

THE ETHNIC MINORITIES AND MARGINALISED COMMUNITY BILL, 2025

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THE ETHNIC MINORITY AND MARGINALISED COMMUNITIES BILL, 2025

A Bill for—

AN ACT of Parliament to give effect to Articles 7, 11, 27, 44, 56 and 232 of the Constitution; to provide a framework for the recognition, inclusion and participation of ethnic minorities and marginalised communities in national life; to promote equality, cohesion and respect for Kenya’s cultural and linguistic diversity; and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I— PRELIMINARY

Short title.

1. This Act may be cited as the Ethnic Minorities and Marginalised Communities Act, 2025.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Action Plan” means the National Inclusion Action Plan prepared under section 29;

“Advisory Council” means the National Advisory Council on Minorities and Marginalised Communities established under section 9;

“benefit-sharing” means the equitable apportionment of monetary or non-monetary benefits accruing from the use of natural resources in areas habitually occupied or used by a community, in accordance with section 17 and any other law;

“Cabinet Secretary” means the Cabinet Secretary responsible for justice, human rights and constitutional affairs;

“community” means a distinct ethnic, cultural or linguistic group recognised under Article 260 of the Constitution and includes a group identified under the First Schedule;

“community land” has the meaning assigned to it under the Community Land Act, 2016;

“consultation” means a process of good-faith engagement conducted with adequate notice, disclosure of relevant

information in an accessible form, reasonable timelines, and a record of proceedings and outcomes, with a view to reaching agreement;

“County Inclusion Focal Point” means the officer designated by a county government to coordinate inclusion measures and liaison with the Unit under section 8;

“cultural heritage” includes tangible and intangible expressions of identity, language, knowledge and practices, and sacred or cultural sites recognised under section 19;

“FPIC” or “free, prior and informed consent” means consent obtained from an affected community without coercion or manipulation, following timely disclosure of relevant information, and before approval or commencement of any activity that may affect community rights;

“Fund” means the Inclusion and Equality Fund established under section 32;

“IEBC” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“marginalised community” and “minority community” have the meanings assigned under Article 260 of the Constitution;

“natural resource” includes wildlife, water, forests, minerals, fisheries and any resource regulated by national or county legislation;

“NICC” means the National Inclusion Coordination Committee established under section 8;

“public entity” has the meaning assigned to it under the Public Finance Management Act and includes a county government, a State organ or a State corporation;

“representative body” means a body recognised under the First Schedule as authorised to speak or act on behalf of a community for the purposes of this Act;

“sacred site” includes a place of spiritual, historical or cultural significance identified by a community and gazetted under section 19;

“Unit” means the Unit for Minorities and Marginalised Communities established under section 5;

“vulnerability” means the state of reduced capacity to participate in political, economic, social or cultural life due to structural or historical disadvantage

Objects and purpose of the Act

3. The objects and purpose of this Act are to—

- (a) give effect to the provisions of Articles 7, 11, 27, 44, 56 and 232 of the Constitution relating to the recognition and inclusion of minorities and marginalised communities;
- (b) establish a framework for the identification and recognition of such communities;
- (c) promote equitable participation in national and county development processes;
- (d) safeguard the cultural, linguistic and heritage rights of all communities;
- (e) enhance national cohesion, peace and mutual respect among Kenya’s diverse peoples; and
- (f) provide mechanisms for monitoring, evaluation and reporting on inclusion and equality measures at national and county levels.

Guiding values and principles.

4. Implementation of this Act shall be guided by the following principles—

- (a) equality and non-discrimination, in accordance with Article 27 of the Constitution;

- (b) inclusiveness, participation and social justice as provided in Article 10;
- (c) respect for cultural diversity, identity and heritage;
- (d) inter-generational equity and sustainable development;
- (e) transparency and accountability in decision-making affecting communities;
- (f) cooperation and coordination between national and county governments; and
- (g) fiscal prudence and efficient use of public resources.

PART II— RECOGNITION AND IDENTIFICATION OF MINORITIES AND MARGINALISED COMMUNITIES

Recognition
of
minorities
and
marginalised
communities.

5. (1) The Cabinet Secretary shall, on the recommendation of the Unit and in consultation with the Kenya National Bureau of Statistics and relevant constitutional commissions, recognise and gazette communities that qualify as minorities or marginalised communities under this Act.

(2) Recognition under subsection (1) shall be based on the criteria set out in the First Schedule.

(3) Recognition of a community under this Act shall not derogate from the equal rights and obligations of all citizens under the Constitution.

(4) The Cabinet Secretary shall, by notice in the Gazette, publish the list of all recognised communities and may from time to time amend the list in accordance with this Act.

Criteria
for
identification.

6. (1) A community may be identified for recognition under this Act if the community—

- (a) possesses a distinct ethnic, linguistic, cultural, religious or historical identity;
- (b) constitutes a numerically smaller population relative to the rest of the national population; and
- (c) has experienced historical, social or economic exclusion or disadvantage.

Procedure
recognition.

for

7. (1) The Unit shall, either on its own initiative or upon application by a community, undertake an assessment to determine whether the community meets the criteria set out in section 6.

