Budgeting in Kwale County and its impact on the realisation of socio-economic rights for the mining host communities in Nguluku and Bwiti
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Contents

Acknowledgement .................................................................................................................. 2

Executive Summary ............................................................................................................. 3

1 Introduction ...................................................................................................................... 5

2 Methodology .................................................................................................................... 7

3 Constitutional and legislative framework on county planning and budgeting ............. 9
   3.1 The Constitution framework on county planning and budgeting............................. 9
   3.2 Legislative framework on county planning and budgeting ...................................... 10
      3.2.1 County Government Act, 2012 ...................................................................... 11
      3.2.2 Public Finance Management Act 2012 ......................................................... 12

4 Analysis of the planning and budgeting processes in Kwale County and its impact on the provision of basic services to mining host communities in Nguluku and Bwiti ......................................................................................................... 16
   4.1 County priorities in the planning process ................................................................. 16
   4.2 County priorities in resource allocation and budgeting processes ........................... 18
   4.3 Public participation in the County planning and budgeting processes ...................... 23

5 The impact of county resource allocation on the socio-economic situation of mining host communities in Nguluku and Bwiti ................................................................. 26

6 Conclusion and recommendations .................................................................................. 30
   6.1 Conclusions .............................................................................................................. 30
   6.2 Recommendations .................................................................................................. 31

Selected Reference .............................................................................................................. 33
Acknowledgement

This is our most recent initiative “Budgeting in Kwale County and its impact on the realisation of socio-economic rights for the mining host communities in Nguluku and Bwiti (2017). The report proposes that in order to deal effectively with the socio-economic situation of these vulnerable groups, the County Government of Kwale must recognise their vulnerability and marginality. Subsequent to that recognition of vulnerability, the County Government should develop specific and targeted plans and programs to respond to the dire socio-economic situation of these groups as well as prioritise the allocation of resources to implement these programs. This targeted programing and allocation of resources will ameliorate the dire socio-economic situation of the mining host communities in Nguluku and Bwiti, improving their living standards.

Foremost, we deeply appreciate the work of all individuals, organizations, corporation and government whose invaluable contributions, knowledge and insights helped shape the report. Specifically, we would like to thank Dr. Nicholas Orago for his support through conscience guidance and expertise, without his hard work, the research would not have materialized.

Secondly, to all Hakijamii Staff led by the Executive Director Pauline Vata who worked with commitment and dedication to ensure that the report was a success. Special thanks go to Lucy Baraza, Collins Liko, Samuel Olando, Geoffrey Kerosi, Zulekha Amin, Peter Karachu, Linda Ikenye, Catherine Jelimo and Beatrice Oginga who made very useful comments on the original draft.

We appreciate all the community members who shared their living experiences and pearls of wisdom which helped nourish the report. We also thank all partners and Government Institutions from Kwale County for their collaboration and cooperation during the period of the research they provided vital insights on the report which helped to shape it through focused group discussions and key informant interviews. To this end we appreciate insight from Base Titanium Limited, Kwale Youth and Governance Consortium(KYGC), Institute of Public Finance Kenya(IPFK), Muslims for Human Rights(Muhuri), Kwale County Natural Resources Network, Kwale County Government :Finance and Economic Planning department, Natural Resources department, Kwale County Budget and Economic Forum(CBEF), Mining Project Liaison Committee(MPLC), Kwale Water and Sewerage Company, Msukumo Bora Group and others.

We are also very grateful to Ford Foundation for their generous support. Thank you for giving us the opportunity not only to explore and learn but also continue with our work on social justice and service to marginalized communities.

Last but not least gratitude goes to our Volunteer Mr. Jobwe Yusuf who worked with Hakijamii staff to ensure that our project was a success in Kwale County.

Pauline Vata

Executive Director, Hakijamii
Executive Summary

The Constitution of Kenya 2010 introduced a devolved system of government to enhance service delivery and to improve the socio-economic condition of people in remote locations. Devolution of functions entailed the devolution of resources, with the devolved units – County Governments – being given the mandate to plan, budget and allocate resources for the betterment of the lives of all sections of the County’s populace. The planning and budgeting framework was entrenched in the Constitution itself and further elaborated in County Government Act 2012 as well as the Public Finance and Management Act 2012. This aim of this report was to analyse the planning and budgeting processes of the County Government of Kwale to determine whether it has substantively been undertaken in accordance with the legal framework, especially in relation to public participation and in the recognition and programming to meet the needs of vulnerable and marginalised populations. The main focus groups of the report were the mining host communities in Nguluku and Bwiti.

The report found that the County Government has made efforts to plan for the development of the County, developing the County Integrated Plan 2013-2017 and Annual Development Plans in 2015 and 2016. The priority areas in the development framework are: health, education, agriculture and rural development and water infrastructure. On the budgeting front, the County is still reliant on the National Government for resources, with the local revenue collection having improved slightly between 2013 and 2017. Further, the County Government has still yet to receive from the National Government royalty remittances from titanium mining in Nguluku by Base Titanium as per the 70/20/10 criteria entrenched in the Mining Act 2016. The result of this failure is the inability of the County Government to plan effectively and budget appropriately to tackle the dire socio-economic conditions of the mining host communities in Nguluku and Bwiti.

The majority of the County Government resources are allocated to health and education, but the allocation to water and agriculture are paltry in comparative perspective. In the different priority areas, the intention of the County has been to prioritise allocations for development purposes, but budgetary revisions for each year has entailed the reduction of development budgeting to plug revenue gaps in recurrent expenditure allocations, to the detriment of important developmental goals. The recommendations is that the County Government of Kwale should strive to allocate and retain more resources for development, to ensure that the socio-economic infrastructure is improved for the benefit of the people of Kwale, especially the vulnerable and marginalised groups like the mining host communities in Nguluku and Bwiti.
On public participation, the report found that the County has not effectively entrenched public participation in the budgeting process, especially for vulnerable and marginalised groups such as the mining host communities in Nguluku and Bwiti. As a result, the perception of these communities is that the County planning and budgeting processes have not taken into account their immediate needs and priorities. The truth of the statement is seen in the poor socio-economic state that these communities continue to live in, with basic services such as education, health, water, food security, roads and employment being mostly inaccessible. The report proposes that in order to deal effectively with the socio-economic situation of these vulnerable groups, the County Government of Kwale must recognise their vulnerability and marginality. Subsequent to that recognition of vulnerability, the County Government should develop specific and targeted plans and programs to respond to the dire socio-economic situation of these groups as well as prioritise the allocation of resources to implement these programs. This targeted programing and allocation of resources will ameliorate the dire socio-economic situation of the mining host communities in Nguluku and Bwiti, improving their living standards.
Introduction

The Constitution of Kenya 2010 ushered in a devolved system of government, with the County Governments taking up the mandate of provision of basic socio-economic services at the local levels. In order to enable County Governments undertake their responsibilities, resources have been devolved, with the County Governments bound to receive 34.60% of the national revenue in accordance with the Division of Revenue Bill 2017. Mineral-rich Counties like Kwale are not only entitled to receive the normal budgetary share in the inter-governmental allocation, but are also entitled to receive 20% of royalties accruing from mining operations earmarked for the host County Government as well as the 10% of the royalties earmarked for the mining host communities as per the Mining Act 2016.

