



Effective Public Participation Mechanisms

in Mombasa, Kilifi, Taita Taveta
and Kajiado Counties



Towards Accountability
through Kenyans' Empowerment
in Participation and
Active Request for Transparency

EFFECTIVE PUBLIC PARTICIPATION MECHANISMS IN MOMBASA, KILIFI, TAITA TAVETA AND KAJIADO COUNTIES

TAKE PART (Towards Accountability through Kenyans Empowerment in Participation and Active Request for Transparency)

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**Towards Accountability
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Jihusishe katika maendeleo
ya kaunti yako



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FOREWORD

The Constitution of Kenya, 2010 gives prominence importance to public participation; it promotes democracy by providing the rights holders with the opportunity to take part in decision making processes affecting them and their communities. Article 1 of the Constitution states that all sovereign power is vested to the people of Kenya. This denotes the shift in governance from centralized to decentralized, and from “top-down” to “bottom-up”. Among many reforms, devolution is arguably the most significant.

The space for citizen-state interaction continues to expand, the government and civil society have gained significant experience deploying participatory tools and approaches for dialogue and engagement, especially connected with service delivery. During TAKE PART project implementation, we have gained remarkable insights on giving precedence to participatory approaches which have acted as an effective feedback loop into larger, macro scale interventions in policy and governance.

This publication reviews and examines the status of public participation framework in four counties namely, Taita Taveta, Mombasa, Kilifi and Kajiado. It highlights best practices and provides a comparative analysis of guidelines and models adopted by the mentioned counties. This study intends to contribute to the achievement of SDG 16 Peace, Justice and Strong Institution, by strengthening the dialogue

between county governments and civil society on what is working through appreciative inquiry lenses, highlighting positive changes, achievements and strengthening system capacity while amplifying best practices for exchange and adoption amongst the targeted counties.

We believe that both county governments and civil society organizations can use those findings to continue changing the narrative and approaches on citizen participation and steer conventional led approaches onto a trajectory that is more impactful and inclusive.

CISP hopes that lessons drawn from the four counties and the policy recommendations to be drawn after the research will provide valuable information to county governments and citizens on effective structures and ways of enhancing public participation in governance processes.

Africa Programme Director
Sandro De Luca



EXECUTIVE SUMMARY

Introduction

The broad objective of this research was to assess the effectiveness of public participation mechanisms at county level since 2013, with specific focus on Mombasa, Kilifi, Taita Taveta and Kajiado counties. The research is an output of a larger project titled TAKE PART (Towards Accountability through Kenyans Empowerment in Participation and Active Request for Transparency), co-funded by the European Commission and implemented by CISP in partnership with Tangaza University College and Pamoja Trust in Kilifi, Mombasa, Taita Taveta and Kajiado counties. The findings discussed in this report are based on a total sample of 183 citizens, 10 Focus Group Discussions (FGDs) and 38 Key Informant Interviews (KIs). The study-sampled citizens who have taken part in forums were organized by the counties and mostly mobilized by Civil Society Organizations (CSOs). The FGDs and KIs sampled County Government Officers, representatives of the public in established mechanisms of public participation such as management committees and the County Budget and Economic Forum (CBEF) and officials of CSOs including Non-Governmental Organizations (NGOs), Faith Based Organizations (FBOs) and Community Based Organizations (CBOs).

Mechanisms of Public Participation

Different mechanisms of public participation were found to have been established in all the counties. These mechanisms include public forums and meetings, budget preparation and validation meetings as well as town hall meetings as required by the County Governments Act, 2012, and the Public Finance Management Act, 2012, and citizen forums as required by the Urban Areas and Cities Act, 2011. Counties had also put in place information, communication technology based platforms especially for mobilizing citizens for forums as well as passing on information. All counties had functional websites. In communicating with the public, counties went beyond the use of social media. Word-of-mouth, radio and television channels and newspapers were also in use. The most prominent social media outlets in use were found to be WhatsApp, Twitter and Facebook.

There was emphasis on the use of different mechanisms of public participation by different counties. For instance, Mombasa and Taita Taveta counties were found to use town hall meetings more than Kajiado and Kilifi counties. Mombasa's more urban terrain accounted for this while in Taita Taveta the formation and implementation of the Voi Town Management Committee (VTMC) popularized the use of town hall meetings.

All counties of study met the requirement for further decentralization by setting up sub-county and ward administrations in line with constitutional and legal requirements. Sub-county and ward administrators were found to be useful in mobilizing citizens for public participation in all the counties. However, none of the counties had established village administration units. They all cited inadequate resources as the key reason for not creating these units. There was evidence of attempts to establish the village administration units from Taita Taveta and Kajiado counties. Taita Taveta County Assembly had passed a motion requiring setting up of the units, while Kajiado County was in the process of enacting a law to guide the process.

There was evidence in all counties of stakeholder engagement using different mechanisms. They attended forums organized by both the executive and legislative arms of the county governments including budget formulation and validation forums. They were found to be part and parcel of structures for public participation such as the Voi Town Management Committee (VTMC) that envisions participatory management of Voi town, among others.

Citizens made use of petitions across the four counties. In Kajiado County, a CSO petition led to the formulation of the Water, Sanitation and Hygiene (WASH) Policy. In Kilifi, a petition led to recognition by the County of the Mshombo Citizens' Assembly, which became a key structure for citizen's mobilization. In Mombasa, citizens and their groups petitioned against the "Mombasa Urban Renewal and Redevelopment of Old Estates" project on claims that the County had failed to adequately compensate those to be affected by the project and that public participation had not been effectively organized. The matter was escalated to the courts of law. In Taita Taveta, a CSO petition ultimately resulted in the participatory formulation of the Draft County Public Participation and Civic Education Policy.

BEST PRACTICES AND GAINS MADE IN PROMOTING AND ENHANCING PUBLIC PARTICIPATION

Laws and Guidelines on Public Participation

Only one county, Kajiado County, had enacted the Public Participation Act. The three other counties relied mainly on national legislation in addition to constitutional provisions to effect public participation. These laws include the County Governments Act, 2012, the Public Finance Management Act, 2011 and the Urban Areas and Cities Act, 2011. The broader provisions of the Constitution were also applied.

County officials engaged in the study were of the view that national laws were sufficient to carry out public participation. However, most stakeholder groups were critical of this position. They emphasized that lack of the legislation created challenges in carrying out effective public participation. Disagreements between the county executives and county assemblies largely contributed to inability to pass the necessary legislation. In all counties that did not have the law, the necessary bills had been drafted and even debated in the respective assemblies. One key area of disagreement was found to be the use of resources for public participation.

Counties that lacked the Public Participation Act were also found to use the public participation guidelines developed by the Ministry of Devolution and Planning and the Council of Governors in 2006. The development of the policy was informed by the need to fulfill the objects of devolved government. One of the objects is encapsulated in Article 174(c) of the Constitution, that is, to "*enhance the participation of people in the exercise of the powers of the State and in making decisions affecting them.*" At least one county, Taita Taveta County, worked in collaboration with CSOs and a development partner to develop its own public participation guidelines.

MOMBASA COUNTY

Decentralization to sub-county and ward levels increasing the ability of the County to mobilise citizens for public participation.

Exemplary collaboration with CSOs leading to participatory formulation of the Land Policy for the County.

Exemplary facilitation of citizens and CSO participation in the preparation and validation of the 2017/18 budget.

Exemplary petitioning by CSOs on the Mombasa Urban Renewal and Redevelopment of Old Estates housing initiative.

TAITA TAVETA COUNTY

Participatory formulation of the County Public Participation and Civic Education Policy involving CSOs and a development partner.

Decentralization to sub-county and ward levels increasing the ability of the County to mobilise citizens for public participation.

Exemplary facilitation of citizen participation in the management of Voi town through the Voi Town Management Committee (VTMC)

Creation of the Complaints, Complements and Information office to ease access to information by citizens and have an alternative complaints' raising mechanism other than petitions.

Initial steps towards setting up village administration units after motion passed by the County Assembly.

KILIFI COUNTY

Decentralization to sub-county and ward levels increasing the ability of the County to mobilise citizens for public participation.

Enactment of Kilifi County Petition to County Assembly (procedure) Act.

Improving access to information by establishing a bill-tracking system hosted by the County Assembly.

Exemplary participation in budget formulation and validation forums by CSOs especially the Mshombo Citizens' Assembly in Magarini.

KAJIADO COUNTY

Decentralization to sub-county and ward levels increasing the ability of the County to mobilise citizens for public participation.

Initial attempts to decentralize administratively to the village level through enactment of the "County Administrative Bill".

The County Assembly's devolution of Assembly sessions through Bunge Mashinani Forums

Enactment of the Public Participation Act.

Exemplary collaboration with CSOs leading to the formulation of the WASH policy for the County.

Collaboration with CSOs in carrying out civic education even though there was no evidence of existing MoUs for this undertaking.

Having in place functional County Budget and Economic Forum (CBEF).

ACRONYM AND ABBREVIATIONS

ACEG.....	African Centre for Economic Growth	EXCO.....	Executive Committees
BROP.....	Budget Review and Outlook Paper	FBO.....	Faith Based Organization
CBEF.....	County Budget and Economic Forum	FGD.....	Focus Group Discussion
CBO.....	Community Based Organization	IEA.....	Institute for Economic Affairs
CEC	County Executive Member	IGRTC.....	Inter-Governmental Relations Technical Committee
CISP.....	Comitato Internazionale Per Lo Sviluppo Dei Popoli	IPD.....	Institute for Participatory Development
CIDP.....	County Integrated Development Plan	KII.....	Key Informant Interview
CFSP.....	County Fiscal Strategy Paper	KLRC.....	Kenya Law Reform Commission
CPSB.....	County Public Service Board	KRA.....	Kilifi Residents' Association
CSO.....	Civil Society Organization	KSG.....	Kenya School of Government
CSUDP.....	Civil Society Urban Development Programme	LASDAP.....	Local Authority Service Delivery Action Plan

LRA..... Local Research Assistant
MCA..... Member of County Assembly
MERL..... Monitoring, Evaluation, Reporting and Learning
M-LUF..... Mombasa Local Urban Forum
MoU..... Memorandum of Understanding
NGO..... Non-Governmental Organization
NDP..... National Decentralization Policy
NPPP..... National Public Participation Policy
PCM..... Programme Management Committee
PSO..... Private Sector Organizations
PWD..... Persons with Disabilities

RGB..... Rwanda Governance Board
SCEC..... Sub-County Education Coordinator
SPSS..... Statistical Package for Social Science
TAKE PART..... Towards Accountability through Kenyans Empowerment in
Participation and Active Request for Transparency
UNDP..... United Nations' Development Programme
VTMC..... Voi Town Management Committee
WASH..... Water, Sanitation and Hygiene
WPPF..... Ward Public Participation Facilitator

yo kuani wake



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INTRODUCTION

1.1 Background to the Study

The implementation of devolution started in 2013 when Kenya held the first general elections under the 2010 Constitution. One of the key factors that led to the enactment of the 2010 Constitution was the centralization of power which had brought with it marginalization of various geographical areas and communities in socio-economic development. Devolving power and resources were seen as the solution to the problem of marginalization and was generally aimed to empower citizens to take charge of their own affairs within the context of a democratic dispensation.

However, the implementation of devolution has not been without challenges. Questions around financial management and corruption, marginalization of minority communities within counties, limited progress in legislation and minimal citizen participation in policy and law-making and other important processes such as budgeting are some of the issues that have been raised since 2013. Both the Controller of Budget and the Auditor General, for example, have produced reports that suggest mismanagement of resources by county governments.⁽¹⁾

If not sufficiently addressed, these challenges may militate against the achievement of the objects of devolution. Among others, devolution aims to promote democratic and accountable exercise of power, foster national unity by recognizing diversity, give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them, recognize the right of communities to manage their own affairs and to further their development, promote social and economic development and the provision of proximate, easily accessible services throughout Kenya, ensure equitable sharing of national and local resources throughout Kenya, and facilitate the decentralization of State organs, their functions and services, from the capital of Kenya.

1) See, for example, "Audit reveals theft and plunder of public funds in the counties", Daily Nation, July 18, 2015: <http://www.nation.co.ke/news/Audit-Report-Counties-Corruption-Funds/1056-2798198-ks2t95z/index.html> Accessed 23/5/2017; County-specific reports, which detail findings on specific expenditure aspects, are also available on the internet. For instance the Garissa County report can be accessed via <https://www.google.com/#q=auditor+general+reports+record+corruption+in+counties>.

It is clear from the objects of devolution that the system was designed to empower citizens—collectively and individually—to be part of decision-making processes. One of the key ways in which citizen empowerment can be achieved constitutionally is through participation. Participation of citizens in governance, which is one of the values and principles of governance under Article 10, crowns the shift in governance and citizen—state relationship brought about by the 2010 Constitution.

The study was part of *Comitato Internazionale per lo Sviluppo dei Popoli (CISP) Kenya TAKE PART (Towards Accountability through Kenyans Empowerment in Participation and Active Request for Transparency)* project funded by the European Union (EU). The aim of TAKE PART was to contribute to the implementation of Kenya's 2010 Constitution by supporting Civil Society and County Authorities to develop transparent and participatory decision-making processes. Operating in the four counties of Mombasa, Kilifi, Taita Taveta and Kajiado, the project rationale was predicated on the necessity of providing knowledge, awareness, skills and methodology for citizens to actively participate in decision-making processes. By focusing on both civil society and county authorities, it sought to develop both the demand and supply sides of county governance.

1.2 Problem Statement

The challenges and successes of implementing devolved government have been witnessed across counties. However, little documentation exists of these successes and challenges. This is partly because of the short duration during which devolution has been implemented. This study, which focused on Mombasa, Kilifi, Taita Taveta and Kajiado counties, is one of the initiatives that has documented both the successes and challenges of implementing devolved government through the lenses of public participation.

Since devolved government is premised on citizen empowerment, one of the important windows through which the success of county governments can be understood is public participation. The Constitution created a broad framework for public participation in county governance. Various laws created more specific mechanisms of public participation, which are discussed in this report. The problem that this study sought to deal with is the extent to which mechanisms of participation established by the four counties have effectively facilitated public participation.

1.3 Study Objectives

Broadly, the study sought to assess the effectiveness of public participation mechanisms at county level. The following were the specific objectives of the study:

1. To review and compare existing mechanisms of public participation and citizen engagement at county level
2. To explore existing laws and guidelines on public participation at county and national levels of government and their specific value addition.
3. To assess the gains made in promoting and enhancing public participation in counties under study, and
4. To establish best practices for future engagement and enhancement of public participation.

1.4 Study Questions

The study was guided by the following broad study questions:

1. What are the existing mechanisms of citizen participation and engagement in county governance?
2. How do the existing mechanisms of participation in county governance compare and contrast?
3. Which laws guide public participation at county and national government levels?
4. Are there guidelines at the national and county government levels on public participation?
5. To what extent do existing guidelines add value to citizen participation?
6. What gains have counties made in implementing public participation?
7. What are some of the best practices that can be harnessed from the existing mechanisms of participation to enhance future public participation?

1.5 Rationale of the Study

Devolved government is premised on the empowerment of citizens to take part in their own governance at the local level. Two objects of devolved government under Article 174 of the Constitution are important when considering citizen empowerment. These are: to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions

affecting them and to recognize the right of communities to manage their own affairs and to further their development. Public participation is, therefore, a key tool in citizen empowerment. The county governments are required by law to create mechanisms of participation. On the other hand, citizens can only be empowered if they utilize the mechanisms created to effectively participate in decision-making.

This study therefore posed two significant questions in regard to effectiveness of public participation: (i) have county governments established the required mechanisms of participation? If so, to what extent have these been implemented? (ii) To what extent have citizens utilized these mechanisms to take part in decision-making by the counties? Other assessments have revealed gaps in the implementation of public participation. A study by the Inter-Governmental Relations' Technical Committee (IGRTC), for instance, concludes that neither the national nor the county governments have achieved "the nature and extent of participation contemplated by the Constitution and the laws."⁽²⁾

The rationale of the study is found in the intersection between county government facilitation of mechanisms for public participation and the extent to which citizens have utilized the established mechanisms. Studying the effectiveness of the mechanisms that have been created provides answers to policy questions while looking at the extent to which citizens have utilized the established mechanisms, provides answers to the more practical aspects of implementation and how existing gaps can be filled.

1.6 Scope of the Study

The study was carried out in four counties: Mombasa, Kilifi, Kajiado and Taita Taveta. These are the four counties in which the TAKE PART project was implemented. The study reached 183 citizens from the four counties through the citizen questionnaire as well as 38 key informants, among others.

1.7 Conceptualization of Effective Public Participation

In Kenya's context, participation is an evolving concept. Counties, the national government and various stakeholders have continued to grapple with unpacking the concept and finding the best means of actualization. As noted by the IGRTC, "... various state agencies at both the national

2) Inter-Governmental Relations Technical Committee (2016). The Status of Public Participation in National and County Governments (mimeo).

and county levels of government have made efforts to comply with the constitutional edicts for public participation with limited success.”⁽³⁾ The report goes on to conclude that “...while a lot of public participation efforts have been made in both levels of government, there is no clarity on what constitutes adequate participation, the nature of the participation that meets the constitutional threshold, or the most effective mechanisms for public participation.”⁽⁴⁾

Various definitions of public participation have been proffered. According to the 2012 Sessional Paper on Devolved Government under the Constitution of Kenya, public participation is “an open, accountable process through which individuals and groups within selected communities can exchange views and influence decision-making”.⁽⁵⁾

On the other hand, the Ministry of Devolution and Planning’s Public Participation Guidelines for County Governments define public participation as “the community-based process where people organize themselves and their goals at the grassroots level and work together through governmental and non-governmental community organizations to influence decision-making processes in policy, legislation, service delivery, oversight and development matters.”⁽⁶⁾

Finally, the draft public participation policy developed by the Department of Justice, defines public participation as, “the process in which sections and groups within society, and the public more broadly, are engaged in understanding and contributing to decisions. These decisions may relate to policy-making, law-making, policy implementation, including service delivery, and monitoring. The participation is carried on in an inclusive way, with the encouragement and facilitation of the public bodies charged with making the decisions.”⁽⁷⁾

This study adopted the definition of public participation in the Draft National Public Participation Policy (NPPP). It defines public participation as “the process by which citizens, as individuals, groups and communities (also known as stakeholders), interact with the state and other non-state actors to influence decisions, policies, programmes and legislation, and oversight in service delivery, development and other matters concerning their governance.”⁽⁸⁾

3) Inter-Governmental Relations Technical Committee, op cit.

4) Ibid.

5) Ibid.

6) Ibid.

7) Ibid.

8) Republic of Kenya, State Law Office. Draft National Public Participation Policy, January 2017.

Effective public participation refers to a situation in which both rights holders (citizens and the demand side of public participation) and duty bearers (public institutions and the supply side of public participation) play their roles in actualizing public participation. On one hand, public institutions provide the appropriate infrastructure, including but not limited to legislation, information (including feedback on decisions made) and the actual mechanisms of participation, while on the other, citizens proactively utilize the established infrastructure to influence decisions and be part of implementation and monitoring processes.

LITERATURE REVIEW

2.1 Overview of the Literature

Public participation is one of the key principles and values of governance encapsulated under Article 10 of Kenya's Constitution. Both as a value and a practice, participation has attracted much attention since the promulgation of the Constitution. Attempts have been made to define it and devise mechanisms through which it can be actualized. Guidelines and legislation have been developed at national and county levels to create a framework of interpreting, understanding and implementing public participation especially at county level.

One of the objects of devolution under Article 174 of the Constitution is "to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them." This not only signifies the importance of public participation but also necessitates the formulation and implementation of effective mechanisms of public participation at the county level.

Due to the importance of devolution and the interest it has generated, there is an emerging body of literature that informs different aspects of devolution and in particular public participation. A study by the Kenya School of Government (KSG) carried out in 2014, for instance, assessed the initial county initiatives on county public participation and made recommendations on possible interventions to improve the design and implementation of public participation processes and systems.⁽⁹⁾ Other studies have addressed themselves to different aspects of devolved government.

9) Kenya School of Government and Centre for Devolution Studies, "One Year On: Review of County Initiatives in Public Participation in the Roll Out of Devolution", Working Paper 5, February 2015.

The review of literature covered both global and local trends in organizing and implementing public participation. It is organized in the following four sections: Global Literature on Public Participation, Constitutional and Legal Framework Guiding Public Participation in Kenya, Existing Mechanisms of Public Participation, and Case Studies of Public Participation in Other Jurisdictions.

2.2 Global Literature on Public Participation

Public participation is a global concern in line with the tenets of modern democracy. Thus many democratic governments have devised mechanisms for citizens to participate directly in decision-making and implementation of those decisions in actual programmes and projects.⁽¹⁰⁾

In *theories of public participation in governance*, Quick and Bryson⁽¹¹⁾ note that in democracies, citizens are important stakeholders who are able to participate either directly or indirectly in governance. Indirect participation involves electing leaders to represent the interests of citizens while direct participation involves taking actions as citizens. According to Roberts, public participation is a fundamental part of the public—government relationship in democratic governance.⁽¹²⁾

Public participation involves interaction between stakeholders and various governmental and non-governmental agencies.⁽¹³⁾ Other actors important in the process of participation are business organizations and political leaders. Quick and Bryson also aver that public participation may be limited to acts such as town hall meetings or “a set of practices” such as convening public hearings and other processes of consultation that bring stakeholders together.⁽¹⁴⁾

10) Inter-Governmental Relations Technical Committee (2016). Op cit.

11) Quick and Bryson (2016). *Theories of public participation in governance*: https://www.researchgate.net/publication/282733927_Theories_of_public_participation_in_governance accessed 19/01/2017.

12) Roberts, Nancy (2004), 'Public deliberation in an age of direct citizen participation', *American Review of Public Administration*, 34 (4), 315–353: <http://hubert.hhh.umn.edu/Stuck/Asset5PublicDeliberationInAgeOfDirectCitizenParticipation.pdf> accessed 19/01/2017.

13) Quick and Bryson (2016).Op cit.

14) Quick and Bryson (2016).Op cit.

Bryson et al discuss the purposes of public participation. These include fulfilling legal requirements; embodying the ideals of democratic participation and inclusion; advancing social justice; informing the public; enhancing understanding of public problems and exploring and generating potential solutions; and producing policies, plans and projects of higher quality in terms of their content.⁽¹⁵⁾ Advantages of public participation are the ability to make government officials more informed about development issues⁽¹⁶⁾ from a citizen perspective, which can also contribute to championing a more equitable distribution of resources.⁽¹⁷⁾

Sherry Arnstein's *Ladder of Public Participation*⁽¹⁸⁾ has been an influential input into the participation debate. Her core difficulty was to provide an answer to the problematic question of what really constitutes participation and what does not. Her efforts essentially led to the development of a typology organized in a ladder pattern with each rung of the ladder indicating the level of power of citizens to actually influence decision-making. Her model also contextualizes participation as an issue of power relations in society hence introducing important ideological questions. Characterizing citizen participation as citizen power, she defines it as "... the redistribution of power that enables the have-not citizens, presently excluded from the political and economic processes, to be deliberately included in the future"⁽¹⁹⁾.

While asserting the need to entrench citizen participation, Owiti notes that "greater citizen participation has been touted to harbor great potential to stabilize and consolidate gains made, and to improve the state of affairs where it is unsatisfactory or declining."⁽²⁰⁾ Owiti identifies two forms of participation: participation in projects and political participation. From these forms, two further strands are identified in the realm of development and service delivery—these are "collective action based on experiences of oppression" and "a means by which the populace asserts citizenship through demanding accountability from service providers and development partners."⁽²¹⁾

15) Bryson, John M., Kathryn S. Quick, Carissa Schively Slotterback and Barbara C. Crosby (2013), '*Designing public participation processes*', *Public Administration Review*, 73 (1), 23–34: https://www.researchgate.net/publication/236735946_Designing_Public_Participation_Processes accessed 19/01/2017.

16) Fung, Archon (2007), '*Democratic theory and political science: A pragmatic method of constructive engagement*', *American Political Science Review*, 101 (3), 443–458: <http://archonfung.net/docs/articles/2007/FungAPSA0708.pdf> accessed 19/01/2017.

17) Abers, Rebecca (2000), *Inventing Local Democracy: Grassroots Politics in Brazil*, Boulder, CO: Lynne Rienner.

18) Sherry R. Arnstein (1969) *A Ladder Of Citizen Participation*, *Journal of the American Institute of Planners*, 35:4, 216-224, DOI: 10.1080/01944366908977225: <http://www.participatorymethods.org/sites/participatorymethods.org/files/Arnstein%20ladder%201969.pdf>.

19) Ibid.

20) African Centre for Economic Growth (ACEG), *Kenya's Democratic Transition: Challenges and Opportunities*, pg. 61.

21) Odhiambo, Mitullah and Kichamu (2005). *Management of Resources by Local Authorities: The Case of Local Authority Transfer Fund in Kenya*, pg. 42.

Mitullah analyses the pitfalls of centralized planning. Her core argument is that this type of planning relegates citizens to observers in the development process. In this case, "citizens have to contend or to comply with the policies, decisions and actions that officials bring to bear upon them."⁽²²⁾ She further notes various reasons for participatory planning including the need to harness information from local communities that are the "more accurate source of information about the felt-needs of any region." In addition, local populations are more predisposed to make material contributions, as well as provide other forms of support to programmes whose formulation they are part and parcel of.⁽²³⁾

2.3 Constitutional and Legal Framework Guiding Public Participation in Kenya

Mechanisms of participation are spelt out in the Constitution as well as various laws that inform implementation of devolved government including the County Government Act, 2011, and the model law on public participation developed by the Kenya Law Reform Commission (KLRC).⁽²⁴⁾

22) W. Mitullah, "Local Level Governance in Kenya: A Review and Critique of Key Issues, paper prepared for African Centre for Economic Growth Project on Governance in Kenya, October 2002, pg. 2.

23) Odhiambo, Mitullah and Kichamu (2005). *Management of Resources by Local Authorities: The Case of Local Authority Transfer Fund in Kenya*, pg. 43/4.

24) Inter-Governmental Relations Technical Committee (2016). Op cit.

TABLE 2.1: CONSTITUTIONAL PROVISIONS ON PUBLIC PARTICIPATION

ARTICLE	PROVISIONS
Article 1: Sovereignty	All sovereign power belongs to the people of Kenya and may be exercised by them directly or through their elected representatives.
Article 10: National Values and Principles of Governance	10(2) (a) —The national values and principles include: patriotism, national unity, democracy and participation of the people.
Article 33: Freedom of Expression	Every person has the right to freedom of expression—the right to receive and impart information or ideas.
Article 34: Freedom of Media	The state shall not control or interfere with the public or dissemination of information or penalise persons for holding opinions or views.
Article 35: Access to Information	35 (1) (a) —Every citizen has the right of access to information held by the State & 35(3) – The state shall publish important information.
Article 69: Obligations in Respect of the Environment	69 (1) (d) —The State shall encourage public participation in the management, protection and conservation of the environment.
Article 118: Public Access and Participation	Provides for public access and participation in sittings of Parliament and of its committees.
Article 119: Right to Petition Parliament	Provides for the right of anyone to petition parliament.
Article 129: Principles of Executive Authority	Provides that Executive authority derives from the people of Kenya.