(2) The assessment shall involve—

- (a) consultation with the affected community and relevant county governments;
- (b) review of available data and reports from public agencies; and
- (c) preparation of a recognition report recommending approval, deferral or rejection.

(3) The Cabinet Secretary shall, upon consideration of the report submitted under subsection (2)(c), determine whether to approve the recognition and, where approved, cause the community to be gazetted as a recognised community

(4) Where the application is rejected, the Cabinet Secretary shall provide written reasons to the applicant community within sixty days of the decision.

(5) The procedure for recognition under this section shall be prescribed in regulations made under this Act.

Register of recognised communities.

8. (1) The Unit shall maintain a national register of all recognised minorities and marginalised communities.

(2) The register shall contain—

(a) the name and description of each community;

(b) the location and estimated population;

(d) the date of recognition and gazette notice reference; and

(e) any other information prescribed by regulations.

(3) The register shall be updated periodically and shall be accessible to the public, subject to the Data Protection Act.

(4) The Unit shall transmit an annual summary of the register to the Cabinet Secretary for submission to Parliament as part of the report under section 42.

Review and appeal.

9. (1) A community or person aggrieved by a decision of the Cabinet Secretary under this Part may, within ninety days of the decision, apply for a review to the Cabinet Secretary.

(2) The Cabinet Secretary shall, upon receipt of an application under subsection (1), review the decision within sixty days and may confirm, vary or reverse the decision.

(3) A party aggrieved by the decision of the Cabinet Secretary under subsection (2) may appeal to the High Court within thirty days of receipt of the decision.

(4) The filing of an appeal under this section shall not operate as a stay of the decision unless the Court orders otherwise.

PART III — PARTICIPATION, CONSULTATION AND REPRESENTATION

Participation in national and county affairs.

10. (1) Every recognised community shall have the right to participate in national and county development, governance and decision-making processes that affect their lives and territories.

(2) Public bodies shall take reasonable measures to facilitate the participation of such communities through—

- (a) inclusive representation in public consultations, committees, and advisory forums;
- (b) translation of key information into accessible languages and formats;
- (c) outreach programmes and awareness sessions at the community level; and
- (d) collaboration with county governments and local structures to enhance inclusion.

(3) Participation under this section shall be guided by the principles of equality, inclusivity and accountability as provided in Articles 10 and 56 of the Constitution.

Representation in public institutions.

11. (1) The national and county governments shall ensure equitable representation of recognised communities in public service appointments, boards, commissions and decision-making bodies.

(2) The Public Service Commission, the County Public Service Boards and all appointing authorities shall, in the performance of their mandates, take affirmative measures to ensure such inclusion.

(3) For purposes of recruitment, nominations or appointments under this section, consideration shall be given to—

- (a) competence and merit;

(b) equitable regional and ethnic representation; and

(c) (c) the inclusion of marginalised and minority groups.

(4) Every public body shall, in its annual report, provide data on representation of recognised communities within its institution in accordance with regulations made under this Act.

Public consultation with recognised communities.

12. (1) A public body undertaking any policy, project, or legislative measure likely to affect a recognised community shall conduct consultations in accordance with the procedure set out in the Second Schedule.

(2) Consultations shall be—

(a) timely and accessible, with reasonable notice to affected communities;

(b) held in a language understood by the participants; and

(c) recorded and reported to the Unit for monitoring purposes.

(3) The Cabinet Secretary may, in consultation with the Council of Governors, issue guidelines to facilitate harmonised consultation processes across national and county governments.

(4) A failure to conduct consultation in accordance with this section shall render any resulting decision subject to review under section 14.

Free, prior and informed consultation.

13. (1) Every recognised community shall have the right to free, prior and informed consultation in relation to any activity, programme or development project that may affect their land, resources, culture or livelihood.

(2) Consultation under this section shall—

- (a) be carried out before any approval, licensing, or implementation of the project;
- (b) include full disclosure of information on the nature, scope and expected impact of the project;
- (c) ensure voluntary participation without coercion; and
- (d) document the consent or dissent of the affected community through a written record signed by authorised representatives.

(3) The Unit shall maintain an archive of all consultation records for purposes of transparency and audit.

(4) A person who undertakes a project in violation of subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding one year, or to both.

Mechanisms for dispute
resolution on
participation.

14. (1) Any dispute arising from participation or consultation under this Part shall, in the first instance, be addressed through dialogue and mediation facilitated by the Unit, in collaboration with the National Cohesion and Integration Commission.

(2) Where mediation fails, a party may refer the dispute to the relevant county alternative dispute resolution mechanism or to the Commission on Administrative Justice.

(3) Nothing in this section limits the right of a party to seek redress before a court of law.

(4) The Unit shall maintain a record of all disputes handled under this section and the outcomes thereof for purposes of reporting and learning.

PART IV — LAND, NATURAL RESOURCES AND CULTURAL RIGHTS

Recognition of
community land and
natural resource rights.

