

The Need for Inclusive Policy Making

Public impact is at the core of public policy decision-making. Governments are increasingly recognising that ICT and internet policy issues e.g. artificial intelligence, cloud computing, cybersecurity etc., are increasingly complex, challenging, and have impact across the economy and society. Consequently, governments are under pressure to keep up with innovation within the sector, and at the same time, to demonstrate results in the sector. Hence, there is need to ensure that policy decisions translate into real-world impact and benefits to the citizens.

Given the complexity of the ICT sector, the desired impact and benefits can only be achieved where the approach policy development is more inclusive and expertise driven. For policy to be effective, it must be grounded on the engagement with stakeholders. Policy makers therefore, need to recognise the value of inclusive approaches, and commit to them by engaging with more stakeholders and ensuring the diverse views are considered and included. The result will be appropriate, meaningful, holistic and legitimate policy outcomes that deliver dividends to the public.

Kenya's 2010 constitution, in recognition of this, introduced the concept of public participation as a national value and principle of democratic governance under its Article 10. It further states that it binds all State organs, State officers, public officers and all persons whenever any of them applies or interprets this Constitution; enacts, applies or interprets any law; or makes or implements public policy decisions. Therefore, the centrality of public participation in public policy making, as a right, cannot be disputed. The implementation of public participation can result in: enhanced citizen empowerment; development of new, diverse and innovative ideas and actions; enhancement of citizen-government relations; appropriate prioritization of projects; improved delivery of public services and; greater government responsiveness. Unfortunately, seven years since the adoption of the constitution, there is no proper legal framework to provide clarity on how to ensure this principle is complied with. A draft Public Participation Bill, 2016,¹ has been published, but is yet to be adopted. Whereas it is recognised by several government bodies, the implementation remains irregular, unstandardized and fairly inconsistent.

Typical Policy Stages

The typical policy making is a cycle, and usually involves the following steps, though some may be skipped or merged:

1. Problem Identification – The issue can be defined and articulated by the public, media, or any stakeholder groups etc. who are dissatisfied with a particular policy, position or state of affairs.
2. Agenda Setting – The issue is then made an agenda before the relevant government body, ministry or office and be prioritised above other competing issues. Usually, the issue can be advocated by or in consultation with think tanks, stakeholder groups, media or even government officials.
3. Policy Formulation – Once the issue has made it to the main agenda, appropriate consultations, research, decisions, solutions or options are considered to address the issue. Policy documents are then drafted, reviewed and thereafter adopted by the relevant government body.
4. Budgeting – Some policies require budgetary allocations, and these have to be budgeted for.
5. Policy Implementation – The relevant bodies within the executive tasked with the implementation of the various components of the policy proceed to implement them within the provided framework and budgets over a specific period. Activities can include law making, establishment of institutions, capacity building, infrastructure and so on.
6. Monitoring and Evaluation – The impact of the policy is reviewed to assess its effectiveness by the various stakeholder groups. Intended and unintended impacts as well as new problems are noted. This can trigger a new round of the policy process.

Purpose

Developed by the Centre for Public Impact (CPI), the Public Impact Fundamentals are a systematic attempt to understand what makes a successful policy outcome and describe what can be done to maximise the chances of achieving public impact. The three components Legitimacy, Policy and Action and are mutually reinforcing and fundamental to public impact. Further, the Framework for Inclusive Cyber Policy Making, lays out six characteristics of inclusive policy making that apply across all policy stages. These are: Open & accessible, Diverse, Collaborative, Consensus driven, Evidence based, and, Transparent & accountable. They build on existing best practices from the internet governance field as well as from other sectors (such as the environment and climate change) where inclusive or multistakeholder approaches to policy development are more established. The selected characteristics come from a number of existing principles, processes, fora and documents relating to inclusive participation, multistakeholderism and enhanced cooperation, where terms and definitions are similar, but inconsistent and ill-defined.

