



**VIRTUAL STAKEHOLDERS WORKSHOP ON THE STATUS OF
IMPLEMENTATION OF THE ENERGY ACT 2019**



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www.seafk.org; info@seafk.org

Supported by WWF-Kenya

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Acronyms

CBOs – Community Based Organizations

CSOs – Civil Society Organizations

EU – European Union

FIT – Feed-In-Tariff

NEP – National Energy Policy

INEP – Integrated National Energy Plan

IPP – Independent Power Producers

RERAC - Re

REREC – Rural Electrification and Renewable Energy Corporation

SEAF-K – Sustainable Energy Access Forum Kenya

SEFroAll – Sustainable Energy for All

SDG – Sustainable Development Goal

WWF – World Wide Fund for Nature

Introduction

SEAF-K is a national network of civil society organizations, development partners, individuals, and practitioners advocating for access and use of clean, affordable, and modern energy services and products. The establishment of the forum aimed at addressing a couple of challenges facing the energy sector in terms of limited level of multi-stakeholder engagement by providing a platform that brings various stakeholders on board to advance energy issues. SEAF-K delivers her mandate through four working groups namely; Research and development, Governance, Membership outreach and capacity building, Information communication and knowledge management. The forum has four niche areas that it focuses on; Energy Access, Energy Efficiency, Renewable energy and Energy Security.

Agenda setting/Overview of workshop objectives

Brian Omenyi, Coordinator SEAF-K

In his remarks, Mr. Omenyi noted that the Energy Act, 2019 came into effect on 28th March 2019, repealing the Energy Act, 2006 the Kenya Nuclear Electricity Board Order No. 131 of 2012 and the Geothermal Resources Act, 1982. The Energy Act, 2019 was enacted in response to calls to consolidate the laws relating to energy; promote renewable energy; promote exploration, recovery and commercial utilization of geothermal energy; regulate midstream and downstream petroleum and coal activities, among others. The Act is expected to create an enabling environment for the Government's Big Four Agenda which aims to advance economic growth and manufacturing, increase food security and nutrition, provide universal health coverage, and promote affordable housing as well as facilitate the achievement of SDG 7 and other SDGs energy being an enabler.

The Energy Act has been in place for slightly more than two years and during this period, there are a number of milestones which have been achieved and similarly setbacks and gaps have been identified during the implementation. To track the progress of implementation of the Act, Mr. Omenyi pointed out that SEAF-K organized the virtual workshop to bring together stakeholders in the energy sector and provide a platform for sharing their experiences and lessons learnt. The objective of the meeting was therefore to;

1. Discuss the progress made towards the operationalization of the Energy Act 2019

2. Share experiences on the achievements, lessons learnt and challenges encountered in the process of implementing provisions of the Act
3. Identify gaps and come up with recommendations to fast track the realization of the provisions of the Act.

Opening remarks

Irene Mwaura – Projects Officer Climate Change and Energy, WWF-Kenya

Ms. Mwaura commenced her remarks by stating that the implementation of the Energy Act will ensure that the country is in the right track in achieving the SDGs as stipulated in the Agenda 2030. She further pointed out that energy is a driver for economic growth and it therefore plays a key role in the economy of Kenya which in turn enhances the livelihoods of the citizens. She encouraged the stakeholders present to use the opportunity and engage the government in tracking the roadmap on implementation of the Act and identify the areas where they can support and gaps to be addressed so as to guarantee the achievement of the set targets.

John Kioli – Chairman SEAF-K and member of the National Climate Change Council

Mr. Kioli welcomed the participants present in the meeting and thanked them for honoring the invitation to attend this important meeting. He commended the Ministry of Energy for the leadership and resilience shown from the drafting of the Energy Bill to its enactment into law and now its implementation. To compliment the efforts put in by government in tracking the progress of implementation of the Act, Mr. Kioli highlighted on the need for non-state actors to hold such sessions and report on the milestones achieved and also work with the government in addressing the gaps and challenges identified. To this endeavor, stakeholders will add value to the process of implementation and contribute towards the realization of the objectives as set out in the Act. He reiterated on the commitment of the civil society to partner with the government and further acknowledged the support from development partners such as WWF-Kenya to facilitate such forums that enhance synergy among stakeholders.

