Kenya:
Sanitation Policy and Planning Framework Case Study for Discussion
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# Acronyms and abbreviations

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<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ASPG</td>
<td>Africa Sanitation Policy Guidelines</td>
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<tr>
<td>GLAAS</td>
<td>UN-Water Global Analysis and Assessment of Sanitation and Drinking-Water</td>
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<td>GoK</td>
<td>Government of the Republic of Kenya</td>
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<td>KESHP</td>
<td>Kenya Environmental Sanitation and Hygiene Policy</td>
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<td>KESSF</td>
<td>Kenya Environmental Sanitation and Hygiene Strategic Framework</td>
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<td>MDGs</td>
<td>Millennium Development Goals</td>
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<td>MoH</td>
<td>Ministry of Health</td>
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<td>MoWS</td>
<td>Ministry of Water and Sanitation</td>
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<td>NESCRA</td>
<td>National Environmental Sanitation Coordinating and Regulatory Authority</td>
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<tr>
<td>NGO</td>
<td>Nongovernmental organization</td>
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<tr>
<td>ODF</td>
<td>Open defecation free</td>
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<td>PPIP-WSS</td>
<td>Pro-Poor Implementation Plan for Water Supply and Sanitation</td>
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<td>SDGs</td>
<td>Sustainable Development Goals</td>
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<td>UDDT</td>
<td>Urine diverting dry toilets</td>
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<td>WASREB</td>
<td>Water Services Regulatory Board</td>
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<td>WHO</td>
<td>World Health Organization</td>
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<td>WSPs</td>
<td>Water service providers</td>
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<td>WSSP</td>
<td>Water Sector Strategic Plan</td>
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About the case studies

Globally, access to sanitation has fallen behind access to drinking-water. In the Millennium Development Goal (MDG) era, the target for drinking-water was met five years ahead of schedule. In contrast, the target for access to basic sanitation was not achieved, despite 2.1 billion people having gained access to improved sanitation during that time (United Nations 2018). Today, as countries work to achieve their own national targets and the Sustainable Development Goals (SDGs), there is increased demand for guidance on how best to establish a supportive enabling environment for sanitation through strong policies, plans and legal frameworks that will support and accelerate progress towards the SDG 6 targets on sanitation.

Considering this demand, the UN-Water Global Analysis and Assessment of Sanitation and Drinking-Water (GLAAS) has conducted case studies on sanitation policy and planning frameworks in the following seven countries: Bangladesh, Kenya, Mali, Nepal, Senegal, Uganda and Zambia. The objective of the case studies is to present evidence on the scope and content of sanitation frameworks, and specifically, to understand how and to what extent elements of SDG 6 and the WHO Guidelines on Sanitation and Health align with the frameworks. To do so, the case studies review existing sanitation policy and planning frameworks, presenting information on institutional arrangements, national development plans, laws, regulations and strategies, policies, plans (Figure 1).

Figure 1. Overview of elements policy and planning frameworks

Key findings from the case studies have been incorporated into the GLAAS 2019 report, which is thematically focused on national policies, plans and targets for water, sanitation and hygiene (WASH). With this lens, the GLAAS 2019 report summarizes findings on WASH systems from 115 countries including aspects related to governance, monitoring, human resources and financing to the WASH sector.

The case studies are a source of evidence for the development of the Africa Sanitation Policy Guidelines (ASPG). The African Ministers’ Council on Water is leading the development of the ASPG with support from the World
Health Organization (WHO) through GLAAS and the Center for Water Security and Cooperation. The objective of the ASPG is to provide guidance to policy-makers and those supporting the policy-making process in Africa on how to develop effective sanitation policies and what should be included in effective sanitation policies. To develop the ASPG, AMCOW has convened a task force comprised of sanitation and policy experts.

In addition to providing evidence to support the development of the ASPG, GLAAS is developing a policy assessment tool to track and assess the content of sanitation policies. The policy assessment tool will cover a number of key criteria that effective sanitation policies should include. To develop the key criteria, WHO will consult members of the ASPG task force as well as a broader range of stakeholders, including policy-makers and development partners in the seven case study countries. The policy assessment tool will incorporate elements of the ASPG and the WHO Guidelines on Sanitation and Health and can be used to monitor implementation of the ASPG and aspects of the WHO Guidelines on Sanitation and Health. The first iteration of the policy assessment tool is expected in 2020 and will be piloted in the seven case study countries with a plan to eventually scale up the tool globally.

This report presents the case study on sanitation policy and planning frameworks in Kenya. A schematic overview of the documents reviewed for this report is presented in Figure 2 and can be used as a reference point throughout the report. For the purposes of this case study, sanitation is defined as the safe management of human excreta and does not include wider environmental sanitation. In order to narrow the scope, this report presents findings from these frameworks through the lens of the SDG 6 and WHO Guidelines on Sanitation and Health, specifically focusing on types of sanitation services included in the frameworks, and how the frameworks address vulnerable populations, institutional WASH and public participation.

Box 1: WHO Guidelines on Sanitation and Health

In October 2018, WHO released the first-ever Guidelines on Sanitation and Health. The guidelines were developed because sanitation programmes have not been achieving anticipated health gains and there was a lack of authoritative health-based guidance on sanitation. They set out four principal recommendations:

1. Sanitation interventions should ensure entire communities have access to toilets that safely contain excreta.
2. The full sanitation system should undergo local health risk assessments to protect individuals and communities from exposure to excreta – whether this be from unsafe toilets, leaking storage or inadequate treatment.
3. Sanitation should be integrated into regular local government-led planning and service provision to avert the higher costs associated with retrofitting sanitation and to ensure sustainability.
4. The health sector should invest more and play a coordinating role in sanitation planning to protect public health.

The guidelines are intended for use by national and local authorities responsible for the safety of sanitation systems and services including policy-makers, planners, implementers and those responsible for the development, implementation and monitoring of standards and regulations, including health authorities. The WHO Guidelines on Sanitation and Health will also support and strengthen the development of the ASPG.

