BARRIERS AND FACILITATORS OF CITIZEN PARTICIPATION IN GOVERNANCE PROCESSES IN NAIROBI COUNTY, KENYA

SURVEY FINDINGS REPORT
DECEMBER 2016 – JANUARY 2017
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Contents

Acronyms and Abbreviations ............................................................................................................................... v
Preface .................................................................................................................................................................... vi
Acknowledgements ................................................................................................................................................ vii

1.0 INTRODUCTION ............................................................................................................................................... 1
  1.1 Study Objectives ............................................................................................................................................. 4
  1.2 What is Public Participation? .......................................................................................................................... 4
  1.3 Overview of constitutional, legislative and policy framework on public participation .................................... 6
  1.4 Preliminary Findings ....................................................................................................................................... 19

2 RESEARCH METHODOLOGY .......................................................................................................................... 21
  2.1 Study Design .................................................................................................................................................. 21
  2.2 Study Area .................................................................................................................................................... 21
  2.3 Study Population ........................................................................................................................................... 21
  2.4 Data Collection Methods ............................................................................................................................... 25

3 ANALYSIS OF RESEARCH FINDINGS AND DISCUSSIONS ............................................................................ 27
  3.1 Socio-Demographic Data ............................................................................................................................... 27
  3.2 Policy Barriers and Facilitators of Effective Citizen Participation in Governance Processes ......................... 28
  3.3 Structural and Administrative Barriers and Facilitators to Effective Citizen Participation ............................ 34
  3.4 Recommendations on how to enhance effective citizen participation in processes requiring public participation ........................................................................................................................................... 48

REFERENCES .......................................................................................................................................................... 55
### Acronyms and Abbreviations

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CBEF</td>
<td>County Budget and Economic Forum</td>
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<tr>
<td>CBROP</td>
<td>County Budget Review and Outlook Paper</td>
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<tr>
<td>CDF</td>
<td>Constituency Development Fund</td>
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<tr>
<td>HIV</td>
<td>Human-Immunodeficiency Virus</td>
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<tr>
<td>IAIA</td>
<td>International Association for Impact Assessment</td>
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<tr>
<td>ICT</td>
<td>Information Communication and Technology</td>
</tr>
<tr>
<td>IPPG</td>
<td>Inter-Parties Parliamentary Group</td>
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<tr>
<td>LASDAP</td>
<td>Local Authority Service Development Action Plan</td>
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<tr>
<td>MCA</td>
<td>Member of County Assembly</td>
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<td>MP</td>
<td>Member of Parliament</td>
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</table>
Preface

The right of citizens to participate in governance processes is firmly anchored in the Constitution of Kenya, 2010 and various other legislations. This emphasis on public participation underscores the primacy that the drafters of the Constitution and the people of Kenya at large attach to this important tenet of democracy. The laws on public participation present citizens with an invaluable platform to influence planning, budgeting, and formulation of policies and laws at the national and county government level while ensuring the progressive realisation of socio-economic and cultural rights that are also enshrined in the Constitution.

The County Government of Nairobi has been in place for over four years. As the premier organization in governance matters, it was imperative for the Economic and Social Rights Centre – Hakijamii, to take stock of the county’s public participation processes. Hakijamii therefore commissioned this study to establish the policy, administrative and structural factors that facilitate or impede effective citizen participation in the governance of Nairobi County and to gauge the extent to which social movements can participate in key processes such as policy formulation.

Hakijamii anticipates that the study’s findings and recommendations will inform policy, legislative and administrative reforms that will in turn lead to the realization of citizens’ rights to public participation and invariably contribute to the progressive realisation of Nairobi residents’ socio-economic rights.
Acknowledgements

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Hakijamii also expresses gratitude for the invaluable input from representatives of partner civil society organizations and social movements, namely Kisumu Social Rights Association, Nairobi Peoples’ Settlements Network, Den of Hope, WGBV, Kaptagat Community, Winsrea, The Youth Congress, Mathare Youth Talent Organization, Langata Youth Network, Muungano wa Wanavijiji, Soweto Forum, Kutoka Network and Ngazi ya Chini for their support in actualizing this study.
Kenya’s new Constitution promulgated on 27 August 2010 has been touted as one of the most progressive in Africa for many reasons including the establishment of a devolved system of governance and its recognition of citizens’ economic and social rights. The paradigm shift from the highly centralized governance system to the current devolution model that is comprised of a national government and forty-seven county governments has had the net effect of creating opportunities for enhanced public participation at all levels of government.

The role of social movements in spearheading this transformation in governance cannot be overstated. Throughout Kenya’s history, social movements have proved to be useful vehicles for bringing change right from the Mau Mau movement that spearheaded the fight for independence, to the vibrant civil society campaigns that led to the repeal of Section 2A of Kenya’s previous Constitution in 1991 and subsequent reintroduction of multiparty democracy. Additionally, protagonists from social movements also played a pivotal role in key processes such as the Inter-Parties Parliamentary Group (IPPG) that resulted in minimal reforms to electoral laws before the 1997 elections, the promulgation of the Constitution of Kenya in 2010, and more recently, reforms to the Independent Electoral and Boundaries Commission.

Prior to promulgation of the Constitution of Kenya, 2010 (CoK, 2010) there have been several attempts to encourage public participation in the identification and implementation of development projects each with varied degrees of success.

One of the most notable of these attempts was the District Focus for Rural Development (DFRD) Strategy introduced in 1983. The strategy sought to encourage community participation in the identification, planning and implementation of development projects at district level with central government field officers acting as focal points for project planning and implementation. The strategy however ran into several problems that eventually resulted in its failure. These problems included the fact that it lacked a legislative framework to entrench the work of coordination committees and it failed to actively involve beneficiaries in development projects (Ministry of Devolution and Planning pg. 4 & Institute of Economic Affairs, 2010, pg. 4).

The Ministry of Local Government through its reform program, Kenya Local Government Reform Program (KLGRP), introduced the Local Authorities Service Delivery Action Plan (LASDAP) in 2001. LASDAP
was largely representative and brought on board a diverse base of stakeholders from self-help groups, business organizations, residents’ organizations, religious groups, educational and health institutions, professional organizations and non-governmental organizations. These stakeholders engaged local authorities to identify priority capital projects that would be implemented during annual ward level consultative forums. After this initial engagement, the next level of consultation involved building consensus among representatives from the different wards to determine the projects from across all wards that would be included in the council plan and budget (Kenya School of Government pg. 4 & IBP Kenya, 2014 pg. 2).

However as pundits have noted, public participation in these processes was largely cosmetic since outcomes of such consultative processes were not always binding. Additionally, public participation in these processes tended to decrease as the process progressed from identifying needs to implementation and monitoring of projects (IBP Kenya, 2014, pg. 2).

In 2003, the Constituency Development Fund (CDF) was established under the Constituencies Development Fund Act, 2003 with the primary objective of addressing poverty at the grassroots level. Members of parliament chaired the CDF committees that were responsible for managing the fund with a mandate of reviewing project proposals from all locations within the constituency and identifying priority projects for implementation (Section 23, Constituency Development Fund Act, 2003). The act (as amended in 2007) was repealed in January 2013 and replaced with CDF Act, 2013. This was to align the fund’s operations to the new devolved government structure created under CoK, 2010 and to avoid duplication of roles. Following these amendments, community participation was through membership in the county projects committee, the CDF committee and the project management committee.

However, in February 2015 the High Court declared the CDF Act, 2013 unconstitutional on the premise that it offended the principle of separation of powers and did not take into consideration the devolved system of government. The ruling was suspended for 12 months to allow the national government to remedy the defect within that period failure to which the act would be invalidated (Institute of Social Accountability, 2015).

While the foregoing initiatives yielded some positive benefits to the citizens, there was low public participation primarily due to the absence of statutory guidelines on how this participation would be actualized. Additional factors that impeded effective public participation for the Constituency Development Fund and Local Authority Service Delivery Action Plan processes included:

i) Failure to define who constituted the public for purposes of participation;

ii) Failure to define the minimum threshold of what would be deemed to be effective and quality public participation;
iii) Failure to prescribe clear timelines for public participation;

iv) Lack of or minimal civic education efforts before scheduled public participation forums were conducted;

v) Inadequate access to information by members of the public to enable them to effectively participate in scheduled public participation forums;

vi) Lack of a standard approach to public participation;

vii) Public apathy in taking part in both processes;

viii) Tokenistic public participation in both processes;

ix) Failure to provide adequate resources for public participation;

x) Lack of inclusivity of marginalized and minority groups. Elite groups also eschewed such processes and instead chose to engage the local authorities directly in informal settings if at all;

xi) Basing of the LASDAP process at the ward level, which excluded a large section of the public that was unable to travel from the village to attend such forums; and,

xii) Heavy political control of CDF that discouraged participation by residents who opposed the area member of parliament. On the other hand, the highly centralized, bureaucratic control in LASDAP also served to delay the approval and implementation of projects. (Ministry of Devolution et al p. 5. & IBP, 2014, p. 3).

The current Constitution, policies, legislation and guidelines seek to address the shortcomings of previous efforts to actualize citizens’ right to participate effectively in governance processes.

Schedule Four of the current Constitution distributes functions between the national and county governments. The provision of water and sanitation services, housing, solid waste management and early childhood education, which relate to economic and social rights, now fall within the ambit of the county governments. Therefore, by fulfilling their functional responsibilities, county governments will in effect be delivering on economic and social rights provided for under Article 43 of the Constitution (Kenya National Commission on Human Rights, 2012, p. 6).
1.1 Study Objectives

The Economic & Social Rights Centre-Hakijamii commissioned this study in September 2016 to examine the barriers and facilitators (administrative, structural and policy) of citizens’ participation in Nairobi County. This entailed the following:

- Critically analysing and understanding the barriers and facilitators of citizen participation in the governance processes to determine structural, policy, socio-cultural and administrative factors affecting citizen participation;
- Investigating the capacity of social movements to effectively participate in policy formulation processes; and,
- Recommending strategic interventions on addressing progressive realization of economic and social rights.

This study will thus commence with a brief overview of what public participation is and a review of the legal and policy framework as well as international best practices that facilitate public participation and the extent to which they have been actualized. The study will further investigate the capacity of social movements to participate effectively in policy formulation processes and conclude by making recommendations on strategic interventions that address progressive realization of citizens’ economic and social rights.

1.2 What is Public Participation?

Public participation is the involvement of individuals and groups that are affected positively or negatively by, or that are interested in a proposed project, program, plan or policy that is subject to a decision-making process (IAIA, 2006). Public participation has also been described as ‘the involvement of citizens in identifying local priorities, policies, programs and projects that require allocation of resources’ (Brillantes & Sonco, 2005).

The importance attached to public participation in various processes is derived from the constitutional principle that is aptly captured in a ruling that stated that “the nation’s sovereign authority is one that belongs to citizens, who themselves should participate in government-though their participation may vary in degree.” (Ngeobo, 2006). It is now a common principle of law that although citizens elect representatives it does not mean that they abdicate the right to participate in processes where public participation is required as a matter of law (Robert, 2014, p. 23).