15. (1) Recognised communities shall have the right to occupy, use and benefit from land and natural resources historically associated with them, subject to the Constitution, the Community Land Act, 2016, and other relevant law.

(2) The State shall recognise customary tenure and ensure it is respected in land-use planning, adjudication and registration processes.

(3) Registration or adjudication of land shall not extinguish customary or cultural rights validly held by recognised communities.

(4) The Cabinet Secretary responsible for lands shall, in consultation with the Unit and the National Land Commission, issue guidelines to safeguard community land rights and promote community engagement in land-based development.

(5) The Unit shall maintain a register of development projects significantly affecting community land or rights and monitor compliance with consultation, benefit, and inclusion obligations.

Local content and
community participation
in resource projects.

16. (1) Any investor or authority undertaking development projects involving land, minerals, forests, water or other natural resources within areas occupied by recognised communities shall—

(a) prepare, in consultation with the community, a Local Content Plan consistent with the Local Content Act or sectoral law;

(b) submit the plan to the responsible regulator and the Unit for review and oversight; and

(c) implement the plan in good faith, subject to regular monitoring.

(2) A Local Content Plan under this section shall include—

- (a) targets for employment, procurement and enterprise participation by community members;
- (b) capacity-building, skills transfer and technology sharing components;
- (c) social investment commitments including infrastructure, environmental management and community development activities; and
- (d) measures for transparency, accountability and periodic review.

(3) A regulatory authority shall not grant, renew or extend a licence or permit for a project within a recognised community area unless satisfied that the Local Content Plan is consistent with this Act.

(4) The Unit, in collaboration with sector regulators, shall conduct periodic audits of approved Local Content Plans and publish summaries of compliance for public oversight.

Cultural heritage and sacred sites.

17. (1) The cultural heritage of recognised communities, both tangible and intangible, shall be protected and promoted as part of Kenya's national heritage in line with Article 11 of the Constitution.

(2) The Cabinet Secretary responsible for culture, in consultation with the Unit, county governments and the National Museums of Kenya, shall—

- (a) document, inventory and monitor sacred sites, traditional knowledge, rituals, languages, oral traditions and heritage practices of recognised communities;
- (b) support heritage promotion, conservation and revitalisation in collaboration with communities; and
- (c) ensure that any commercial or tourism use of heritage assets is conducted with community participation and consent.

(3) A sacred site or cultural practice may be gazetted under the National Museums and Heritage Act upon recommendation by the Unit and the concerned community.

(4) The declaration of a loss or change of use in such sites shall require prior consultation and consent from the affected community and provision of appropriate mitigating measures.

(5) Any person who unlawfully destroys, desecrates or obstructs access to a declared sacred site commits an offence and is liable, on conviction, to a fine not exceeding three million shillings or imprisonment for a term not exceeding five years, or both.

Equitable opportunity
and benefit realisation.

18. (1) Recognised communities shall be entitled to equitable opportunity in benefit realisation from development projects affecting their lands or environments through the mechanisms specified in the Local Content Plans and consistent with this Act.

(2) Benefits shall preferentially include—

(a) employment and procurement opportunities for community enterprises;

(b) infrastructure or service investments linked to project operations; and

(c) capacity-building and technology transfer to enhance community participation over time.

(3) Any dispute arising from Local Content Plans or benefit agreements shall first be referred to mediation facilitated by the Unit before further legal recourse.

(4) No provision of this section shall be interpreted to impose a levy, fund, or monetary obligation beyond those provided in existing written laws.

PART V — EQUALITY, ECONOMIC EMPOWERMENT AND SOCIAL PROTECTION

Promotion of equality
and non-discrimination.

19. (1) Every public body shall, in the performance of its functions, ensure equality of opportunity and non-discrimination against members of recognised communities.

(2) The Cabinet Secretary shall, in consultation with the National Gender and Equality Commission, issue policy guidelines to promote equitable treatment in public service, access to education, health, housing, employment and other socio-economic rights.

(3) A person who discriminates against a member of a recognised community in contravention of this Act commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(4) Measures taken under this section shall complement, and not derogate from, obligations under the National Cohesion and Integration Act.

Enterprise development
and economic
empowerment.

20. (1) The national and county governments shall, in partnership with the private sector, promote enterprise development among recognised communities through—

(a) capacity-building and entrepreneurship training programmes;

(b) facilitation of access to markets and value chains;

(c) promotion of cooperative societies, self-help groups and small enterprises; and

(d) targeted procurement opportunities under the Public Procurement and Asset Disposal Act, 2015.

(2) In implementing subsection (1)(d), the National Treasury and county treasuries shall ensure that recognised communities benefit from the preferences and reservations provided for disadvantaged groups.

(3) The Unit shall collaborate with the Micro and Small Enterprises Authority and other relevant agencies to track and report on economic empowerment outcomes under this section.

Financial inclusion and credit access.

21. (1) The Cabinet Secretary, in consultation with the Central Bank of Kenya and other financial regulators, shall promote access to affordable financial services for members of recognised communities.

