shaped by one's relative power within the international system.
- ii) **International law:** Is a set of rules that regulate relations between states. It also defines the status, the rights, the responsibilities, and obligations of the nations in foreign policy.
- iii) **International organizations:** Many International Organizations play an enormous role in the current international system. International bodies such as the United Nations (UN), International Monetary Fund (IMF) and the World Bank (WB) are considered as active actors in the field of International Relations as they facilitate the interaction between

states at the global level. A state's foreign policy is thus, often affected by its membership of international, regional and sub-regional organizations.

- iv) Alliances: Alliances shape the foreign policies of states, because the member parties to the alliances have to respond to the requests and demands of their allies and refrain from formulating policies or taking actions which are offensive to the alliance partners.
- v) Military strength or arms race: The use of military power is considered as the ultimate tool of international relations following the conception of war as the continuation of politics by other means. A state possessing sufficient military strength has greater initiative and bargaining power in the international arena.

6.1.6 Elements of Kenya's foreign policy and their influence on regional and international co-operation

Success of a country's foreign policy is determined by the extent to which that policy influences the regional and international cooperation. The elements of Kenya's foreign policy include the following:

- i) Sanctity of sovereignty and territorial integrity - this has led to the international respect of our regional boundaries.
- ii) Peaceful co-existence with neighbours and other nations - which has led to harmonious relationships in the international arena.
- iii) Resolution of conflicts by peaceful means - has resulted in respect for human rights as a result of less usage of violence in solving international disputes.
- iv) Promotion of regional integration - has resulted in expansion of markets for Kenyan goods within the region e.g. COMESA, EAC
- v) Respect for the equality, sovereignty and territorial integrity - of states leads to recognition and involvement in regional peace keeping.
- vi) Respect for international norms, customs and laws - has resulted in hosting of head offices of international and multilateral organizations.

6.1.7 Impact of Kenya's Foreign Policy on Socio-economic and Political Development

In formulating foreign policy strategy, Kenya takes into consideration its own strategic interests. The foreign policy strategy adopted has impacted on the socio-economic and political development in several ways. These include:

- i) Increased direct foreign investment as a result of relating with other countries.
- ii) Hosting of international organizations e.g. UNEP, Habitat, etc.
- iii) Participation in peace keeping due to the goodwill by the international community.

6.1.8 Summary

In this topic we have discussed the concept of foreign policy and its importance to a country. We have further examined the factors that affect the development of an appropriate foreign policy for a country as well as elements of Kenya's foreign policy and its influence on regional and international co-operation. Finally, we have discussed the impact of Kenya's foreign policy on the country's socio-economic and political development. In the next topic, we shall discuss issues related to diplomacy.

6.1.9 Activities

1. Discuss the goals of Kenya's foreign policy.

2. Discuss the ways in which an Administrative Officer would facilitate attainment of Kenya's Foreign Policy in the course of his/her work.

6.1.10 References

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6.2 DIPLOMACY

Outline

- 6.2.1 Introduction
- 6.2.2 Specific Objectives
- 6.2.3 Concept of Diplomacy
- 6.2.4 Importance of diplomacy in regional and international co-operation
- 6.2.5 Qualities of a diplomat
- 6.2.6 Functions of diplomatic missions in a country
- 6.2.7 Classification of diplomatic missions
- 6.2.8 Privileges and immunities of diplomatic staff
- 6.2.9 Conventional ways of dealing with diplomatic staff
- 6.2.10 Summary
- 6.2.11 Activities
- 6.2.12 References

6.2.1 Introduction

As an Administrative Officer, you will be involved in diplomatic engagement in the course of your duties aimed at strengthening your country's interest in other countries. This topic is therefore designed to equip you with knowledge, skills and attitudes to enable you to be more effective in such engagements.

6.2.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the concept of diplomacy;
- ii) assess the importance of diplomacy in regional and international co-operation;
- iii) describe the qualities of a diplomat;
- iv) analyse the functions of diplomatic missions in a country;
- v) classify diplomatic missions in the country;
- vi) describe the privileges and immunities provided for the diplomatic corps; and
- vii) examine the conventional ways of dealing with various categories of diplomatic staff.

6.2.3 Concept of Diplomacy

Diplomacy is the means by which states throughout the world conduct their affairs in ways to ensure peaceful relations. It involves influencing the decisions and behaviour of foreign governments and peoples through dialogue, negotiation, and other measures short of war or violence.

6.2.4 Importance of Diplomacy in Regional and International Cooperation

The purpose of diplomacy is to strengthen the nation or organization it serves in relation to others by advancing the interests in its charge. Diplomacy is of importance to a country in the following ways:

- i) Diplomacy is the vessel for peaceful cooperation, dialogue, negotiation, cohesion and harmony between/among nations.
- ii) Diplomacy is the governmental channel for economic/trade, social, cultural, political and technological knowledge anchored on mutual relationships between/among nations.
- iii) Diplomacy is the best means for conflict resolution, peacebuilding in crisis situations between/among nations.
- iv) Diplomacy facilitates information, communication and knowledge exchange/sharing between/among nations.
- v) Diplomacy promotes economic development through trade negotiations.

6.2.5 Qualities of a Diplomat

A diplomat is the representative of his country in the receiving country and as such should have qualities that will enable him to discharge the functions of that office effectively. The following are some of the qualities that are desired in a diplomat:

- i) Tact - Should be tactful to be able to deal with different situations.
- ii) Skilful - they master traditional diplomatic skills including languages, written and oral communications, negotiating, networking, and crisis management.
- iii) Astute - they show good judgment.
- iv) Knowledgeable - Should possess a robust understanding of national and international affairs.
- v) Influential - Should have ability to influence others, build and mobilise networks, relationships and coalitions to achieve specific goals.
- vi) Communicators - they have good communication skills.
- vii) Committed - they demonstrate great integrity, are dedicated to promoting their country's interests and passionate about international cooperation.

6.2.6 Functions of Diplomatic Missions in a Country

Diplomatic missions are established between countries to perform certain functions. These functions include the following:

- i) Disseminates public information on policymaking which supports citizens to have access to relevant information about government policies, decisions and actions, especially when it comes to diaspora who are interested to engage in policy making back home.
- ii) Representing the sending State in the receiving State. The representation function means that diplomatic agent stands for the sending State in the public events of the country of residence. The diplomatic mission doesn't represent the chief of State nor the Government, but the sending State as subject of international law.

- iii) Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law.
- iv) Negotiating with the Government of the receiving State. - Negotiation means examining a problem of common interest in order to solve it. A diplomatic mission performs the negotiation function when conducting discussions with competent organs of the receiving State on problems of mutual concern.
- v) Ascertaining by all lawful means conditions and developments in the receiving State and reporting thereon to the Government of the sending State.
- vi) Promoting friendly relations between the sending State and the receiving State, and developing their economic, social and cultural relationships.

6.2.7 Classification of Diplomatic Missions

Diplomatic missions are of different types. These differences are determined by the level of representation and duties performed by a mission. These include:

- i) Embassy: A diplomatic mission located in the capital city of another country which generally offers a full range of services, including consular services.
- ii) High Commission: An embassy of a Commonwealth country located in another Commonwealth country.
- iii) Permanent Mission: A diplomatic mission to a major international organization.
- iv) Consulate General: A diplomatic mission located in a major city, other than the capital city, which provides a full range of services, including consular services.
- v) Consulate: A diplomatic mission that is similar to a consulate general, but which does not provide full range of services.
- vi) Consulate Headed by Honorary Consul: A diplomatic mission headed by an Honorary Consul which provides only a limited range of services.

6.2.8 Privileges and Immunities of Diplomatic Staff

Diplomatic missions and staff enjoy certain privileges and immunities in the receiving country. These immunities and privileges are recognized in the Vienna convention. Diplomatic staffs enjoy these privileges and immunities as long as they remain in active service. The privileges and immunities include the following:

- i) Tax exemptions/concessions and other advantages accorded in the host country to members of the Diplomatic staff and their families as well as to individuals enjoying an equivalent status. The tax exemption does not extend to private enterprise that the diplomatic staff may engage in.
- ii) The inviolability of diplomatic staff, i.e. they may not be arrested or detained as a result of their conduct in the host country.
- iii) The inviolability of diplomatic premises, i.e. the local authorities may not have access without the authorization of the head of the diplomatic mission.
- iv) The diplomatic bag shall not be opened or detained by the receiving state.
- v) A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State.
- vi) Immunity of jurisdiction, i.e. legal action against a diplomatic agent or his/her family is not permitted except in the case of:

- A real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- An action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- An action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

6.2.9 Conventional Ways of Dealing with Diplomatic Staff

The receiving state has the liberty to deal with diplomatic staff in their country if in their opinion certain diplomatic protocol has been breached. The receiving state may decide to take any of the actions below:

- i) If the receiving state is dissatisfied with the conduct of a diplomat, it can send a protest note to the sending state.
- ii) The receiving state can request the sending state to recall the staff.
- iii) The receiving state can declare a diplomatic staff a persona non grata/an unwanted person in the receiving state.

6.2.10 Summary

In this topic we have discussed the concept of diplomacy, the importance of diplomacy in regional and international co-operation and the qualities of a diplomat. We have also examined the functions of diplomatic missions, classification of diplomatic missions as well as the privileges and immunities of the diplomatic staff. Finally, we have examined the conventional ways of dealing with diplomatic staff. In the next topic we are going to discuss issues related to regional integration.

6.2.11 Activities

1. Discuss ways in which diplomacy can be used as a tool for political stability in Kenya.
2. As an Administrative officer deployed at border post, your area of jurisdiction is experiencing conflicts as a result of cross-border cattle rustling. Discuss diplomatic ways you would use to mitigate such conflicts.
3. Discuss conventional ways of dealing with a diplomat.

6.2.12 References

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6.3 REGIONAL INTEGRATION

Outline

6.3.1 Introduction

6.3.2 Specific Objectives

6.3.3 Concept of Regional Integration

6.3.4 Regional Blocs in Africa

6.3.5 Role of Regional Integration with respect to Kenya's Socio-economic and political development

6.3.6 Summary

6.3.7 Activities

6.3.8 References

6.3.1 Introduction

Countries within the same geographical regions have linked up to promote their political, economic and social status through pulling together resources, ideas, capital among others and enjoying the economies of scale through these associations. This has been achieved through the formation of economic blocs and regional associations. As an Administrative Officer, you are expected to promote the spirit of regional integration through your interaction with other personnel from other countries in the course of your work. This course unit is intended to equip you with knowledge, skills and attitudes that will enable you perform your role effectively in this respect.

6.3.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of regional integration;
- ii) Describe regional blocs in africa; and
- iii) Assess the role of regional integration to kenya's socio-economic and political development.

6.3.3 Concept of Regional Integration

Regional Integration is a process in which neighbouring states enter into an agreement in order to upgrade cooperation through common institutions and rules. Regional integration could have as its objective political or economic goals or in some cases, a business initiative aimed at broader security, Socio-cultural and commercial purposes.

6.3.4 Major Regional Blocs in Africa

A regional trading bloc is a group of countries within a geographical region that protect themselves from imports from non-members while strengthening trade and other relationships among themselves. Trading blocs are forms of economic integration, and increasingly shape the pattern of world trade. These blocs in Africa include:

6.3.4.1 African Union (AU)

The African Union is a continental union consisting of 55 member states located on the continent of Africa. The AU was announced in the Sirte Declaration in Sirte, Libya, on 9 September 1999, calling for its and was officially launched in July 2002 in Durban, South Africa. It was intended to replace its predecessor, the Organisation of African Unity (OAU). It is headquartered in Addis Ababa, Ethiopia.

6.3.4.1.1 Organs of AU

The following are the organs of AU:

- i) Executive Council
- ii) The Union Assembly
- iii) Permanent Representative Committee
- iv) Specialised Technical Committees
- v) NEPAD/AU Development Agency
- vi) AU Foundation
- vii) Judicial, Human Rights and Legal Organs
- viii) The AU Commission
- ix) The Economic, Social & Cultural Council.
- x) The Financial Institutions
- xi) The Pan-African Parliament
- xii) The Peace & Security Council.
- xiii) African Peer Review Mechanism.
- xiv) Regional Economic Communities
- xv) Specialised Agencies and Institutions.

6.3.4.1.2 Objectives of the AU

The objectives of the AU are:

- i) To achieve greater unity, cohesion and solidarity between the African countries and African nations.
- ii) To defend the sovereignty, territorial integrity and independence of its Member States.
- iii) To accelerate the political and social-economic integration of the continent.

6.3.4.2 Economic Community of West African States (ECOWAS)

The Economic Community of West African States is one of Africa's major economic blocs. The trade bloc is made up of African countries found in the western part of the continent. Currently, there are 15 countries that make up the membership of ECOWAS. They include; Benin, Burkina Faso, Cape Verde, Gambia, Ghana, Guinea-Bissau, Guinea, Ivory Coast, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. These countries cumulatively cover an area of over 1.97 million square miles and a population of 349 million people as at the year 2015. The official languages used during proceedings of the union are English, Portuguese and French.

ECOWAS was instituted in 1975 as part of the “Treaty of Lagos,” whose sole purpose was to integrate the economies of member countries by removing significant barriers to trade. In 1991, member states agreed on the formation of a judicial arm of the union, the Community Court of Justice whose mandate is to protect citizens against human rights violations.

6.3.4.3 East African Community (EAC)

The EAC comprises of states from the eastern part of the continent and include Kenya, Rwanda, Tanzania, Uganda, South Sudan, and Burundi. It is headquartered in Arusha, Tanzania and covers a total area of 0.952 million square miles. It has a population of over 168 million people with accumulative GDP of \$0.232 billion.

The bloc was established in 1967, but internal wrangles led to its collapse in 1977, before it was later revived in 2000. The Community is among the most integrated of all trade blocs in Africa, as it is a free trade area. While there are presently six currencies recognized in the EAC, there are plans to establish a common currency to be universally used in all member states.

The EAC has established various organs such as; The Summit, The Council of Ministers, the co-ordinating Committee, The Sectoral Committees, The East African Court of Justice, The East African Legislative Assembly and the Secretariat.

6.3.4.3.1 The EAC Common Market Protocol (CMP)

The CMP was established in November 2009 and became operational in July 2010. The objectives of the CMP are:

- i) To widen and deepen co-operation among the partner states in the economic and social fields.
- ii) Removal of restrictions on the movement of goods, persons, labour, services and capital, and the rights of establishment and residence. The CMP guarantees the free movement, within the region, of workers who are the citizens of the member states.
- iii) It entitles workers to apply for employment and accept offers of employment made.
- iv) Free movement of workers within the territories of the partner states for the purpose of employment; and conclude contracts and take up employment in accordance with the contracts, national laws and administrative actions.
- v) Guarantees the worker to stay in the territory of a partner state for the purpose of employment in accordance with the national laws and administrative procedures governing the employment of workers of that partner state;
- vi) Workers enjoy the freedom of association and collective bargaining for better working conditions in accordance with the national laws of the host partner state; and enjoy the rights and benefits of social security as accorded to the workers of the host partner state.
- vii) Requires the partner states to ensure that workers do not face discrimination in employment, remuneration and other conditions of work because of their citizenship.
- viii) The EAC member states also committed to mutually recognize academic and professional qualifications granted by the member states.

6.3.4.3.2 Benefits Kenya derives from being a member of EAC

Kenya benefits from being a member of the EAC in the following ways:

- i) Kenya enjoys wider market with a combined population of 160 million people.
- ii) Kenya enjoys freedoms under common market.

- iii) EAC safeguards Kenya from international economic shock.
- iv) Kenya enjoys single benefits of single tourist destination.
- v) Infrastructure development.
- vi) Peace and stability as no member country is willing to sport insurgency against Kenya's government.
- vii) Joint/shared resources are shared amicably.

6.3.4.4 Economic Community of Central African States (ECCAS)

This regional economic organization was formed in October 1983. It is the only regional bloc where English is not used as a working language, with French, Portuguese, and Spanish being the official languages.

Headquartered in Libreville, Gabon. The regional economic organization is comprised of 10 countries namely; Angola, Burundi, Cameroon, Central African Republic, Congo, Democratic Republic of Congo, Gabon, Guinea, Chad and São Tomé and Príncipe.

6.3.4.5 Southern African Development Community (SADC)

The SADC is an intergovernmental bloc currently made up of 16 countries, all drawn from southern and central Africa. It has its headquarters in Gaborone, Botswana. The member countries are; Angola, Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Democratic Republic of Congo, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe. The primary purpose of the bloc is to integrate the economic and political relations among its member countries.

SADC covers a combined area of 3.815 million square miles, making it among Africa's largest intergovernmental organizations, and is home to an estimated 277 million people. The cumulative GDP of the economic bloc is estimated to be \$0.909 billion.

6.3.4.6 Intergovernmental Authority for Development (IGAD)

The IGAD is an economic bloc that covers the countries in the Horn of Africa namely; Djibouti, Ethiopia, Kenya, Uganda, Somalia, South Sudan, Eritrea, Ethiopia, and Sudan. It is headquartered in Djibouti City, Djibouti. The IGAD was formed in 1996 and was preceded by another major trade bloc in the region, IGADD (Intergovernmental Authority on Drought and Development).

6.3.4.6.1 Objectives of IGAD

The ultimate goal of IGAD is to achieve economic integration and sustainable development for the region. The objectives of IGAD are to:

- i) Promote joint development strategies and gradually harmonize macro-economic policies and programmes in the social, technological and scientific fields;
- ii) Harmonize policies with regard to trade, customs, transport, communications, agriculture, and natural resources, and promote free movement of goods, services, and people within the region.
- iii) Create an enabling environment for foreign, cross-border and domestic trade and investment;
- iv) Initiate and promote programmes and projects to achieve regional food security and

sustainable development of natural resources and environment protection, and encourage and assist efforts of Member States to collectively combat drought and other natural and man-made disasters and their consequences;

- v) Develop a coordinated and complementary infrastructure, in the areas of transport, telecommunications and energy in the region;
- vi) Promote peace and stability in the region and create mechanisms within the region for the prevention, management and resolution of inter-State and intra-State conflicts through dialogue;
- vii) Mobilize resources for the implementation of emergency, short-term, medium-term and long-term programmes within the framework of regional cooperation;
- viii) Facilitate, promote and strengthen cooperation in research development and application in science and technology.

6.3.4.7 Common Market for Eastern and Southern Africa (COMESA)

The COMESA was formed in 1994 and comprises of the following member countries: Kenya, Ethiopia, Libya, Sudan, Madagascar, Zambia, Comoros, Eritrea, Seychelles, Djibouti, Malawi, Uganda, Rwanda, Swaziland, Mauritius, Egypt, Zimbabwe, DRC, and Burundi. The objectives of COMESA are to:

- i) promote regional integration through trade and the development of natural and human resources for the mutual benefit of all people in the region.
- ii) establish a full free trade area guaranteeing the free movement of goods and services produced within COMESA and the removal of all tariffs and non-tariff barriers.
- iii) establish a customs union under which goods and services imported from non-COMESA countries will attract an agreed single tariff (Common External Tariff) in all COMESA Member States.
- iv) promote free movement of capital and investment supported by the adoption of a common investment area so as to create a more favourable investment climate for the COMESA region.
- v) Gradually establish a payment union based on the COMESA Clearing House and the eventual establishment of a common monetary union with a common currency.
- vi) Gradually relaxation and eventual elimination of visa Requirements leading to the Free Movement of Persons Labour, Service, Right of Establishment and Residence.

6.3.5 Role of Regional Integration to Kenya's Socio-economic and Political Development

Regional integration has the potential to influence a country's economic, social and political affairs. The relationships formed between Kenya and other countries has resulted in many achievements which have benefited the country. These benefits include:

- i) Lowering of barriers to trade, thus benefiting the economy and increasing the well-being of Kenyans.
- ii) Deterring violent conflicts between nations.
- iii) Resolution of Conflicts/political disputes within the regional bloc.
- iv) Promotes education and cultural exchanges.
- v) Creates a larger regional market which will lead to economies of scale, lower transaction costs, increased competition and greater attractiveness as a destination for foreign direct investments.

- vi) Enhanced protection of Local industries against international competition thus enabling the growth of industries.
- vii) Increase employment opportunities as a result of expanded regional market for the local products.
- viii) Availability cheaper goods and services as a result of removal of tariffs within the Common Markets.
- ix) Increased revenue due to increase in potential customers.

6.3.6 Summary

In this topic we have examined the concept of regional integration with specific reference to African countries. We have further analysed the major regional blocs in Africa and discussed the role of regional integration to Kenya's socio-economic and political development. In the next topic we shall discuss issues related to multilateral and international organizations.

6.3.7 Activities

1. Discuss the effects of regional integration on economic development and governance in Kenya.
2. Discuss how Regional integration is promoting socio-cultural development in Kenya.
3. Analyse factors that hinder the AU from achieving its objectives.

6.3.8 References

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6.4 MULTI-LATERAL AND INTERNATIONAL ORGANIZATIONS

Outline

- 6.4.1 Introduction
- 6.4.2 Specific Objectives
- 6.4.3 Concept of multi-lateral and international Organizations
- 6.4.4 Objectives and functions of the multilateral and international organisations;
- 6.4.5 Benefits of cooperating with various multi-lateral and international organisations;
- 6.4.6 Emerging trends within the Multi-lateral and International Organization;
- 6.4.7 Summary
- 6.4.8 Activities
- 6.4.9 References

6.4.1 Introduction

As an Administrative Officer, you may be expected to interact with and coordinate the activities of multi-lateral and international organizations that operate within your area of jurisdiction for

enhanced service delivery. This topic is therefore designed to equip you with knowledge, skills and attitudes that will enable you perform this role effectively.

6.4.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of multi-lateral and international organisations;
- ii) Examine the objectives and functions of multilateral and international organisations;
- iii) Evaluate the benefits accruing to Kenya from cooperating with various multi-lateral and international organisations; and
- iv) Assess the emerging trends within multi-lateral and international organizations.