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<table>
<thead>
<tr>
<th>Laws</th>
<th>National Development Plans</th>
<th>Sanitation Policies</th>
<th>Sanitation Plans and Strategies</th>
<th>Regulation</th>
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<tr>
<td>2016 Water Act</td>
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<td>Pro-Poor Implementation Plan for Water Supply and Sanitation 2007</td>
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<td>expected 2019 National Environmental Health and Sanitation Bill</td>
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Figure 2. Overview of the relationship between sanitation policy and planning frameworks in Kenya (author’s interpretation)
1. Introduction

According to Kenya’s GLAAS 2018/2019 country survey response, “devolution of services to the counties with distinct functions and resources” is an example of an effective policy measure (Kenya GLAAS country survey 2018). The adoption of a new constitution in 2010, which created the devolved governance system, changed the sanitation sector in Kenya.

With this change of power, new laws, policies and plans were needed to match the new governing structure. Therefore, many of the key pieces of the policy and planning framework in Kenya were developed after 2010 and were changed to align with the new devolved system of government. The Kenya Environmental Sanitation and Hygiene Strategic Framework (KESSF) notes, “...with sanitation made a guaranteed human right and sanitation services having been devolved to 47 County Governments, a practical shift in the methodology and approach to sanitation and hygiene service delivery must urgently be addressed to accelerate progress,” (GoK 2016b, p.xvii).

The Government of Kenya has risen to the challenge of revising its policy and planning frameworks. A new water law, the Water Act 2016, brings the water and sanitation sector in line with the constitution, the Ministry of Health has adopted an environmental sanitation policy and framework, and the Ministry of Water and Sanitation is currently developing a new policy. However, more work remains to be done. The KESSF notes, “Despite the requirement of a strong and robust legal regime to bring the constitutional provisions on the right to sanitation and a clean and healthy environment and devolution of sanitation services to all the 47 counties into full effect, the existing legal and regulatory environment for sanitation remains fragmented with sanitation related laws scattered in various legal instruments - most of which are only ancillary to sanitation. The upshot is that there is no coherent legislative and regulatory framework defining a set of normative principles and institutional and regulatory structures for sanitation that reflect the current developments in the international, constitutional and policy spheres,” (ibid., p.19). This report discusses the policy and planning frameworks that are currently in place for the sanitation sector in Kenya.

2. Institutional arrangements for sanitation in Kenya

At the national level, responsibilities for sanitation are divided between the Ministry of Health and the Ministry of Water and Sanitation. The Water Sector Strategic Plan (WSSP) 2009–2014, which brought together policies and plans from all relevant stakeholders, noted that the mandates and responsibilities of different ministries in the WASH sector are not always clear. Regarding sanitation, the WSSP states that this is the case between the Ministry of Public Health (now the Ministry of Health) and the Ministry of Water (now the Ministry of Water and Sanitation) (GoK 2009). This sentiment is further echoed in the Kenya Environmental Sanitation Strategic Framework (KESSF), which states, “A key challenge in the sanitation sector has been the institutional fragmentation, unclear allocation of roles and responsibilities, weak institutional alignment and poor coordination within and across the sector especially in the context of a devolved system of government. At the national level, this is complicated by an institutional context in which policy and strategy development and implementation is shared between the Ministry of Health, Ministry of Water and Irrigation and Ministry of Environment and Natural Resources,” (GoK 2016b, p.19).

2 At the time of writing, the Ministry of Water and Irrigation had become the Ministry of Water and Sanitation. The Ministry of Environment and Natural Resources had become the Ministry of Environment and Forestry. The current Ministry of Environment and Forestry does not play a significant role in sanitation as defined in this case study.
One of the recommendations in the WHO Guidelines on Sanitation and Health is “the health sector should fulfill core functions to ensure safe sanitation and public health,” (WHO 2018, p.xiv). In Kenya, the Ministry of Health (MoH) is one of the lead institutions for sanitation at the national level. Areas where the MoH takes the lead include:

- “Placing appropriate policy instruments, legislation and institutional arrangements to guide, direct, regulate and manage the sanitation sector.
- Overseeing and coordinating the implementation of national sanitation and hygiene policy, laws, regulations, guidelines and standards.
- Mobilizing resources for the implementation of the policy and national ESH [environmental sanitation and hygiene] strategy.
- Monitoring and making follow up of the status and quality of sanitation services in the country.
- Promoting health and hygiene education as part of the curricular at nursery, primary and secondary school levels, tertiary institutions particularly teacher training institutions and informal institutions,” (GoK 2016a, p.82).

The Ministry of Water and Sanitation (MoWS) is another of the lead institutions for sanitation at the national level. Over the past years, this ministry tasked with water and sanitation has taken various forms such as the Ministry of Water Resources (formed in 1998), the Ministry of Environment, Water and Natural Resources (formed in 2013) and the Ministry of Water and Irrigation (formed in 2015) (GoK 2019). In 2018, the ministry became the Ministry of Water and Sanitation (GoK 2018). The mandate of the ministry is “development and management of water resources, transboundary waters, water harvesting and storage, and water and sanitation development,” (ibid., p.viii). Of the 10 functions of the ministry listed in the MoWS Strategic Plan 2018–2022, only one specifically mentions sanitation and refers to it as “sanitation management,” (ibid., p.2).

The MoWS is focused sanitation management, while the MoH focuses on environmental sanitation. MoH defines environmental sanitation as “The control of environmental factors that form a link in disease transmission and have an impact on human health. It constitutes a wide range of interventions designed to create and maintain an environment conducive to human health; reduce people’s exposure to diseases by providing a clean environment in which to live; and measures to break the cycle of diseases. This includes sanitation (defined as the infrastructure and services required for the safe management of human excreta) but also includes hygienic management and/or disposal of human and animal excreta, refuse, and wastewater, solid waste management, water and wastewater treatment, industrial waste treatment, drainage of surface water and sullage, washing facilities for personal and domestic hygiene, food safety, housing and workplace sanitation, control of disease vectors and air pollution control. Sanitation involves appropriate behaviours as well as the availability of suitable facilities, which work together to form a hygienic environment.” This case study focuses on the part of the definition related to “the infrastructure and services required for the safe management of human excreta,” (GoK 2016a, pg. xi).

