

THE ETHNIC MINORITIES AND MARGINALISED COMMUNITIES BILL, 2026

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY

- 1—Short title
- 2—Interpretation.
- 3—Objects and purpose of the Act.
- 4—Guiding values and principles.
- 5—Application of the Act.
- 6—Interpretation consistent with the Constitution.

PART II—RECOGNITION, PARTICIPATION AND INCLUSION

- 7—Recognition of minorities and marginalised communities.
- 8—Criteria for identification.
- 9—Procedure for recognition.
- 10—Register of recognised communities.
- 11—Review and appeal.
- 12—Participation in national and county affairs.
- 13—Representation, inclusion and non-discrimination
- 14—Consultation with recognised communities.
- 15—Inclusion measures.
- 16—Political nomination and representation.
- 17—Access to public employment
- 18—Access to public procurement opportunities
- 19—Dispute resolution.

PART III—SPECIFIC INCLUSION SAFEGUARDS

- 20—Benefit sharing

21—Digital inclusion and access to information.

22—Climate vulnerability and sustainable livelihoods.

PART IV—IMPLEMENTATION AND COORDINATION

23—Establishment of the Directorate for Minorities and Marginalised Communities.

24—Functions of the Directorate.

25—Intergovernmental and inter-Directorate coordination.

26—County inclusion coordination mechanisms.

27—Integration with planning and budgeting.

28—Monitoring and evaluation.

29—Public participation and transparency.

PART V—MISCELLANEOUS AND GENERAL PROVISIONS

30—Power to make regulations.

31—Data governance and protection.

32—Offences and penalties.

33—Protection from personal liability.

34—Transitional arrangements.

35—Annual reports to Parliament.

36—Savings.

THE ETHNIC MINORITIES AND MARGINALISED COMMUNITIES BILL, 2026

A Bill for—

AN ACT of Parliament to give effect to the provisions of the Constitution relating to ethnic minorities and marginalised communities; to provide a framework for the recognition, inclusion, participation and protection of ethnic minorities and marginalised communities; to promote equality, social justice, cultural diversity and inclusive development; and for connected purposes.

ENACTED by the Parliament of Kenya as follows—

PART I— PRELIMINARY PROVISIONS	
Short title.	1. This Act may be cited as the Ethnic Minorities and Marginalised Communities Act, 2026.
Interpretation.	2. In this Act, unless the context otherwise requires— “benefit-sharing” means the equitable apportionment of monetary and non-monetary benefits accruing from the exploration, extraction, exploitation, conservation, management or commercial use of natural resources in an area habitually occupied or used by a community, in accordance with section 19 and any other applicable written law; “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to culture. “climate vulnerability” means exposure to adverse environmental, climatic or ecological conditions that disproportionately affect the livelihoods, resilience or socio-economic wellbeing of a recognised community:

	“community” means a group sharing common ethnic, cultural, linguistic, historical or traditional characteristics recognised under Article 260 of the Constitution and identified in accordance with this Act; “community land” has the meaning assigned to it under the Community Land Act, 2016; “County Inclusion Focal Point” means the officer designated by a county government to coordinate inclusion measures and liaison with the Directorate; “cultural heritage” includes tangible and intangible expressions of identity, language, knowledge and practices, and sacred or cultural sites. “digital inclusion” means equitable access to digital infrastructure, digital literacy, online public services and information technologies in a manner accessible to recognised communities; “disaggregated data” means data collected and analysed according to relevant demographic, geographic, socio-economic or cultural characteristics for purposes of measuring inclusion and equality outcomes; “ethnic minority” means a community that satisfies the criteria specified in section 8(1); “free, prior and informed consultation” means meaningful and good faith engagement undertaken before approval or implementation of a measure likely to affect a recognised
--	--

	community through timely disclosure of relevant information in accessible form; “Inclusion Action Plan” means a framework adopted by a public entity setting out measures, targets and indicators for promoting inclusion, participation and equality of recognised communities under this Act; “inclusion measures” means legislative, policy, administrative or programmatic interventions intended to promote equality, participation and equitable access to opportunities and services for recognised communities; “marginalised community” has the meaning assigned under Article 260 of the Constitution; “natural resource” includes wildlife, water, forests, minerals, fisheries and any resource regulated by national or county legislation; “public entity” has the meaning assigned to it under the Public Finance Management Act and includes a State organ, public office, constitutional commission, independent office, county government or State corporation;; “representative body” means a body recognised in accordance with this Act and community governance structures to represent the interests of a recognised community in a manner that is inclusive, transparent and accountable;
--	--