ARTICLE	PROVISIONS
Article 159: Judicial Authority	Provides that Judicial Authority is derived from the people of Kenya.
Article 174: Objects of Devolution	174(c) —To give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers...
Article 184: Urban Areas and Cities	184 (1) (c) —National legislation shall provide for the governance and management of urban areas and cities and shall, in particular, provide for participation by residents ...
Article 196: Public Participation and County Assembly Powers, Privileges and Immunities	196 (1) (b) —A county assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its committees.
Article 201: Principles of Public Finance	201 —The following principles shall guide all aspects of public finance in the Republic—(a) there shall be openness and accountability, including public participation in financial matters.
Article 221(5): Budget Estimates and Annual Appropriation Bill	221 (5) —In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.
Article 232: Values and Principles of Public Service	232 (1) (d) —The values and principles of public service include involvement of the people in the process of policymaking.
Fourth Schedule Part 2	The functions and powers of the county governments are — 14. Ensuring and coordinating the participation of communities and locations in governance at the local level...

Source: Adopted from the report of IGRTC (2016): *The Status of Public Participation in National and County Governments*.

Different laws provide for public participation in different aspects of devolution. The County Governments Act, 2011, for instance, elaborates the principles of public participation (Section 87), defines the rights of citizens to petition county governments on any issue (Section 88), and obligates county governments to respond expeditiously to challenges and petitions from citizens (Section 89).

Importantly, Section 91 of the Act provides for the establishment of modalities for citizen participation including the following:

- ◇ Information communication technology-based platforms;
- ◇ Town hall meetings;
- ◇ Budget preparation and validation forums;
- ◇ Development project sites; and
- ◇ Notice boards: announcing jobs, appointments, procurement, awards and other important announcements of public interest.

The Public Finance Management Act, 2012, on the other hand, provides an elaborate public finance framework for both levels of government. For counties, the Act provides for the establishment of the County Budget and Economic Forum (CBEF) as one of the structures of consultation on budgetary matters. According to the Commission on Revenue Allocation (CRA), the CBEF assists the county to analyse and identify its priorities as they budget for programmes, improve coordination between the citizens and government and improve harmonization of project implementation and funding.⁽²⁵⁾ The Forum, among others, provides a mechanism for consultation when it comes to development of the County Fiscal Strategy Paper (CFSP) and the Budget Review and Outlook Paper (BROP). These two are important documents in the budgeting process.

Sections 125 to 136 of the Public Finance Management Act, 2012 further provide an elaborate framework for county budgeting. Under Section 125(2) the County Executive Committee member in charge of Finance is required to ensure there is public participation in the budget process.

After elaborate investigation into the current status of participation, the report on public participation by the IGRTC concludes that neither the national nor the county governments have achieved “the nature and extent of participation contemplated by the Constitution and the laws.” It further states that, “while a lot of public participation efforts have been made in both levels of government, there is no clarity on what constitutes adequate participation, the nature of the participation that meets the constitutional threshold, or the most effective mechanisms for public participation.”⁽²⁶⁾

25) CRA, Guidelines on Formation of the County Budget and Economic Forum (CBEF): <http://www.internationalbudget.org/wp-content/uploads/Signed-Circular-Cheserem-CRA-CBEF.pdf>

26) Inter-Governmental Relations Technical Committee (2016).Op cit.

Finally and importantly, the report notes that the "... form, nature and levels of public participation are, however, unsatisfactory in both the national and county" ⁽²⁷⁾ levels of government. However, the study covered only one of the counties targeted by the present study, Mombasa. It will be useful therefore to find out whether the conclusions are also applicable to the other three counties.

2.4 Guidelines on Public Participation

Effective implementation of devolution has been an issue of concern since the passage of the 2010 Constitution. The earliest intervention towards implementation of devolution was the formation of the Task Force on Devolved Government, which among others, came up with a raft of laws for implementing devolved government. One of the key areas of emphasis has been proper implementation of provisions relating to public participation.

The Ministry of Devolution and Planning and the Council of Governors finalized the County Public Participation Guidelines in January 2016. The development of the policy was informed by the need to fulfill the objects of devolved government. One of the objects is encapsulated in Article 174(c) of the Constitution, that is, to "*enhance the participation of people in the exercise of the powers of the State and in making decisions affecting them.*" The guidelines were developed in a participatory process that involved key stakeholders such as CSOs, FBOs, county governments, academia, the private sector, professional bodies, international experts as well as national and county government officers.

The introductory section of the guidelines gives a background on public participation. Among others, it explains the constitutional and legal underpinning of public participation, principles of public participation the rationale thereof, the rights and duties of the members of the public and conditions for meaningful public participation.

Further, the guidelines provide a general framework for the content of a public participation process. These content issues include: legislative process/policy and law-making; planning and budgeting for county public service delivery; implementation/delivery of county public services; and performance management. Other areas are; oversight through Monitoring, Evaluation, Reporting and Learning (MERL); and vetting of public officers.⁽²⁸⁾ The processes and mechanisms to be used in each subject area are also proposed in the policy. Clearly, these are not exhaustive as each county has peculiarities that have to be taken into account in each and every public participation event. Importantly, the guidelines provide the roles of duty bearers as well as rights holders.⁽²⁹⁾

27) Ibid.

28) Ministry of Devolution and Planning and Council of Governors, County Public Participation Guidelines, January 2016: <http://www.devolutionplanning.go.ke/wp-content/uploads/2016/04/County-Public-Participation.pdf>.

29) Ibid.

THE BASIC OUTLINE FOR A PUBLIC PARTICIPATION PROCESS

- **Steps in establishing content for discussion**
 - Identify policy problems.
 - Formulate policy proposals.
- **Legitimising decision-making process**
 - Define who needs to be involved in public consultation.
 - Decide what level of public participation should take place.
 - Identify decision makers.
 - Identify opinion shapers.
 - Identify institutional capacity to undertake.
 - Specify the decision making process and schedule events.
- **Implementing the policy, legislation or development plan**
- **Monitoring and Evaluation**
 - Outline the oversight, monitoring and evaluation framework for policy, legislation and development plans implementation.

Source: Adapted from the County Public Participation Guidelines developed by the Ministry of Devolution and Planning and the Council of Governors.

Importantly, the guidelines provide for the rights and duties of members of the public. The basis for the rights and duties of members of the public is stated as Article 1(1) of the Constitution which provides that all sovereign power belongs to the people of Kenya and can be exercised directly (through mechanisms of public participation) or indirectly (through elected leaders). The duties and responsibilities add value to public participation by creating a human rights-based and citizen-centred framework for public participation. The following table summarises the duties and responsibilities, which are an important reference point for counties implementing public participation.

TABLE 2.2: DUTIES AND RESPONSIBILITIES OF CITIZENS IN PUBLIC PARTICIPATION

DUTIES AND RESPONSIBILITIES	COMMENT
Equality	Article 27 of the Constitution provides that the state shall not discriminate directly or indirectly on any ground. This guarantees equal participation in decision making processes at the county.
Freedom of Expression	Article 33 of the Constitution guarantees the freedom of expression including the freedom to seek, receive or impart information or ideas. Hence, every person should feel constitutionally empowered to share information and ideas during public participation processes.
Right to access information	Article 35 of the Constitution guarantees every citizen the right to access information held by the state. This includes information required for effective public participation.
Planning	The public should be involved in strategizing, mapping, prioritisation and codification of issues that may be subjected to public participation whether draft policies, legislation or development plans. Members of the public have the duty from the outset to ensure that what is documented actually represents issues that are crucial at the most basic unit of the county. After mapping, prioritisation and codification of issues, members of the public should be clear on who the issues should be addressed to, the county department involved, the statutory period for civic education and form of participation.
Organisation	Members of the public may participate in decision-making processes as individuals or representative groups. County residents should determine the most effective grouping to engage the county governments. Such organisations may be in the form of youth and women groups, Sacco's, chambers of commerce, civil society or religious entities
Participation	The public has a duty to fully participate in county civic education initiatives and other processes.
Monitoring and Evaluation	The public has a duty to monitor and evaluate the implementation of policies, legislation, development plans, citizen participation and the civic education process.

Source: Adapted from the County Public Participation Guidelines developed by the Ministry of Devolution and Planning and the Council of Governors.

The document places emphasis on various aspects critical to promoting public participation. These include the duty to take part in civic education, the duty of members of the public to organize themselves into groups thus amplifying their voices, as well as the duty to be involved in strategizing, mapping, prioritisation and codification of issues that may be subjected to public participation. These include draft policies, legislation or development plans. One of the weaknesses of the guidelines is the lack of clear direction on the thresholds for meaningful and effective public participation.

The guidelines on setting up the County Budget and Economic Forum (CBEF) produced by the Commission on Revenue Allocation (CRA) equally set out important parameters for enhancing public participation. The basis of the guidelines is section 137 of the Public Finance Management Act, 2012. According to the document, the guidelines are "are structured to clarify the establishment of the CBEF, and then provide administrative guidance for the CBEF and how its members are nominated."⁽³⁰⁾ The guidelines add value to the participation process by ensuring clarity in the composition of the CBEF, highlighting the legal provisions that guide the setting up of the CBEF and, more importantly, detailing the procedure through which appointment of members to the CBEF is done. Like the guidelines on public participation developed by the Ministry of Devolution and the Council of Governors, the CBEF guidelines do not address the issue of threshold.

2.5 Mechanisms of Public Participation

Part eight of the County Governments Act, 2011, details principles of public participation before delving into more specific actions required of county governments to give effect to participation. The principles are as follows:

- ◇ Timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;
- ◇ Reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;
- ◇ Protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information;
- ◇ Legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal or review decisions, or

30) CRA, Guidelines on Formation of the County Budget and Economic Forum (CBEF): <http://www.internationalbudget.org/wp-content/uploads/Signed-Circular-Cheserem-CRA-CBEF.pdf>.

redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;

- ◇ Reasonable balance in the roles and obligations of county governments and non-state actors in decision-making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight;
- ◇ Promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development; and
- ◇ Recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight.

The specific mechanisms and actions that are spelt out in the law aim to fulfill the above principles. These specific mechanisms are:

- ◇ The right of citizens to petition and challenge the actions of county governments under Section 88. The law further requires that citizen petitions are made in writing and also that the counties provide legislation to give effect to the right to petition and challenge.
- ◇ The duty bestowed on county authorities, agencies and agents to respond to petitions from citizens.
- ◇ The discretionary power vested on county governments to organize local referenda to solve local problems. Referenda may be organized on county laws and petitions or on planning and investment decisions affecting the county for which a petition has been raised and duly signed by at least 25% of the registered voters where the referendum is to take place
- ◇ Establishment of structures for citizen participation including:
 - a. Information, communication technology based platforms;
 - b. town hall meetings;
 - c. budget preparation and validation forums;
 - d. notice boards: announcing jobs, appointments, procurement, awards and other important announcements of public interest;
 - e. development project sites;
 - f. avenues for the participation of peoples' representatives including but not limited to members of the national Assembly and Senate; or
 - g. establishment of citizen forums at county and decentralized units.

Establishment of county administration units (decentralized units) as per the County Governments Act, 2011, is also geared towards promoting public participation. Both the ward and sub-county administrators have a role to play in public participation. The law requires them to facilitate and coordinate "citizen participation in the development of policies and plans and delivery of services." Decentralized units are therefore part and parcel of the structures and mechanisms of public participation.

Whereas these mechanisms are provided for in law, there have been challenges in putting them in place. As pointed out by the IGRTC, both the national and county levels of government are yet to develop effective frameworks to facilitate public participation. A good number of counties have enacted legislation on public participation. However, little has been done to operationalize the legislation through regulations, setting up of relevant offices and institutions required to implement the laws or developing the systems, guidelines and procedures or providing adequate budgetary provisions for public participation. ⁽³¹⁾

Access to information is one of the cardinal requirements in participation of citizens. Under the County Governments Act, 2011, counties are required to use the media to create awareness on devolution and governance, promote citizens understanding for purposes of peace and national cohesion, undertake advocacy on core development issues such as agriculture, education, health, security, economics, sustainable environment, among others; and promotion of the freedom of the media.

Under Section 95(1) counties are required to facilitate public communication and access to information in the form of media with the widest public outreach in the county, which may include television stations; information communication technology centres; websites; community radio stations; public meetings; and traditional media. Additional requirements under Section 96 include the duty of designating an office for purposes of enabling access to information; and, subject to national legislation on access to information, enact legislation on access to information. Further, counties are required to create avenues for promoting effective participation of marginalized and minority groups in public and political life.

Civic education is also an important requirement for public participation. It is aimed at promoting empowerment and enlightenment of citizens and government; enabling continual and systemic engagement of citizens and government; and disseminating the values and principles of devolution in the Constitution. The purpose of civic education is to have an informed citizenry that actively participates in governance affairs of the society on the basis of enhanced knowledge, understanding and ownership of the Constitution.

Among the objectives of civic education under the Act is to realize heightened demand by citizens for service delivery by institutions of governance at the county level. This objective anticipates both public participation and advocacy by citizens geared at improving service delivery. In order to realize this and other objectives of civic education, the County Governments Act, 2011, under Section 100 requires county governments to put in place an appropriate civic education program and establish a civic education unit.

31) Inter-Governmental Relations Technical Committee (2016).Op cit.

The design and implementation of civic education by counties require the participation of registered non-state actors as prescribed by legislation. Under Section 101, county legislation is required to provide the requisite institutional framework for purposes of facilitating and implementing civic education program. Furthermore, under Section 104, the county governments are required to incorporate non-state actors in the planning processes. Under Section 105, county planning units have the mandate of ensuring meaningful engagement of citizens in the planning process. Section 115 emphasizes that public participation is mandatory in planning.

Under Section 2 of the Urban Areas and Cities Act of 2011, urban areas and cities are required to put in place Citizen Forums as an avenue for citizen participation. Section 3 (c) identifies "*participation by the residents in the governance of urban areas and cities.*"⁽³²⁾ In Section 11 (d), it establishes "institutionalized active participation by its residents in the management of the urban area and city affairs" as one of the principles of governance and management of urban areas and cities. Section 21(1) (g) of the Urban Areas and Cities Act empowers boards of cities and municipalities to ensure that residents participate in decision-making, its activities and programmes. Section 22 establishes that residents of a city, municipality or town may actively be involved in policy and law-making plus service deliveries in their respective areas. The Second Schedule of the Act details the rights of residents in participating in the affairs of their city or urban area. Among others, the authorities are obligated to "develop a system of governance that encourages participation by residents in its affairs."⁽³³⁾

Although many counties have put in place some of the infrastructure required to enhance public participation, there are differing levels of success in their actual implementation. In its study of public participation in four counties (Makueni, Isiolo, Kisumu and Turkana) the Institute for Economic Affairs (IEA) notes, for example, that Kisumu County has established processes and platforms for effective public participation, which include decentralized structures to the Ward and Sub-County levels and appointment of the administrators. The existence of these platforms has enabled citizens to attend public forums on development projects at these two levels. However, when it comes to mobilization by Members of County Assemblies (MCAs) of citizens to participate in meetings, a bias was noted against citizens who hold contrary opinions.⁽³⁴⁾ This weakness undermines public participation.

32) Institute of Economic Affairs, Review of Status of Public Participation and County Information Dissemination Frameworks: A Case Study of Isiolo, Kisumu, Makueni and Turkana counties.

33) Ibid.

34) Institute of Economic Affairs, op cit. pg. 14.

In regard to Turkana County, it was noted that it had generally succeeded in providing infrastructure for public participation. It has a Public Participation Act in place and has established the offices of Sub-County and Ward Administrators. However, the report noted that the county has not effectively involved citizens in legislative processes. The county is also yet to establish the offices of the Village Administrators and Village Councils due to lack of a policy to define their operations.⁽³⁵⁾

Isiolo County was found to have established offices of Sub-County and Ward administrators. However, as compared to the other counties that were studied, the offices were neither well established nor well equipped to handle their functions including facilitating public participation. It was established that most of the Sub-County and Ward Administrators lack physical office space and facilitation such as motorbikes and vehicles.⁽³⁶⁾

The budgeting process for Isiolo County (FY2013/2014) was also found to be inadequate in terms of public participation. Whereas the County held public consultations at ward level moderated by the Executive and MCAs, the public was not given an opportunity to propose projects. They were instead presented with a list of predetermined projects. Their role in this context was limited to giving opinions about the proposed projects.⁽³⁷⁾ These shortcomings mirror those noted in past participatory frameworks such as the Budget Day under the previous system of Local Authorities and the Local Authority Service Delivery Action Plan (LASDAP).⁽³⁸⁾

Makueni was found to have some of the best infrastructure of facilitating citizen participation. Its civic education infrastructure was found to be especially well-developed with an elaborate structure operating under the office of the County Executive Committee member in charge of devolution and public service. The Public Participation Office is run by the Public Participation Coordinator who works through six Sub-County Education Coordinators (SCECs). In turn, these coordinators work with the Ward Public Participation Facilitators (WPPF) at the ward level.⁽³⁹⁾

In management of projects, the county was found to have established and entrenched a Programme Management Committees (PCMs) approach that enables citizens to not only take part in decision-making and implementation but also to provide oversight in the process. However, the

35) Ibid. pg. 20.

36) Ibid. pg. 23.

37) Ibid. pg. 23.

38) See, for example, Mbeya, Opiyo and Odhiambo (2011). *Participatory Planning in Kenya's Local Authorities: A Study of the Budget Day*. CLARIPRESS and Odhiambo, Mitullah and Kichamu (2005). *Management of Resources by Local Authorities: The Case of Local Authority Transfer Fund in Kenya*. CLARIPRESS.

39) Institute of Economic Affairs, op cit. pg. 28.

county was found not to have put in place the County Budget and Economic Forum (CBEF), which undermined the participation of citizens in budgetary matters. ⁽⁴⁰⁾

2.6 Case Studies of Public Participation in Other Jurisdictions

The IGRTC report documents some of the case studies of participation from a global perspective. The cases are from South Africa, Rwanda, Switzerland, European Union, Italy and Canada.⁽⁴¹⁾ Like Kenya, South Africa has entrenched public participation in its constitution. The obligation to ensure public participation is placed on Parliament and Provincial legislatures. Various mechanisms are used including the *Izimbizo* that involve public meetings between the political leadership (from the President to councillors) and communities to discuss policies and service delivery. The provincial governments, through the Executive Committees (EXCO) are also required to meet and discuss policies with communities. Members of the EXCO are the premier at the provincial level and also members of their Executive Councils.

The National Decentralization Policy (NDP) ⁽⁴²⁾ guides public participation in Rwanda. Its purpose is to “deepen and sustain grassroots-based democratic governance and promote equitable local development by enhancing citizen participation.” The policy has the following objectives:

- ◇ To enhance and sustain citizen participation in initiating, making, implementing, monitoring and evaluating decisions and plans that affect them by transferring power, authority and resources from central to local government and lower levels, and ensuring that all levels have adequate capacities and motivations to promote genuine participation.
- ◇ To promote and entrench a culture of accountability and transparency in governance and service delivery by strengthening national and local accountability mechanisms to make them more relevant, credible, conducive, supportive/attractive to all citizens, leaders and non-state entities.
- ◇ To fast-track and sustain equitable local economic development as a basis for enhancing local fiscal autonomy, employment and pov-

40) Ibid. pg. 28.

41) Inter-Governmental Relations Technical Committee (2016).Op cit.

42) The Republic of Rwanda, Ministry of Local Government. National Decentralization Policy: Consolidating Participatory Government and Fast-Tracking Citizen-Centred Development, June 2012: http://www.minaloc.gov.rw/fileadmin/documents/Minaloc_Documents/Revised_Decentralisation_Policy_for_Cabinet_30_01_2013.pdf accessed 17/01/2017.

erty reduction, by empowering local communities and local governments to explore and utilize local potentials, prioritize and proactively engage in economic transformation activities at local, national and regional levels, and ensure fiscal discipline.

- ◇ To enhance effectiveness and efficiency in the planning, monitoring, and delivery of services by promoting joint development planning between central and local governments and ensuring that service delivery responsibilities and corresponding public expenditure are undertaken at the lowest levels possible.
- ◇ To consolidate national unity and identity (*ubunyarwanda*) by fostering, enhancing and sustaining the spirit of reconciliation, social cohesion and common belonging as a nation, hence ensuring lasting peace and security as well as community of purpose for sustainable national development.
- ◇ To build and consolidate volunteerism, community work and self-reliance based on cultural and other values of collective responsibility, personal worth and productive involvement.
- ◇ To fast-track and translate the regional integration agenda into politically meaningful, economically fruitful venture for Rwandans in all corners of the country, and as a strong anchor for national stability, peace and unity.

One of the mechanisms used in Rwanda is the Citizen Report Card survey conducted by the Rwanda Governance Board (RGB). Its aim is to provide feedback from citizens to officials and policy makers on service delivery at the grassroots level.

Switzerland's Federal law on Spatial Planning provides for public participation at all levels: Federal, Cantonal and Communal. Both the Federal Act on Consultation and the Federal Act on Transparency augment the Federal Law by providing for transparency and equality in the public participation process. The two laws are based on the mandate of Article 147 of the Federal Constitution of 1999. ⁽⁴³⁾

The Institute of Economic Affairs in its study of Makueni, Isiolo, Kisumu and Turkana provides local case studies that have been reviewed as part of this literature. ⁽⁴⁴⁾

43) Inter-Governmental Relations Technical Committee (2016).Op cit.

44) See section 3.4 "*Existing forms and mechanisms of public participation*".

METHODOLOGY

3.1 Introduction

This chapter details the methodology of the study. It looks at the research design, sampling, data collection, data presentation and ethical concerns and considerations.

3.2 Research Design

Three groups of respondents were engaged in this study: 1) Citizens who have been mobilized by CSOs and have participated in county activities/forums, 2) Stakeholder groups such as Non-Governmental Organizations (NGOs), Private Sector Organizations (PSOs) and Faith Based Organizations (FBOs) that play a role in educating citizens about participation and mobilizing them to take part in county activities, and 3) County government officials. Whereas the survey was carried out among citizens who have participated in county forums, the Focus Group Discussions (FGDs) and the Key Informant Interviews (KIIs) focused on officials associated with the stakeholder groups and county government. As the study findings show, the citizens interviewed were found to have taken part in one or more county forums. Some of them had experience of as many as 20 forums since 2013 and were therefore a vital source of information about effective public participation. Local CISP programme officers and partners identified and mobilized the different groups for interviews. ⁽⁴⁵⁾

The study applied a mixed-method approach involving both qualitative and quantitative aspects. Both primary and secondary sources of data were used. Primary data was collected through the citizen survey, KIIs and FGDs. Secondary data, on the other hand, was collected through review of documents including laws and various research reports on public participation compiled by various organizations including NGOs and

45) Specific terms of reference were developed for the CISP officials who provided assistance to the entire research process.

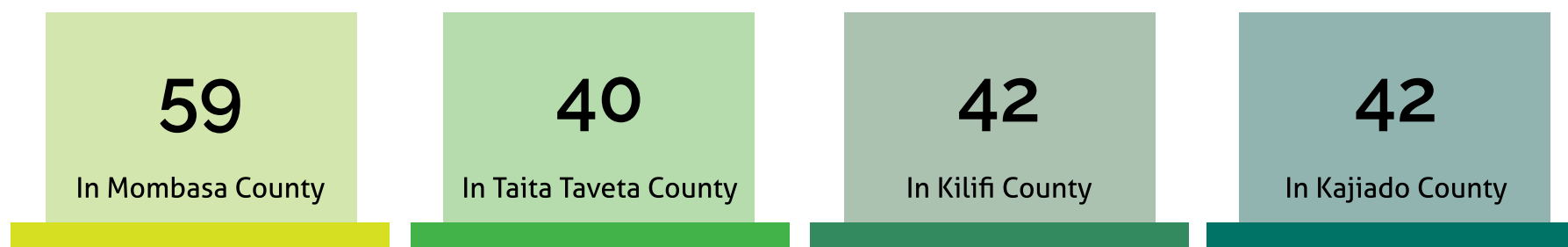
FBOs. More specifically, a study on the status of public participation by the Inter-Governmental Relations Technical Committee (IGRTC), the Sessional Paper on Devolved Government under the Constitution of Kenya, 2012, the County Government Act, the Public Finance Management Act, the Urban Areas and Cities Act, and the Public Participation Guidelines for County Governments developed by the Ministry of Devolution and Planning were important sources of information.

3.3 Sampling

The study engaged citizens who had attended forums organized by the four county governments from 2013. The objects of the study required that those sampled possessed knowledge of the mechanisms being used for public participation and therefore in a position to gauge their effectiveness based on the set of identified parameters. In this regard, the researchers worked with CISP staff in the counties, their partners and officials of the county governments to identify individuals who had participated in county forums. To accomplish this, the study applied a multi-stage sampling design. The sampling was cascaded to the sub-county level for the citizens' survey with each sub-county contributing a predetermined number of respondents.

Sampling for FGDs and KIIs was purposeful. More specifically, convenience sampling (using the criterion of availability) and snowball sampling were used. The study further reached out to representatives of marginalized groups including women, Persons With Disabilities (PWDs) and youth. The table below shows how the sample was distributed for all categories of respondents.

183 respondents participated to this survey through FGDs and KIIs:



3.4 Data Collection

In order to collect data systematically, a citizens' survey questionnaire was developed and administered to a total of 183 respondents in the four counties. The instrument was administered by Local Research Assistants (LRAs). A key informant checklist and an FGD guide were also developed and used for KIIs and FGDs respectively. The first day of the fieldwork was used to train the LRAs and pre-test all the tools.

In total, 10 FGDs were held with different stakeholder groups including county government officials, CSO representatives (including representatives of NGOs, FBOs and CBOs). Attempts were made to have FGDs with representatives of women, PWDs and youth (for instance in Mombasa an FGD was dedicated to representatives of these groups).

A total of 38 key informants were also reached in the four counties. The interviews targeted different groups of stakeholders such as CSOs, Private Sector Organizations (PSOs), county government officials, and representatives of some of the mechanisms of participation (e.g. the Voi Town Management Committee in Taita Taveta).

