



Effective Public Participation Mechanisms

in Mombasa County



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

Effective Public Participation Mechanisms

in Mombasa County

EFFECTIVE PUBLIC PARTICIPATION MECHANISMS IN MOMBASA COUNTY

A county-specific report extracted from the research study entitled

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



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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

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



INTRODUCTION

This is a county-specific report extracted from the main study report entitled “Research on Effective Public Participation in Mombasa, Kilifi, Taita Taveta and Kajiado counties.”The research is an output of a larger project entitled TAKE PART (Towards Accountability through Kenyans’ Empowerment in Participation and Active Request for Transparency), co-funded by the European Commission (EC) and implemented by CISP in partnership with Tangaza University College and Pamoja Trust in Kilifi, Mombasa, Taita Teveta and Kajiado counties. Broadly, the research sought to assess the effectiveness of public participation mechanisms at county level. The following were the specific objectives of the study:

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

It was further guided by the following broad study questions:

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

The main report is based on a total sample of 183 citizens, 9 Focus Group Discussions (FGDs) and 38 Key Informant Interviews (KIIs). The citizens reached through the study were those who have taken part in forums organized by the counties and mostly mobilized by Civil Society Organizations (CSOs). The FGDs and KIIs sampled County Government Officers, citizens' representatives in established mechanisms of public participation such as the County Budget and Economic Forum (CBEF) and CSO officials.

EFFECTIVENESS OF PUBLIC PARTICIPATION IN MOMBASA COUNTY



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 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.

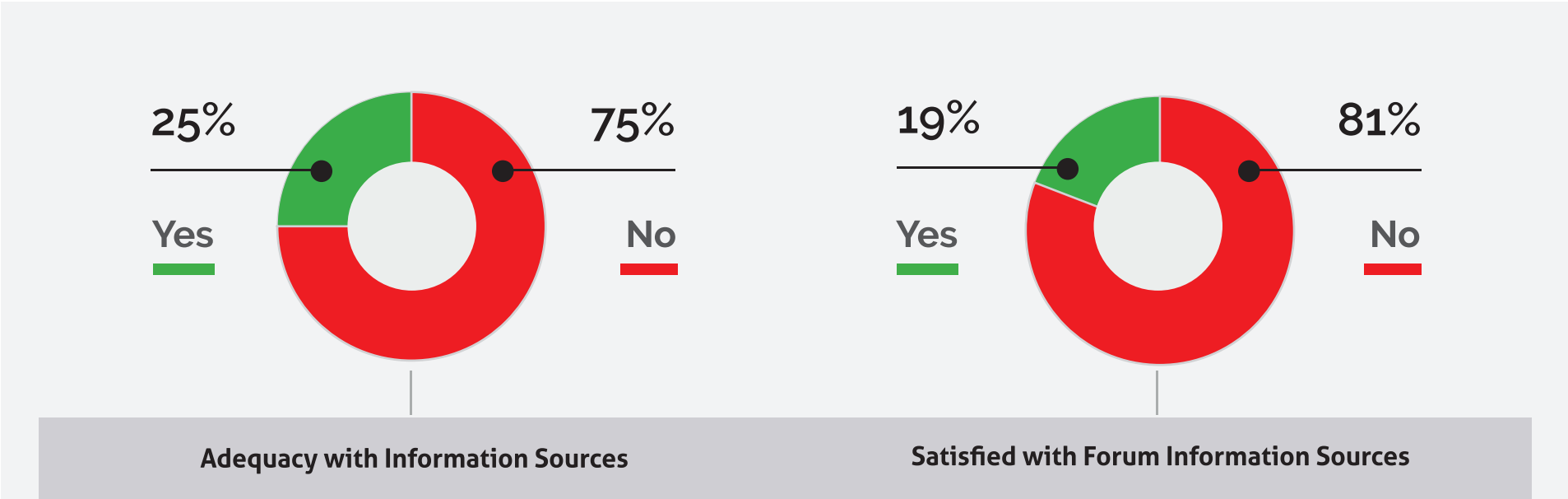
The establishment of the sub-county administration unit in 2016, recruitment of sub-county administrators and ward administrators were described as a positive development in enabling citizen participation. Under the County Governments Act, 2011, the administrators are assigned some functions that facilitate 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 (75%) 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 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 over compensation 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.