	“Directorate” means the Directorate for ethnic Minorities and Marginalised Communities established under section 21; “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 the Constitution relating to the recognition and inclusion of ethnic 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) promote inclusive development and equitable access to public services;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, non-discrimination and affirmative action, in accordance with Article 27 of the Constitution; (b) the national values and principles of governance as provided in Article 10 of the Constitution; (c) respect for cultural diversity, identity and heritage;;

	(d) transparency and accountability in decision-making affecting recognised communities; and (e) cooperation and coordination between national and county governments.
Application of the Act	5. (1) This Act shall bind all public entities. (2) The provisions of this Act shall be implemented in a manner that is consistent with the Constitution including the objects of devolution.
Interpretation consistent with the Constitution.	6. This Act shall be interpreted in a manner that— (a) advances the values and principles of the Constitution; (b) promotes the implementation of obligations arising from international and regional human rights instruments; (c) promotes equality, inclusion and human dignity; (d) respects the functional integrity of national and county governments; (e) promotes social cohesion, sustainable development and public participation; and (f) does not derogate from any right or freedom guaranteed under the Constitution.
PART II— RECOGNITION, PARTICIPATION AND INCLUSION	
Recognition of ethnic minorities and marginalised communities.	7. (1) The Cabinet Secretary shall, upon recommendation of the Directorate and following a technical assessment conducted in accordance with this Act, recognise for purposes of this Act, communities that qualify as ethnic minority and marginalised communities under Article 260 of the Constitution.

	(2) Recognition under subsection (1) shall— (a) be based on the criteria set out in this Act; and (b) be undertaken in a manner consistent with the Constitution and national cohesion objectives.
	(3) Recognition under this Act shall not— (a) confer exclusive political, territorial or economic rights inconsistent with the Constitution; (b) derogate from the equal citizenship of all persons; (c) prejudice the rights of any other community; or (d) limit the authority of State organs 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.	8. (1) A community may be recognized as an ethnic minority where— (a) the community is numerically smaller in relation to the population of Kenya as a whole, based on reliable and current demographic data, whether its members are concentrated in one locality or dispersed across two or more counties; (b) its members, being citizens of Kenya, share a common identity, culture, heritage, ancestry, language or historical connection that is distinguishable from that of the wider Kenyan population;

	(c) the community is in a non-dominant position at the national level or within a county in which its members reside; and (d) the community has experienced, or is vulnerable to, exclusion, discrimination or denial of equal and meaningful participation in the political, economic, social or cultural life of Kenya.
	(2) A community qualifies for recognition as a marginalised community where the community satisfies the definition of “marginalised community” under Article 260 of the Constitution.
	(3) In determining whether a community satisfies subsection (1) or (2), the Directorate shall have regard to— (a) census data and other reputable demographic and socio-economic information; (b) evidence of historical or continuing exclusion or disadvantage; (c) the views of the community and representations received through public participation; (d) the geographic, cultural, linguistic and livelihood characteristics of the community; and (e) any other objective indicator prescribed by regulations.
	(4) The Cabinet Secretary shall, by regulations, prescribe objective indicators and an equitable assessment model for purposes of this section.

	(5) The indicators and assessment model prescribed under subsection (4) shall be reviewed at least once every ten years or following the publication of national census results, whichever occurs earlier.
Procedure for recognition.	9. (1) The Directorate may, on its own initiative or upon application by a community, initiate the process of recognition under this Act.
	(2) Upon receipt of an application or initiation under subsection (1), the Directorate shall conduct a preliminary assessment to determine whether the application discloses sufficient grounds for consideration.
	(3) Where the Directorate is satisfied that the application merits consideration, it shall— (a) publish a notice of the proposed recognition in the Gazette and by electronic means; (b) invite representations from interested persons and affected stakeholders within a prescribed period; (c) undertake consultations with the affected community, relevant county governments and public institutions; and (d) conduct a technical assessment based on the criteria under this Act.
	(4) The Directorate shall prepare a technical assessment report containing— (a) findings on the eligibility of the community; (b) summary of representations received; (c) relevant demographic and socio-economic data; and