As shown in table 3.2, Mombasa had 59 citizen respondents with men accounting for 71.2% while women accounted for 28.8%. In terms of age, 76.3% of those interviewed were between 18 and 44 while 50.8% were below 35 years. A significant proportion had attained secondary education (40.6%). A sizeable number were self-employed (27.1%). In Taita Taveta County, a total of 40 respondents were interviewed with 50% men and 50% women. A majority of those interviewed were between the ages of 18 and 60. The highest proportion of the respondents had attained secondary education (50.0%). In terms of occupation, almost one-third (32.5%) were businesspersons, while 17.5% were farmers.

42 Citizens were interviewed in Kilifi County, comprised of 69% men and 31.% women. In terms of age, 66.7% of those interviewed were 35 years of age and above. The majority (40.5%) had attained secondary education. Involvement in business took the highest proportion in terms of occupation (36.7%). For Kajiado County, the 42 citizens interviewed comprised of 54.8% men and 45.2% women. A majority of those interviewed (58.6%) were 35 years and above. The majority of respondents had attained some level of formal education. Those with secondary education accounted for 20%. In terms of occupation, those involved in business were the majority (47.4%) followed by farmers (10.5%).

TABLE 3.2: RESPONDENTS' PROFILES FOR THE FOUR COUNTIES

CHARACTERISTICS	CATEGORIES	%	N.	%	N.	%	N.	%	N.
		MOMBASA		KILIFI		TAITA TAVETA		KAJIADO	
GENDER	Male	71.2	42	69.0	29	50.0	20	54.8	23
	Female	28.8	17	31.0	13	50.0	20	45.2	19
AGE	18-24	7.3	10	7.3	3	5.1	10	12.2	5
	25-34	28.6	20	29.3	12	25.6	20	29.3	12
	35-44	23.8	15	24.4	10	33.3	13	22.0	9
	45-60	23.8	7	24.4	10	28.2	11	36.6	15
	60 and above	14.3	7	14.6	6	7.7	3	0	0
HIGHEST LEVEL OF EDUCATION ATTAINED	No formal education	1.9	1	0	0	0	0	5	2
	Primary Education	18.8	10	14.2	6	12.5	5	32.5	13
	Secondary Education	40.6	21	40.5	17	50.0	20	20.0	8
	Tertiary Education	33.0	18	28.6	12	30.0	12	27.5	11
	University degree	5.7	3	16.7	7	7.5	3	15.0	6
MARITAL STATUS	Single	40.7	24	26.2	11	25.0	10	26.2	10
	Married	59.3	35	64.3	27	65.0	26	64.3	28
	Divorced/separated	0	0	4.8	2	7.5	3	4.8	1
	Widowed	0	0	4.8	2	2.5	1	4.8	1

Number excludes one respondent each who did not give his/her age in Kilifi and Kajiado, six and two respondents who did not state their highest education level in Mombasa and Kajiado and finally two respondents who did not give their marital status in Kajiado.

3.5 Data Analysis and Presentation

All primary data collected using questionnaires were coded, entered and analyzed using the Statistical Package for Social Sciences (SPSS) software. The FGDs and Key Informants Interviews data were thematically analyzed using content analysis logic and corroborated with quantitative analysis for triangulation and consistency purposes. Descriptive statistics were employed in the analysis while the presentation was done using computer generated tables, pie charts and bar charts.

3.6 Ethical Concerns and Considerations

The study adhered to basic ethical considerations, such as ensuring that the consent of each respondent was obtained before interviewing them, and the purpose of the research explained in order to inform consent. Participation in the research was voluntary and no one was coerced or tricked into taking part in the study. The design of the study ensured that no participant was exposed to any risk; on the other hand no participant received any direct benefit as a result of taking part in the research except for transport re-imbursements where deemed appropriate. In all stages of the research, the data collected from the respondents was handled with utmost confidentiality.

RESEARCH FINDINGS AND DISCUSSIONS

This chapter discusses the findings in the four counties under two main headings: citizen participation avenues and dynamics and citizen participation relevance and legality. Significant gains made in effecting public participation in each county as well as best practices are highlighted. The chapter is divided into four sections representing the four counties. The counties are covered as follows in terms of sequence: Mombasa, Kilifi, Taita Taveta, and Kajiado. The last section is dedicated to a comparative analysis.



4.1 Effectiveness of Public Participation in Mombasa County

4.1.1 Citizen Participation Avenues and Dynamics

Mombasa County mainly implements county forums and meetings and budget preparation and validation forums to effect citizen participation. More specifically, the county was found to have successfully held town hall meetings, particularly at sub-county level. The forums and meetings are used to discuss an array of issues including citizens' priority projects and bills by the executive before their enactment and passage. The budget preparation and validation forums are reserved for budget preparation and validation. The County Executive formulates and handles the budget in terms of public participation before being forwarded to the Assembly for discussion and passage. Bills that emanate from the Executive are handled the same way. They are exposed to public participation by the County Executive while in draft form before being passed on to the Assembly, which also holds its own public participation meetings before passing the legislation.

Information, communication technology based platforms were found to be present and in use for purposes of communication. Apart from public forums that expose bills to public participation before being discussed in the Assembly, the Assembly also invites citizens to take part in the legislative process by following discussions in the public gallery. Through this mechanism, citizens are able to follow discussion on bills until they are enacted into laws. The County Executive and the Assembly were therefore found to host separate public participation activities.

It was also found that different departments of the Executive are involved in the public participation processes based on their own areas of work. For instance, the finance department is the key player in the budgeting process. Because of a legacy of challenges involving ownership of land, the Ministry of Lands has played key roles in public participation including the formulation of a land policy for the county. The citizens reached through the survey instrument were found to have attended between 1 and 20 forums since the year 2013. The highest proportion of attendees (26.9%) had attended 3 forums throughout the period. The attendees were motivated by various factors with the highest proportion of respondents (33.1%) seeking to find out 'what is happening' in their counties while 7.6% attend to contribute views on matters important to the county.



If the ward administrators were furnished with a functional office and the tools to implement public participation, they would be best placed to advance citizens' agenda. However, they have not been able to effectively carry out their prescribed mandate. Despite the fact that they are the key county government officials at the grassroots level, the administrators largely rely on CSOs to provide them with information.”
Mombasa CSO Members—FGD—February 2017

TABLE 4.1: MAIN MOTIVATION TO PARTICIPATE IN COUNTY FORUMS

MAIN MOTIVATION	FREQUENCY	PERCENTAGE
To know what is happening in my county	39	33.1
It is a democratic right	5	4.2
It is a forum to contribute my views on matters affecting the county	9	7.6
It is a civic duty	8	6.8
As a community leader, this is a platform to raise issues affecting my people	2	1.7
It is my desire to witness resources channeled to the county	1	0.8
I champion the rights of the disabled in these platforms	1	0.8
No response	53	44.9
TOTAL	118	100.0

Source: CISP Survey, 2017.

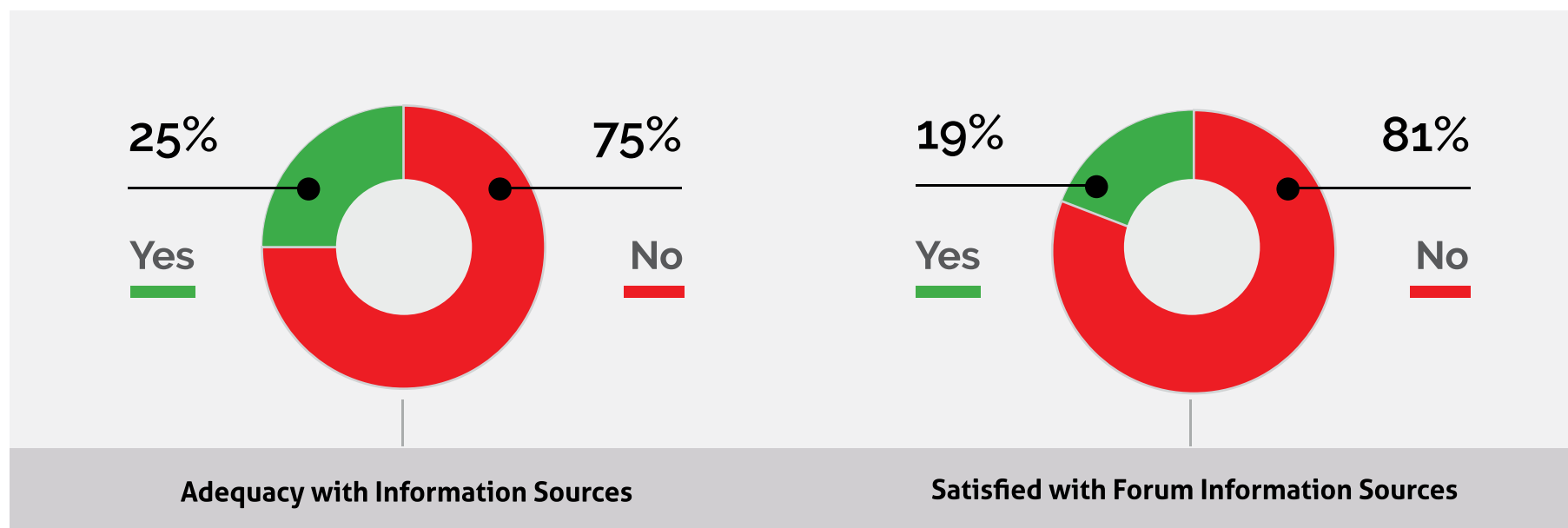
The establishment of the sub-county administration unit in 2016, recruitment of sub-county administrators and ward administrators were described as a positive development in enabling citizen participation. Under the County Governments Act, 2011, the administrators are assigned some functions that facilitate public participation. Even so, some of the key informants interviewed interpreted the late establishment of these offices as a way of helping the county executive manage the (forthcoming) 2017 elections with a favourable outcome to its leadership, rather than a positive step to enable more effective administration and the facilitation of public participation.

In terms of citizen mobilization, both the Members of County Assembly (MCAs) and the sub-county and ward administration were found to play important roles. The County Executive relies largely on the administrators while the Assembly uses both the administrators and the MCAs. CSOs were of the view that the administrators are not yet effective because they had not been in office for long. They had also not been properly facilitated by the County Government and relied mostly on CSOs to carry out some of their duties.

The media as well as leaders were the main sources of information for citizens on county affairs. Both were rated at 11.9%. CSOs, NGOs and CBOs scored a combined total of 13.5% as sources of information. CSOs mentioned as sources of information include Sauti ya Makao, Haki Yetu, Jomvu Youth Development and Amnesty International.

Even with the different avenues of mobilization and sources of information, citizens interviewed were largely of the view that the information they receive was inadequate for effective participation. A majority of citizens who participated in county forums (74.6%) did not get adequate information to participate effectively. Equally when asked about their satisfaction with the manner in which they received information, a higher proportion (81%) said they did not like the manner in which they received information.

CHART 4.1: INFORMATION ADEQUACY AND SATISFACTION WITH THE SOURCES



Source: CISP Survey, 2017

The Mombasa County Budget and Economic Forum (CBEF) was established in 2014 as required by the Public Finance Management Act, 2011. However, disagreements between the members of the Forum and the County Government led to its being ineffectual as a mechanism of participation. In particular, members of the business community in Mombasa associated with the Chambers of Commerce had disagreed and even petitioned the County Government on the composition of the Forum. In their view, this had led to paralysis and inability of the Forum to meet so as to transact its business. However, some of the key county officials insisted that the Forum is functional. The ineffectualness of the Forum was, however, alleged by some in the County Executive to be a result of demands for unaffordable allowances by the members.

Mombasa County was found to have signed Memorandum of Understanding with CSOs that work to promote citizen participation. Evidence existed, for instance, of an MoU between the County and Pamoja Trust, an organization that promotes citizen participation in county affairs. This signifies a desire on the part of the County Government to work with the CSOs in the area. However, it was also found that

CSOs and the County Government had had a number of disagreements in the course of their engagements. One of these disagreements was over a housing project the County Government was implementing. More specifically, the disagreement was overcompensation for citizens occupying a number of houses that needed to be demolished to pave way for new construction. Despite the existence of an MoU, this disagreement ended up in court. Still, some members of the executive were of the view that a positive relationship exists between civil society and the County Government despite some of the disagreements.



The county government has a good working relationship with CSOs. Even when the Ministry of Lands of the County had a frosty relationship with CSOs, they were still able to collaborate in the preparation of a land policy for the County.”
Mombasa Executive Member—KII—February 2017

Mombasa was found not to have established the village administration even though it is a legal requirement. According to members of the County Executive, this is because of the anticipated high wage bill that would result when these are established and the officers remunerated. County officials interviewed disclosed that the wage bill consumes almost 50% of the County’s total revenue.

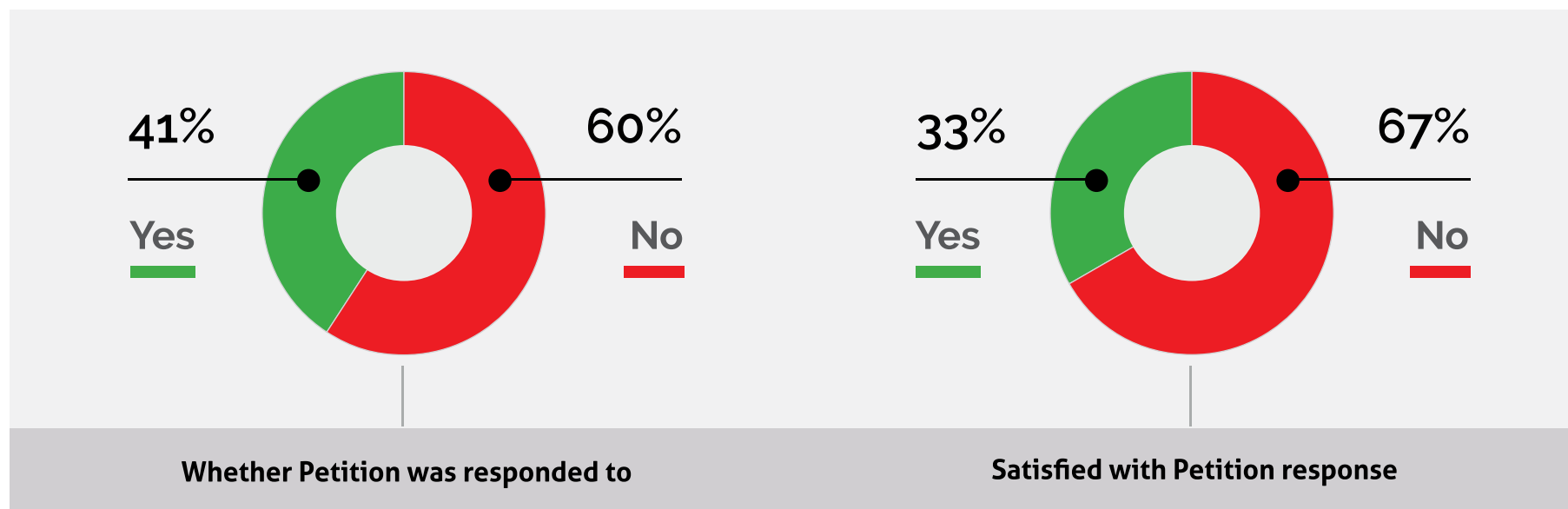
Mombasa County was found not to budget specifically for public participation, making it difficult to tabulate the overall proportion of revenue that goes to support public participation. Budgetary items that support participation were found to be included in different vote heads. Furthermore, at the level of departments, each department was found to have its own budgetary items that support public participation. For example, the finance department is largely concerned with promoting participation in budgeting processes. Its budgets therefore include items such as ‘public consultations on the budget’.

Among the citizens interviewed, a large proportion was found to engage the County through county assemble sittings/gallery (35.7%), petitions/letters/memorandum (32.1%), and demonstrations (21.4%). A small minority of respondents said they meet with county officials (8.9%) or they picket (1.8%). These findings are significant because they demonstrate citizens’ interest in direct actions when they are dissatisfied with the handling of county affairs. The small proportion of those who meet with county officials is either a demonstration of how inaccessible county officers are, disinterest among citizens to directly engage county officials or their inability to have one-to-one discussions with county officials.

Petitions are sent to both the County Executive and the Assembly depending on the issue at hand. Members of the County Executive aver that petitions are handled effectively by the County through a systematic process that ensures all of them are responded to. For example, the residents of Likoni with the support of a CSO lodged a petition with the County Public Service Board (CPSB) against individuals appointed to be ward administrators in Likoni. The petitioners were concerned that the administrators who were eventually posted in the area were from other areas and therefore did not have sufficient knowledge of the local community. The petition received a written response leading to a discussion with the residents during which the CPSB explained why it had swapped the administrators at placement. An agreement was then reached that the lower-cadre staff would be hired locally. This agreement was codified in an MoU.

Indeed, the effectiveness of petitions was a point of major interest for the study since it is one of the ways preferred by citizens as a form of direct action as evidenced by several petitions submitted to the County since 2013. Specifically, the study was interested in finding out the rate of response to petitions and the level of satisfaction with the response. The results to this question are presented in Chart 4.2.

CHART 4.2: PETITIONING EXPERIENCE



Source: CISP Survey, 2017.

The law establishes the right to response to all petitions sent to county authorities. As shown in the chart, most (60%) petitions were not responded to and for those that were responded to, only one third of the petitioners (33%) were satisfied with the response. CSO members who took part in FGDs and KIs were of the view that the County mostly ignores petitions, sometimes leading to matters being taken to court like in the case of the housing project. The challenge is that the County does not consider petitions as a genuine mechanism of citizen engagement but rather as an 'adversarial challenge' to its authority.

4.1.2 Citizen Participation Relevance and Legality

The study established that Mombasa County lacks a Public Participation Act, which is a requirement of the County Governments Act, 2011. This state of affairs resulted from disagreements between the County Executive and the County Assembly. The County Assembly had taken the initiative to come up with a bill, which was discussed, concluded and passed on to the Executive for assent. However, upon scrutiny of the bill by the legal department of the County Executive, it was taken back to the Assembly with a memorandum suggesting areas of amendment. Some of the key concerns expressed by the executive in regards to the bill were the cost of public participation and the role of the executive in public participation.

Even though opinions differ on the effect of lack of legislation, stakeholders interviewed, including some in the County Executive, were largely of the view that it had negatively affected public participation. Among others, absence of the law means that public participation is not well structured. It is also difficult to determine the threshold in terms of number of participants required in any one public participation forums to make public participation meaningful. CSOs interviewed were of the view that the lack of legislation had "left the citizenry and CSOs to have their own interpretation of what public participation entails". Lack of commitment to public participation was given as one of the reasons why the legislation process has not been concluded.



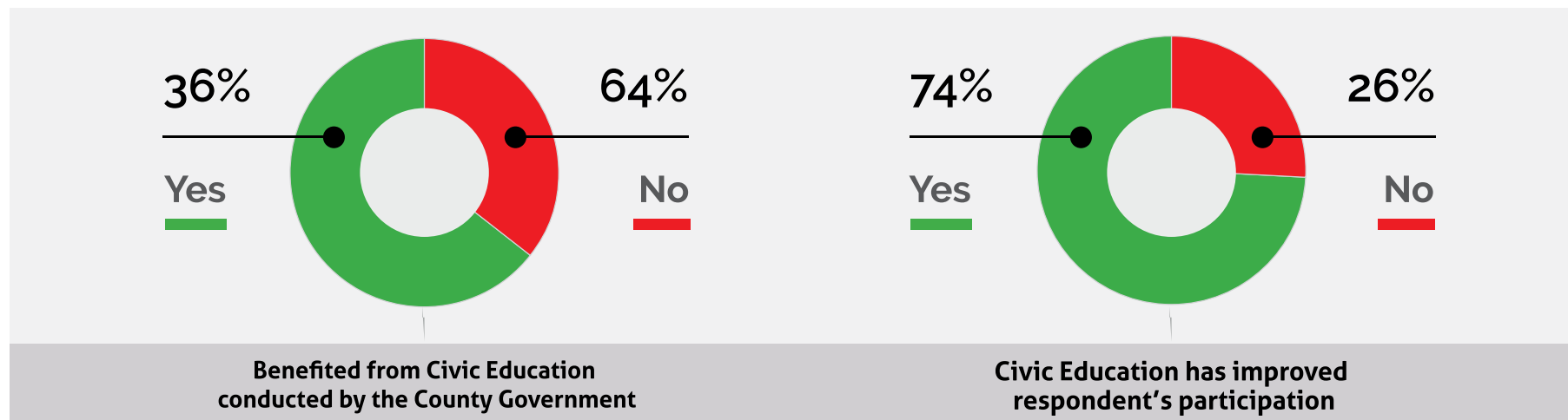
There is lack of goodwill to have the Public Participation Bill enacted into law. The County Executive and MCAs do not support public participation initiatives due to the fact that they are perceived to take away power from them. As a result, the public has been left out in the various key processes such as budgeting.”
Mombasa CSO Members—FGD—February 2017.

County officials, on the other hand, as well as the Assembly were of the view that the Constitution and other laws were sufficient to facilitate public participation. In their view, the different county departments were able to use different laws such as the Public Finance Management Act, 2011, the County Government Act, 2011, and the Urban Areas and Cities Act, 2011, to carry out public participation. The Ministry of Lands, for instance, cited the development of the County's Land Policy as an illustration that the absence of the overall law does not hinder public participation. But whereas the laws cited above have relevant provisions on public participation, lack of the Public Participation Act denies Mombasa an opportunity to streamline public participation into the affairs of the County.

Citizens interviewed were largely aware of law(s) guiding public participation (52.5%) even though a significant proportion (39%) could not name the specific laws. A small minority (10.2%) mentioned the Public Participation Act as the law guiding public participation even though it was established that the county had not enacted the law. This raises the possibility that those who mentioned the law had heard about it when it was being discussed in the Assembly but were not aware of its status of enactment.

The above finding underscores the importance of civic education. The County was found to conduct minimal civic education as only 36% said they had been exposed to civic education by the county government. Those who had attended civic education forums organized by the county government found it to be very relevant (8.5%), relevant (23.7%) and irrelevant (1.7%). A high proportion of those who had been exposed to civic education (73.9%) said it had improved their participation in county forums, further underscoring the importance of civic education. These results are shown in Chart 4.3.

CHART 4.3: CIVIC EDUCATION EXPOSURE AND RELEVANCE



Source: CISP Survey, 2017.

The County was found to carry out civic education through a unit established in the sub-county administration office headed by an assistant director. However, it was at its infancy at the time of the research. The elaborate infrastructure for provision of civic education anticipated by the County Government Act, 2011, was found to still be lacking.



The County Government was challenged mainly in terms of insufficient capacity including lack of trained personnel to carry out civic education. With the establishment of a county unit in charge of civic education within the sub-county administration office, this is no longer the case.”
Mombasa Executive Member—KII—February 2017.

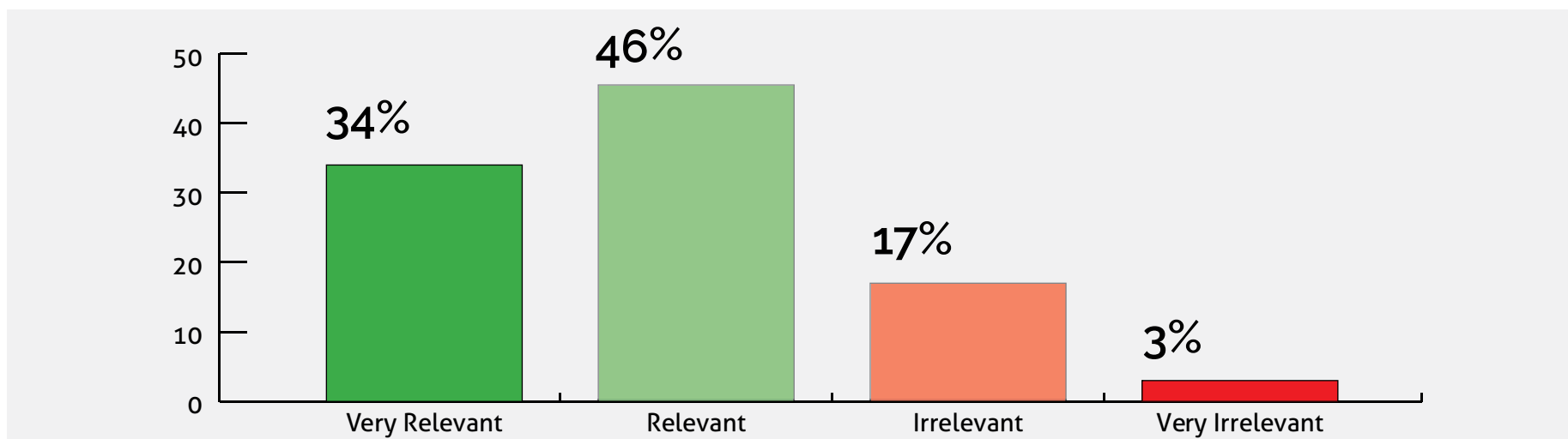
One of the key measures of effective public participation is the extent to which citizens’ views are taken into account in decision-making. In at least one case—Mwakirunge—it was established that citizen participation resulted in one of their priorities being taken into account in terms of project prioritization. The citizens of Mwakirunge had participated in a meeting that discussed development projects. They informed the county officials that their priority was to have a tractor to help with preparing their farms for cultivation. The purchase was factored in the 2015/16 budget and eventually the tractor was bought and availed for their use.

Even so, a majority (76.3%) of those interviewed said that their opinions are not taken into account when the county makes decisions. This is despite a good proportion (55.9%) confirming that issues that are important to their community are discussed in the county forums. This issue was also raised in the FGDs and KIIs where it was pointed out that most citizens come to participate in the last phases of the processes when opportunities to change county proposals have already been exhausted.

Even though citizens’ opinions are mostly not taken into account in decision-making, a majority of respondents (89.8%) would still be keen to participate in forums in future if invited. Respondents gave a number of reasons why they would still participate if called to. These include: getting information on matters affecting the county (25.8%), that participation is a civic duty (27.4%) and to make follow-ups on previous engagements (21%).

Public participation was rated as very relevant (34%) and relevant (46%) as shown in Chart 4.4.