The Mining Act does not create alternative systems for the control and management of these royalties at the County level, which means that they are likely to be managed through the normal County budgeting processes. This, therefore, requires us to undertake a budget analysis to understand how resources have been allocated to the different sectors of society in Kwale and whether budgeting has undertaken the special needs and aspirations of the mining host communities. This is critical as the household survey shows that the mining host communities still live in abject poverty and their conditions have worsened with the introduction of titanium mining in Kwale County. The Constitution, the County Government Act and other related legislation, which allocates responsibilities to the County Government, require that prioritisation is made in the budgeting process to meet the urgent socio-economic needs of these poor and vulnerable groups.

The essence of this report is, therefore, to determine whether the County Government of Kwale has recognised the vulnerable nature of mining host communities in Nguluku and Bwiti; whether it has taken steps through the planning and budgeting processes to enhance the participation of these mining host communities; whether planning prioritisations and budgeting allocations have taken into account the special needs of these vulnerable communities; and suggestions for improvement to enhance planning and

1 See Constitution of Kenya 2010, Article 186 as read with the Fourth Schedule of the Constitution that enumerates County Government functions as follows: agriculture which has close links to food security and the right to food; health services with close links to the right to health; environmental protection with close links to the right to clean and healthy environment; County planning and development with close link to the right to socio-economic development; water and sanitation services closely linked to the right to water; and coordination of the participation of the people in local governance, which is critical to the right to participation.
2 See Division of Revenue Bill 2017, which proposes to give County Governments a total allocation of Kshs. 323.8 billion that amounts to 34.60% of the National Government Revenue for the 2017/2018 financial year.
3 Mining Act 2016, section 185(5). Even though Base Titanium has been remitting titanium-mining royalties to the National Government of Kenya, the same has so far not been shared with the County Government of Kwale and the mining host communities of Nguluku and Bwiti.
budgeting to cater for the needs of the mining host communities in Kwale County. The report is divided into five sections. After this introduction, the report elaborates on the Constitutional and legislative framework on county planning and budgeting in section two. Section three delves on an analysis of the planning and budgeting processes in Kwale County, with the analysis aimed at determining whether these processes have entailed the participation of the vulnerable mining host communities and taken into account their needs and priorities. Section four then looks at socio-economic impact of revenue allocation choices on the mining host communities in Nguluku and Bwiti. Conclusion and recommendations are contained in section 5.
## Methodology

<table>
<thead>
<tr>
<th>Method</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Study method</td>
<td>Study method was broadly qualitative with the objective of undertaking an in-depth analysis of the budgeting processes by Kwale County Government and whether these have been geared towards the realisation of priority socio-economic rights of the mining host communities in Nguluku and Bwiti.</td>
</tr>
<tr>
<td>Study approach</td>
<td>A mixed method approach was adopted, combining document review and field survey to collect primary:</td>
</tr>
<tr>
<td></td>
<td>• Document review: Entailed qualitative content analysis of available legal instruments and budgeting documents. The essence of the review was to determine the legal provisions on budgeting and resource distribution; as well as the budgeting prioritisation and practice of Kwale County Government.</td>
</tr>
<tr>
<td></td>
<td>• Field survey: Entailed face-to-face interview of 39 household heads in Nguluku and Bwiti (22 Nguluku, 17 Bwiti); 10 face-to-face key informant interviews; and 4 focus group discussions with different mining stakeholders. Random sampling approach was used to select the 39 household heads for the household interviews, while purposive sampling approach was adopted in selecting the key informant interview respondents. The essence of the field survey was to collect data affirming the socio-economic situation of households in Nguluku and Bwiti; and to determine mining community perceptions on the County Government budgeting processes and whether that process has responded to their priority needs and aspirations.</td>
</tr>
</tbody>
</table>
Data collection instrument: Semi-structured questionnaires. Two sets of questionnaires were developed: one for key informant interviewees on the budgeting processes; and the second one for host community households on their perceptions on service delivery in Kwale County.

The key informant interviews were done by the Consultant while the household surveys were done by 10 Data Enumerators. The focus group discussions were done jointly by the Hakijamii staff and the Consultant. Data was collected in the week of the 22-26 May 2017.

<table>
<thead>
<tr>
<th>Recruitment</th>
<th>Voluntary and confidential.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duration</td>
<td>50 to 90 minutes.</td>
</tr>
<tr>
<td>Recording</td>
<td>Short hand and audio recording, with verbatim transcriptions.</td>
</tr>
<tr>
<td>Analysis</td>
<td>Thematic coding with main themes and sub-themes.</td>
</tr>
</tbody>
</table>
3.1 The Constitution framework on county planning and budgeting

The framework for the management of public finance is entrenched in Chapter twelve of the Constitution. The Constitution entrenches the principles of openness, accountability, equity and public participation in the resource allocation and budgeting process. It requires the equitable sharing of the burdens and benefits of natural resources as well as national revenue. It further demands that expenditure of public resources promote equitable development of all sectors of society, with special provision being made for marginalised groups and areas. The Constitution creates a Revenue Fund for each County, upon which all monies due to the County Government are to be deposited. All monies due to the County Government in terms of allocations from the National Government, from the Equalisation Fund, from county taxes or other revenue as well as loans are to be deposited in the Revenue Fund. These are the main sources of revenue for the County Government that it has to manage through the