(2) Measures under subsection (1) shall include—

- (a) supporting the establishment of community-based savings and credit organisations;
- (b) promoting mobile and digital financial inclusion initiatives; and
- (c) encouraging financial institutions to extend credit facilities to enterprises owned or operated by members of recognised communities.

(3) The Cabinet Secretary responsible for finance may, by notice in the Gazette, designate financial inclusion programmes that prioritise recognised communities as beneficiaries.

Employment and skills development.

22. (1) Public and private employers shall take affirmative measures to promote equitable access to employment and skills development opportunities for members of recognised communities.

(2) The measures under subsection (1) may include—

- (a) targeted recruitment or apprenticeship programmes;
- (b) technical and vocational training scholarships;
- (c) internship opportunities in national and county institutions; and
- (d) mentorship and career development initiatives.

(3) The National Employment Authority shall, in collaboration with the Unit, maintain disaggregated data on employment and training programmes undertaken for recognised communities.

(4) Nothing in this section shall authorise any form of discrimination contrary to Article 27 of the Constitution.

Social protection and
access to services.

23. (1) The national and county governments shall take steps to ensure that members of recognised communities have equitable access to social protection programmes, including social assistance, insurance and pension schemes.

(2) In implementing subsection (1), priority shall be given to vulnerable groups within recognised communities, including women, youth, persons with disabilities and the elderly.

(3) The Cabinet Secretary responsible for social protection shall, in consultation with the Cabinet Secretary responsible for justice, develop inclusion benchmarks for all national and county social protection programmes.

(4) The Unit shall coordinate with relevant agencies to monitor and report on social protection outcomes under this Act.

Temporary special
measures.

24. (1) The Cabinet Secretary may, by regulations, prescribe temporary special measures to accelerate equality and representation of recognised communities in public institutions and development programmes.

(2) The measures prescribed under subsection (1) shall—

(a) be proportionate and time-bound;

(b) be reviewed periodically to assess effectiveness; and

(c) cease to apply once the intended equality outcomes have been achieved.

(3) The National Gender and Equality Commission shall provide oversight and technical advice on the design, implementation and monitoring of temporary special measures under this section.

PART VI — EDUCATION, LANGUAGE AND CULTURAL PRESERVATION

Access to education.

25. (1) The national and county governments shall take measures to ensure equitable access to quality education for members of recognised communities at all levels.

(2) Without prejudice to the generality of subsection (1), the measures shall include—

(a) provision of educational infrastructure in marginalised and remote areas;

(b) targeted scholarship and bursary programmes;

(c) mobile or alternative schooling models appropriate to nomadic and semi-nomadic communities; and

(d) support for community-based early childhood development centres.

(3) The Cabinet Secretary responsible for education shall, in collaboration with county governments, ensure that education policies and curricula are inclusive and culturally sensitive.

(4) The Teachers Service Commission shall ensure equitable deployment of teachers to institutions serving recognised communities, with priority to teachers familiar with local languages and contexts.

Culturally responsive
and cohesive
curriculum.

26. (1) The Kenya Institute of Curriculum Development shall, in consultation with the Unit and relevant stakeholders, integrate cultural diversity, inclusion and national cohesion into the national curriculum.

(2) The curriculum shall—

(a) reflect Kenya's multicultural and multilingual identity;

- (b) promote tolerance, respect and appreciation of different cultures and traditions;
- (c) incorporate indigenous knowledge systems where appropriate; and
- (d) ensure that learners from recognised communities see their culture and heritage reflected in learning materials.

(3) The Cabinet Secretary responsible for education shall periodically review the curriculum to ensure alignment with this Act and with the national values under Article 10 of the Constitution.

Language rights and promotion

27. (1) Every recognised community shall have the right to preserve, develop and promote the use of its language in both private and public life.

(2) The Cabinet Secretary responsible for culture, in consultation with the Cabinet Secretary responsible for education, shall take measures to—

- (a) support the teaching and documentation of indigenous languages;
- (b) encourage the use of local languages in early education and community media;
- (c) promote linguistic diversity through national and county cultural programmes; and
- (d) collaborate with research institutions and universities on language preservation initiatives.

(3) Public bodies shall, as far as practicable, provide information and public communication in languages understood by affected communities.

(4) Nothing in this section shall derogate from the official status of Kiswahili and English under Article 7 of the Constitution.

Cultural preservation
and exchange.

28. (1) The national and county governments shall, in collaboration with recognised communities, promote the preservation and transmission of cultural heritage, traditional knowledge and community practices.

(2) Measures under subsection (1) may include—

(a) establishment of community cultural centres and heritage galleries;

(b) organisation of inter-community exchange programmes, festivals and exhibitions;

(c) protection of intellectual property rights related to traditional knowledge and cultural expressions; and

(d) documentation of oral histories and indigenous practices for educational and archival purposes.

(3) The Cabinet Secretary shall, develop regulations prescribing standards for cultural documentation and exchange to safeguard authenticity and prevent exploitation.

(4) Cultural preservation activities under this section shall be aligned with national cohesion objectives and shall promote inter-community understanding.

PART VII — IMPLEMENTATION, MONITORING AND REPORTING

Institutional
coordination.