According to an International Association for Impact Assessment (IAIA) publication authored by André, Enserink, Connor & Croal, (2006, p.1.) on public participation best practice principles, contemporary public participation practice in impact assessment should be:
• Adapted to the context – public participation initiatives help in appreciating the social institutions, value system and culture of communities that then inform the formulation of solutions that are tailor-made to help them address their peculiar needs or challenges;

• Informative and proactive – public participation initiatives should appreciate that the public has a right to be informed at the earliest opportunity about proposals that are likely to affect their lives or livelihoods. Providing simple and understandable information enhances the public’s impetus to participate;

• Adaptive and communicative – public participation initiatives should be cognizant of the fact that society is not heterogeneous due to differences in demographics, knowledge, power, values and interests of each community. Therefore methods that are adopted to disseminate this information ought to be effective in reaching out to all segments of society;

• Inclusive and equitable – public participation initiatives should ensure that the interests of all segments of society, including those who are not represented or are underrepresented, are taken into account when evaluating the distribution of impacts, compensation and benefits. Steps should be taken to encourage participation or articulation of the interests of less represented groups such as indigenous people, women and children, the elderly and the poor. Additionally, in the interest of equity, there is need to strike a balance between the needs of the present and future generations for sustainability and posterity;

• Educative – public participation initiatives should enable participants to have a better understanding of values, interests, rights and obligations of all stakeholders thus enhancing mutual respect and understanding amongst them;

• Cooperative – public participation initiatives should promote cooperation, convergence and consensus building rather than confrontation. They should engage conflicting perspectives and values and try to reach a general acceptance of the proposal to achieve a decision that promotes and supports sustainable development;

• Imputable – public participation initiatives should enrich the proposal under consideration and should provide a mechanism for reporting and feedback to stakeholders about the outcome of the public participation process, especially how their input contributed to decision-making.

Numerous benefits accrue from public participation in various processes. These include strengthening democracy, enhancing citizen-government relations, minimizing social conflicts, enhancing transparency and accountability. (Ministry of Devolution and Planning 2016, p. 4).
1.3 Overview of constitutional, legislative and policy framework on public participation

Constitutional provisions

The Constitution attaches a lot of primacy to the concept of public participation in governance processes giving recognition to the fact that sovereign power is vested in the people of Kenya who may exercise it either directly or indirectly through their elected representatives. In articles 1(3) and 10(2) of the Constitution, the principle of public participation appears in the list of national values and principles of governance.

In addition to conferring powers of self-governance to the people and underscoring the need for their participation in powers of the state and in decision-making, Article 174(4) of the Constitution further serves to make public participation an indispensable aspect of governance under devolution.

The Constitution also envisages public participation in different aspects of governance. Articles 118 and 196 of the Constitution for instance behove parliament and the county assemblies to ‘facilitate public participation and involvement in the legislative and other business of the assembly and its committees.’ Article 201(a) of the Constitution further makes it mandatory for public participation in matters relating to public finance. Article 184(1) requires that national legislation provides for participation by residents in the governance of urban areas and cities.

The Constitution further imposes an additional duty on the state to put in place affirmative action programs that interalia ensure that minorities participate in governance and other spheres of life (Article 56(a)).

Additionally, Article 119 (2) and the Fourth Schedule to the Constitution require parliament and the counties to actualize the right to public participation by defining the procedure through which this right may be exercised and enhancing the public’s administrative capacity to effectively exercise this function. To make public participation in such processes effective, Article 35 of the Constitution furthers recognizes the publics’ right to access information that is in the government’s possession relating to the subject matter under discussion.

The principles and spirit that should guide public participation initiatives were succinctly enunciated by Justice Odunga in Robert N. Gakuru and Others V Governor Kiambu County and 3 others [2014] eKLR when he stated that:

In my view, public participation ought to be real and not illusory and ought not to be treated as a mere formality for the purpose of fulfilment of the constitutional dictates. It is my view that it behooves the county assemblies in enacting legislation to ensure that the spirit of public participation is attained both quantitatively and qualitatively.
It is not just enough in my view to ‘tweet’ messages as it were and leave it to those who care to scavenge for it. The county assemblies ought to do what is reasonable to ensure that as many of their constituents in particular, and Kenyans in general, are aware of their intention to pass legislation...I hold that it is the duty of the county assembly in such circumstances to exhort its constituents to participate in the process of enactment of legislation by making use of as many forums as possible such as churches, mosques, barazas, national and vernacular radio broadcasting stations and other avenues where the public are known to converge to disseminate information with respect to the intended action.

The learned judge further reaffirmed public participation as a constitutional and statutory requirement that conferred upon citizens the right to not only elect their representatives but also to give direct input into decisions that the government makes.

**The County Government Act, 2012**

The County Government Act, 2012, defines the powers, functions and responsibilities of county governments. The act makes public participation in county planning processes compulsory and further enjoins the county government to facilitate the establishment of modalities and platforms for citizen participation by employing media such as town hall meetings and other information and technology-based technologies (Section 113).

The act further requires the establishment of citizen fora at county and decentralized units (Section 91) and recognizes the rights of citizen to petition the county government on any matter under the responsibility of the county government (Section 88).

The act identifies the prerequisites for effective public participation 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 from or, review decisions, or 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.

It is also instructive to note that under the Act, the county governor bears the overall responsibility of facilitating public participation in the development of policies, plans and service delivery in the county (Section 30 (3) (g)). However, it is the departments and agencies of the county that discharge this duty at all levels of decentralization including sub-county, ward, village, urban and city areas.

The sub-county administrators and ward administrators are responsible for the coordination, management and supervision of the general administrative functions in the sub-county and ward respectively including the facilitation and coordination of citizen participation in the development of policies, plans and service delivery (Sections 50 (3) (g) and 51 (3) (f)).

The county executive committee is also required to facilitate participatory decision making whenever practicable (Section 46 (2) (g)).

With regard to the county assembly, the responsibility of facilitating public participation rests on the speaker of the county assembly and chairpersons of various committees of the house (Section 92). Each county assembly is obligated to develop laws and regulations giving effect to the requirement for effective citizen participation in development planning and performance management within the county with the additional rider that such laws and guidelines should adhere to minimum national requirements (Section 92).

In an effort to ensure meaningful public participation in various processes, the act enjoins counties to establish mechanisms to facilitate public communication, to enhance access to information using media with the widest public outreach and to designate an office for ensuring access to information (Sections 94, 95 and 96). Furthermore, counties are also required to create an institutional framework for civic education (Sections 100 and 101).
The Urban Areas and Cities Act, 2011

The Urban Areas and Cities Act, 2011, underscores the primacy of public participation by residents in matters relating to governance of urban areas and cities (Section 3(c). The act provides for establishment of citizen fora that enables residents in urban areas to participate in the affairs of an urban area or city (Section 22). Section 5(1)(f) of the act further makes it mandatory for the institutionalization of residents’ participation in the management of urban areas as one of the perquisites for conferment of the status of a city on an area.

The Second Schedule of the Urban Areas and Cities Act, 2011 requires a city or urban area to develop a system of governance that encourages participation of residents in its affairs. The cities/urban areas are to, among others, create appropriate conditions for citizens’ participation in: preparation, implementation and review of the integrated development plan; establishment, implementation and review of the performance management system; monitoring and review of performance, including the outcomes and impact of its performance; preparation of the budget; and strategic decision making on service delivery.

The schedule also requires cities and urban areas to build the capacity of their residents to enhance their participation in the affairs of the city or urban area and to build the capacity of their officials and staff to foster community participation.


The dual objectives of the PFM Act, 2014 are to ensure that public finances are managed in accordance with the principles that are set out in the Constitution at both national and county level and that public officers managing public finances remain accountable to the public (Section 3).

In line with the foregoing legal provisions on public participation, the PFM Act establishes the County Budget and Economic Forums (CBEFs) as the principal mechanism to facilitate the county budget consultation process (Section 137(1). The forum provides the county government with a platform to consult the public on matters pertaining to the preparation of county plans, the County Fiscal Strategy Paper and the County Budget Review and Outlook Paper (Section 137(3)(a)).

The governor chairs the CBEF which is comprised of members of the county executive committee and an equal number of individuals representing professionals, business, labour issues, women, persons with disabilities, the elderly and faith based groups at the county level. (Section 137(2))

The County Budget and Economic Forum Guidelines of 2015 provide an elaborate calendar with clear timelines of when public engagement with the broader budget process from formulation through implementation shall take place and what documents shall form the basis of such discussions.
In order to enhance meaningful engagement with the public, the forum is also obligated to ensure that the county’s official plan and budget documents are produced in simplified and friendly versions for use by the forum and the public. The guidelines further require that where appropriate, these documents should also be produced in Kiswahili or local languages. The forum is further tasked to ensure that these documents are made widely available to the public and that its resolutions are documented and made available to the public within seven days of any meeting or activity.

In addition to the requirement that the CBEF’s operations should be guided by the basic principles of public participation contained in Section 87 of the County Governments Act, the guidelines further require that the 10 key principles enumerated below should apply:

- Public consultations should be open to the widest spectrum of citizens and taxpayers, without discrimination. The “public” refers to citizens, residents and taxpayers who are not government officials.
- Safeguards should be established to prevent consultative forums from being dominated by any one political group, organized interest, or politician. These safeguards should include open and transparent proceedings and competitively selected technical staff empowered to manage procedures. Where appropriate, there may be a need for vetting of participants.
- Public consultations must have clear and specific purposes, and these purposes should generally be to seek feedback on government plans, budgets and budget implementation; to seek specific preferences over a defined set of priorities, such as prioritizing a list of capital investments; and to present and seek feedback on audit reports and queries raised by auditors. The purpose of the consultation should be made known in advance to the public, along with relevant documentation, so that members of the public can prepare.
- The timeline and venues for public consultations should be made known at least two weeks in advance of the consultation to ensure that people can prepare themselves to participate. The venue for consultations should be consistent, wherever possible, so people know where they need to be in advance. The venue selection should take into consideration citizen preferences for where they feel most comfortable expressing their views. A calendar of events must be released at the start of every financial year.
- Public consultations must set aside dedicated time for public feedback and questions. A meeting at which officials simply present to the public without receiving any feedback or questions does not constitute public participation.
- Public consultation in the planning and budget process should occur at all stages in this process, including formulation, enactment, implementation, and oversight/evaluation. This
means that there must be consultations on at least a quarterly basis for any ongoing financial management processes.

- The public must have access to all relevant plan and budget documents in a timely fashion, meaning at least two weeks before any decisions are taken about draft plans or budgets. Relevant documents include all strategic plans, budget proposals, enacted budgets, quarterly or monthly implementation reports, audit reports, supplementary budgets, project plans and implementation reports, and contract and tender documents.

- All plan and budget documents should contain an executive summary and a narrative explanation of tables and figures. All of these documents should be written in a user friendly, simple format, or should be accompanied by simplified versions that are readily accessible.

- Citizens should be able to provide input into public consultations through direct participation, through representatives, and through written comments. It is not possible for every citizen to participate in every forum, and there must be other ways to provide input.