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4 The Constitution of Kenya 2010, Article 201(a) & (b).
6 The Constitution of Kenya 2010, Articles 202 & 203. The basis for sharing national revenue and other resources are: the need to enable counties perform their functions; the fiscal capacity and efficiency of counties; the developmental and other needs of counties, economic disparities between counties, among others.
7 The Constitution of Kenya 2010, Article 201(b)(iii).
8 To enhance accountability in the management of County revenue, money from the Fund can only be withdrawn with the authorisation of the Controller of Budgets. This is to be done either through a charge on the fund or through a County Appropriation Act. See The Constitution of Kenya 2010, Article 207(2) & (3).
10 See The Constitution of Kenya 2010, Article 218, which provides for the division of national revenue between the National Government and the County Governments through the annual Division of Revenue Bill as well as the allocation of the share of revenue to different Counties through the annual County Allocation of Revenue Bill.
11 See The Constitution of Kenya 2010, Article 204 on the Equalisation Fund. There, however, seems to be a challenge with County access to the Equalisation Fund, which was put under the control of Members of Parliament rather than the County Governments; with the effect that finances from the fund are managed from the constituency level and not the county level, to the detriment of inclusive development planning at the County level. For a critique of the proposal to strip counties of the Equalisation Fund grants, see K Waiganjo ‘Manage Equalisation Fund through County structures’ The Standard Digit Sunday 11th October 2015, available at https://www.standardmedia.co.ke/article/2000179273/manage-equalisation-fund-through-county-structures (accessed on 10 June 2017). The inability of the County Government to access funding from the Equalisation Fund was affirmed during interviews with the Chief Officer for Finance of Kwale County – Key Informant Interview N-1 conducted in Kwale on the 22nd of May 2017.
12 See The Constitution of Kenya 2010, Article 209(3) on taxes that can be imposed by Counties.
budget process to implement its development agenda and meet the basic socio-economic needs of its people.

In relation to budgeting and spending, the Constitution requires County Government to prepare and adopt its own annual budget and appropriation Bill.\textsuperscript{14} It requires the County Government budgets to contain estimates of revenue and expenditure, differentiating between recurrent and development expenditure.\textsuperscript{15} It envisages a national legislation to prescribe the structure of County Development Plans and Budgets and all other processes in relation to the County plans and budgets.\textsuperscript{16} Accountability in the budgeting process is affirmed by the requirement that the Controller of Budgets submits to each House of Parliament reports of the implementation of the budgets by the County Government after every four months.\textsuperscript{17} Further, the Constitution requires the Auditor-General to audit the accounts of the County Government six months after the end of each financial year to confirm whether or not public money has been applied lawfully and in an effective way.\textsuperscript{18} The Auditor-General’s report is to be submitted to the relevant County Assembly for debate and action.\textsuperscript{19}

It is thus clear from the Constitution that resource allocation and budgeting is a public process that must be undertaken in a transparent and accountable manner, with the participation of the people. The Constitution further creates avenues of oversight from the representatives of the people such as Parliament, County Assemblies, Controller of Budgets and the Auditor-General, whose responsibility is to ensure that public money is spent lawfully and effectively to meet the priority needs of the people. The scrutiny envisaged by the Constitution in resource allocation and budgeting is aimed at ensuring that the needs, priorities and interest of the local population is taken into account in planning, and that the budgeting process allocates sufficient resources to the priority areas of interest to the local people as contained in the County Development Plans.

### 3.2 Legislative framework on county planning and budgeting

As stated in section 2.1 above, the Constitution envisaged Parliament enacting legislation to guide resource allocation and budgeting at the County Level. Some of the resulting legislation are the County Government Act 2012 and the Public Finance Management Act 2012 (PFMA).

\begin{itemize}
\item \textsuperscript{14} The Constitution of Kenya 2010, Article 224.
\item \textsuperscript{15} The Constitution of Kenya 2010, Article 220(1)(a).
\item \textsuperscript{16} The Constitution of Kenya 2010, Article 220(2). This has been provided in the Public Finance and Management Act (PFMA Act) 2012, discussed more elaborately below.
\item \textsuperscript{17} The Constitution of Kenya 2010, Article 228(6).
\item \textsuperscript{18} The Constitution of Kenya 2010, Article 229(4) & (6).
\item \textsuperscript{19} The Constitution of Kenya 2010, Article 229(7) & (8).
\end{itemize}
3.2.1 County Government Act, 2012

The Act affirms the responsibility of the County to undertake the functions assigned to it in the Constitution, including those in the Fourth Schedule. In the performance of these functions, the Act requires County Governments to ensure efficiency, effectiveness, inclusivity and the participation of the people. The Act affirms the role of the County Assembly to scrutinise and approve the County Budget Estimates and Appropriation Bills in accordance with Articles 201, 203, 207 and 220(2) of the Constitution. It also enumerates the role of the County Assembly in approving the County Development Plans upon which the budget estimates are predicated. On the exercise of executive functions, the Act requires Executive Committee Members to act in accordance with the Constitution and the law; to take into account the well being and benefit of the people; to ensure the promotion of the rights and interests of minorities and marginalised communities; to ensure gender parity; to promote socio-economic development; and to ensure equitable sharing of resources throughout the County. It is clear from these provisions that vulnerability and marginality of a community or section of a population is a critical criterion in decision-making on the allocation of county resources and in development planning so as to enhance well-being and the benefit of such people. Vulnerable populations such as the mining host communities of Nguluku and Bwiti must thus be considered as a special category suffering unique mining challenges, and who thus need specialised attention and care to ensure that their priority needs are addressed so as to improve their well-being.

The Act affirms the importance of public participation in all the process of the County Government. It predetermines participation on the following principles: access to information by member of the public; participation of the people in the process of creating laws, policies, regulations, development plans and budgeting; protection of the rights and interest of minorities and marginalised communities; legal standing of affected or interested persons to appeal for review of decisions; substantive participation in decision-making that promotes shared responsibility and partnership, among others. The Act gives power to the local citizenry to petition the County Government, with a petition in relation to planning and investment decisions requiring a referendum if it is supported by 25% of the registered voters of

20 County Government Act, section 5(2). See further section 116, which requires County Governments to deliver services within its area of jurisdiction based on the following principles: equity, efficiency, accessibility, non-discrimination, transparency, accountability, sharing of data and information as well as subsidiarity. In undertaking service delivery, County Governments are required to ensure that all members of the public have access to public services, with priority being given to the basic needs of the public.

21 County Government Act, section 6(6).

22 County Government Act, section 8(1)(c).

23 County Government Act, section 8(1)(e).

24 County Government Act, section 34.

25 County Government Act, Part VIII. See section 91, which requires the County Government to establish modalities and platforms for public participation, including ICT platforms, town hall meetings, budget preparation and validation fora, notice boards for public announcements and other citizens’ fora at decentralised units.