	(d) recommendations for approval, deferral or rejection.
	(5) The Cabinet Secretary shall, upon consideration of the report under subsection (4), approve or reject the proposed recognition and shall provide written reasons for the decision.
	(6) The procedure and timelines for recognition under this section shall be prescribed in regulations made under this Act.
Register of recognised communities.	10. (1) The Directorate shall maintain and regularly update the national register of recognised communities.
	(2) The register shall contain— (a) the name and description of each recognised community; (b) the relevant demographic, geographic and socio-economic information; (c) the date and basis of recognition; (d) relevant inclusion and vulnerability indicators; and (e) such other information as may be prescribed.
	(3) The register shall— (a) be maintained in accessible electronic and physical formats; (b) support planning, inclusion and monitoring frameworks under this Act; (c) comply with the Data Protection Act; and (d) not be used for discriminatory purposes.

	(4) The Directorate shall publish an annual summary of the register and it shall form part of the report to the Cabinet Secretary for submission to Parliament as part of the report under section 42.
Review and appeal.	11. (1) A person or community aggrieved by a decision made under this Part may apply for administrative review before the Cabinet Secretary within the prescribed period.
	(2) The Cabinet Secretary shall, upon receipt of an application under subsection (1), review the decision within thirty days and shall provide written reasons for the decision.
	(3) A party aggrieved by the decision of the Cabinet Secretary may appeal to the High Court.
	(4) The filing of an appeal under this section shall not operate as a stay of the decision unless the Court otherwise orders.
Participation in national and county affairs.	12. (1) Recognised communities shall have the right to participate in governance, public affairs and development processes affecting them at the national and county levels.
	(2) Public entities shall take reasonable measures to facilitate effective participation of recognised communities in governance, policy-making, legislative and development processes.
	(3) Measures under subsection (2) may include—

	(a) provision of accessible information and communication formats; (b) use of appropriate languages and culturally responsive engagement approaches; (c) facilitation of participation by women, youth, persons with disabilities and vulnerable persons within recognised communities; and (d) collaboration with county governments and community structures.
	(4) Participation under this section shall be guided by the principles of inclusiveness, transparency, accountability, equality and non-discrimination.
Representation, inclusion and non-discrimination	13. (1) In implementing Articles 10, 27, 56 and 232 of the Constitution, public entities shall take reasonable measures to promote— (a) inclusion and equitable representation of recognised communities in public institutions and decision-making processes; and (b) non-discrimination and equitable access to public services, programmes and development processes for recognised communities.
	(2) The Public Service Commission, the County Public Service Boards and other appointing authorities shall integrate inclusion considerations into recruitment, appointments and leadership development.
	(3) Measures taken under this section shall— (a) be proportionate and evidence-based; (b) promote equality of opportunity;

	(c) be implemented in a manner consistent with merit and competence; (d) not amount to unfair discrimination; and (e) be periodically reviewed.
	(4) Public entities shall integrate inclusion measures relating to recognised communities into their strategic planning, service delivery and institutional frameworks through Inclusion Action Plans.
	(5) Inclusion Action Plans under subsection (4) may provide for— (a) institutional inclusion objectives; (b) implementation measures; (c) monitoring indicators; and (d) reporting obligations.
	(6) Public entities shall report periodically on measures taken under this section in accordance with this Act and prescribed regulations.
	(7) The Cabinet Secretary may prescribe guidelines for the preparation and implementation of Inclusion Action Plans under this section.
<i>Cap 7N.</i>	(8) This section shall be read together with the National Cohesion and Integration Act and other relevant written laws.
Consultation with recognised communities.	14. (1) A public entity undertaking a policy, legislative, administrative or development measure likely to affect a

	recognised community shall undertake meaningful consultation with the affected community.
	(2) Consultation under subsection (1) shall be undertaken in good faith, with adequate notice, accessible information and a reasonable opportunity for participation.
	(3) Where a proposed measure, project or activity is likely to have a substantial impact on the land, resources, cultural heritage, livelihoods or socio-economic wellbeing of a recognised community, the responsible public entity shall undertake free, prior and informed consultation with the affected community.
	(4) Consultation under subsection (3) shall— (a) be undertaken before the approval or implementation of the proposed measure, project or activity; (b) involve the timely disclosure of relevant information in accessible formats; (c) facilitate meaningful participation without coercion, intimidation or manipulation; and (d) be appropriately documented.
	(5) The Cabinet Secretary may, in consultation with county governments and relevant institutions, issue guidelines and procedures for consultation under this section.
	(6) A public entity implementing this section shall act in accordance with the Constitution and any other applicable written law.