Regarding regulation, the Water Services Regulatory Board (WASREB) oversees the regulation of water services and operates under the MoWS. Its mission is “to provide a regulatory environment that facilitates efficiency, effectiveness and equity in the provision of water services in line with the human right to water and sanitation,” (WASREB 2018, p.3). The focus on WASREB is primarily water, however, it is also mandated to set tariffs for sewerage and provide status reports on the water and sanitation sector.

To improve the regulation of sanitation, the GoK plans to create the National Environmental Sanitation Coordinating and Regulatory Authority (NESCRA). It is envisioned that NESCRA will “provide one accountable
national institution that takes leadership of the national sanitation portfolio, coordinates and regulates the sector,” (GoK 2016a, p.66). As of early 2019, NESCRA had not yet been established.

Kenya’s 2010 Constitution, which created a devolved system of government, gave the mandate of service delivery to Kenya’s 47 county governments. Regarding sanitation, the county governments’ responsibilities include:

- “Be responsible for issuing necessary legislations and by-laws to ensure effective sanitation regulations and enforcements.
- Ensure the provision of safe, adequate and high standards of environmental sanitation services to all population of the counties without discrimination.
- Establish by appropriate legislation, a county government agency with the responsibility of actualizing the policy objective of achieving 100 per cent ODF and access to improved sanitation access by 2030 at the county level.
- Ensure the provision of appropriate and adequate sanitation facilities in all public institutions.
- Set sanitation tariff where applicable considering affordability and willingness to pay for services by the households,” (ibid., p.83).

In addition to the institutions outlined above, a number of other ministries, both at the national and county levels, are involved in the sanitation sector.

- The primary role of the National/County Treasury “shall be to guide sanitation-related fiscal activities, including administering all public investments in environmental sanitation as well as negotiating for grants and loans in accordance with the Public Finance Management Act,” (ibid., p.97).
- “The Ministry of Education, in collaboration with the Ministry of Health at both national and county levels, shall be responsible for implementing school WASH programmes and ensuring that all schools are provided with adequate sanitation and hygiene facilities and services, while taking into account the special needs of especially girls and children with disabilities,” (ibid., p.97).
- The Ministry/County Department of Tourism, Trade and East African Community Affairs “is responsible for ensuring improved environmental sanitation and hygiene amenities in the sector, especially for outdoor tourism sites,” (ibid., p.98).
- The Ministry/County Department of Gender, Children and Social Services “is responsible for policy issues on environmental sanitation that affect the well-being of women, children, older members of society and persons with disability,” (ibid., p.98).

3. Policy and planning frameworks for sanitation

This section reviews the policy and planning frameworks for sanitation in Kenya. In order to narrow the scope, this section presents findings through the lens of SDG 6 and WHO Guidelines on Sanitation and Health. Therefore, only select content is summarized. As presented in Figure 2, this section begins by summarizing the extent to which sanitation is recognized in the constitution, followed by sub-sections on national development plans, laws, policies, plans and regulations. Please see the Glossary for definitions of these documents.
3.1. Constitution

The **2010 Constitution of Kenya** recognizes the right to sanitation in Article 43(1)(c), which states, “Every person has the right to accessible and adequate housing and to reasonable standards of sanitation,” (GoK 2010). Sanitation is mentioned again in the Constitution in Part 2, which focuses on county governments. It states, “The functions and power of the county are—(11) county public works and services, including—(b) water and sanitation services,” (ibid). Devolving power for service delivery to the county governments marks a major change for the sanitation sector in Kenya. The Kenya Environmental Sanitation and Hygiene Strategic Framework (KESSF) notes, “The Constitution of Kenya, 2010 portends a major paradigm shift and fundamental change in the environment for sanitation sector governance and service delivery,” (GoK 2016b, p.1).

3.2. National development plans

**Kenya Vision 2030**, which is “the long-term development blueprint for the country,” for 2008–2030, includes sanitation in a number of instances (GoK 2007a, p.vii). Sanitation facilities are included as infrastructure that is a foundation for Kenya Vision 2030 (ibid., p.6). Additionally, water and sanitation are the third of seven key social sectors for investing in the people of Kenya (ibid., p.16). Specifically, regarding sanitation, the vision “is to ensure that improved water and sanitation are available and accessible to all,” (ibid., p.18). Having an established vision of universal access aligns with the SDG principle of leaving no one behind. Specifically, Vision 2030 notes that the “equitable distribution of water, sewerage and sanitation services,” is a topic to be addressed under the theme of equity and poverty elimination (ibid., p.21).

Vision 2030 also links sanitation with the environment, which is the fourth key social sector identified. The vision states that regarding sanitation and the environment, public-private partnerships will be commissioned to improve efficiency in water and sanitation service delivery (ibid., p.19).