CHART 4.4: PUBLIC PARTICIPATION RELEVANCE



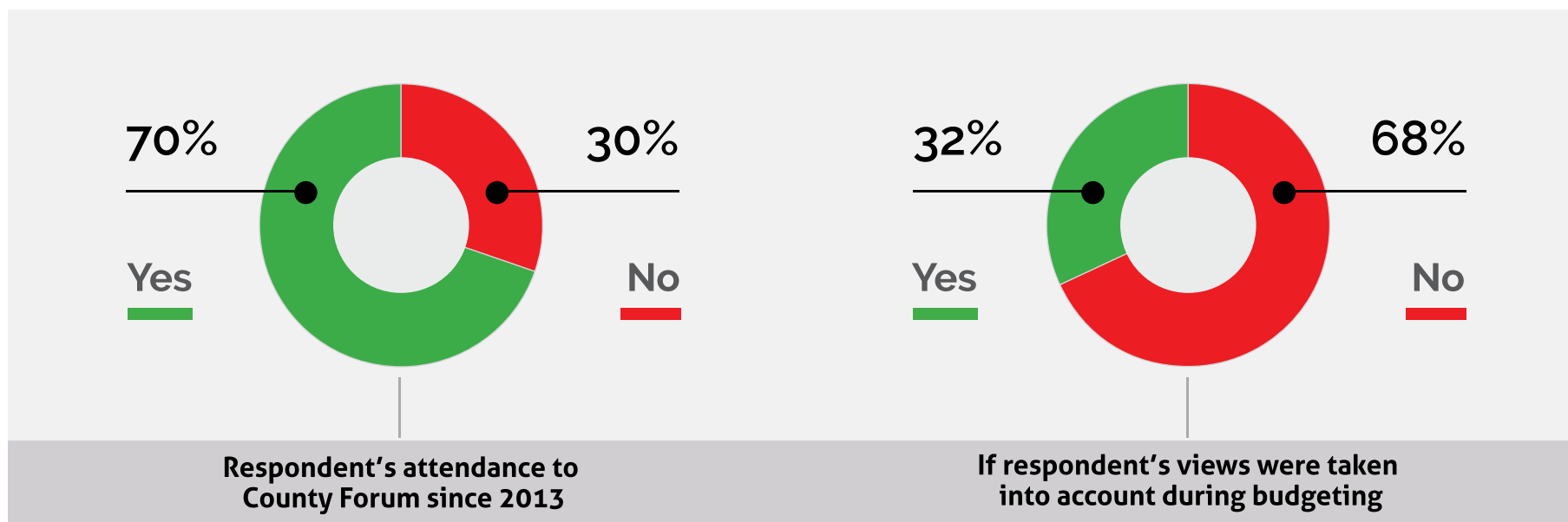
Source: CISP Survey, 2017.

Furthermore, citizens overwhelmingly (96.6%) supported the idea of encouraging more people to participate in county forums. It was considered important as a civic duty (34.2%), and as a way of making citizens understand how county government operates (26.0%). Participation was also considered important as a way of giving views on development (15.1%) and as a right (9.6%). On what can be achieved through public participation, most respondents said it was an avenue for solving citizens' concerns (25%), prioritizing issues and solving the most urgent (13.2%), coming up with ways of improving standards of living (13.2%), getting updates on the status of ongoing development projects (7.4%) and providing solutions to problems of insecurity (7.4%).

The majority (57.6%) were of the view that the country does 'nothing' with citizens' views. This corresponds well with the majority who said their views are not taken into account in decision-making. A significant minority (15.3%) said some of their proposals are implemented while some are ignored. More positive views were that citizens' views are recorded then used in project prioritization (6.8%) and that the inputs are used to champion the needs of citizens (6.8%). Nonetheless, a slight majority of respondents (55.2%) felt that citizen participation since the year 2013 has contributed to an improvement in service delivery.

More than two-thirds of those interviewed (70%) said they had attended county budgeting forums. Attendance was noted to be highest in 2015-2016 (56.3%) and 2013-2014 (20.8%). The financial years 2014-2015 and 2016-2017 recorded low scores at 10.4% and 12.5% respectively. The figure below shows the extent to which citizens' views were taken into account in budgeting.

CHART 4.5: ATTENDING BUDGETING AND PARTICIPATION IMPACT



Source: CISP Survey, 2017.

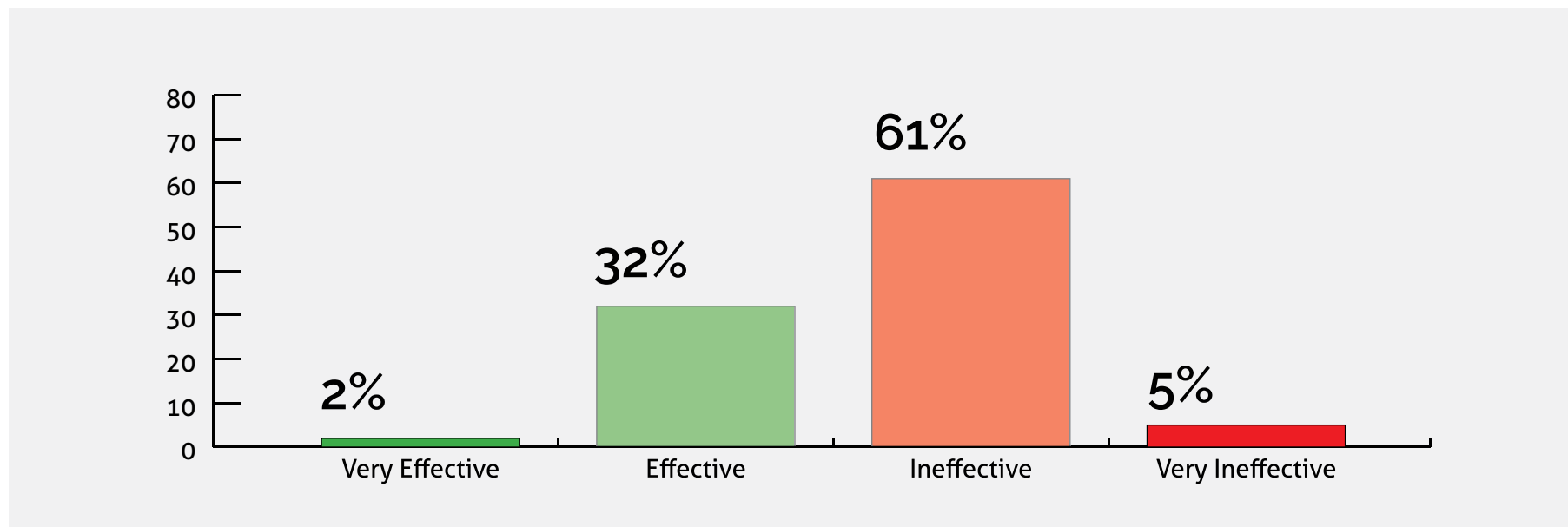
A significant proportion of the citizens interviewed (32%) said their views were taken into account in budgeting while the remainder (68%) said their views were not taken into account. While it is important for citizens to take part in budgeting meetings, such participation cannot be said to be effective if the views of citizens are not taken into account in the actual budgeting.



*Citizen participation in budgeting has been highly ineffective due to the fact that resources are rarely allocated to priorities identified by citizens.”
Mombasa CSO Members—FGD—February 2017.*

Overall, the county is not effective in ensuring public participation. A majority of the respondents said the county was ineffective (61%) while about one-third said it was effective (32%). Only one respondent said it was very effective. The results are shown in the Chart 4.6.

CHART 4.6: RATING MOMBASA COUNTY'S PUBLIC PARTICIPATION EFFECTIVENESS



Source: CISP Survey, 2017.

Reasons given for the poor rating range from poor communication (19.8%), poor mobilization techniques (19.8%) and the fact that citizens solicit bribes to participate (9.9%) to county corruption (7.4%), lack of trust by citizens (6.2%), inadequate funding (4.9%), political interference (4.9%), little time dedicated to discussions (4.9%), poor preparations for forums (2.5%) and lack of awareness (1.2%).

Several suggestions were made by the respondents on how to make citizen participation meet its objectives. These are creation of awareness (26.0%), dissemination of 'early enough' information (20.2%) and use of community leaders to circulate information about forums (10.6%). The suggestions made are in line with the challenges that were cited.

4.1.3 Public Participation Best Practices and Gains in Mombasa County

The participatory validation of the budget estimates for the 2017/2018 Financial Year stand out as one of the best practices from Mombasa County. Having been taken to court by CSOs over lack of participation in the formulation and validation of the 2016/2017 budget, the County Assembly reached out to CSOs and sought a structured collaboration towards passing the estimates. CSOs were presented with the estimates two weeks before the date of validation and were able not only to scrutinise them, but also to disseminate them to almost all the 30 wards in the county.

The participatory development of the County Land Policy also presents a good case study of effective public participation. The background to development of the policy is one of the myriad problems that face Mombasa in managing land issues, which include historical problems of dispossession of communities of their ancestral land as well as the issue of absentee landlords. In developing the policy, the County Government through the Department of Land, Housing and Planning, worked closely with CSOs led by Mombasa Local Urban Forum (M-LUF).

The M-LUF received support from Civil Society Urban Development Programme (CSUDP) towards collection and collation of citizens' views. This allowed them to hold several public participation sessions within the respective sub-counties and stakeholder engagements together with the county personnel. The committee of Land at the county assembly was also part of this team. After finalization, MLUF, together with the county executive and assembly, jointly organized public participation meetings at ward levels to validate the policy.

CSOs in Mombasa also presented one of the best practices in terms of how citizens interact with the mechanisms of public participation. The Mombasa Urban Renewal and Redevelopment of Old Estates housing project initiated by the County Government in 2015, attracted criticism from CSOs. Claimes stated that the citizens affected by the project had not been properly compensated and that public participation forums had not been held to collect the views of citizens. CSOs petitioned the county government through the Executive, but the Executive proved reluctant to address their concerns. This led to a court petition led by several CSOs.

The implementation of the priorities agreed with citizens in the case of Mwakirunge was also a best practice that further demonstrates potential to serve citizens through public participation. During a public forum that, among other matters, discussed citizen development priorities, Mwakirunge citizens requested inclusion of a tractor in the budget estimates for the 2015/2016 Financial Year. According to county officials, the budget was factored in and eventually the tractor purchased and availed to the residents for their use.

BEST PRACTICE IN MOMBASA

EFFECTIVE PARTICIPATION BY CSOS IN VALIDATION OF MOMBASA COUNTY BUDGET ESTIMATES FOR 2017/2018 FINANCIAL YEAR

Every year, all the 47 counties are required by law to engage their respective citizens' to contribute to and validate various developmental policies. One such area of engagement is the budget preparation and validation process. This includes prioritizing areas in which public investments could be made to improve the welfare of citizens. The budget process itself is presided over by the finance department and particularly the County Executive Member (CEC) in charge of Finance.

Counties have devised mechanisms that work best for each of them towards this engagement since they were formally set up in 2013. Some have been able to follow the requirements of the law and set up budget preparation and validation forums to advance citizen participation. More specifically, some counties have set up the County Budget and Economic Forum (CBEF) in line with the Public Finance Management Act, 2011, as a consultative forum on county budgeting as well as broader economic issues and priorities of the county as a whole.

Mombasa County's 2016/2017 budget preparation and validation process was challenged on the basis of inadequate participation. Various CSOs mobilised citizens' to be part of this endeavour. Their aim was to ensure that the budget was not validated without fulfilling the necessary requirement of public participation. Although judgement was rendered in favour of the respondents (basically ruling that the matter had been overtaken by events as the budget had already been passed in the assembly), county officials recognised the need to secure effective public participation in future budget formulation and validation processes.

The impact of the court petition shaped the process of engagement in the 2017/2018 budget formulation and validation process. Before discussing and passing the estimates as required by the law, the county assembly, through the Finance Committee Chair and the Clerk to the Assembly reached out to CSOs to seek collaboration towards a more harmonious working relationship overall, but with the immediate objective of participatory validation of the estimates for the coming financial year. Several meetings were held and working modalities agreed on. On their part, the CSOs were able to emphasise inculcating the necessary principles of public participation in the process as required by law and principles guiding public participation.

As a result of the consultations and agreement on a structured engagement, the assembly presented the budget estimates to the CSOs two weeks before the validation meeting. CSOs were able to scrutinise the estimates during this time and to present feedback collectively to the assembly. It was, indeed, the first time that CSOs were given adequate time to collectively scrutinise the budget estimates. Previously, all documentation relating to the budget would be shared on the day of validation, making it virtually impossible for stakeholders to scrutinise them and give useful feedback. CSOs used the two weeks not only to scrutinise the budget estimates but also to disseminate the document to almost all the 30 wards in the county. They also mobilised citizens for the final validation meeting that took place at the Tononoka Social Hall on 6th April 2017. The assembly acknowledged the role played by the CSOs in this instance of effective collaboration.

4.1.4 Conclusions and Recommendations

Conclusions

Mombasa has made significant progress in setting up and using various mechanisms of public participation. This study established that citizens individually and CSOs among other stakeholder groups, were proactive in engaging with the county public participation platforms. Apart from attending forums convened by the county, CSOs were found to have petitioned the county on various issues and, at least in one case, escalated the matter to the courts of law. At least two best practices were noted: the participatory development of the draft land policy and the exemplary participation of CSOs in the validation of the 2017/2018 FY budget estimates. Among the weaknesses noted was the County's inability to enact laws required for public participation such as the Public Participation Act and Access to Information Act/Freedom of Information Act. It had also not established an effective County Budget and Economic Forum (CBEF) hence limiting participation in the budget-making and validation processes.

Recommendations for the County Government

- ◇ Enact laws required to guide public participation such as the Public Participation Act and Access to Information Act/ Freedom of Information Act as per the County Governments Act, 2011;
- ◇ Establish an effective County Budget and Economic Forum (CBEF);
- ◇ Put in place village administration to further decentralize administration and public participation undertakings;
- ◇ Build the capacity of sub-county and ward administrators to undertake more effective public participation and educate citizens on the functions of the county government, among other issues of importance;
- ◇ Work towards more effective engagement with CSOs and other stakeholders in carrying out civic education and mobilizing citizens for public participation.

Recommendations for CSOs and other Stakeholder Groups

- ◇ Advocate for enactment of laws to guide public participation Public Participation Act and Access to Information Act/ Freedom of Information Act;
- ◇ Advocate for formation of an effective County Budget and Economic Forum (CBEF) in line with the guidelines issued by the Commission on Revenue Allocation (CRA) issued on 3rd March 2015;
- ◇ Aim to have more structured engagements with the county government through Memorandum of Understanding that detail commitments and responsibilities on both sides, and
- ◇ Form and manage a broad CSO network in the County as well as thematic networks (networks that deal with different thematic issues such as finance) to be effective in facilitating public participation.



4.2 Effectiveness of Public Participation in Taita Taveta County

4.2.1 Citizen Participation Avenues and Dynamics

The County was found to engage citizens through various mechanisms of public participation including forums and meetings (including budget preparation and validation forums) as well as sittings of the County Assembly. Further, the County has put in place sub-county administration, ward administration as well as ward management committees.

The ward management committees act as a link between the county government and citizens at the grassroots/ward level. They were set up with the assistance of CSO and development partners including CISP. Though well intentioned as a mechanism of participation, lack of support by the County Government rendered them largely dysfunctional. There was also a misconception by the members that belonging to the committees conferred on them the status of employees.

The Voi Town Management Committee (VTMC) was found to be the most active of the ward committees. It has representation from bo-

da-boda operators, the market stall owners/sellers, matatu/tuk-tuk operators, the town's Chamber of Commerce, women, persons with disabilities and the ward administrator. The ward administrator is the committee secretary. Two MCAs also sit in the committee. The experience of setting up the committees and the misconception of members as to their relationship with the county provide important lessons for counties aiming to set up similar structures.



The committee conducts town-hall meetings where the county government uses the opportunity to explain to the citizenry the status of development projects and generally public utilities. Citizens also get an opportunity to query the government on various issues. For example, if Voi Hospital lacks some resources, the VTMC becomes a channel for this information to reach the county executive."

VTMC Member—KII—February 2017

Citizens interviewed indicated they had participated in between 2 to 25 county forums since the year 2013. The highest proportion of attendees (22.5%) had attended between 10 and 20 forums, indicating a fairly high level of participation overall among those interviewed.

Respondents were motivated by different factors to participate in county forums. The highest proportion of respondents (35.6%) attend forums to receive updates about county development activities, while the second highest proportion (20%) attend to give their opinions 'as citizens'. This signifies the understanding that participation is a right. Indeed, the next highest proportion is motivated by the fact that 'it is their right to participate in county affairs as citizens'. The results of these findings are presented in the Table 4.2.

TABLE 4.2: MAIN MOTIVATION TO PARTICIPATE IN COUNTY FORUMS

MAIN MOTIVATION	FREQUENCY	PERCENTAGE
To represent people living with disability	1	2.2
To receive updates about the county development activities	16	35.6
To represent my community	4	8.9
To air my grievances	2	4.4
To give my opinions as a citizen	9	20.0
To know what the county has allocated for the Youth	1	2.2
It is my right to participate as a citizen	6	13.3
To know how much the county has allocated for projects	3	6.7
To engage my leaders	1	2.2

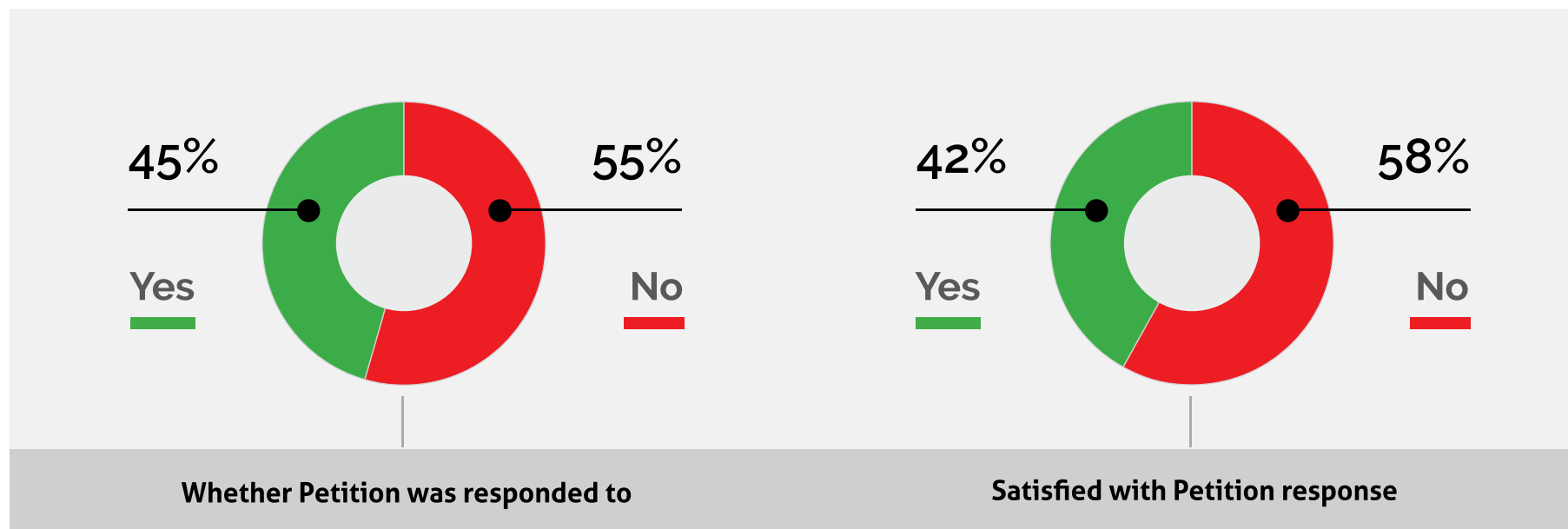
Source: CISP Survey, 2017

Further, the respondents were found to have engaged the county through petitions/letters/memorandum (51.4%), county assembly sittings/gallery (13.5%), demonstrations (29.7%) and picketing (5.4%). The high level of use of petitions/letters/memoranda signifies a high level of direct citizen action in the County. Demonstrations were held where citizens felt the County was not responsive to their demands. A number of memoranda and petitions had been filed with both the County Executive and the County Assembly since 2013.

Both the County Executive and the County Assembly were of the view that petitions are responded to as per the law and County Assembly standing orders. Representatives of the County Assembly explained that the Assembly is bound by standing orders to respond to petitions within 14 days. Some of the challenges cited in reviewing petitions include petitioners not following laid down procedures for drafting petitions. For example, whereas petitions require 100 signatures, oftentimes, this requirement is not met. This necessitates further training of community groups in the proper use of petitions.

Though petitions were widely used by citizens, the study demonstrated that less than half of all petitions were responded to (45%) while less than half of the petitioners (42%) were satisfied with the responses they got from the county. Given that the law provides for the right to receive responses to petitions, in this case, petitions were not very effective as a means of engaging with the counties due to the low rate of response. The results are shown in Chart 4.7.

CHART 4.7: PETITIONING EXPERIENCE



Source: CISP Survey, 2017.

CSO representatives who took part in the FGDs and KIIs shared the view that response to petitions by both the County Executive and the Assembly was generally 'poor'. They noted that often, the County Government would make promises to respond within a given period of time but this would not happen. This occasionally forced the stakeholder groups to organize demonstrations to enhance their voices.



Out of about six petitions lodged with the County Executive and Assembly in 2016, none has been responded to. The challenge faced by CSOs and citizens is the follow-up process that no organization wishes to engage in, as it may lead to further implications such as the taking up of legal measures. During the presentation of one petition, the county government promised to reply in 2 days; three months later there was still no response.”
Taita Taveta CSO Member—KII—February 2017.

The sub-county and ward administrations were found to be at the core of public participation, especially mobilization of citizens. The various departments such as finance, were found to use the administrators as an entry point, especially at the ward level when conducting public participation forums and meetings. They were also involved directly in some of the mechanisms of participation including the VTMC where the ward administrator is the secretary. This direct involvement was found to accord them opportunity to understand the county dynamics better, hence making them effective in their roles of facilitating public participation.

Even though the sub-county and ward administrations in Taita Taveta County were found to be well-established, in some cases the county departments still preferred to carry out their own public participation functions including mobilization. In addition, it was also found that some level of tension exists between the administrators and MCAs when it comes to citizen mobilization. The politicians preferred to use their own local networks to mobilise citizens whenever they have forums. MCAs were found to be involved in forums that discuss bills before they are enacted into law and budget forums before the budget is passed by the Assembly.



The sub-county administration was formed about three and a half years ago and has been working throughout ever since. Its activities include planning for the public participation activities, communicating and mobilizing stakeholders as well as giving feedback to the citizenry. Public participation is done by all departments of the county executive.”
Taita Taveta Ward Administration Member—KII—February 2017.

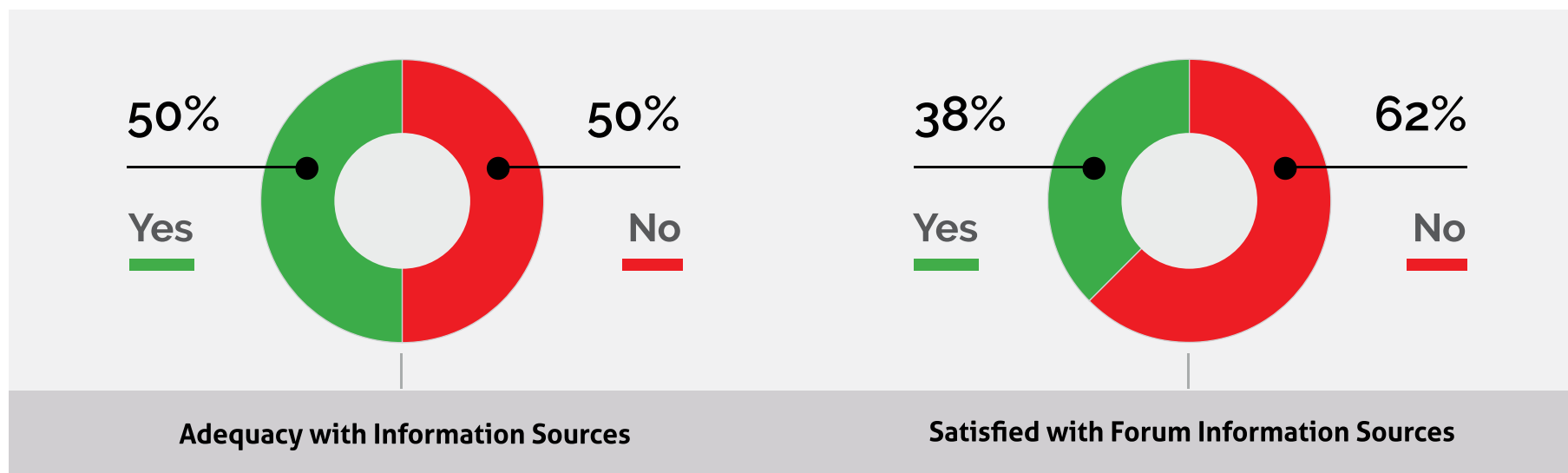
Mobilization of citizens was carried out through various channels. The networks of stakeholders established by the County since 2013, which include civil society, women's groups and representatives of persons with disabilities, were found to be at the core of mobilization and public participation. These networks were connected through information outlets such as WhatsApp groups. The negative side of using the more established networks for mobilization and public participation is the fact that the same people tend to attend most meetings of the county. Thus, whereas it creates efficiency and takes care of urgent matters, the use of networks also closes the space for public participation as those who are not connected to the networks are rarely able to access information to enable them to participate in county affairs. This creates a level of exclusion and therefore contradicts the requirements of public participation.

The County was also found to employ Twitter, Facebook and bulk SMS' for mobilization and providing information to citizens. Most of those interviewed preferred SMS' and WhatsApp channels of communication because of widespread use of mobile phones. Where they still existed, like in the case of Voi Town, ward committees were effective mechanisms. They were found to be well-structured with the VTMC holding stakeholders' meetings every month to discuss issues affecting the town.

The leading source of information for those interviewed was county/government officers (29.7%) signifying a high level of contact between officers of the county and those interviewed. This can partly be explained by the fact that those interviewed are persons mobilized by the civil society. CSOs have endeavored to work closely with the county governments and some have signed Memoranda of Understanding (MoU) for this purpose. The second, third and fourth sources of information were leaders (24.3%), media (23.0%) and church (20.3%). In FGDs and KIIs involving county officials, emphasis was put on the use of mass/social media for communication. They averred that the County had spent considerable resources using outlets such as radio, particular the FM stations. The County also has an official facebook page and utilizes twitter accounts for public communication. However, as the findings of this study show, investing in personal contacts with stakeholders may be more productive in terms of enhancing effective participation.

Half of the respondents reported receiving adequate information to participate, while the other half reported not receiving adequate information. However, on the level of satisfaction with the manner in which the information was provided, the majority (62.5%) indicated they were not satisfied, as indicated in chart 4.8. Some of the issues raised were that information was often delayed and that the documents were too bulky to go through in a short time and participate effectively. It was however noted that 80% of those with adequate information rated the county public participation to be effective as compared to 56.7% of those without adequate information. This shows that adequate information is important for meaningful and effective participation.

CHART 4.8: INFORMATION ADEQUACY AND SATISFACTION WITH THE SOURCES



Source: CISP Survey, 2017.

There was evidence of the county working with CSOs and, in a few cases they had signed MoUs with the CSOs. This signalled the county's willingness to involve CSOs in their operations. CSOs were generally found to be involved in educating citizens on public participation and the specific roles of the county government. They were also involved in building capacity of some of the members of public participation mechanisms such as the VTMC. Importantly, the County Government had worked with the United Nations Development Program's Amkeni Wakenya to develop county specific guidelines on public participation. In some cases, CSOs were also involved in mobilizing citizens for public participation on behalf of the County.



