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- ABS System in Kenya
- EMCA Cap 387
- Implementation of the Nagoya Protocol
- Counties/People In PIC and MAT
- Constitution Provisions
- Compliance
Enforcement



1.0 The Environmental Management and Co-ordination Act (CAP 387)

The Environment Management and Co-ordination Act is Kenya's framework legislation coordinating all environmental management activities in the country. As such, it constitutes the primary implementing legislation for the Convention on Biological Diversity. A number of the provisions of the Act have either direct or indirect potential impacts on the issue of access to genetic resources.

- Section 42 (3) provides the Minister for Environment with broad powers to issue orders, regulations or standards for the management of riverbanks, lakeshores, wetlands and coastal zones.
- EMCA further elaborates the issue on genetic resources more explicitly through Section 53, which mandates the National Environment Management Authority (NEMA) to "issue guidelines and prescribe measures for the sustainable management and utilization of genetic resources of Kenya for the benefit of the people of Kenya

Conti.

Sub-section 50(f) of the Environment Management and Co-ordination Act provides that any measure for the conservation of biological diversity “shall . . . protect indigenous property rights of local communities in respect of biological diversity

- Pursuant to these provisions, the NEMA issued the relevant regulations, namely the Environmental Management and Coordination (Conservation on Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations 2006 Legal Notice 160.

These regulations presents the most comprehensive attempt by the government to date to put in place a regulatory framework for access to genetic resources and benefit sharing within the country.

Implementation of the Nagoya Protocol

- Ministry of Environment and Natural Resources is the Focal Point for the Nagoya Protocol
- NEMA is the focal point for ABS Clearing House (ABSCH), Publishing Authority, Competent Authority
- Check Points is the KFS, KWS, NM, DVS, KEPHIS

compliance and enforcement under the current system

- Licensing ABS under EMCA Approximately 65 licenses issued.
- An office dedicated to the licensing of the regulation. *Staff time*(Limited funds allocated Enhancing public participation and access to information; Simplified the Biodiversity Regulations (***Popular version***))
- Regular field inspections to monitor compliance to the regulations and licenses issued.
- Upscale the human resource within the Section and Capacity building



The Constitutional Provisions

• **Article 69-**

- (a) ensure sustainable exploitation.... ensure the equitable sharing of the accruing benefits;
- (c) protect and enhance intellectual property in...the genetic resources of the communities;
- (d) encourage public participation;
- (e) protect genetic resources and biological diversity;
- (f) establish systems of environmental impact assessment....
- (g) eliminate processes and activities that endanger the environment;
- (h) utilize benefit of the people of Kenya.

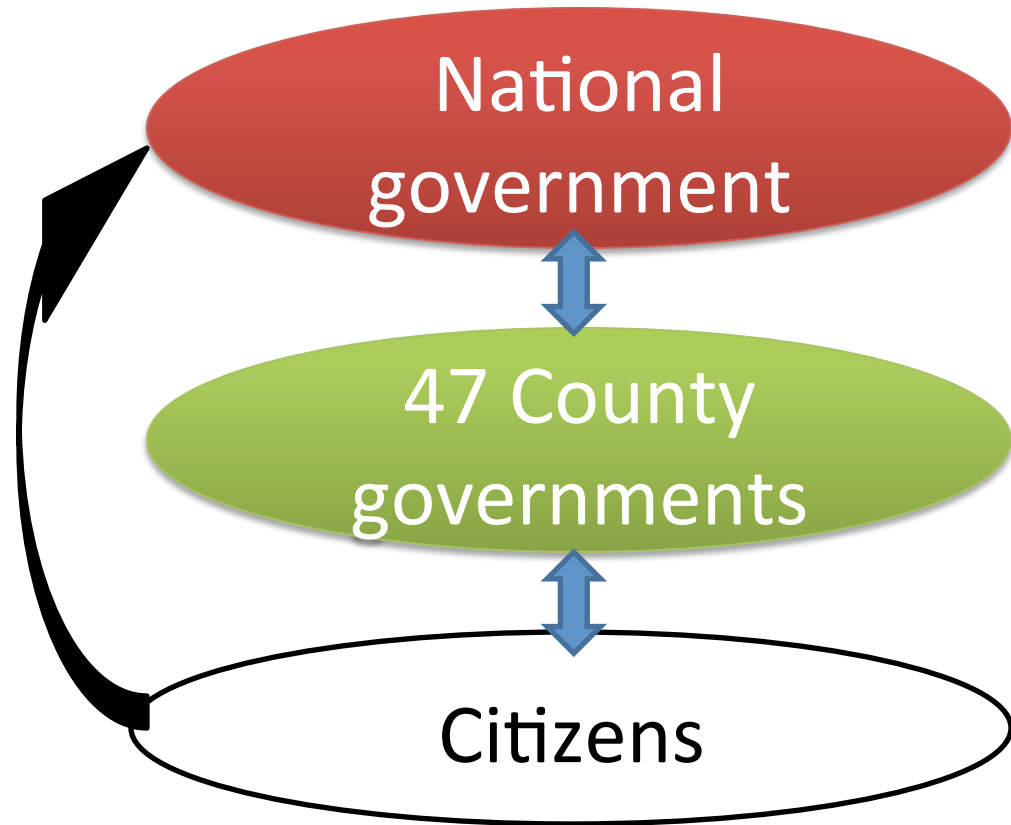
(Article 4a / 10) Principles of Governance.

- Sharing and Devolution of power, The rule of law, human dignity, Equity, Social justice, Inclusiveness, Equality, Non-discrimination, Protection of the marginalized
- Integrity, Transparency, Accountability
Sustainable development,

Sharing and Devolution of Power (*ugavi na ugatuzi wa mamlaka*)

- powers and resources from a National government are delegated to County governments

- STRUCTURE



Transparency and Accountability (*uwazi na uwajibikaji*)

- openness or lack of “hidden agendas” accompanied by availability of full information required.
- Outcomes- both formal and informal, measures of achievement.



Cascading to Counties

- **Need of Assessment of capacity** of 47 Counties , Sectoral Actors, Environment Committees and Citizens
- **Building trust** between the National/County/ Private Sector/ Indigenous people and identify areas of overlaps and gaps
- **Provision of trainings on ABS**, inclusion of local/ indigenous people in meetings to enhance their benefits and decision making
- *support them during the licensing regime*
- **upscale** implementation of Nagoya protocol

END

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