6.4.3 Concept of Multi-lateral and International Organizations

Multilateral organizations are formed by three or more nations to work on economic, social and governance issues relevant to each of them. They ensure participation by all in the management of world affairs while ensuring the legitimacy of any relief efforts being implemented. International organizations serve many diverse functions including:

- i) Collecting information and monitoring trends;
- ii) Delivering of services and aid;
- iii) Providing fora for bargaining;
- iv) Settling disputes; and
- v) Promoting international peace.

6.4.4 Objectives and Functions of Multi-lateral and International organizations

Multi-lateral and International organizations are important actors in the critical episodes of international politics. There are several multi-lateral organizations with different objectives and functions. These include:

6.4.4.1 The United Nations (UN)

The United Nations is an international organization founded in 1945 after the Second World War by 51 countries committed to maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights.

6.4.4.1.1 Organs of the UN

The UN is composed of the following organs:

- i) General Assembly
- ii) Security Council,
- iii) Economic and Social Council,
- iv) Trusteeship Council,
- v) International Court of Justice
- vi) Secretariat.

6.4.4.1.2 Principles of the UN

The principles of the UN are:

- i) The Organization is based on the principle of the sovereign equality of all its Members.

- ii) All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the UN Charter.
- iii) Members are required to settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
- iv) Members are expected to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
- v) Members are expected to give the United Nations every assistance in any action it takes in accordance with the UN Charter, and refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
- vi) The UN ensures that states which are not Members act in accordance with the Principles of the Organization so far as may be necessary for the maintenance of international peace and security.
- vii) The UN refrains from intervening in matters which are essentially within the domestic jurisdiction of any state. Members may submit such matters to settlement under the present Charter.

6.4.4.1.3 Role of the UN

The following are the roles of the UN:

- i) To maintain international peace and security.
- ii) To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.
- iii) To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character.
- iv) To promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.
- v) To be a center for harmonizing the actions of nations in the attainment of common goals.

6.4.4.2 The World Bank

The World Bank is an international organization dedicated to providing financing, advice, and research to developing nations to aid their economic advancement. It was established in 1944 at the Bretton woods conference for the purpose of reconstruction of economies devastated by the second world war. The bank predominantly acts as an organization that attempts to fight poverty by offering developmental assistance to middle- and low-income countries.

6.4.4.2.1 Objectives of World Bank

The objectives of World Bank are:

- i) End extreme poverty and promote shared prosperity in a sustainable way.
- ii) Help people help themselves and their environment by providing resources, sharing knowledge, building capacity, and forging partnerships in the public and private sectors.
- iii) Alleviate poverty by giving loans and credits on advantageous terms not available in the market.

- iv) Give grants to poor countries to initiate various development projects in the areas of education, healthcare, agriculture, environmental and natural resource management and infrastructure.
- v) Provide diverse employment opportunities such as internships, training programs for young professionals, and jobs for economists, financial specialists, lawyers, educators among others.

6.4.4.3 United Nations International Children's Education Fund (UNICEF)

The United Nations Children's Fund (UNICEF), originally known as the United Nations International Children's Emergency Fund, was created by the United Nations General Assembly on 11 December 1946, to provide emergency food and healthcare to children and mothers in countries that had been devastated by World War II. In 1950, UNICEF's mandate was extended to address the long-term needs of children and women in developing countries. In 1953 it became a permanent part of the United Nations System, and the words "international" and "emergency" were dropped from the organization's name, though it retained the original acronym, "UNICEF".

It relies entirely on contributions from governments and private donors. Its total income as of 2018 was \$5.2 billion, of which two-thirds came from governments; private groups and individuals contributed the rest through national committees.

6.4.4.3.1 Functions of UNICEF

The functions of UNICEF are:

- i) Improving the health of the world's children through Implementing healthcare projects abroad, such as immunization, oral rehydration for babies with diarrhoea, HIV/AIDS education and micronutrient supplementation
- ii) Offers a variety of health related as well as non-health related careers.
- iii) Promoting education for children.
- iv) Providing emergency relief in response to disasters.

6.4.4.4 World Health Organization

The World Health Organization is a specialized agency of the United Nations responsible for international public health. It was set up shortly after the Second World War as a multilateral health organization uniting country in the common goals of fighting disease and achieving better health for the world. Its Constitution, which establishes the agency's governing structure and principles, states its main objective as "the attainment by all peoples of the highest possible level of health.

6.4.4.4.1 Functions of WHO

The Functions of the WHO are:

- i) Providing leadership on matters critical to health and engaging in partnerships where joint action is needed;
- ii) Shaping the research agenda and stimulating the generation, translation and dissemination of valuable knowledge;
- iii) Setting norms and standards and promoting and monitoring their implementation;
- iv) Articulating ethical and evidence-based policy options;

- v) Providing technical support, catalysing change, and building sustainable institutional capacity; and
- vi) Monitoring the health situation and assessing health trends.

6.4.4.5 The African Caribbean and Pacific Organisation (ACP)

This is an intergovernmental association made up of 79 countries from across the global South: 48 from sub-Saharan Africa, 16 from the Caribbean and 15 from the Pacific. It constitutes the largest trans-regional intergovernmental association of developing States, serviced by a fully staffed Secretariat in Brussels, and signed onto a comprehensive legally binding partnership treaty with the European Union (EU) known as the ACP-EU Partnership Agreement.

This Agreement covers trade, development cooperation and political dialogue.

6.4.4.5.1 Objectives of ACP

The diverse membership of the ACP Group is bound together by common values and objectives. These objectives are to:

- i) promote and strengthen the existing solidarity of the ACP States and understanding between ACP peoples and governments.
- ii) contribute to the development of greater and closer economic, social and cultural relations among developing countries and, to that end, cooperation between the ACP States in the various fields such as trade, science and technology, industry, research and communications.
- iii) contribute to the promotion of effective regional, interregional and intra-ACP cooperation among the ACP States and between developing countries in general, and to strengthen the regional organizations to which they belong.

6.4.4.6 Food Programme (WFP)

This is the food assistance branch of the UN. It is a member of UN development group and its part of the executive committee. It is assisting almost 100 million people in around 83 countries each year and it is the leading humanitarian organization saving lives and changing lives, delivering food assistance in emergencies and working with communities to improve nutrition and build resilience. Its objectives are to:

- i) Address hunger and promote food security; and
- ii) Help people who cannot produce food and sustain themselves.

6.4.4.7 United Nations Education, Scientific and Cultural Organization (UNESCO)

UNESCO is a specialized agency of the UN aimed at promoting world peace and security through international cooperation in education, the sciences and culture. It is headquartered in Paris, France. The functions of UNESCO are to:

- i) Promote intellectual cooperation and mutual understanding of people through all means of mass communication.
- ii) Give fresh impulse to popular education.
- iii) Give fresh impulse to the spread of culture.
- iv) Maintain, increase and diffuse knowledge.
- v) Encourage scientific research and training.
- vi) To apply science to ensure human development and rational management of natural resource.

6.4.5 Benefits Kenya Derives from Multi-lateral and International Organizations

The benefits Kenya derives from multilateral and international organizations include:

- i) Provide support in preparation and financing of a number of infrastructure projects in Kenya.
- ii) Support development of agriculture, food security and rural growth.
- iii) contribute to improvements in macroeconomic policy.
- iv) Promote good governance through direct support to the secretariat of the Africa Peer Review Mechanism (APRM) which Kenya is a member.
- v) Support human and social development in areas such as Health, Education and Human Resources, Gender, Youth and Development, Social Welfare, Labour and Employment, Sports and Culture.
- vi) Promote gender equality and the empowerment of women.
- vii) assist in the formulation and implementation of environmental, population and urbanization policies.
- viii) Strengthening Security and legal Structures in terms peace and security, post-conflict reconstruction and development, human rights, justice and reconciliation.

6.4.6 Emerging Trends Within Multi-lateral and International Organizations

By observing the processes currently manifest within various multilateral institutions, it is possible to identify the trajectories of change that have emerged and appear likely to continue in the near future:

- i) global governance is here to stay, but is increasingly contested;
- ii) a struggle is ensuing for leadership and privilege within global governance;
- iii) the liberal social purpose of global governance is taking a back seat;
- iv) Increased competition from emerging technologies which has revolutionised the whole area of communication and marketing.
- v) informalization is likely to increase; and
- vi) global governance is becoming more fragmented.

6.4.7 Summary

In this topic we have examined the concept of multi-lateral and international organisations and analysed their objectives and functions. We have also evaluated the benefits accruing to Kenya from co-operating with various multi-lateral and international organisations. Finally, we have discussed some of the emerging trends within multi-lateral and international organizations. In the next topic we will discuss issues related to trans-border management.

6.4.8 Activities

Discuss the challenges faced by each of the following of multi-lateral agencies in realization of their agenda in East Africa.

1. Food and Agricultural Organization (FAO)
2. World Bank
3. World Health Organization
4. UNICEF

6.4.9 References

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6.5 TRANS-BORDER MANAGEMENT

Outline

- 6.5.1 Introduction
- 6.5.2 Specific Objectives
- 6.5.3 Trans-border co-operation;
- 6.5.4 Methods of conflicts resolution across the border;
- 6.5.5 Refugees' management and repatriation issues;
- 6.5.6 Trans-border development and resource sharing;
- 6.5.7 Management of border relations;
- 6.5.8 Benefits of border trade management.
- 6.5.9 Summary
- 6.5.10 Activities
- 6.5.11 References

6.5.1 Introduction

As an Administrative Officer, you may be required to provide leadership in the management of border related issues in the course of your duties. This topic is designed to equip you with knowledge, skill and attitude that will enable you provide such leadership.

6.5.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe areas of trans-border co-operation;
- ii) Assess methods of conflicts resolution across the border;
- iii) Analyse the refugees' management and repatriation issues;
- iv) Examine the trans-border development and resource sharing;
- v) Assess the management of border relations; and
- vi) Evaluate benefits of border trade management.

6.5.3 Trans-border Co-operation

Trans-border co-operation refers to the interactions along borders between countries. There are several areas in which trans-border co-operation occurs. These include the following:

- i) Economic co-operation: This occurs when communities participate in trans-border trade and labour-exchange.
- ii) Socio-cultural co-operation: this include cooperation in cultural activities such as marriages, initiation ceremonies among others.
- iii) Infrastructure integration: Regional integration and cooperation can be promoted by development of infrastructure such as road networks, railways, harbours, telecommunication, water supply among others. The infrastructure programme is designed to promote a coordinated and prioritized approach to scale up infrastructure development.
- iv) Harmonisation of Environmental policy: Trans-border cooperation will ensure strong environmental governance driven by effective institutions. The purpose of harmonization is to provide a mechanism for high-level regional trans-border consultation charged with coordinating and ensuring consistency in environmental initiatives across the border.
- v) Health care: One of the fields where the Cross-Border Cooperation (CBC) could be applied in many African border regions, is the healthcare, which has been until now provided mainly on a national basis.
- vi) Mobility and public transport: Coordination of national and regional strategies for development of public transport and mobility initiatives are crucial for effective transport system.
- vii) Education: Cross-border education refers to the movement of people, across borders in search of education opportunities.
- viii) Media and telecommunications: This involve cooperation in telecommunications and media development.

6.5.4 Trans-border Conflict Resolution

Trans-border conflict is an inevitable aspect within societies at the border. Conflict resolution includes not only mediation between the parties but also efforts to address the wider context in which the conflicts occur. Conflict resolution mechanisms may involve the following:

- i) Disarmament.
- ii) Peace building meetings.
- iii) Fact-finding missions and peace commissions.
- iv) Prosecuting perpetrators.
- v) Declaring illicit firearms.
- vi) Surrender amnesties.
- vii) Establishing peace committees.
- viii) Strengthening the capacity of conflict resolution within societies and political institutions.

6.5.5 Refugee Management and Repatriation

There is pressure on governments to deal with the logistical and human impacts of the refugee crisis which has affected several countries in the recent past. The persons of interest include refugees, asylum-seekers, stateless people, some internally displaced people and returnees.

Managing refugees involve four phases of a refugee journey, namely:

- i) Escaping from war. Situations.

- ii) Arrival phase Reaching safety and security.
- iii) Protection, settlement and integration.
- iv) Repatriation phase.

6.5.5.1 The United Nations High Commission for Refugees (UNHCR)

UNHCR promotes three durable solutions for refugees as part of its core mandate. These are;

- i) Voluntary repatriation
- ii) Local integration
- iii) Resettlement.

6.5.5.1 Voluntary Repatriation

Voluntary repatriation involves:

- i) Providing information and advice on the situation in the country of origin.
- ii) Facilitating return, by negotiating tripartite agreements between the country of asylum, country of origin and UNHCR.
- iii) Promoting “Go and See” visits to facilitate the repatriation process.
- iv) Monitoring the repatriation and reintegration process in cooperation with other key actors.
- v) Promoting development assistance and sustainable reintegration.

6.5.5.2 Local Integration

This involves:

- i) Advocating for the advantages of integrating the refugee population into host communities.
- ii) Advising on laws and policies on asylum and migration to facilitate integration.
- iii) Promoting dialogue between countries of asylum to share good practices on local integration.
- iv) Identifying implementing partners to participate in reintegration projects, such as NGOs for microfinance schemes, vocational training and community mobilization projects.

6.5.5.3 Resettlement

Resettlement may involve:

- i) Coordinating resettlement needs and promote cooperation among relevant actors.
- ii) Developing resettlement criteria and identify candidates for resettlement.
- iii) Promoting resettlement in combination with other durable solutions.
- iv) Lobbying for resettlement opportunities, including increased quotas, diversified intake, introduction of more flexible selection criteria, and a greater number of resettlement country agreements.
- v) Ensuring emergency resettlement, including through emergency resettlement centers.

6.5.5.4 Role of UNCHR

The UNCHR has the task of protecting refugees as one of its duties. The protection of refugees has many aspects. These include:

- i) Safety from being returned to the dangers they have fled.
- ii) Access to asylum procedures that are fair and efficient.
- iii) Develop measures to ensure that their basic human rights are respected.

- iv) Allow them to live in dignity and safety.
- v) Help refugees to find a more durable, long-term solution.
- vi) Promote and extend the international legal framework
- vii) Develop and strengthen asylum systems
- viii) Improve protection standards

6.5.6 Trans-border Development and Resource Sharing

There are various factors that should be considered in trans-border development and resource sharing. These include:

- i) Cross-border dynamics determine how resources are developed and shared. There are common resources on both sides of the border that are easily shared. These range from access to social services, animal health, security, ecosystems/natural resources, market linkages etc. Expectations from cross border development should be clear from the outset: e.g. the focus can be placed on coordination, and natural resource management. Initially, development agenda should focus on one or a few areas. Cross-border development should aim at the equitable delivery of services.
- ii) Development partners can play a coordination role between local authorities of the countries involved who are by definition limited in their interventions by international borders. For example, a cross-border NGO can support veterinary services to undertake vaccination campaigns concurrently.
- iii) Legal and policy frameworks of the countries of intervention need to be well understood as they can widely differ and pose operational challenges such as vehicle movements, labour laws, immigration, import/export of goods, etc.
- iv) Development partners should always remember that national governments are sovereign, and that certain cross-border issues can be extremely contentious not only between communities but also between governments: e.g. natural resource management (e.g. dams on one side of the border, cutting water flow to the other), disarmament and security.
- v) Internal coordination and project management in a cross-border context requires the implementing partner to have a clear integrated/well-coordinated internal management structure to ensure that the project is implemented in a “cross-border” way, rather than as two projects in two different countries.

6.5.7 Border Relations Management

Border areas need coordinated border management strategies. These require close coordination among competent authorities at border locations. Coordinated border management strategies provide for coordination of policies, programmes, and delivery among cross-border regulatory agencies with the aim of strengthening the management of trade and travel flows, while also addressing security concerns.

6.5.8 Border Trade Management

Cross-border trade is a major feature of African economic and social landscapes. Traders regularly cross borders to exchange goods and services, giving rise to intense flows that account for a significant part of the continent's total trade. Cross-border trade typically happens at small scale and is often dominated by women. Traders generally exchange small quantities of modest value, due to a variety of constraints including limited financing, poor-quality inputs, low capacity, lack of machinery, and inefficient marketing and distribution channels, among others. They may not necessarily be registered as formal business owners, yet generally do not operate with the specific goal of circumventing existing laws, applicable taxes, and relevant procedures. Border trade is important in the following ways:

- i) Contributes to the income of a significant proportion of Africa's population.
- ii) It supports livelihoods
- iii) It creates employment, especially for disadvantaged and marginalised groups.
- iv) It facilitates food security.
- v) It is essential for welfare and poverty reduction.
- vi) It is important in conflict-affected states as it allows vulnerable populations to reconnect with the world and access goods and services that are key for their economic and social recovery.
- vii) It helps generate solidarity between border communities, and thus critically contributes to promoting peace and stability.

6.5.9 Summary

In this topic we have examined areas of trans-border co-operation and assessed the methods of conflicts resolution across the border. We have also analysed refugees' management and repatriation issues as well as trans-border development and resource sharing initiatives including the management of border relations. Finally, we have evaluated the benefits of border trade management. This now brings us to the end of our discussion in the regional and international cooperation course unit.

6.5.9 Activities

1. Describe the process of acquiring refugee status in Kenya.
2. Discuss benefits that may accrue to Kenya as a result of proper border management.

6.5.10 References

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7.0 EFFECTIVE COMMUNICATION- 107

7.0.1 Introduction

It is important for organizations including the public service to ensure that there is effective communication both internally and externally. As an Administrative Officer, you will be required to effectively communicate not only with other employees in the public service but also with other stakeholders. This will ensure good working relations with all the people you interact with in the course of service delivery.

This course unit is therefore designed to equip you with knowledge, skills and attitudes that will enable you communicate effectively when delivering public services.

7.0.2 Course Unit Summary

	TOPIC	SUB-TOPICS
7.1	Introduction to Communication	- Concept of communication - Elements of communication process - Principles of effective communication - Types of communication - Barriers to effective communication in government - Strategies to overcome barriers to effective communication in Government
7.2	Official Communication	- Office correspondence - Speech preparation, writing and delivery - Oral presentations skills - Communication etiquette and protocol - The use of national, official and indigenous languages in Government communication
7.3	Communication in Government	- Communication policy issues and practices in Government - Procedure for communicating Government information - Roles and responsibilities of the Government communication office - Challenges of communication in Government - Strategies to overcome communication challenges in Government
7.4	Management of Meetings	- Concept of meetings - Classification of meetings - Role of different parties to a meeting - Preparation and conduct of meetings - Minutes - Follow-up on meetings decisions
7.5	Report Writing	- Nature of reports - Principles of report writing - Format of a formal report
7.6	Public Relations	- Concept of Public Relations - Importance of Public Relations - Elements of Public Relations - Public Relations tools - Media relations

7.1. INTRODUCTION TO COMMUNICATION

Outline

- 7.1.1. Introduction
- 7.1.2. Specific objectives
- 7.1.3. Concept of communication
- 7.1.4. Elements of communication process
- 7.1.5. Principles of effective communication
- 7.1.6. Types of communication
- 7.1.7. Barriers to effective communication
- 7.1.8. Strategies to overcome barriers to effective communication
- 7.1.9. Summary
- 7.1.10. Activities
- 7.1.11. References

7.1.1 Introduction

Your work as an Administrative Officer entails communicating with different stakeholders. You should therefore be able to adopt appropriate communication for different occasions in order to enhance your effectiveness in service delivery. Further, you will require to be effective in written, oral and non-verbal communication.

This topic is therefore designed to equip you with the knowledge, skills and attitudes that will enable you to analyse the elements of the communication process, examine the principles of effective communication and assess types of communication in government. You should also be able to analyse barriers to effective communication in government and examine ways to overcome them.

7.1.2. Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of communication;
- ii) Analyse elements of the communication process;
- iii) Examine the principles of effective communication;
- iv) Assess the types of communication;
- v) Analyse barriers to effective communication in Government; and
- vi) Examine ways to overcome barriers to effective communication in Government.

7.1.3. Concept of Communication

Communication is defined as the exchange of messages, ideas or information between two or more persons, through a medium, in a manner that the sender and the receiver develop common understanding of the message. A message is only considered successfully communicated when both the sender and the receiver perceive and understand it in the same way.

The word communication is derived from the Latin word '*communicare*', which means to share, impart, participate, exchange, transmit, or to make common. The emphasis here is on sharing common information, ideas and messages (Weekley, E., 1967).

Communication has the following features:

- i) A two-way process - it is a two-way process of understanding between two or more persons.
- ii) A continuous process - the exchange of ideas and opinions is an ongoing process which promotes understanding and exchange of information relevant for decision-making.
- iii) A dynamic process – it keeps changing depending on the context.
- iv) Pervasive - it is a universal activity that takes place at all levels of management in an organization.
- v) Verbal and non-verbal - it is expressed in words, gestures, facial expressions, sounds, signs and symbols.
- vi) Goal-oriented - the receiver and sender should know the purpose they intend to achieve through communication.

Communication is important in an organization as it is the basis for planning, coordination, motivation, decision making, good leadership and implementation of organizational plans.

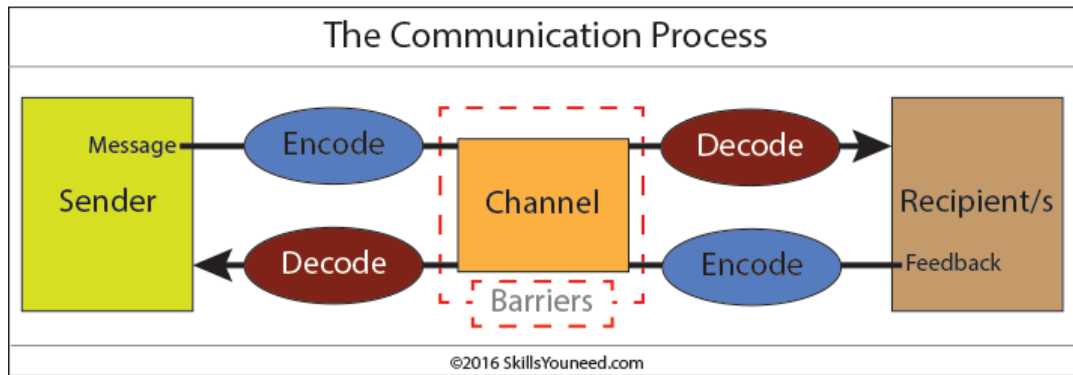
7.1.4. Elements of the Communication Process

A process is a systematic series of actions, operations or changes directed to some end. The communication process consists of a series of elements which results in sharing of meaning between the sender and the receiver.