<table>
<thead>
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<th>Box 2: Sanitation strategies in Kenya Vision 2030</th>
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<tr>
<td>According to the Kenya Environmental Sanitation and Hygiene Policy (KESHP) 2016–2030, “Kenya Vision 2030 proposes the following sanitation strategies:</td>
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<tr>
<td>• Improvement and application of improved toilets and community sanitation;</td>
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<tr>
<td>• Promotion of the use of hygienic toilets including ventilated and improved pit (VIP) latrines and septic tanks in rural areas and schools on a ratio of one toilet for every 30 boys and one toilet for every 25 girls;</td>
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<tr>
<td>• Constructing sanitation facilities to support a growing urban and industrial population;</td>
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<tr>
<td>• Development and expansion of sewerage schemes especially in urban areas;</td>
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<td>• Promotion of public health education on sanitation;</td>
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<tr>
<td>• Encouraging planned rural and informal urban settlements to ensure access to improved and safe sanitation;</td>
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<tr>
<td>• Research and development;</td>
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<tr>
<td>• Innovations in rural waste disposal combined with relevant incentives;</td>
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<tr>
<td>• Encouraging transition from traditional pit latrines to (adoption of) improved sanitation technologies or versions;</td>
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<tr>
<td>• Encouraging public-private partnerships in the development and management of sewerage systems; and</td>
</tr>
<tr>
<td>• Promotion of solutions that can provide Total Hygienic Sanitation that includes clean toilet, safe sludge removal and effective sludge treatment,” (GoK 2016b, pg. 18–19).</td>
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3.3. Laws

This section includes the following laws:

- Public Health Act Cap 242, 1986 (revised 2012)
- Water Act, 2016
- County Governments Act, 2012
- National Environmental Health and Sanitation Bill, expected 2019

The Public Health Act Cap 242, 1986 (revised 2012) is the oldest act in the MoH and covers sanitation issues in the section on Sanitation and Housing, which discusses nuisances. Nuisances include any “…water-closet, earth-closet, privy, urinal, cesspool, soak-away pit, septic tank, cesspit, soil-pipe, waste-pipe, drain sewer… so foul or in such a state or so situated or constructed as in the opinion of a medical office of health to be offensive or to be injurious or dangerous to health,” (GoK 1986, p.45). Wastewater flowing into public streets is also considered a nuisance in the act. The act also discusses building standards regarding sanitation and notes “for regulating private sewers and communications between drains and sewers and between sewers,” (ibid., p.51).

In addition to discussing public health nuisances and building codes, the act also sets out Public Health (Drainage and Latrine) Rules (ibid., p.131). The rules include converting latrines into water closets, connecting to sewers if they are available, and what can and cannot be passed into sewers (ibid.).

The Water Act, 2016 provides guidance to the water sector, including sewerage services, to align with the 2010 Constitution (GoK 2016d, p.15). According to the Water Services Regulatory Board Impact Report, “Despite many challenges at the formative stages of devolution, operationalization of the new Water Act 2016 now provides more clarity on the roles of various players in the sector, which now facilitates more focus and accountability,” (WASREB 2018, p.72). The act defines sewerage services as “the development and management of infrastructure for transport, storage, treatment waste water originating from centralized and decentralized systems but shall not include household sanitation facilities,” (GoK 2016d, p.12).

A main section of the Water Act, 2016 covers water services. In the act, water services are defined as “any services or incidental to the supply or storage of water and includes the provision of sewerage services,” (ibid., p.14). Under the Water Services section of the Water Act, 2016, a Water Services Strategy must be formulated every year, with public participation. The strategy must contain, among other things, “the number and location of people who are not provided with a basic water supply and basic sewerage services,” (ibid., p.47–48). However, the focus of the strategy is primarily on water rather than sanitation.

Regarding regulation, the act establishes the Water Services Regulatory Board (WASREB) “whose principle objective is to protect the interests and rights of consumers in the provision of water services,” (ibid., p.50). Two of WASREB’s powers and functions are to “evaluate and recommend water and sewerage tariffs to the county water service providers…,” and “report annually to the public on issues of water supply and sewerage services…,” (ibid., p.51–52).

Finally, the Water Act, 2016 establishes the Water Sector Trust Fund whose objective “is to provide conditional and unconditional grants to counties, in addition to the Equalization Fund and to assist in financing the development and management of water services in marginalized areas…,” (ibid., p.72).
While the **County Governments Act, 2012** does not specifically mention sanitation, it does discuss the provision of basic services, which, in accordance to the Constitution 2010, includes sanitation. It provides information on tariffs and pricing of public services. According to the law, “A tariff policy under subsection (1) shall reflect the following guidelines...(c) poor households shall have access to at least basic services,” through specific tariff measures (GoK 2012a, p.60). The law also lays out which entities of the county government will be responsible for service delivery. It states, “A county government and its agencies shall have an obligation to deliver services within its designated area of jurisdiction” and “A county shall deliver services while observing the principles of equity, efficiency, accessibility, non-discrimination, transparency, accountability, sharing of data and information, and subsidiarity,” (ibid., p.58–59). The Country Governments Act is aligned with the WHO Guidelines on Sanitation and Health. The guidelines recommend to “define sanitation at sub-national level as a basic service for which local government is responsible and accountable,” (WHO 2018, p.21).

The **Environmental Management and Co-ordination Act, 2012** provides guidance for effluents to be discharged in sewage systems from trade or industrial use. It also covers the issue of licensing. In the law, effluent is defined as, “gaseous waste, water or liquid or other fluid of domestic, agricultural, trade or industrial origin treated or untreated and discharged directly or indirectly into the aquatic environment,” (GoK 2012b, p.E12–10).

As of July 2019, there is a **National Environmental Health and Sanitation Bill** that has been drafted and is awaiting approval by Parliament. This bill will correspond to the Kenya Environmental Sanitation and Hygiene Policy (KESHP) 2016–2030 (see section 3.4 Policies for more information on the KESHP). As the bill has not been officially approved, it has not been reviewed for this case study.

### 3.4. Policies

This section reviews the following policies:

- Kenya Environmental Sanitation and Hygiene Policy 2016–2030
- Kenya Health Policy 2014–2030
- Sessional Paper No.1 of 1999 on National Policy on Water Resources Management and Development

As both the MoH and the MoWS are involved in sanitation in Kenya, each ministry has policies that affect sanitation in the country.

The **Kenya Environmental Sanitation and Hygiene Policy (KESHP) 2016–2030** under the MoH is a main policy guiding sanitation in Kenya. The KESHP was developed in response to the Constitution of 2010 and the SDGs (GoK 2016a, p.25). The KESHP “provides broad guidelines to both state and non-state actors at all levels to work towards universal access to improved sanitation leading to improved quality of life for the people,” (ibid., p.1). Working towards universal access is also a recommendation in the WHO Guidelines on Sanitation and Health (WHO 2018).