Dan Marangu – Director Renewable Energy Directorate, Ministry of Energy

In his remarks, Mr. Marangu commended the work that is being done by the civil society to support the government in the implementation of the Energy Act. He noted that the government has been involved in key programs to fast track energy access in the country. For instance, he

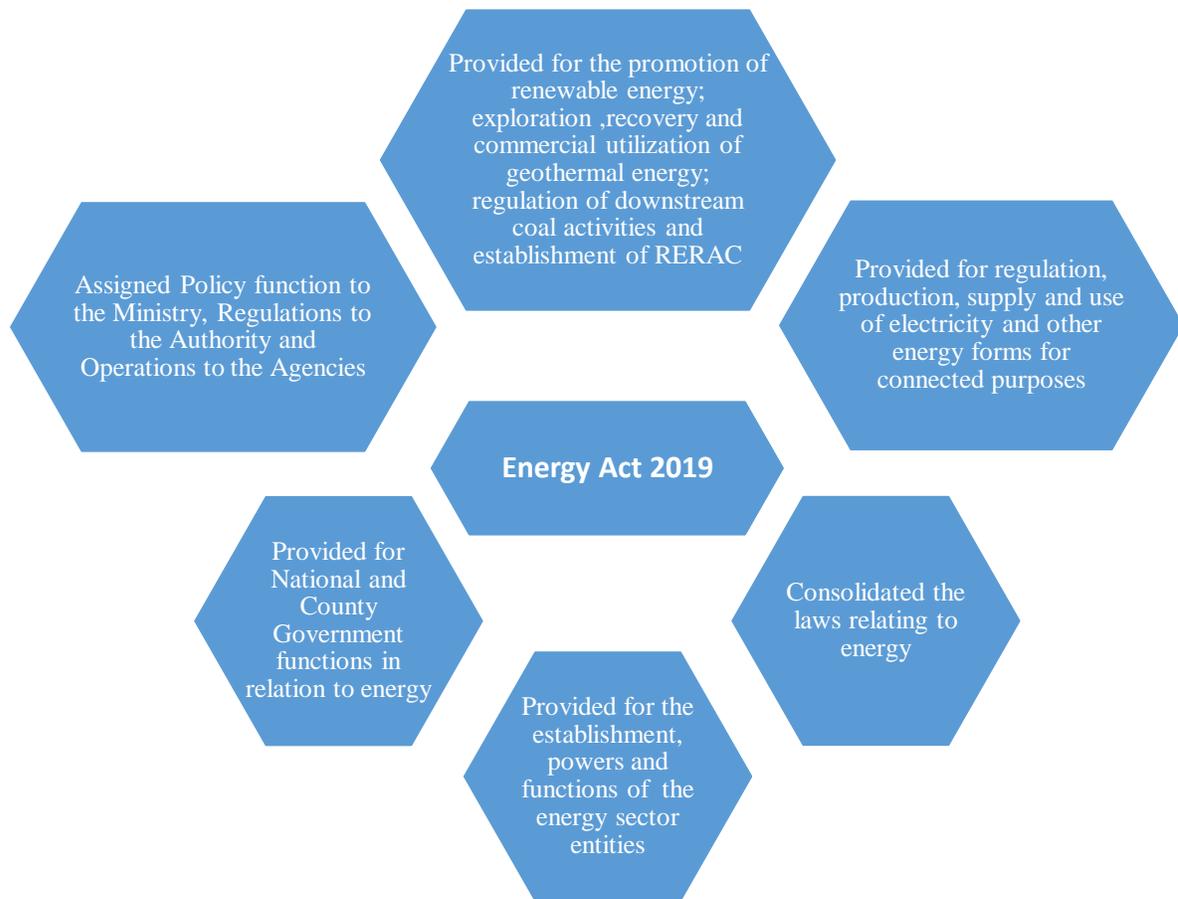
cited the SEforALL program and pointed out that the Action Agenda and the Inspective Prospectus have been finalized and encouraged participants to reach out to the ministry for the documents so that they familiarize themselves with the targets that have been set by the government as a commitment to the global community. To guide certain aspects of the Act, the ministry has developed strategies such as the Bio-Energy strategy which was recently launched, The Energy Efficiency and Conservation strategy, The Electrification strategy and the Agenda policy.