In December 2016, UNDP funded a program which resulted in the county government holding a meeting with CSOs on public participation. Consequently, the Public Participation Bill was placed aside and guidelines on public participation were developed for the County. A committee on public participation was established in line with the policy. Furthermore, the County proposed to one of its development partners, CISP, to develop a program to support public participation.”
Taita Taveta County Executive Member—KII—February 2017.

The entrenched collaboration between CSOs and the County Government did not, however, diminish the advocacy role of the CSOs. CSOs were largely responsible for training citizens on means of engaging the County, including drafting petitions and organizing demonstrations when the County Government was perceived to be non-responsive to citizen demands.

An innovative aspect noted in relation to the County is the establishment of the Complaints, Compliments and Information office whereby any person can present their grievances and remarks to the county government. In view of the County, this is a mechanism for public participation. There is one office in each sub-county. Complaints against the County Government are brought to these offices. Once they receive a complaint, the county officer in charge documents it and takes the identity and contacts of the complainant for the purpose of feedback. The office then seeks the proper department for redress to the complaint in written form. Where necessary, the complainant may be invited to discuss the grievance with the relevant department.

Participation in the budgeting process was found to be somewhat hampered by the ineffectiveness of the County Budget and Economic Forum (CBEF). Even though the Forum had been established in 2014, it had largely failed to be institutionalized and to undertake its functions in a systematic manner. Insufficient support from the County meant the Forum members were unable to plan meetings. The members were rarely involved in the budget process.

4.2.2 Citizen Participation Relevance and Legality

At the time of conducting the fieldwork for this research, attempts by the County to enact a Public Participation Act had not been successful. A Public Participation Bill was prepared in 2014 by the County Executive and passed on to the County Assembly for debate and passage. There are differing perspectives on the effect of lack of a Public Participation Act. Whereas civil society groups are critical of this and identify it as a major gap, the County Executive takes the view that public participation can be handled by the Constitution and other laws including the Public Finance Management Act, 2011. In May, 2016, civil society groups petitioned the County Government on enactment of the Public Participation Act, underscoring their concern regarding the absence of the legislation.



The absence of the legislation is not a big impediment because what makes things work is the spirit behind it. Furthermore, there is a Bill awaiting enactment. This shows the spirit and commitment from the county government to have the law and policy enacted.”
Taita Taveta County Executive Member—KII—February 2017.



The absence of a Public Participation Act impedes public participation to an extent because the citizenry cannot compel the county government to take certain actions because there are no clear laws determining the threshold on public participation. The county government is left with wide discretion to determine the scope of public participation. It is therefore difficult to hold the county government accountable.”

Taita Taveta CSO Member—KII—February 2017.

In the absence of the law on public participation, the setting up of the sub-county and the ward administration units was a step in the right direction in carrying out public participation. A working relationship between civil society, UNDP’s Amkeni Wakenya and the county saw to the development of county public participation guidelines, which further streamlined public participation. This is one of the important gains made by Taita Taveta County. However, the County still needs to pass the Public Participation Bill into law.

CSOs interviewed in an FGD averred that the Constitution and national laws only give broad guidelines on public participation. Local laws are able to take into consideration unique features in a county and the understanding of local community needs and dynamics. Furthermore, a local law creates the conditions for citizens to demand accountability more effectively from the county government.

The citizens interviewed were generally found to be aware of law(s) guiding public participation (53.8%). Among others, they mentioned the Constitution (72.7%), the Public Participation Act (13.6%), and the County Governments Act (9.1%). The Constitution indeed sets out the broad principles of public participation. Public participation is also one of the values and principles of governance in Article 10. The County Government Act goes further to create some of the mechanisms of public participation. The Wildlife Act is of specific importance to the County not only because it also recognizes public participation, but because the County hosts one of country’s major game parks. However, the county is yet to enact the Public Participation Act and references to it by the respondents could be as a result of the various discussions that have taken place in the Assembly. Notably, the respondents did not mention some of the laws such as the Public Finance Management Act or the Urban Areas and Cities Act that also prescribe mechanisms for public participation. This underscores the importance of civic education to improve the awareness of citizens on the various laws and mechanisms of public participation.

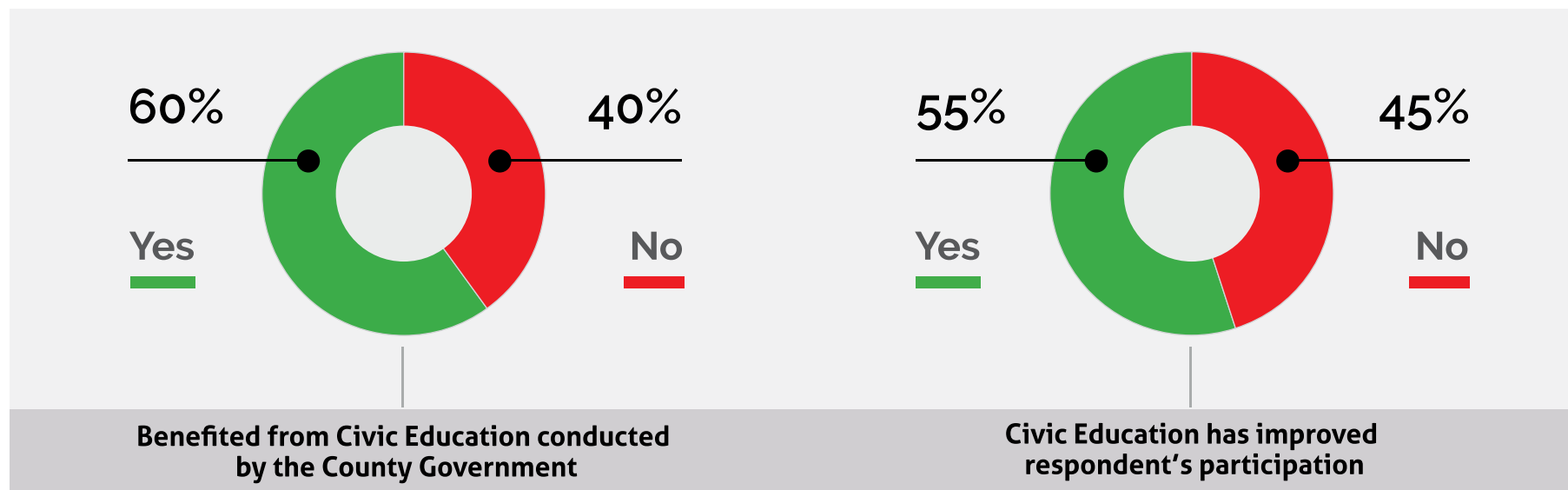
Under the County Governments Act, 2011, civic education is made one of the key functions of county governments. The purpose of civic education is to have an informed citizenry that actively participates in governance affairs of the society on the basis of enhanced knowledge, understanding and ownership of the Constitution. There are three important requirements in implementation of effective civic education by

counties: (i) establishment of a civic education unit, (ii) participation of registered non-state actors, and (iii) the enactment of County legislation to provide the requisite institutional framework for purposes of facilitating and implementing civic education programmes.

At the time of conducting fieldwork for this study, the County was in the process of establishing a civic education unit. It already had in place a liaison person, part of whose mandate was to work with other stakeholders to undertake civic education. Before the setting up of the unit, an ad hoc arrangement existed whereby a number of individual civil society actors had been selected by the county in each sub-county to provide civic education. This arrangement was, however, a source of criticism by diverse actors as it was seen as largely geared towards mobilizing political support for elected officials in the county. This underscores the need for CSOs to approach collaboration on effecting public participation as a collective to avoid inter—CSO disagreements that would make them less effective.

A majority of respondents (60%) acknowledged having been exposed to civic education by the county government. A majority of those who had been exposed to civic education found it to be relevant (64.0%) and very relevant (28.0%). Only 4% of the respondents found the civic education to be irrelevant and very irrelevant. More than half the respondents (55%) said the civic education had improved their participation in forums. This result is shown in Chart 4.9.

CHART 4.9: CIVIC EDUCATION EXPOSURE AND RELEVANCE



Source: CISP Survey, 2017.

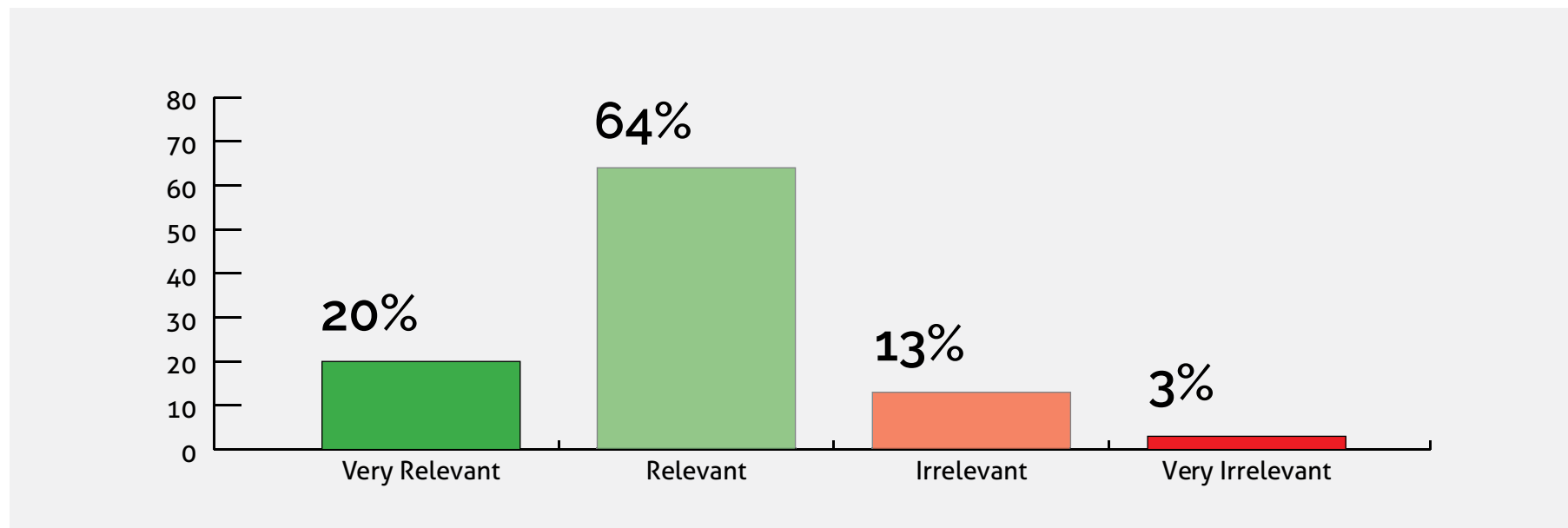
It is significant that nearly half of the respondents who had been exposed to civic education said it had not improved their participation in the affairs of the County. This can be explained by the fact even though respondents claim to have been exposed to civic education the County's civic education infrastructure was at its nascent stage during the study. It was therefore not possible to make conclusions about its effectiveness. It was also revealed through key informant interviews, that the County had identified a number of individuals associated with CSOs to be their key civic education facilitators. Respondents saw this approach to be rather ad hoc and incapable of resulting in gainful civic education. More critical perspectives said the approach was meant to appease civil society.

Though there was evidence of existing MoUs between the County and CSOs, these agreements focused on broader issues and were not particularly focused on the implementation of civic education programs. An agreement with CISP, for instance, focused more on building the capacity of the county staff on devolved government, sharing of reports, among others, rather than strictly focusing on provision of civic education. The County also lacked a civic education law that is a requirement of the County Government Act, 2011. This underscores the scope for further improvements, not only in providing civic education but also making public participation more effective.

Even though a majority of citizens interviewed in the study (82.1%) confirmed that issues of importance to their community are discussed in forums, many (62.5%) said their views are not taken into account in decision-making. Government officials and other stakeholders expressed different opinions during the FGDs and KIs. Taita Taveta Government officials admitted that there were challenges in factoring in citizens' views in decision-making; however, in their view the County always ensured that citizens' views were factored in decision-making. The CSOs cited the fact that the County never factored in citizen views to explain why they had occasionally demonstrated against the County and even contemplated taking legal action. Many of the respondents (64.1%) confirmed the relevance of public participation while (12.8%) said it was irrelevant.

Because of the overall relevance of public participation, the majority of citizens (84%) would still attend county forums if called upon, even though their views are not taken into account in decision-making. This could also be explained by the fact that citizens feel close to their county governments and feel the need to "be in the know" about the affairs of the County. Respondents gave a number of reasons why they would still participate if called to. A majority would want to give their views (35.7%) while others would like feedback from the county government (14.3%). A slightly lower proportion would want to be informed about their county government (11.9%). A key reason given by those who would not attend county forums is the lack of implementation of citizen priorities. Overall, however, citizens find public participation to be relevant. This is shown in the chart 4.10.

CHART 4.10: PUBLIC PARTICIPATION RELEVANCE



Source: CISP Survey, 2017.

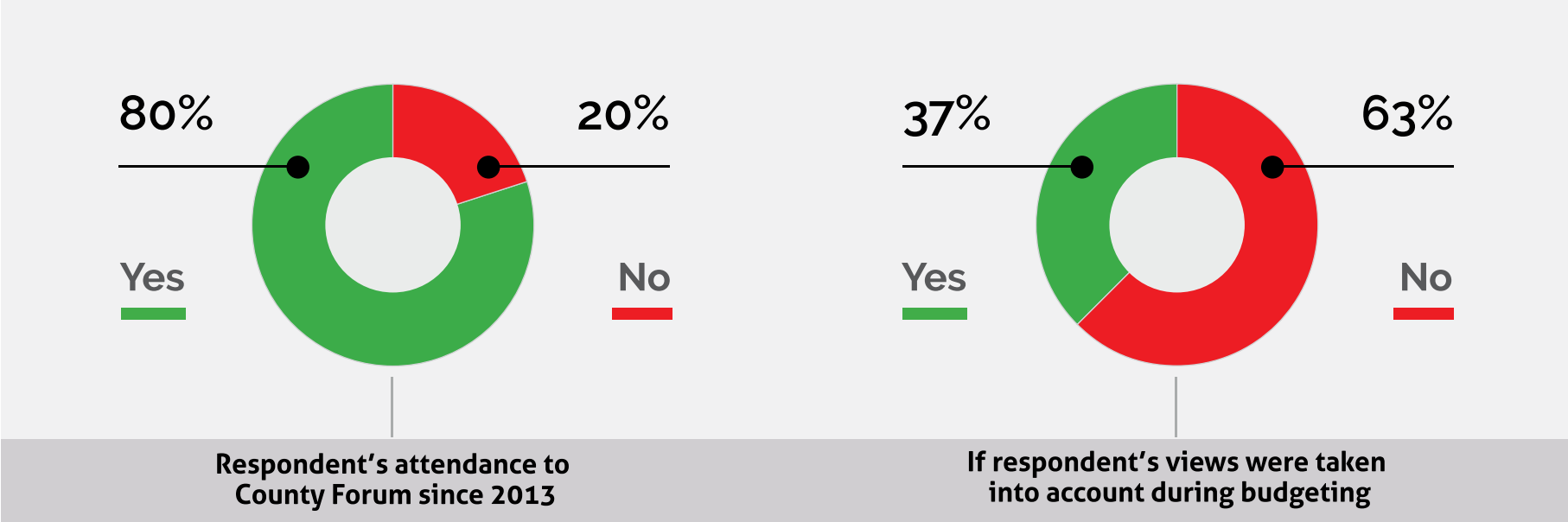
Citizens overwhelmingly (97.5%) supported the idea of encouraging more to participate in county forums. It was considered important to encourage citizens to participate in order to be informed about the county government (29.3%), to present their priorities for implementation (26.8%) and because it is a constitutional right (17.1%). Some saw continued participation as a way of holding the county governments accountable (9.8%) and as a way of raising issues with the government (9.8%). The things that can be achieved by participation include county governments implementing proposals from citizens (58.5%), service delivery (9.8%), ensuring good governance (9.8%) and delivering civic education (9.8%).

When it comes to how county governments use citizens' views, the majority of respondents said they do not do anything with the views (70%) while a minority (30%) said the views are considered for implementation. This corresponds well with the finding that the views of citizens are not taken into account in decision-making. Equally important is the fact that most of the respondents (57.5%) felt that public participation had not improved service delivery in the county.

An overwhelming majority (80%) of those interviewed had attended a meeting to discuss the County’s budget between 2013 and 2017. A majority of the respondents were found to have attended such meetings in 2015 (32.8%) and 2016 (37%). More than half (63%) said their views were not taken into account in budgeting. This is exactly the same as the proportion of surveyed citizens who said their views were not taken into account in decision-making.

The Chart 4.11 shows the extent to which citizens’ views were taken into account in budgeting.

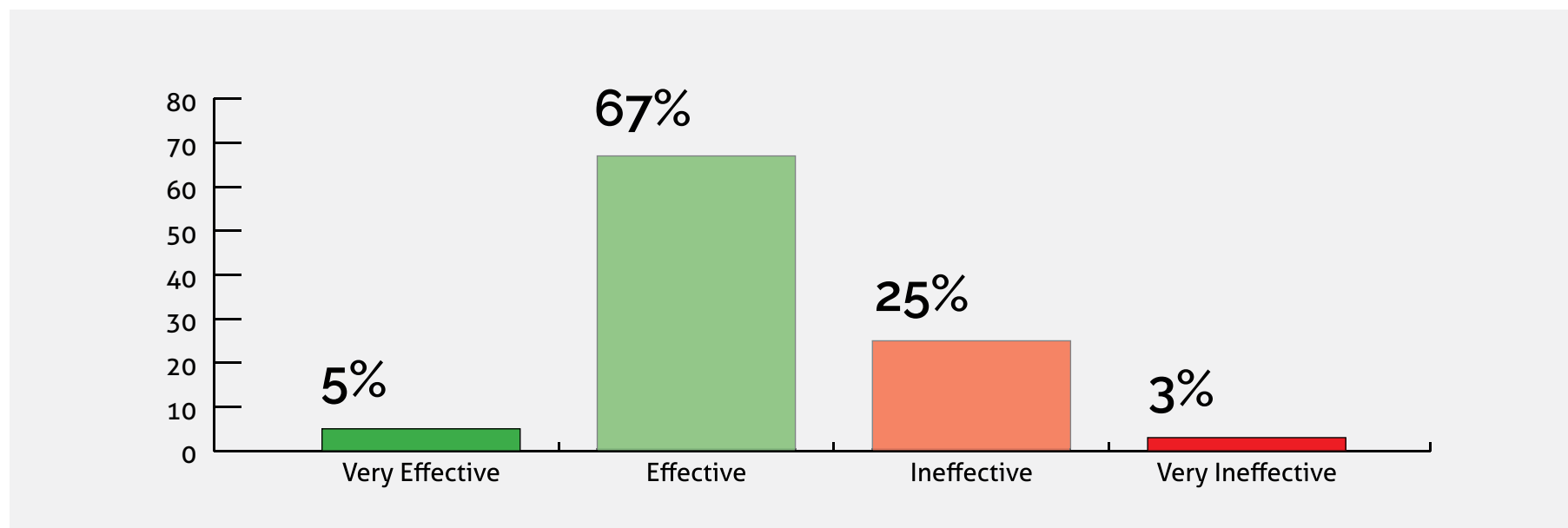
CHART 4.11: ATTENDING BUDGETING AND PARTICIPATION IMPACT



Source: CISP Survey, 2017.

A majority of those interviewed found the County to be effective (67.5%) in carrying out public participation. A significant minority (25.0%) said it was ineffective. Overall, the county registered a high degree of effectiveness in ensuring public participation.

CHART 4.12: RATING TAITA TAVETA COUNTY'S PUBLIC PARTICIPATION EFFECTIVENESS



Source: CISP Survey, 2017.

The respondents cited the following challenges as hampering public participation: ignorance among citizens (19.3%), poor communication (17.5%), failure to implement citizens' priorities (12.3%), provision of inadequate documents during public participation forums (10.5%) and inadequate resources (8.8%).

Creation of awareness (28.8%), implementation of citizen priorities (18.2%) and more effective communication (18.2%) were given as the main ways through which the county could enhance public participation. Others are production of documents before forums begin (9.1%) and appropriateness of meeting venue (7.6%). The suggestions made are in line with the challenges that were cited.

4.2.3 Public Participation Best Practices and Gains in Taita Taveta County

Various aspects of public participation stand out in Taita Taveta. These are: the participatory development of county-specific guidelines on public participation, the initiation of the Complaints, Complements and Information office, formulation of the policy to guide the setting up of village councils, and the establishment and functioning of the Voi Town Management Committee as a mechanism of participation in the management of Voi Town. All these suggest that some progress has been made in successfully effecting public participation in the County.

The county-specific guidelines on public participation were developed at a time when the PPA had not been passed following disagreements between the County Assembly and the Executive. In this sense, they filled a critical gap before enactment of the law. The process of developing the guidelines also represents an important lesson in collaboration between county governments, CSOs and development partners. The UNDP through *Amkeni Wakenya* provided the resources as well as technical expertise for developing the guidelines. CSOs, on the other hand, provided the much needed local expertise, given their understanding of the local context.

The Complaints, Complements and Information office was initiated to give citizens an easy way of both raising complaints and complementing the government, but also, significantly, procuring information about the county without the bureaucracy that goes with such endeavours. It is therefore an innovation that could be useful in supplementing what is officially done in terms of public participation. Though the County lacks a policy or law on public communication, the initiation of the office is an indicator of the willingness on the part of the County Government to empower citizens through information. It will be useful for CSOs to evaluate its usefulness to citizens of Taita Taveta and other stakeholders after a period of time.

The idea of setting up village councils was mooted by the County after realization that it would be very costly to have fully fledged village administration units. Though a stop-gap measure, they are useful in citizen mobilization beyond the ward level. The question of their legality is an important question that the county will have to consider carefully. Furthermore, whether and how they work should be of interest to civil society, especially when it comes to enhancing public participation.

Voi Town Management Committee was formed in line with the requirement of the Urban Areas and Cities Act, 2011, which, among others, mandates the County Government with the duty of establishing forums in urban areas to enable citizen participation. At the time of the research, the forum meetings had been institutionalized with the ward administration providing vital backup for the members. It is significant that all major interests in the County including persons with disabilities, women and small-scale businesspersons such as *boda bodas*, have representation in the forums.

BEST PRACTICE IN TAITA TAVETA

EFFECTIVE COLLABORATION TOWARDS DEVELOPMENT OF COUNTY PUBLIC PARTICIPATION AND CIVIC EDUCATION POLICY FOR TAITA TAVETA COUNTY

On 24th May 2016, CSOs in Taita Taveta County petitioned the County Government on the issue of delayed enactment of the County Public Participation Act. The petitioners noted that the enactment of the law had taken too long, having commenced in 2014 with drafting of the Taita Taveta County Public Participation Bill, 2014. The CSOs conveyed to the governor their concern that after two years, the law had not been enacted “for reasons best known to the county assembly and the county executive”.

They further averred that in their view, lack of a Public Participation Act had led to a situation whereby public participation was being carried out in an ad hoc and unstructured manner. This had in turn led to ineffective public participation and consistent complaints by citizens and CSOs in the county. In their view, this situation was in contravention of the Constitution and laws such as the County Governments Act, 2011, that require counties to enact laws and establish mechanisms of public participation.

CSOs followed up the petition with a number of meetings with county officials, including the governor. They also engaged the County Assembly as the legislative arm of the government. A few weeks after the petition and following these intense follow-ups, the county government’s department of devolution and public administration sought assistance from the United Nations’ Development Programme (UNDP) through its democratic funding facility, Amkeni Wakenya, to support a consultative process towards developing the County Public Participation and Civic Education Policy. This gave birth to a three-day stakeholders’ workshop, which commenced the process of developing the Draft Policy Document.

The first draft of the policy document was submitted to the Governor’s office in July 2016. It was circulated to stakeholders, including CSOs for comments prior to validation. Subsequently, a validation workshop was held with CSOs and staff of the Department of Devolution and Public Administration. The workshop endorsed the Draft Policy Document with a few changes. The success of the workshop led to an agreement to align the Draft Public Participation Bill to the key contents of the Draft Policy Document.

This was followed by a workshop with Members of the County Assembly (MCAs), which reviewed the Draft Policy Document and examined the contents of the Draft Public Participation Bill in light of the provisions of the Draft Policy Document. The key outcome was endorsement of the Draft Policy Document by the MCAs. The MCAs also agreed to institute fundamental changes to the Draft Public Participation Bill in order to ensure congruence with the policy.

The workshop also resolved to establish a joint secretariat comprising staff from the county executive and the departmental committee of the Assembly along with the proposer of the Draft Bill. The main mandate of the joint secretariat was to work on the specific amendments to be presented to the Assembly.

4.2.4 Conclusions and Recommendations

Conclusions

Taita Taveta scored highly in terms of overall assessment on effectiveness in facilitating public participation from the citizens who were interviewed. The study revealed certain strengths and weaknesses of the County in terms of implementing public participation. It established that the county had put in place various mechanisms to enable public participation even though it had not enacted a Public Participation Act. It had established sub-county and ward administration units, that were found to be actively engaged in citizen mobilization. Also of significant note is the establishment and facilitation of the Voi Town Management Committee (VTMC), one of the best practices established in the study. Its functioning Complaints, Compliments and Information office enables citizens to access information and to forward their complaints to the County thus representing an important gain for the County. But, whereas the progress Taita Taveta County has achieved is commendable, a few weaknesses were noted. For instance, the County Budget and Economic Forum (CBEF), even though established, was found to be ineffective. Second, it had not enacted a Public Participation Act; neither did it have in place an Access to Information Act. Although the Complaints, Compliments and Information office was found to somewhat ameliorates this weakness, the law is still a requirement that will enable the county to think more elaborately about effective access to information by citizens.

Recommendations to County Government

- ◇ Enact laws required to guide public participation such as Access to Information Act/Freedom of Information Act as per the County Governments Act, 2011;
- ◇ Establish an effective County Budget and Economic Forum (CBEF);
- ◇ Put in place village administration to further decentralize administration and public participation undertakings;
- ◇ Improve the effectiveness of the VTMC by tackling any reasonable grievances raised by the members and ensuring that they (members) understand the voluntary nature of the platform, and
- ◇ Build the capacity of sub-county and ward administrators to undertake more effective public participation and educate citizens on the functions of the county government, among other issues of importance.