	(7) Failure to comply with this section may constitute a ground for administrative review or judicial proceedings in accordance with the law.
Inclusion measures.	15. (1) Public entities shall put in place reasonable and proportionate inclusion measures intended to redress disadvantage experienced by recognised communities,
	(2) Inclusion measures under this section shall— (a) be evidence-based and proportionate; (b) be consistent with the Constitution; (c) not derogate from principles of merit and competence; (d) be subject to periodic review; and (e) cease where the intended objectives have substantially been achieved.
	(3) Disadvantage in this section, includes— (a) historical marginalisation and exclusion from public institutions, services and economic opportunities; (b) underrepresentation in public employment, leadership positions and decision-making processes; (c) limited access to quality education, training and skills development; (d) inadequate access to health services, housing and social protection; (e) economic marginalisation, including limited access to credit, markets and productive resources; (f) land tenure insecurity, displacement and exclusion from benefit-sharing arrangements for natural resources;

	(g) disproportionate exposure to poverty, insecurity and environmental degradation; (h) statelessness, lack of civil documentation and barriers to citizenship; (i) digital exclusion, including limited access to information and communication technologies; and (j) other systemic barriers that impede full and equal participation in social, economic and political life.
Political nomination and representation.	16. (1) A political party, appointing authority or other body responsible for nominating persons for election or appointment to a public body shall, in accordance with the Constitution and applicable written law, take affirmative action measures to promote the participation and representation of recognised communities.
	(2) A political party preparing a party list under Article 90 of the Constitution shall— (a) provide a fair and transparent opportunity for qualified members of recognised communities to seek nomination; (b) apply objective and publicly available selection criteria; (c) ensure that nominees representing marginalised groups include qualified persons from recognised communities; and (d) place the nominees in positions that provide a reasonable opportunity for selection, having regard to the applicable electoral law.
	(3) A nomination process under this section shall take account of the representation of women, youth, persons

	with disabilities and other vulnerable persons within recognised communities.
	(4) The Independent Electoral and Boundaries Commission and the Registrar of Political Parties shall, within their respective mandates, monitor compliance with this section and include relevant information in their statutory reports.
	(5) Nothing in this section shall be construed as dispensing with any constitutional or statutory qualification for nomination, election or appointment.
Access to public employment.	17. (1) The Public Service Commission, county public service boards and other public appointing authorities shall take affirmative action measures to ensure that recognised communities have reasonable access to employment in the public service.
	(2) Measures taken under subsection (1) may include— (a) targeted dissemination of vacancy notices in accessible formats and through channels reasonably available to recognised communities; (b) internship, apprenticeship, mentorship, scholarship, training and leadership-development programmes; (c) removal of unjustified barriers in recruitment, selection, appointment, promotion and retention; (d) reasonable accommodation for candidates and employees who require it; and (e) institutional targets and indicators incorporated into an Inclusion Action Plan.

	(3) A public entity shall collect and publish, subject to the Data Protection Act, disaggregated information on— (a) the representation of recognised communities in its workforce; (b) recruitment, appointment, promotion, training and retention outcomes affecting recognised communities; and (c) the measures taken by the public entity under this section.
	(4) Measures under this section shall be implemented consistently with Articles 27, 56 and 232 of the Constitution and the principles of fair competition, merit and competence.
	(5) A person shall not be denied employment, promotion, training or any other employment benefit on the ground that the person belongs to a recognised community.
Access to public procurement opportunities.	18. (1) A procuring entity shall, in accordance with Article 227(2)(b) of the Constitution and the law relating to public procurement and asset disposal, facilitate access by recognised communities to preferences and reservations in public procurement.
	(2) Without limiting subsection (1), a procuring entity shall— (a) identify, in its procurement plan, opportunities that may be subject to an applicable preference or reservation;