These elements include:

- i) Sender - this is the source of the message or the person who initiates, generates and sends the message.
- ii) Message - this is the idea or information that the sender wants to convey.
- iii) Encoding - this means translating the message into words, symbols or gestures which can be understood by the receiver.
- iv) Transmission - this involves selecting the medium or channel of communication.
- v) Receiver - this is the person or a group of persons to whom the message is conveyed.
- vi) Decoding - this refers to giving meaningful interpretation to the message. It involves translating the symbols into meaningful information.
- vii) Feedback - this is the receiver's response to the sender's message.
- viii) Context - this is the situation in which you are communicating. It involves the communication environment, the culture of your organization, and the elements such as the relationship between you and your audience.
- ix) Noise - it represents any disturbing factor in the process of communication. It interferes with effective communication and reduces clarity of the message.

The diagram below summarizes the communication process and its elements.



7.1.5. Principles of Effective Communication

As an Administrative Officer, you need to follow certain principles in order to communicate effectively. These principles include:

- i) Clarity - the sender of a message should be clear about the objective of communication. A clear message should be well thought out and be well expressed.
- ii) Conciseness - communication should be brief and to the point by giving relevant details only.
- iii) Completeness - the sender needs to include all the relevant facts to ensure that the receiver is not left in doubt.
- iv) Courtesy - the speaker must aim at creating friendliness with his/her audience. You should listen to and be polite to your audience.
- v) Correctness - the communicating parties should give correct information and use a language that is understood by the audience. Communication should be done at the right time and the message passed to the right audience.
- vi) Consideration - the speaker should observe the ethical principles of sincerity and fair treatment, be impartial and emphasize on positive and pleasant facts.
- vii) Consistency - it should be consistent with organization's policies.
- viii) Continuity – it should be continuous.
- ix) Credibility - the communicator should build trust and confidence.

7.1.6. Types of Communication

As an Administrative Officer, you are required to have knowledge of the various types of communication used in government. The classification of communication is based on the following:

7.1.6.1 The Media Used

Based on the media used, communication is classified into:

- i) Oral communication - this refers to the form of communication in which the message is transmitted by word of mouth. It includes face-to-face conversations, speeches, telephone conversations, meetings, conferences, lectures, interviews or radio communications.
- ii) Written communication - in written communication, signs or symbols are used to communicate. This includes written words, graphs, diagrams and pictures. The circulars, emails, letters, reports, memos, magazines, notes and manuals are common forms of written communication in organizations.

- iii) Nonverbal Communication - this involves sending or receiving wordless messages. It includes gestures, facial expressions, body movements, actions, appearance, objects and paralanguage (e.g. voice, tone, volume, rate, and touch) which make our communication more effective. Nonverbal communication helps the receiver in interpreting the message received.
- iv) Visual communication - this is the act of using photographs, art, drawings, sketches, charts and graphs to convey information. Visuals are often used as an aid during presentations to provide helpful contexts alongside written and verbal communication.

7.1.6.2 Formality

Based on formality, communication is classified into:

- i) Formal communication - formal communication is governed by established chain of command. It is associated with the formal organization structure and the official status of the communicator and the receiver. It travels through formal channels in the organization chart. The forms of formal communication include departmental meetings, conferences, company news bulletins, interviews and publications.
- ii) Informal/grapevine communication - this type of communication does not follow any prescribed rule or procedure. It is free from all sorts of formalities because it is used on informal relationships between the parties involved. The grapevine is a supplement in those cases where formal communication does not work and is sometimes a form of feedback to management. The grapevine also creates a sense of unity among the employees who share and discuss their views with each other. Thus, grapevine helps in developing group cohesiveness.

7.1.6.3 Direction of Flow

Based on the direction of flow of information, communication is classified into:

- i) Downward communication - this refers to communication from higher designation to lower designation. Through downward communication, seniors send organizational goals, policies, job assignments, orders and instructions to their subordinates. Communication from supervisors to subordinate includes face to face communication, written memos, orders and job descriptions.
- ii) Upward communication - this refers to communication from lower designation to higher designation, e.g. reports or requests from subordinates. Through upward communication, subordinates convey their responses, reports, grievances, reactions, suggestions, proposals and performance feedback to their superiors.
- iii) Lateral / horizontal communication - this refers to communication among members working at the same level of organization or subordinates working under one boss. It is the information flow that occurs both within and between departments. In this type of communication, the issue of subordinates or the boss is not present. The purpose of lateral communication is coordination.

- iv) Diagonal communication - this occurs when information flows between persons at different levels who have no direct reporting relationships. Diagonal communication is used to speed information flow, to improve understanding and to coordinate efforts for the achievement of organizational goals.

7.1.6.4 Parties Involved

Based on the parties involved, communication is classified into:

- i) Internal communication - this refers to the flow of information within the organization. The main purpose of this communication is to ensure smooth functioning of organizational activities. Examples of internal communications are downward, upward, horizontal and diagonal communications between superiors and subordinates of an organization.
- ii) External communication - this refers to communication with external parties. External parties include customers, suppliers, investors, bankers, insurance companies, government agencies and local communities.

7.1.6.5 Number Involved

Based on the number of participants involved, communication is classified into:

- i) Intrapersonal Communication - this is the kind of communication that occurs within us. It involves thoughts, feelings, and the way we look at ourselves. Intra-personal communication has all the elements of the communication process because you are the sender and receiver of the message. The message is made up of your thoughts and feelings. The channel is your brain, which processes what you are thinking and feeling. There is feedback in the sense that you talk to yourself, discard certain ideas and replace them with others.
- ii) Interpersonal Communication - this is the communication we have with other people. It occurs mostly between two people, though it may include more than two. The way we communicate or fail to communicate with others determines whether our relationships with them will develop, continue or come to an end.
- iii) Public Communication - in public communication, the speaker sends a message to an audience. It refers to public speeches that we deliver in front of our audiences. Public communication serves three main purposes: to entertain, to persuade and to inform. The speaker might use additional visual channels such as slides and flip charts to communicate effectively. The opportunity for verbal feedback in public communication is limited. However, the audience can send nonverbal feedback through applause.
- iv) Mass Communication - this refers communication with large audiences through mass media. Examples of mass media include books, television, radios, films, computer technologies, magazines and newspapers. Mass communication enables us to learn what is going on in distant places in the world and lets us learn the viewpoints of people with whom we do not have direct contact.

- v) Small-Group Communication - this occurs when a small number of people meet to solve a problem. The group must be small enough so that each member in the group has a chance to interact with all other members. Small groups are made up of several senders/receivers. It offers a good deal of opportunity for feedback. In view of their problem -solving nature, small groups usually meet in formal settings.

7.1.7. Barriers to Effective Communication

Communication barriers lead to your message being misunderstood by your audience and occur at any stage in the communication process. They include:

- i) Language barriers - employees and customers may not all speak the same language or dialects. In addition, the linguistic ability or the terminologies used by the parties involved may act as a barrier to communication.
- ii) Psychological barriers: There are various mental and psychological issues that may hinder effective communication. Some people have stage fear, stress or are depressed. All these conditions may influence how the message is sent, received and perceived.
- iii) Physical barriers: These include barriers like loud noise, closed doors and faulty equipment used for communication.
- iv) Attitudinal barriers: These are behaviours or perceptions that prevent people from communicating effectively. They may result from personality conflicts, poor management, lack of motivation and resistance to change.
- v) Cultural barriers: People from different parts of the world communicate differently. So, it's important to understand the norms and expectations of other cultures. Different cultures have different meanings for several basic values of society. Dressing, religion, food, drinks, and the general behaviour will change drastically from one culture to another.
- vi) Organization structure barriers: These may exist in organizations where there are inefficient or inappropriate information systems, or where there is a lack of understanding of the roles and responsibilities for communication. Most of these barriers arise because of misinformation or lack of appropriate transparency available to the employees.
- vii) Perception barriers: Different people perceive the same things differently and this can hinder effective communication.
- viii) Physiological Barriers: Some disorders or diseases could prevent effective communication. The shrillness of voice and autism are some examples of physiological barriers to effective communication.
- ix) Technological Barriers: The technology is evolving fast and as a result, it becomes difficult to keep up with the newest developments. In addition, the cost of technology is sometimes very high. Most of the organizations will not be able to afford an appropriate technology for the purpose of communication.

7.1.8 Strategies to Overcome Barriers to Effective Communication

As an Administrative Officer, you need to improve your overall communication by minimizing any barrier to effective communication in a given situation. Strategies you may use to do this include:

- i) Develop emotional intelligence to communicate with others in the most appropriate and effective ways.
- ii) Listen keenly to others and check your own understanding of what they said.
- iii) Respect other people's views by seeing things from their points of view.
- iv) Use appropriate words so that you are not misunderstood by your audience.
- v) Encourage questions that seek to clarify information to reduce misunderstanding.
- vi) Use encouraging non-verbal communication signals that help you convey your message.
- vii) Obtain feedback to check understanding of your message.
- viii) Use appropriate communication channels.
- ix) Avoid slang and casual language.
- x) Keep your message brief and to the point.
- xi) Use hearing aids, sign language, magnifying systems, and symbols to alleviate problems caused by disabilities.
- xii) Be courteous and tolerant with other people's cultures.

7.1.9 Summary

In this topic, we have discussed the concept of communication, the elements of the communication process, the principles of effective communication and types of communication. We have also examined possible barriers to effective communication and strategies to overcome them. In the next topic, we will discuss aspects of official communication as relates to the work of an Administrative Officer.

7.1.10 Activities

1. Analyse emotions that can be observed when communicated non-verbally.
2. List three environmental cues and indicate how they influence your expectations for communication.
3. How does context influence your communication? If you could design the perfect date, what activities, places, and/or environmental cues would you include setting the mood?

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7.2 OFFICIAL COMMUNICATION

Outline

- 7.2.1. Introduction
- 7.2.2. Specific objectives
- 7.2.3. Office Correspondence
- 7.2.4. Speech preparation, writing and delivery
- 7.2.5. Oral presentation skills
- 7.2.6. Communication etiquette and protocol
- 7.2.7. The use of national, official and indigenous languages in Government communication
- 7.2.8. Summary
- 7.2.9. Activities
- 7.2.10. References

7.2.1 Introduction

An Administrative Officer is expected to convey official information on a regular basis. You are therefore required to understand the essence of such official communication for effectiveness. This topic is therefore designed to equip you with knowledge, skills and attitudes to enable you convey official information effectively.

7.2.2. Specific Objectives

By the end of this topic, the officer should be able to:

- i) Write office correspondence appropriately;
- ii) Prepare, write and deliver speeches effectively;
- iii) prepare and deliver oral presentation effectively;
- iv) Demonstrate etiquette and protocol in communication; and
- v) Evaluate the use of national, official and indigenous languages in Government communication.

7.2.3. Office Correspondence

In your daily work as an Administrative Officer, you will be communicating to different audiences within and outside the organization. It is therefore important for you to develop good writing styles that not only reflect good grammar and sentence structure but also gives insights on your personality.

7.2.3.1. Types of Office Correspondence

Office correspondence involves sharing of information in the discharge of official functions through the following official documents:

7.2.3.1.1 Letters

A letter is a written message. Letters are usually used in organizations to communicate internally or externally. Internal letters are used when disseminating information of highly formal nature such as promotion, discipline or commendations. They are usually addressed to specific persons. External letters are used to communicate with external publics. Such letters are formal and deal with specific subjects. They contain the address and logo of the organization, referenced and sent by post or courier. They usually originate from superiors.

Essentials for writing letters include:

- i) Decide what type of letter you need to write, e.g. letter of inquiry, complaint, cover etc.
- ii) Write a short outline, e.g. write down the main ideas you want to include.
- iii) Use the right layout and salutation.
- iv) Use appropriate vocabulary for the type of letter you are writing.
- v) Check your spelling.
- vi) Check your grammar.
- vii) Check your punctuation.

Rules of letter writing are:

- i) Reply to all correspondence within a reasonable time.
- ii) When you refer a matter to a senior officer through written communication, it should be stated clearly with all facts to aid in decision making.
- iii) If you need to write a letter to a superior who is not your immediate supervisor, it should be through your immediate supervisor.
- iv) All formal letters originating from our offices should be signed by or on behalf of the Accounting Officer.
- v) You do not have authority to sign over your own designation except for the accounting officer.
- vi) If you have been delegated to sign over your own designation, you should type your own name and designation clearly.
- vii) Letters are normally addressed to the Accounting Officer or delegated head of department and should be marked for the attention of a particular officer who is expected to deal with the matter.

7.2.3.1.2 Circulars

Circulars are notices that are communicated to a large number of people within the organization. They are also referred to as office instructions or announcements. Often, general announcements (such as changes in contact information, details about meetings with shareholders or instructions about certain protocols) are communicated through circulars. A government circular is a written statement of government policy. It will often provide information, guidance, rules or background information on legislative or procedural matters.

7.2.3.1.3 Memorandum (memo)

A memorandum is used for internal communications. The main purpose of a memo is to convey information or make short request. A memo is never used to communicate with people outside the organization.

Different Parts of a Memo are:

- i) The Heading - the heading of a memo contains the name of the organization, the receiver (TO) and writer of the message (FROM) sections.
- ii) The Date - when memo was written.
- iii) Subject - this is a brief statement indicating what the memo is about.
- iv) The message - this is the main body of a memo. The message contains the following elements:
 - Introduction - this contains the background of the information.
 - Details - in the second paragraph write details about information to support the introduction.
 - Response - the third paragraph is called the action statement. In this paragraph, state the action you want the reader to take or the action you will take.

7.2.3.1.4 E-mails

E-mails are messages sent through the electronic media or internet. They are either inquiries or action emails. For effective use of emails, observe the following guidelines:

- i) Use appropriate format
- ii) Write a meaningful subject line.
- iii) Keep the message short and simple
- iv) Provide a link if it is referring to website
- v) Identify yourself clearly
- vi) Clearly specify the response you want
- vii) Ensure all attachments are provided.

7.2.3.1.5 Notices

A notice is a written or printed announcement. It is written in order to inform a large number of people about something that has happened or is about to happen. It is generally written in a formal tone. Notices are factual and to-the-point. The language used is simple and formal. They are usually put up on display boards in public places.

A notice should contain all the necessary details such as:

- i) Name of the issuing agency
- ii) Date of issue/release
- iii) Title/Subject of the event (what?)
- iv) Body- contains place/venue; date/time (where and when?)
- v) Authorized signatory: Name and signature.

7.2.3.2. Characteristics of Well Written Office Correspondence

A well written office correspondence has the following characteristics:

- i) Complete - gives the reader all the information needed to accomplish intended results.
- ii) Clear - the reader should be able to determine the purpose of the correspondence.
- iii) Accurate - based on accurate facts and all sources of information documented.
- iv) Prompt - provides quick responses to messages. The basic promptness rule is:
 - All correspondence should be replied to within three working days
 - All e-mails should be replied to within 24 hours.
- v) Concise - expressing the necessary information in as few words as possible.
- vi) Courteousness - treats the reader with respect.

- vii) Positive - uses a positive tone through correct choice and use of words.
- viii) Well formatted - has a standard look that makes it easy to read and understand.

7.2.4. Speech Preparation, Writing and Delivery

In your daily work as an Administrative Officer, you will be preparing, writing and delivering speeches to different audiences. It is therefore important for you to master the process of successful speech delivery. This process involves:

7.2.4.1 Preparation

Preparation is the most important element to a successful speech delivery. It is also the best way to reduce nervousness and combat fear. The following steps will help you prepare to deliver excellent speeches using '5Ws' and One 'H':

- i) Why? (Purpose) - know the purpose of your speech.
- ii) Who? (Audience /the people) - know your audience and target your speech to this audience.
- iii) What? (The Subject Matter (topic/thesis) - know the topic/thesis/message of your speech. That is, identify the single most important idea or argument that you want to convey to your audience. The occasion will inform the message.
- iv) When? (The time, day and occasion) - know the occasion, day and time of the speech.
- v) Where? (Venue) - know the venue and use the room checklist to help you not forget things that are important.
- vi) How? (Length and method) - know the length and method/style of presentation.

7.2.4.2 Writing

Speech writing involves messaging your speech into its most effective form, brainstorming to generate ideas to create the content and jotting down ideas about the topic as they come. You will also decide if you'll outline or script your speech. When you outline your speech, you're simply organizing and structuring your speech as a series of points. Under each of those points, offer your audience more information and detail.

When you decide to script or write out your speech, the words you choose to express yourself in are particularly important. So, saying exactly what you mean and have prepared increases your chances for success. A scripted speech includes three basic pieces:

- i) introduction
- ii) body
- iii) conclusion

In the introduction, grab your audience's attention by for example: asking a question, saying something surprising, offering startling statistics, using a quote or proverb related to your speech topic or telling a short story. In addition, tell your audience the main points of your speech without going into any detail.

The body is where the 'meat' of your speech resides. The points you outlined or the information you scripted make up the body. There are several ways to organize the information within the body of your speech, i.e. in time sequence, in step order, from most important point to least

important point, or Problem to solution. Choose an organizational pattern that makes sense based on your speech goal.

In the conclusion, wrap things up in a way that is memorable and definite. You can conclude by giving a summary of the main points or end with a clincher. A clincher is a memorable statement that gives your speech a sense of closure.

7.2.4.3 Speech Delivery

Effective speech delivery involves rehearsing your speech to master the content. This gives you confidence that your presentation will be a success. Here are a few tips that will help you achieve maximum benefit from time spent rehearsing:

- i) Re-create the speech setting - try to duplicate the speech setting as much as you can.
- ii) Practice in the room where you'll be speaking, if you can.
- iii) Stand up to get a more realistic voice projection.
- iv) Rehearse with props and visual aids.
- v) Practice with an audience even if it is not your target audience.
- vi) Consider what you will wear during speech delivery - will it inhibit gestures or movement in any way?
- vii) Take notes - don't hesitate to stop yourself in the middle of your rehearsal to jot down ideas as they come.
- viii) Try out different voices, gestures, or staging - this is especially important for your opening, conclusion, and any other key points. It gives you confidence knowing that these lines will be delivered precisely as you intended.
- ix) Time yourself - an accurate timing estimate will tell you if you need to do more editing.

7.2.5 Oral Presentation Skills

As an Administrative Officer, you will be required to disseminate government information to the public and this is often accomplished by delivering oral presentations in meetings. Therefore, learning to deliver effective oral presentations is a necessary skill to all administrative officers. Effective oral presentation involves three main steps:

7.2.5.1 Planning

Planning an effective oral presentation involves:

- i) Analysing your audience to understand their needs, constraints and knowledge level.
- ii) Researching your topic in order to demonstrate an understanding of the main points of your presentation.
- iii) Brainstorming your topic and writing a rough outline in point form.
- iv) Organising your material and writing a draft.
- v) Summarising your draft into points to write on overheads or cards.
- vi) Planning and preparing your visual aids.

7.2.5.2 Practicing

Practicing your presentation is essential. It is at this stage of the process that you figure out the overall presentation. It involves:

- i) Recording your presentation and reviewing it in order to know how you will sound and appear to your audience.

- ii) Using different coloured highlighters to remind yourself when to pause, when to emphasize a particular point or when you have a slide change on your PowerPoint.
- iii) Practicing in front of peers to elicit feedback. Ask your peers to comment on your delivery and content.

Remember that the more you practice, the more comfortable you will become with the material. As a result of repeated practice, you will appear far more polished and professional while delivering your presentation.

7.2.5.3 Presenting

When presenting, it is your job to make your audience feel comfortable and engaged with both you and the material of the presentation. Therefore:

- i) Maintain eye contact. Only look at notes or slides very briefly. Sweep the room with your gaze, pausing briefly on various people.
- ii) Be aware of your body posture.
- iii) Be enthusiastic about your topic.
- iv) Smile
- v) Slow down your speech and include pauses to allow your listeners to catch up and for you to think ahead.
- vi) Use gestures to emphasize points and move about the space if possible.
- vii) Adjust the volume of your voice so that people in the back of the room can hear you.
- viii) Avoid fillers, such as “Ah, um, I mean, okay”.
- ix) Dress appropriately.
- x) Use visual aids in your presentation. Using visual aids can make your presentation more interesting and informative, besides helping you to engage your audience.
- xi) Use PowerPoint if possible - PowerPoint is an effective way to present visual information. It provides several useful features and looks professional when used appropriately.
- xii) Run a question and answer session. Prepare your talk thoroughly so that you can answer questions about what you have addressed.

7.2.6 Communication Etiquette and Protocol

It is important for you as an Administrative Officer to develop and demonstrate good etiquette and protocol in the workplace in order to communicate effectively. Etiquette is a collective term for a set of norms and conventions that govern social behaviour and is required in social and professional groups. Protocol, in the larger sense, can be defined as the etiquette of diplomacy and affairs of the state. The ultimate aim of protocols is to avoid confrontation and disharmony.

Collectively, the terms protocol and etiquette refer to a set of rules, conventions and norms that govern the behaviour of people in specific situations. A large majority of our relationships hinge on good communication. The communication etiquette and protocol essential for you as an Administrative Officer include the following:

7.2.6.1 Phone Etiquette

Strategies to maintain proper phone etiquette include:

- i) Don't speak too loudly or too softly. If you're worried about your volume, ask your audience.
- ii) Never interact with your phone while you're with someone else.
- iii) If you're on a conference call and you're not speaking, mute yourself so that others aren't distracted by the outside noise.
- iv) Don't use a speakerphone in a shared or open office. If it's a call you need to take hands-free, use a headset or find a private room to avoid distracting your co-workers.
- v) Silence your phone. You don't need a ringtone or vibration for every notification. Check your phone at least once every thirty minutes.