Recommendations for CSOs and Other Stakeholder Groups

- ◇ Advocate for the establishment of a functioning County Budget and Economic Forum (CBEF);
- ◇ Collaborate with the County Assembly to formulate and enact various laws required to facilitate public participation including Access to Information Act/Freedom of Information Act as per the County Governments Act, 2011;
- ◇ Advocate for the further decentralization of public participation through formation of village administration units;
- ◇ Advocate for the formulation of an effective framework for forming and managing ward committees including the VTMC, and
- ◇ Collaborate with the county government in building the capacity of sub-county and ward administrators to undertake more effective public participation and educating citizens on the functions of the county government, among other issues of importance.



4.3 Effectiveness of Public Participation in Kilifi County

4.3.1 Citizen Participation Avenues and Dynamics

Findings from Kilifi County indicate a high level of interest among citizens to monitor what happens in their county. The County used various mechanisms to implement public participation. These include forums and meetings and the public gallery in the case of the County Assembly. Notice boards were found to be in use particularly at the county headquarters while various information and communication technology platforms were also in use. The meetings and forums were organized to discuss different issues including laws, county plans (such as the County Integrated Development Plan—CIDP) and the budget. According to county officials, budget preparation and validation forums were the most popular. The County was found to rely mostly on the Public Finance Management Act, 2011 and the County Governments Act, 2011, to carry out public participation.

Both laws are important in guiding public participation. The Public Finance Management Act, 2011, requires the County Executive Committee (CEC) member in charge of finance to ensure that citizens participate in budgeting. It also requires setting up of the County Budget and Economic Forum (CBEF) through which consultations are held with stakeholders during budget formulation. The County Governments Act, 2011, on the other hand, places emphasis on access to information in the form of media with the widest public outreach in the county as well as provision of civic education.

The key responsibilities for public participation in Kilifi County were found to be domiciled in two departments: Department of Devolution, Public Service and Disaster Management mainly in determination of level of public participation and Department of Finance and Economic Planning in relation to County budget-making process. To engender commitment of the various departments towards undertaking public participation, the County put in place a Public Participation Committee made of representatives from all departments.

The County Assembly carries out public participation activities in relation to the budget-making process and legislation. Resources for public participation for the Assembly were budgeted for as part of the Assembly's overall budget. Even though the Assembly's public gallery is a key avenue of public participation, it was established that it does not consistently attract significant numbers of members of the public.



Members of the public were noted to be reluctant to attend County Assembly sessions. Members of the public are unaware that they can walk into the public gallery any time to follow any discussion of interest in the assembly."

Kilifi County Assembly Officer—KII—February 15th 2017.

Kilifi County was also found to have decentralized the structures of administration and public participation to the ward level through sub-county and ward administrators. This is in line with the Constitution and the objects of devolution. Article 176(2) states, "Every county government shall decentralise its functions and the provision of its services to the extent that it is efficient and practicable to do so." The administrators mainly play the role of mobilizing citizens for public participation hence the importance of decentralizing to the ward level.

One of the key challenges noted by the administrators is the fact that not all citizen views are reflected in the decisions made by the County. This is a challenge since the administrators interact with citizens on a regular basis. They are therefore more likely to be questioned about the outcome of public participation by the citizens.

Citizens were also found to have used various avenues to engage with the County Government. The findings from the survey instrument shows that apart from meetings and forums, citizens used petitions/letters/memorandum (38.3%), county assemble sittings/gallery (36.2%) and demonstrations (25.5%).

County officials and stakeholders averred that there was a high level of commitment both on the part of citizens and the County Government to make public participation effective.



Public participation as conducted in this county has brought many changes in governance. There is now a sense of responsibility and responsiveness towards citizens' views. Citizens expect the county to be sensitive to their needs. It is important to note that this is happening despite the County not having a Public Participation Act."

Kilifi County Executive Member—KII—February 2017.

The findings also show different sources of motivation for public participation. The single largest proportion of citizens (26.9%) noted the need to air their views 'as citizens'. Other responses included: the need to familiarize (oneself) with the County budgetary allocations and to be informed about the county government (15.4% each), all as shown in table 4.3.

TABLE 4.3: MAIN MOTIVATION TO PARTICIPATE IN COUNTY FORUMS

MAIN MOTIVATION	FREQUENCY	PERCENTAGE
To air my views as a citizen	14	26.9
To know the budgetary allocation to the county	8	15.4
To be informed about the county government	8	15.4
It is my constitutional right as a citizen	6	11.5
I want to become an agent of change	3	5.8
To be informed in order to sensitize other citizens	2	3.8
To represent the youths	2	3.8
To keep leaders in check	2	3.8
To represent my community	2	3.8
To know about the county development agenda	2	3.8
To find employment	1	1.9
To represent people with disabilities	1	1.9
To follow up if the projects are implemented	1	1.9
TOTAL	52	100.0

Source: CISP Survey, 2017.

The importance of communication and information in public participation cannot be overestimated. The County was found to employ newspapers, direct phone calls to key stakeholder groups such as private sector and CSOs, SMS', as well as social media outlets mainly Twitter, Facebook and WhatsApp to convene meetings. WhatsApp came out as the preferred social media platform. Notice boards and public announcers (using public address systems) are also used. Though the County had made efforts to streamline its communication, several challenges were cited that undermine those efforts. These include the lack of a law on public communication and the irregular updating of websites and social media outlets such as Facebook.



As a county, we do not have a law to guide public communication. What we have done is to use a mixture of different avenues and outlets. We usually communicate with the public through newspapers, phone calls and SMS' if necessary and social media platforms especially through the WhatsApp groups. The county government has a website which is updated regularly.”
Kilifi County Executive Member—KII—February 2017.

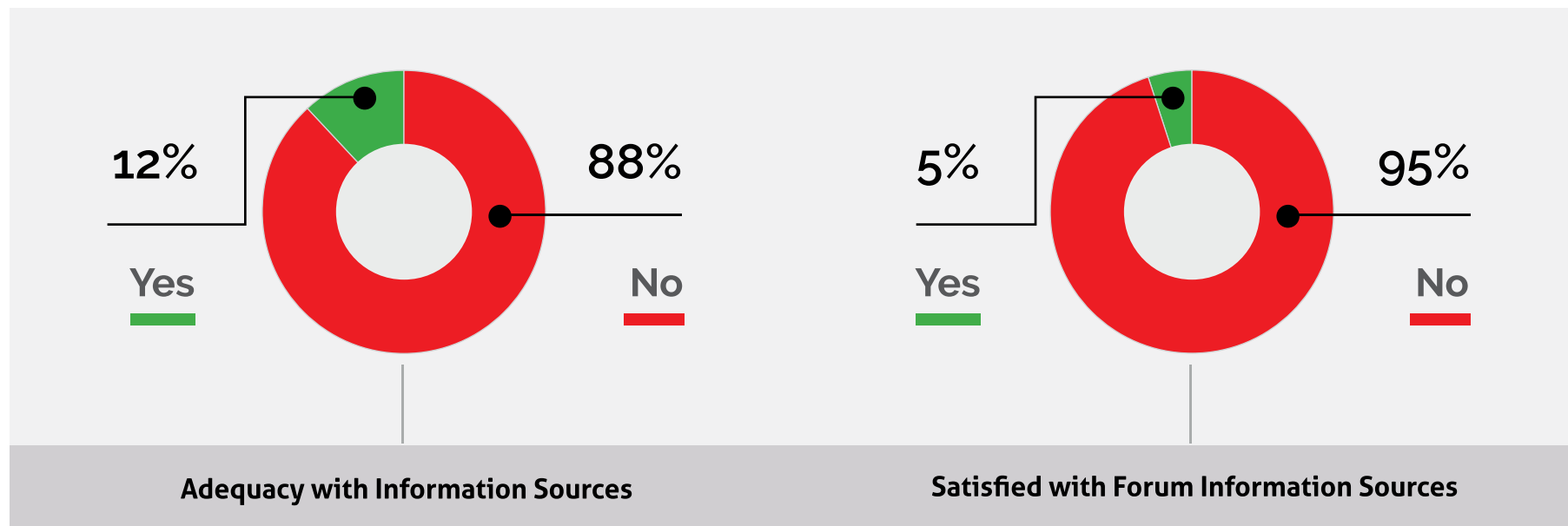


We have to acknowledge that the county has made attempts to communicate effectively. However, it has not been successful. There are notice boards all over but they are not always updated; every time you visit the website the information is the same yet the County has initiated projects that need to be communicated. The County can score highly on public communication if it improves on these aspects.”
Kilifi County CSO Member—FGD—February 2017.

The main sources of information for the interviewed citizens were listed as leaders (30.8%), county/national government officers (27.7%) and both print and electronic media (26.2%). Other sources are CBOs (7.7%), NGOs (4.6%) and churches/mosques (3.1%). During the FGDs and KIIs, the CBOs, NGOs and FBOs were seen by the County officials as participants and not collaborators, despite playing active roles such as educating, inviting and mobilizing citizens to participate in county forums.

The majority (88.1%) of the citizens indicated not receiving adequate information to enable them to participate in county forums. This corresponds well with the finding that only a small minority of respondents (4.8%) is satisfied with the manner in which they receive information about the county forums as shown in chart 4.13. Among the inadequacies cited were short notifications, late sharing of documents and the language barrier. It was noted, however, that 80% of those with adequate information rated the county public participation to be effective as compared to 56.7% of those without adequate information. This underscores the importance of information in public participation.

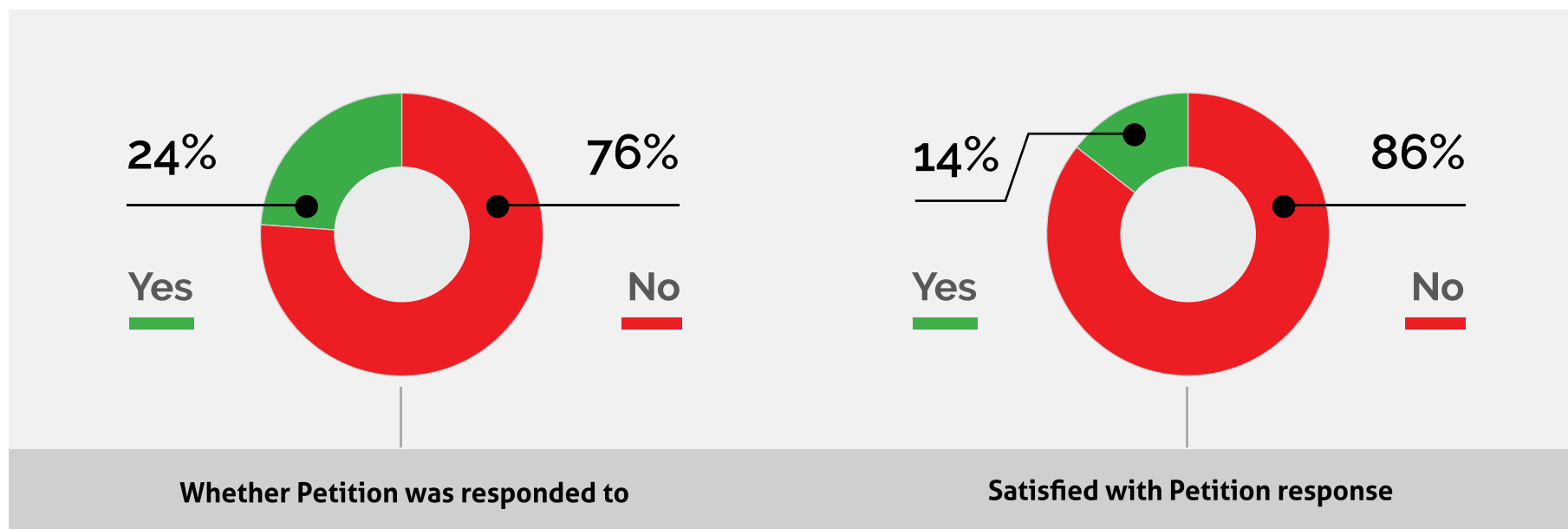
CHART 4.13: INFORMATION ADEQUACY AND SATISFACTION WITH THE SOURCES



Source: CISP Survey, 2017.

The effectiveness of petitions as an avenue of public participation depends largely on whether or not the County responds to them and takes actions to address the issues as framed by the petitioners. The right to receive feedback on petitions is enshrined in the County Governments Act, 2011. CSOs interviewed through FGDs and KII affirmed that the county rarely sends feedback on petitions. Citizens interviewed through the questionnaire concurred with this finding. As shown in Chart 4.14, most (76%) of the petitions were not responded to and for those which were responded to, only a minority (14%) were satisfied with the outcome of the response.

CHART 4.14: PETITIONING EXPERIENCE



Source: CISP Survey, 2017.

County officials, on the other hand, pointed out some of the challenges that make the County fail to consistently respond to petitions. Some of the issues raised by petitioners are not the mandate of the County but of the National Government. This is because citizens are still unable to differentiate functions of the two levels of government. However, officials of the County Assembly also noted that because of a high number of petitions received by the Assembly, a decision had been made to enact a law to guide how petitions are handled.



The high number of petitions received by the County Assembly caused it to consider enacting a law to codify procedures for petitioning. The County Petition to County Assembly (Procedure) Bill, 2016 was passed on 2nd of August 2016. It seeks, among others, to enhance public participation in the affairs of the County Assembly including legislative processes.”
Kilifi County Assembly Officer—KII—February 15th 2017.

The finding that citizens are still unable to differentiate functions of the two levels of government (national and devolved governments) further underscores the need for civic education and collaboration between CSOs and the County.

4.3.2 Citizen Participation Relevance and Legality

One of the indicators of effective public participation applied in this study is the extent to which citizens' views shape the decisions of the County. There was consensus among citizens reached through the survey instrument, as well as FGD attendants and key informants, that there is a shortcoming in this regard. Some of the key informants attributed this finding to the manner in which citizens participate. Whether one is addressing legislation or budgeting, citizens may not consistently participate in all meetings that discuss the budget or some piece of legislation. The only way counties can sustain and have consistent participants in forums is when they operate through networks of citizens who become regular participants. Another issue pointed out by county officials some citizens join a process in the middle or towards the end making it difficult for them to understand the whole process or be properly informed about decisions that have already been made.

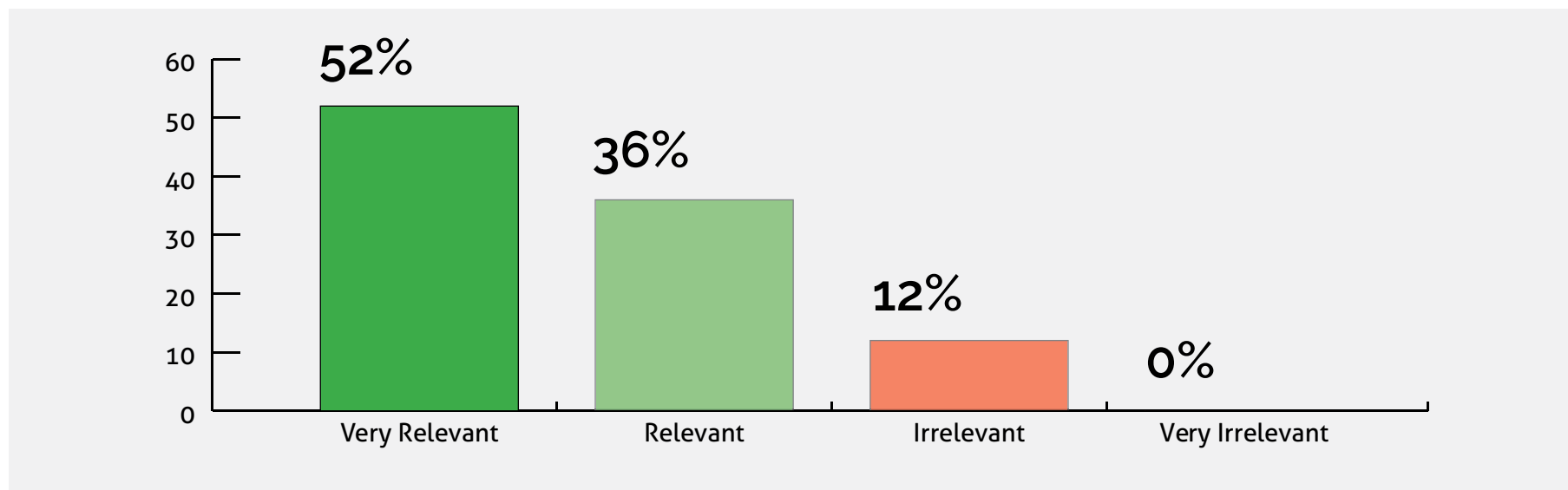
These complexities could partly explain why an overwhelming majority (90.5%) of citizens reached through the survey instrument were of the view that their opinions are not taken into account when the county makes decisions. This is despite a good portion (69%) confirming that the forums discuss issues of importance to their community a significant point given that the county system was embraced to give citizens powers of self-governance.

To attain deeper understanding of this issue, the question was posed differently with respondents being asked what they think the County does with citizen views. For a majority of those interviewed (73.2%), the County ignores public views when it comes to decision-making; however, 17.1% noted that their inputs are partially implemented and 9.8% took a contrary view, noting that the County Government normally implements citizens' inputs. This issue caused a healthy debate during the two FGDs. County officials noted impatience on the part of citizens who assume that all their views would automatically inform decision-making. However, stakeholders also emphasized the fact that the County had been noted to change project priorities agreed with citizens without informing them, which goes against the requirements of public participation.

It was noted further that the presence of 'various layers of decision-making' complicate the intake of citizen views and more so when it comes to budget priorities. For instance, whereas it is the duty of the County Executive to formulate budgets, the duty of approving the same is the constitutional responsibility of the Assembly. To the extent that the Assembly is not simply a rubberstamp of the County Executive, it often practices its limited leeway to adjust the budget. Despite the issues raised and the shortcomings noted, a majority of those interviewed (56.1%) still feel that citizens' participation since the year 2013 has contributed to improved service delivery in Kilifi County.

A majority of the respondents (90.5%) would participate again if called upon to do so. The main reasons why they would still participate in future county forums were listed as the need to keep the county in check, the opportunity to give their views and to sensitive other citizens, to fulfil their constitutional mandates and general concerns and interest with the development agenda of the County. These factors point to some intrinsic value attached to public participation. This conforms to the rating on the relevance of public participation as very relevant (52.4%) and relevant by (35.7%) as shown in chart 4.15.

CHART 4.15: PUBLIC PARTICIPATION RELEVANCE



Source: CISP Survey, 2017.

To further confirm the importance of participation, those interviewed also overwhelmingly (95.2%) supported the idea of encouraging more citizens to take part in public participation forums. Reasons given include: that the forums provide an avenue for citizens to raise their concerns (22.4%) apart from according an opportunity to get informed of what the county government is doing (14.3%). Further, participation was seen as a way of holding the County Government accountable to its promises (14.3%), and also to ensure equality in the distribution of resources (12.2%). The surveyed citizens noted that the following can be accomplished through public participation; implementing what is discussed at county forums (27.1%), transparency (22.9%), accountability (18.8%), civic education (12%), development (12%), equality and citizen’s empowerment at (4.2%) and (2.1%) respectively.

There were varied perspectives on the issue of laws guiding public participation in the County. In the absence of the Public Participation Act, the County relies on the Constitution, the County Governments Act, 2011, and the Public Finance Management Act, 2011 to guide public participation. CSOs were critical of the lack of a Public Participation Act citing lack of commitment by both the Executive and the Assembly. A Public Participation Bill was passed by the Assembly in 2016 but was yet to be signed into law at the time of the study. Various KIs noted the eventual approval of the bill will provide better guidance on public participation.

Citizens interviewed were found to be generally aware of law(s) guiding public participation as shown by (64.3%) who said they were knowledgeable of such laws. They listed the Constitution (53.3%), the Public Participation Act (33.3%) and the County Government Act (6.7%). Two of the citizens pointed to specific articles of the constitution; namely article 33, which is under the bill of rights and is specifically on freedom of expression. Article 174 was also referred to, that is under the devolved government chapter and specifically spells out the objects of devolution. Analysis shows that the citizens' education level may not be a key determinant of knowledge of public participation law.

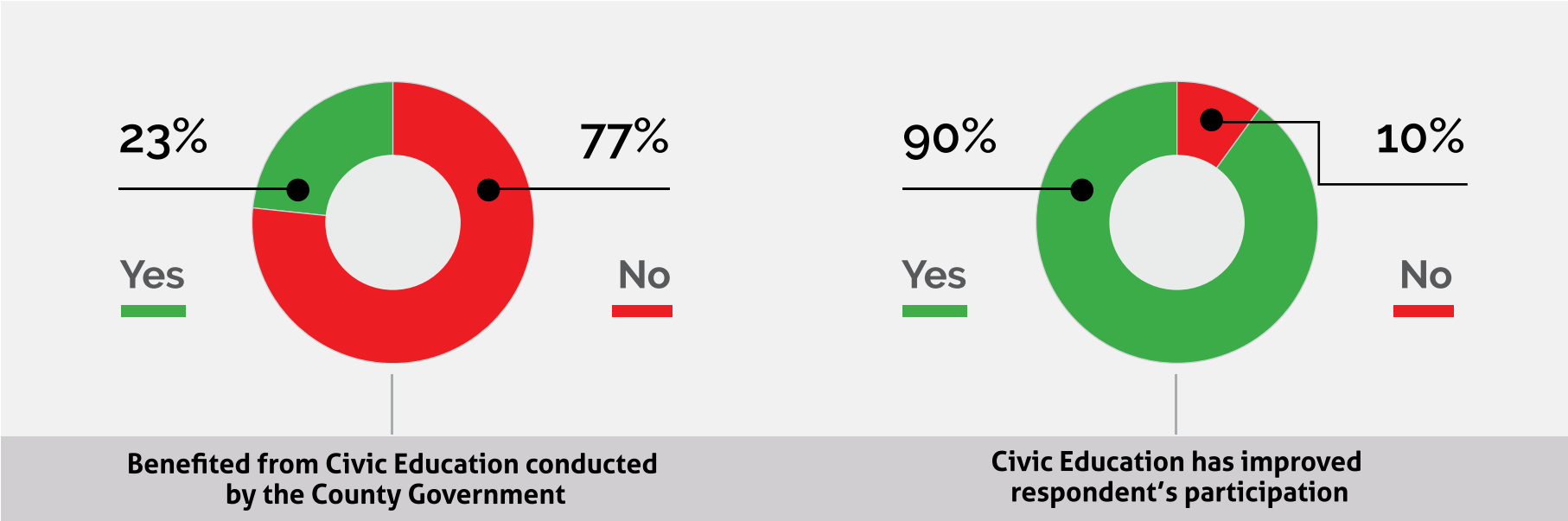
Varied views were expressed regarding the consequences of not having the Public Participation Act. County officials and some CSO leaders were of the view that the absence of the law does not stop public participation from taking place. Those belonging to this school of thought opined that the Constitution and the other laws (e.g. the County Governments Act, 2011) provide a sufficient framework for public participation. Those opposed to this point of view pointed out that these laws are 'generic' and do not consider the peculiar circumstances of the County.



We acknowledge that there is no law governing public participation but we cannot say that has created a serious void. Initially, we had a challenge where the county officials assumed they had the sole responsibility to conduct forums. However, there is a good understanding now about the roles of stakeholders in the entire process.”
Kilifi County CSO Member—FGD—February 2017.

Civic education conducted by the county was found to be minimal as only 23% expressed that they were exposed to civic education organized by the County. Those who had been exposed to civic education by the County rated it to be very relevant (63.6%) and relevant (27.3%) while only 9.1% said it was irrelevant. This positive rating can be confirmed in Chart 4.16 where 90% noted that civic education has improved their participation in county forums. Further analysis of the findings indicates that those who have attended civic education (77%) were more aware of the laws guiding public participation than those (56.7%) who had not received any civic education. These findings show that civic education is an asset for deeper knowledge of public participation, which is key for effective citizen participation and engagement in county forums.

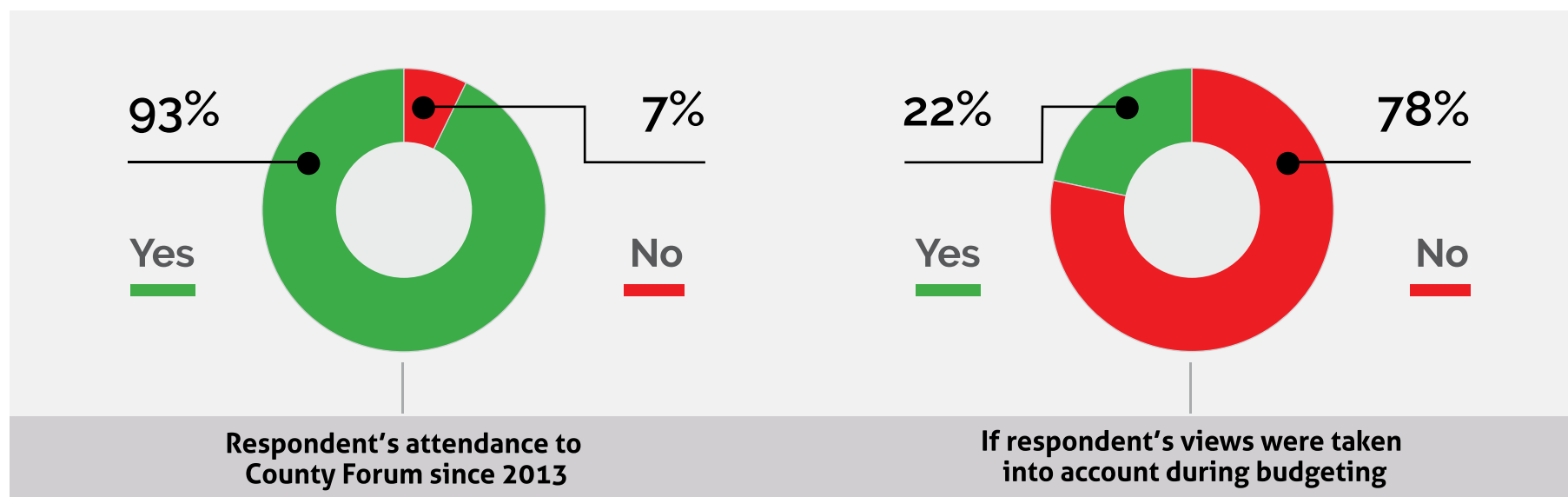
CHART 4.16: CIVIC EDUCATION EXPOSURE AND RELEVANCE



Source: CISP Survey, 2017.

Interviewed Kilifi citizens' attendance in county budgeting forums was noted to be high, scoring (93%) as shown in Chart 4.17. Attendance was noted to be highest in 2016 (47.6%), 2015 (31.7%), 2017 (12.7%), 2014 (6.3%) and 2013 (1.6%). This trend shows that there is an increase in the numbers attending county budgeting forums in the recent past as compared to the initial forums organized in 2013. This partly points to increased awareness by citizens on the importance of County budgets in addressing their development needs and concerns. It was also noted that despite increased attendance, citizens' views are still not taken into account (78%). This reality is still related to the point at which citizens participate in county budget-making processes and the possible change of priorities during Assembly deliberations or the possible mismatch between priorities of the Executive and those of citizens. Some Key Informants noted that Kilifi lacks a County Budget and Economic Forum (CBEF). This has been a bone of contention between the County and the interested stakeholders. Kilifi Residents' Association (KRA) and other CSOs have petitioned the County on this.