	(b) disseminate procurement information in accessible formats and through channels reasonably available to recognised communities; (c) provide lawful capacity-building and supplier-development support, including information on registration, tendering and contract-performance requirements; and (d) maintain disaggregated records of participation, contract awards and contract performance for monitoring and reporting purposes.
	(3) The Public Procurement Regulatory Authority shall, within its statutory mandate— (a) monitor the implementation of this section; (b) develop appropriate indicators for measuring access by recognised communities to public procurement opportunities; and (c) issue guidelines necessary for the implementation of this section.
	(4) A preference or reservation under this section shall be applied transparently and shall not authorise a departure from the Constitution or the law relating to public procurement and asset disposal.
Dispute resolution	19. A dispute arising under this Act may, where appropriate, be resolved through mediation, negotiation or other alternative dispute resolution mechanisms consistent with Article 159 of the Constitution.
PART III — SPECIFIC INCLUSION SAFEGUARDS	

Benefit sharing	20. (1) Where the exploration, extraction, exploitation, conservation, management or commercial use of a natural resource affects a recognised community or occurs within an area habitually occupied or used by that community, the responsible public entity shall ensure the equitable sharing of the benefits accruing from that natural resource with the affected community.
	(2) Benefit-sharing under subsection (1) shall be undertaken— (a) in accordance with the Constitution, this Act, the Community Land Act, the Mining Act, the Forest Conservation and Management Act and any other applicable written law; (b) in a manner that is equitable, transparent, inclusive and accountable; (c) following meaningful consultation with the affected community in accordance with sections 14 and 15; (d) with due regard to the rights, interests and priorities of the affected community; and (e) in a manner that promotes sustainable development and inter-generational equity.
	(3) Before approving or authorising an activity referred to in subsection (1), the responsible public entity shall ensure that— (a) the affected community has been provided, in an accessible form and appropriate language, with sufficient information concerning—

	(i) the nature and extent of the proposed activity; (ii) the anticipated economic, social, cultural and environmental effects of the activity; (iii) the nature and estimated value of the benefits likely to accrue from the activity; and (iv) the proposed mechanism for sharing the benefits; (b) the affected community participates in determining the benefit-sharing arrangement through its representative body or other lawful community governance structure; (c) the benefit-sharing arrangement is reduced into writing and, where the activity relates to community land, approved in accordance with the Community Land Act; and (d) the benefit-sharing arrangement makes provision for the equitable inclusion of women, youth, persons with disabilities and other vulnerable persons within the community.
	(4) Benefits under this section may be monetary or non-monetary and may include— (a) royalties, revenue allocations or other payments prescribed under an applicable written law; (b) employment, training and capacity-building opportunities; (c) procurement and enterprise development opportunities; (d) investment in education, healthcare, water, infrastructure and other community development priorities;

	(e) access to, or sustainable use of, the relevant natural resource; (f) transfer of knowledge, skills or technology; and (g) any other benefit agreed upon with the affected community or prescribed under an applicable written law.
	(5) A benefit-sharing arrangement under this section shall specify— (a) the beneficiaries and the criteria for determining eligibility; (b) the nature and value of the benefits to be shared; (c) the formula and timelines for the distribution of the benefits; (d) the institution or community structure responsible for receiving or administering the benefits; (e) measures for transparency, financial management, record-keeping and audit; (f) mechanisms for monitoring, periodic review and public reporting; (g) measures to ensure that the benefits are applied for the collective and sustainable development of the community; and (h) mechanisms for the resolution of disputes arising from the arrangement.
	(6) Compensation for loss of land, displacement, environmental degradation or any other adverse effect arising from an activity referred to in subsection (1) shall be separate from, and shall not be treated as, a benefit for the purposes of this section.

	(7) A public entity, representative body or other institution responsible for receiving or administering benefits on behalf of a recognised community shall— (a) maintain accurate and separate records of all benefits received and distributed; (b) prepare an annual statement of the benefits received, their value and the manner in which they have been applied; (c) make the statement referred to in paragraph (b) accessible to members of the affected community; and (d) ensure that the accounts relating to the benefits are audited in accordance with the applicable written law.
	(8) The Directorate shall, in collaboration with the relevant national and county government entities— (a) monitor compliance with this section; (b) promote coordination between affected communities, public entities and persons undertaking activities involving natural resources; and (c) include information on the implementation of benefit-sharing arrangements in its annual report under this Act.
	(9) This section shall not— (a) reduce, replace or otherwise adversely affect any share, royalty, compensation or other entitlement due to a community under any other written law; or (b) authorise the alteration of a benefit-sharing formula prescribed under any other written law.