While sanitation in the policy is within the broader context of a healthy, clean environment, much of the policy does address the containment of human excreta. The policy outlines eight strategies to achieve its goals, and describes both institutional and implementation frameworks. The policy covers both urban and rural areas as well as institutional settings, including schools, health facilities and other public institutions. Focusing on settings beyond households, such as schools and health facilities, is aligned with SDG 6 and the WHO Guidelines on Sanitation and Health.
Box 3: Vision, Mission and Goal of the KESHP and KESSF

Both the KESHP and the Kenya Environmental Sanitation and Hygiene Strategic Framework (KESSF), which is the corresponding plan to the KESHP (see section 3.5 for more information), have the same vision, mission and goal.

- **Vision:** “...a clean healthy and economically prosperous Kenya free from sanitation and hygiene related diseases,” (GoK 2016a, p.25; GoK 2016b, p.21).
- **Mission:** “…to ensure that all Kenyans have sustainable access to highest attainable standards of sanitation, clean and healthy environment,” (GoK 2016a, p.25; GoK 2016b, p.22).
- **Goal:** “…to ensure universal access to improved sanitation, clean and healthy environment by 2030,” (GoK 2016a, p.25; GoK 2016b, p.22).

The sanitation targets in the KESHP are aligned with the policy’s mission and goal for universal access (see Box 3). The targets aim to:

- “Achieve and sustain 100% ODF Kenya by 2030.
- Achieve and sustain 100% access to improved sanitation in rural and urban areas by 2030.
- Increase public investment in sanitation and hygiene from 0.2% to at least 0.5% of the GDP by 2020 and to 0.9% of the GDP by the year 2030,” (GoK 2016a, p.31).

Types of services and technologies in KESHP

The KESHP outlines different approaches for rural and urban sanitation, but focuses on choices of technology in both settings. The policy states, “The underlying principle is that choices by all segments of the population for any level of service shall reflect need and effective demand, while the choice of technologies for all levels of service shall adhere to set standards and regulations to safeguard public interest and the rights of all,” (GoK 2016a, p.32).

For rural areas, the KESHP states, “Households in rural areas shall be expected to own and have access to safe sanitary facilities with at least minor improvements to reduce flies, odours, etc. (at least an upgraded pit latrine), VIP latrines or pour flush latrines connected to a septic tank linked to soak-away pits and/or collection system,” (ibid., p.33). The policy then goes on to note that the success of the sanitation facilities will depend on the technology used and that the options should be “cost-effective and designed in consultation and agreement with the community,” (ibid., p.33). This approach is aligned to the WHO Guidelines on Sanitation and Health which recommend “the selection of safe sanitation systems should be context specific and respond to local physical, social and institutional conditions,” (WHO 2018, p.xiv).

While in urban areas the KESHP acknowledges the importance of fecal sludge management, it also notes that sewerage systems are preferable. The policy states, “Collection, storage, removal and safe disposal and treatment of residential and commercial sludge and wastewaters through individual disposal systems such as septic tanks or Urine Diverting Dry Toilets (UDDTs) shall be given the highest priority in urban environmental sanitation while the sewerage system with proper treatment facilities shall be regarded as a better option,” (GoK 2016a, p.34). However, in slums and peri-urban areas, the focus is on non-sewered sanitation and affordable options stating that “The County Government in collaboration with stakeholders shall promote low cost appropriate technologies, such as twin pit, UDDT, or eco-sanitation, in peri-urban and slum areas and in other small to medium sized urban centers,” (ibid., p.34).
Addressing vulnerable populations, including women, in KESHP

The KESHP also pays particular attention to vulnerable populations, including women and girls. KESHP and the Kenya Environmental Sanitation and Hygiene Strategic Framework (KESSF) (for more information on the KESSF, see section 3.5 on plans and strategies) have the same 20 guiding policy principles which include addressing vulnerable populations. One of those principles is equity and another is gender responsiveness and social inclusion (GoK 2016a, pg28; GoK 2016b, p.24). Regarding equity, the guiding policy principle acknowledges that “the poor suffer most from lack of access to basic sanitation facilities and services,” (GoK 2016a, p.28) and that sanitation can help improve their socio-economic status. Poor populations are also addressed in the KESHP with regard to sanitation marketing. A goal of sanitation marketing in the policy is to “better serve the needs of the population, especially the poor,” (ibid., p.61).

The gender responsiveness and social inclusion guiding policy principle gives priority to vulnerable segments of the population including children, women, older members of society and people living with disabilities. Regarding sanitation, it states “The planning of, investment in, and the promotion of sanitation facilities must therefore address the special needs, interests and priorities of women and girls, older members of society and persons with disability with due consideration for men and boys to ensure adequate access, usage and maintenance of the facilities,” (GoK 2016a, p.28). This approach is aligned with the WHO Guidelines on Sanitation and Health which state that “toilets should be suitable, private and safe to use for all intended users, taking into consideration their gender, age and physical mobility (e.g. disabled, sick, etc),” (WHO 2018, p.32). This idea is further echoed in the section on menstrual hygiene management. Regarding the type of toilets to be constructed the policy ensures “that toilet facilities in schools, work places, public places and institutions are designed and constructed in a way that considers the security, privacy and hygiene needs of women and girls during menses,” (GoK 2016a, p.45).