- Where the public is asked for input, there should be a feedback mechanism so that citizens know whether or not their inputs were received, and whether and why they were or were not incorporated into the relevant plans or budgets. This mechanism should take the form of a written document and, where possible, a public forum. The feedback must also be made available in a timely fashion so that citizens know before decisions are taken whether they have been heard or not.

The guidelines further require that mobilization of citizens for meetings should be done as far as possible in cooperation with non-state actors and should never be done exclusively using a single mechanism, such as exclusive reliance on members of the county assembly or chiefs.

**Nairobi County Public Participation Act, 2015**

In an attempt to entrench the concept of public participation in governance processes, the Nairobi County Assembly passed the Nairobi County Public Participation Act in December 2015. Section 6 of the act instructs the county government to create conditions for the local community to participate in various governance processes including: preparation, implementation and review of its integrated development plan; establishment, implementation and review of its performance management system; monitoring and review of its performance; preparation of its budget; and strategic decision-making on provision of county services.

The act also establishes citizen participation forums at the county, sub county, city, ward or village levels to discuss matters of public importance affecting the public or delivery of services. (Sections 10, 11 and 12). Section 10 of the act makes it mandatory for the county to convene citizen participation forums at county
level every three months whilst the ones at sub county, city, ward or village level are convened on an ad hoc basis. The act further makes provision for individual citizens to initiate such forums and receive funding from the County government (Section 13).

In recognition of the critical role that an informed populace and empowered workforce play in governance process, the act further requires the county to contribute towards building the capacity of local community, ward representatives and staff (Section 25).

The second schedule to the act requires cities or urban areas to develop a system of governance that encourages participation by residents in its affairs. They are required to among other initiatives, create appropriate conditions for participation in various functions including preparation, implementation and review of its integrated development plan; establishment, implementation and review of its performance management system; monitoring and review of its performance; preparation of its budget; and strategic decision-making on provision of county services.

While it is commendable that Nairobi County has enacted legislation to actualize citizens’ rights to participate in governance processes, the law’s major shortcoming is the lack of guidance on qualitative aspects of public participation by addressing key issues relating to the requisite minimum threshold for any public participation exercise.

Access to Information Act, 2016

The Access to Information Act, 2016 provides a framework for public entities to proactively disclose information in their possession or on demand to effect constitutional principles relating to accountability, transparency, public participation and access to information (Section 3).

The act makes great strides in designating the chief executive officer of any public entity as the information access officer who is tasked with processing all requests for access to information, a task that may be delegated to subordinates (Section 7).

The act further imposes an obligation upon public entities to provide information that is in their possession upon request in an expeditious manner and save for exceptional cases, to process such requests for information within twenty one days of receipt of the application (Sections 4 and 9). Failure to provide this information within the prescribed timeframe constitutes a criminal offence that will upon conviction attract a fine of one hundred thousand shillings or in default imprisonment for a term not exceeding six months, or to both (Section 28 (4) (b)).

Additionally, the act puts in place safeguards that enhance accountability and foster public participation in matters of governance. These include but are not limited to provisions allowing applicants to request
for information relating to the procedure that was followed in decision-making and the requirement for publishing particulars of contracts that were awarded on the public entity’s website for scrutiny (Section 5). It is however instructive to note that commencement of the provision that requires public entities to provide access to information regarding the criteria that was employed in arriving at certain decisions was deferred by twelve months from the date of judgement (Section 5(4)).

The Commission on Administrative Justice (CAJ) is conferred with wide-ranging powers to oversee and enforce provisions of this act. The act makes provision for applicants who are dissatisfied with a public entity’s refusal to grant information to apply for review of such a decision to the commission (Sections 14 and 21 (f)). CAJ is further mandated to investigate complaints on its own initiative or upon receipt of a complaint from a dissatisfied applicant and in instances where it is satisfied that provisions of the act have been contravened, order for release of the information that was withheld or order for the compensation of the affected party (Section 21 and 23)

**Draft Devolution Policy, 2015**

The draft policy seeks to address a myriad of issues pertaining to devolution including how to actualize effective public participation in governance processes. While the draft policy acknowledges that despite existence of a legislative framework conferring upon citizens the right to participate in governance processes, numerous factors continue to impede effective public participation in these processes. Lack of a structured approach to guide the process of public participation at both levels of government coupled with a lack of understanding on the principles of public participation by government officials and the citizens have been cited as some of the major impediments to effective public participation. The draft policy concludes that in the final analysis there has been minimum impact of the input by citizens on the final decisions at both levels of government.

The draft policy proposes that the following policy measures be undertaken to promote and mainstream the participation of citizens at all levels of government:

i) Operationalize Part VIII of the County Governments Act, 2012 which underscores the principles of public participation;

ii) Enact legislation on public participation;

iii) Develop and implement guidelines and thresholds for public participation;

iv) Develop strategies to facilitate citizens’ participation in governance;

v) Establish platforms for information sharing and consultation with the public;

vi) Develop and maintain databases on stakeholder analysis to enable targeted public participation; and,
vii) Develop and implement monitoring and evaluation systems to track the implementation of public participation.

The draft policy further notes that despite the critical role that civic education plays in ensuring effective public participation in various processes, the absence of continuous and systematic civic education, insufficient funding of civic education initiatives and uncoordinated civic education campaigns undertaken by non-state actors have been cited as the major impediments to effective public participation in various processes.

The draft policy proposes that the following policy measures be undertaken to promote effective public participation, public communication and civic education at both levels of government:

i) Operationalize Part X of the County Governments Act, 2012 with respect to civic education;

ii) Establish and decentralise civic education units at the county level to the lowest practicable units;

iii) Develop a framework for special civic education initiatives targeting persons with special needs;

iv) Develop and implement appropriate civic education frameworks, modes, curricula and programs validated through public participation;

v) Facilitate the implementation of civic education programs;

vi) Enhance the use of accreditation processes to determine the suitability of civic education providers; and,

vii) Design and implement a framework for monitoring and evaluating the effectiveness of civic education programs.

Review of Existing Surveys and Literature on Public Participation

Multiple studies have been undertaken about different factors that facilitate and impede effective public participation in various governance processes at county level. For instance, Siala (2015) undertook a study on the decentralization structures and socio-economic factors that influence public participation in the budget making process. The study revealed that tokenism was major factor that discouraged citizens from participating in the budget making process. Moreover, the study revealed that education had the highest influence on the effectiveness of public participation in budget formulation with 69.48% of the respondents acknowledging that education level influences the effectiveness of public participation.

Another study undertaken by Jesuit Hakimani Centre in thirty counties (excluding Nairobi County) aimed at assessing the extent to which Kenyans are aware of the mechanisms that provide for their participation in the functioning of national and county governments as units of service delivery. The study revealed that 26% of the respondents were aware of the primary objective of devolution being to enhance rights of communities to manage their own affairs and further their development. Regarding the utility of public participation in governance processes, 34% of the respondents were of the opinion that public participation forums were a
waste of time since politicians would disregard their views when making the final decision. However, 66% of the respondents believed that such forums were a useful means of enhancing public participation in governance processes.

Other factors inhibiting effective public participation in such processes included the inability to access information in the government's possession. 40.4% of the respondents rated getting information on government budgets and expenditure as being ‘very difficult’ and an additional 30.3 % as 'somehow difficult'. 38.3% of the respondents rated the capacity of civil society to empower communities in their area as ‘average’, 36.7% as ‘excellent’ and ‘good’ while 24.4 % of the respondents rated them as ‘poor’ or ‘very poor’ (Jesuit Hakimani Centre, 2013).

The Institute of Economic Affairs also undertook a study in Isiolo, Kisumu, Makueni and Turkana counties to identify the factors that facilitated or impeded effective public participation in governance processes in those counties.

In Makueni County, respondents deemed civic education as critical in enabling citizens to participate effectively in governance issues. The county’s decision to develop a handbook on civic education and subsequent training of over 999 individuals drawn from all the wards in the year 2013/2014 resulted in the creation of a huge resource base that is now used to not only conduct civic education on governance issues but also to disseminate information as and when need arises. The study was however unable to ascertain the exact number of citizens that had been reached by these interlocutors. The study further revealed that Makueni County allowed public interest groups and professional associations to participate in decision making with regard to identification and prioritization of development projects as well as allocation of budgets to prioritized projects. The county’s decision to put in place a mechanism for residents to elect project management committees tasked with overseeing all projects at the ward level and even authorizing payments further served to entrench public participation at the county level.

Furthermore, the County Disclosure and Communications Policy that came into force in September 2013 also put in place mechanisms that would ensure that citizens had access to timely, accurate and complete information about county policies, programs, services and initiatives. This enabled them to participate effectively in various processes where their input was required. The county has also adopted multiple avenues to ensure populace is adequately informed on upcoming activities including use of the county administrative structures, social media, local radio stations, county magazine and quarterly newspapers. The county also fostered strong partnerships with local civil society organizations that are now playing a pivotal role in civic education.

In Isiolo County, the study established that while consultations on the county’s budget priorities took place in the 2013/2014 financial year at ward level, the exercise had little utility since most projects had already been predetermined and the exercise largely served as a point of information to the participants. Additionally,
at the time of the study the county largely relied on members of county assembly (MCAs), sub county administrators and ward administrators to mobilize citizens for public participation forums. This increased the likelihood that sections of the population with opposing views were largely excluded from participating in these forums. Also of concern was the fact that at the time when the survey was undertaken the county had not conducted any civic education campaigns despite this being a prerequisite for effective public participation. Therefore, attempt to seek citizens views on the Isiolo County’s Finance Bill and the Isiolo County Revenue Administration Bill could be considered as tokenism aimed at satisfying a constitutional requirement.

At the time of the study, Kisumu County had put in place mechanisms to enhance meaningful public participation in key processes. The establishment of structures at sub-county and ward administrators enabled citizens to participate in planning at these levels. Quarterly meetings were also held at ward level to enable citizens give their views on development projects while citizens views on the 2014/2015 county budget and proposed projects were obtained in forums that were held at all the subcounties. During the latter forum, the public was also given an opportunity to give feedback on projects that were instituted during the previous financial year.

Multiple avenues of dissemination of information employed in Kisumu County including use of vernacular radio stations, toll free number, public barazas, notices at chief’s offices and ward representatives offices to update the public on diverse issues including the status of implementation of projects also served to enhance effective public participation in various processes relating to the County’s governance. However, the study identified the county’s failure to conduct civic education as the greatest obstacle to meaningful citizen participation and that may have also contributed to the low turnout during scheduled events.

Turkana County gave citizens numerous opportunities to participate in various processes at the county level. The county held public meetings at civic ward levels on a quarterly basis to allow the community to participate in planning and the budget-making processes. Consultations in the budget making process during the 2014/2015 financial year brought on board ten representatives from every ward who submitted their proposals on development priorities in their wards. Members of the public were also issued with copies of the 2014/2015 county budget and given an opportunity to give input on the status of projects that were funded during the previous financial year. The public was also given an opportunity to give their views on taxation matters contained in the county’ finance bill during forums organized at the sub county headquarters. The County Budget and Economic Forum also met once in 2014 to collect citizens’ views.