7.2.6.2 Email Etiquette

Strategies to maintain proper email etiquette include:

- i) Aim to answer internal emails within one day and external e-mails within three days.
- ii) Avoid overusing exclamation marks and smiley faces.
- iii) Check with each party before you make an introduction.
- iv) Be careful on who is to get copies of what you are communicating.
- v) Use font styles appropriately to convey the intended tone.

7.2.6.3 In-Person Etiquette

Strategies to maintain proper in-person etiquette include:

- i) Steer clear of complimenting someone's appearance, since this can make people feel uncomfortable.
- ii) Maintain eye contact 60% to 70% of the time.
- iii) Match their speaking volume.
- iv) Show interest in what they're saying.
- v) Don't interrupt someone as they speak.
- vi) Practice active listening skills.
- vii) Remember to keep your cool when you feel agitated.
- viii) Give a notice about your visit if you want to meet with a government officer in person.

7.2.6.4 Meetings Etiquette

Strategies to maintain proper meeting etiquette include:

- i) Show up on time to a meeting
- ii) Send a meeting agenda when you invite people to attend so that they can prepare for the discussion in advance.
- iii) Be mindful of time zones and the daily schedules of the people you're inviting so that nobody has to attend a meeting too early or too late in the day.
- iv) Set up lunch or ask people to bring lunch if your meeting is scheduled during a typical lunch hour.
- v) Introduce new team members to the larger group.

7.2.6.5 Virtual Meetings Etiquette

Strategies to maintain proper Virtual Meetings etiquette include:

- i) Look at the camera, not your own face or theirs, so that you seem like you're making eye contact.
- ii) Shut the door and make sure you're not interrupted by your pets, children or roommates.

- iii) Before your meeting, check the area in camera range for inappropriate or personal items.
- iv) If you're the meeting facilitator, make sure all participants have the chance to speak or present ideas.
- v) Mute your microphone when you are not speaking.
- vi) Dress appropriately.
- vii) Switch off your camera when you are not contributing.

7.2.7 The use of National, Official and Indigenous Languages in Government Communication

As an Administrative Officer, you are expected to have read and speaking knowledge in Kiswahili and English in order to communicate effectively in Government. However, in some instances where the audience may not understand the two languages, you may be forced to use the indigenous languages in order to convey information effectively.

You should also promote and protect diversity of languages of the people of Kenya, promote the development and use of indigenous languages, sign language, braille and other communication formats accessible to persons with disabilities.

Whatever language you choose, consider using it effectively in your communication. The following characteristics of a language will help you decide on the language to use in a given situation:

- i) **Appropriate** - using appropriate language means that your language is suitable to:
 - You as the speaker - the language should fit your own speaking pattern. This will make you comfortable as a speaker
 - Your audience - the language should be understood by your audience.
 - The context of speech - the language should be suitable for the speaking context. The speaking context includes the occasion, the time of day, the mood of the audience, and the physical location.
 - The speech topic - it makes sense to choose your words carefully when dealing with specific topics.
- ii) **Vivid** -The use of vivid language helps the audience truly understand and imagine what a speaker is saying. It helps your listeners create strong, distinct, clear, and memorable mental images. Two common ways to make your language more vivid are through the use of imagery and rhythm.
- iii) **Imagery** is the use of language to represent objects, actions, or ideas. Three common tools of imagery are concreteness, similes, and metaphors.
- iv) **Rhythm**: This refers to the patterned, recurring variance of elements of sound or speech. Examples of rhythmic language are repetition, alliteration, and assonance.
- v) **Inclusive** - this is language that avoids placing any one group of people above or below other groups while speaking. Some common problem areas related to language are gender, ethnicity, sexual orientation and disabilities.
- vi) **Familiar** - use language that is familiar both to you and your audience. If you are not comfortable with the language you are using, then you are going to be more nervous speaking. If your audience cannot understand what you are saying, you will not have an effective speech.

7.2.8 Summary

In this topic, we have examined various types of office correspondence, the process of speech delivery and oral presentation. We have also demonstrated government communication etiquette and protocol, and finally evaluated the use of national, official and indigenous languages in Government communication. In our next topic, we are going to discuss issues related to communication in Government.

7.2.9 Activities

1. You are disturbed by the rising cases of indiscipline among the youth in your area of jurisdiction. You have organized a public meeting with the youth and invited several speakers to address them. Write the speech you will deliver during the meeting.
2. Assess how a speaker could limit the use of inappropriate language.

7.2.10 References

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7.3 COMMUNICATION IN GOVERNMENT

Outline

- 7.3.1. Introduction
- 7.3.2. Specific objectives
- 7.3.3. Communication policy issues and practices in Government
- 7.3.4. Procedure for communicating Government information
- 7.3.5. Roles and responsibilities of the Government communication office
- 7.3.6. Challenges of communication in Government
- 7.3.7. Strategies to overcome communication challenges in Government
- 7.3.8. Summary
- 7.3.9. Activities
- 7.3.10. References

7.3.1. Introduction

As an Administrative Officer, you will be required to observe laid down policies and procedures for communication in Government. This topic, therefore, is designed to equip you with knowledge, skills and attitudes that will enable you conform to the requirements of communication in Government.

7.3.2. Specific Objectives

By the end of this topic, you should be able to:

- i) describe communication policy issues and practices in Government;
- ii) describe the procedure for communicating Government information;
- iii) analyse roles and responsibilities of Government communication office;
- iv) assess challenges of communication in Government; and
- v) Formulate strategies to overcome communication challenges in Government.

7.3.3. Communication Policy Issues and Practices in Government

In your daily work as an Administrative Officer, you will be communicating to different audiences in Government. You therefore need to understand Government communication policy issues and practices. To enable you carry out your work in an efficient manner, good internal and external communication is required.

External communication should:

- i) Give a clear, cohesive and explanatory picture of the Government,
- ii) Contribute to the impact of Government decisions,
- iii) Create confidence in the Government,
- iv) Promote open dialogue, and
- v) Support the Government in the event of serious incidents and emergencies.

Internal communication should:

- i) contribute to employee motivation,
- ii) enable Government employees to carry out their tasks in an efficient and competent manner, and
- iii) Contribute to effective functioning of Government offices.

7.3.4. Procedure and Guidelines for Communicating Government Information

It is important for Administrative Officers to understand how to communicate effectively in Government. The following guidelines will help you to communicate Government information effectively:

- i) Making public comments - public comments may include comments made on the internet, in speeches, on the radio, or in the press. As a Government employee, you may not be required to make public comments concerning the public sector body. This role is likely to be fulfilled by the Chief Executive Officer or Government spokesperson. It is not appropriate for you as a Government employee to publicly share personal views, speculate on future directions, criticise any political party or continue debate on an issue after a decision has been made by the Government. If you have been given permission to make a public comment, you should confine your comments to information necessary to provide a concise factual response.
- ii) Communication with the Cabinet Secretary - communication should not occur directly between you and the Cabinet Secretary, but through your immediate supervisor and your Principal Secretary.

- iii) Confidential information - it is illegal for you as a public officer to disclose, publish or communicate confidential information that came to your knowledge or possession by virtue of your office and which it is your duty to keep confidential. Any private use of information obtained in an official capacity that is not already in the public domain is likely to be inappropriate as it has the potential to conflict with your official duties or compromise confidentiality.
- iv) Raising concerns - depending on the nature of the issue, concerns should usually first be expressed to the immediate supervisors, and for matters relating to management, with the Chief Executive Officer or relevant public sector body representative.
- v) Making a comment on social media - Government employees have particular responsibilities under the *Public Officers Ethics Act* in relation to participation in public debates. In some cases, these responsibilities limit their ability to participate fully in public discussions, including social media. Therefore, you must not make public comments that may lead a reasonable person to conclude that you cannot serve the government of the day impartially and professionally. Deciding whether to make a particular comment or post certain material online is a matter of careful judgment.
- vi) Written communication - all written correspondence in a Government office should:
- Be referenced,
 - Give a brief outline of the history of the case indicating the points on which a decision is required and give a definite recommendation,
 - Be divided into paragraphs,
 - Be dated the day they are dispatched,
 - Printed on both sides of the paper,
 - Leave a reasonable margin on the left hand side,
 - Be confined as far as possible to a single subject under an appropriate summarized heading,
- vii) Departmental Correspondence - it includes the following guidelines:
- A departmental officer should communicate with a Cabinet Secretary through his Principal Secretary,
 - Departmental matters should not be referred to a Cabinet Secretary unless there is reasonable doubt, a variance from authorized procedure, lack of authority or the matter is of considerable importance,
 - All phases of the problem should be examined departmentally before the matter is submitted to the Cabinet Secretary,
 - An officer is not allowed to take extracts or make copies of minutes and correspondence for his/her own purpose, unless such correspondence is addressed to the officer personally,
 - The use of courier services is encouraged for sending departmental correspondence,
 - All correspondence sent by post must be prepaid for and postage affixed/franked,
 - Use of telephone is limited to official business only,

- Officers to whom the telegraphic code or password is entrusted should take precautions to keep it confidential,
 - Annual reports should not be published without the prior sanction of the Cabinet Secretary concerned.
- viii) Office communication flow -coordination of Government activities requires systematic sharing of information because of the interrelatedness of activities and actors. Communication is structured so that information flows in predetermined manner for purposes of creating order and discipline in formal institutions. It usually follows the hierarchical structure/ lines of command.
- ix) Printed stationery - all Accountable documents, publications, rubber stamps and others, must be ordered from the Government printer. Common user forms and all Accountable documents are available at the Government press.
- x) Kenya Gazette - all communication for the Kenya Gazette should reach the Government Printer not later than 9.00 am on Friday of the week before the desired date of publication. Ministries, state departments and agencies will be required to pay for the Kenya Gazette and meet the cost of advertising in it.
- xi) Official seals - the use of official seals in all Government offices must be confined strictly to official requirements. Applications by private persons for impressions of official seals must be rejected.

7.3.5 Roles and Responsibilities of Government Communication Office

The roles and responsibilities of the Government Communication Office include:

- i) Monitoring media coverage - tracking the print and broadcast media is a key part of the Government communication office. It's only through daily monitoring of newspapers, radio and TV that the Government communication office learns what topics the media is interested in, the political slant and bias in reporting. Knowing the nuances of a newspaper or TV news program's coverage is essential to be able to target journalists that may be interested in a planned activity of the Government, and to frame issues in a way that will make an issue as attractive as possible to the media.
- ii) Briefing and advising political officials - Cabinet Secretaries and other senior officials of Government rely on the Government communication office for information about media reporting upon which they may be expected to act. Government communication officers also provide counsel on the communications component of policy proposals. This includes providing advice on how to frame an issue, when and where to raise it, with what journalists, and on what terms.
- iii) Managing media relations - many Government communication officers spend the bulk of their working day on the telephone or in meetings with journalists, nurturing positive relations with them, learning their interests, and describing Government activities.

- iv) Informing the public directly - one reason a Government communication officer may go directly to the public with certain information is that the subject covered (or the detail in which it is reported) may not be of interest to the journalists. The office might also want to avoid any confusion or misunderstanding that could result from the media's "filtering" of an important message.
- v) Sharing Information across the administrative lines - the Government communication office has formal responsibilities not only to promote external communications, but also internal communications filled with details on meetings, appointments, laws, services and proposed policies. The bulletins are distributed to administrators to keep public servants informed.
- vi) Formulating communication strategies and campaigns - the key role of the Government communication office is promoting and supporting public policies through campaigns. Government information officers should provide advice on the implementation and explain public policies to the media and to the population at large.
- vii) Researching & Assessing Public Opinion - this involves:
 - reviewing correspondence and comments received by telephone;
 - conducting poll;
 - distributing questionnaires;
 - holding public hearings and roundtable discussions; and
 - Organising focus groups.

Feedback generated through these various methods helps political leaders to shape public policies more in tune with the public's priorities.

7.3.6 Challenges of Communication in Government

It is important for you as an Administrative Officer to understand the challenges of communicating in Government and how to deal effectively with them. These challenges include:

- i) The media - sometimes the media tends to be unprofessional in their reporting. This situation makes the daily work of Government information officers quite difficult.
- ii) Political influence - the legislative and regulatory environment for providing Government information is misused, allowing considerable scope for political manipulation and bureaucratic whims.
- iii) Secrecy/confidentiality - Government information officers often have trouble extracting information from public servants elsewhere in their Ministries. The habit of secrecy and fear of losing jobs worsens this problem.
- iv) Inadequate training opportunities - sometimes training opportunities relevant to a Government information officer are few or lacking.

7.3.7 Strategies to Overcome Communication Challenges in Government

Strategies that you may use to address the communication challenges in Government include:

- i) Enhancing two-way communication
- ii) Using active listening to build trust.
- iii) Building a rapid response social media capability to deal quickly with disinformation.

- iv) Creating engaging content that will be shared and owned by audiences, e.g. pictures, videos and facts.
- v) Using the internet to provide reporters and the public with detailed and regularly updated information of completed and planned Government activities.
- vi) Using extranets to connect Government offices directly with media outlets.
- vii) Providing the public with alternative sources of information, e.g. websites.
- viii) Encourage public participation.

7.3.8 Summary

In this topic, we have discussed communication policy issues and practices in Government as well as the procedure and guidelines for communicating Government information. We have also examined the roles and responsibilities of the Government communication office, the challenges of communication in Government and strategies to overcome them. In the next topic we shall discuss issues related to management of meetings.

7.3.9 Activities

1. Assess the challenges you may face as an Administrative Officer when communicating Government information at the workplace.
2. Journalists from one of the media houses have been painting a negative image of the Government in relation to the implementation of its projects. Explain how you could help develop good relations with these journalists.

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7.4 MANAGEMENT OF MEETINGS

Outline

- 7.4.1 Introduction
- 7.4.2 Specific objectives
- 7.4.3 Concept of meetings
- 7.4.4 Classification of meetings
- 7.4.5 Role of different parties to a meeting
- 7.4.6 Preparation and conduct of meetings
- 7.4.7 Minutes
- 7.4.8 Follow-up on meetings decisions
- 7.4.9 Summary
- 7.4.10 Activities
- 7.4.11 References

7.4.1 Introduction

As an Administrative Officer, you are required to hold meetings quite often with different publics of your organization. This topic therefore aims at equipping you with knowledge, skills and attitudes to enable you conduct and manage meetings effectively.

7.4.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the concept of meetings;
- ii) Analyse the various classifications of meetings;
- iii) Evaluate the role of different parties to a meeting;
- iv) Prepare and conduct meetings effectively;
- v) Take and record minutes accurately; and
- vi) Follow-up meeting decisions and actions.

7.4.3 The Concept of Meetings

The term meeting refers to an assembly/gathering/coming together of two or more persons on a fixed date, time and place to discuss pre-determined matters necessary for decision making. Therefore, the reasons for holding meetings include:

- i) Status updates - to align the team via updates on progress, challenges, and next steps.
- ii) Information sharing - to share information with the attendees, e.g. information about upcoming changes.
- iii) Decision making - to gather information, brainstorm solutions, evaluate options, rank preferences and vote.
- iv) Problem solving - to address an identified problem or focus on creating strategies and plans to navigate the future.

7.4.4 Classification of Meetings

Meetings may be classified in the following ways:

- i) Formal meetings - the rules of conduct of such meetings are laid down in a company's Articles of Association, Constitution or Standing Orders. With such meetings, a quorum must be present, i.e. the minimum number of people required to validate the meeting.
- ii) Informal meetings - these meetings are not restricted by the same rules and regulation as formal meetings. Such meetings may take the form of brainstorming or discussion sessions where strict agenda may not be necessary, and minutes may not be kept.
- iii) Annual general meetings - these are held once a year to assess the trading of the organization over the year. All shareholders are invited to attend but they must be given a 21 days' notice.
- iv) Statutory meetings - these are called so that the directors and shareholders can communicate and consider special reports. Companies are required by law to hold these statutory meetings.
- v) Board meetings – these are held as often as individual organizations require. They are attended by all directors and chaired by the Chairman of the board.

7.4.5 Role of Different Parties to a Meeting

In a meeting, there are different parties involved and each of them takes specific roles to ensure the meeting runs smoothly. It is important for you as an Administrative Officer to familiarize yourself with the roles of different participants in a meeting. These roles are described as follows:

7.4.5.1 The chairperson

The roles of the Chairperson include:

- i) Making sure that each meeting is planned effectively.
- ii) Conducting the meeting according to the standing orders.
- iii) Ensuring that all matters are dealt with in an orderly, efficient manner.
- iv) Outline the purpose of the meeting and remind members why they are there.
- v) Involve all members present in the discussion.
- vi) Refocus discussions that have wandered off the point.
- vii) Conclude one point and lead into the next.
- viii) Highlight important points.
- ix) Clarify any misunderstanding.
- x) Pace the meeting, ensuring it runs to time.
- xi) Remind members at the end of the meeting what they have achieved and thank them for their contributions.

7.4.5.2 The Secretary

A secretary assumes various roles at different times i.e. before the meeting, during the meeting and after the meeting.

Before the Meeting the secretary should:

- i) Consult with the Chairperson on the order of business for the meeting, and the way in which it should be dealt with.
- ii) Ensure that the notice of the meeting is given, that suitable accommodation is arranged and confirmed
- iii) Ensure that copies of the agenda are prepared.
- iv) Circulate to all members a copy of the agenda and minutes of the previous meeting.
- v) Make sure that any reports or information requested at the last meeting is available or there is a good reason if not available.

During the Meeting, the roles of the secretary include:

- i) Record the names of those who are present
- ii) Convey and record apologies received from those who are absent
- iii) Read the minutes of the previous meeting, and if they are approved, obtain the Chairperson's signature on them
- iv) Report on matters arising from the previous minutes
- v) Read any important correspondence that has been received.
- vi) Take notes of the meeting, recording the key points and making sure that all decisions and proposals are recorded, as well as the name of the person or group responsible for carrying them out.
- vii) Make sure that the Chairperson is supplied with all the necessary information for items on the agenda
- viii) Remind the Chairperson if an item has been overlooked

After the Meeting, the secretary should:

- i) Prepare a draft of the minutes and consult the Chairperson for approval
- ii) Send a reminder notice of each decision requiring action to the relevant person
- iii) Promptly send all correspondence as decided by the Management Committee.

7.4.5.3 The Members

The roles of the members include:

- i) Undertake any necessary preparation prior to the meeting.
- ii) Arrive on time.
- iii) Keep an open mind.
- iv) Listen to the opinions of others.
- v) Participate.
- vi) Avoid dominating the proceedings.
- vii) Avoid conflict situations.
- viii) Avoid side conversations which distract others.
- ix) Ask questions to clarify understanding.
- x) Note down any action agreed upon.
- xi) After the meeting, undertake any agreed action and brief others as appropriate.

7.4.6 Preparation and Conduct of Meetings

It is important for you as an Administrative Officer to prepare and conduct an effective meeting. Being prepared, taking leadership, and delegating effectively are important elements that makes a meeting successful. In order for a meeting to run smoothly, you should ask and resolve the following questions:

- i) Is the meeting appropriate?
- ii) How should the meeting be planned?
- iii) Who should attend the meeting?
- iv) What preparation is required for the meeting?

You should also do the following to ensure the meeting is successful:

- i) Be prepared - make sure that you have the agenda, a sense of the key points to be emphasized, and a grasp on the outcomes that need to be reinforced before the meeting ends.
- ii) Lead the meeting - this means taking steps to ensure all agenda items are resolved and all voices are heard.
- iii) Confirm an action plan - an action plan is an ending summary that confirms what actions must follow the meeting. It also presents a plan for going forward that impacts all meeting members.
- iv) Stay on topic - after each agenda item has been discussed, briefly summarize outcomes as per the group discussion.
- v) Schedule the next meeting - scheduling the meeting when everyone present ensures that schedule conflicts are resolved immediately.

7.4.7 Minutes

Minutes are official written records of a meeting and they serve as a permanent record of the proceedings of the meeting. Minutes are generally written in the simple past tense.

The following are the types of minutes:

- i) Verbatim Minutes - They are a full record of what everyone said. These minutes are used to record word for word proceedings, for example, court proceedings, parliamentary debates, etc.

- ii) Minutes of Resolution – These are mainly used for the minutes of the AGMs and Statutory meetings. They mainly record only the main conclusions, that is the decisions and action points that were reached in the meeting, and not the actual discussion that took place. Often, they may include a full or brief outline of the discussion.
- iii) Minutes of Narration – These is a concise summary of all the discussions that took place, reports received, actions to be taken, and decisions made.

Minutes' taking is important for the following reasons:

- i) To provide a reference or record of all points that were made
- ii) To inform people who missed the meeting what took place
- iii) To ensure projects are on track and remove roadblocks
- iv) To assign action items to certain employees
- v) To track the progress of deliverables
- vi) To establish next steps for projects.

7.4.7.1 Components of Minutes

An Organization may use a standard template or a special format for taking minutes, and the order of the components may vary. The following are the main and commonly known components of minutes:

- i. Heading – include the name of the group meeting, the date, location and starting time of the meeting.
- ii. Members Present - list all members that attended the meeting beginning with the chair
- iii. Apologies - list those who did not attend the meeting with permission
- iv. Members absent – list those who did not attend the meeting without permission
- v. In-attendance - list any guests that may have attended the meeting
- vi. Preliminaries – note on the chairperson's opening remarks, prayer, introductions and adoption of the agenda
- vii. Confirmation of previous minutes - note on whether the minutes of the previous meeting were approved and whether any corrections were made.
- viii. Matters arising from previous minutes – note on problems or questions from a previous meeting to be discussed.
- ix. Action items - report on each topic discussed at the meeting. This can include unfinished business from the previous meeting.
- x. Any other business – note on any other business whose notice has been duly given.
- xi. Adjournment - indicate when the meeting ended and when the next meeting will be held.
- xii. Signature line - for the chairman and the secretary.

7.4.8 Follow-up on Meetings Decisions

Follow-up on meeting decisions is an important stage as it ensures that actions are taken as per the discussions of the meeting. It involves:

- i) Sharing the minutes -to ensure effective follow up, share the minutes within 24 hours. The minutes must be easily accessible so that everyone stays focused on action item completion.