In addition to sanitation being the center of the KESHP, it is also featured in the Kenya Health Policy 2014–2030. The policy acknowledges that diarrhoeal diseases are the fifth leading cause of death in Kenya and that unsafe water, sanitation and hygiene is the second leading risk factor for mortality (GoK 2014, p.11). This shows that the Ministry of Health recognizes the importance of the link between sanitation and health. Moreover, the WHO Guidelines on Sanitation and Health emphasize the need for health sector policies to recognize sanitation as a source for prevention and to enable coordinated efforts into health and sanitation programming (WHO 2018). Sanitation is also mentioned under the policy objective ‘eliminate communicable conditions’ as part of a policy strategy, which states “Increase access to improved water safety and sanitation” (GoK 2014, p.31). The health policy also promotes a ‘Health in all Policies’ approach and, therefore, the policy will “seek to influence” access to safe water and adequate sanitation (ibid., p.35).

Since responsibilities for sanitation at the national level are divided between the Ministry of Health and the Ministry of Water and Sanitation (formerly the Ministry of Water Resources) both ministries have policies that affect sanitation. The Sessional Paper No.1 of 1999 on National Policy on Water Resources Management and Development, the policy from the former Ministry of Water Resources, covers issues related to “Water Resources Management, Water and Sewerage Development, Institutional Framework and Financing of the Sector,” (GoK 1999, p.vii). According to Kenya’s GLAAS 2018/2019 country survey response, the sessional paper is the main policy for urban and rural drinking-water in Kenya (Kenya GLAAS country survey 2018). The paper speaks broadly about actions that will be taken regarding water, and at times, sanitation issues. Sanitation is noted in one of the four ‘basic areas’ to guide sector activity (GoK 1999). It states, “develop a sound and sustainable financing system for effective water resources management, water supply and sanitation development” (ibid, p.9). It is interesting to note that one of the sections is “Water Development of Poverty
“Alleviation,” which shows a focus on reaching vulnerable populations (ibid., p.33). With regards to sanitation and poverty, the paper notes the poor standards of sanitation facilities in slums and the link with disease (ibid., p.33).

In the paper, sanitation is only mentioned a few times and the focus is on sewerage systems to handle wastewater in urban areas. The paper notes, “In urban areas sanitation systems will be developed concurrently with water supply systems aimed at protecting peoples [sic] health and water resources from pollution,” (GoK 1999, p.40). For rural areas, the paper notes “...on-site sanitation, which is economically and technically sound, will be developed,” (ibid., p.40). Additionally, for rural areas, the paper states, “The Government will support the policies and initiatives geared towards the development of appropriate water and sanitation facilities in the rural areas as a means of attracting viable economic activities and improving health,” (ibid, p.31).

The paper itself recognizes the focus on water and calls for a sanitation policy to be developed, “The Ministry of Water Affairs will, in collaboration with the relevant institutions, ensure that appropriate and comprehensive policy on sanitation is developed and enforced,” (ibid., p.40).

The paper also lays out institutional arrangements, the difficulties of overlapping responsibilities and the need to coordinate within the government and with nongovernmental organizations (NGOs). As the institutional arrangements laid out in this 1999 paper have changed, they are not discussed in this case study.

3.5. Plans and strategies

This section reviews the following plans:

- Kenya Environmental Sanitation and Hygiene Strategic Framework (KESSF), 2016–2020
- Ministry of Water and Sanitation Strategic Plan 2018–2022
- Pro-Poor Implementation Plan for Water Supply and Sanitation (PPIP-WSS), 2007

Similar with their being two main policies for sanitation (see Section 3.4), both the MoH and the MoWS have plans for sanitation.

The MoH’s Kenya Environmental Sanitation and Hygiene Strategic Framework, 2016–2020 (KESSF) is the plan corresponding to the KESHP and provides the framework for its implementation. Closely aligning with the KESH, the KESSF addresses both urban and rural areas as well as institutional WASH. The two documents have the similar, if not the same, language and are aligned with the same vision, mission and goal (see box 3 in section 3.4). The KESSF “conveys the strategic interventions necessary for achieving open defecation free Kenya by 2020 as well as universal access to improved sanitation and a clean and healthy environment for all by 2030,” (GoK 2016b, p.xvii). Additionally, “The Strategy focuses on the pursuit of Sustainable Development Goal Number 6 on ensuring availability and sustainable management of water and sanitation for all by 2030 while building on the progress and lessons learnt from the Millennium Development Goals experience,” (ibid., p.xvi).

For rural and urban areas, the plan focuses on improved sanitation that is sustainable as well as addresses WASH in schools and other public places. Targets in the KESSF include:

- “To increase access to improved rural sanitation facilities by at least 50% and declare 100% of villages ODF by 2020,” (ibid., p.29); and
• “To increase access to improved urban sanitation facilities by at least 50% and declare 100% peri-urban and informal settlements ODF by 2020,” (ibid., p.30).

Actions to reach the targets in rural areas include:

• “Facilitate adoption of Total Sanitation Model for communities of population of less than 5,000...; 
• Initiate and ensure latrines construction and proper use (low-cost option, effectively used and kept clean)...; and 
• Initiate programmes for motivation, technical advice and minimal subsidy (through supply of materials only to indigent groups in the community) for the construction of ventilated pit latrines and safe disposal of wastewater,” (ibid., p.30).

For urban and peri-urban areas, the proposed activities to reach the targets include:

• “Build enabling legal and regulatory environment for urban sanitation....; 
• Promote low-cost appropriate technologies such as twin pit or eco-sanitation in peri-urban and slum areas and in other small to medium sized urban centers....; 
• Build safe subsidy options for the core urban poor....; 
• Provide and ensure that quality sanitation technology options in urban areas, including flush latrines and/or pour flush latrines in homes (or privately-shared) are connected to an underground sewage system terminating in a sewage treatment facility...; and 
• Facilitate households in urban areas to own and have access to safe sanitary facilities that use suitable and affordable water conveyance systems (at least pour-flush toilet),” (ibid., p.32).

The WHO Guidelines on Sanitation and Health note that “ensuring sanitation for all is challenging and the approaches adopted need to be tailored to the conditions prevailing in each specific situation,” (WHO 2018, p.62). Having different activities in urban and rural areas shows the plan is taking different situations into consideration.