According to the study some of the factors that facilitated effective public participation in Turkana County included efforts by the county to employ diverse avenues to disseminate information to the public including the use of local media and 2 local weekly magazines. However of concern was the fact that at the time of the survey the county was yet to engage the public in any legislative process and that even the process leading to enactment of the primary piece of legislation to guide public participation viz Public Participation Act was
in the opinion of local civil society organizations minimal and ineffective. Additionally no information was availed as to whether or not civic education was conducted in the County to enable the citizens have a good grasp of the issues that they were called upon to participate in. (Institute of Economic Affairs, 2015)

An International Budget Partnership Kenya survey undertaken in five counties (Machakos, Bungoma, Elgeyo Marakwet, Taita Taveta and Homabay) raises salient issues on the efficacy of the CBEF as a mechanism for enhancing public participation in the budget making process. It also raised questions on whether the fora complied with the basic principles of public participation enunciated in Section 87 of the County Government Act. The study noted that:

- Efforts were made across all the counties that were sampled to involve the public in various budget-making processes. However, it was not possible to establish certain qualitative aspects such as the extent to which participants were granted an opportunity to speak freely and if their views were indeed taken into account in the final decision;
- It was difficult to establish what safeguards (if any) had been put in place to prevent the meetings from being dominated by a select interest group or politicians;
- The purposes or objectives of the consultative meetings were made clear in the various calls for participation;

While majority of the counties selected venues that were accessible to a large section of the public some of them failed to give notice, as in the case of Bungoma County, or largely failed to give ample notice for the meetings;

- i) While the counties generally allocated time to receive feedback from participants they chose to restrict this to the consultative forums and not afterwards;
- ii) Public participation was only limited to the budget formulation stage but faded out thereafter particularly in key stages of monitoring implementation of projects;
- iii) Most counties generally failed to avail the documentation that formed the basis of the deliberations in a timely manner. In most instances the documents were availed on the day of the forum or when availed there were inadequate or incomplete;
- iv) The study was unable to establish if all plans and budget documents contained an executive summary, and a narrative explanation with tables and figures as required by law. The situation was further compounded by the fact that the documents contained very technical terms that impeded a large section of the participants from effectively participating in the proceedings;
- v) The public was given multiple avenues for participating in these proceedings including giving oral submissions during the meeting, submitting written memoranda, use of interactive county website portals etcetera; and,
- vi) There was minimal feedback given to participants across all sampled counties.
Additionally, while these forums were open to all, there was a possibility that those living in far-flung areas or villages would fail to attend. This highlighted the ongoing threat to effective public participation in such processes. Also, considering that one of the main contributors to the failure of the LASDAP program was its pivoting at the ward level the impact was deemed much worse with the CBEF that is undertaken at County level (IBP, 2014).

An iHub-commissioned study sought to *interalia*, analyse how ICT tools can be used to facilitate communication between government and citizens with a focus on access to information, service delivery, tracking corruption and citizen participation. The study established that while ICT tools such as websites, mobile phones, radios and web applications have served to diminish citizens fear of victimization for reporting issues that affect them, their high potential in enhancing citizen participation in governance has been greatly hampered by the failure to involve citizens, who are the end users, in their development. This has invariably resulted in development of tools that are not user friendly and fail to capture citizens’ pressing needs. Additionally citizens’ use of such media is yet to reach an optimum level partly because citizens have not been sensitized about their existence and may believe that their views will not be considered or that no action will be taken against errant officers.

The study further established that there was successful use of ICTs in governance in cases where non-internet based ICTs such as radios and mobile phones are used and where forums exist for citizens to meet physically to follow up on issues raised using ICTs (iHub, 2014).

Additionally while Nairobi County has embraced ICT tools such as the county website, Twitter and Facebook as means of disseminating information including calls for citizen participation, it has been noted that there are instances that it has failed to use the broad spectrum of platforms available to it to reach out to the populace. For example, the county’s call for public consultations on the 2016 fiscal strategy did not include posting of the information on the county’s official Facebook or Twitter accounts even though they have more activity compared to the county’s official website (Nanjira, 2016).
1.4 Preliminary Findings

The cursory review of existing literature, the Constitution and other laws highlighted above reveals that structures for enhancing information access to citizens and social movements within Nairobi County exist and can enable them to exercise their right to participate actively in various governance processes. Bearing in mind the critical role that social movements have played in reform processes that have culminated in the introduction of a devolved governance system, it is critical that they continue to play a pivotal role in monitoring its implementation through various public participation forums.

In the course of county planning and budgeting, the public and social movements will be called upon to scrutinize planning and budget allocations to crucial services such as water, housing, health and early childhood education that are characterized as economic, social and cultural rights under the Constitution. Review of existing literature reveals that all the studies undertaken focused on individual participation in various governance processes. None of them sought to ascertain whether social movements that were involved in governance matters had the capacity to effectively participate in such processes and act as watchdogs to ensure that the county works towards progressive realization of economic and social rights that fall within their domain.

Additionally, while previous studies confirmed that there was an element of citizen participation in various governance processes in different counties including Nairobi, it would be important to ascertain some qualitative aspects of this participation that were not highlighted in previous studies. It would be important to have a clear understanding of the demographics of individuals participating in these processes and ascertain the facilitators and barriers to the effective participation of all segments of the society such as the marginalised, youth, women, and the upper, middle and lower classes in these processes. It would also be important to ascertain the criteria that should be employed to determine the threshold that must be attained for participation to be considered effective.

While it is now trite law that economic and social rights are justiciable, there has been an unfortunate trend emerging where the state fails to comply with judgements obtained in various landmark cases seeking to enforce Constitutional rights. (ICJ, 2015)

For instance, in the cases of Mitu- Bell Welfare Society v The Attorney General (Petition number 164 of 2011) and Satrose Ayuma and 11 Others v. Registered Trustees of the Kenya Railways Staff Retirement Benefits Scheme and 2 others (Petition number 65 of 2015), the court affirmed the state’s obligation to promote, protect and fulfil the economic, social and cultural rights of the vulnerable in the community, particularly the right to adequate and accessible housing. However, the court’s order for compensation for the unlawful eviction of squatters had not been complied with five years after these landmark judgements.
Similarly, in Patricia Asero & Others v. Attorney General (Petition number 409 of 2009), the state blatantly disregarded the judge’s order requiring it to make amendments to sections 2, 32 and 34 of the Anti-Counterfeit Act, 2008. The amendments were to ensure that the rights of petitioners and others dependent on generic medicines are not put in jeopardy by failing to omit ‘generics’ (including generic medicines) from the definition of what was considered ‘counterfeit’ in the Anti-Counterfeit (Amendment) Act, 2014. The state’s action continued to pose a risk to access to generic drugs by persons living with HIV in violation of their rights to life, dignity and health.

In Michael Mutinda Mutemi vs. Permanent Secretary, Ministry of Education and two others, the state also failed to act on the court’s holding requiring it to take firm steps in progressively achieving the right to basic education in a holistic manner.

This unfortunate state of affairs raises questions on whether there are other interventions available to citizens in enforcing these rights. This study seeks to highlight these gaps and make policy recommendations on how to address them.
2 RESEARCH METHODOLOGY

2.1 Study Design

This study employed a mixed design since it was deemed most suitable for building a profile on the phenomenon under study and because it helped to provide a snapshot of events in the study area by capturing information within a short period.

2.2 Study Area

The study took place in Nairobi County, the capital and largest city in Kenya. Nairobi borders Kiambu County to the North and West, Kajiado to the South and Machakos to the East. The County covers an area of 694.85 square kilometers and has 9 sub-counties, 27 divisions, 64 locations and 135 sub-locations with a population of 3,138,369 inhabitants according to the 2009 Population Census.

Most of the upmarket suburbs are in the west and north central parts of Nairobi, where most European settlers resided during the colonial times, while most middle-income neighborhoods are located in the north-central areas and areas to the southwest and southeast of the metropolitan area near the Jomo Kenyatta International Airport. On the other hand, the low and lower income estates are located mainly in far eastern Nairobi.

The county is also home to many international organizations and multi-national companies such as Coca-Cola, General Motors, Google, IBM and the United Nations regional headquarters. It is also the business hub of the region with a myriad of economic activities including small and medium sized manufacturing industries, agricultural processing industries and service based industries.

2.3 Study Population

The study population comprised of 3,138,369 people in Nairobi County (National Census, 2009). The households, leaders of social movements, civil society organizations and government employees comprised the unit of analysis in this study.
The sample for the study was derived using the following formula:

\[ X = Z \left( \frac{\alpha}{100} \right)^2 r (100-r) \]

\[ N = \frac{N_x}{(N-1)E^2 + x} \]

\[ E = \sqrt{\frac{N-n}{n(N-1)}} \]

N – The population size
r – The fraction of response the study was interested in
Z(C/100) – The critical value for the confidence level

Computation of the sample size was based on normal distribution.

The margin of error was set at 1.96 (5%) with a confidence level of 95%. The size of the population in Nairobi County at the time of the survey was estimated to be 3,138,369 with a response distribution rate of 50. This resulted in a sample of 300 respondents.

A sample of 310 spread across 24 locations in Nairobi County was used translating into a margin of error of 1.96 (5%) with a confidence level of 95%.

Using the 2009 population census, the sample was designed using population proportionate to size (PPS) and mainly entailed:

i) Use of stratification to make sure all locations are covered;
ii) Ensuring further distribution according to gender;
iii) Ensuring further distribution among the different income groups;
iv) Using the location as the key administrative boundary; and,
v) Ensuring that every adult in the county has a known chance of being selected.

Data for the survey was then collected through questionnaires administered face-to-face to randomly selected households.