29. (1) There is established within the Office of the President a Unit to be known as the Unit for the Promotion of Minorities and Marginalised Communities, which shall be the principal organ for coordination and oversight of the implementation of this Act.

(2) The Unit shall be responsible for—

- (a) coordinating policy formulation and implementation relating to minorities and marginalised communities;
- (b) maintaining the national register of recognised communities;
- (c) collecting, analysing and disseminating data on inclusion and equality indicators;
- (d) facilitating inter-agency and intergovernmental collaboration; and
- (e) advising the Cabinet Secretary and other State organs on matters relating to minorities and marginalised communities.

(3) The Unit shall be headed by a Director appointed by the Public Service Commission in accordance with the Public Service Commission Act.

(4) The Unit shall be adequately staffed and resourced from the national budget for effective performance of its functions.

Collaboration
commissions
and
agencies.

with
and

30. (1) The Unit shall, in the execution of its functions, collaborate with—

- (a) the National Cohesion and Integration Commission;
- (b) the National Gender and Equality Commission;
- (c) the Commission on Administrative Justice;
- (d) the National Land Commission; and
- (e) any other body with a mandate related to equality, inclusion or human rights.

(2) Collaboration under subsection (1) shall include joint research, monitoring, capacity-building, information-sharing and coordinated reporting on equality and inclusion.

(3) The Cabinet Secretary may, by regulations, prescribe modalities for such collaboration and coordination.

Integration with
planning and budgeting.

31. (1) The national and county governments shall integrate the objectives of this Act into their development plans, sectoral strategies and budgetary frameworks.

(2) In doing so, they shall—

(a) include specific programmes and targets for recognised communities in Medium-Term Plans and County Integrated Development Plans;

(b) align inclusion indicators with those used in the national monitoring and evaluation framework; and

(c) report annually on resource allocation and expenditure towards inclusion outcomes.

(3) The Cabinet Secretary responsible for planning shall issue guidelines to ensure that indicators under this Act are embedded in the performance contracting and results-based management systems of public institutions.

Monitoring and
evaluation.

32. (1) The Unit shall, in consultation with relevant agencies, establish a national monitoring and evaluation framework to assess implementation of this Act.

(2) The framework shall—

(a) provide standard indicators for measuring inclusion, participation and equality;

(b) define reporting obligations for national and county institutions; and

(c) support data collection, verification and publication of annual progress reports.

(3) The key performance indicators and reporting template shall be as set out in the Third Schedule.

(4) The Cabinet Secretary shall table in Parliament an annual report summarising progress under this Act and recommending corrective actions where necessary.

Public participation and transparency.

33. (1) The Unit and all implementing agencies shall promote transparency and accountability through regular public engagement and dissemination of reports.

(2) Public participation under this section shall include—

(a) community feedback forums;

(b) publication of summaries of inclusion data in accessible formats; and

(c) online reporting portals managed by the Unit.

(3) The Cabinet Secretary shall ensure that annual reports, audits and evaluations under this Act are publicly accessible in both print and electronic formats.

Review of implementation.

34. (1) The Cabinet Secretary shall, at least once every five years, cause a comprehensive review of the implementation of this Act to be undertaken in consultation with relevant stakeholders.

(2) The review shall assess—

(a) progress made in achieving equality and inclusion objectives;

(b) challenges encountered in implementation; and

(c) recommendations for legislative, policy or administrative reform.

(3) The findings of the review shall be presented to Parliament and made public.

PART VIII — MISCELLANEOUS AND GENERAL PROVISIONS

Power to make regulations.

35. (1) The Cabinet Secretary may, in consultation with the Unit and relevant State organs, make regulations for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

(a) procedures for identification and recognition of minorities and marginalised communities;

- (b) the format and maintenance of the national register under section 8;
- (c) the modalities of consultation and participation under Part III;
- (d) reporting obligations under Part VII; and
- (e) any other matter necessary for the implementation of this Act.

(3) The Cabinet Secretary may, by notice in the Gazette, revise any form, indicator or process set out in the Schedules to this Act to align with new policy or administrative arrangements.

Data collection and protection.

36. (1) Data collected under this Act shall be gathered, processed, stored and used in accordance with the Data Protection Act, 2019.

(2) The Unit shall ensure that—

- (a) all personal or community data collected for purposes of recognition or monitoring is anonymised and securely stored;
- (b) data sharing among public bodies adheres to applicable data protection principles; and
- (c) data is used solely for purposes consistent with the objects of this Act.

(3) The Cabinet Secretary shall, in consultation with the Data Protection Commissioner, issue guidelines on community data governance under this Act.

Dispute resolution.

37. (1) Any dispute arising under this Act shall, in the first instance, be resolved through dialogue and mediation facilitated by the Unit, in collaboration with the National Cohesion and Integration Commission.

(2) Where mediation fails, the dispute may be referred to—

- (a) the Commission on Administrative Justice, where the matter concerns administrative action;
- (b) the National Land Commission, where the dispute involves land or natural resources; or
- (c) any other competent body established by law.