26 See County Government Act, sections 88-89, which affirms the right of citizens to petition the County Government on any matter within its authority; and for it to respond expeditiously to these petitions.

27 County Government Act, section 87.
Budgeting in Kwale County and its impact on the realisation of socio-economic rights

According to these provisions, the people are key in the planning and budgeting process, as the entire process is aimed at responding to their needs and realising their dreams and aspirations. Their participation is thus critical in the entire budgeting process, starting with planning, to the allocation of resources, to the utilisation of resources and in ensuring accountability for the utilisation of those resources. These provisions envisage the substantive and determinative participation of the people in planning and budgeting, with the people’s priority needs taking precedence. It is thus important to determine whether public participation in the budgeting process in Kwale County has met these standards of the County Government Act.

The Act further creates the County Development Board with the responsibility of considering and giving input on the County Development Plans and the annual budgets of the County. It entrenches obligations for County planning, demanding that no public funds be appropriated outside a planning framework developed by the County Executive and approved by the County Assembly. The main plan required by the Act is the County Integrated Development Plan (CIDP), a five-year plan with clear goals and objectives, an implementation plan with clear outcomes, clear reporting mechanisms and provisions for monitoring and evaluation. The CIDP is required to contain a resource mobilisation and management framework that includes budget projections, available financial resources and a financial strategy that details means of raising revenue for county projects, sound financial management and expenditure control. The County’s budget must be informed by the CIDP, and the budget must be aimed at fulfilling the annual development priorities and objectives contained in the CIDP. The Act affirms the importance of public participation in the planning and budgeting process, detailing it as mandatory. It also entrenches the right of access to information to make public participation meaningful.

### 3.2.2 Public Finance Management Act 2012

28 County Government Act, section 90 as read with section 88.
29 County Government Act, section 91A(2).
30 County Government Act, Part XI. Some of the principles to guide planning are: integration of the rights and interests of minorities; alignment of resources to policy objectives and programmes; promotion of equity in resource allocation; provision of a platform to unify planning, budgeting, financing, programme implementation and performance review, among others. See section 102.
31 See County Government Act, section 107(2), which affirms that the County plans shall be the basis of budgeting and spending in a County. These plans are: the county integrated development plan; the county sectoral plans; the county spatial plan and urban area plans. These plans are to be based on the functions of the County Governments as detailed in the Fourth Schedule of the Constitution, see section 106.
32 County Government Act, section 104. The planning process must integrate economic, physical, social, environmental and spatial planning; and must be undertaken with the participation of the public.
33 County Government Act, section 108.
34 County Government Act, section 108(4). This framework must contain: revenue raising strategies, asset management strategies, financial management strategies, capital financing strategies, operational financing strategies and strategies to enhance cost-effectiveness.
35 County Government Act, section 113(1).
36 County Government Act, section 115(1).
37 County Government Act, section 115(1). Some of the information the public is entitled to include: expected development outcomes, development options and their cost implications, among others.
The PFMA was enacted to ensure that public finances are managed in accordance with the public finance principles entrenched in the Constitution.\(^{38}\) It is the overriding legislation in relation to the preparation and submission of budget estimates, preparation and submission of accounts for audit, the raising of revenue and the making of expenditure as well as the management and establishment of public funds.\(^{39}\) The Act establishes the County Treasury to oversee the public finances and economic affairs of the County Government.\(^{40}\) The functions of the Treasury include: developing and implementing financial and economic policies; preparing annual County budgets and coordinating the preparation of estimates of revenue and expenditure; coordinating the implementation of the budget; mobilizing resources to fund the budget; consolidating annual appropriation accounts and other financial statements; ensuring proper management and control of finances and accounting for those finances; and reporting to the County Assembly on the implementation of the annual county budget.\(^{41}\) Further, the Treasury has responsibility to enforce fiscal responsibility principles by ensuring that recurrent expenditure does not exceed total revenue, a minimum of 30% of the budget is allocated to development, borrowing to be strictly used to finance development expenditure, among others.\(^{42}\)

The Act categorises the budgeting process into the following stages:\(^{43}\)

- Integrated development planning process – the CIDP and other development plans;\(^{44}\)
- Establishment of financial and economic priorities – County Fiscal Strategy Paper;
- Estimation of the County Government’s revenues and expenditures - the Budget Review and Outlook Paper;
- Preparation of the budget estimates and submission of the same to the County Assembly;
- Approval of the Estimates by the County Assembly;
- Enactment of the Appropriation Act and other laws to implement the budget;
- Implementation of the budget; and,
- Evaluating budget implementation and accounting for the budgeted revenue and expenditure.\(^{45}\)

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\(^{38}\) Public Finance Management Act, section 3.

\(^{39}\) Public Finance Management Act, section 6.

\(^{40}\) Public Finance Management Act, sections 103-104.

\(^{41}\) Public Finance Management Act, section 104. As per section 109, the County Treasury also has responsibility to manage the County Revenue Fund and other finances of the County Government.

\(^{42}\) Public Finance Management Act, section 107.

\(^{43}\) Public Finance Management Act, section 125(1). The Act creates the County Budget and Economic Forum as a platform for consultation in the budgeting process, especially in relation to the preparation of the County plans, County Fiscal Strategy Paper; and the Budget Review and Outlook Paper, see section 137.

\(^{44}\) For a detail on what the plan should contain, see Public Finance Management Act, section 226. The annual development plans must be submitted to the County Assembly for approval and must also be submitted to the Commission for Revenue Allocation and the National Treasury.