The following is an illustration of distribution of the sample.
Table 1: Strata - Nairobi County

<table>
<thead>
<tr>
<th>Strata</th>
<th>Population</th>
<th>Distribution (%)</th>
<th>Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi East</td>
<td>1,144,416</td>
<td>36</td>
<td>113</td>
</tr>
<tr>
<td>Nairobi North</td>
<td>1,062,086</td>
<td>34</td>
<td>105</td>
</tr>
<tr>
<td>Nairobi West</td>
<td>684,765</td>
<td>22</td>
<td>68</td>
</tr>
<tr>
<td>Westlands</td>
<td>247,102</td>
<td>8</td>
<td>24</td>
</tr>
<tr>
<td>Grand Total</td>
<td>3,138,369</td>
<td>100</td>
<td>310</td>
</tr>
</tbody>
</table>

Table 2: Strata 2 - Divisions

<table>
<thead>
<tr>
<th>Strata</th>
<th>Population</th>
<th>Distribution (%)</th>
<th>Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi East</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Embakasi</td>
<td>925,775</td>
<td>81</td>
<td>85</td>
</tr>
<tr>
<td>Makadara</td>
<td>218,641</td>
<td>19</td>
<td>25</td>
</tr>
<tr>
<td>Grand Total</td>
<td>1,144,416</td>
<td>100</td>
<td>110</td>
</tr>
<tr>
<td>Nairobi North</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central</td>
<td>274,607</td>
<td>26</td>
<td>27</td>
</tr>
<tr>
<td>Kasarani</td>
<td>525,624</td>
<td>49</td>
<td>52</td>
</tr>
<tr>
<td>Pumwani</td>
<td>261,855</td>
<td>25</td>
<td>26</td>
</tr>
<tr>
<td>Grand Total</td>
<td>1,062,086</td>
<td>100</td>
<td>105</td>
</tr>
<tr>
<td>Nairobi West</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dagoretti</td>
<td>329,577</td>
<td>48</td>
<td>35</td>
</tr>
<tr>
<td>Kibera</td>
<td>355,188</td>
<td>52</td>
<td>35</td>
</tr>
<tr>
<td>Grand Total</td>
<td>684,765</td>
<td>100</td>
<td>70</td>
</tr>
<tr>
<td>Westlands</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Westlands</td>
<td>247,102</td>
<td>100</td>
<td>25</td>
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</tbody>
</table>
Table 3: Strata 3 - Locations

<table>
<thead>
<tr>
<th>EMBAKASI</th>
<th>Population</th>
<th>Distribution (%)</th>
<th>Sample</th>
</tr>
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<tbody>
<tr>
<td>Dandora</td>
<td>142,046</td>
<td>18</td>
<td>15</td>
</tr>
<tr>
<td>Embakasi</td>
<td>87,970</td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>Kayole</td>
<td>175,949</td>
<td>22</td>
<td>19</td>
</tr>
<tr>
<td>Mukuru Kwa Njenga</td>
<td>201,042</td>
<td>26</td>
<td>22</td>
</tr>
<tr>
<td>Umoja</td>
<td>177,365</td>
<td>23</td>
<td>19</td>
</tr>
<tr>
<td><strong>Embakasi Total</strong></td>
<td><strong>784,372</strong></td>
<td><strong>100</strong></td>
<td><strong>85</strong></td>
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</table>

<table>
<thead>
<tr>
<th>MAKADARA</th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Makadara</td>
<td>48,489</td>
<td>28</td>
<td>7</td>
</tr>
<tr>
<td>Mukuru Nyayo</td>
<td>53,303</td>
<td>31</td>
<td>8</td>
</tr>
<tr>
<td>Viwandani</td>
<td>71,390</td>
<td>41</td>
<td>10</td>
</tr>
<tr>
<td><strong>Makadara Total</strong></td>
<td><strong>173,182</strong></td>
<td><strong>100</strong></td>
<td><strong>25</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>NAIROBI NORTH</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CENTRAL</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Huruma</td>
<td>106,319</td>
<td>55%</td>
<td>15</td>
</tr>
<tr>
<td>Mathare</td>
<td>87,097</td>
<td>45%</td>
<td>12</td>
</tr>
<tr>
<td><strong>Central Total</strong></td>
<td><strong>193,416</strong></td>
<td><strong>100%</strong></td>
<td><strong>27</strong></td>
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</table>

<table>
<thead>
<tr>
<th>KASARANI</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Githurai</td>
<td>87,575</td>
<td>22%</td>
<td>11</td>
</tr>
<tr>
<td>Kahawa</td>
<td>56,437</td>
<td>14%</td>
<td>7</td>
</tr>
<tr>
<td>Kasarani</td>
<td>100,472</td>
<td>25%</td>
<td>13</td>
</tr>
<tr>
<td>Ruaka</td>
<td>152,174</td>
<td>38%</td>
<td>20</td>
</tr>
<tr>
<td><strong>Kasarani Total</strong></td>
<td><strong>396,658</strong></td>
<td><strong>100%</strong></td>
<td><strong>51</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PUMWANI</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastleigh North</td>
<td>86,426</td>
<td>50%</td>
<td>13</td>
</tr>
<tr>
<td>Eastleigh South</td>
<td>87,963</td>
<td>50%</td>
<td>13</td>
</tr>
<tr>
<td><strong>Pumwani Total</strong></td>
<td><strong>174,389</strong></td>
<td><strong>100%</strong></td>
<td><strong>26</strong></td>
</tr>
</tbody>
</table>
### Data Collection Methods

The study used both quantitative and qualitative data collection methods. Structured interviews were used for collecting quantitative data while key informant interviews were used to collect qualitative data.
3 ANALYSIS OF RESEARCH FINDINGS AND DISCUSSIONS

3.1 Socio-Demographic Data.

The study identified various socio-demographic data of respondents including sex, age, education level and marital status. Majority of the respondents (54%) were male while the rest (46%) were female. Fifty eight percent of the respondents were between 18-35 years of age, 40.6% were between 36-60 years of age while only 1.6% were above 60 years old. On the level of education of the respondents, 49.4% had attained tertiary education, 34.8% had attained secondary education and 12.6% had attained primary education. Those with no formal education formed a nominal 3.2% of the respondents. On marital status, 56.5% of respondents were married, 32.9% were single, 4.2% were widowed, 3.9% were separated and 2.5% were divorced. Overall, it was established that the study population is fairly youthful and literate.

<table>
<thead>
<tr>
<th>District</th>
<th>N</th>
<th>%</th>
<th>Education level</th>
<th>N</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi East</td>
<td>95</td>
<td>30.6</td>
<td>Primary</td>
<td>39</td>
<td>12.6</td>
</tr>
<tr>
<td>Nairobi North</td>
<td>112</td>
<td>36.1</td>
<td>Secondary</td>
<td>108</td>
<td>34.8</td>
</tr>
<tr>
<td>Nairobi West</td>
<td>78</td>
<td>25.2</td>
<td>Tertiary</td>
<td>153</td>
<td>49.4</td>
</tr>
<tr>
<td>Westlands</td>
<td>25</td>
<td>8.1</td>
<td>None</td>
<td>10</td>
<td>3.2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Divisions</th>
<th>N</th>
<th>%</th>
<th>Marital Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Embakasi</td>
<td>73</td>
<td>23.5</td>
<td>Single</td>
</tr>
<tr>
<td>Makadara</td>
<td>27</td>
<td>8.7</td>
<td>Married</td>
</tr>
<tr>
<td>Central</td>
<td>19</td>
<td>6.1</td>
<td>Widowed</td>
</tr>
<tr>
<td>Kasarani</td>
<td>61</td>
<td>19.7</td>
<td>Separated</td>
</tr>
<tr>
<td>Pumwani</td>
<td>27</td>
<td>8.7</td>
<td>Divorced</td>
</tr>
</tbody>
</table>

Table 4: Socio-Demographic Data
### Districts and Education Levels

<table>
<thead>
<tr>
<th>District</th>
<th>N</th>
<th>%</th>
<th>Education level</th>
<th>N</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dagoretti</td>
<td>36</td>
<td>11.6</td>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kibera</td>
<td>42</td>
<td>13.5</td>
<td>18-35yrs</td>
<td>179</td>
<td>57.7</td>
</tr>
<tr>
<td>Westlands</td>
<td>25</td>
<td>8.1</td>
<td>36-60yrs</td>
<td>126</td>
<td>40.6</td>
</tr>
<tr>
<td>Gender</td>
<td></td>
<td></td>
<td>More than 60 Years</td>
<td>5</td>
<td>1.6</td>
</tr>
<tr>
<td>Male</td>
<td>168</td>
<td>54.2</td>
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#### 3.2 Policy Barriers and Facilitators of Effective Citizen Participation in Governance Processes

#### 3.2.1 Awareness of planning and budget making processes at national and county government levels

Across the various income groups, the study found that 46% of the respondents agreed that they are aware of the planning and budget making processes at national government level while 18% of the respondents strongly disagree that they are aware of these processes. A further 16% of the respondents disagree while 13% of the respondents strongly disagree that they possess this knowledge.

In the context of gender across the various income groups, the study established that majority of the male respondents (47%) and 45% of the female respondents agree that they are aware of planning and budget making processes at the national government level. Additionally, male and female respondents who strongly agree comprised of 23% and 10% respectively of the respondents. In relation to the income groups, 100% of the respondents drawn from the high-income bracket intimated that they were aware of these processes followed by those from the middle-income bracket at 75% and least among the low-income bracket at 52%. On the other hand, lack of awareness about these processes was restricted to the low and middle-income brackets with the majority of these being among the middle-income bracket at 43% compared to 40% among those from the low-income bracket. A nominal 10% of the respondents drawn solely from the low-income bracket had no comment on the matter.

One of the participants of the focus group discussions shed light on this disparity in the following quote.

“**As a person from the informal settlement, I can honestly say that engaging in the planning and budget making processes is a major challenge. The processes at the national level are too complicated for ordinary citizens like myself to participate in and many a time the space to participate is also limited.**”
Barriers and Facilitators of Citizen Participation in Governance Processes in Nairobi County, Kenya

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On the other hand, lack of awareness about these processes was restricted to the low and middle-income brackets with the majority of these being among the middle-income bracket at 43% compared to 40% among those from the low-income bracket. A nominal 10% of the respondents drawn solely from the low-income bracket had no comment on the matter.

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"As a person from the informal settlement, I can honestly say that engaging in the planning and budget making processes is a major challenge. The processes at the national level are too complicated for ordinary citizens like myself to participate in and many a time the space to participate is also limited."

#### Figure 1: Awareness of planning and budget making processes at the national government level

Cumulative findings across the various income groups established that 11% of the respondents strongly agree that they had knowledge on planning and budget making processes at the county government level, 41% agree while those with no comment stood at 6%. Furthermore, those who disagree and strongly disagree formed 29% and 14% of the respondents respectively.

Additionally awareness about these processes was substantially higher among male respondents at 60% compared to 40% among the female respondents. Lack of awareness about these processes was similarly substantially higher among female respondents at 50% compared to their male counterparts, which stood at 37%. Tellingly, majority of those who had no comment on the issue were female at 10% compared to 4% among the male respondents.

In contextualising these issues, a focus group discussion participant said:

"Despite the presence of devolved units of governance, participation of women in governance processes across various income groups still remains very low. This is mostly because the county government has failed to create a conducive environment that would enable them to participate in these processes. For instance, most of these processes are normally characterised by chaotic and violent scenes and thus many women choose to keep off from these activities."

The study further established that a significantly larger majority of those who possessed knowledge about these processes were from the high-income bracket at 100% followed by the middle-income bracket at 55% and least among the low-income bracket at 50%. However, lack of awareness about these processes was
almost equal among the middle and low-income brackets at 43% and 40% respectively while none of the respondents from the high-income bracket admitted that they lacked knowledge about these processes. In relation to this issue, a participant from one of the focus group discussions from the low-income bracket was quoted saying:

“The nature of my livelihood diminishes my chances of participating in various governance processes at county level. Imagine reporting to work at 7:00 a.m. and leaving late in the evening all in an effort to earn a living so that I can feed my family. Where will I get the time to acquaint myself with these processes? I am forced to choose between providing for my family and attending such processes to increase my knowledge. Even if I was inclined to acquire this knowledge it is very difficult to do this because there is minimal civic education in our area.”

Figure 2: Awareness of planning and budget making processes at the county government level

3.2.2 Awareness of policy and law formulation processes at county government level

Majority of the respondents (52%) indicated that they were knowledgeable about policies and law formulation processes at national government level compared to 42% who lacked knowledge about these processes and 6% who had no comment on the matter.