	(10) The Cabinet Secretary may, in consultation with the Cabinet Secretaries responsible for land, mining, forestry, environment and any other relevant sector, county governments and recognised communities, make regulations prescribing minimum standards and procedures for benefit-sharing under this section.
Cultural, linguistic and heritage protection	21. (1) Recognised communities shall have the right to preserve, develop and promote their cultural, linguistic and heritage identity in accordance with the Constitution.
	(2) National and county governments shall take reasonable measures to support the protection and promotion of cultural and linguistic diversity.
Digital inclusion and access to information	22. Public entities shall take reasonable measures to promote equitable digital inclusion and access to public information for recognised communities, taking into account geographic, economic and technological disparities.
Climate vulnerability and sustainable livelihoods	23. National and county governments shall integrate the needs and vulnerabilities of recognised communities into climate resilience, environmental sustainability and disaster risk management frameworks in accordance with applicable law.
PART IV— IMPLEMENTATION AND COORDINATION	
Establishment of the Directorate for ethnic Minorities and Marginalised Communities	24. (1) There is established within the Office of the President a Directorate to be known as the Directorate for Ethnic Minorities and Marginalised Communities.

	(2) The Directorate shall be responsible for coordinating implementation of this Act and promoting inclusion of recognised communities within national and county governance frameworks.
	(3) The Directorate shall consist of such officers and staff as may be necessary for the performance of its functions.
	(4) The Public Service Commission shall facilitate the appointment of staff of the Directorate in accordance with the law.
Functions of the Directorate.	25. The functions of the Directorate shall be to— (a) coordinate the implementation of this Act; (b) maintain the national register of recognised communities; (c) develop guidelines and standards for implementation of this Act; (d) facilitate research, data collection and dissemination of information relating to inclusion and marginalisation; (e) support public awareness and civic engagement on matters relating to this Act; (f) facilitate intergovernmental and inter-Directorate collaboration; and (g) advise the government on matters relating to ethnic minorities and marginalised communities; and (h) perform any other function necessary for implementation of this Act.
Intergovernmental and inter-Directorate coordination	26. (1) The Directorate shall facilitate coordination and collaboration among national and county governments,

	constitutional commissions, independent offices and public entities in implementation of this Act.
	(2) Coordination under subsection (1) may include information sharing, joint planning, consultation and collaborative implementation measures.
	(3) In implementing this section, the Directorate shall respect the functional and institutional integrity of national and county governments in accordance with the Constitution.
	(4) The Cabinet Secretary may, by regulations, prescribe modalities for such coordination.
County inclusion coordination mechanisms	27. (1) County governments may establish administrative mechanisms necessary for implementation of this Act in accordance with the Constitution and county legislation.
	(2) County governments shall integrate implementation of this Act into county planning, budgeting and public participation frameworks.
Integration with planning and budgeting.	28. (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.	29. The Directorate shall coordinate monitoring and evaluation of implementation of this Act and may issue guidelines and indicators for reporting under this Act.
Public participation and transparency.	30. (1) The Directorate and all implementing agencies shall promote transparency and accountability through regular public engagement and dissemination of reports.
	(2) The Cabinet Secretary shall ensure that annual reports, audits and evaluations under this Act are publicly accessible.
PART V— MISCELLANEOUS AND GENERAL PROVISIONS	
Power to make regulations.	31. (1) The Cabinet Secretary may, 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 recognition and consultation under this Act; (b) implementation guidelines and standards;

	(c) monitoring and reporting frameworks; (d) forms and administrative procedures; (e) measures relating to political nomination and representation, public employment and access to public procurement opportunities; and (f) any matter necessary for the effective implementation of this Act.
Data governance and protection.	32. (1) Data collected under this Act shall be managed in accordance with the Constitution, the Data Protection Act and any other applicable law.
	(2) The Directorate and public entities implementing this Act shall ensure that— (a) all personal or community data is protected from misuse or unlawful disclosure;; (b) data collection and sharing is lawful, proportionate and necessary for the implementation of this Act; and (c) data systems do not facilitate discrimination, profiling or exclusion.
	(3) The Cabinet Secretary shall, in consultation with the Data Protection Commissioner, issue guidelines relating to data governance and protection under this Act.
Offences and penalties.	33. (1) A person who— (a) knowingly provides false or misleading information in any application, report or process under this Act; (b) unlawfully obstructs an officer responsible for performing a function provided for under this Act, in the exercise of lawful duties under this Act; or