This brief presents best practice approaches to cyber or ICT policy-making which is expected to help policy makers and other stakeholders engaged in ICT policy processes e.g. government, civil society, business, the technical community, academia etc. to achieve inclusive and meaningful participation, and ultimately, the desired public benefits and impact. It can also be useful in demonstrating how meaningful an existing 'multistakeholder' process actually is, or for self-reflection, so that it can be improved, or as a model for best practice.

¹ Public Participation Bill, 2016. See: http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2016/PublicParticipationBill_2016.pdf

A. Legitimacy

Legitimacy refers to the underlying support for a government or public body. Governments and bodies that are legitimate tend to be more successful in achieving impact. When it is absent, politicians are unable to draw on their mandate to push through initiatives. Legitimacy can also reduce the transaction costs of governing by reducing reliance on coercion and monitoring.

<p>1. Public confidence</p> <p>Public confidence refers to the extent to which the general public trusts institutions to act competently and in support of the wider public interest. Public confidence in one's government or its institutions may be the most consequential element of legitimacy, in the sense that if it is undermined then more cataclysmic or large-scale changes in a society are possible.</p>	<p>2. Stakeholder engagement</p> <p>Engaging stakeholders in the debate on policy design, development and implementation is crucial to achieving good outcomes. Effective stakeholder engagement starts with a clear objective for consultation, followed by the identification of people and organisations with a specific interest in the initiative. This allows policymakers to understand stakeholders, their roles and divergent interests.</p>	<p>3. Political commitment</p> <p>The willingness of political leaders to spend political capital in support of the policy objective directly influences legitimacy. When there is active political opposition to a policy it affects the perceived legitimacy of an initiative. This makes it harder to achieve impact.</p>
---	--	---

B. Policy

The quality of the policy matters. Clear objectives, strong evidence and an understanding of what is feasible are crucial to good policy. Ideally, policymakers will accumulate information, assess alternative courses of action, and choose among them on the basis of their potential to achieve the decision-makers' goals.

<p>1. Clear objectives</p> <p>Setting clear objectives during the early stage of design is crucial to developing good policy. They are important in defining the borders of policy because they allow for specific problems to be selected and prioritised. The inclusion of targets or indicators is particularly beneficial when setting objectives because they increase the pressure on governments, bureaucracies and civil society and lead to a greater focus on continuous improvement.</p>	<p>2. Evidence</p> <p>Identifying good evidence is crucial because it allows policymakers to assess the nature and extent of a problem and weigh up the particular features of the policy situation, such as demographic changes. They can then judge those policies that may have been effective in similar situations.</p>	<p>3. Feasibility</p> <p>Feasibility refers to the absence of significant technical, legal or operational challenges to the policy. A policy initiative is more likely to achieve its intended outcomes when the question of how the policy is to be implemented has been an integral part of its design. Proper planning provides a map of how an initiative will be implemented, addressing matters such as timeframe, phases of implementation, responsibilities, resourcing and compliance.</p>
--	---	--

C. Action

This is the translation of policies into real-world effects. Despite its importance, it is often the most neglected of our Fundamentals. It is important to note that Action does not constitute impact. A policy may be implemented effectively but fail to have a substantial impact because it was ill-conceived or because of other circumstances. Hence, successful action may be a necessary – but not sufficient – condition for the attainment of public impact.

<p>1. Management</p> <p>Management allows policy makers to assess whether the most appropriate systems are in place, the right people with relevant skill sets are matched to appropriate tasks, and interventions are structured in an effective manner. This process involves measurement, analysis, feedback, evaluation, calibration and adjustment. Successful implementation relies on the identification and management of risk, which promotes accurate, well informed judgements.</p>	<p>2. Measurement</p> <p>Measurement is the main tool of implementation. It can dramatically improve service quality in public agencies, and it allows for feedback loops that enable the timely adjustment of policy to facilitate successful implementation. Public managers and civil servants should begin by deciding on the managerial purposes to which performance measurement may contribute. Only then can they select a set of performance measures with the characteristics necessary to help them achieve these purposes.</p>	<p>3. Alignment</p> <p>The actors required to make change happen need to share an alignment of interests in relation to the policy objective. To this end, coordination is fundamental to the development of a sense of shared mission. When actors cooperate effectively, when they are equipped to execute their part of the initiative and are highly motivated, implementation tends to be more successful. It is therefore clear that alignment is a significant contributing factor to successful action.</p>
---	---	--