Wastewater, which “includes sludge from on-site sanitation systems such as pit latrines, Urine Diverting Dry Toilets (UDDT) and septic tanks, domestic sewage and industrial waste from manufacturing sources,” (GoK 2016b, p.45) is included as an objective under waste management. The target for wastewater is “to increase the capacity of major urban authorities and utilities to effectively and efficiently manage wastewater in their jurisdictions and to increase urban sewerage coverage by 50% by 2020,” (ibid., p.45).

Additionally, the KESSF addresses public participation stating “Since sanitation sector draws together many institutions and stakeholders at different levels of interest, the KESSF provides a framework for public participation and involvement of various public and private sector actors including vulnerable and marginalized groups at different levels of the service chain,” (ibid., p.76).

The purpose of the MoWS Strategic Plan 2018–2022 is “to outline the policies, programmes and projects that the Ministry of Water and Sanitation will be implementing during the period 2018–2022 to support progressive realization of the right to water and sanitation, SDG 6 and national development goals,” (GoK 2018, p.ii). This is an example of a strategic plan that will contribute to setting policy whereas the KESSF is a plan to implement an existing policy.
Box 4: Vision and mission of the MoWS Strategic Plan 2018–2022

The MoWS Strategic Plan 2018–2022 has the following vision and mission:

- **Vision:** “Universal access to adequate, safe and sustainably managed water resources and sanitation.”
- **Mission:** “To ensure good governance in the conservation, protection, harvesting and storage, management and development of water resources and sanitation infrastructure for national socio-economic development.” (GoK 2018, p.viii).

The MoWS strategic plan places a great deal of emphasis on water (see box 4). Additionally, of the eight strategic objectives listed in the plan, only one deals directly with sanitation. It states “To increase percentage of national population with access to improved sanitation from 68% in 2017 to 80% by 2022,” (ibid., p.ix). Further details on sanitation objectives are outlined in the key results for sanitation: “During the plan period, the Ministry will increase the percentage of urban population with access to improved sanitation from 67.5% to 85%, and that of rural population from 52% to 76%. In addition, the Ministry will increase the percentage of urban population with access to sewerage from 25% to 40%,” (ibid., p.ix). The MoWS also recognizes the importance of reaching vulnerable populations. Efforts to have universal access to sanitation will focus on the “poorest marginalized and unserved aimed at progressively eliminating inequality in access to sanitation services,” (ibid., p.7).

As part of leaving no one behind and reaching vulnerable populations, Kenya has a specific framework for achieving open defecation free (ODF) status in the country. The National ODF Kenya 2020 Campaign Framework 2016/17–2019/20 “aims to eradicate open defecation and to declare 100% villages and Kenya ODF by 2020,” (GoK 2016c, pg.1). It builds on the ODF Rural Kenya Campaign Roadmap 2011–2013, but is better adapted the decentralized system of government (ibid., p.1). The campaign framework operates at the national level, but key to its implementation are the County ODF 2020 Campaign Action Plans that are created by each of Kenya’s 47 counties (ibid., p.1). At the national level, the campaign “aims to provide an enabling environment for the campaign and to support and facilitate counties and non-state actors’ campaign activities,” (ibid., p.5).

The approach of the framework is “inclusive, participatory and a transformative process aimed at overall societal change with respect to sanitation,” (ibid., p.5). A part of its participatory approach, it “encourages implementers to engage decision makers at national and county levels as well as natural leaders, community activists and community resource persons in addition to non-traditional allies such as Members of County Assemblies (MCAs), ward and village administrators, chiefs and assistant chiefs, traditional leaders, teachers and youth among others,” (ibid., p.5). Additionally, it takes a Community Total Led Sanitation (CLTS) approach to ending open defecation.

While the framework does not have one specific toilet technology it recommends, it does “aim to motivate the target audiences in both rural and urban areas to invest in improved sanitation facilities and to upgrade their basic latrines to improved cleanable and sealable toilets,” (ibid., p.5). As part of raising awareness about the different sanitation technologies “The Ministry of Health/National Environmental Sanitation Coordination and Regulatory Authority (NESCRA) will also provide toolkit listing different approved technology options with indicative costs to enable the consumers pick whatever would suit them,” (GoK 2016c, p.9). Having the consumers play a key role in determining their sanitation technology follows the recommendations in the WHO Guidelines on Sanitation and Health. For there to be universal access to safe sanitation, toilet design, amongst other criteria, should be “in line with ability and willingness to pay,” (WHO 2018, p.12).
The Ministry of Water and Irrigation (now the Ministry of Water and Sanitation) developed the **Pro-Poor Implementation Plan for Water Supply and Sanitation (PPIP-WSS)** in 2007 because progress in achieving the Millennium Development Goals (MDGs) was too slow. PPIP-WSS’s general objectives are twofold: “Significantly contribute to the MDG (half by 2015 the proportion of people without sustainable access to safe drinking water); and thereafter move to universal coverage responding to minimum standards by 2030 by giving access to the poor the highest priority on all levels,” (GoK 2007c, p.4) (box 5).

### Box 5: Strategic directions in the PPIP-WSS

The PPIP-WSS lays out a number of strategic directions for its pro-poor approach. They are:

1. “Pro-poor orientation of all sector institutions and service providers.
2. Up-scaling and fast-tracking actions for WSS [water supply and sanitation] coverage by concentrating on low cost technology and settlements of the urban poor.
3. Implementation of a national concept for low cost technology embracing not only adequate technology but also a management system ensuring sustainability and compliance to minimum requirements.
4. Alignment of development partners to national policies, strategies and national concepts of implementation.
5. Regulation of all providers for accountability which means that service provision is formalized and complies with human rights standards.
6. Comprehensive baseline data factoring into information systems under implementation.
7. Differentiation of urban and rural setting in information systems, definitions, investment, management concepts, reporting, etc.
8. Sanitation received higher priority on all level and sector institutions are involved in accelerating coverage to sustainable basic sanitation.
9. Improvement of good governance, especially corporate governance.
10. Using comparative competition (publicizing widely performance improvements/weaknesses) and tariff adjustment negotiation to the benefit of the poor (sustainability of systems, cross-subsidization, extension of WSS system to underserved areas).