- ii) Get all action items in one place and check on progress - get all action items from the meeting into the team's list. Keep checking on the progress of action items via email or through other means.
- iii) Communicate if priorities change or problems arise - create an open communication system so that everyone in the team is comfortable sharing information. They should be able to share reasons upon which agreed commitments were not honoured.

Effective follow up on meetings decisions eliminates unproductive meetings. Follow up is the key to establishing high-performance in-service delivery.

7.4.9 Summary

In this topic, we have discussed the concept of meetings and their classifications. We have also analysed the role of different parties to a meeting as well as how to prepare and conduct meetings effectively. In addition, we have examined how to take and record minutes accurately as well as follow up actions on meeting decisions. In the next topic we will discuss pertinent issues related to report writing.

7.4.10 Activities

1. You are planning to hold a security meeting in your area of jurisdiction.
 - a. Discuss the significance of holding such meetings.
 - b. Write the notice and agenda for the meeting.

7.2.11 References

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2. Collins, P. (2009) *Speak with Power and Confidence*. New York: Sterling
3. Hasson, G. (2012) *Brilliant Communication Skills*. Great Britain: Pearson Education
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7.5 REPORT WRITING

Outline

- 7.5.1 Introduction
- 7.5.2 Specific objectives
- 7.5.3 Nature of reports
- 7.5.4 Principles of report writing
- 7.5.5 The format of a formal report
- 7.5.6 Summary
- 7.5.7 Activities
- 7.5.8 References

7.5.1 Introduction

As an Administrative Officer, you will be expected to write and submit reports on various aspects of your work. This topic aims at equipping you with knowledge, skills, and attitudes to enable you prepare reports that will enhance service delivery.

7.5.2. Specific Objectives

By the end of this topic, you should be able to:

- i) Describe the nature of reports;
- ii) Analyse the principles of report writing; and
- iii) Describe the format of a formal report.

7.5.3 Nature of Reports

A report is any written or oral communication in which the reporter presents a collection of facts or alternative propositions, states conclusions and submits his/her recommendations. The scope and style of reports vary depending on the intended audience, the purpose and the type of information to be communicated. Reports are useful for documentation recording, decision making and for transmitting information with a clear purpose to a specific audience.

There are different classifications of reports. These include:

- i) Formal or informal reports - formal reports are carefully structured: they stress objectivity and organization, contain much detail, and are written in a style that tends to eliminate such elements as personal pronouns. Informal reports on the other hand are usually short messages with natural, casual use of language. The internal memorandum can generally be described as an informal report.
- ii) Informational or analytical reports - Informational reports such as annual reports, monthly financial reports, and reports on personnel absenteeism, carry objective information from one area of an organization to another. Analytical reports on the other hand present attempts to solve problems. They include scientific research and feasibility study reports.
- iii) Vertical or lateral reports - This refers to the direction a report travels. Reports that move upward or downward the hierarchy are referred to as vertical reports. such reports contribute to management control. Lateral reports on the other hand assist in coordination in the organization. A report traveling between units of the same organization level, e.g. Production and finance departments is lateral.
- iv) Internal or external reports - Internal reports travel within the organization. External reports, such as annual reports of companies, are prepared for distribution outside the organization.
- v) Periodic reports - these are issued on regularly scheduled dates. They are generally upward directed and serve management control.
- vi) Functional reports - These include accounting reports, marketing reports, financial reports, and a variety of other reports that take their designation from the ultimate use of the report.
- vii) Field reports- these types of reports require one to analyze observations of a phenomena or event in the real world in light of theories studied in a given course. Examples of field reports are a Court observation report, a History site report, and a teaching observation report for education.

- viii) Scientific reports/laboratory reports - these reports use a standard scientific report format describing methods, results, conclusions and recommendations based on an empirical investigation.
- ix) Inspection reports – these are prepared to measure the company's actual performance or individual business. The organization's achievements would be analysed along with activities that they have been undertaking in their business.
- x) Progress reports - a document that explains in detail the achievements made towards the completion of a project. It outlines the activities carried out, the tasks completed, and the milestones reached vis-à-vis the project plan.
- xi) Process reports - these focuses on work processes. These reports explain how something is done or how something came about.
- xii) Proposal reports - A business proposal report is used to present an idea or solution to a problem or a strategy for a campaign or product launch. While the proposal is used to present an idea, it can also be used as a reference document, if the solution or campaign turns out to be a success.

7.5.4 Principles of Report Writing

An Administrative Officer should have adequate knowledge of the various principles of report writing in order to apply them when writing various types of reports. Some of these principles are:

- i) Selectiveness - only necessary contents should be included to save time, costs, and energy. However, care should be taken not to miss vital points.
- ii) Comprehensiveness – a report must be complete. It must include all the necessary contents. It must contain enough detail to convey information.
- iii) Accuracy - as far as possible, research report must be prepared carefully. It must be free from spelling mistakes and grammatical errors.
- iv) Objectivity - a report must be free from personal bias. The facts must be stated boldly. It must suit the objectives and meet expectations of the relevant audience.
- v) Clarity – a report must reveal the facts clearly. Contents and conclusions drawn must be free from ambiguities.
- vi) Preciseness - a report must not be unnecessarily lengthy. It must contain only necessary parts with adequate description.
- vii) Simplicity - a report must be simple to understand. Unnecessary technical words or terminologies (jargons) should be avoided.
- viii) Use suitable language - the researcher must use a suitable language. Language should be selected as per its target users.
- ix) Reliability - a report must be reliable and trustworthy.
- x) Use appropriate format - an ideal report is one, which must be prepared as per commonly used format. One must comply with the contemporary practices; completely a new format should not be used.
- xi) Attractive - a report must be attractive in all important regards such as size, colour, paper and quality, among others.

7.5.5 Format of a Formal Report

The main sections of a standard report writing format include:

- i) Title Section – This includes the name of the author(s) and the date of report preparation.

- ii) Summary – This contains an overview of the major points, conclusions and recommendations.
- iii) Introduction – this section explains the problem and shows the reader why the report is being made. You need to give a definition of terms if you did not include these in the title section and explain how the details of the report are arranged.
- iv) Methodology - these are methods used for data collection in order to have an understanding of the problem being investigated.
- v) Findings/body – this is the main section of the report. There needs to be several sections, with each having a subtitle. Information is usually arranged in order of importance with the most important information coming first.
- vi) Conclusion – this is where everything comes together. Keep this section free of jargon as most people will read the summary and conclusion.
- vii) Recommendations – this is what needs to be done in order of priority.
- viii) References – indicates the lists books or documents referred to in alphabetical order.
- ix) Appendices – this includes all the technical details that support your conclusions.

7.5.6 Summary

In this topic we have discussed the concept of a report and analysed the principles of report writing. We have further examined the format of a formal report. In the next topic, we shall discuss issues pertaining to public relations.

7.5.7 Activities

1. There have been cases of drug abuse in your area of jurisdiction. The County Commissioner is concerned about the issue and has asked you to investigate the matter and report to him. Write the report.
2. Discuss the characteristics of a good report.

7.5.8. References

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7.6. PUBLIC RELATIONS

Outline

- 7.6.1 Introduction
- 7.6.2 Specific objectives
- 7.6.3 Concept of public relations
- 7.6.4 Importance of public relations in government
- 7.6.5 Elements of public relations
- 7.6.6 Public Relations tools
- 7.6.7 Techniques of enhancing media relations

- 7.6.8 Summary
- 7.6.9 Activities
- 7.6.10 References

7.6.1 Introduction

As an Administrative Officer you are the visible representative of the Government to the public. You therefore are required to project the positive and correct image of the Government to the public. This topic is designed to equip you with the knowledge, skills, and attitudes that will enable you project such image.

7.6.2. Specific Objectives

By the end of this topic, the officer should be able to:

- i) Describe the concept of Public Relations;
- ii) Assess the importance of Public Relations in Government;
- iii) Illustrate the elements of Public Relations;
- iv) Analyse the Public Relations tools in government; and
- v) Examine media relations in Government.

7.6.3 Concept of Public Relations

Public Relations is the deliberate, planned and sustained effort to establish and maintain mutual understanding between an organization and its publics (Institute of Public Relations, US). It is the managing of outside communication of an organization to create and maintain a positive image. It involves; popularizing successes, downplaying failures, announcing changes and other activities that may enhance the image of the organization.

The publics of PR are of two types, namely the internal and external publics. The internal publics refer to employees of the organization. The external publics refer to all those other stakeholders who have an interest in the organization who may influence or may be influenced by the activities of the organization. These publics include customers, suppliers, the community, the Media among others.

7.6.3.1 Objectives of Public Relations

The objectives of public relations in organizations are to:

- i) Build credibility.
- ii) Enhance corporate image of the organization.
- iii) Protect reputations.
- iv) Enhance knowledge/understanding.
- v) Support a business strategy.
- vi) Help create or reinforce a market niche.
- vii) Track and manage special issues.
- viii) Extend reach and frequency of an advertising campaign.
- ix) Create a supportive environment for business.
- x) Inform public opinion.
- xi) Influence the media.
- xii) Build mutually beneficial relationships between organizations and their publics.

- xiii) Establish and maintain mutual lines of communication, understanding, acceptance and cooperation between an organization and its publics.
- xiv) Manage problems or issues.
- xv) Build and maintain close relationships with the news media.

7.6.4 Importance of Public Relations in Government

PR in Government is important for the following reasons:

- i) Implementing public policy
- ii) Assisting the news media in coverage of Government activities
- iii) Reporting to the citizenry on Government activities
- iv) Increasing the internal cohesion of the Government
- v) Increasing the Government's sensitivity to its publics
- vi) Mobilising support for the Government
- vii) Communicating crisis.
- viii) Enhancing the corporate image of the Government.

7.6.5 Elements of Public Relations

The elements of public relations include:

- i) Media relations - Media relations is all about dealing with the media – writing press releases, scheduling interviews and giving press conferences. The goal is to generate positive coverage of your organization or product.
- ii) Community relations - Community engagement officers work to develop an organization's relationship with the local community get local support for a project, 'give something back', which improves the organization's ethical reputation, get people interested in its products or services and changing people's mindset about an issue.
- iii) Corporate and social responsibility- this is PR that improves the organization's reputation for ethical conduct, environmental responsibility, community support and charitable works.
- iv) Lobbying –this involves influencing decisions to favour interests.
- v) Crisis management - this is the PR initiatives required in case of emergencies or disasters.
- vi) Employee relations- Also known as internal PR, employee relations is the business of giving employees a positive view of the organization they work for. The goal is to keep them satisfied, motivated and loyal.
- vii) Financial public relations – it involves communicating financial results and business strategy
- viii) Consumer public relations – it involves gaining publicity for a particular product or service

7.6.6 Public Relations Tools

Public relations tools include the following:

- i. Fliers - these are unfolded sheets posted on bulletin boards. They present a single message rather than a series of separate message units. They are time specific and address a particular event and serve awareness objectives through information.
- ii. Brochures - they are folded sheets of information which can be read like a book and provides information which is relevant over a longer period of time. Brochures offer varied information concerning an organization
- iii. Newsletters - this is a printed publication produced at regular intervals. It is distributed to a particular audience seeking information. It focuses on information relevant to its public or audience.
- iv. Press Releases - this is the most important form of written communication used to announce something to the media. It is mailed, faxed or e-mailed to the media.
- v. Print Media – this is any form of printed communication which includes books, circulars, memos, magazines, newspapers, pamphlets, and periodicals.
- vi. Outdoor media - this is a type of communication that reaches the consumers in public places or on transit. It includes billboards, street furniture, transit trucks, buses and others.
- vii. Broadcast Media - radio, television, internet and media websites are examples of broadcast media used to create awareness, enhance reputation as well as to sell ideas, products and services.
- viii. Exhibitions - exhibitions are ways of presenting products, organisations or services offered directly to the public with the intention to sell.
- ix. Campaigns - these consist of concerted, a single-purpose publicity programme, usually on a more or less elaborate scale, employing coordinated publicity through a variety of media, aimed at a number of targets, but focussed on specific objectives. A campaign objective may be the election of a candidate, the promotion of political cause, or the raising of funds.
- x. Propaganda - this is the manipulation of symbols to transmit accepted attitudes and skills.
- xi. Blogging - To reach the online audience, PR specialists use blogs to create and maintain a relationship with the target audience as well as establish a two-way communication.
- xii. Advertorials - these are advertisements in the form of news stories or reviews in newspapers.
- xiii. Social media - Using social networking sites such as Facebook and Twitter to follow and be followed by journalists, drive web traffic, manage issues by responding quickly to criticisms or negative perceptions, and increase exposure for your business brand.

- xiv. Attendance at public events - PR specialists take advantage of every public event to attract public attention and keep it engaged with a particular organization or an individual.
- xv. Speaking engagements - Speaking at events where customers are likely to attend helps position you as a leader or innovator in your field.
- xvi. Partnerships and sponsorships - Supporting a not-for-profit cause can help build feelings of goodwill and loyalty towards your business. Community partnerships may involve an exchange of funds or in-kind benefits to grow a local community organization in return for benefits that promote your business reputation.

7.6.7 Techniques of Enhancing Media Relations

Media relation involves working with the media for the purpose of informing the public of an organization's mission, policies and practices in a positive, consistent and credible manner. As an Administrative Officer, you must relate well with the media in order to have Government activities publicised positively and consistently.

The techniques you may use to enhance good media relations include:

- i) Being open in giving information
- ii) Having talk shows
- iii) Holding press conferences
- iv) Having regular press releases and briefings.
- v) Writing attractive press releases that catch the attention of the media.
- vi) Conducting guided tours on government facilities to enhance reporting.
- vii) Building relationships with journalists by giving them treats.

7.6.8 Summary

In this topic, we have discussed the concept of Public Relations and its importance. We have also analysed Public Relations elements and tools. Finally, we've examined media relations in government. This now brings us to the end of our discussion in the effective communication course unit.

7.6.9 Activities

1. Analyse the Public Relations activities carried out of by your organization
2. Prepare a brief press release on a cultural programme organized by your organization.
3. Visit the website of your organization and write down your opinion on whether the messages and visuals you see are useful and appealing.

7.6.10. References

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2. Raymond Simon, *Public relations: concepts and practices*, 2nd ed. (Columbus, O. Grid, 1980), pp. 9, 11.
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8.0 PEACE, SAFETY AND SECURITY MANAGEMENT- 108

8.0.1 Introduction

For any meaningful wholesome development to take place in an area, it is important that there is adequate peace, safety and security. As an Administrative Officer, you would be expected to play a key role not only in monitoring the state of such peace and security, but also would be expected to foster it. It is therefore necessary you understand the conceptual framework in understanding peace building, safety and security management as well as dissecting the various principles applicable in peace building and conflict resolution.

This course unit is therefore designed to equip you with knowledge, skills, attitudes and values necessary for analysing and responding to threats to peace, conflict, disaster, safety and security situations that the country faces from time to time.

8.0.2 Course unit summary

	TOPIC	SUB-TOPICS
8.1	Kenya National Security Architecture	- Concept of national security - Principles of national security - Structure and Organs managing security matters - Frameworks and legal tools in promoting peace, safety and security - Role of an administrative officer in peace and security management
8.2	Essentials of peace building and conflict management	- Concept of peace - Principles of peace building - Challenges in peace building - Techniques for peace building - Sources and symptoms of conflict - Principles of conflict management - Traditional techniques of handling conflict - Measures to manage post conflict situation
8.3	Threats to National Security	- Internal threats to national security - External threats to national security - Emerging threats to national security - Strategies to mitigate threats to national security
8.4	Regional and international Peace and security management	- Concept of Regional and international Peace and Security management - Dynamics in trans-border security management - Challenges in regional peace and security management - Strategies to foster regional and international peace and security - Role of the Administrative Officer in

	TOPIC	SUB-TOPICS
		regional and international peace and security management
8.5	Emerging issues and trends in security management	- Emerging issues and trends in security - Impact of emerging issues and trends in security management - Strategies of mitigating emerging issues and trends in security management

8.1 KENYA NATIONAL SECURITY ARCHITECTURE

Outline

8.1.1 Introduction

8.1.2 Specific objectives

8.1.3 Concept of national security

8.1.4 Principles of national security

8.1.5 Structure and Organs of the Kenya National Security Architecture

8.1.6 Frameworks and legal tools in promoting peace, safety and security

8.1.7 Role of an administrative officer in peace and security management

8.1.8 Summary

8.1.9 Activity

8.1.10 References

8.1.1 Introduction

The current Kenya Constitution (2010) introduced a devolved system of governance which necessitated major changes in national security structures. The current Kenya National Security Architecture identifies the committees through which an Administrative Officer is expected to coordinate the management of security issues in his/her area of jurisdiction.

To effectively coordinate security issues in your area of jurisdiction, it is necessary that you - understand the structure and organs of the Kenya National Security Architecture. Further, you should also comprehend the institutional and legal frameworks involved in peace, safety and security management.

8.1.2 Specific Objectives

By the end of this topic, the officer should be able to:

- i) Describe the concept of national security;
- ii) Analyse the principles of national security;
- iii) Describe the structure and organs managing security matters;
- iv) Interpret legal and institutional frameworks in peace, safety and security management; and
- v) Analyse the roles of administrative officer in peace and security management.

8.1.3 Concept of National Security

National Security is the protection against internal and external threats to Kenya's territorial integrity and sovereignty, its people, their rights, freedoms, property, peace, stability and prosperity and other national interests.

National security plays a critical role in the socio-economic development of any country. The successful implementation of Sustainable Development Goals; the Country's Vision 2030; and the Government development agenda are all hinged on, among other factors, the peaceful coexistence of Kenyans.

8.1.3.1 Elements of National Security

In view of the wide range of risks, the security of a nation has several dimensions, including:

- i) Military Security -implies the capability of a nation to defend itself, and/or deter military aggression.
- ii) Political Security -is about the stability of the social order and specifically addresses threats to sovereignty
- iii) Economic Security - the freedom to choose the policies to develop a nation's economy in the manner desired.
- iv) Environmental Security - deals with environmental issues which may threaten the national security of a country.
- v) Security of strategic Resources - Resources include water, sources of energy, land, oil and minerals.

8.1.4 Principles of National Security

The primary object of the national security organs and security system is to promote and guarantee national security in accordance with the principles mentioned in Article 238 of the Constitution of Kenya, 2010. In exercising the authority on national security, the National Government is guided by the following principles:

- i) National security is subject to the authority of the Constitution and Parliament;
- ii) National security shall be pursued in compliance with the law and with the utmost respect for the rule of law
- iii) The national security organs, national Police Service, National Intelligence Service and Kenya Defence Forces, shall respect the diverse culture of the communities within Kenya.
- iv) National security organs shall reflect the diversity of the Kenyan people in equitable proportions during recruitment.
- v) National Security organs shall not:
 - Act in a partisan manner;
 - Further any interest of a political party or course; and
 - Prejudice a political interest or a political cause that is legitimate under the Constitution.

8.1.5 Structure and Organs of the Kenya National Security Architecture

Security threats have continued to evolve. However, national security organs have continued to provide security services aimed at promoting and protecting national interests.

Article 239 of the Kenya Constitution, (2010) outlines that the national security organs as:

- i) **The Kenya Defence Forces:** The Kenya Defence Forces are the armed forces of the Republic of Kenya and comprises of the Kenya Army, Kenya Navy, and Kenya Air Force. The President of Kenya is the commander-in-chief of all the armed forces. Kenya Defence Forces are mandated with protecting the state against external aggression. Deployment of the forces outside Kenya and foreign forces in Kenya should only be done with the approval of Parliament.
- ii) **The National Intelligence Service:** This is a disciplined civilian intelligence agency which is responsible for collection of security intelligence and provision of counterintelligence in the country.
- iii) **The National Police Service:** The National Police Service comprises of the Kenya Police and the Administration Police Services. Within the National Police Service, there are several formed units including Critical Infrastructure Protection Unit (CIPU), Border Patrol Unit, Anti stock Theft Unit, Rapid Response Unit and General Service Unit. The service is responsible for promotion of internal security.

8.1.6 Legal and Institutional Frameworks

The Constitution of Kenya, 2010, provides for the National Security Council which executes its mandate through a hierarchy of Committees. Further, the Government has enacted enabling Legislations for the legal and institutional framework necessary for the management of security in the country. Such legislations include the National Security Council Act, 2012 and National Intelligence Service Act, 2004. Let us discuss the National Security Council in detail.

8.1.6.1 The National Security Council

The National Security Council is established under Article 240(3), of the Constitution of Kenya, 2010. It is mandated to provide supervisory control over the National Security Organs in various ways which include:

- i) Issuance of strategic policy direction.
- ii) General oversight.
- iii) Promoting harmony, including mediating and resolving any conflicts among the organs.
- iv) Ensuring establishment of linkages between the Organs and other agencies performing security functions.
- v) Joint internal security deployment.
- vi) With approval of Parliament, the deployment of National forces outside Kenya and Foreign forces in Kenya;

You should note that, the NSC reports annually to Parliament on the state of security of Kenya.

8.1.6.2 Membership of the National Security Council

- i) President -Chairperson
- ii) Deputy President;
- iii) the Cabinet Secretary responsible for defence;
- iv) Cabinet Secretary responsible for foreign affairs;
- v) Cabinet Secretary responsible for internal security;
- vi) Attorney-General;
- vii) Chief of Kenya Defence Forces;

- viii) Director-General of the National Intelligence Service; and
 - ix) Inspector-General of the National Police Service.
- The NSC appoints its Secretary.