\(^{45}\) On accounting and financial reporting, see Public Finance Management Act, section 163-168, which requires County Accounting Officers to prepare financial statements and the County Treasury to consolidate annual financial statements detailing all moneys paid to the County Exchequer Account, payments made from the account, total amount of debt outstanding and other required financial
The Act requires that public participation be entrenched in each and every stage of the budgeting process.\textsuperscript{46} The budgeting process is to be managed by the CEC for Finance and the County Treasury.\textsuperscript{47} The County Treasure is expected to prepare and submit a County Fiscal Strategy Paper for approval by the County Executive Committee and the County Assembly by the 28th of February of each year.\textsuperscript{48} The Strategy Paper must detail the broad strategic priorities and policy goals to guide the budgeting process as well as the broad financial outlook in relation to revenue, expenditure and borrowing.\textsuperscript{49} The Strategy Paper must be developed with the participation of the Commission on Revenue Allocation, the public and all other relevant stakeholders.\textsuperscript{50} It has to be considered and passed with or without amendments by the County Assembly within fourteen days after its submission.\textsuperscript{51} Based on the Strategy Paper, the Treasury is required to prepare the Budget Review and Outlook Paper and submit the same for approval to the County Executive Committee by 30th September of each year.\textsuperscript{52} It should detail the actual fiscal performance of that year as compared with the budget appropriation as well as the updated economic and financial forecasts.\textsuperscript{53} The County Executive has the mandate to consider the Outlook Paper for approval within fourteen days and then submit it to the County Assembly for approval.\textsuperscript{54}

The County Treasury is then required to prepare the budget estimates\textsuperscript{55} and other Bills required to implement the budget and submit the same through the CEC for Finance to the County Executive Committee and the County Assembly for approval.\textsuperscript{56} The estimates are required to be prepared in a form that is clear and accessible to members of the public so as to enhance their participation in the process.\textsuperscript{57} Upon approval of the estimates, the CEC for Finance is required to submit the County Appropriation Bill in line with the approved budget estimates and submit the same to the County Assembly for approval.\textsuperscript{58}

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statements. These consolidated reports are to be submitted to the Auditor-General, National Treasury, Controller of Budgets and the Commission for Revenue Allocation.
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\textsuperscript{46} Public Finance Management Act, section 225(2).
\textsuperscript{47} Public Finance Management Act, section 128.
\textsuperscript{48} Public Finance Management Act, section 117. It must be aligned with the national objectives in the Budget Policy Statement prepared by the National Treasury.
\textsuperscript{49} Public Finance Management Act, section 117(3) & (4).
\textsuperscript{50} Public Finance Management Act, section 117(5).
\textsuperscript{51} Public Finance Management Act, section 117(6).
\textsuperscript{52} Public Finance Management Act, section 118(1).
\textsuperscript{53} Public Finance Management Act, section 118(2).
\textsuperscript{54} Public Finance Management Act, section 118(3) & (4).
\textsuperscript{55} See Public Finance Management Act, section 130(1)(b), which requires the budget estimates to include the following: list of entities to receive budgeted funds; estimate of funds to be received from the Equalisation Fund; all revenue allocations from the National Government; all other estimated revenue; estimated expenditure by vote and by programme with a clear identification of recurrent and development expenditure; and, information on loans to the County Government.
\textsuperscript{56} Public Finance Management Act, section 129(1) & (2). See section 131, which requires the County Assembly to consider the budget estimates with a view to approving them with or without amendments by the 30th of June of each year.
\textsuperscript{57} Public Finance Management Act, section 131(6).
\textsuperscript{58} Public Finance Management Act, section 129(7). The Bill is required to identify the appropriations by vote and programme as well as
Within 90 days after the passing of the Appropriation Bill, the County Assembly is expected to approve the County Finance Bill with or without amendments.\textsuperscript{59}

The analysis of the constitutional and legislative provisions on planning and budgeting indicates a clear process of managing public finances. It details the principles of public finance management that requires that public revenue be used in a transparent, accountable and equitable manner for the benefit of the Kenyan people. It requires resource allocation to be based on a properly crafted development plan that captures the needs and aspirations of citizens, especially the vulnerable and marginalised communities. Most importantly, it adopts a bottoms-up approach to county planning and budgeting, affirming the important role that public participation should play in the process of planning and budgeting. The essence of public participation is the realisation that people are not passive consumers of development, but are critical cogs in the development agenda who understand their needs and aspirations; and who must be given an opportunity to be active participants in their development processes. It is on the basis of this legal framework that the report proceeds to undertake an analysis of the planning and budgeting processes in Kwale County and how this has impacted on the provision of socio-economic goods and services to the mining host communities in Nguluku and Bwiti.

\textsuperscript{59} Public Finance Management Act, section 133.
4 Analysis of the planning and budgeting processes in Kwale County and its impact on the provision of basic services to mining host communities in Nguluku and Bwiti

The budget analysis will look at the priority areas of the County Government as contained in the CIDP and the annual development plans; the sources of revenue available to the County Government and the actual allocation made in the budget estimates.

4.1 County priorities in the planning process

The Constitution, the County Government Act and the PFMA Act all require that the budgeting process must be preceded by planning, with the budget estimates being based on the planning priorities detailed in the County’s planning documents. The first important planning document is the CIDP, which is implemented through annual development plans. An understanding of the budgetary allocations of the County Government of Kwale thus requires us to analyse these plans.

The CIDP, which was approved in 2014, is aligned to the National Vision 2030 and its vision is to develop a competitive, industrialised and socio-economically secure and self-sustaining County. It seeks to achieve this by providing quality and efficient services through sustainable utilisation of resources to better the quality of life for all in Kwale County. The CIDP’s vision is to be achieved through nine strategic platforms:

- Human capital development through investment in education as well as technical and vocational training;
- Development of agricultural, livestock and fisheries sectors through research, extension and marketing to enhance production, create jobs and ensure food security;
- Sustainable management of land, environment and other natural resources to deal with the squatter problem and reduce conflict arising from competition for natural resources;
- Harness Kwale’s strategic location and natural assets to create a conducive business envi

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60 Kwale County CIDP 2013-2017, 2.
61 Kwale County CIDP 2013-2017, 2. The core values of the CIDP are integrity, transparency and accountability; inclusiveness and equity; empowerment and result-oriented.
environment that attracts investors while ensuring that there is equitable sharing of the benefits and burdens of investments;

- Investment in health infrastructure and services to ensure a healthy active population which is key to achieving rapid economic growth;
- Create opportunities and mechanisms for citizen participation in governance and decision-making as well as to ensure that institutions of service delivery are responsive and accountable to the people;
- Address historical grievances that trigger perpetual conflict;
- Enhance job creation and other income-generating activities to engage the youth productively and prevent them from destructive engagements like crime;
- Harnessing Kwale County’s diverse social and cultural assets to generate wealth for the people of Kwale.