The Ministry of Energy formed a Taskforce once the Act was enacted and it has come up with several recommendations on the implementation of the Act in short, medium and long-term actions. On the Integrated National Energy Planning process, Mr. Marangu informed participants that the Ministry secured funding from the European Union (EU) to build the capacity of institutions on energy planning both at the national and county level. The technical assistance is already on board and the trainings for the counties has already commenced with a target of covering all the counties in the areas on energy planning.

Overview of the progress of implementation of the Energy Act 2019

Mr. Paul Mbuti, Deputy Director Renewable Energy Directorate, Ministry of Energy

Mr. Mbuti began by acknowledging the work done by different sector players in fast tracking the implementation of the Energy Act and noted that the workshop was timely so as to give a view of the progress made. In presenting a highlight of the Act, he noted the following;



The Ministry of Energy formed a Taskforce to spearhead the process of implementation of the Act and some of the areas that require attention include;

- a. Nondiscriminatory open access to transmission and distribution systems
- b. Development of the Electricity market and liberalization of the Distribution and Retail functions in the value chain
- c. Net metering and FIT System
- d. Designation of a System Operator
- e. Introduction of penalties and compensation for outages and poor quality of supply
- f. Clarity on offences in the sector and enhancement of fines and jail terms
- g. Creation of the Energy Consolidated Fund

To provide an outlook of the status of Implementation of Immediate Actions under the Act, Mr. Mbuthi shared a breakdown of some of the key milestones achieved;

SECTION & SUB-SECTION TITLE/ISSUE	IMPLEMENTATION ACTION	STATUS OF IMPLEMENTATION
Section 4 (1) National Energy Policy (NEP)	Conclude and publish the National Energy Policy, 2018	National Energy Policy 2018 concluded
Section 5 (1,4) Integrated National Energy Plans (INEP)	Develop an Interim Uniform Framework for the Entities and County Governments to apply in developing their plans. Ministry of Energy to review the Draft Framework.	Planning Unit of Ministry has been formed to fast track the finalization of the INEP Framework. A draft Framework is under consideration and comments being received
Section 5 Integrated National Energy Plans (INEP)	Sensitize the County Governments on the requirements of the Energy Act, 2019 and the National Energy Policy, 2018	Planning Unit of Ministry has been formed to fast track the finalization of the INEP Framework. A draft Framework is under consideration and comments being received
Section 5 (6) Integrated National Energy Plans (INEP)	Develop and operationalize Energy (National Integrated Energy Plan) Regulations, 2020	The Action commenced. Draft Regulations in place
Section 5 (2,3) Integrated National Energy Plans (INEP)	All Entities and County Governments to submit their initial respective Energy Plans by 31st December 2019 and thereafter every three (3) years by 31st December	Await the finalization of the INEP Framework and effective requisite capacity building for the roll out and execution prior to issuance of attendant circular