Furthermore, a substantially higher number of male respondents (60%) said they possessed knowledge about these processes compared to their female counterparts (40%). Similarly, lack of knowledge about these processes was substantially higher among female respondents at 54% compared to their male counterparts who stood at 34%.
With regard to the income groups, it was established that majority of the respondents from all the income groups had knowledge about these processes with the highest number being among those who were drawn from the high-income bracket at 100% followed by the middle-income bracket at 67% and least among those from the low-income bracket at 48%. Lack of awareness about these processes was again higher among the low-income bracket at 45% compared to 34% from the middle-income bracket and none from the high-income bracket. On the other hand, only 8% of the respondents drawn from the low-income bracket had no comment on the matter.

![Figure 3: Knowledge on policy and law formulation processes](image)

### 3.2.3 Possession of knowledge on policies and processes relating to the vetting and appointment of public officers at national and county government levels

Forty six percent of the respondents indicated that they were knowledgeable about policies and processes relating to the vetting and appointment of public officers at both levels of government compared to 47% who lacked knowledge about these processes and 7% who had no comment on the matter.

More male respondents (52%) indicated that they possessed knowledge on the laws, policies and processes that relate to the vetting and appointment of public officers compared to female respondents (38%). Lack of awareness of these laws, policies and processes was also higher among female respondents at 56% compared to their male counterparts who stood at 40%.

Furthermore, majority of the respondents from the high and middle-income brackets were aware of the requisite laws, policies and processes at 100% and 62% respectively compared to 40% among the low-income bracket. Lack of awareness on the same was markedly higher among the low-income bracket at 48% compared
to 37% among the middle-income bracket and none from the high-income bracket. Majority of those who had no comment on this issue were drawn from the low-income bracket at 12% followed by 1% from the middle-income bracket. An excerpt below from a focus group discussant:

“One of the greatest impediments to citizens’ participation is the absence of knowledge on policies and laws that guide these processes including the hiring of key officers. For instance, how does one petition a relevant authority tasked with the responsibility of hiring such officers if you do not have the requisite knowledge? These are very pertinent issues in relation to the involvement of citizens in hiring processes that need to be addressed forthwith.”

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Figure 4: Knowledge of policies and processes that guide the vetting and appointment of public officers at the national government level.

Despite the Constitution devolving power and management of public resources to counties, 51% of respondents still lacked knowledge about the laws, policies and processes for the vetting and appointment of public officers at the county level. Twenty percent of the respondents across the three income groups strongly disagreed that they possessed this knowledge while another 27% disagreed. Thirty seven percent of respondents possessed this knowledge and another 12% did not comment on this aspect. The study further established that knowledge and lack thereof on laws, policies and processes relating to the vetting and appointment of public officers at the county government level is evenly distributed among male respondents at 43% and 44% respectively compared to their female counterparts that stood at 30% and 61% respectively.

While 100% of respondents drawn from the high-income bracket were knowledgeable about the laws, policies and processes that regulate the vetting and appointment of public officers, a nominal 48% and 32% of those drawn from the middle and low-income brackets respectively possessed this knowledge. On the other hand, while none of the respondents from the high-income bracket admitted to lacking this knowledge, there was a marginal difference between the low and middle-income brackets in terms of lack of knowledge about the same at 50% and 49% respectively. Majority of those who failed to comment about this aspect were from the
low-income bracket at 18% and were followed by those from the middle-income bracket at 3%.

It is however worth noting that the level of skepticism about the efficacy and transparency of these processes abound. See excerpt below from a key informant interview:

“Ward administrators are supposed to be appointed by the county public service board, but you find that most of these appointments are influenced by the MCAs. This in a way negatively impacts on their ability to deliver on their mandate objectively since they are beholden to their masters and thus readily abdicate their roles as custodians of that important office.”

3.2.4 Enabling legislative framework

According to 60% of the respondents, the legislative framework anchoring the right of citizens to participate in various governance processes (including the County Government Act, 2012; Public Finance Management Act, 2014; Urban Areas and Cities Act, 2011; Nairobi County Public Participation Act, 2015; and Access to Information Act, 2016) has greatly enhanced steps towards actualizing this right. However, according to another 25% of the respondents, the major shortcoming of the existing legal framework, particularly the Nairobi County Public Participation Act, is its failure to give guidance on how to enhance qualitative aspects of public participation by addressing the requisite threshold for public participation. The end result of this has been largely cosmetic exercises where the county government engages sections of the community in policy formulation, planning and budget making processes merely for purposes of satisfying Constitutional and statutory requirements without necessarily laying a proper foundation for their meaningful participation. A key informant put this situation into context by stating that:
“Duty bearers should be aware of the fact that meaningful participatory approaches to development act as an impetus in building more cohesive and well-informed communities. It is thus important that these processes are not undertaken with the intention of achieving nothing, as was the case in the past with the District Focus for Rural Development and LASDAP. These processes should live to the aspirations of the drafters of the Constitution and the accompanying legislation on citizen participation.”

3.2.5 Failure by the county government to foster strong partnerships with social movements

Sixty percent of respondents held the view that the failure of the county government to foster partnerships with social movements and its continued shunning of their officials is detrimental. This has deprived the county government of the opportunity to utilize the wealth of experience and networks that these organizations have amassed over the years that would have helped the county in discharging this crucial obligation of ensuring effective public participation in various governance processes, especially in the nascent stages of implementing the current Constitution. See excerpt below from a key informant interview.

“Despite the invaluable contribution by social movements to the expanded democratic space that we continue to enjoy in Kenya, the current elected leadership view us as busy bodies asking too many intrusive questions. Peoples’ movements bring forth a wealth of experience that is critical for meaningful public participation in various processes and in holding the county government accountable. However, the elected leadership is surrounded by people who were not part of this struggle and will do everything within their power to stifle operations of civil society organizations that continue to champion the actualization of citizens’ constitutional rights, including the progressive realization of socio-economic rights.”

3.3 Structural and Administrative Barriers and Facilitators to Effective Citizen Participation.

3.3.1 Knowledge of the existence of public participation forums

The study established that 67% of the respondents were aware of the existence of public participation forums, 27% were not aware of their existence and 6% had no comment on the issue. Majority of the respondents from all the three income groups confirmed that they possessed knowledge about these forums with the highest being among the middle-income bracket at 77% followed by the high-income bracket at 75% and least among the low-income bracket at 66%. However, lack of awareness about these forums was markedly higher among the low-income bracket at 28% compared to the middle-income bracket at 20% while none of the respondents from the high-income bracket admitted to lacking this knowledge. Majority of those who had no comment on the matter were drawn from the high-income bracket at 25% followed by low-income
Bracket at 7% and lastly among the middle-income bracket at 4%.

Despite high levels of awareness of these forums, a key informant stated that

“awareness of a scheduled public participation forum does not necessarily translate to meaningful participation. Of course we are aware of these forums because some of them take place in social halls in our areas. However, we must ask ourselves; does mere knowledge of the existence of these forums translate into robust public participation in these processes as was envisioned by the makers of these laws? The answer is a resounding ‘no’.”

Notwithstanding their knowledge about the existence of these forums, 78% of the respondents felt that the county has made minimal efforts to ensure that traditionally marginalised sections of society such as women, youth, persons with disabilities and religious minorities were aware of and facilitated to participate in these forums.

A focus group discussant alluded to this further by stating:

“The hurried nature of public participation forums is detrimental to the participation of the traditionally marginalized sections of the community. Discussions that should last at the very minimum a whole day taking only two hours is tantamount to abusing this process. Furthermore, hurried processes do not make deliberate efforts to give marginalised persons within communities the opportunity to participate fully in these forums. For instance, the county should take steps to ensure that the venues where these forums are held are accessible to persons with disabilities, the blind are able to participate by getting timely provision of documents translated into braille or that sign language interpreters are provided to enable the deaf to follow these proceedings.”

Furthermore, 60% of respondents cited the county government’s failure to appoint village administrators who would ensure that these forums are held closer to the people at the grassroots level as a major barrier to citizen participation in various processes even in instances when they were aware of their existence. One of the participants in a focus group discussion who was also from the low-income bracket emphasized this by stating that:

“The county government should ensure that public participation forums are held at the village level especially in our areas where majority of the people are poor and living below the poverty line. You cannot expect me for instance to spend my hard earned money on transport to such venues at the ward level yet I am barely able to provide for my family.”
Majority of the respondents (71%) did not receive any civic education prior to their involvement in processes that required public participation compared to a nominal 21% who had received this education and another 7% did not give any comment on the matter. One of the respondents succinctly summed up the net effect of their failure to receive civic education before engaging in these processes when he stated thus:

“Failure to provide civic education that is key to our involvement in these forums is akin to sending a soldier to battle without ammunition and expecting him to triumph against his opponent….this grave omission has reduced us to mere spectators during these processes since we lack the requisite knowledge to participate in a meaningful manner in these processes.”

Additionally, majority of the respondents from all the income groups intimated that they did not receive any civic education before they participated in forums and processes that required public participation with the highest number being among those from the low-income bracket at 71% followed by the middle and high-income brackets at 63% and 60% respectively. On the other hand, majority of those who received civic education before they participated in these forums and processes were drawn from the middle-income bracket at 34% followed by the high-income bracket at 20% and least among the low-income bracket at 19%. However, majority of those who failed to give any comment on the matter were those from the high-income bracket at 20% followed by the low-income bracket at 10% and least among the middle-income bracket at 3%. The travesty of this state of affairs is that low-income areas, which are in dire need of services such as education, decent housing, water and sanitation, face neglect in the provision of civic education that would...
have been instrumental in advocating for allocation of maximum available resources towards the progressive realization of these socio-economic rights. A focus group discussant from the low-income group stated that:

“Our views only matter when we are needed to rubber stamp their processes. The county government has not initiated any capacity building sessions. We rely solely on civil society organizations that cannot do much because of the meagre resources that they have at their disposal at any given time.”

![Figure 7: Civic education received before scheduled public participation events](image)

### 3.3.3 Issuance of adequate notice for scheduled public participation forums

On whether the county government provided adequate notice for activities requiring public participation, majority of the respondents (65%), stated that the notice convening these public participation forums was inadequate. Twenty seven percent of the respondents across the various income groups strongly disagreed that the notice given was adequate while 38% disagreed. Moreover, 23% held the view that notice given was adequate and another 11% had no comment on the matter. A focus group discussant from the low-income area posited that:

“We normally learn about these forums on the eve of the event and documents that are to be discussed are never availed in time to enable us to interrogate and internalise their contents before participating in these forums. Sadly, the authorities do not seem to be in a hurry to remedy this unfortunate state of affairs despite receiving numerous complaints from us.”

Notably, the highest number of respondents who held the view that adequate notice was given before convening these forums were from the high-income bracket at 66% compared to a nominal 34% among the middle-income bracket and 20% among the low-income brackets. Majority of the respondents from the low and middle-income brackets (65% and 59% respectively) held the view that the notice given was inadequate.
compared to 33% of those from the high-income bracket. Those who failed to comment on adequacy of the notice were restricted to the low and middle-income brackets at 15% and 6% respectively. Residents from both the middle and low-income areas held the common view that the recurrent practice of the county government giving short notices in their respective areas is indicative that their views were not valued. They felt that the county government does not consider their input in various processes to be of any utility and thus makes minimal effort to ensure that many of them participate in these processes.