(3) Nothing in this section limits the right of any person to seek redress before a court of law in accordance with Article 48 of the Constitution.

Offences and penalties.

38. (1) A person who—

- (a) knowingly provides false or misleading information in any application, report or process under this Act;
- (b) obstructs or hinders the Unit or any authorised officer in the exercise of lawful duties under this Act; or
- (c) unlawfully discloses confidential information obtained in the course of implementation of this Act,

commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

(2) Where an offence under this Act is committed by a body corporate, every director or officer responsible for the act or omission shall be deemed to have committed the offence unless they prove that it occurred without their knowledge or that they exercised due diligence to prevent its occurrence.

Protection from
personal liability.

39. No matter or thing done by a public officer, member of staff or agent acting in good faith in the execution of duties under this Act shall render that person personally liable for any act or omission done in good faith.

Transitional
arrangements.

40. (1) Upon the commencement of this Act, the existing Unit for Minorities and Marginalised Communities within the Office of the President shall be deemed to be the Unit for purposes of this Act.

(2) The Cabinet Secretary shall, within six months of the commencement of this Act, issue administrative directions to align ongoing programmes and operations with this Act.

(3) Any act, decision or recognition made before the commencement of this Act shall remain valid as if made under this Act, provided it is not inconsistent with its provisions.

Consequential
amendments.

41. The Cabinet Secretary may, in consultation with the Kenya Law Reform Commission and any other relevant body, recommend to Parliament amendments to any written law that may be necessary to give full effect to this Act.

Annual reports to
Parliament.

42. (1) The Cabinet Secretary shall, not later than three months after the end of each financial year, submit to Parliament a consolidated report on the implementation of this Act.

(2) The report under subsection (1) shall include—

- (a) the status of recognition of communities under Part II;
- (b) progress on participation, inclusion and equality measures;
- (c) data on socio-economic outcomes and representation; and
- (d) recommendations for policy or legislative reform.

(3) The Cabinet Secretary shall publish the report and make it accessible to the public.

Interpretation with other
laws.

43. This Act shall be read and applied in harmony with the Constitution and any other written law, including the Public Finance Management Act, the Community Land Act, the Local Content Act, the Basic Education Act, the National Museums and Heritage Act, and the National Cohesion and Integration Act.

Savings.

44. Nothing in this Act shall be construed as limiting or derogating from any right or entitlement conferred upon any person or community under the Constitution or any other written law.

SCHEDULES

FIRST SCHEDULE

CRITERIA FOR IDENTIFICATION AND RECOGNITION OF MINORITIES AND MARGINALISED COMMUNITIES

(Sec. 6 and 7)

Historical
demographic
characteristics.

and

1. (1) A community may be recognised as a minority or marginalised community if it—

(a) possesses a distinct ethnic, linguistic, cultural or religious identity;

(b) constitutes a numerically smaller population relative to the rest of the national population; or

(c) has experienced historical, social or political exclusion or disadvantage.

(2) In determining whether a community meets the criteria under subparagraph (1), the Unit shall rely on official census data and verifiable records from relevant public agencies.

Socio-economic
indicators.

2. A community may qualify for recognition if evidence demonstrates—

(a) persistent poverty or economic marginalisation compared with national or county averages;

(b) limited access to education, health, infrastructure or social services; or

(c) exclusion from formal employment, trade or enterprise participation.

Geographical
ecological factors.

and

3. Recognition may take into account—

(a) occupation of remote, arid, semi-arid, island, forest or border areas;

(b) displacement due to conflict, climate change or historical land injustices; or

(c) Isolation arising from physical inaccessibility or environmental constraints.

Representation and participation.

4. Consideration shall also be given to—

- (a) under-representation in elective and appointive offices;
- (b) language or cultural barriers limiting participation in public affairs; and
- (c) absence of effective platforms for engagement with government.

Review and validation process.

5. (1) The Unit shall apply these criteria using data from the Kenya National Bureau of Statistics, the Commission on Revenue Allocation and other competent agencies.

(2) The Unit shall prepare a report of its findings and submit recommendations to the Cabinet Secretary for approval and gazettelement under section 7 of the Act.

SECOND SCHEDULE

PROCEDURE FOR CONSULTATION WITH RECOGNISED COMMUNITIES

(Sec. 12 and 13)

Notice of intention.

1. A public body intending to undertake any measure likely to affect a recognised community shall issue a written notice to the community through—

- (a) the County Commissioner; and
- (b) the county government in whose jurisdiction the community resides.

Timeliness of notice.

2. A notice under paragraph 1 shall be issued not less than thirty days before the proposed action or decision.

Consultation meetings.

3. (1) Consultation meetings shall—

- (a) be held at venues accessible to the affected community;
- (b) be conducted in a language understood by the participants; and

(c) provide an opportunity for the community to present views, proposals or objections.

(2) Where necessary, the Unit shall provide technical support to ensure proper facilitation of consultations.

Representation.

4. Consultations shall involve legitimate representatives of the community including elders, youth, women and persons with disabilities, taking into account local and community governance structures.

Documentation and reporting.