The CIDP envisages that a requirement of Kshs. 36 billion is needed to achieve these goals, with Kshs. 20 billion being directed at development expenditure and Kshs. 16 billion to recurrent expenditure.\(^63\)

The CIDP priorities have been harnessed into the annual development plans (ADPs), with the County Budget being aligned to the realisation of the medium term goals entrenched in the ADPs. The first ADP for Kwale County, which was majorly a reiteration of the CIDP, was prepared for the financial year 2015-2016. The Plan focused on the creation of human capital through the development of education infrastructure; agricultural sector reforms through investment in production, processing and marketing of agricultural produce for food security and job creation; land reform and environmental protection to respond to historical squatter problems as well as adverse competition for natural resources; and investment in health infrastructure to ensure a healthy population that is requisite for rapid economic development (health infrastructure, staffing and medical supplies).\(^64\)

The 2016-2017 ADP, which is the second ADP to be prepared by Kwale County, affirms the reality of scarcity of resources, and focuses budgeting on programs that have the greatest impact and benefit to the people of Kwale County.\(^65\) It denotes Kwale’s development challenges to include: poor infrastructure, poor education standards, inadequate and inaccessible healthcare and water services, low agricultural productivity and food insecurity, low and stagnating income from trade and investment, poor market access, unemployment as well as insecurity.\(^66\) In its objective of addressing these challenges and achieving sustainable socio-economic development of the County, the ADP 2016-2017 focuses on the following five key areas:\(^67\)

\(^{63}\) Kwale County CIDP 2013-2017, 8.
\(^{64}\) Kwale County Government ‘Annual Development Plan 2015-2016’ (undated) 4-5.
\(^{67}\) Kwale County Government – Annual Development Plan 2016-2017, 2-3. The priority areas in this context are: health care services, infrastructure, water services, education and agriculture and rural development, at 12.
• Investing in quality, accessible and affordable preventive, curative and rehabilitative health-care services by upgrading health infrastructure;
• Investing in infrastructure improvement in relation to education, roads, water and sanitation systems as well as markets;
• Investing in agricultural transformation through extension services, mechanisation, irrigation as well as livestock and fisheries upgrading to enhance food security and reduce poverty;
• Investing in effective land management and effective management of natural resources;
• Investing in social welfare programmes for the youth, women and other vulnerable groups to ensure inclusivity and equity in development.

An analysis of the CIDP and the two ADPs show that the County Government of Kwale has prioritised investment in programs aimed at achieving socio-economic transformation of Kwale County. The priority areas are education, health, agriculture and rural development as well as the development of water services infrastructure. This is in line with the priorities of the people of Nguluku and Bwiti obtained from the household survey. In Bwiti, the % of prioritisation was as follows: 28.1% for water; 18.8% for food security; 15.6% for employment; 12.5% for health; 12.5% for education; 9.4% for electricity; and 3.1% for roads.\(^{68}\) In Nguluku, the prioritisation was 30.9% for health, 29.1% for education, 14.5% for water, 9.1% for food security, 7.3% for roads, 3.6% for personal security and 1.8% for markets, relocation and employment respectively.\(^{69}\) From the household survey, it is thus clear that County Government planning prioritisation majorly reflects the key needs of the people of the mining host communities in Nguluku and Bwiti. The challenge, it would seem, is the translation of the precepts into practice in the budget making and implementation process.

### 4.2 County priorities in resource allocation and budgeting processes

A county can only budget and spend the resources that it has, so it is important to look at the revenue that the County Government has had over the years and the sources of that revenue.

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\(^{68}\) Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.

\(^{69}\) Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>National Government remittances</td>
<td></td>
<td>4,029,602,801.00</td>
<td>4,641,026,776.00</td>
<td>5,465,526,238.00</td>
<td>5,935,176,375.00</td>
</tr>
<tr>
<td>Local revenue</td>
<td></td>
<td>203,457,945.00</td>
<td>253,378,819.00</td>
<td>248,617,586.00</td>
<td>330,000,000.00</td>
</tr>
<tr>
<td>Income brought forward</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1,842,678,713.36</td>
</tr>
<tr>
<td>Total revenue</td>
<td></td>
<td>4,233,060,746.00</td>
<td>4,894,405,595.00</td>
<td>5,714,143,824.00</td>
<td>8,107,855,088.36</td>
</tr>
</tbody>
</table>

Source of data

The available data indicates that the Revenue available to the County Government has increased exponentially over the years, from Kshs. 4,233,060,746 in the financial year 2013/2014 to Kshs. 8,107,855,088.36, an increase of Kshs. 3,874,794,342.36. There is, however, heavy County Government reliance on National Government remittances, especially the equitable share as well as the different National Government conditional grants. There is still a challenge, though in relation to local revenue collection, which has shown only slight improvement over the four years of the County Government. The County needs to do more to expand the socio-economic base in Kwale County, which will enhance the revenue base and increase local revenue collection for sustained development. A further challenge in relation to County revenue is the ongoing failure of the National Government to remit royalties that have accrued to the County Government and the mining host communities based on the 70/20/10 criteria entrenched in the Mining Act. County Government officials in the County Treasure affirmed that these resources have not been remitted to the County Government, with the main reason being the lack of Regulations under the Mining Act to provide the framework for the remittance. Due to the delay in the remittance of these accrued royalties, the County Government expressed its inability to effectively plan and budget for socio-economic and developmental programmes to meet the specific needs of the mining host communities in Nguluku and Bwiti, leading to the high levels of poverty and destitution as detailed in section 4 below.

On expenditure, in the CIDP, the County Government intended to allocate more revenue for development as compared to recurrent expenditure. It required Kshs. 36 billion to successfully implement the CIDP, Kshs. 20 billion for development and Kshs. 16 billion for recurrent expenditure – 56% development and 44% recurrent. The available data, however, shows that this target is not being realised, with the ADPs showing the budget expenditure for 2013-2014 to 2016-2017 as follows:

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71 Key informant interviews N-1 and N-2 conducted at the County Government Offices in Kwale on the 22 of May 2017.
72 Kwale County CIDP 2013-2017, 8.
Budgeting in Kwale County and its impact on the realisation of socio-economic rights

<table>
<thead>
<tr>
<th>Year</th>
<th>Recurrent Expenditure</th>
<th>Development Expenditure</th>
<th>Total Expenditure</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013-2014</td>
<td>2,637,973,408.42</td>
<td>1,864,928,636.93</td>
<td>4,474,902,045.35</td>
<td>Rec. 59%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Dev. 41%</td>
</tr>
<tr>
<td>2014-2015</td>
<td>2,768,738,011.00</td>
<td>2,893,131,189.00</td>
<td>5,661,869,200.00</td>
<td>Rec. 48.90%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Dev. 51.10%</td>
</tr>
<tr>
<td>2015-2016</td>
<td>2,845,995,394.34</td>
<td>4,765,482,045.64</td>
<td>7,611,477,439.98</td>
<td>Rec. 37.39%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Dev. 62.61%</td>
</tr>
<tr>
<td>2016-2017</td>
<td>4,326,157,010.87</td>
<td>3,622,351,111.13</td>
<td>7,948,508,122.00</td>
<td>Rec. 54.4%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Dev. 45.6%</td>
</tr>
</tbody>
</table>

Source of data

It is clear from the above analysis that the County Government is struggling to realise its allocation plans in relation to recurrent and development expenditure. It must, therefore, seek interventions to redirect its budgetary allocations to ensure that it achieves its development goals as detailed in the CIDP.