The PPIP-WSS cuts across all institutions working in the sector and “implementation of the PPIP shall be ensured by factoring the proposed actions into the working plan and appropriate indicators into the performance contracts of each sector institution,” (ibid., p.5). Moreover, the aim is to also have development partners, including NGOs, be accountable for the pro-poor approach (ibid., p.5).

The PPIP-WSS highlights how the plan will impact other vulnerable groups beyond the poor, including women and children, those living with HIV/AIDS and those living in urban settlements. The plan notes that the pro-poor approach outlined “will be particularly beneficial to women and children living in poverty and to many other vulnerable groups such as HIV/AIDS concerned,” (ibid., p.6). The plan also recognizes the challenge of urbanization and states, “although access in rural areas is lower and the proportion of the poor is higher than in the urban areas, a particular focus on the settlements of the urban poor is important and justified particularly for sanitation,” (ibid., p.9). Further emphasizing the focus on urban settlements, the plan states, “…investments in sanitation need to be particularly focused on the settlements of the urban poor in order to improve nation

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3 The Pro-Poor Implementation Plan was realigned to counties (rural) and urban areas under the 2016 Water Act. Information on the realignment was not publicly available during the drafting of this case study.
wide indicators not only on sanitation but also on health, environment, etc. and technology must help to protect the environment,” (ibid., p.10).

While the PPIP-WSS has national concepts for water to guide implementation of the plan, concepts for sanitation are lacking. The plan notes, “the Ministry of Water and Irrigation (MWI) will start to draft a pro-poor concept for sanitation for the water sector...,” (ibid., p.15). This shows that while the plan covers both water and sanitation, the focus on water is greater. However, when discussing infrastructure to be developed, on-site sanitation is mentioned as an option (ibid., p.15). Moreover, the GoK recognizes that sanitation has not received as much attention of water and a key action for the MWI is to “Ensure that sanitation is given higher priority on all levels in the water sector and that a sector concept on sanitation is available,”⁴ (ibid., p.18).

3.6. Regulations and standards

This section reviews the following regulations and standards:

- Guidelines on Drinking Water Quality and Effluent Monitoring, 2008

According to Kenya’s 2018 GLAAS country survey response, Kenya does not have formal national standards for on-site sanitation, faecal sludge or the safe re-use of sludge/wastewater (Kenya GLAAS country survey 2018). However, there are standards in place for wastewater, and Kenya is in the process of strengthening its regulatory environment for sanitation.

Standards for wastewater are included in the Guidelines on Drinking Water Quality and Effluent Monitoring from 2008. Regarding wastewater, the purpose of the guidelines is to help water service providers (WSPs) to “Determine the effluent quality as it is released into the environment; check on the operational efficiency of the wastewater treatment system; and assist WSPs in the monitoring of industrial effluent in their areas,” (WASREB 2008, p.19). The majority of the guidelines focus on drinking-water quality, and with regard to wastewater, the focus is more on industrial effluents.

In order to more fully develop the regulatory environment for sanitation, the KESHP has a policy strategy focused on strengthening the regulatory and legal environment. The policy notes that there are currently “inadequate sector-wide standards for sanitation service provision,” (GoK 2016a, p.62). In addition to calling for the development of NESCRA, KESHP also includes the action to “make available to all sector actors updated sector-wide standards, laws and regulations on environmental sanitation,” (ibid., p.63).

The KESSF goes into further detail about future regulations to develop. The actions include:

- “Develop necessary national environmental quality standards for effluent to be used for different purposes enforced by the defaulter-pays principle,” (ibid., p.32);
- “Develop regulations, guidelines and standards on sanitation and hygiene in institutions and public places,” (ibid., p.36);
- “Develop regulations, standards, guidelines, procedures and protocols on wastewater management,” (ibid., p.46); and

⁴ At the time of writing this case study, the sector concept on sanitation was not publicly available.
• “Establish licensing systems relating to hygienic desludging of UDDTs, septic tanks and VIP latrines,” (ibid., p.48).

4. Looking ahead

While Kenya’s sanitation sector has evolved a great deal since the 2010 Constitution, new developments will continue to impact the sector. The realization of NESCRA and additional sanitation regulations have the potential to positively impact the sector and to strengthen the regulatory environment. The National Environmental Health and Sanitation Bill will further strengthen Kenya’s environmental health and sanitation policy and strategic framework.

With the Ministry of Water and Irrigation becoming the Ministry of Water and Sanitation in 2018 and the development of the new Water and Sanitation Services Strategy, the policy and planning framework for sanitation at the MoWS is on a path to becoming more robust.
References


Glossary

**Law:** A law is a system of rules that the country recognizes as legally binding. Sometimes laws are called legislation or legislative frameworks.

**National development plan:** A national development plan – sometimes called a vision – is a national long-term social and/or economic development plan. National development plans usually include all sectors covered by government institutions (e.g., education, health, WASH, etc.).

**Policy:** A policy is a key guiding instrument for present and future decisions. Policies are the principle guides to action taken by the government to achieve national, sector, and/or industry-wide goals. In different countries policies will go by another name. Policies are not necessarily enforceable by law.

**Plan:** A plan – sometimes called a strategy – gives effect to decisions based on the policy. Plans are implementable items that establish targets to achieve and provide details on implementing policy or regulation. Plans can assign responsibilities and indicate how the responsible entities will respond to requirements set forth by policy, law, and regulation, the type of training and development that will be provided, and how financial and human resources will be allocated. Plans are not necessarily enforceable by law and may go by another name, depending on the country.

**Regulations and standards:** A regulation – sometimes called a standard – is a rule or directive that implements the mandates/requirements set forth in law. Regulations are developed by an agency or ministry that has been established through legislation or an executive action.