5. (1) The convening authority shall prepare minutes and a summary of proceedings signed by both the community representatives and the presiding officer.

(2) A copy of the signed report shall be transmitted to the Unit within fourteen days of the consultation.

Feedback.

6. The responsible authority shall, within thirty days after conclusion of the consultation, communicate the outcome and any decisions made to the affected community.

THIRD SCHEDULE

REPORTING TEMPLATE AND KEY PERFORMANCE INDICATORS

(Sec. 32 and 42)

Institutional information.

1. Every ministry, department, agency or county government shall, for each financial year, provide—

(a) details of programmes or projects targeting minorities and marginalised communities;

(b) the total budgetary allocation and expenditure for such programmes; and

(c) the institutional focal point responsible for inclusion and equality reporting.

Quantitative indicators.

2. Reports shall, where applicable, include data on—

(a) enrolment and completion rates in education institutions;

(b) employment of members of recognised communities in the public and private sectors;

- (c) access to water, health, housing, energy and other essential services; and
- (d) representation in public institutions and decision-making bodies.

Qualitative indicators.

3. Agencies shall provide a brief narrative assessment of—

- (a) participation of recognised communities in policy and development processes;
- (b) outcomes of public consultations held;
- (c) community satisfaction and grievance mechanisms utilised; and
- (d) challenges encountered and lessons learned.

Reporting format and timelines.

4. (1) Reports shall be submitted annually to the Unit not later than three months after the end of the financial year.

(2) The Unit shall consolidate all reports and prepare the national inclusion report for submission to the Cabinet Secretary under section 42.

FOURTH SCHEDULE

INTER-AGENCY COORDINATION FRAMEWORK

(Sec. 18 and 28)

Agency	Mandate under the Act	Key Role in Implementation
The Unit (Office of the President)	Coordination, data management, policy advice	Develop guidelines, collect reports, facilitate inter-ministerial coordination
State Department for Justice, Human Rights and Constitutional Affairs	Policy oversight and legislative coordination	Formulate regulations, oversee compliance, table reports in Parliament
National Land Commission	Land and natural resource matters affecting recognised communities	Advise on benefit-sharing, consultation and land-use planning

Ministry of Education, Teachers Service Commission and KICD	Education and curriculum development	Integrate multicultural content, monitor inclusion in education
National Museums of Kenya and Ministry of Culture	Cultural heritage and documentation	Safeguard cultural assets, promote creative industries
Kenya Law Reform Commission	Law Reform for coherence	Ensure the law develops in a manner that protects the rights of minorities and marginalised communities
Commission on Revenue Allocation and county governments	Fiscal and devolution linkages	Mainstream inclusion in county plans and resource allocation
National Cohesion and Integration Commission (NCIC)	Cohesion and conflict management	Address inter-community disputes, promote civic tolerance
National Gender and Equality Commission (NGEC)	Equality oversight and human rights	Provide technical guidance on inclusion indicators
National Treasury and State Department for Planning	Integration with budget and planning systems	Embed inclusion metrics in planning and budget processes

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide a comprehensive legal framework for the recognition, inclusion and participation of ethnic minorities and marginalised communities in national and county governance and to promote equality, cohesion and respect for cultural and linguistic diversity.

The Bill gives effect to Articles 7, 11, 27, 44, 56 and 232 of the Constitution which recognise Kenya's multi-ethnic character and guarantee the protection and participation of minorities and marginalised groups. It also operationalises the National Policy on Ethnic Minorities and Marginalised Communities (2025–2035) and institutionalises its implementation through the Unit for the Promotion of Minorities and Marginalised Communities within the Office of the President.

This Bill responds to the continuing challenges of historical exclusion, inequitable access to opportunities and underrepresentation of minorities and marginalised communities despite the gains made under devolution. It aims to establish clear procedures for recognition, consultation and equitable benefit-sharing, while enhancing coordination, transparency and accountability in interventions across national and county governments.

The Bill is divided into eight Parts and four Schedules as follows—

Part I provides for the short title, commencement and interpretation of key terms used in the Act. It sets out the object and purpose of the Act, which is to promote equality, cohesion and cultural diversity, and to give effect to constitutional provisions relating to minorities and marginalised groups. It also provides guiding principles including equality, inclusiveness, participation, social justice, transparency and intergovernmental cooperation.

The Part defines important concepts such as “minority”, “marginalised community”, “recognised community” and “Unit”, and clarifies that the Cabinet Secretary responsible for justice, human rights and constitutional affairs is the authority charged with implementation.

Part II establishes the legal basis and procedure for the recognition and registration of minorities and marginalised communities. It mandates the Cabinet Secretary, on the recommendation of the Unit and in consultation with relevant agencies, to recognise and gazette communities that meet the criteria specified in the First Schedule.

It sets out objective parameters for identification, including historical exclusion, socio-economic marginalisation, geographical isolation, and cultural distinctiveness. It provides for the process of application, assessment, public participation and publication of decisions.

The Part also establishes a national register of recognised communities to be maintained by the Unit and provides a mechanism for review and appeal to ensure transparency and fairness in recognition decisions.