The second segment of analysis looks at approved budgetary allocations taking into account the planning priority areas of health, education, agriculture as well as water infrastructure development. The table below indicates the recurrent budget allocations, the development budget allocations, the total budget allocations and the percentage of the total budget allocations in relation to the priority areas of education, health, agriculture and water resource development. It is limited to the financial years 2015/2016 and 2016/2017 due to the unavailability of the Kwale County Approved and Revised Budgets of 2013/2014 and 2014/2015, documents that the researcher was not able to retrieve despite continuous efforts to have access to them from the County Government offices.

<table>
<thead>
<tr>
<th>Item</th>
<th>2015/16</th>
<th>2016/17</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>R-186, 754,860; D-1, 107,977,8511</td>
<td>R- 690,600,000.00; D- 788,701,256.982</td>
</tr>
<tr>
<td></td>
<td>T-1, 294,732,711; % of Budget – 17%</td>
<td>T- 1,479,301,256.98 % of budget – 18.61%</td>
</tr>
<tr>
<td>Health</td>
<td>R- 951,517,843.17; D- 785,251,852.74 3</td>
<td>R- 1,525,500,154.75; D- 619,430,017.474</td>
</tr>
<tr>
<td></td>
<td>T-1, 736,769,695.91; % of budget – 22.82%</td>
<td>T- 2,144,930,172.22; % of budget – 27%</td>
</tr>
<tr>
<td>Agriculture</td>
<td>R-169, 572,041.80; D- 230,913,462.204</td>
<td>R- 189,461,314.00; D- 132,674,495.654</td>
</tr>
<tr>
<td></td>
<td>T- 400,485,504.00; % of budget – 5.26%</td>
<td>T- 322,135,809.65; % of budget – 4.05%</td>
</tr>
<tr>
<td>Water</td>
<td>R- 57,627,000.00; D- 501,282,626.287</td>
<td>R- 54,313,236.27; D- 659,388,499.038</td>
</tr>
<tr>
<td></td>
<td>T- 558,909,626.28; % of budget – 7.34%</td>
<td>T- 713,701,735.30; % of budget – 9.0%</td>
</tr>
</tbody>
</table>

Sources of data

Papers 2015 and 2016.

The available data, as indicated in the table above, shows that the County Government has prioritised two major areas for socio-economic development: education and health. Education and health receive the lion’s share of the budget, with education receiving 17% in 2015/2016, rising slightly to 18.61% in 2016/2017. Health on the other hand received the highest allocation of 22.82% of the budget in 2015/2016, rising to 27% in 2016/2017. In these two priority areas, the bulk of the resources properly went to development expenditure. In 2015/2016, development budget for education was 85.6% of the total education budget, while in 2016/2017; it was 53.3% of the budget. This reflects a drastic reduction of the development allocation for education of about 32.3% without a proper explanation for such reduction. Such a reduction is likely to negatively affect the development of education infrastructure, to the detriment of the people of Kwale, especially vulnerable populations like the mining host communities in Nguluku and Bwiti who do not have adequate educational infrastructure to meet their children’s educational needs. Education is critical to human empowerment as well as the flight from poverty and destitution. Focus on education by the County Government should thus be lauded as it has the potential to generate socio-economic development in the County in the long term. It is due to the importance of education that this massive reduction in education development allocation should raise concerns.

In the context of health, the development budget was 45.2% in 2015/2016 and 28.9% in 2016/2017. This also reflects a reduction in health development allocation of 16.3% between 2015/2016 and 2016/2017, which was bound to affect health infrastructure development. Again, this allocation is likely to adversely affect the poor and vulnerable segments of the population such as the mining host communities in Nguluku and Bwiti. As stated in the 2013-2017 CIDP, a healthy County is crucial in growing the economy of the County. Reduction in developmental allocation that adversely impacts on such health infrastructural development is bound to have negative health repercussions for the County, slowing its growth and drawing vulnerable populations further into poverty and destitution. Health is the most critical devolved function and the County should be lauded for allocation the largest part of its budget on health. But such drastic reversals of health developmental allocations is bound to clawback on the progress that the County is making in enhancing access to healthcare for its population, especially the most vulnerable like the mining host communities in Nguluku and Bwiti who rely on public healthcare infrastructure and services the most.

Despite water being a critical factor in household health and wellbeing as well as a production resource, Kwale has been a water scarce County. It would thus have been expected that the County Government would treat access to water for subsistence, livestock use, agricultural production and industrial use as a key priority area and back that prioritisation with the necessary flow of resources to achieve water security. Though water infrastructure is a priority in the planning documents, it has not received similar prioritised allocation in the budgeting process. Available data indicates that only 7.34% of 2015/2016-budget allocation went to water, a figure that improved slightly to 9% in the 2016/2017 budget. Despite the minimal overall allocation on water in comparative budgetary perspective, development allocations as compared to recurrent allocations have been very high, with 89.7% in 2015/2016 and 92.4% in 2016/2017. However, if these high developmental allocations for water infrastructure are to create real difference in
water access for the people of Kwale, especially the vulnerable in rural areas like Nguluku and Bwiti, more budgetary allocations need to be directed towards the improvement of water infrastructure in these marginalised areas.

Agriculture is the cornerstone of the Kwale economy, employing the majority of the people. It plays a critical role in enhancing food security, improving household livelihood and has the potential increase socio-economic development of Kwale people if properly harnessed through irrigation and agribusiness. The importance of agriculture as a source of livelihood is also reflected in the study areas of Bwiti and Nguluku. Data from the household survey indicates that 50% of the surveyed Respondents in Nguluku and 76.5% in Bwiti are dependent on agriculture for their livelihoods.\textsuperscript{74} These households who rely on agriculture for livelihoods in Nguluku and Bwiti, however, face daunting challenges, some of which include:\textsuperscript{76}

- Adverse weather conditions resulting from climate change punctuated with long dry periods and short heavy rains that generate flash floods, creating havoc on crops and livestock;
- Land infertility and poor access to subsidised farm input such as good quality seeds, fertilizers as well as the high costs of farming implements;
- Crop and animal diseases and pests that have become more difficult to contain due to climate change;
- Human-wildlife conflicts due to growth of forests resulting from mining-based relocations; and,
- Poor road networks and lack of access to markets.