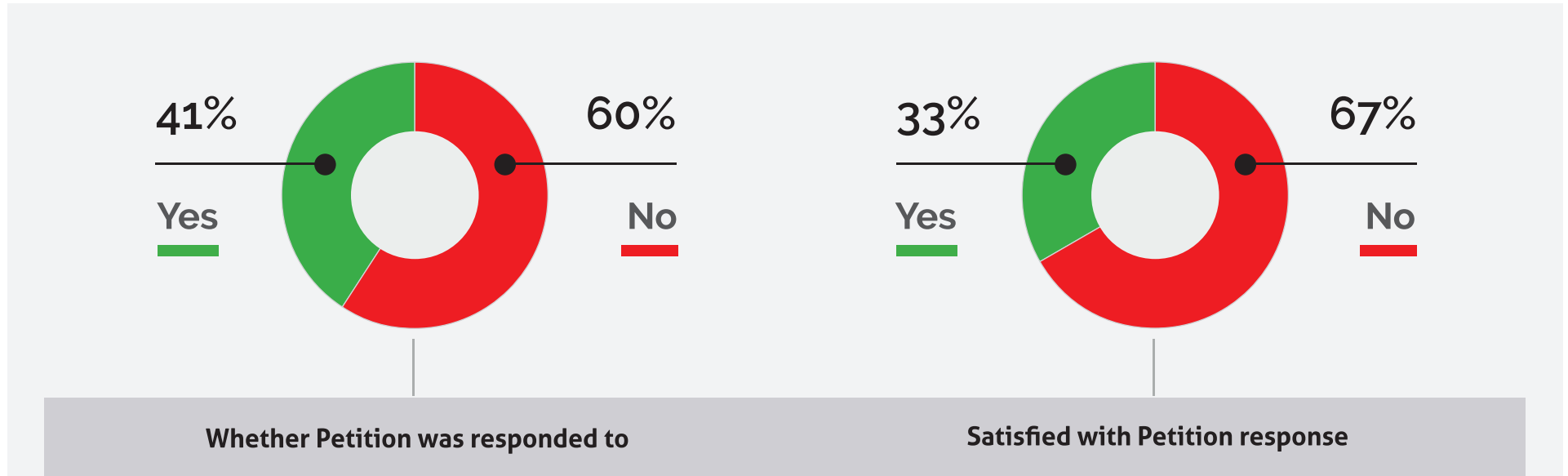
Mombasa County was found not to budget specifically for public participation, making it difficult to tabulate the overall proportion of revenue that goes to support public participation. Budgetary items that support participation were found to be included in different vote heads. Furthermore, at the 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 2 below.

CHART 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 KILs 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.

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.



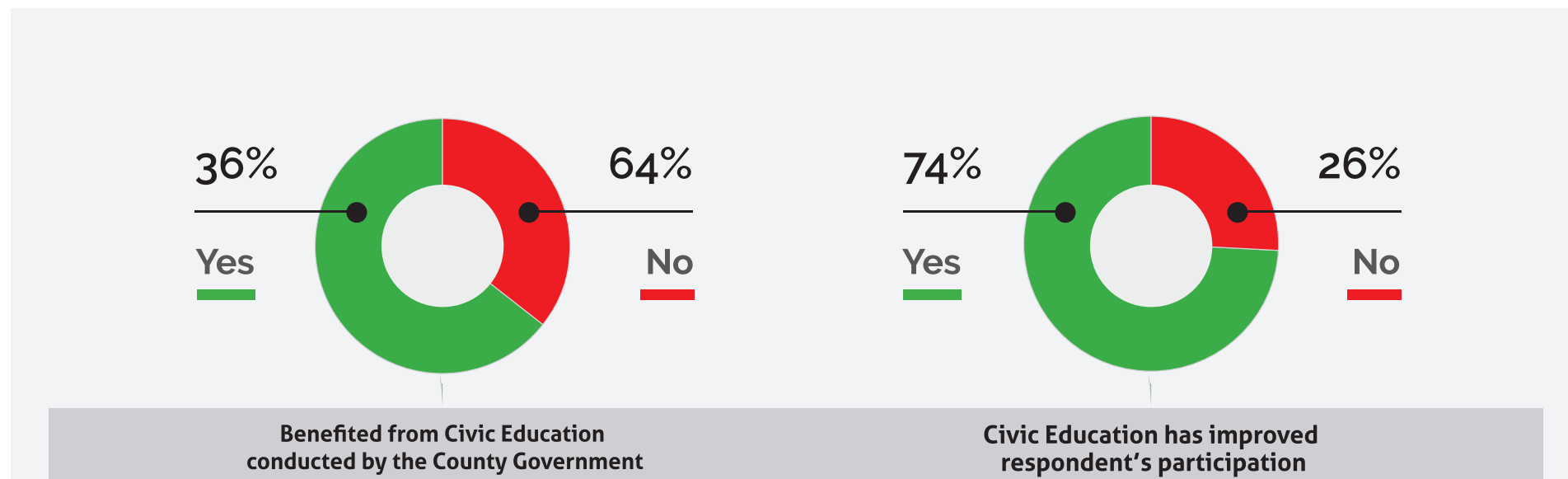
There is lack of goodwill to have the Public Participation Bill enacted into law. The County Executive and MCAs do not support public participation initiatives due to the fact that they are perceived to take away power from them. As a result, the public has been left out in the various key processes 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 3.