Figure 8: Adequate notice given by the county government for activities requiring public participation

### 3.3.4 Timely access to the requisite documents and information

Majority of the respondents (78%) intimated that they did not have timely access to the documents that formed the basis of discussion during public participation forums compared to a nominal 14% who said they accessed them in good time. Eight percent of respondents did not comment on this aspect. The state of affairs relating to ease of access to documents was captured in a comment from one of the participants in one of the study’s focus group discussions.

“These people are very mischievous, they know that we are living in a digital world and therefore all information relating to budgets, plans and progress reports is supposed to be posted on their websites. However, most of these documents are never published on the Nairobi County website and yet if you look at their annual budget, they have a huge allocation for ICT but the website is not up-to-date.”

The study found that there was almost an equal number of male and female respondents who accessed documents that were to be discussed during these forums in good time at 14% and 13% respectively. However, majority of respondents from both genders intimated that they failed to access these documents in good time with the highest number being among female respondents at 81% compared to 75% of their male
counterparts.

The study further revealed that majority of the respondents who had access to the requisite documents prior to scheduled public participation forums comprised those from the high-income bracket at 40% followed by 22% from the middle-income bracket and a nominal 12% from the low-income bracket. There was a marginally higher number of respondents drawn from the low-income bracket who were unable to access the requisite documents (78%) compared with 72% from the middle-income bracket and 60% from the high-income bracket. Those who did not comment on this aspect were restricted to the low and middle-income brackets at 11% and 6% of respondents respectively.

![Figure 9: Timely access to documents that were to be discussed during public participation forums](image)

### 3.3.5 Ability to understand documents under discussion in public participation forums

The study found that only 31% of respondents across the three income groups could understand the documents discussed during public participation forums. Fifty nine percent were unable to understand them and 10% did not comment on this aspect.

A participant in the focus group discussions aptly captured the magnitude of this problem by stating that:

“When you look at documents like the County Fiscal and Strategy Paper and CBROP the language that is used is very technical and you can’t help but feel that they are doing what has always been said that if you want to hide something from an African then put it in a book. You look at these documents and can’t help but wonder, what is this?”
The number of male respondents who were able to understand these documents was higher at 37% compared to female respondents who stood at 23%. On the other hand, the number of female respondents who were unable to understand these documents was substantially higher at 69% compared to their male counterparts at 51%.

There was a marginal difference between the ability of respondents from the high and middle-income brackets to understand these documents at 50% and 47% respectively compared to those from the low-income bracket, which stood at a dismal 25%. Tellingly, majority of those who were unable to understand these documents were drawn from the low-income bracket at 65% followed by middle-income at 48% and then by the high-income bracket at 25%. Majority of those who failed to comment on this aspect were drawn from the high-income bracket at 25% followed by the low-income bracket at 10% and least among the middle-income bracket at 5%. A key informant put this situation into context in the excerpt below:

“Citizens’ ability to understand these documents can largely be attributed to civic education and awareness creation programs that are undertaken by civil society organizations. However, these civil society organizations have not been able to reach enough people due to human resource and financial constraints. I am of the opinion that the government should do more to ensure that more citizens can understand these documents instead of leaving it to civil society organizations. The complexity of these documents inhibits efforts by citizens to understand and give meaningful input during public participation forums. Additionally, notice that is given to convene such forums should be informed by the complexity of the documents involved. Where documents are very complex, then a longer notice period is required. It does not make sense to give very short notice since interrogating a complicated document within a short period limits your ability to internalise its contents and give valuable input during these forums.”

Additionally another key informant weighed in on this matter when she said:

“No effort is ever made to translate documents that are to be discussed or language that is used during these forums to cater for persons with visual and hearing impairments. I have not come across any document used in public participation forums that was translated in braille or attended any forum where sign language interpreters were available. This begs the question…does the county government really care about our interests as persons with disabilities or value our input in any of these processes?”
3.3.6 Convenience of the day that is designated for public participation forums

The popularly held view among the respondents was that the day designated for public participation forums was inconvenient. Fifty-five percent said it was inconvenient compared to 28% who felt that it was convenient and another 18% who failed to comment on this matter. It is also worth noting that majority of the respondents from the low and middle income brackets opined that the day designated for public participation events was inconvenient at 60% and 57% respectively compared to 25% of those from the high-income bracket. 50% of those who believed that the designated day was convenient were from the high-income bracket followed by the middle and low-income brackets at 28% and 24% respectively. On the other hand, majority of those who failed to comment on suitability of the day set aside for public participation were drawn from the high income bracket at 25% followed by low income bracket at 16% and lastly by the middle income bracket at 14%. A focus group discussant stated that:

“Majority of these public participation meetings are held during weekdays when most people are working. Such days are not convenient since most people cannot take time off from their work or businesses to attend these meetings. It is unfair to expect citizens who are struggling to earn a living to sacrifice a day’s wages or proceeds from business in order to attend these forums. The government should strike a balance to ensure that public participation meetings are held on a day that is convenient to most people especially over the weekend.”
3.3.7 **Provision of adequate time for meaningful participation**

Majority of the respondents (57%) held the view that the time allocated to them to give their views and ask questions relating to the issues under discussion was inadequate while only 23% believed that adequate time was allocated for this exercise and 20% declined to comment on this matter. One of the participants in the focus group discussions opined thus:

> “Elected leaders who play an important role in these forums tend to undermine some of the leaders whom they think are more powerful within the community. They do this by first ensuring that minimal time is allocated to give views and ask questions and secondly by ensuring that these individuals are completely sidelined by preventing them from giving their views simply because the politicians feel threatened by their popularity.”

While majority of the respondents (60%) from the high-income bracket were of the view that the time allocated to give views and ask questions during these events was adequate, a substantially smaller number of respondents from the middle and low-income brackets (22% each) shared this view. The number of respondents who felt that the time that was allocated for this exercise was inadequate was marginally higher among the middle-income bracket at 62% compared to those from the low-income bracket that stood at 59%. None of the respondents from the high-income bracket felt that the time allotted was inadequate. On the other hand, majority of those who failed to comment on the adequacy of time that was allocated for this exercise were drawn from the high-income bracket at 40% followed by the low-income bracket at 20% and last among those from the middle-income bracket at 15%.
3.3.8 Ability to understand language used in the documents that are to be discussed

The study revealed that English was used in the documents that formed the basis of discussion during events requiring public participation. Forty three percent of the respondents understood the document while it remained incomprehensible to 45% of the respondents drawn across all the income groups. Thirteen percent of the respondents were unresponsive to this aspect.

Additionally, majority of the male respondents (46%) intimated that they understood the language that was used in these documents compared to 38% of the female respondents. The number of respondents who were unable to understand the language that was used in these documents was higher among female respondents at 49% compared to their male counterparts, which stood at 41%.

Majority of respondents from the high and middle-income brackets (80% and 61% respectively) intimated that they understood the language that was used in these documents compared to a nominal 34% among the low-income bracket. The inability to understand the language that was used in these documents was restricted to the low and middle-income brackets only with the highest number being among the low-income bracket at 53% followed by the middle-income bracket at 29%. Majority of those who did not comment on their ability to understand the language used in the documents were from the high-income bracket at 20% followed by those from the low income bracket at 14% and lastly 10% among the middle income bracket.
3.3.9 Follow up on proposals and recommendations made during public participation forums

Seventy four percent of the respondents indicated that they did not follow up on the proposals and/or recommendations that they made during the public participation forums compared to 19% who followed up and another 8% who did not comment on the issue. This state of affairs was attributed primarily to the absence of a structured feedback mechanism that was further compounded by county officials who are generally perceived as none receptive to such efforts. This frustrated those who were inclined to undertake this exercise as the county failed to furnish them with the requisite information or failed to do so in a timely manner.

This view is captured in the excerpt below from a key informant interview:

“The frustration we face is that sometimes we propose these projects at the ward level but they don’t have a feedback mechanism in place. They do not come to tell us that out of the projects we proposed/prioritized, these are the ones that have been implemented. We only get to meet them the following year during ward budget hearings then we start afresh without reviewing the previous year’s proposals. This has led to a lot of lethargy creeping into my ward. We are tired since we feel that these processes are just a waste of time and are undertaken to collect our signatures and photographs to show that we were consulted but at the end of the day there is nothing tangible to show for all these processes.”

Additionally, follow up on proposals and/or recommendations were markedly higher among the high-income bracket at 40% compared to 25% among the middle-income bracket and 17% among the low-
income bracket. On the other hand, an equal number of respondents from both the low and middle-income brackets that stood at 72% failed to follow up on their proposals and recommendations compared to 60% from the high-income bracket. Majority of those who failed to comment on this aspect were drawn from the low-income bracket at 11% followed by those from the middle-income bracket at 3%. The higher number of follow ups among the high-income bracket compared to those from other income groups was attributed to the tireless and unrelenting efforts of their resident associations who were determined to ensure that they got results.

Figure 14: Involvement in the follow up processes of the proposals made during public participation forums.

3.3.10 Participation in monitoring and evaluation of projects under implementation

Majority of the respondents (69%) indicated they were not involved in the monitoring and evaluation of projects under implementation compared to only 23% who were involved in these processes and 9% who declined to comment on the matter. The failure to participate in monitoring was attributed to the perceived reluctance of county officials to meaningfully facilitate this exercise by answering emerging queries and providing the requisite documents and information.

Additionally it was established that majority of respondents from all the income groups failed to participate in monitoring and evaluation of projects under implementation with the highest number being among the low income bracket at 70% followed by middle income bracket at 63% and lastly the high income bracket at 60%. However, the number of those who were involved in monitoring and evaluation of projects was marginally higher among the high-income bracket at 40% followed by the middle-income bracket at 35% and least among the low-income bracket at 18%. Furthermore, the largest number of those who failed to comment on this aspect were drawn from the low-income bracket at 12% followed by 3% among the middle
income and none from the high-income bracket.

![Figure 15: Monitoring and evaluation of projects under implementation](image)

### 3.3.11 Establishment of structures prescribed under various laws

The study further revealed that the establishment of structures envisaged under various laws has had varied degrees of success in actualizing the right of citizens to participate in governance of the county. For instance, at least 60% of the respondents hailed the County Budget and Economic Forum as a success because of its broad and inclusive nature, which has ensured meaningful public participation in governance affairs. While respondents welcomed the establishment of the offices of the county, sub county and ward administrators to enhance citizen participation at the grassroots levels, at least 60% of them held the view that MCAs significantly diminished the utility of the ward administrators office. MCAs did this by usurping the powers of ward administrators and continuing to play a central role especially in mobilizing and coordinating public participation forums at the expense of the ward administrators. This has undermined the credibility of various processes since all the critical phases such as mobilization of participants, provision of relevant documents, and provision of opportunities to air views during these forums are skewed in favor of MCAs’ supporters. As a result, this has curtailed efforts by the rest of the populace to enjoy their right to participate meaningfully in these processes. A section of the vibrant social movements perceived as opponents to these politicians have also lamented that they have been blacklisted and are rarely given opportunities to meaningfully participate in these processes.