8.1.6.3 Committees within the National Security Council Structure

The Council executes its mandate through a hierarchy of committees as provided for in Article 240(3) of the Constitution and the National Security Council Act, 2012. These committees' cascade from the highest to the lowest level and include:

- i. **National Security Advisory Committee (NSAC):** This committee advises and makes recommendations to the National Security Council on various issues. These include threats to national security within and outside the country, and opportunities arising from such threats. It also implements domestic, foreign and defence policies and strategies relating to national security. In addition, the committee, in consultation with relevant bodies, conducts an annual review of the domestic, foreign and defence interests of the Republic and advises the National Security Council accordingly.
- ii. **Region Security and Intelligence Committee (RSIC):** This committee collates and deliberates on operational reports for the purpose of assessing and taking action on matters within its mandate. It also advises and makes recommendations to the NSAC, as well as developing security contingency plans. Further, the committee facilitates information sharing amongst national security organs and other agencies on matters of national security in the Regions.
- iii. **County Security and Intelligence Committee (CSIC):** The functions of this committee include:
 - Coordinating and reviewing matters involving national security in the County.
 - Collating and deliberating on operational reports for the purpose of assessing and taking action on matters within their mandate and
 - Advising and making recommendations to NSAC through the RSIC.
 - Coordinating disaster management matters in the County
 - Development of security contingency plans.
 - Liaising with the County Government Departments and Agencies on matters of national security.
- iv. **Sub-County Security Intelligence Committee (SCSIC):** This committee implements the decisions of NSAC, JRSC and RSIC at the sub County level, advising and making recommendations to the RSIC through the CSIC.
- v. **Division Security and Intelligence Committee (DSIC):** The committee is mandated to advise and make recommendations to the County Security and Intelligence Committee through the Sub County Security and Intelligence Committee. It also implements the decisions of NSAC, JRSC and RSIC.
- vi. **Location Peace and Security Committee (LPSC):** The committee is responsible for management of security issues, peace building and conflict management in their

respective areas. It also advises and makes recommendations to the Division Security and Intelligence Committee.

- vii. Sub-Location Peace and Security Committee (SLPSC): The committee is mandated to manage security issues, peace building and conflict management in its area of jurisdiction. It also advises and makes recommendations to the Location Peace and Security Committee.

8.1.7 Role of an Administrative Officer in Peace and Security Management

The Administrative Officer is expected to play a crucial role in the management of security in his/her area of jurisdiction. This mandate is derived from The Constitution Article 239(5), the National Government Co-ordination Act, 2013 section 15(2) and Executive Order Number 3/2014. He/she exercises this mandate by:

- i) Chairing security meetings.
- ii) Sensitizing stakeholders on their role in maintenance of peace and security.
- iii) Promoting statehood and nationhood among local communities.
- iv) Coordinating intelligence gathering and sharing among the security agencies.
- v) Coordinating security vetting.
- vi) Representing the government in security forums.

8.1.8 Summary

In this topic, we have examined the concept of national security and the structure and organs of the Kenya National Security Architecture. Further, we have examined the legal and institutional frameworks as well as the tools applied in promoting peace, safety and security. We have also discussed your role as an Administrative Officer in peace and security management. In the next topic we are going to learn about peace building and conflict management in the country.

8.1.9 Activities

1. In the recent past, increased incidents of insecurity have been reported in Soko division. In the last week alone, three cases of murder have been reported, forcing the members of the public to stage demonstrations. This made it necessary for the County Commissioner to visit the area and address the residents. You are required to role play the Assistant County Commissioner and the County Commissioner handling the situation.
2. Assess the membership and functions of various committees under the National Security Council.

8.1.10 References

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8.2 ESSENTIALS OF PEACE BUILDING AND CONFLICT MANAGEMENT

Outline

- 8.2.1 Introduction
 - 8.2.2 Specific Objectives
 - 8.2.3 Concept of peace
 - 8.2.4 Principles of peace building
 - 8.2.5 Techniques for peace building
 - 8.2.6 Challenges in peace building
 - 8.2.7 Sources and symptoms of conflict
 - 8.2.8 Principles of conflict management
 - 8.2.9 Traditional techniques of handling conflict
 - 8.2.10 Measures to manage post conflict situations
 - 8.2.11 Summary
 - 8.2.12 Activities
- References

8.2.1 Introduction

Peace and the absence of peace in a region is a key prerequisite for any meaningful wholesome development in the country. In your work as an Administrative Officer, you will be expected to foster peace and resolve any conflicts that may arise in your area of jurisdiction. This topic is designed to equip you with knowledge, skills, attitudes and values that will enable you to promote peace and resolve conflicts.

8.2.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the Concept of peace;
- ii) analyse the Principles of peace building;
- iii) apply Techniques for peace building;
- iv) assess the Challenges in peace building;
- v) assess the Sources and symptoms of conflict;
- vi) analyse the Principles governing conflict management;
- vii) examine Traditional techniques of handling conflict; and
- viii) Formulate Measures to manage post conflict situations.

8.2.3. Concept of Peace

Peace refers to a state of societal friendship, harmony, absence of hostility, violence and freedom from fear. Peace may be interpreted in the following ways:

- i) As a state of non-conflict, non-violence, or non-war- signifies a situation where no one lives in a state of discord and no end justifies violence, not even self-defence.
- ii) As "Negative Peace" - means the "absence of personal violence by obeying law and order" to avoid trouble/conflict.
- iii) As a state of order- refers to harmony of the body, soul and mind that removes the need for competing interests within individuals thus bringing about peace.

- iv) As Harmony and Tranquillity- mental and social order are seen as an integral and continuous part of human relations. A harmonious state of mind and harmonious social relations are one.
- v) Peace as social contract- peace can be understood as a form of social contract between individuals, groups and nation states.

Having discussed the various interpretations of peace, you will be involved in peace building in your area of jurisdiction. What is peace building?

Peace building is the process of establishing durable peace by providing alternatives to war or violence. This may be by addressing the root causes and effects of conflict through reconciliation, institutional capacity building, Socio-economic and political transformation. It therefore involves a set of physical, social, and structural initiatives that are often an integral part of post conflict reconstruction and rehabilitation.

8.2.4 Principles of Peace Building

Peace building process is determined by the behavioural characteristics of actors and mediating third parties. Irrespective of the magnitude of a conflict, the following standard principles are applicable in peace building processes for sustainable outcomes.

- i) Principle of vision setting – This refers to the broad mandate of the mediators or negotiators. The intended outcomes of all the processes must be defined from the start. The long term and short-term needs of parties must be identified as well as the actions that may facilitate or hinder progress. A design or plan of action that will guide the whole process to success is also developed.
- ii) Principle of interdependence - No one person or party, activity, or level of society is capable of designing and delivering peace on its own. Systems or people operate in an interconnected manner in terms of roles and activities that are inter-linked and affecting each other. The action of one party determines or attracts equivalent reaction by the other. Peace building is therefore intimately connected to the nature and quality of relationships.
- iii) Principle of sustainability - Sustainability requires that we think about what builds the capacity of parties from within the identified context for responding to and transforming recurring cycles of conflict and crises individually. In this way involvement of third parties in peace building or possibility of relapse is minimized.
- iv) Principle of intervention- comprehensive overview, specific programmatic action and purposive proposals targeting a balanced settlement of interests by parties are introduced for negotiations. Peace building actions need to link immediate needs to the desired vision. Therefore, mediators must remain focused on options that will keep the parties on a track that will not divert from the vision.
- v) Principle of communication- This entails articulation of issues in openness and provision of space for inclusiveness of diverse set of voices. Dialogue requires self-reflection, spirit of inquiry and personal change to embrace an attitude of impartiality while maintaining

firm control of parties. To find sustainable peace building solutions requires time and patience by all parties.

- vi) Principle of cooperation - cooperation is necessary between warring parties. It reflects sense of willingness to pursue peace, responsibility, accountability and participation by diverse actors. For example, sharing crucial resources such as grazing land, water, forests, etc. creates an enormous opportunity and incentive to bring stakeholders to the negotiating table.
- vii) Principle of social infrastructure-platforms necessary for supporting the process of change and long-term vision of peace, social spaces, logistics, and institutions available in the community are necessary factors to be considered in peace building. They provide basic support systems to enable people embrace processes to achieve long-term desired change within a context of dynamic relationships.
- viii) Principle of power dynamism - an individual's or group's power is a key determinant on a peace building process outcome. Power may be measured in terms of money, military, or physical strength, wisdom, political affiliation, moral or spiritual standing, beauty and charisma. These attributes can affect how "powerful" a person is in shaping her/his environment. Such endowment by parties or even the mediator must be exercised in a balanced approach to achieve the overall goal of the process.
- ix) Principle of Governance-Societies with reliable structures and processes that are able to produce progressive agreements are societies with stable social fabric and mechanisms for dealing with disagreements and withstand disputes.
- x) Principle of participation- Where civic organizations and groups are active and effective, the likelihood of social disintegration and public violence as a response to conflict is lower than where there is no thriving civil society. Civil society is distinct from government but is seen as essential for the good functioning of any society.

8.2.5 Techniques for Peace Building

There are various techniques that you may adapt in peace building initiatives. These include:

8.2.5.1 Techniques by an Individual

An individual may build peace by:

- i) Avoiding engagements with all parties
- ii) Applying delay tactics-time heals mentality
- iii) Tactical withdrawal
- iv) Giving in to best suitable of available proposals
- v) Hiding real issues by parties
- vi) Forcing interest on weaker parties (negative peace)
- vii) Compromising individual/group interests (loose-win situation)
- viii) Cooperation leading to a win-win situation.

8.2.5.2 Techniques by an Intermediary to Peace Building Process

An arbiter or a negotiator in a peace building process may be required to embrace the following aspects personal to himself and overtly to the parties to the conflict.

- i) Cultivating Personal Peace
- ii) Promotion of Humanizing Justice Systems
- iii) Empowering Community Peace building initiatives
- iv) Fostering International Peace by application of international legal and human rights protocols
- v) Teaching Peace in Schools

8.2.6 Challenges in Peace Building

Where groups of people are in a conflict situation, each will have its own interests or goals. There is therefore no single right response. Each case depends on the circumstances and the particular relationships of the parties involved in the peace building processes. Cooperating usually holds the greatest promise of sustainable peace.

There are several challenges experienced in peace building in the international arena as well as in the local scene. These may include:

- i) Inadequate knowledge or improper diagnosis of the root causes of a conflict leading to misinformed solutions.
- ii) Insufficient local community engagement for adoption of viable options for acceptable and sustainable peace processes.
- iii) Presence of secret agents, spoilers and proxies by conflict beneficiaries.
- iv) Inadequate local conflict social reconciliation processes that lead to engagement of outsider experts who are met with Insider - outsider negative perception.
- v) Low trust levels between the local population and the security agencies.
- vi) Unresolved burdens of long-term violence on a weaker party when not addressed are a recipe for revenge.
- vii) Endorsement of structural forms of injustice and violence at the expense of legitimate application of legal tools and policies.
- viii) Application of international legal tools to local contexts whose cultural, religious and normative orientations are different.
- ix) The lack of coordinated policies and mechanisms on cross-border security, movement, and trade.
- x) Polarized politics in based on ethnic groupings/political parties.
- xi) Forces of internationalism, globalization and power dynamics beyond individual state territorial jurisdiction.
- xii) Existence of key resources along internal and international boundaries where neighbours are not able to let it go.

8.2.7 Sources and Symptoms of Conflict

Conflict is defined as a relationship between individuals, groups or state actors who experience upheaval. This may arise out of differences in thought processes (ideological), attitudes (approaches), understanding (viewpoints), interests, desires and even sometimes perceptions. A conflict may result in heated arguments, physical abuses or even war and definitely loss of peace and harmony. Such conflict may require de-confliction.

De-confliction is the annihilation of conflict. It does not refer to negotiation or bargaining, or even to resolution of conflict. It is the effort required to eliminate or minimize conflict, reduction of hostilities and arriving at a truce or ceasefire. It includes offer for incentives, threats to apply punitive action to parties or actual use of force to ensure stoppage of violence and pave way to commencement of peace processes.

8.2.7.1 Sources of Conflicts

Conflicts emanate from more than one source, and so their true origin may be hard to identify. Several sources of conflicts have been identified depending on their causes as classified below:

a) At the individual level

These may include:

- i) Differences in perception
- ii) Leadership styles and principles
- iii) Values and beliefs
- iv) Broken Interpersonal communications
- v) Difference in choices
- vi) Ideological differences
- vii) Status/class
- viii) Gender
- ix) Fear (collective or personal)
- x) Lack of impartiality
- xi) Coercion, bullying and harassment
- xii) Socio-economic resource share

b) Group community, national and international level;

Causes may include:

- i) Race and ethnicity
- ii) Security dilemma
- iii) Lack of legitimacy of governments/systems
- iv) Natural resources
- v) Ideological differences
- vi) Technological acumen
- vii) Socio-economic resource sharing

8.2.7.2 Symptoms/Indicators of Conflict

The genesis of conflict may be predicted using a number of conventional and nonconventional methods. As an Administrative Officer, you should be able to identify the following key symptoms of conflict for pre-emptive action to remedy any occurrence.

- i) Reduced levels of communication and trade
- ii) Decline of structures capabilities
- iii) Political intolerance
- iv) Exclusionary ideologies
- v) Economic tensions and increased unemployment
- vi) Cultural discrimination and stereotyping

vii) Negative propaganda

8.2.8 Principles of Conflict Management

Conflict management refers to efforts by actors in a conflict situation to consistently limit and avoid future violence by promoting positive behavioural changes to parties involved. There are several principles that guide conflict management as discussed below:

- i) Interrogation- This principle takes consideration of the process input and output on the premise of “*Think before Reacting*”. The tendency in a conflict situation is to react immediately. After all, if we do not react, we may lose our opportunity. In order to resolve conflict successfully it is important to think before we react--consider the options, weigh the possibilities. The same reaction is not appropriate for every conflict.
- ii) Listening: Listening is the most important part of communication. Active listening is therefore the key tenet to understanding the concerns of the parties for an impartial approach by a third party. It means not only listening to what another person is saying with words, but also to what is said by intonation and body language. The active listening process also involves letting the speaker know that he or she has been heard. For example, "What I heard you say is....."
- iii) Fairness: The process for resolving a conflict is often as critical as the conflict itself. Fairness in peace building processes is an integral part of healing. Parties need to be assured of neutrality of processes and outcomes as well as their implementation. It is important to assure that the resolution method chosen as well as the process for affecting that method is fair to all parties to the conflict. Even the perception of unfairness can destroy the resolution.
- iv) Confrontation: This principle considers direct action “*Attack to the Problem*”. Conflict is very emotional. It is expected of third parties to a conflict to zero in on the root causes of the problem but not the liability of the parties to a conflict. When emotions are high it is much easier to begin attacking the person on the other side than it is to solve the problem. The only way conflicts get resolved is when we attack the problem and not each other. What is the problem that lies behind the emotion? What are the causes instead of the symptoms?
- v) Responsibility: Conflicts have many sides and there is enough responsibility for everyone. Attempting to place blame only creates resentment and anger that heightens any existing conflict. In order to resolve a conflict, we must accept our share of the responsibility and eliminate the concept of blame.
- vi) Direct Communication: Say what we mean and mean what we say. Avoid hiding the ball by talking around a problem. The best way to accomplish this is to use "I-Messages". With an "I-Message" we express our own wants, needs or concerns to the listener. "I-Messages" are clear and non-threatening way of telling others what we want and how we feel. A "you-message" blames or criticizes the listener. It suggests that she or he is at fault.

- vii) **Interests:** To understand the basis of a conflict and expectations of parties to conflict you must unearth the interests of each. Positions are usually easy to understand because we are taught to verbalize what we want. However, if we are going to resolve conflict successfully, we must uncover why we want something and what is really important about the issue in conflict. Remember to look for the true interests of the all the parties to the conflict.
- viii) **Posterity:** In order to understand the conflict, it is important to understand the dynamics of the relationship including the history of the relationship. However, in order to resolve the conflict, we must focus on the future by ensuring sustainable resolutions and proposing a roadmap for use in case the problem recurs. The question here is: What do we want to do differently tomorrow?
- ix) **Patience:** Be very sensible and patient. Learn to keep control on your emotions. Do not ever lose your temper as it would only make the situation worse.
- x) **Mutual Gain:** In any peace building process you should strive to coin ways that assure mutual gains to all parties. This ensures that all parties are better off in future than they are in the instance. The gain of one party at the expense of others only prolongs conflict and prevents resolution.

8.2.9 Traditional Techniques of Handling Conflict

In the African context, conflicts in the communities and inter-communal setting were resolved using social – cultural and economic mechanisms and traditional institutions. It is in this indigenous knowledge that most civilized institutions borrowed wisdom and established structures to facilitate administration of justice in an organized manner. Several traditional techniques have been applied over time and proven to be successful in different communities. They include:

- i) **Promotion of common Humanity/Communal Living:** The technique of common humanity/communal living makes Africans consider themselves as one people. Divisions among the members were abhorred. It is common in Africa to hear people saying, “we are all one people, we are all Africans, and we are all one community”. This is reflected in the southern Africa term “ubuntu” and the Swahili term “utu” meaning Humanness. Corporate/communal interests are prioritized in decision making processes as opposed to selfish ambitions or individualistic pursuits.
- ii) **Reciprocity:** Reciprocity is the other technique that creates an ideal environment for conflict resolution. Exchange of privileges, goods, favours and obligations is considered a shared responsibility. The technique emphasizes on sharing and also sustaining a sense for collective security through a social set up which supports an egalitarian social living. Parties into a conflict are assured of shared burden of sustaining relationship since the cause of the conflict has the probability of reverting to the party presumed innocent.
- iii) **Respect to elders’ approach:** Respect towards parents, elders, ancestors and the environment is a cherished and well entrenched norm in the customs, traditions and taboos.

Strong traditions, customs and norms foster obedience and respect to elders and their verdicts on conflict matters. In every African community, elders are organized into well-structured groups (council of elders) with different names; Nyieya by Yoruba- Nigeria, Wazee wa Nyumba Kumi in Tanzania, Nchuri Ncheke by Meru, and Wazee wa Kaya by the Mijikenda Community-Kenya.

Respect is codified in taboos and the concept of social distance which regulated “what one could do, whom to talk to and how to relate to one another according to one’s sex, age and status.” In this way, social conflicts are avoided and resolved through respect that people have for one another, parents, elders, the ancestors and even to the environment.

iv) Application of traditional institutional authority: There are several institutions in the African setting that exercise authority in the community. These institutions include:

- The immediate family
- Extended family and Neighbourhood
- Clan- Kinship System
- Council of Elders
- Age-Set/Age-Grade
- The Tribe

v) Consensus Approach: Consensual outcomes are highly regarded as they create confidence and parties have autonomy over the process. Thus, the decision of the elders is seen to be effective, durable and long lasting. An agreement reached through this process may be communicated to the whole community and affirmed as a social contract in a ritual way. For instance; such ritual in the Acholi Community in Uganda, is referred to a ‘*MatoOput*’-drinking bitter herb. Similarly, the ‘*muma*’ in the Kamba community in Kenya is administered to both parties to symbolize the gruelling process the disputant has put the community through.

vi) Third Party emissary approaches: Third party approaches are used when the help of the extended family, clan or council of elders is not effective due to relational ties and ensuing respect. This approach when employed minimizes level of exposure of personal privacy to parties, family or clan tension and enhance confidence in the conflict resolution processes.

vii) Application of Traditions, customs and norms: The traditions, customs and norms of a particular community play a pivotal role in conflict resolution. Disregard of some of these beliefs can attract the wrath of the gods, ridicule and reprimand from members of the society hence ensuring that persons shunned conflict-causing conduct. Some traditional practices such as witchcraft, naysaying, foretelling, prophecy and conjuring, contribute to resolve some complex conflicts where factual information and incriminating evidence may not be available

8.2.10 Measures to Manage Post Conflict Situations

Post Conflict situation involves various activities which touch on the psychological well-being of the communities, infrastructure rebuilding, social re-integration of soldiers, peace building

initiatives to nurture the peace gains achieved. Several measures to ensure sustained peace have been proposed. These include:

- i) Nurturing positive peace outcomes achieved in a reconciliation process including:
 - Promotion of natural justice to victims.
 - Promotion of restorative justice among disputants.
 - Empowerment of victims to become victors and be able to regain their initial socio-economic status.
 - Encouragement of victims to forgive, forget and move on with their lives without forging for revenge.
 - Organise continuous psychological, emotional and spiritual maturity capacity enhancement trainings for all parties.
 - Effectively deploy the services of traditional conflict resolution mechanisms to manage relations and provide timely advise to government for action.
- ii) Attending to both physical and emotional needs of parties involved in a peace agreement
- iii) Promote adherence and respect to the Rule of Law by all parties
- iv) Execution of prompt investigations on any new allegations by any of the parties to curb resurgence of conflict and violence.
- v) Combine where applicable traditional and modern mechanisms towards peace building and social coexistence
- vi) Provide avenues for sharing of common resources like water points, schools, hospitals, sports facilities
- vii) Ensure progressive, unbiased and equitable reconstruction and development of infrastructure projects that might have suffered during the conflict period

8.2.11 Summary

In this topic, we have examined the concept of peace and conflict, causes and symptoms of conflict, principles in peace and conflict resolution; and techniques in peace building while examining measures to manage post conflict situation. The practical approaches dissected will trigger a new outlook of implementing conflict resolution and peace building initiatives in the work environment.

8.2.12 Activities

During the last three years, there has been drought in Momina Division of Awinja Sub County. In the area, there is only one river, river Momina, which has been the cause of conflict as pastoralists from the area compete for the water resource as the levels drop. The majano community who are the dominant tribe believe they have the right to own the river. The obengo community however claim to be the traditional owners of the river. This conflict has escalated to levels that they do not communicate any more. In the last one week, leaflets of threat for war suspected to be from obengo community were found dropped along the river bend.

Required:

1. As an Administrative Officer, demonstrate the applicability of the principles that govern conflict resolution.

2. Analyse the reasons for effectively resolving the conflict through applying the principles in this conflict.

8.2.13 References

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8.3 THREATS TO NATIONAL SECURITY

Outline

- 8.3.1 Introduction
- 8.3.2 Specific objectives
 - 8.3.3.1 Internal threats to national security
 - 8.3.4 External threats to national security
 - 8.3.6 Strategies to mitigate threats to national security
- 8.3.7 Summary
- 8.3.8 Activities
- 8.3.9 References

8.3.1 Introduction

Provision of sustainable security is a cardinal obligation and pursuit of all states in their endeavour to safeguard national interests. The Government of Kenya has put in place progressive mechanisms to ensure citizens go about their daily duties unhindered through implementing initiatives geared towards addressing national security threats. As an Administrative Officer, you are expected to play a key role in enhancing and sustaining such security in your area of jurisdiction. The national security threats are an outcome of both internal and external susceptibilities.