Section 5 (1,4) Integrated National Energy Plans (INEP)	Develop and publish the INEP	A draft INEP Framework to be used to develop the INEP is under development.
Section 6 Report on implementation of INEP	All Entities and County Governments to submit their respective INEP Implementation Reports	This action has not commenced as the INEP Framework for developing INEP has not been conclude and hence INEP has not been published
Section 6 Report on implementation of INEP	Publish the INEP Implementation Report by 30th September every year starting 2020	This action has not commenced as the Framework for developing INEP has not been conclude and hence INEP has not been published
Section 25 Establishment of Energy and Petroleum Tribunal	Energy Tribunal to change name to Energy and Petroleum Tribunal and update all relevant legal instruments	The Tribunal has since changed its name from Energy Tribunal to Energy and Petroleum Tribunal and all internal documents have been updated
Section 44 (1) Energy Centers in the Counties	Transfer the sixteen (16) existing Energy Centers from Ministry of Energy to REREC.	Partial transfer ongoing from 1st July 2020 - REREC takes over the technical operations while the Ministry continues to pay staff salaries until 30th June 2021. REREC expected to fully take over the Energy Centers from July 2021
Section 181 (1) Declaration of energy resource areas	Declare and publish in Kenya gazette energy resource areas based on energy resource map	No declaration area under the Energy Act 2019 done. Need to consider the recommendations made by relevant agencies, consultation with relevant County Government and local communities Need for data and information

Section 216 (1) Consolidated Energy Fund	Establish the Consolidated Energy Fund	Draft Public Finance Management (Consolidated Energy Fund) Regulations 2020 developed Submitted to The National Treasury for review
Section 194 (1) Establishment of a Fund by County Government.	Liaise with Council of Governors on the establishment of a Fund in every County for the promotion of efficient use of energy and its conservation	The action has not commenced

In his concluding remarks, he noted that there was good progress which had been made despite the challenges encountered. He thanked the stakeholders for the support offered in supporting the implementation of the Act and further encouraged participants to reach out to the Ministry for sharing and exchange of relevant information.

CSO perspectives on the implementation of the Energy Act 2019; Entry Points, Challenges, Opportunities and lessons learned

Florence Ndeti - Caritas Kitui

The Civil society plays an important in supporting the government implement key programs and provisions under various legal frameworks. In presenting the role of the CSOs in the implementation of the Act, Ms. Ndeti kicked off by noting that every step under the Act had provided for public participation and this enabled stakeholders to be fully involved in various processes carried out by the government. She raised a concern on the level awareness of the Act by Kenyans noting that a majority of the citizens were not aware of it and that this was an opportunity for the civil society to partner with the government and carry out awareness creation and sensitization campaigns for the public.

Some of the key entry points and opportunities that the Civil Society can engage in include;

Action	Provisions in the Act	Opportunity for CSOs
Formulation of regulations to	Sec. 8 – The CS shall develop conducive environment in Energy	Support the Government by informing the formulation of the guidelines,

operationalize the Energy Act 2019	infrastructure development, formulation of guidelines in collaboration with relevant county Agencies-	dissemination and monitoring implementation and compliance
Representation into the provided spaces	Sec 76 provides for Formation of Renewable Energy Resources Advisory committee	Lobby and advocate for CSO representation as Key actors in the sector
Consolidated Fund	Sec 216 (1) provides for the CS to establish Consolidated Energy Fund to promote and develop renewable energy initiatives	The CSOs have an opportunity to develop innovative programs and projects that can attract funding from the Fund. E.g. Access the fund to support Energy specific forums to inform plans
Energy Planning	Section 5 Integrated National Energy Plans (INEP)	Support the National and county government to develop the Energy plans, Lobby governments (National and County) to allocate resources to implement the plans and in Monitoring implementation
Energy Centers	Section 44 (1) Energy Centers in the Counties	Partner with Government and Private sector to make the Energy centers more vibrant, become centers of innovation, knowledge transfer, dissemination of appropriate technologies and centers of research in matters energy in partnership with Universities.
Review	The Act provides review of the Energy Act (5 Years)and National Energy Plans (3 Years)	CSOs in the sector could play a crucial role in participating in the reviews and share findings with the government.

To highlight the key challenges encountered in the process of implementing the Energy Act, Ms. Ndeti noted that there is;

- I. Limited awareness on the provisions of the Act among key stakeholders.
- II. Underfunding of the sector – Limited resource allocation to the energy sector
- III. Unstructured coordination of the actors in the sector esp. CSOs, Private sector
- IV. Limited access to updated **data** on energy sector
- V. Lack of Political good will

The Role of the Private Sector in Advancing Access to Energy in Kenya

Joyce Njogu, Kenya Association of Manufacturers.