² The Public Impact Fundamentals, *Helping governments progress from idea to impact*, Centre for Public Impact, See: <https://publicimpact.blob.core.windows.net/production/2016/09/CPI-fundamentals-web.pdf>

Characteristics Of Inclusive Cyber Policy Making³

Open and Accessible	<ul style="list-style-type: none"> • Allow all relevant or interested stakeholders to participate in the process. • Give enough notice and advertise widely so all stakeholders can prepare and attend. • Don't exclude stakeholders on grounds e.g. disability, language, gender, bureaucracy or location. • Justify exclusions. • Take positive steps to reduce possible barriers to participation e.g. by remote participation. • Ensure all discussions, documents and resources are updated and in accessible formats.
Diverse	<ul style="list-style-type: none"> • Ensure all relevant or interested stakeholders are actively represented in the process. • Receive the wide range views and interests of the various stakeholder groups. • Provide all stakeholders equal opportunities, time, information and platforms to contribute. • Record and publish the contributions and input of stakeholders. • Give stakeholder contributions equal visibility and consideration and justify exclusions.
Collaborative	<ul style="list-style-type: none"> • Establish and agree on a common purpose or goal. • Encourage stakeholders to remain committed to the common purpose or goal. • Provide ample opportunities for stakeholders to build trust and strong relationships with one another e.g. through face-to-face meetings. • Discourage factions, alliances or politics that undermine trust or collaboration. • Promote compromises, constructive engagement and commitment to work together.
Consensus Driven	<ul style="list-style-type: none"> • Agree from the outset that all decision-making processes and mechanisms, shall be based on consensus. • Allow stakeholders to express their dissent. • Ensure all stakeholders are involved or at least represented in the different levels of decision making. • Ensure all stakeholders hold equal weight or decision-making power within the group.
Evidence-based	<ul style="list-style-type: none"> • Ensure availability of, and access to relevant research and presence of stakeholders with expertise (e.g. on the issue/topic, governance and process, technology, human rights, legal, social, economic and political context). • Decisions should be based on the evidence and facts available. • Ensure agreement on the interpretation, analysis and use of the available evidence and facts. • Where there are contradictions or overriding special interests, provide time for discussion and agreement. • Where expertise is lacking, ensure access to balanced and independent expert opinion and resources.
Transparent and accountable	<ul style="list-style-type: none"> • Know which organisations, institutions, coalitions or communities' the participants represent. • The stakeholders involved should declare their interests, relationships, conflicts, objections, or concerns. • Set from the outset, and follow the clearly defined procedures and mechanisms for all the aspects of the process such as stakeholder representation, stakeholder contributions, inclusion and exclusion of inputs, decision making, leadership of the process, accountability and redress. • Document and publish (or communicate) details of discussions and decisions. • Ensure clear and functioning lines of accountability internally between the leadership and group, as well as externally between stakeholders and their wider communities.

About KICTAnet

The Kenya ICT Action Network (KICTAnet)⁴ is a non-profit organization, which acts as a multi-stakeholder platform for individuals and institutions interested and involved in ICT policy and regulation. The network aims to act as a catalyst for reform in the ICT sector in support of the national aim of ICT enabled growth and development.

³ Framework for Inclusive Cyber Policy Making, Global Partners Digital. See: <https://www.gp-digital.org/wp-content/uploads/2017/03/cyberpolicyframework.pdf>

⁴ Kenya ICT Action Network (KICTAnet). See: www.kictanet.or.ke