8.3.2 Specific Objectives

By the end of this topic, you should be able to:

- i) articulate the internal threats to national security;
- ii) analyse the external threats to national security; and
- iii) formulate strategies for mitigating threats to national security.

8.3.3 Internal Threats to National Security

Security is vital in achieving and sustaining the economic growth rate anticipated under the Vision 2030. The Government is committed to ensure that our society is free of danger and fear.

A secure environment provides a key incentive for attracting investment both from within and outside our borders. There are various internal threats to national security which include;

- i) **Terrorism:** Kenya's strategic position within the Horn of Africa and Great Lakes region and its proximity to Somalia has exposed the country to terrorism threats. Of concern is the focused targeting of main roads, security installations and personnel, communication infrastructure and other soft targets. Al Shabaab, Al Qaeda & ISIS have hostile operational ambitions which seek to undermine Kenya's economic development, inter-faith harmony, social cohesion and political stability. The Government's counter terrorism effort has delivered a sharp reduction in the number of fatalities, attacks and attempts in Kenya by terrorist entities. Added to the strong efforts to dismantle terrorists' operational capabilities, the government has increased its focus on preventing and reducing the motivations underlying recruitment into terrorism.
- ii) **Radicalization and violent extremism:** Traditionally, radicalization was confined to some parts in Coast, Nairobi and North Eastern regions mainly targeting the youth. However, incidences of radicalization have increasingly been observed in other regions of the Country indicating that no region is safe from this vice.
- iii) **Corruption:** Corruption undermines democracy, the rule of law, basic human rights and good governance. It stifles economic growth and development, impairs service delivery, erodes trust in public institutions, compromises maintenance of law and order and promotes insecurity. When corruption was declared a threat to national security in March 2015, institutions of Government charged with the responsibility of fighting corruption adopted a transformative approach in combating the vice.
However, corruption remains a challenge in the country both in the public and private sectors. Criminal elements compromise public officers to perpetrate their illicit activities including acquisition of identification documents, smuggling of contraband, drug trafficking, human trafficking, poaching and proliferation of small arms among others. The vice is partly responsible for the country's increased vulnerabilities to terror attacks propagated by Somalia's Al Shabaab terror group.
- iv) **Environmental degradation:** With the existing vagaries of weather, climate change presents itself as one of the threats to peace and security in the 21st century. Kenya has been experiencing an expanding population resulting in increased competition for land among competing land uses leading to degradation of natural resources. The population pressure on land resources for livelihoods has led to increased demand for wood fuel, destruction of forest land and escalation of human - wildlife conflict.
- v) **Cattle rustling and banditry activities:** Previously, cattle rustling activities and other incidences of livestock theft were merely a cultural practice among pastoralist communities. The practice acted as a rite of passage, an avenue to amass cattle for dowry payment as well as re-stocking during the rainy season. Other factors contributing to this menace include commercialization of cattle rustling and proliferation of small arms and light weapons which has led to emergence of banditry activities in some parts of the country. The practice poses security challenges due to:

- Proliferation of illegal firearms, particularly among communities residing along the common borders with neighbouring countries experiencing instability.
 - Commercialization of the vice.
 - Suspicions and mistrust between the affected communities.
 - Selfish political interests by politicians.
 - Lack of political and communal goodwill during initiation of peace building mechanisms at the local level.
- vi) Illicit brews and abuse of alcoholic drinks: The widespread manufacture, sale and consumption of illicit liquor and abuse of alcoholic drinks in the country have negatively affected the Kenyan population, especially the youth.
- vii) Violent crimes: Crime against persons and towards property affects all aspects of society directly or indirectly. Incidents of violent crime against persons negatively impact gains made by the government and individuals towards economic development and improving living conditions for its citizens.
- viii) Gender based violence: Gender based violence presents a challenge as many offences remain unreported due to the stigma associated with being a victim of these crimes. Addressing these heinous crimes is also hampered by the fact that perpetrators in most cases attack people known to them and with whom they share a relationship of trust.
- ix) Wildlife crimes: Kenya's wildlife is a critical resource for realization of the country's Vision 2030 as it directly supports the tourism industry and other natural resource sectors. This invaluable wildlife resource is the target of illegal activities such as poaching and illegal exploitation which have both direct and indirect negative impact on local communities, economy and security.
- Owing to the geographical positioning of the country and the proliferation of illegal firearms in the region, fighting wildlife crime is both a challenging and an expensive undertaking. The wildlife population has been facing a myriad of threats. These include; poaching, habitat loss and fragmentation, human-wildlife conflict and climate change resulting in fluctuation of water in protected areas.
- x) Ethnic and inter communal conflicts: Ethnic and inter-communal conflicts in some parts of the country are partly fuelled by more pronounced tribal or clan differences, incitement, competition for resources such as land, water and pasture that undermine development and security.
- xi) Threats to transport safety and security: A secure and efficient public transport system on land, air and sea is a catalyst for national development, trade and security in the country. Modern transport systems and infrastructure are susceptible to criminal and terror attacks as they are a lucrative target arising from a concentration of traffic especially during rush hours and festive seasons. On the other hand, the transport network needs to be secured from being a conduit for terrorist groups and transport of contraband and illegal immigrants.

Due to the expansive coastline characterized by numerous illegal landing sites, terrorism, drug trafficking and piracy poses a challenge to the maritime safety and security. Further, illegal and unregulated fishing in Kenyan territorial waters sabotages the blue economy besides destroying the environment. The entry of unwanted persons under the guise of vessel crew presents a security threat to the country.

- xii) Smuggling of Contraband and Counterfeit Products: Kenya has been a target destination market for counterfeit and substandard products, thus undermining the growth of the manufacturing sector. Smuggling and trade in counterfeits does not only deny the country revenue and job opportunities, but also results in loss of creativity and brand reputation. Additionally, the proceeds of smuggling are used to finance other crimes.
- xiii) County boundary disputes: Since the promulgation of the Constitution, 2010 and the resultant creation of devolved units, several counties have had issues with their boundaries leading to unnecessary conflicts. Some of these conflicts are due to shared resources that lie along the common borders of these counties while others are administrative.
- xiv) Land invasions: Land invasions by squatters, landless people, grabbers and by herders in various parts of the country has violated the sanctity of private and public property as protected by the Constitution. The invasions are driven by political incitement, greed, perceived marginalization, scarcity of pasture and water as well as the expiry of land leases.
- xv) Ethnic and communal conflicts: This vice stems from perceived marginalization, tribal or clan differences and politicization of issues by politicians, competition for resources such as land, water and pasture as well as political, ethnic and clan supremacy battles.
- xvi) Cross Border Incursions: Communities bordering Uganda, South Sudan, Ethiopia and Somalia have been experiencing various cross-border challenges. The Toposa of South Sudan engages in cross border raids against the Turkana for the latter's livestock. Likewise, along the Kenya-Uganda border, there are cross border incursions involving the Turkana, Pokot and Karamojong. Other cross border communities that stage incursions into the country include the Nyangatom of South Sudan and the Merrille and Dasnach of Ethiopia. Their incursions have had the negative effect of disrupting government projects and livelihoods of the Kenyan border communities.
- xvii) Organized Criminal groups: The organized groups engage in extortions, muggings and control of some bus termini, peddling of drugs, attack on security officers and security establishments such as police stations, carjacking, kidnapping, violent robberies, break-ins, murder and other crimes. The criminal elements have also infiltrated the bodaboda (motorcycle) industry for criminal purposes. These groups include; Mombasa Republic Council (MRC), mungiki, wakali wao, Superpower, Gaza, Saboat Land Defence Forces among others.

- xviii) Poaching: Poaching is a threat to the country's wildlife and by extension tourism which generates a sizeable percentage of the country's Gross Domestic Product (GDP) as about 70% of Kenya's tourism business is wildlife dependent. Elephants and Rhinos face imminent danger of extinction as they continue to be killed by poachers seeking animal trophies especially tusks and Rhino horns.

8.3.4 External Threats to National Security

The country's main external threats emanate from various sources which include:

- i) Refugees, Aliens and asylum seekers: The influx of refugees from the neighbouring countries due to political instability has led to the creation of Dadaab and Kakuma refugee camps. Unfortunately, some of the camps have mutated into centres of terrorist recruitment, radicalization, hideout, and training. They have also become assembling points for improvised explosive devices and holding grounds for contraband. In addition, the camps have become holding grounds for aliens being trafficked or smuggled through the country to Southern Africa and Europe.
- ii) Drug trafficking: Drug traffickers largely drawn from West Africa, Europe and Pakistan use the country as a key transit hub for drugs such as hashish, heroin and cocaine. Drug abuse is prevalent amongst students and the youth from mainly the Coast and Nairobi regions and this has greatly affected their education and livelihoods. The drug trafficking threats have political, socio-economic as well as security effects on the Kenyan society. On the economic front, the vice facilitates money laundering, inflation and corruption leading to reduced productivity.
- iii) Counterfeit goods: Kenya is ranked among the largest markets for counterfeit goods in East Africa, also serving as the distribution point in the region. The trade involves networks of cross-border smugglers who target fast-moving and highly profitable goods such as food, electronics and cosmetics. The trade also involves pharmaceuticals and other consumables that pose health and safety risks to the Kenyan populace. The problem has made some international brands to shy away from the Kenyan market citing ineffective enforcement of existing anti-counterfeit, copyright and Intellectual Property (IP) laws.
- iv) Proliferation of Illicit Small Arms and Light Weapons: Instability in some of the countries in the eastern and the horn of Africa region; porous borders; cattle rustling; and, corruption among others have contributed to the proliferation of illicit small arms and light weapons. The influx of small arms has radically changed the nature of cattle rustling resulting to violent fatalities and loss of livelihoods.

8.3.5 Strategies to Mitigate Threats to National Security

There are several strategies that you may apply to mitigate threats to national security. These include:

- i) Multi Agency Approaches: As we have already discussed, there are different legal frameworks that provide for various agencies with specific mandates across national security spectrum. These mandates are achieved with formation of synergies across agencies. In this regard, the Government has enhanced multi-agency collaboration in

pursuit of various aspects of security. The inter-agency cooperation is aimed at avoiding duplicity of efforts by different agencies thus leading to optimal utilization of resources. These approaches have been implemented in addressing corruption, counterfeits, terrorism and border security, among others.

ii) Reforms in National Government Administration Services: In a bid to bring coordination of security services closer to the citizens, the Government has established new administrative units and enhanced mobility of the administrators resulting to quick service delivery.

iii) Reorganization of the National Police Service: In 2018, the Government launched a policy framework and strategy for reorganization of the National Police Service which resulted to the initiation of the following reform programmes:

- Reorganization of the National Police Service command structure in conformity with NPS Act 2011, and assignment of specific and distinct functions to DIG's Kenya Police and Administration Police Service; Kenya Police Service to focus on public safety and security while the Administration Police Service to focus on protective and border security as well as combating cattle rustling and banditry. The criminal investigations to be handled by the DCI.
- In addition, all police posts, camps and patrol bases formerly under APS and KPS were integrated and merged to fall under one police station.
- Integration of 2,500 Anti Stock Theft Unit (ASTU) and 482 APS Stock Theft Prevention Units to increase its strength to 5,000 APS-ASTU under the command of DIG-APS.
- The DIG APS to command the following formations/specialized units, Security of Government Buildings(SGB), Critical Infrastructure Protection(CIPU), Rapid Deployment Unit (RDU), Border Police Unit (BPU), Anti Stock Theft Unit (ASTU) and APTC/Training.
- Alignment of Police geographical/operational boundaries with current administrative boundaries and create appropriate unified command system.
- Introduction of New General duty police uniforms and kitting for all ranks. Introduction of house and commuter allowances for police officers to address acute shortage of accommodation.

iv) Prison Reforms: The Government has continued to initiate a number of reforms to realign prison services to best practices across the globe. These reforms include:

- Introduction of station-based budgeting.
- Modernization of Kenya Prisons Service transport system.
- Continued modernization of prison industries and farms into Kenya Prisons Enterprise aimed at increasing revenue and enhancing rehabilitation of inmates.
- Introduced house and commuter allowances for prisons officers to address acute shortage of accommodation.
- Eased congestion in prisons through construction of new prisons and refurbishment and extension of accommodation facilities in the existing prisons.
- Constructed health facilities to meet the regular health care needs of inmates.

- Initiated the development of Standard Operating Procedures (SOPs) on transfer of prisoners to and from other jurisdictions.
- v) Review of Legislations and Policies: To effectively implement and drive the security agenda, a sound legal framework aimed at addressing the existing legal gaps is essential. Towards this end, the Government embarks on a regular basis the development and review of policies and legislation under its various arms of Government.
- vi) Digitization initiatives: The Government has continued to increase the adoption of Information Communication and Technology (ICT) tapping on its enabler and multiplier effects to improve on service delivery in the security sector. Among the areas targeted for digitization are registration of persons, immigration and security surveillance. To this end the Government initiated the Kenya National Integrated Identity Management System (NIIMS, 2019), Case File Management Information System (2019), Electronic Passport (2019) and formulation of the CCTV policy (2018). NIIMS is aimed at establishing and managing a central master population database which will contain information of all Kenyan citizen and foreign nationals residing in Kenya.

In order to comply with ICAO standards and guidelines, the Government has rolled out e-passports. This new passport contains biometrics and automated fingerprint verification system that guarantees its security. The Government has launched the smart driving licenses that are fitted with electronic chips containing vital details of drivers to curb traffic offences and identify all licensed drivers. Further, the Government has initiated a process of re-vetting all civilian firearm holders with an aim of issuing them with smart cards for identification purposes. This will ensure only validly licensed persons acquire and hold firearms.

- vii) Citizen Engagement Initiatives: The Government has continued to invest in citizen participation in security programs. This is based on appreciation of the critical role played by citizens as the first line of defence in a country's security. In this regard, the Government has continued to engage citizens not only in raising their security awareness, but also by developing structured citizen engagement programs in various thematic areas impacting the society.
- viii) County Action Plans on CVE: The Government has gained strong national interest in development of County Action Plans (CAPs) to Prevent and Counter Violent Extremism. CAPs have opened avenues of collaboration and coordination between multiple public and civil actors that are helping turn the tide in the CT/CVE space and build stronger trust.
- ix) Partnership with Private Security: The Government has carried out a comprehensive mapping of private security guards' needs, including assessing their terms of service and training. On training, the Government through National Industrial Training Authority (NITA); Ministry of Education Science and Technology (MOEST) and the Kenya Private Sector Alliance (KEPSA) have developed a standardized training curriculum for all guards.

- x) Integrated Command and Control Centre: To leverage on technology in crime management, the Integrated Command and Control Centre has been established in Nairobi and Mombasa to facilitate real time police operations. Over 3,800 CCTV cameras have been installed to assist the service in carrying out its operations.
- xi) Strengthening good governance: Good governance is achieved through:
 - Improving the efficiency of institutions
 - Enhancing transparency and accountability
 - Inclusion and public participation
- xii) Democratization: Democratization ensures freedom, respect for human rights, dignity, creativity, trust & mutual respect.
- xiii) Improving Living Conditions of Populations: This is achieved through enhancing human and social security of people, creating jobs, improvement of infrastructure and promoting business activities.
- xiv) Economic Development: The Government has taken initiatives to facilitate economic growth by creating enablers such as improvement of infrastructure, provision of universal health care and youth employment. Economic growth enables Governments to implement programs and projects. Economic activities make countries able to meet social needs of the population.
- xv) Reinforcement of Intelligence Services: This is achieved through monitoring, detection, follow up and gathering of information/ coordination of intelligence agencies.
- xvi) Collaboration: Threats to national security do not distinguish targets, and any sector could be a victim of crime or terrorism. Therefore, there is need for effective collaboration between security agencies, private sector, diplomatic representations and international organizations. Dialogue mechanisms, collaboration and information sharing are needed to coordinate actions and produce national interest results.

8.3.6 Summary

In this topic, we have examined the internal and external threats to national security and strategies to mitigate threats to national security. In the next topic, we shall discuss issues related to regional and international peace and security management.

8.3.7 Activities

1. Fatuma lost both her parents in succession when she was just a toddler. She survived by begging along the streets and at the age of fourteen years, she met a religious leader who convinced her to cross over to a neighbouring country for a job opportunity. Unfortunately, she found out that she had already been sold out as a bride to a member of a militia group and was subsequently radicalized. Four years later, she managed to escape when the militia group was engaged in a fight with another rival group. Fatuma has presented herself to you as the area Assistant County commissioner.

Required:

- i. Explain your first cause of action.
 - ii. Describe the actions you will take to prevent future recruitment by the militia group.
 - iii. Discuss the need for informing the public about the situation.
 - iv. Explain the strategies you will take to regain the trust of the public.
 - v. Analyse the ethical issues involved in this situation.
2. Discuss the causes of each of the internal and external threats to national security and the measures that the Government has employed to mitigate the challenges.

8.3.8 References

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2. The National Security Council Act 2012.
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8.4 REGIONAL AND INTERNATIONAL PEACE AND SECURITY MANAGEMENT

Outline

8.4.1 Introduction

8.4.2 Specific Objectives

8.4.3 Concept of regional and international peace and security management

8.4.4 Dynamics in trans-border security management

8.4.5 Challenges in regional peace and security management

8.4.6 Strategies to foster regional and international peace and security

8.4.7 Role of an administrative officer in regional and international peace and security management

8.4.8 Summary

8.4.9 Activity

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8.4.1 Introduction

Peace and security are indispensable elements for regional integration. However, they continue to pose a major challenge in Africa and other parts of the world partly due to gaps in the legal tools governing actor interactions, state sovereignty and interests, power battles, economic development levels and state agenda priority determination. As an Administrative Officer, you may be required to deal with issues pertaining to regional and international peace and security in the course of your work.

This topic therefore is intended to equip you with knowledge, skills, values and attitudes that will enable you to effectively manage trans-border security.

8.4.2 Specific Objectives

By the end of this topic, you should be able to:

- i) describe the Concept of regional and international peace and security management;
- ii) analyse the dynamics in trans-border security management;
- iii) assess the challenges in regional peace and security management;
- iv) formulate the strategies to foster regional and international peace and security;
- v) analyse the role of the administrative officer in regional and international peace and security management.

8.4.3 Concept of Regional and International Peace and Security Management

State and non-state actors (multinationals and international non-governmental organizations) operate on larger jurisdictions than their cradle. The practice to regulate relations is therefore inevitable among state systems as a means to maintain world peace or order.

In this regard, regionalism has been applied by scholars to refer to the expression of common sense of identity and purpose combined with the creation and implementation of institutions that express a particular identity and shape collective action within a geographical region. The resultant institutions established through legal tools (treaties) therefore serve to control among other purposes peace and security aspects of members. Despite development agenda being key aspect in all regional organizations, there is a growing trend to securitize them since none of them can suffice without peace and security. These organizations include:

8.4.3.1 International: United Nations (UN)

The United Nations is not a war-fighting organization. The main responsibility of the UN Security Council is the maintenance of international peace and security; in its efforts to carry out this role, it may authorize the use of multinational military forces. The Security Council is the ultimate source of legitimacy for any multilateral military operations.

8.4.3.2 Regional Bodies

i) **Europe and North Atlantic:** The bodies in this block are:

- North Atlantic Treaty Organization (NATO)
- European Union (EU)
- North Atlantic Cooperation Council (NACC)
- Organization for Security Cooperation in Europe (OSCE)
- Partnership for Peace (PFP)
- Western European Union (WEU)
- Commonwealth of Independent States (CIS)

ii) **African Bloc:** The organizations in this block are:

- The African Union (AU)
- Economic Community of West African States (ECOWAS)
- Economic Community of Central African States (ECCAS)
- Southern African Development Community (SADC)

iii) **American Bloc:** The organizations in this block are:

- Organization of American States (OAS)

- Caribbean Community (CARICOM)
- Organization of East Caribbean States (OECS)

iv) Asian Bloc: The organizations in this block are:

- Association of Southeast Asian Nations (ASEAN);
- Regional Forum for Five Power Defence Arrangement (FPDA)
- South Asia Association for Regional Cooperation (SAARC)
- Commonwealth of Independent States (CIS)
- Partnership for Peace (PFP)

v) Middle East: The organizations in this block are:

- Arab League (AL)
- Gulf Cooperation Council (GCC)
- Arab Cooperation Council (ACC)
- Arab Maghreb Union (UMA)

The need for finding sustainable peace and security has necessitated the state systems to embrace Internationalism.

Internationalism refers to the principle of cooperation among nations for the promotion of their common good. This may be bilateral or multi-lateral. The founders of these regional and international organizations lived through the devastation of two world wars. For instance, since its creation, the UN has often been called upon to prevent disputes from escalating into war, or to help restore peace when armed conflict breaks out, and to promote lasting peace in societies emerging from wars.

Similarly, NATO has highly developed capabilities, which were designed to meet massive military attacks from the East. It has a standby force for quick response should an attack be launched against its members. However, despite these advantages, regional organizations have not been up to the task of limiting conflict. They generally suffer from the lack of national political will and the consequent lack of funding.