	(c) unlawfully discloses protected 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.
Protection from personal liability.	34. 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.	35. (1) Upon the commencement of this Act, the existing Directorate for ethnic Minorities and Marginalised Communities within the Office of the President shall be deemed to be the Directorate for purposes of this Act.
	(2) The Cabinet Secretary shall, within three months of the commencement of this Act, issue administrative directions to align ongoing programmes and operations with this Act.
	(3) Any act or and decision made before the commencement of this Act shall remain valid for six months, within which period, the Directorate shall bring such act or decision into conformity with this Act, provided that the act or decision is not inconsistent with this Act.
Annual reports to Parliament.	36. (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.
Savings.	37. Nothing in this Act shall be construed as limiting or derogating from any right or freedom guaranteed under the Constitution or any other written law.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide a constitutional and legislative framework for the recognition, inclusion, participation and protection of ethnic minorities and marginalised communities in Kenya.

The Bill gives effect to Articles 7, 10, 11, 27, 44, 56, 174 and 232 of the Constitution by establishing mechanisms for the identification and recognition of minorities and marginalised communities and by promoting their equitable participation in governance, development and public affairs at both the national and county levels.

The Bill further seeks to provide a legislative framework for implementation of the National Policy on Ethnic Minorities and Marginalised Communities (2025–2035) and to strengthen institutional coordination, inclusion planning, accountability and public participation within existing constitutional and administrative structures.

The Bill responds to persistent challenges affecting minorities and marginalised communities, including historical exclusion, underrepresentation, unequal access to opportunities and services, geographic isolation, cultural vulnerability and barriers to effective participation in national life. The Bill therefore establishes a framework for recognition, consultation, inclusion and coordination while promoting social cohesion, equality and sustainable development.

The Bill is divided into five Parts.

Part I of the Bill contains preliminary provisions relating to the short title, commencement, interpretation and application of the Act. It sets out the objects and purposes of the legislation and establishes guiding principles including equality, inclusion, participation, transparency, accountability, social justice and intergovernmental cooperation. The Part further provides for interpretation of the Act in a manner consistent with the Constitution and the principles of devolution.

Part II establishes the legal framework for the recognition, participation and inclusion of minorities and marginalised communities. It provides objective criteria and procedures for

recognition and gazettelement of recognised communities and establishes a national register to be maintained by the Directorate for Minorities and Marginalised Communities.

The Part further promotes participation of recognised communities in national and county governance processes and requires public entities to undertake meaningful consultation in relation to policies, projects and measures likely to affect recognised communities. It also provides for equitable inclusion measures, free, prior and informed consultation and mechanisms for mediation and dispute resolution consistent with Article 159 of the Constitution.

Part III provides specific safeguards relating to political nomination and representation, access to public employment and public procurement opportunities, benefit-sharing, cultural and linguistic protection, digital inclusion and climate vulnerability.

Part IV establishes the implementation, coordination and reporting framework under the Act. The Part establishes the Directorate for Minorities and Marginalised Communities within the Office of the President as the coordinating mechanism for implementation of the Act.

The Directorate is responsible for coordination of implementation, maintenance of the register of recognised communities, intergovernmental collaboration, monitoring and reporting under the Act.

Part V contains miscellaneous and general provisions relating to regulation-making powers, data governance and protection, offences, transitional arrangements, annual reporting and preservation of constitutional rights and freedoms.

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 matters relating to justice, constitutional affairs and human rights to make regulations for the better carrying into effect of the provisions of the Act.

The Bill does not limit any fundamental right or freedom and is intended to strengthen implementation of constitutional rights and principles relating to equality, inclusion, participation and protection of minorities and marginalised communities.

Statement of how the Bill concerns County Governments

The Bill concerns county governments within the meaning of Article 110(1)(a) of the Constitution as it contains provisions affecting county functions relating to cultural activities, public participation, county planning and implementation of national government policies on natural resources and environmental conservation under Part II of the Fourth Schedule to the Constitution.

The Bill further requires county governments to integrate inclusion measures into county planning, budgeting and public participation frameworks and therefore affects the functions and powers of county governments.

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

The Bill does not contain provisions dealing with matters specified 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 the Bill is not expected to occasion significant additional expenditure of public funds as implementation of the Act shall, to the extent practicable, utilise existing institutional, administrative and budgetary frameworks within national and county governments.

Dated the day of, 2026.

.....
Cabinet Secretary for *****