CHART 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.

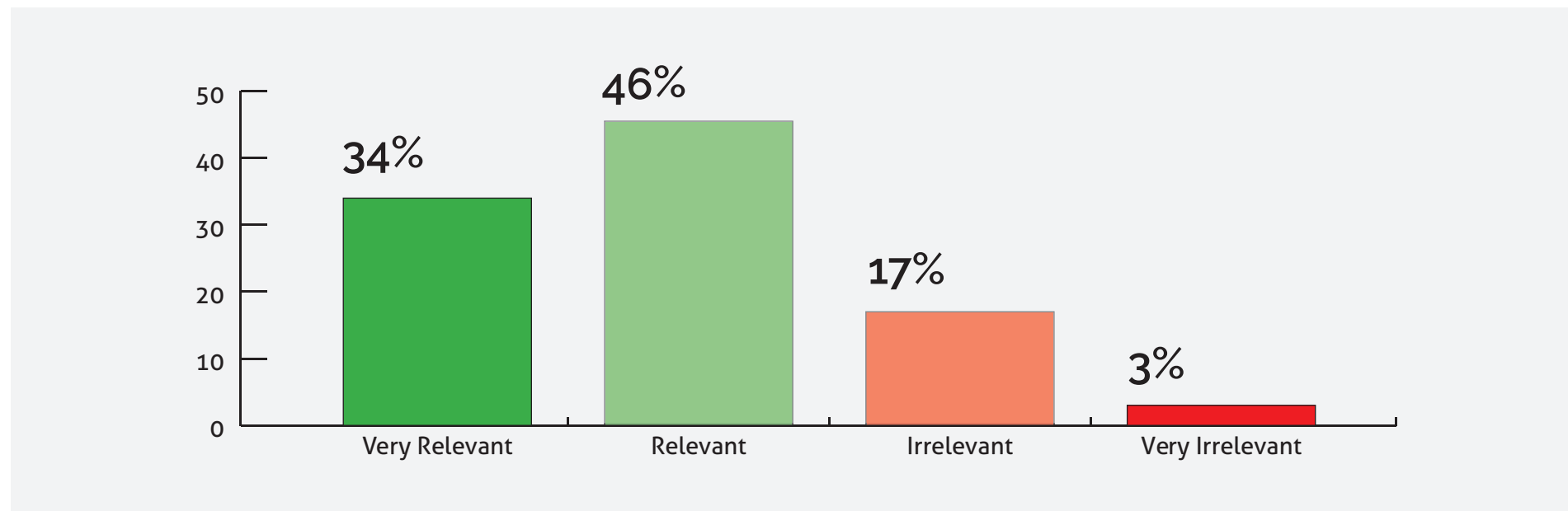
One of the key measures of effective public participation is the extent to which citizens' views are taken into account in decision-making. In at least one case—Mwakirunge—it was established that citizen participation resulted in one of their priorities being taken into account in terms of project prioritization. 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.

CHART 4: PUBLIC PARTICIPATION RELEVANCE



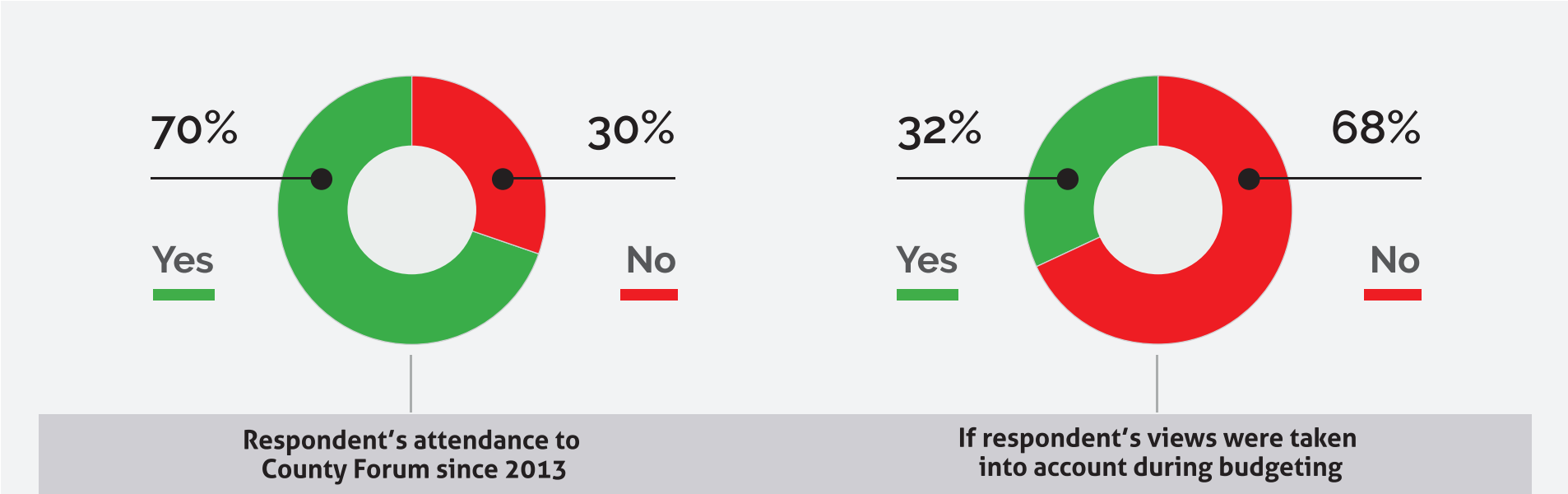
Source: CISP Survey, 2017.