Regional and international bodies play key roles and missions in peace and security management. The roles include regulation of behaviour of state and non-state actors to achieve peace and security. These include:

- i) **Deterrence of unwanted behaviour:** This may be achieved through:
 - Providing early warning systems.
 - Deterring infiltration and aggression against other actors.
 - Maintaining territorial integrity and political independence of states
- ii) **Provision of humanitarian relief:** This may be achieved through:
 - Protecting relief operations/convoys.
 - Providing emergency relief from natural disasters (medical, shelter, power, etc.)
 - Conducting relief operations (convoys, air drops)

- iii) Compel prescribed behaviour: This may be achieved through:
- Creating safe havens and weapons-free zones.
 - Disarming and demobilizing local forces.
 - Denying combatants freedom of movement.
 - Removing "rogue" leaders.
 - Locating and detaining war criminals
 - Conducting punitive strikes
 - Enforcing economic and arms embargo
 - Enforcing secure withdrawal of foreign forces, advisors, mercenaries and paramilitaries.
 - Liberating seized territory.
 - Restoring government.
 - Providing security.
 - Dismantling/ destroying arms inventories and production facilities
- iv) Provision of non-coercive support: This may be achieved through;
- Establishing a buffer zone between combatants
 - Monitoring cease-fire.
 - Investigating violations
 - Patrolling borders.
 - Supervising prisoner exchanges
 - Monitoring disengagement/withdrawal of forces
 - Clearing minefields
 - Providing security for elections
 - Assisting in restoring law and order
 - Supporting rebuilding of infrastructure

8.4.4 Dynamics in Trans-Border Security Management

Cross-Border dynamics governance is one of the key considerations in border peace and security management. The governance issues revolve around; determination of boundaries, Cross-border surveillance, trans-national communities, Language and ethnicity patterns, legal trade routes, markets and traders involved. Some of the common border features that countries strive to tackle as an entry point to achieving sustainable border peace and security include:

- i) Management of long and porous borders: The long and porous border has practical implications besides security issues. For example, the East African Community (EAC) will have as her neighbours, seven different countries with whom to deal with in matters of cross border migration. The concern is, does EAC have the capacity to monitor and control such long borders? The practical reality is that even if it wanted to, the resources available are desperately needed to tackle more pressing matters such as education, health and infrastructure. The best alternative would then be for EAC to change its diplomatic orientation towards active cooperation to ensure that there is considerable peace in the neighbouring countries. Sharing of information, technology and skills may make border management easier and amicable.

- ii) **Trans-national communities:** The existence of trans-national communities that is ethnic or linguistic communities straddling common borders is a strength and weakness in the security sector. Given the arbitrary nature of most boundaries in African communities, tribal and clan sections are scattered in different neighbouring countries. The expansion of borders will definitely benefit some communities by bringing them together in one political and administrative unit. Examples of such communities are the Masaai and Kuria of Kenya and Tanzania, Teso, Samia and Luo of Uganda and Kenya. Similarly, the Somali of Somalia and the Somali of Kenya pose a question of identity. However, such a move will still leave others out. In terms of security management sloppy members of such tribes commit crime and run across the border to seek hiding havens.
- iii) **Management of common triggers to cross-border migration:** Immigrant workers are a common denominator from each of the countries either skilled or unskilled. Although it is true that skilled labour normally follows capital, it is also true that unskilled labour goes the opposite direction. For example, Kenya's capital investment in Rwanda, Uganda and Tanzania will attract highly skilled professionals, the unskilled labour from Kenya are not likely to go to these places. This is because unskilled labour in these places will fetch very little in terms of real income. Instead the unskilled labour from Tanzania or Uganda can easily move to Kenya because the pay is relatively better.

The other driver is education. Uganda for example benefits greatly from the education industry as many Kenyans join secondary schools and tertiary institutions there. Kenyans prefer going to Uganda because education is affordable, and one is likely to complete their studies in time. This way, Kenya and Uganda benefits from regional migration.

Trade and commerce are equally an important driver. New products and services get exchanged and new markets are created. On a different front forced migration and displacement also contributes significantly to cross border migration. The region will have to deal with this phenomenon constructively. If member states consider and improve their areas of strength in this matrix, they are likely to benefit from cross border migration.

- iv) **Common Visa for common citizens:** EAC is set out to become a common market after full implementation of the EAC Charter. While the EAC has experimented with a common East African passport, a common visa is yet to be implemented.

8.4.5 Challenges in Regional Peace and Security Management

The international community has developed strategies for ensuring that peace and security is achieved around the globe. Specifically, the United Nations (UN) has endeavoured to ensure sustained peace and security relations among nation states. However, several challenges bedevil these efforts. These include:

- i) **Resource based Border disputes:** This is a common phenomenon in the Eastern Africa frontier as brought about by the colonial boundaries set up. The dynamics related are triggered by the geopolitics and governance agenda of various administrative regimes. For instance, the Migingo Island in Lake Victoria between Kenya and Uganda, Illemi

triangle between Kenya, Ethiopia and South Sudan and currently the Kenya and Somali maritime border.

- ii) Sovereignty wrangles among nation states: In an ideal situation each of the states in the international community strives to exert its power over others in the so-called free interaction in the world sphere. However, as regionalism and internationalism take root, state interests come first. Each country tries to protect its sovereignty. This has made contribution of personnel and funding of major security concerns a nightmare especially control of arms race and proliferation of small arms and light weapons.
- iii) Proliferation of small arms and light weapons: As a result of the porous borders, international criminals in illicit weapons take advantage and thrive despite governments' efforts to tame them.
- iv) Illicit trade/ smuggling of goods: The capacities of the countries neighbouring Kenya to man all the border points effectively is limited. Several border points are not manned and therefore pose a serious threat to the collective security of all the countries. Substandard consumer goods including sugar, maize, cooking oil, cosmetics, and electronics get into the country through the borders.
- v) Human trafficking: The countries neighbouring Kenya are at different levels of development, democratic space and currency strengths. This makes some better destinations for labour and business enterprises than others. Skilled and unskilled labour dynamics come in to play as citizens seek for better paying jobs, more friendly governance and democratic space. This motivation embroiders them into a web of power brokers that penetrate the security systems and transport immigrant populations to destinations of their choice without proper documentation.
- vi) Cattle rustling: Cattle rustling traditionally was used as form of restocking and fulfilment of dowry rites by neighbouring communities. However, the commercialization of the practice has made it violent and more brutal. It has turned to be a great diplomatic concern among countries affected by such practices at borders. The most affected borders are between Kenya and Uganda involving Pokot and Karamojong community and Kenya and South Sudan (Turkana and Oromo communities).
- vii) Asylum seekers and refugees' issues: The crisis and political instability in Somalia, Sudan, Ethiopia and Rwanda led to the influx of refugees in Kenya. Refugee camps were established in Rift Valley, North Eastern and Coast regions. Kenya has been a favourable destination for refugees due to its peaceful and stable governance over a long period of time. The period between 2007 and 2017 was characterized by a rise in terrorist incidences and attacks, resulting in the death of Kenyans. There was also the popularization of the notion that refugees, and asylum seekers present a threat to security, and that their presence in the country exacerbates occurrence of terrorist incidences. Therefore, the Kenyan government took drastic measures to repatriate those refugees and asylum seekers who were willing to go back to their countries.

8.4.6 Strategies to Foster Regional and International Peace and Security

Security agencies in the national security architecture have a number of borders related activities that must consistently be executed to ensure peace, safety and security of their country's citizens.

These include:

- i) Prudence in cross-border politics management: Proper management of political class and ideological unity bring peace in the border points. However, in the contrary Politics can be a lethal weapon once misused in the cross-border dynamics. It may involve propagation of expansionist politics where the political class along the border may influence one of the countries to invade the territory of the other thereby causing physical and diplomatic wars. Therefore, proactive and prudent management of the political class is necessary.
- ii) Seamless cross-border trade regularization: In efforts to improve on trade gains among its members by removing trade barriers and unfriendly tariffs, the EAC has approved the development and implementation of the One-Stop Border Concept at all major points. These include; Taveta Kenya / Holili Tanzania, Busia Kenya / Busia Uganda, Malaba Kenya / Malaba Uganda, Mutukula Tanzania / Mutukula Uganda and Mirama Hills Uganda / Kagitumba Rwanda. This has eased the rigorous procedures of doing business and shortened the time used to transport goods from one country to another.
- iii) Joint common border management: A border management secretariat (BMS) has been established in Kenya to oversee the management of the dynamics along its borders with her neighbours. The secretariat supports a border control management committee that comprises heads of key institutions that include Kenya Revenue Authority (KRA), National Police Service, Kenya Ports Authority (KPA), Ministry of Health, Kenya Wildlife Service (KWS), Immigration department, Kenya Airports Authority (KAA) among others. The functions of this secretariat include:
 - Nurturing the goodwill of the local communities in order to win their cooperation and foster good international relations.
 - Engaging neighbouring countries to conduct cross border joint security and disarmament operation with a view to restore lasting peace in the affected areas.
 - Formulating internal policies and programmes for the management and control of designated entry and exit points.
 - Coordinating exchange of information between the respective agencies responsible for the security and management of the borders at the designated entry and exit points.
 - Ensuring compliance with standards by the respective agencies to ensure effective and efficient management of operations at the designated entry and exit points.
 - Joint border security surveillance and intelligence sharing: To ensure there is control of traffic along the border, cross Border Security Management Committees along Kenya's borders with her neighbours have been established. The mission of the committees is to:
 - Enhance border control by improving passenger profiling and screening procedures of persons entering and leaving the country.
 - Enhance security vigilance by security agencies within and around key installations and targeted facilities.

- iv) Inter-marriages and cultural festivities: Owing to the presence of trans-national communities along the border, common cultural ties play a key securitization role of the interactions of the states involved. Inter-marriages form a key strength for fostering peace in the common border. Common cultural rites like initiations, weddings, and sporting activities support peace building initiatives in the border areas.
- v) Common border development projects: The Government is in the process of ratifying the Mifugo Protocol under the umbrella of IGAD. This will position member countries in the centre of executing common projects targeting pastoralists such as disease control, pasture management, common water points' management and common markets of livestock products. To a large extent, the Lamu Port South Sudan Ethiopia Transport (LAPSSET) corridor aims to foster development among the participating countries.
- vi) Common Visa: Issuing a common visa will be greatly useful in reducing bureaucracy at border points, ease movements and make the region attractive to visit and to do business. Experience shows that most people who come to the region normally visit two or more of the countries.

8.4.7 Role of an Administrative Officer in Regional and International Peace and Security Management

As an Administrative Officer you will be expected to play a pivotal role in linking and coordinating security agents and non-state actors in their efforts to carry out peace building initiatives at the cross-border areas. Activities in this role include:

- i) Sensitization of trans-national communities on their role in maintenance of peace and security.
- ii) Promotion of statehood and nationhood among the local communities.
- iii) Coordination of intelligence gathering, sharing and execution of joint border security operations.
- iv) Coordination of security vetting of asylum seekers, stateless persons and documentation for further process by government or UNHCR
- v) Representing the government in interstate border management negotiations on common socio-economic investment projects targeting enhancement of peace and security at the border
- vi) Facilitating good diplomatic relations between the two countries at the common boundary level.

8.4.8 Summary

In this topic we have discussed the concept of regional and international peace and security management as well as the dynamics in trans-border security management. Further, we have examined the challenges in regional peace and security management as well as strategies for fostering such peace and security. In addition, we have analysed the role of an Administrative Officer in regional and international peace and security management. In the next topic we shall discuss in details emerging issues and trends in security management.

8.4.9 Activities

1. There have been perennial inter-community conflicts in Tondo village as a result of rampant cattle rustling in the area. Intelligence received at the chiefs' office Tondo point out that over forty heavily armed youth are said to have been scouting and taking vigil at river Nuk Division, in readiness to strike on the unsuspecting Bongo grazers on the hillside. It is also reported that the youths have their bosses in the Ethiopia side who readily provide them with weapons and in return purchase the stolen animals in a discounted price to recover the money used to acquire the firearms. From security records, it is evidentially reported that previous attacks from the youths who are said to have perpetuated the vice left ten police officers injured and four residents dead. The community is apprehensive and silent on the matter though some elders who have relatives across the border are said to be in the know. Available security officers are believed to be newly posted and hesitant to take action on the group without support of the locals who have knowledge of the terrain. The locals are said to be planning how to acquire their weapons and retaliate to recover previously stolen animals. They are determined to execute the crime with precision without acknowledging the presence of Kenyan security agencies in the area.

Required:

As the senior most administrator in Nuk Division, with the intelligence provided by the chief of Tondo, and records from the security desk, advise the government on best peace and security management interventions to be deployed in both the short term and the long term to solve the cited cross-border problem.

2. Hostilities between cross-border communities have erupted. As the Administrative Officer in charge of the region:
 - a. Assess the probable causes of these hostilities.
 - b. Analyse the measures you would take to diffuse the situation
 - c. Assess the limitations to your authority in dealing with this situation

8.4.10 References

1. Republic of Kenya, (2010), The Constitution of Kenya: Government Printer
2. The National Security Council Act 2012.
3. Republic of Kenya, (2014), Executive Order No. 3/2014, Strengthening of the National Government Coordination Function at the County Level: Government Printer
4. Republic of Kenya, (2016), Executive Order No. 1/2016 (Revised), Organization of the Government of the Republic of Kenya: Government Printer
5. Republic of Kenya, (2014), The Security Laws (Amendment) Act, 2014: Government Printer

8.5 EMERGING ISSUES AND TRENDS IN SECURITY MANAGEMENT

Outline

8.5.1 Introduction

8.5.2 Specific objectives

8.5.3 Emerging issues and trends in security management

8.5.4 Impact of emerging issues and trends in security management

8.5.5 Strategies of mitigating threats from emerging issues and trends in security management

8.5.6 Summary

8.5.7 Activities

8.5.8 References

8.5.1 Introduction

Security management is a dynamic field where changes in systems and mode of operation are bound to take place. As an Administrative Officer, you will be expected to comprehend current changes and anticipate likely changes in systems and operations. This topic is therefore designed to equip you with the knowledge, skills and attitudes that will enable you address emerging security issues and trends.

8.5.2 Specific Objectives

By the end of this topic, you should be able to:

- i) Assess emerging issues and trends in security management;
- ii) Assess the impact of emerging issues and trends in security management; and
- iii) Formulate strategies of mitigating emerging issues and trends in security management.

8.5.3 Issues and Trends in Security Management

There are various issues and trends that are currently impacting on security management nationally, regionally and internationally. Such issues and trends include:

- i) Cloud Applications use: In the recent past, there has been increasing deployments of information technology and telecommunications which rely on web-based resources and is hosted by the cloud solutions for the provision of services. With advances in technology, so is the rise in security threats specifically targeting cloud-based infrastructures and platforms. This calls for security strategies and solutions specifically tailored for the clouds.
- ii) Proliferation of technological devices: There has been a proliferation of mobile computing devices and removable storage media among other technological devices. This has created opportunities and threats in the security sector. Such threats include increased radiation by substandard electronic gadgets, proliferation of counterfeits and growing volumes of electronic waste.
- iii) Cyber security: One of the main priorities of the Government of Kenya towards the realization of national development goals and objectives for wealth and employment creation, as stipulated in the Kenya Vision 2030, is to achieve an e-Government capability. The Government of Kenya relies on common infrastructure, information technology platforms, and new technologies to increase the efficiency and effectiveness of government services. This has provided a favourable environment for cyber-attackers to attempt to gain access to both public and private information. The theft or loss of sensitive information, the interception or corruption of unprotected data streams, and the compromise of data archives threatens the national security.
- iv) Modern day slavery: Modern day slavery involves the act of recruiting, harbouring, transporting, providing or obtaining a person for compelled labour or commercial sex

acts through the use of force, fraud or coercion. The person is in slavery if he/she is forced to work through coercion, or mental or physical threat; controlled by an 'employer', through mental or physical abuse or the threat of abuse; dehumanized, treated as a commodity or bought and sold as 'property'; or freedom of movement is restricted.

The internal trafficking of persons within Kenyan borders is mainly driven by the purposes of domestic labour and sexual exploitation, whereas international or cross-border trafficking occurs due to purposes of forced labour, domestic servitude, and sexual exploitation.

- v) Espionage: Espionage involves gathering of secret information from non-disclosed sources without the permission of the holder of the information. Espionage has increased in sophistication through the use of technology such that it is difficult for institutions to monitor.
- vi) Globalization: The world has become a 'global village' and new facilities of transport, free movement of goods and people, sciences and technology progress, particularly ICT, have influenced the world life. However, these facilities allow terrorism and crime to spread in the world. Trafficking of illicit goods, terrorism, money laundering vices are often favoured by the ease of globalization.
- vii) Increased use of social media: The increased use of social media has increased the breeding ground for fraudsters and scammers. Further, the increased amount of private information that users are pouring into social networks has eased social intelligence collection and provided more complete pictures of public servants and government institutions. Personal information can be targeted in an attempt to gain access to passwords, locate sensitive documentation and even disseminate malicious files throughout the government.
- viii) Unemployment among the youth: The high level of unemployment among Kenyan youth has made them an easy target for radicalization and other vices. Consequently, the Country has been exposed to terrorism and other vices. The unemployed youths are also vulnerable to recruitment by politicians with the intention of perpetuating the political class agenda in the country.
- ix) Political dynamics: Unhealthy political competition has enhanced political intolerance resulting to insecurity in the country.
- x) Xenophobia: The irrational fear of the local population against people who are either different from them or perceived to be different, in a significant way, such as nationality, culture, religion and ethnicity result to insecurity incidents. The people are feared to take up job opportunities that could otherwise benefit the locals, increases competition for social amenities and influence the social life of the locals. In North Eastern Region of Kenya, the non-locals are feared to have taken up job opportunities in the quarries and public sector, particularly teaching, which could otherwise have benefited the locals. In the big cities, particularly Mombasa and Nairobi, a section of Kenyans fear that other

nationalities have increased competition for business opportunities, at the expense of Kenyans.

- xi) Money laundering: This continues to threaten the Kenyan economy and undermine competitiveness of various economic sectors as crooks use the avenue to clean their ill-gotten wealth. The vice has the potential of being used to fund criminal activities like terrorism. Strict enforcement of the Anti-Money Laundering laws, especially by Central Bank of Kenya as well as improving capacity of the enforcing agencies to effectively deal with the vice has greatly contributed in controlling the vice.

8.5.4 Impact of Emerging Issues and Trends in Security Management

Emerging issues and trends may have both positive and negative impacts on security management. The impacts include:

- i) Lack of trust among employees: Increased information sharing, and cyber bullying has created an environment where employees no longer trust one another, which may hamper service delivery and communication.
- ii) Increased cyber-crime levels: The Kenyan economy is increasingly adapting to digital and online services. As a result, the country has experienced emergence of online financial platforms that include mobile and internet which are however mired with inherent risks such as online fraud/hackings, cyber-terrorism, cyber-bullying, cyber-stalking, identity theft, malicious software, credit card fraud and SIM card swapping.
- iii) Enhanced intelligence gathering: Through increased espionage, the government has the capacity to collect data and information on illegal drug and terrorism activities.
- iv) Interdependence of countries: Globalization exposes Kenya to a number of challenges and opportunities. It has raised the standard of living through providing job opportunities, modernization, and improved access to goods and services from across the globe. However, the country is faced by some criminal activities extending beyond territorial borders; human trafficking, terrorism, radicalization, smuggling, drug trafficking, proliferation of small arms and light weapons.
- v) Enhanced Communication: Information Communication Technology has enhanced communication. It has become much easier to send/share information around world.
- vi) Job opportunities: The best advantage of ICT has been the creation of new and other IT specialists have great employment opportunities created through the advancement of technology. However, while IT may have streamlined the business process, it has created job redundancies and subcontracting. Using the computers instead of human resources, employers save huge amount of money, but employees are losing their jobs as they are not needed anymore.

8.5.5 Strategies of Mitigating Emerging Issues and Trends in Security Management

There are various ways in which threats arising from emerging issues and trends in security management may be addressed. These include:

- i) Enhanced use of technology: The cost of data breaches is very high for the government to pay; besides citizens may lose their trust in the government. The Government should therefore employ more sophisticated means to thwart potential attacks through increased spending on products that engage in constant vulnerability testing and introducing innovative technology.
- ii) Enhanced security setting: With increased proliferation of smartphones, a device holder should be required to provide a username and password, their device with its unique identifier, and/or one of their own biometrics (fingerprint, voice, facial scan, etc.). A unique identifier may be coded into the hardware itself, thus giving each device its own digital fingerprint.
- iii) Enforcement of laws and Regulations: The various government institutions should adhere to all the laws and regulations in order to mitigate emerging issues and trends. Further, the enforcement agencies should endeavour for effective enforcement of all laws in the Country. Of particular interest, the Computer Misuse and Cybercrimes Act, 2018 provides for offences relating to computer systems and enable timely and effective detection, prohibition, prevention, response, investigation and prosecution of computer and cybercrimes. The law facilitates international co-operation in dealing with computer and cybercrime matters.
- iv) Fraud Mitigation: As criminals become more sophisticated, the government has deployed the best way to mitigate the risk of fraudulent activity in their various institutions. This is achieved through video surveillance, and data management solutions, and creating a comprehensive approach to addressing emerging threats.
- v) Sensitization of employees on use of social media: The social media users are being sensitized to enable the security and privacy settings in the devices and being “friends” to their friends only. Further, they are sensitized to take caution when using links and downloads and when disclosing workplace information.
- vi) Legal and institutional framework: The government has established the Counter Trafficking Advisory Committee to advice on the strategies to combat, prevent, protect and implement rehabilitation programmes to address trafficking. Further, a National Cyber security strategy has been developed which defines Kenya’s cyber security vision, key objectives, and on-going commitment to support national priorities by encouraging ICT growth and aggressively protecting critical information infrastructures. Critical legislations have also been enacted; the Computer Misuse and Cyber Crimes Act No. 5 of 2018, the Coast Guard Service Act No. 11 of 2018, as well as a review and amendment of the Proceeds of Crime and Money Laundering Act, 2017. In addition, the National Cyber Command Centre (NC3) unit has been actively assisting both the Government and private sector in responding to cybercrime incidents.

8.5.6 Summary

In this topic, we have examined emerging issues and trends in security management, the impact of emerging issues and trends in security management and strategies of mitigating threats from

emerging issues and trends in security management. Having effectively concluded discussion on this topic, we have completed our discussion on the subject of Peace, safety and security management.

8.5.7 Activities

1. Review the provisions of the Computer Misuse and Cyber Crime Act No. 5 of 2018 and the Proceeds of Crime and Money Laundering Act, 2017.
2. Assess the role of the National Command Centre (NC3) in cybercrime management in Kenya.

8.5.8 References

1. The National Security Council Act 2012.
2. Republic of Kenya, (2014), Executive Order No. 3/2014, Strengthening of the National Government Coordination Function at the County Level: Government Printer
3. Republic of Kenya, (2016), Executive Order No. 1/2016 (Revised), Organization of the Government of the Republic of Kenya: Government Printer
4. Republic of Kenya, (2014), The Security Laws (Amendment) Act, 2014: Government Printer



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