Part III provides for the participation of recognised communities in national and county affairs and requires public bodies to take reasonable measures to facilitate inclusion in decision-making. It ensures equitable representation of recognised communities in public institutions and establishes clear obligations on appointing authorities to take affirmative measures to promote inclusion.

It further provides for structured consultation with recognised communities in relation to policies, projects or laws likely to affect them, in accordance with the Second Schedule, and introduces the concept of free, prior and informed consultation in line with international best practices.

It establishes accessible and community-based mechanisms for dispute resolution to ensure that participation disputes are resolved fairly and expeditiously.

Part IV secures the rights of recognised communities to occupy, use and benefit from land and natural resources traditionally owned or utilised by them in accordance with Article 63 of the Constitution and the Community Land Act, 2016. It requires public and private entities undertaking extractive or industrial projects in areas inhabited by recognised communities to comply with local content laws, consult affected communities and enter into community development agreements. It aligns community benefit arrangements with existing fiscal and development frameworks to avoid the proliferation of stand-alone funds, consistent with sound public finance management.

The Part also protects cultural heritage, traditional knowledge and sacred sites through collaboration with the National Museums of Kenya and county governments, and provides penalties for destruction or interference with cultural assets.

Part V addresses socio-economic inclusion and empowerment. It obligates public institutions to ensure equality of opportunity and non-discrimination in accordance with Article 27 of the Constitution. It promotes enterprise development among recognised communities through targeted training, access to markets and participation in public procurement. It also enhances financial inclusion through partnerships with the Central Bank of Kenya and financial institutions, encouraging credit access without the establishment of new public funds.

Further, it provides for affirmative measures to promote employment, skills development, technical training and apprenticeships for members of recognised communities. It secures access to social protection programmes, prioritising vulnerable persons within these communities.

Finally, it empowers the Cabinet Secretary to prescribe temporary special measures to accelerate equality and representation, subject to periodic review and sunset provisions once parity is achieved.

Part VI ensures equitable access to quality education for recognised communities, including targeted scholarship programmes, mobile schools and culturally sensitive teaching. It requires the integration of multicultural and inclusive content in the national curriculum through the Kenya Institute of Curriculum Development.

It further promotes the preservation and use of indigenous languages, mandates support for language teaching and documentation, and encourages dissemination of public information in languages understood by affected communities.

The Part also provides for the preservation and exchange of cultural heritage through community cultural centres, inter-community programmes and protection of intellectual property rights related to traditional knowledge. These measures are designed to promote cohesion and mutual respect across Kenya's diverse communities.

Part VII establishes the Unit for the Promotion of Minorities and Marginalised Communities within the Office of the President as the lead coordinating organ for implementation of the Act. The Unit is tasked with data management, policy coordination, inter-agency collaboration, and advisory services to the Cabinet Secretary.

It mandates collaboration between the Unit and constitutional commissions including the National Cohesion and Integration Commission, the National Gender and Equality Commission and the Commission on Administrative Justice. It further provides for integration of inclusion goals into national and county development planning and budgeting frameworks.

The Part establishes a monitoring and evaluation framework with performance indicators set out in the Third Schedule, and requires the Cabinet Secretary to table annual progress reports in Parliament. It also provides for public participation and transparency through publication of reports and regular stakeholder engagement.

Part VIII provides for rule-making powers, allowing the Cabinet Secretary to make regulations necessary for the implementation of the Act. It includes provisions on data collection and protection in line with the Data Protection Act, 2019, and establishes a dispute resolution framework that prioritises dialogue, mediation and administrative mechanisms before recourse to courts.

It also contains proportionate offences and penalties for obstruction, false reporting or unlawful disclosure of information, transitional arrangements for existing administrative structures, and provisions for harmonisation with other laws. The Part concludes with a requirement for the

Cabinet Secretary to lay all regulations before Parliament in accordance with the Statutory Instruments Act, 2013.

The First Schedule sets out objective, data-driven criteria for identification and recognition of minorities and marginalised communities, based on demographic, socio-economic and geographical indicators.

The Second Schedule provides a clear and transparent procedure for consultation with recognised communities, including advance notice, representation, record-keeping and feedback requirements.

The Third Schedule establishes reporting templates and key performance indicators for monitoring implementation of this Act by national and county governments.

The Fourth Schedule outlines the inter-agency coordination framework linking the Unit, constitutional commissions and key ministries for coherent policy execution.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative powers to the Cabinet Secretary responsible for ***** to make regulations for implementation of the Act. The Bill does not limit any fundamental right or freedom.

Statement of how the Bill concerns County Governments

The Bill concerns county governments as it contains provisions relating to culture. Paragraph 10 of Part II of the Fourth Schedule to the Constitution designates implementation of national government policies on natural resources and environmental conservation as a county government function.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Implementation shall utilise existing institutional and budgetary frameworks within the Office of the President and other government agencies.

Dated the day of, 2025.

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Cabinet Secretary for *****

FIRST DRAFT - FOR PUBLIC CONSULTATIONS