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 5: ATTENDING BUDGETING AND PARTICIPATION IMPACT



Source: CISP Survey, 2017.

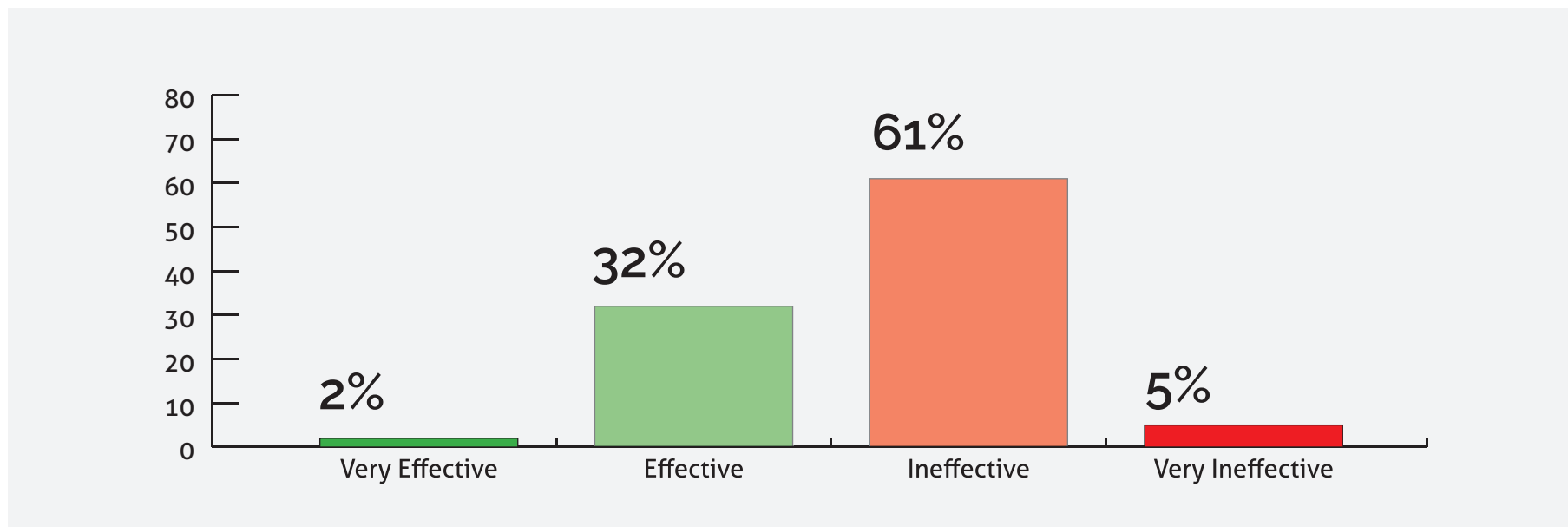
A significant proportion of the citizens interviewed (32%) said their views were taken into account in budgeting while the remainder (68%) said their views were not taken into account. While it is important for citizens to take part in budgeting meetings, such participation cannot be said to be effective 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 6.

CHART 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 (5%), political interference (5%), little time dedicated to discussions (5%), poor preparations for forums (2.5%) and lack of awareness (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.

Public Participation Best Practices and Gains

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 dis-possession 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.

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.

COMPARING BEST PRACTICE IN MOMBASA, TAITA TAVETA, KILIFI AND KAJIADO COUNTIES

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).

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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Jihusishe katika maendeleo
ya kaunti yako



**TAKE
PART**

TO SUPPORT THE DEVOLUTION PROCESS
IN YOUR COUNTY





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