



**WFD**

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# Opening parliament to civil society in Kenya

## Executive summary

WFD has been working with the parliament of Kenya to continue its journey to become more open and transparent. Many of the programme's activities have inspired participants pursue these goals, such as the development of the Public Participation Bill, the creation of an Open Government Partnership committee with membership from civil society as well as parliamentarians, and the introduction of two important pieces of anti-corruption legislation.

**July 2020**

## Programme

## IAP Kenya

**Programme outcome:** More transparent, open democratic institutions with increased engagement with civil society

**Outcome indicator:** Number of instances where parliaments make progress on the open parliament reform agenda, with evidence of WFD contribution.

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## Context

The Westminster Foundation for Democracy (WFD) has been working with the Parliament of Kenya since 2011. WFD has supported the institution to build its capacity in areas of research, oversight, law-making and citizen engagement. WFD is currently focused on enabling the Parliament of Kenya to establish the practices and procedures necessary for it to deliver on its expanded Constitutional mandate.

WFD has been working with civil society and the Parliament of Kenya to promote and strengthen transparency, accountability, and openness. The programme works with Parliamentarians drawn from the bicameral oversight and sectoral committee members; Parliamentary Caucuses; that is, the Kenya chapter of the African Parliamentary Network Against Corruption (APNAC); Parliamentary staff who are critical for the institutionalisation of systemic changes; civil society actors who are critical in promoting civic engagement, parliamentary monitoring, anti-corruption and leadership integrity; and non-parliamentary public oversight institutions such as the Ethics and Anti-Corruption Commission and the Office of the Director of Public Prosecution.

WFD has also supported the Kenyan Senate to become more open and responsive to the needs of citizens through sponsoring senate members to attend conferences on Open Government Partnership (OGP), facilitating meetings of the Senate non-state actors working group on OGP as well as supporting strategies that promote legislative openness as a commitment under Parliament.

## What's changed?

The Parliament of Kenya has taken significant steps to improve its transparency and openness to the public, through a number of initiatives.



Senator Fatuma Dullo

WFD Kenya engaged the Senate Open Government Partnership (OGP) working group and prioritised key areas of support, to help the Senate to realise its commitments on legislative openness and beneficiary ownership. These include the development of the Senate OGP plan of action; development of a Public Participation Framework; and supporting the hosting of an OGP round table in Kenya.

According to Sen. Dullo, there used to be a large gap between civil society and parliament, but as an OGP champion, she has influenced the Senate to open parliament by co-convening an OGP working committee comprised of non-state actors. Now citizens and CSOs have a platform to interact with the Senate.

‘Before the bill formulation process, senior officials would selectively invite their close relatives to hotels purportedly for public participation and induce them with money so they can pass whatever they want without opposition. Our residents have been in darkness without accessing the information and leaders continue to carry out illegal activities behind their backs. Now the trend is changing.’

**Senator Fatuma Dullo, Co-chair of the Senate non-state actors working group and champion of the Public Participation Bill**

Exposure to the principles of the OGP, facilitated by WFD, has spurred Sen. Dullo to sponsor and lobby for a Public Participation Bill that sets out the legal framework for increased legislative openness and transparency in the future. The bill was scheduled for discussion in March 2020 but this was delayed due to COVID 19. A House version has also been recently gazetted, representing further progress in driving the transparency agenda forward in parliament.

Another body that WFD is working with, APNAC, has also developed and presented a memorandum on amendments to the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) as a means of increasing reporting of corruption and preventing reprisals against those who report corruption in state offices in Kenya. These proposals ignited significant debate in Parliament, demonstrating the vested interests at play on issues of corruption in Kenya.

While the amendment was ultimately defeated, APNAC members have committed to re-introduce it through miscellaneous statute laws and an amendments bill in the next financial year. Finally, APNAC has presented a Whistle-Blowers' Protection private member's bill to the speaker's office to protect those who want to speak out against corruption in Kenya.

## IAP/DFID contribution

Through the IAP grant, DFID has supported APNAC to develop a new strategic plan, aligned with the principles and goals of OGP. Structured support provided by WFD has enabled APNAC to increase its profile and its contribution to debates and legislation concerning anti-corruption, openness and transparency.

By facilitating fora and network meetings, it has also enabled interaction between civil society and parliament, a key step to enable the changes outlined in this case study.

Another contribution was that the programme sponsored four Kenyan Senators (Sen. Fatuma Dullo, Sen. Samson Cherargey, Sen. Ochilo Ayako, and Sen. Susan Kihika) to attend the 2019 OGP conference in Ottawa, Canada. Attending the conference inspired the senators to pursue their own Open Government initiatives in Kenya.

WFD contributed to the development of the Bill through convening CSO meetings to give views on the Bill.



Senators attending OGP conference

'It's from this conference that I gained the momentum to champion the public participation bill so that the public can effectively participate in policy making processes and hold leaders to account.' **Senator Dullo**

Therefore, while WFD is not the only organisation working in the Kenyan parliament, its programming is directly contributing to the changes being observed in the openness and transparency context in Kenya. WFD has an excellent relationship with stakeholders in Kenya, seen from the fact that WFD has a parliamentary liaison office within the parliamentary estate to enable closer interaction.

## Strength of evidence

There is strong evidence from multiple sources to support WFD's contribution to the changes outlined in this case study. WFD enjoys a good relationship with the speakers and clerks of both houses in parliament, built over the years that WFD has been working here. WFD has an office within the parliamentary estate to enable closer interaction. Furthermore, WFD and APNAC's relationship is formalised in an MOU outlining the scope and detail of collaboration. WFD's monitoring data documents the activities that have been conducted to contribute to this change, and the participants who attended, as well as photos from the events.<sup>1</sup> The importance of these activities have been corroborated with participant interviews when creating this case study.

1. <https://www.yammer.com/wfd.org/#/Threads/show?threadId=434069505122304>, <https://www.yammer.com/wfd.org/#/Threads/show?threadId=363393370923008>

Finally, there is formal evidence of the changes outlined in this case study, in the form of bills and the memorandum. The Public Participation Bill is available on the [government's website](#) and the draft of the [Whistle-blowers' Protection Bill](#) is stored internally at WFD. WFD held a Public Participation Bill Review Forum where CSOs evaluated and generated recommendations that fed into the Public Participation Bill 2018, the results of which are documented [here](#). The [memorandum](#) on the POCAMLA is also documented.

## Significance of change

The Senate buy-in of the OGP requirement for legislative openness improves transparency and accountability in parliament. This buy-in is also key in mobilising other OGP champions within parliament that will be vital to pushing forward the process, both institutionally and in eventual cross-institutional dialogues that will form the basis of the co-creation of the Action Plan.

The Public Participation Bill will facilitate public participation in governance processes and in particular it has: given effect to the principles of public participation as provided for in the Constitution of Kenya; enhanced public awareness and understanding of governance processes; promoted community ownership of public decisions; and increased public participation and collaboration in governance processes.

The proposal of the Public Participation Bill, the memorandum on amendments to the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA) and the presentation of the Whistle-blower Protection Bill, are all evidence of an important shift, as members of APNAC and the Kenyan Senate take up the transparency agenda and take ownership of its implementation. It demonstrates support for opening up parliament to civil society and the public, promoting transparency in decision making, reducing corruption, and ensuring collaboration between parliament and the public. Moreover, if this legislation is enacted it will provide formal frameworks to promote this.