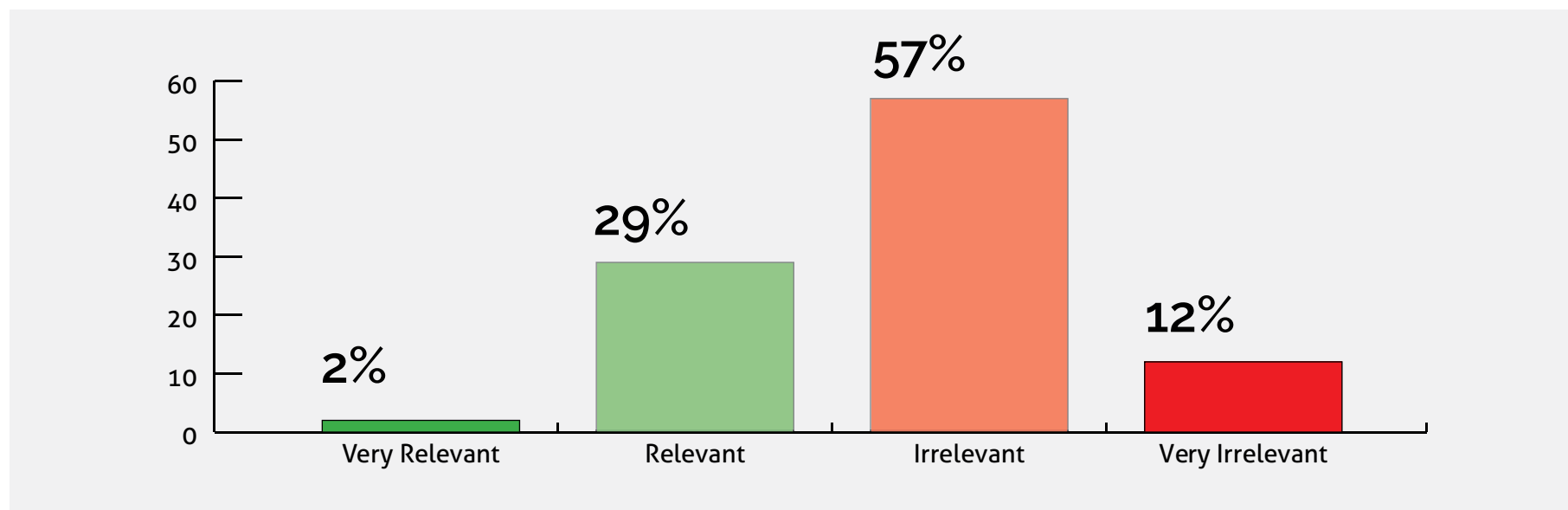
CHART 4.17: ATTENDING BUDGETING AND PARTICIPATION IMPACT



Source: CISP Survey, 2017.

According to the questionnaire respondents, Kilifi County has not put in enough effort to create a conducive environment for effective participation. Only 2.4% and 28.6% rated the County's efforts as very effective and effective respectively as shown in chart 4.18 below. Further analysis shows there is no significant difference between beneficiaries and non-beneficiaries of civic education on this question.

CHART 4.18: RATING KILIFI COUNTY'S PUBLIC PARTICIPATION EFFECTIVENESS



Source: CISP Survey, 2017.

Reasons for the poor rating were given as: untimely (late) communication (23.6%), poor mobilization of citizens (20%), lack of transparency by some county officials (20%), lack of competence and commitment (9.1%), inadequate resources to mobilize citizens and poor planning each accounting for (5.5%). CSO representatives also felt that public participation can be improved by building the capacity of ward administrators.



Some ward administrators may not have the capacity to fully implement public participation in accordance with the law. It would be a good idea for CSOs to work with the County Government to organize training workshops for them prior to their deployment.”
CSO/CBO Participants—FGD—February 17th 2017.

Citizens engaged in the study proposed several ways in which citizen participation can be improved. These include: communicating with citizens about the date and content of the public participation forum (28.3%) and carrying out civic education (17.9%). Other proposed measures are: devolving public participation to the village level, approval and implementation of the Public Participation Bill, proper funding of public participation, giving feedback on the outcome of public participation, working closely with various stakeholders when planning for the county forums and provision of some form of incentive/facilitation (such as snacks) during county forums.

4.3.3 Public Participation Best Practices and Gains in Kilifi County

The passage of the County Petition to County Assembly (Procedure) Bill, 2016, was found to be an important step in improving public participation. The law was necessitated by the need by the County Assembly to manage a large number of petitions from citizens aided by CSOs working in the County. It gives effect to section 15 of the County Governments Act, 2011, on the right to petition a County Assembly and details the procedure for petitioning. It generally aims to improve public participation in the County Assembly and the legislative process.

The County Assembly has also made it easy for citizens to follow up on legislation through a bill-tracking system. The system is hosted in the County Assembly website. It enables citizens to be aware of the status of all legislation debated and passed by the Assembly. By so doing, it creates an opportunity for citizens to give feedback when bills pass through various stages of debate in the House.

One of the principles of public participation as per part eight of the County Governments Act, 2011, is the recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight. Kilifi County was found to have a beneficial relationship with CSOs, especially the Mshombo Citizens Assembly formation. The Assembly had utilized various opportunities to mobilise citizens for public participation. The organization had also taken part in the implementation of civic education programmes.

In particular in Magarini sub-county, where the Mshombo Citizens Assembly had been put in place, it was found to have facilitated citizens' engagement in the budgeting process by educating citizens and effectively engaging in budget discussion and validation forums. The group has ensured that citizens are well prepared whenever they interact with the budget. This has increased their effectiveness in participating in the budget preparation and validation forums.

BEST PRACTICE IN KILIFI

COLLABORATIVE EFFORTS IN KILIFI COUNTY TO REALIZE CITIZEN PARTICIPATION THROUGH THE *MSHOMBO* COMMUNITY PLATFORM

Kilifi County, through its sub-grant under the project, Towards Accountability through Kenyans Empowerment in Participation and Active Request for Transparency (TAKE PART), implemented a project themed 'Mshombo Community Platform'. Mshombo is a local Giriama community term that refers to a mix/blend. It is an upgraded and improved form of the traditional Bunge La Mwananchi CSO formation. Under the sub-grant, the native community in Magarini Ward formed a community platform to champion for inclusion of the community in county governance. The project was implemented by the Institute for Participatory Development (IPD).

The platform is comprised of representatives of various committees formed by citizens in Magarini Ward. Examples of the committees are the health dispensary committee, school committee, church committee, youth groups' committee and women groups' committee. It has teachers, women, religious leaders, Kaya elders, among others, as members. The broader Mshombo committee was then turned into a Citizens' Assembly. The Assembly formed the basis through which citizens come together to discuss emerging issues in the community and present them to relevant authorities for action.

The Assembly has adopted the format of a County/National Assembly with a speaker, Chairman (Clerk) and chief whip, among others. Activities happen in an organized manner with standing orders (constitution) guiding operations. The Assembly meets every second Thursday of the month unless there is an urgent matter. As of April 2016, it had a membership of close to 100 members; 10 of them being the key leaders (speaker, chairman, treasurer, chief whip, secretary; with their assistants), approximately 20 being Members of Parliament (representing each village) and the rest being members of the public.

The Assembly represents an innovative way of thinking and organizing citizens for participation in county governance. It has been able to write petitions to the county government demanding for citizens' inclusion in the affairs of their Ward as well as transformation of the education system (even though education is largely a national government function, counties deal with Early Childhood Development (ECD)). They have also invited leaders to roundtable discussions seeking to advocate for pertinent issues of development in the County.

Notably, the Assembly presented a petition to the county government, demanding further decentralization of budget meetings to the wards, noting that holding budget meetings at the sub-county denies many citizens an opportunity to participate. It was therefore largely responsible for the successful devolvement of budget meetings from the sub-county level to the ward level. This has enhanced the participation of citizens in budget-making and validation, a key requirement of the Public Finance Management Act, 2011. Notably as a result of the petition, the 2016 budget meetings were held at the ward level. Citizens from neighbouring wards have visited Magarini with the intention of learning how the model works and replicating it in their own wards.

4.3.4 Conclusions and Recommendations

Conclusions

Kilifi County uses various mechanisms to engage citizens. These include forums and meetings and budget preparation and validation forums. The most popular citizens' engagement was noted to be the budget preparation and validation forums. The county uses notice boards particularly at the county headquarters. The citizens were mainly invited to the forums through notice boards, word of mouth by the County officials and leaders, website, short messages (SMS), WhatsApp and formal invitation. The County website was also noted to be informative and interactive with clear linkage of the executive and legislative functions listed in the website. It was also noted that ward administrators play a critical role of mobilizing citizens to attend County activities and generally educating them on the affairs of the County.

Kilifi County was also found to have a good working relationship with CSOs particularly in Magarini Ward where the Mshombo Citizens' Assembly was formed and where it operates. The Mshombo Assembly coordinates participation of citizens in the affairs of Magarini Ward. CSOs are important in facilitating public participation. The positive working relationship with CSOs is in addition to the devolvement of public participation forums to sub-county and ward levels. The passage of the County Petition to County Assembly (Procedure) Bill, 2016, is another key achievement made by the County. That the law is aimed at enabling the Assembly to process and react to petitions indicates an intention by the Assembly to ensure effective management of petitions. In addition, the County Assembly has also made it easy for citizens to follow up on legislation through a bill-tracking system. The system is hosted in the County Assembly website. It enables citizens to be aware of the status of all legislation debated and passed by the Assembly. By so doing, it creates an opportunity for citizens to give feedback when bills pass through various stages of debate in the House. On the other hand, the County was found not to have enacted laws to guide public participation, nor had it put in place an effective County Budget and Economic Forum (CBEF). It had also not devolved to the village level.

Recommendations to County Government

- ◇ Enact laws required to guide public participation such as Access to Information Act/Freedom of Information Act as per the County Governments Act, 2011;
- ◇ Establish an effective County Budget and Economic Forum (CBEF);
- ◇ Work with CSOs to enhance and replicate the Mshombo Citizens' Assembly in wards other than Magarini where it has already been put in place;
- ◇ Put in place village administration to further decentralize administration and public participation undertakings, and
- ◇ Build the capacity of sub-county and ward administrators to undertake more effective public participation and educate citizens on the functions of the county government, among other issues of importance.

Recommendations for CSOs and Other Stakeholder Groups

- ◇ Work in collaboration with the county government to enhance the Mshombo Citizens' Assembly and replicate it in wards other than Magarini where it is well established;
- ◇ Advocate for the enactment of laws that facilitate public participation including the Public Participation Act and the Access to Information Act/Freedom of Information Act as per the County Governments Act, 2011;
- ◇ Advocate for the establishment of a functioning County Budget and Economic Forum (CBEF);
- ◇ Advocate for the further decentralization of public participation through formation of village administration units, and
- ◇ Collaborate with the county government in building the capacity of sub-county and ward administrators to undertake more effective public participation and educating citizens on the functions of the county government, among other issues of importance.



4.4 Effectiveness of Public Participation in Kajiado County

4.4.1 Citizen Participation Avenues and Dynamics

Kajiado County's Department of Public Service, Administration and Citizen Participation is in charge of public participation. The formation of the department and the enactment of the County Public Participation Act are key achievements in institutionalizing public participation. The Public Participation Act has created a structured framework of conducting public participation in the county. The County has a functional County Budget and Economic Forum (CBEF) constituted according to Section 137 of Public Finance and Management Act, 2012. The Forum provides a means for consultation by the county government on preparation of county plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper as well as matters relating to budgeting, the economy and financial management.

The County has put in place both the sub-county and ward administration units. These units play an important role in public participation. At the time of the study, the County Assembly was in the process of formulating a “County Administrative Bill”, which will define village boundaries with the intention of further decentralizing administrative functions and public participation to the village level.

The County also uses various mechanisms of public participation including budget preparation and validation forums. These are held by the County Assembly to discuss bills and meetings dealing with specific matters important to residents, such as land and food security. They employ information and communication technology-based platforms such as short message services (SMS), WhatsApp and website to communicate with the public. More traditional media used for communication and mobilization are local radio stations, daily newspapers, Kajiado County Press and word of mouth. Market days are especially useful for reaching out to citizens through public announcements. The importance of public participation was captured in the following quote by one of the County officials:



Anything designed for the citizens in the County must have public input. Citizens are always given room to set their own priorities. Currently Kajiado County Forums are held in 25 wards and the County is keen on further decentralization up to the village level. County officials, political leaders, local radio stations, market days, daily newspapers and Kajiado County Press are used in mobilizing citizens. Our strategy of engaging citizens has led to reduction in the number of complaints and petitions.”
Kajiado County Executive Member—KII—21st February 2017.



Public participation has been conducted effectively in the county since 2013, with the major achievement being the formation of Citizen Participation department. The department is known by the citizens and it is the one in charge of public participation and civic education in the county.”
Kajiado County Executive Member—KII—21st February 2017.

Citizens interviewed in the study were found to engage the County by attending county forums. Most of the interviewed citizens said they interact with counties annually. Apart from forums, citizens also engaged counties through demonstrations (64.3%), petitions/letters/memorandum (21.4%) and county assemble sittings/gallery (14.3%).

The citizens interviewed said they were motivated by the need to make follow ups on past communication and to determine progress made (16.9%) in implementation of county programmes. Others (15.3%) noted the need to be informed about the affairs of the county government as shown in Table 4.4.

TABLE 4.4: MAIN MOTIVATION TO PARTICIPATE IN COUNTY FORUMS

MAIN MOTIVATION	FREQUENCY	PERCENTAGE
To air my views as a citizen	8	13.6 %
Requested to attend	2	3.4 %
To represent my community	6	10.2 %
To critique my leaders	1	1.7 %
To represent the youth	3	5.1 %
To be informed	9	15.3 %
It is my right as a citizen	4	6.8 %
To contribute to development agendas	8	13.6 %
To know my leaders	2	3.4 %
To follow up	10	16.9 %
To know how funds have been allocated	5	8.5 %
To network	1	1.7 %
To follow up if the projects are implemented	1	1.9 %
TOTAL	59	100.0

Source: CISP Survey, 2017.

Provision of adequate information is one of the requirements of effective participation. The main source of information about County forums for citizens were listed as County officers (36.4%), leaders (34.8%) and both print and electronic media (22.7%). Other sources are CBOs (1.5%), NGOs (1.5%) churches/mosques (3.0%) and public notice boards. During the FGDs, it was revealed that county officers and local leaders play an important role in information sharing since they also live in the community and are in contact with stakeholder groups. Use of social media outlets such as Facebook and WhatsApp were enabling the County to reach out to youthful citizens and groups.

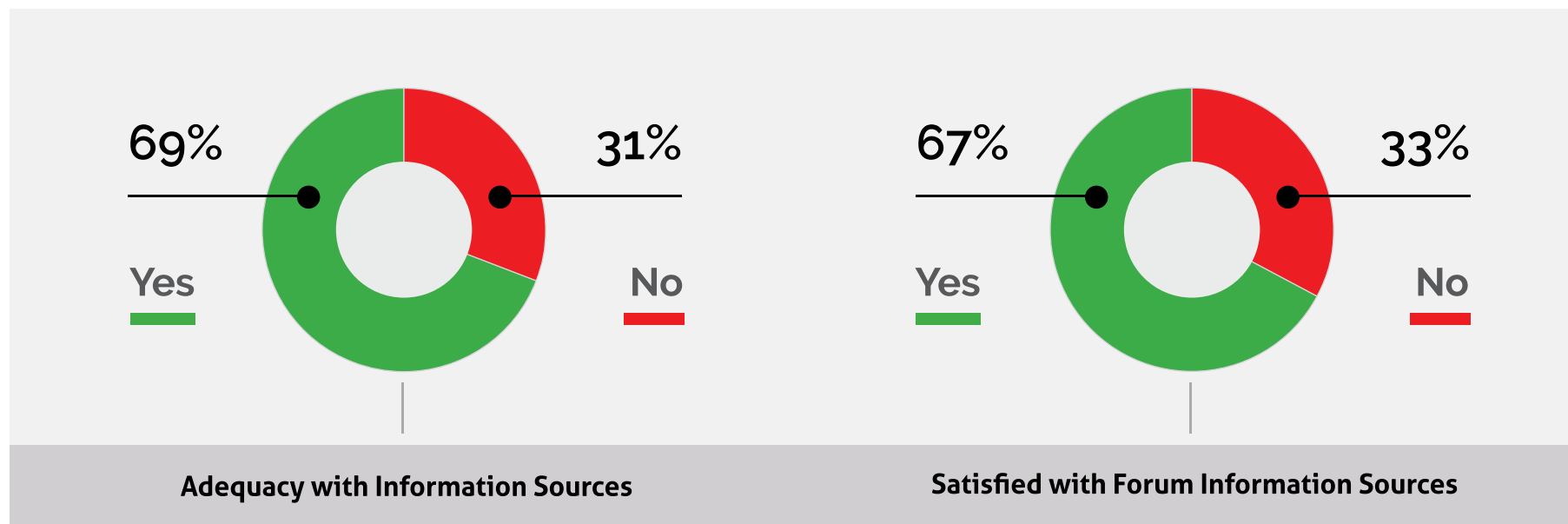
The majority of the interviewed citizens (69%) received adequate information to enable them participate in county forums and a sizeable proportion (67%) are satisfied with the manner in which they receive information about forums in the county as shown in Chart 4.19. Information gathered through FGDs and KIIs demonstrate that the County officials use personal contacts to ensure effective mobilization. However, this brought about a controversial debate during the FGDs, where participants felt that the officials only mobilize those they know and as a result the same people attend all forums, even where they lack expertise. It was noted, for instance, that able-bodied individuals had often been mobilized to represent PWDs in forums. Some of the youth leaders also felt that participation as implemented by the County is a mere formality and is not therefore effective.



Youths attend the forums without knowing the key objective of such forums because they do not have adequate information. It seems they are only invited as a formality and their main motivation is to get some allowance. The civic education has also not been adequate. Sometimes you find the same people attending different forums and dominating the discussion. These regular attendants also shout down others making it difficult for them to participate effectively.”

CSO/CBO Participant—FGD—February 24th 2017.

CHART 4.19: INFORMATION ADEQUACY AND SATISFACTION WITH THE SOURCES



Source: CISP Survey, 2017.

FGD and KII participants questioned the effectiveness of petitions as a means of engaging the County. County officials argued that often, those who petition the County do not participate in forums whereby decisions are made even if they are invited. They wait until decisions have been made, then they raise petitions to challenge the decisions. Most petitioners are concerned with matters related with with revenue collection.



Petitions mainly target the Finance Committee of the County Assembly and most of them dwell on revenue/tax collection. The most recent petitions came from bar owners and sand harvesters. Many of those who petition the County do not participate in forums even if invited and only complain when decisions have been made.”

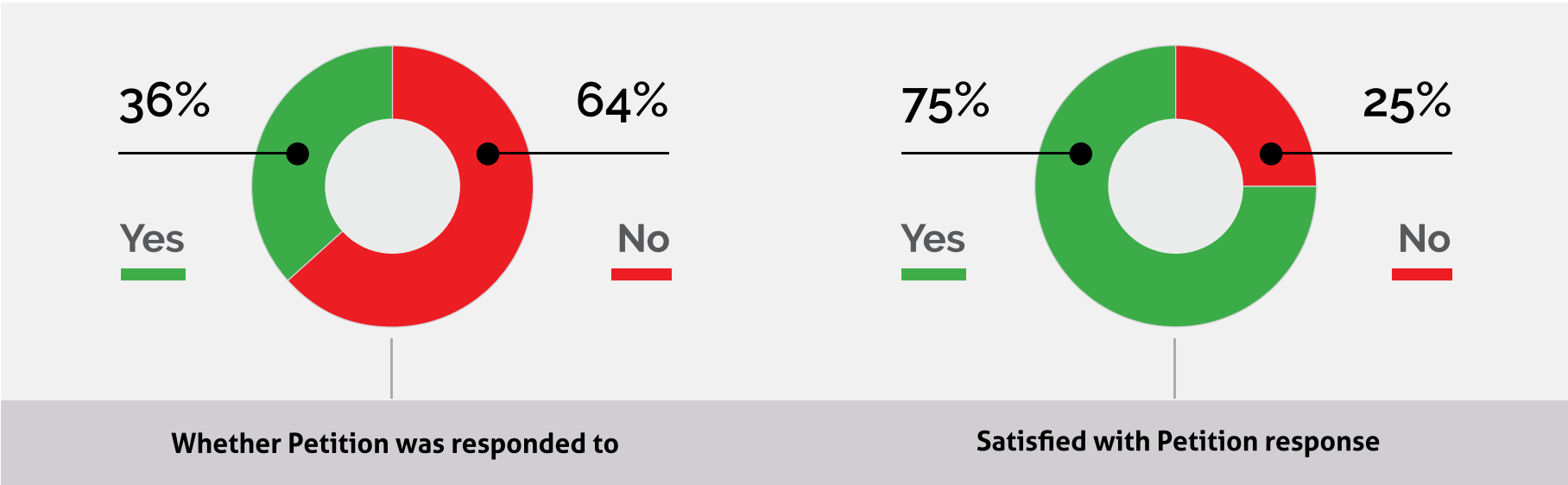
Kajiado County Executive Member—KII—21st February 2017.

County officials further explained that when they receive petitions, they invite the petitioners to discuss the issues raised. Sometimes, however, petitioners raise issues regarding functions that are not devolved. They also raise issues that may have been adequately covered in past engagements that they did not attend. More specifically, the budget process had proved to be rather complicated to be properly understood by citizens. However, some CSOs were of the view that the County does not take issues raised through petitions seriously.

A case of successful petitioning was one involving a CSO called Nosim. CSO key informants revealed that Nosim, working together with other CSOs, sent a memorandum to the County on an issue regarding Water, Sanitation and Hygiene (WASH). As a result of the memorandum, the WASH Policy of the County was developed.

As shown in Chart 4.20, survey respondents said most of the petitions (64%) were not responded to. However, most of those whose petitions were responded to (75%) noted their satisfaction with the response.

CHART 4.20: PETITIONING EXPERIENCE



Source: CISP Survey, 2017.

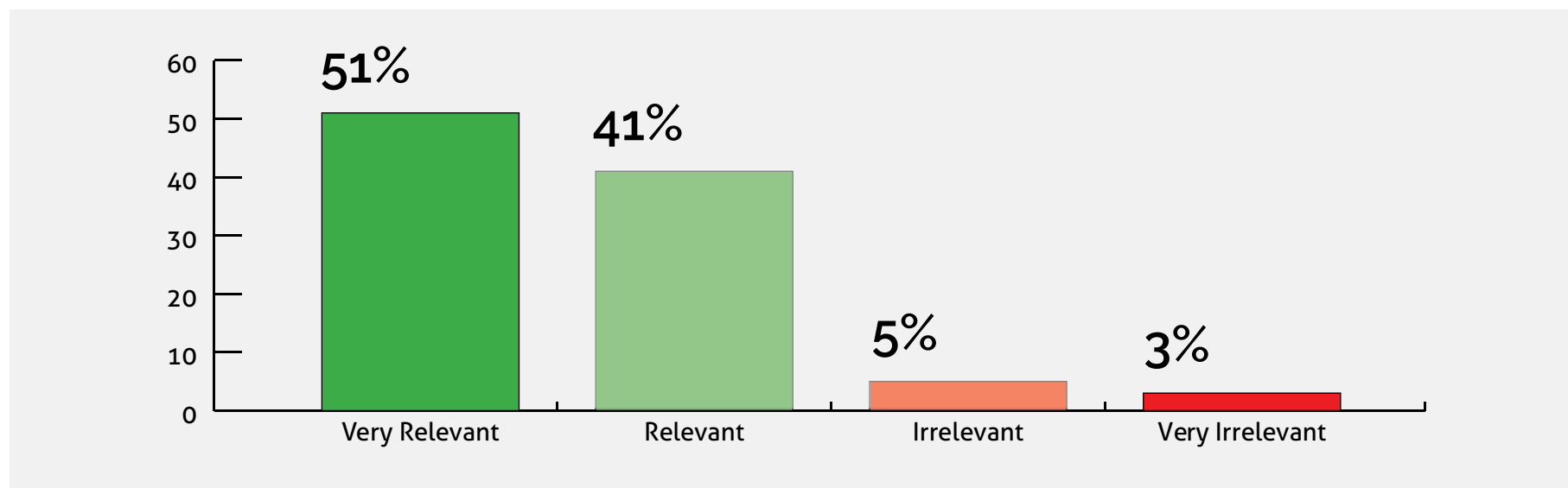
4.4.2 Citizen Participation Relevance and Legality

Kajiado County was found to be generally receptive to ideas proposed by citizens in public participation forums. A slight majority (54.8%) of citizens said that their opinions are taken on board when the county makes decisions while a sizeable majority (83.3%) positively pointed out that important community issues are discussed in the county forums. From the County perspective, implementing citizen views presents certain challenges including the alignment of the views with the County Integrated Development Plan (CIDP). Respondents (74.4%) were also of the view that public participation since 2013 had contributed to improved service delivery.

The above findings are in tandem with the finding that the majority of citizens interviewed (81%) would be keen to participate in future forums. Reasons given for wanting to attend future forums include: to make follow ups on projects, to be more informed about county affairs, to fulfil their constitutional mandate and to air their views. FGD participants noted the improved public participation infrastructure especially with the passage of the Public Participation Act, the formation of the Public Participation Department and a functioning County Budget and Economic Forum (CBEF). These achievements had contributed to helping citizens believe that the County is committed to promoting their welfare through public participation.

Public participation was rated as very relevant (51%) and relevant by (41%) as shown in Chart 4.21. This is an indication that citizens value whatever is discussed in the forums. It was also noted in the FGDs that relevance can be improved with civic education on the roles and duties of county governments to help in achieving more informed participation. It was pointed out that participants may be motivated by the possibility of getting material benefits after attending forums and this reduces the effectiveness of their participation.