Additionally, 75% of respondents reported that the county government’s failure to ensure the establishment of all structures envisaged under the County Government Act, 2012 such as the village administrator’s office. They also reported that the county had failed to ensure that the ward administrator’s office is adequately
staffed, equipped and manned by knowledgeable individuals who possess all the requisite documentation relating to the county’s planning, budget making and status reports on project implementation. This has limited the county’s ability to effectively discharge its role of facilitating citizen participation and has also cast doubt on the government’s commitment to actualize the right of citizens to effectively participate in various governance processes at the county level.

The excerpt below from a focus group discussion illustrates this point:

“If you go and ask them [ward administrators] for information regarding ongoing projects, you find that they don’t have any documents or information on them. They struggle a lot to explain and they even wonder why you want to know so much. But we can’t blame them since they also receive very little information and there is a lot that they don’t know. Having them at the ward level is nonetheless an achievement but denying them the information is wrong. There should be adequate information about ongoing projects listed on the notice board so that anybody walking into the ward office can access this information with ease”.

Furthermore, 70% of the respondents cited the absence of a focal point at the county government level to oversee matters relating to citizen participation as a great hindrance in the quest to entrench this critical tenet of democracy in the county’s operations. This state of affairs has invariably resulted in disjointed and largely tokenistic efforts at county government level to actualize public participation in crucial processes to the detriment of citizens.

Sixty percent of the respondents cited the failure of the county government to take into account the special needs of persons with disabilities when planning for events that require public participation as an impediment to the participation of this crucial constituency. For instance, the needs of persons whose mobility is impaired is not considered when the county chooses venues for meetings nor does the county government make any effort to provide sign language interpreters to cater for persons with hearing impairment. This has invariably discouraged persons with disabilities from participating in these forums.

A statement from a key informant interview succinctly summed up this state of affairs as follows:

“I can’t help but feel that we are invisible and insignificant to the county government. How do you explain a situation where it makes no effort to ensure that we participate in any of the processes that require public participation? For example, nobody ensures that venues secured for such exercises are accessible to those of us who use crutches and wheelchairs or ensures that a sign language interpreter is provided to enable those with hearing impairments to follow and participate in these proceedings. Additionally, no effort is made to ensure that documents that are to be discussed are also in braille for persons with visual impairments to also acquaint themselves with their contents with a view to participating in these processes.”
3.4 Recommendations on how to enhance effective citizen participation in processes requiring public participation

Majority of the respondents across all the income groups (99%) held the view that conducting civic education before embarking on processes that require public participation would enhance effective citizen participation in governance processes within the county while only 1% declined to comment on the matter.

Similarly, there was overwhelming consensus among the different income groups on the need for the county government to conduct civic education before embarking on public participation processes. All respondents from the high-income bracket, 99% from the middle-income brackets and 97% from the low-income bracket backed this view. However, a meagre 2% of the respondents from the low-income bracket disagreed on the need for civic education to precede public participation processes while 1% had no comment.

Majority of the respondents (84%) agreed that future public participation should be held on weekends, 6% were opposed to this recommendation while another 10% did not comment on this matter.

Additionally, majority of the respondents from all the income groups advocated for future events to be held over weekends with the highest number being among the high-income bracket at 100% followed by the low-income bracket at 88% and the middle income bracket at 82%. However, a nominal 5% of the respondents drawn from both middle and low-income brackets were opposed to the idea of scheduling such activities over the weekend while another 13% and 7% of the respondents from the middle and low-income brackets respectively had no comment on this matter.
A key informant weighed in on this matter stating:

“Since most residents of Nairobi County don’t work over the weekend then it only makes sense that these forums should be held during this period. It is imperative that the county government takes note of this and takes remedial measures which will go a long way in ensuring that the principle of public participation as envisaged in the Constitution is upheld.”

Figure 17: Schedule processes requiring public participation on weekends

Majority of the respondents (77%) recommended the use of ICT/social media by the county government as a means of enhancing the level of public participation in various processes envisaged under the law. Sixteen percent of the respondents were opposed to this proposal while 7% had no comment.

Moreover, majority of the respondents from all the income groups recommended the use of ICT/social media with the highest being amongst those drawn from the high-income bracket at 100% followed by 75% from the middle-income bracket and 72% from the low-income bracket. Nine percent of the respondents from the low-income bracket and 6% from the middle-income bracket had no comment on the matter.

The study further established that the most preferred mode of communication among the respondents drawn from all the income groups was Facebook at 60% followed by interactive website portal at 25%, teleconferencing at 10% and Twitter at 5%. 
Majority of the respondents (99%) felt that there was need for the county government to employ multiple modes of communication to notify members of the public about upcoming processes requiring public participation while the rest 1% had no comment on this recommendation.

There was consensus among all the income groups on the need for the county government to use multiple modes of communication to notify members of the public about processes requiring public participation with the highest number being amongst the high and middle-income brackets at 100% each and 99% amongst the low-income bracket. On the other hand, 1% of the respondents from the low-income bracket had no comment on this recommendation.

Respondents were also asked to select what they deemed the most effective combination of communication channels that the county government could use to notify the public about public participation events. Seventy percent of respondents chose a combination of community radio stations and notices at the ward offices; 20% of respondents chose a combination of the county website and notices at the ward offices; and a nominal 10% chose a combination of the county website and newspapers.
Majority of the respondents (98%) agreed that there was need for the county government to develop a mechanism to give feedback regarding views and proposals that were received from participants during public participation forums while 2% did not comment on the matter. There was also consensus on the need for development of a feedback mechanism among the income groups with the majority being among respondents drawn from the high-income bracket at 100% followed by the middle income bracket at 99% and lastly by the low income bracket at 98%. Only 2% of the respondents from the low-income bracket declined to comment on this recommendation.
Additionally 99% of the respondents across all income groups and genders advocated for allocation of adequate time to enhance meaningful public participation in various governance processes. The popularly held view among respondents was that the current public participation exercises that are often held for a few hours only were a sham and were merely designed to appear to satisfy constitutional and statutory requirements. These respondents were therefore of the considered opinion that there is need to ensure that more time is allocated for such exercises to ensure meaningful participation by citizens.

The enactment of key laws such as the County Government Act, Nairobi County Public Participation Act and the Access to Information Act has been hailed for building a firm foundation that will ultimately lead to the realization of the right to effective citizen participation in governance processes in the county. However, there is still need for further policy, legislative, administrative and structural changes to actualize this plan.

The county government should prioritize the development of a policy on public participation and start the process of amending existing legislation such as the Nairobi County Public Participation Act to fill the existing gaps in the law. These gaps include issues such as defining the requisite threshold for public participation and ensuring inclusivity of all segments of society in any of these processes and forums. Additionally, civil society organizations and social movements could also give impetus to these processes by not only engaging in constructive dialogue with the county government and proposing these policy and legislative reforms but also by challenging the constitutionality of these laws in view of the glaring gaps.

The county government should also appoint key personnel and put in place all the structures that were envisioned under the County Government Act. This includes personnel such as village administrators, who if properly facilitated, will go a long way in actualizing the right to citizen participation in key aspects of the county’s processes such as planning, budgeting, and developing policies and laws at the grassroots level as envisioned by the drafters of the Constitution. Additionally, appointment of a focal person at county level to coordinate all issues relating to citizen participation will also be critical in anchoring important tenets of constitutionalism such as the right of citizens to participate in various governance processes in the county’s programs and processes.

The county government should put in place stringent measures that will ensure that all county officials who play a role in implementing public participation in governance processes are competent, adequately staffed, equipped and well informed on all relevant county operations. This will enable them to act as important conduits of information and ensure that they play a key role in strengthening public participation at their respective levels. In addition, the county government should ensure that these officials discharge their statutory mandate by spearheading all processes that require public participation - from mobilization of the public to coordination of public participation forums - instead of leaving it to politicians with vested interests who may undermine the utility of the process.
The county government should collaborate with all stakeholders including social movements in developing a comprehensive civic education curriculum on different aspects of governance before rolling out a continuous and robust campaign to sensitize members of the public on their important role in the governance of county affairs. This will have the twin effect of enhancing meaningful public participation in future processes and helping to inculcate in the public a sense of duty to participate in governance of the county for their benefit and that of future generations.

The county should entrench modalities of developing and distributing simplified versions of crucial documents as a precursor to planned public participation events. This will result in an increase in the number of enlightened citizens who will be equipped to hold the county government accountable and to enrich discussions during scheduled public participation forums and processes.

The county government should fully embrace ICT and social media to disseminate information and to facilitate public participation in various processes and forums. In this regard, the county should prioritize the updating of the county’s website and other social media platforms with relevant information and schedule of events to ensure that citizens are well informed on governance issues. Also, the county government should leverage on existing technology by using video, teleconferencing and other relevant technology to bring on board a large section of the society who would like to participate in these forums but are unable to physically attend or submit written memoranda.

The county government should also foster collaboration and harness the vast knowledge that civil society organizations and social movements have amassed over the years in matters relating to civic education and corporate governance. This knowledge could inform the county’s planning, budgeting, reporting and implementation of initiatives and future collaboration with these organizations. This will serve to minimize duplication of roles and wastage of scarce human and financial resources while at the same time ensuring effective citizen participation in various governance processes.

It is also imperative that development partners continue supporting capacity building and other programs run by civil society organizations and social movements, particularly in the marginalized low-income areas. This will ensure that these organizations utilize crucial platforms such as the County Budget and Economic Forum and other public participation forums to influence policy changes that will ensure progressive realization of socio-economic rights that fall within the ambit of the county government and the inculcation of the culture of constitutionalism.

Additionally, the need for collaboration among civil society organizations and social movements operating within the county coupled with publicity of successes of their respective initiatives cannot be overemphasized. The current state of affairs where multiple organizations are undertaking similar programs within the same locality is not only untenable but also ill-advised since it has resulted in duplication of roles and wastage of scarce human and financial resources. Harmonization of their programs and publicizing successes of
their respective initiatives will give civil society organizations a stronger voice especially in terms of their overarching mandates to hold the county government accountable in governance matters. This collaborative spirit will also enable them to roll out more programs and reach larger sections of the populace.

Bearing in mind that political will is critical in actualizing the right to public participation, it is incumbent upon civil society organizations and social movements to ensure that they institutionalize engagement with political parties and political aspirants seeking all elective positions. They can do this by signing social contracts with politicians to ensure that actualization of public participation in governance processes becomes one of their deliverables during their tenure in office. These organizations should then maintain scorecards to monitor the extent to which successful aspirants are delivering on this pledge and appraise both the community and these politicians to adopt corrective measures.

**Conclusion**

In summary, it is worth noting that while the county government has made great strides towards progressive realization of citizens’ socio-economic rights and right to public participation in various governance processes, a lot more remains to be done. Civil society organizations should continue to play their frontline role of entrenching the culture of constitutionalism and the rule of law in government operations by ensuring that crucial decisions relating to the enforcement of a host of rights including socio-economic rights are enforced to end the prevailing culture of impunity at different levels of government. It is only then that these rights can be fully actualized.
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