Ms. Njogu pointed out the critical role energy plays as an enabler for the manufacturing sector to thrive. The Energy Act provides an innovative approach to broaden the aspects on how the private sector can fully participate in the implementation process. She acknowledged that the Ministry of Energy involved and engaged the private sector throughout the policy development process. In reiterating the key role played by the private sector, she noted;

- **Advocacy:** The private sector has a role to ensure that energy access receives priority in policy discussions while making the business case for investments in energy infrastructure that promote energy access. Critical to the sector is the quality, reliability and affordability of the access all which must be streamlined to enhance efficiency and effectiveness. The private sector is also actively involved in generation of power through IPP as result of innovation among entrepreneurs and to address the gap on reliability.
- **Production of Energy Efficient Technologies:** The private sector continues to produce energy efficient technologies for cooking, cooling, lighting and manufacturing processes among others.
- **Industry assessment impact of the Act:** This includes assessing industrial performance, awareness creation to industry players, support energy management awards targeting industries, the public and financial sectors that support energy efficiency and conservation.
- **Capacity Building/Trainings:** Private sector is highly involved in skill upgrading through training and capacity building of technical professionals to champion the penetration of new technologies into the market.

- Promotion of Investments in industrial Technologies - The Private Sector is investing in Captive power generation. New innovative energy sources such as the use of Hydrogen are being explored to reduce the use of fossil fuels at facility level.
- Financing energy access - Private sector is on the ground mobilizing resources to promote access to clean energy to businesses.
- Research and Development for innovations - Private sector is also at the forefront advancing access to electricity to the remote communities with no grid access. Through Off-grid projects, use of small devices like solar lanterns that are currently used in some remote areas has been made possible by the private sector.

In concluding, she reiterated that there is yet more work to be done and welcomed like-minded partnerships to source for resources that will go towards promoting energy access and efficiency. She affirmed the commitment of the private sector to support the implementation of the action plan under the Kenya National Efficiency and Conservation strategy.

Plenary

Question and Answer

1. Will the Consolidated Energy fund be rolled out only at the national level or it will be cascaded down to the county level to address specific needs of each county? - *The consolidated energy fund will look at the global issues within the country and some of these issues emanate from the counties. The Act also provides for the counties to establish their own energy fund to address the specific issues faced within their jurisdiction.*
2. On the issue of resource mapping, has the government developed a framework to guide the division of royalties or what is the approach to be undertaken? - *Resource mapping is a national function and the principle applied on the sharing of the royalties is largely borrowed from what is practiced in other sectors such as in Oil exploration and tourism. The government is however still holding discussions on this to come up with the most suitable criterion for royalty sharing.*
3. How far are we in the formation of the renewable resource committee? *Recommendations have been forwarded on the personnel and committee members for the RERAC awaiting approval.*
4. Would the policy also address the issues on clean coal? - *The global community and development partners are moving away from investing in coal and as a country we should shift our focus from coal and invest in other cleaner alternatives*
5. How are the youth going to be involved in the consolidated energy fund in the counties? - *The consolidated energy fund has outlined a number of activities which youth groups can engage in and apply for the funds and implement projects supporting the objectives of the funds.*
6. How does this information reach to those at the grassroots level? - *The Civil society compliments the work done by the government and this includes awareness creation and sensitization of the Act to the grassroots.*
7. What other actors other than CSOs who can support in the implementation of the Energy Act? - *There is need to do a mapping of the actors and this includes the government both at the national and counties, energy centers, other CSOs, and CBOs*

Conclusion

The Energy Act 2019 has played a critical role as the guiding principle in the management of energy in Kenya. The government has been at the forefront in spearheading the implementation process in partnership with other stakeholders working in the energy space. There are milestones which have been achieved and there is need to appreciate this and at the same time there have been challenges that have hindered the achievement of key deliverables as per the set timelines. This provides room for the various stakeholders to do their part and identify the areas where they can fill in the gaps and support the government in the implementation process.