CHART 4.21: PUBLIC PARTICIPATION RELEVANCE



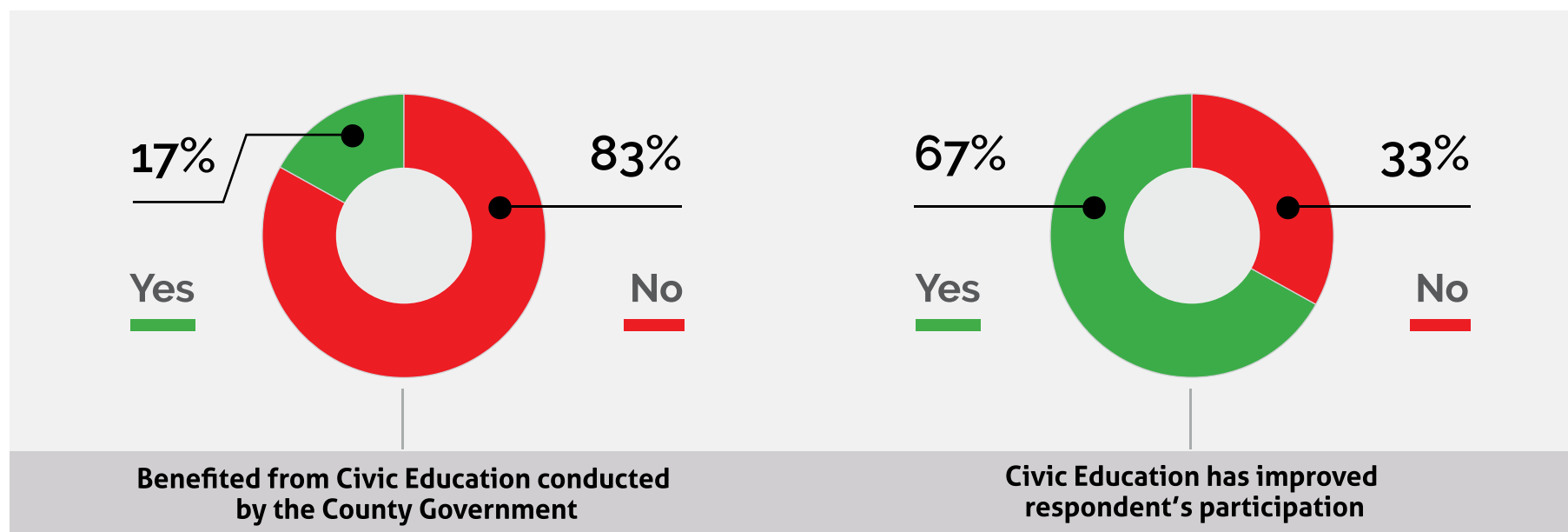
Source: CISP Survey, 2017.

The idea of encouraging more citizens to participate in county forums was supported by a majority of those interviewed (97.6%). The forums were noted to be avenues for contributing to the County’s developmental agenda (31%) and an avenue to be informed (15.5%). Other respondents considered participation a constitutional mandate of the citizens (15.5%) while others said it is useful in providing feedback from county government and avoiding ‘blame games’. According to those interviewed, the following can be accomplished through public participation: effective communication between citizens and the county government (33.3%), development in the county (31.4%), accountability (17.6%), transparency (13.7%) and unity amongst the communities (3.9%).

Even though Kajiado County has a Public Participation Act, it was established that a majority (95.2%) of the interviewed citizens are not aware of laws guiding public participation. Furthermore, none of the women respondents have this knowledge. Those who said they were aware of the laws mentioned the Constitution. This underscores the importance of civic education.

However, many of the FGD and KII participants, particularly those from CSOs, were aware of the laws guiding public participation in the County. Some had been involved in the formulation of the County Public Participation Act. This underscores not only the need for civic education but also collaboration between CSOs and the County Government in implementing civic education programmes. This need is further reflected in the small number of questionnaire respondents (17%) who said they had benefited from civic education carried out by the County. This is despite the presence of not only the Public Participation Act but also an entire department dedicated to public participation and the implementation of civic education programmes. The fact that those exposed to civic education rated it as very relevant (42.9%) and relevant (57.1%) further underscores the need for collaboration between the County and CSOs in designing and carrying out civic education programmes. These ratings are shown below in Chart 4.22.

CHART 4.22: CIVIC EDUCATION EXPOSURE AND RELEVANCE



Source: CISP Survey, 2017.

At the time of the study, the department in charge of public participation and civic education was in the process of drafting a curriculum for civic education. This provides an opportunity for collaboration as expressed above.

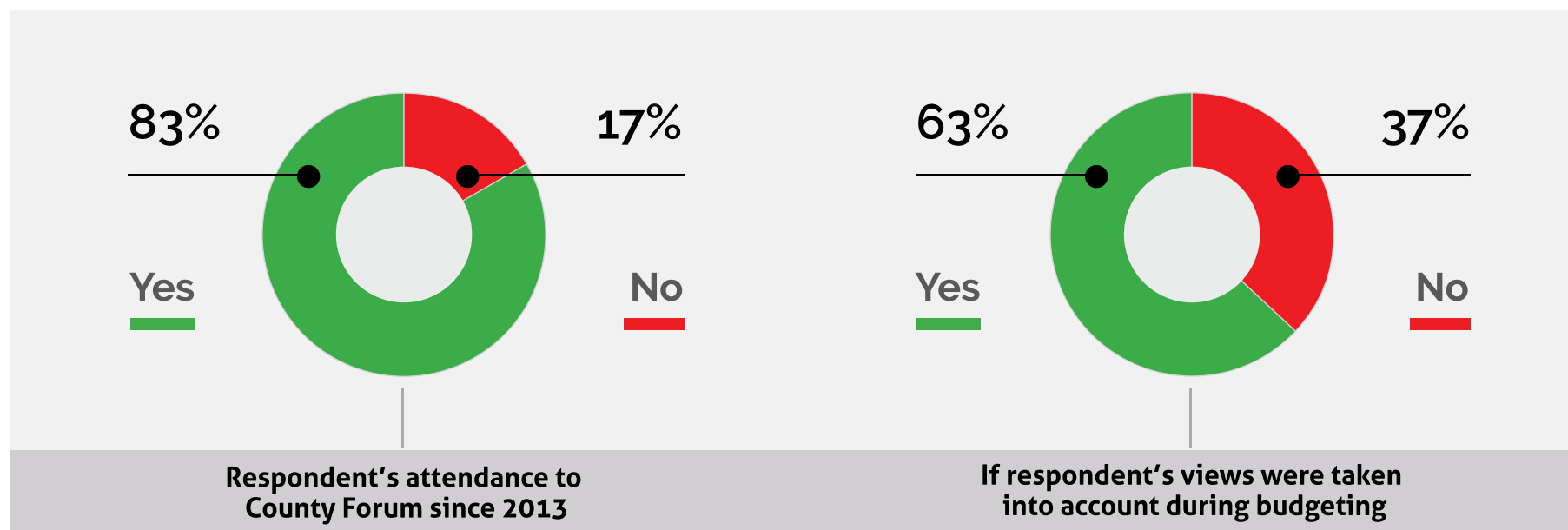
The level of attendance to Kajiado County budgeting forums among the interviewed citizens was noted to be high at (83%) as shown in Chart 4.23. Attendance was noted to be highest in 2016 (50.9%), 2015 (26.4%), 2014 (11.3%) and 2013 (5.7%). This trend shows that there is an increase in the numbers attending county budgeting and validation forums as compared to the initial budget forum in 2013. It also points to increased awareness of the importance of the budget process as key to addressing the developmental concerns of citizens. The attendance of budget meetings and other County forums is likely to increase when the County Administrative Bill is passed, which will be the first step towards setting up village administration units. The high attendance to the budgeting process is further boosted by the fact that majority of the citizens (62.9%) feel that their views are taken into account during budgeting. The fact that the County's CBEF is well-established and functioning and has an audit committee also explains the confidence in the County's budgeting process.



The major public participation process which attracts a good number of citizens is the budget-making process. This is because of the elaborate nature of the budget-making and validation process and also due to the active nature of Kajiado County Budget and Economic Forum, which ensures there is enough publicity in the entire process."

Kajiado County Executive Member—KII—21st February 2017.

CHART 4.23: ATTENDING BUDGETING AND PARTICIPATION IMPACT



Source: CISP Survey, 2017.

Those interviewed rated the effectiveness of the County in facilitating public participation at (54%). FGD and KII participants noted the possibility of improving the rating by fully implementing the Public Participation Act. This will have the effect of improving the infrastructure for public participation. It will also ameliorate some of the challenges noted including: untimely (late) communication (23.6%), poor mobilization of citizens (20%), lack of transparency by some county officials (20%), lack of competence and commitment by some county officials (9.1%), inadequate resources to mobilize citizens (5.5%) and poor planning (5.5%).

Citizens proposed the following ways to make citizen participation more effective: communicating with citizens about the date and content of the public participation (28.3%) and undertaking civic education for citizens (17.9%). Other proposed measures include devolving public participation up to the village level, implementation of Public Participation Act, proper funding of public participation, giving feedback of the outcomes of public participation, close working with various stakeholders when planning for the county forums and provision of facilitation such as snacks and transport reimbursement during county forums.

The challenges noted include: political interference (20.3%), lack of interest from citizens (14.9%), selective mobilization of citizens (6.8%), poor communication (17%), venues not conducive for some forums (5.4%), inadequate resources to conduct public participation forums (2.7%), demands for allowances by some citizens to participate in forums (8.1%), citizens are busy at work during these forums therefore missing out (2.7%) and corruption (1.4%). It was further noted that sometimes the venues selected for forums were not conducive to the participation of women, youth and PWDs, especially where transport was required. Finally, the vastness of the wards was also noted as a challenge especially in terms of citizen mobilization.

The citizens interviewed proposed the following ways in which public participation can be improved: effectively communicating with the citizens regarding the public participation forums (22.2%), conducting civic education (16.7%), and County Government should communicate prior to the forums (11.1%). Other proposed measures include the leaders being more accessible to citizens, holding forums in venues that are more appropriate for all categories of participants, shunning tribalism as well as conducting 'proper' mobilization drives. The need to consider using offices of the ward administrators to deliver civic education due to their proximity to citizens was also proposed.

4.4.3 Public Participation Best Practices and Gains in Kajiado County

Significant progress has been made by Kajiado County in effecting public participation. The County has put in place elaborate infrastructure that includes a department in charge of public participation and civic education, the enactment of the Public Participation Act and the formation of a functioning County Budget and Economic Forum (CBEF) with an audit committee. The audit committee is an innovation with potential to improve citizen participation and accountability in the budget process.

The formation of the sub-county and ward administration units is also a gain since these units have a role to play in public participation. Even more important, at the time of the study, the County was in the process of formulating the "County Administrative Bill" which is the first step towards forming village administration units. The bill is partly aimed at defining the boundaries of villages.

Even though there was no evidence of formal agreements (MoUs) with CSOs, the County was found to have developed productive working relationships with a number of CSOs including NOSIM, DUPOTO e-Maa and Illaramatar particularly in undertaking civic education. On the other hand, the CSOs had utilized the relationship to undertake policy advocacy. In at least one case, a CSO's memorandum to the County led to the formulation of the WASH Policy.

One of the exemplary networking efforts between CSOs and the county government is in the area of health service provision. In this area, CSOs organized under the umbrella group, Health CSOs Networks (KCHN) engages proactively with the county in setting the agenda in provision of health services. The objectives of KCHN include advocating for harmonization of MOH engagements with CSOs, influencing policy and legislation for betterment of health service delivery, and sharing and harmonizing information and data on health. Finally, the County Assembly had devolved Assembly sessions through organizing Bunge Mashinani Forums where Members of County Assembly (MCAs) interact with citizens and citizens get an opportunity to raise concerns directly with the representatives.

BEST PRACTICE IN KAJIADO

THE COUNTY ASSEMBLY OF KAJIADO DEVOLVES PUBLIC PARTICIPATION THROUGH BUNGE MASHINANI FORUMS

For the first time in the history of Kenya and East Africa, the Kajiado County Assembly has devolved Assembly sessions through organizing Bunge Mashinani Forums. Bunge Mashinani is a new practice adopted in order to demystify legislative procedure and to ensure it is brought to the people. This is done by holding debates of the County Assembly on a rotational basis in the different sub-counties as opposed to holding them in the County Assembly premises as is custom. The public and other stakeholders are invited to attend, listen in and direct questions to the Members of the County Assembly.

Partly because of its vastness, remote areas of the county face major challenges due to poor infrastructure, poor communication networks and poverty. However, the urban areas within the county continue to perform dismally in public participation despite their slightly improved infrastructure. The compounded problems have led to reduced activities on important matters like budget-making, levies and town planning. Yet, the county government has continually paid for media advertisements to promote public involvement in decision-making.

Due to these challenges, the various arms of the county government have sought to extend and broaden their services to be closer to the people by educating them and coming up with innovative ways to make more residents percipient. In this regard, the Kajiado County Assembly has adopted a different approach to public outreach and public participation to reach the people and educate them to understand what the work of the House entails and how they can improve their participation programmes. This has been done through the devolved Bunge Mashinani Forums. Devolving the County Assembly sessions is done in a bid to realize the objects and principles of devolution as per Chapter Eleven of the Constitution of Kenya 2010. Pursuant to Article 196. (1) thereof, a County Assembly is mandated to foster public participation in the following terms — (a) conduct its business in an open manner, and hold its sittings and those of its committees, in public; and (b) facilitate public participation and involvement in the legislative and other business of the assembly and its committees.

The Bunge Mashinani forums have been organized in all the sub-counties which has facilitated access and participation by the citizens and stakeholders in the County Assembly debates and discussions on orders and motions of the day. The forum begins with a session where the speaker of the County Assembly explains to the wananchi and other stakeholders the protocol and objectives of County Assembly. The citizens are then enabled to interact with all the departments and committees of the County Assembly and engage them on pertinent issues concerning the community. The forum enables the citizens to get instantaneous feedback from the County Assembly. The County Assembly intends to devolve Bunge Mashinani further to all the County Assembly Wards, but it has faced daunting challenges with regards to requisite resources for financing the events.

4.4.4 Conclusions and Recommendations

Conclusions

Kajiado County was found to have put in place some of the required mechanisms of public participation. These include a functional County Budget and Economic Forum (CBEF). It was also found to have enacted the Public Participation Act, the main law required to guide public participation. Further decentralization through sub-counties and wards had improved public participation by decentralizing forums from the county headquarters to the lower units. In particular, ward administrators were found to play an important role in linking citizens to various County activities and therefore act as key avenues of mobilizing and informing citizens on what is happening in the County. Citizens in Kajiado use the established mechanisms including petitions to engage with both the executive and the legislative arms of the government. Citizens were mainly invited to the forums through County notice boards, word of mouth by the County officials and leaders, radio, website, short messages (SMS), WhatsApp and formal invitation of organized groups and opinion leaders.

Recommendations to County Government

- ◇ Implement effectively the Public Participation Act especially aspects that guide civic education;
- ◇ Enact other laws required to guide public participation such as Access to Information Act/Freedom of Information Act as per the County Governments Act, 2011;
- ◇ Enact the County Administrative Bill to put in place village administration to further decentralize administration and public participation undertakings;
- ◇ Structure the working relationship with CSOs through negotiated and signed Memoranda of Understanding, and
- ◇ Build the capacity of sub-county and ward administrators to undertake more effective public participation and educate citizens on the functions of the county government, among other issues of importance.

Recommendations for CSOs and Other Stakeholder Groups

- ◇ Work in collaboration with the county government to implement the Public Participation Act, especially aspects that guide implementation of civic education;
- ◇ Advocate for enactment of laws that facilitate public participation including the Access to Information Act/Freedom of Information Act as per the County Governments Act, 2011;
- ◇ Work towards a more structured working relationship with the county government through Memoranda of Understanding;
- ◇ Put in place a CSO network for more collaborative CSO work including thematic networks to enable better management of public participation;
- ◇ Advocate for the further decentralization of public participation through formation of village administration units, and
- ◇ Collaborate with the county government in building the capacity of sub-county and ward administrators to undertake more effective public participation and educating citizens on the functions of the county government, among other issues of importance.

A COMPARATIVE PERSPECTIVE ON EFFECTIVE PUBLIC PARTICIPATION

5.1 Introduction

This study was guided by four objectives: (i) To review and compare existing mechanisms of public participation and citizen engagement at county level, (ii) to explore the existing guidelines at county and national levels of government around public participation and their specific value addition and potential gaps, (iii) to assess the gains made in promoting and enhancing public participation in counties under study, and (iv) to establish best practices for future engagement and enhancement of public participation. This chapter compares and contrasts the major issues, gains and challenges as observed in the four counties of study based on the objectives. It takes into account the requirements of the law in terms of setting up structures and mechanisms of public participation.

5.1.1 Mechanisms of public participation

The study discovered that the counties had established various mechanisms of public participation in line with the County Governments Act, 2012. These include public forums and meetings; budget preparation and validation forums; town hall meetings; citizen forums as per the Urban Areas and Cities Act, 2011; information, communication technology-based platforms, as well as laws guiding public participation. The counties were further found to have provided channels through which citizens can petition the offices and departments of the executive as well as legislative arms of the governments. The use of different channels of communication including word-of-mouth, radio and television channels, newspapers, social media outlets such as Twitter and Facebook as well as websites was found to have been institutionalized albeit in differing degrees in the four counties.

Even though the counties were largely found to have utilized the same mechanisms, there were different areas of emphasis for each county. The use of town hall meetings was found to be more entrenched in Mombasa and Taita Taveta counties. In Mombasa this was attributable to the fact that it is more urban compared to the other three counties. In Taita Taveta the formation and implementation of the Voi Town Management Committee (VTMC) made the use of town hall meetings a preferred mechanism for meetings of the Committee. Though not the headquarters of the County, Voi town is a relatively well-developed town and the existence of the VTMC (essentially, a ward committee) was unique and a key lesson in participatory management of a town.

All four counties were found to have put in place structures of further decentralization from county headquarters and in line with the County Governments Act, 2012. The Act provides for creation of the following decentralized units:

- a. the urban areas and cities within the county established in accordance with the Urban Areas and Cities Act, 2011;
- b. the sub-counties equivalent to the constituencies within the county established under Article 89 of the Constitution;
- c. the Wards within the county established under Article 89 of the Constitution and section 26 of the County Governments Act;
- d. such number of village units in each county as may be determined by the county assembly of the respective county; and
- e. such other or further units as a county government may determine.

All had established sub-county and ward administration units. However, all four had not established village administration units. The common reason given for this omission is the fact that forming the village units would lead to an unsustainable increase in the wage bill. County officials in Mombasa, for example, pointed out that the wage bill consumes about 50% of the County's total revenue. In their view, putting in place the village units would sharply increase the wage bill beyond the prevailing level.

In addition, two out of four counties (Mombasa and Kilifi) did not indicate whether they had any plans to establish the village units. However, at the time of the study, Taita Taveta County Assembly had passed a motion pertaining to establishment of the village units. Kajiado County was in the process of enacting the “County Administrative Bill” as the first step towards putting in place the village units. This was informed by the need to further decentralize public participation as well as general administration services.

Stakeholders, whether individually or collectively, were found to engage the devolved governments using the different platforms created for public participation. They attended various forums, including the budget formulation and validation forums organized by both the executive and legislative arms of county governments; they were found to be part and parcel of structures like the Voi Town Management Committee (VTMC) that envisions participatory management of Voi town, among others. Furthermore, individuals and CSOs belonged to networks that were relied on by the counties when it comes to mobilization for public participation.

There was widespread use of petitions even though invariably the consensus was that counties were not very responsive to this mechanism. There was evidence of issues being escalated to courts of law where CSOs felt that the use of petitions was not producing the best results in their advocacy efforts. One of the exemplary processes of petitioning was observed in Mombasa County and regarded the “Mombasa Urban Renewal and Redevelopment of Old Estates” project. Various CSOs raised issues with the manner in which the project was introduced and questioned the level of public participation and questions of compensation for those affected by the housing project. Dissatisfaction in this case with the responses given to the initial petitions led the CSOs to escalate the issue to the courts of law. This presents one of the exemplary engagement efforts by CSOs in the four counties.

In Kajiado County, a CSO petition led to the formulation of the Water, Sanitation and Hygiene (WASH) Policy. This is a demonstration of the extent to which counties were found to work with CSOs in a proactive manner notably in carrying out civic education. Kajiado and Kilifi exemplified this collaborative trend. In Kilifi, CSOs formulated and put in place the Mshombo Citizens’ Assembly to educate citizens and prepare them for participation in budget preparation and validation forums. Even though there was evidence in Taita Taveta of working with CSOs, an attempt to select a few members of CSOs to become civic educators did not work out very well and led to suspicion that the County was trying to co-opt civil society members.

5.1.2 Laws and guidelines on public participation

All counties emphasized the importance of using national laws such as the County Governments Act, 2011, the Public Finance Management Act, 2011 and the Urban Areas and Cities Act, 2011, to carry out public participation. The broader provisions of the Constitution were also applied. The use of these national laws attracted criticism from stakeholder groups especially for the counties that had not enacted the Public Participation Act. Some national laws such as the Wildlife Act were found to apply to some counties like Taita Taveta and not others. The peculiarities of each county therefore determined the laws used to effect public participation.

Only one of the counties—Kajiado—was found to have put in place the Public Participation Act, the main law required to promote public participation at county level. The other three counties—Taita Taveta, Mombasa and Kilifi—were found to have faced challenges in enacting the law. The challenges largely reflected the relationship between the Executive and the Assembly in each case and touched on resource requirement and commitment to carrying out public participation. As the custodian of the County financial resources, the executive wing expressed sensitivity about committing resources to public participation. Officers in counties without the Public Participation Act tended to justify the use of other laws to effect public participation and were more inclined to argue that lack of the Public Participation Act did not affect the implementation of public participation.

Counties also emphasized the use of the guidelines produced by the Ministry of Devolution and Planning and the Council of Governors in 2006 to guide them in carrying out public participation. The guidelines were developed through an elaborate process of stakeholder engagement that included members of the public, CSOs, FBOs, academia, the private sector, professional bodies, international experts as well as national and county government officers. This inclusive process secured the legitimacy of the guidelines, thus the counties' reliance on them. Even so, at least one county—Taita Taveta—was found to have endeavoured to develop its own local guidelines working closely with CSOs in a process sponsored by the UNDP's Amkeni Wakenya governance facility.

5.1.3 Summary of best practices and gains made in promoting and enhancing public participation

Because different counties tended to put emphasis on different aspects of public participation, their relative gains also reflect this approach. Below is a summary of some of the gains observed in each county:

MOMBASA COUNTY

- ◇ Decentralization to sub-county and ward levels increasing the ability of the County to mobilise citizens for public participation;
- ◇ Exemplary collaboration with CSOs leading to participatory formulation of the Land Policy for the County;
- ◇ Exemplary facilitation of citizens and CSO participation in the preparation and validation of the 2017/18 budget, and
- ◇ Exemplary petitioning by CSOs on the Mombasa Urban Renewal and Redevelopment of Old Estates housing initiative.

TAITA TAVETA COUNTY

- ◇ Participatory formulation of the County Public Participation and Civic Education Policy involving CSOs and a development partner;
- ◇ Decentralization to sub-county and ward levels increasing the ability of the County to mobilise citizens for public participation;
- ◇ Exemplary facilitation of citizen participation in the management of Voi town through the Voi Town Management Committee (VTMC);
- ◇ Creation of the Complaints, Complements and Information office to ease access to information by citizens and have an alternative complaints' raising mechanism other than petitions, and
- ◇ Initial steps towards setting up village administration units after motion passed by the County Assembly.

KILIFI COUNTY

- ◇ Decentralization to sub-county and ward levels increasing the ability of the County to mobilise citizens for public participation;
- ◇ Enactment of Kilifi County Petition to County Assembly (procedure) Act;
- ◇ Improving access to information by establishing a bill-tracking system hosted by the County Assembly, and
- ◇ Exemplary participation in budget formulation and validation forums by CSOs especially the Mshombo Citizens' Assembly in Magarini.

KAJIADO COUNTY

- ◇ Decentralization to sub-county and ward levels increasing the ability of the County to mobilise citizens for public participation;
- ◇ Initial attempts to decentralize administratively to the village level through enactment of the "County Administrative Bill";
- ◇ The County Assembly's devolution of Assembly sessions through Bunge Mashinani Forums;
- ◇ Enactment of the Public Participation Act;
- ◇ Exemplary collaboration with CSOs leading to the formulation of the WASH policy for the County;
- ◇ Collaboration with CSOs in carrying out civic education even though there was no evidence of existing MoUs for this undertaking, and
- ◇ Having in place functional County Budget and Economic Forum (CBEF).

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ABOUT TAKE PART PROJECT



**Towards Accountability
through Kenyans' Empowerment
in Participation and
Active Request for Transparency**

TAKE PART (*Towards Accountability through Kenyans Empowerment in Participation and Active Request for Transparency*) is a project co-funded by the **European Union** and implemented by **CISP** (*Comitato internazionale per lo sviluppo dei popoli*), **PT** (*Pamoja Trust*), and **TUC** (*Tangaza University College*).

The main objective of **TAKE PART** is contributing to the implementation of Kenya 2010 Constitution by supporting Civil Society members and County Authorities in the development of transparent and participatory decision-making processes at county. The project is based on enhancing the interface between state and non-state actors in Kenya, so as to strengthen the decentralization of governance of local development, through capacity building of civil society and the creation of citizen participation fora at all levels.

The action is grounded on the need to provide knowledge, awareness, skills and methodology for citizen participation in governance and decision making in Taita Taveta, Mombasa, Kilifi and Kajiado counties.

The main objective of **TAKE PART** is contributing to the implementation of Kenya 2010 Constitution by supporting Civil Society members and County Authorities in the development of transparent and participatory decision-making processes at county level.

PROFILE OF IMPLEMENTING ORGANIZATIONS



CISP - Comitato Internazionale per lo Sviluppo dei Popoli (*International Committee for the Development of the Peoples*): Is a Non-Governmental Organization established

in Rome in 1983 and currently active in over 30 countries worldwide. CISP Kenya carries out projects in area of development by supporting National and county authorities to provide quality, equitable, transparent and accountable services in sectors of health and nutrition, education, child protection and renewable energy through capacity building, promoting active citizenship, shared accountability mechanisms at community, county authorities and National government level.

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Pamoja Trust
Creating Voice and Space for the Urban Poor

PT - Pamoja Trust: Is a non-profit making organization founded in 1999. PT is dedicated to promoting access to land, shelter, good governance and basic services for the Urban Poor. The

organization takes principled and pragmatic approaches to protection and promotion of the right to the city through advocacy and precedence setting models for problem solving. PT provides social, technical and legal expertise at local community, national and international levels to ensure that urban growth and urbanism adhere to social justice principles and that national and international.

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TANGAZA
UNIVERSITY COLLEGE

TUC- Tangaza University College - Is a constituent College of the Catholic University of Eastern Africa. Currently, it offers undergraduate and degree programmes, including masters and

doctoral degrees. In particular, the Institute of Social Ministry is specialized in academic programmes and research on social transformation, governance being one the areas of expertise. The Institute has developed curricula on governance at master and PhD levels.

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