Due to the importance of agriculture in Kwale and the myriad of challenges being faced by farmers, it would have been expected that the County Government would prioritise allocations to agriculture. However, the reality is that agricultural allocations have been very low, forming only 5.26% of the budget in 2015/2016 and 4.05% in 2016/2017. Of this, 57.7% was developmental allocation in 2015/2016, and 41.2% was developmental allocation in 2016/2017, a reduction of about 16.5. The lack of adequate investment in agriculture commensurate its importance in all the other elements of socio-economic growth is worrying. Agriculture plays a critical role in the production of food, and thus the achievement of food security and the realisation of the right to food. Food is key in all aspects of human development and is a key determinant of good health and educational attainment. Therefore, the lack of investment in agricultural food production is bound to wipe away any gains that would have been made in the other key priority areas of health and education. There is thus need for balance in budgetary resource allocations to ensure that all key integrated areas of socio-economic development are given equal prioritisation in revenue allocation. In that way, the County can develop progressively, ensuring that all aspects of socio-economic development grow together in harmony.

\textsuperscript{75} Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.

\textsuperscript{76} Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
It can be deduced from the above analysis that Kwale County has made efforts to align its budgetary allocations to its priority planning areas. This is reflected in the expenditure for health and education. However, despite detailing agriculture and water as key priority areas, adequate resources have not been allocated to enhance the development of these areas. As a result, there is a danger that any gains that could have been achieved due to the improved investment in healthcare and education will be wiped out due to a lack of commensurate investment in agriculture and water. This is because these four areas are intricately intertwined and can only progress effectively if all are given equal attention and resources in the budgeting process. The County Government should, therefore, critically rethink its resource allocation with the interrelatedness of these priority areas in mind, if it really intends to achieve a rapid socio-economic development for the people of Kwale County.

4.3 Public participation in the County planning and budgeting processes

The CIDP and the ADPs affirm the importance of substantive public involvement, engagement and participation in the planning and budgeting process to enhance the realisation of these priority developmental imperatives. This has, however, not taken root firmly in the planning and budgeting processes of the Kwale County Government. Household survey indicates that the majority of those interviewed in Nguluku and Bwiti had never taken part at all in the planning and budgeting process. They had also never seen the resulting planning and budgeting documents such as the CIDP, the ADPs, the CFSP, C-BROP, Budget Estimates, Appropriation Bills/Acts, among others. In Bwiti, 94.1% of those interviewed had never taken part; while in Nguluku 90.9% reported having never taken part in the planning and budgeting processes of the County Government. As a result of the failure of participation in these processes, the perception among the population in Nguluku and Bwiti is that the planning and budgeting processes have not taken into account their needs and aspirations. In Nguluku 100% of those surveyed felt that the County budgeting and developmental processes had not satisfied their needs at all, while in Bwiti 94.1% felt the same.

This is a damning indictment for the County Government, which clearly indicates that insufficient efforts have been put in place to enhance public participation in the budgeting process. Key informant interviews with County Government officials and other stakeholders agree that public participation has not been optimal. They, however, advance the following challenges in undertaking public participation in the planning and budgeting processes:

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77 See substantive discussion of this in section 3.1 above.
78 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
79 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
80 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
81 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti. In Bwiti, the remaining 5.9% did not respond to the question.
• Lack of the requisite political, financial and structural support to enable the Budget Forum undertake its responsibility of spearheading public participation in all the processes of planning, budget making, implementation and reporting;\(^\text{82}\)
• Failure of professionals in Kwale County to engage effectively and participate substantively in the planning and budgeting processes;
• Poor quality of participation due to the absence of necessary information and civic education on the duties of the County Government; the planning and budgeting processes; and lack of access to budgeting documents in advance and in a language that is accessible to the majority of Kwale people;
• The strict budgeting timelines make it difficult to effectively engage the local populations, with the more vulnerable populations like mining host communities in remote locations missing out on participation due to time constraints. The threadbare financial and human resources at the County level to undertake public participation further complicate this, with the result that a total of 2-3 hours is taken per village. This is insufficient to even scratch the surface of the long planning and budgeting draft documents, with the result that public participation has become a cosmetic exercise of ticking necessary boxes, without the populace being given a fair chance at influencing planning and resource redistribution in the County;

These challenges are real, but they are not insurmountable. What is needed is sufficient political will and desire to educate the public and allow them to effectively and substantively participate in setting the development agenda and determining priority areas of investment and allocation of County resources. Already, efforts have been made to move the public participation forums from the ward level to the village levels to ensure that as many people as possible participate.\(^\text{83}\) However, participation without proper civic education and access to the relevant information would not contribute much to the development process. There is need for the County Government and all relevant stakeholders in the budgeting process to effectively involve the public by moving the budget fora to the lowest levels possible; undertake public education for local communities on the duties and responsibilities of the County Government; provide civic education on the planning and budgeting processes; avail the relevant planning and budgeting documents in good time and in an accessible manner (in Swahili and other local languages, with summaries of the main points) to members of the community in order to enable them effectively

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82 Key informant interview N-8 conducted in Likoni on 25th May 2017, where the former Co-Chair of the Budget Forum stated these as some of the challenges faced by the Budget Forum in undertaking its duties. Other challenges in the work of the Budget Forum include: appointment of persons without necessary competence and independence to undertake the required work; lack of secretariat support; non-involvement of the Forum in the processes of budget approval, implementation, reporting and auditing;

83 Key informant interview N-8 conducted in Likoni on 25th May 2017, who affirms that public participation of the budgeting process was moved from the 20 wards to the village level, with at least 77 villages covered. As a result of further decentralisation of participation, over 1,200 people had participated in the budgeting fora., which was a great improvement in levels of participation.
participate. Further, local populations need to be made aware in good time of the date and venues of the budget forum, to enable them effectively plan and participate.\footnote{Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti. The suggestion was that there should be a vehicle with a public address system informing people in advance of the date and venue of meeting to enable people attend and participate.}

The County Government also needs to provide feedback to the local communities subsequent to the planning and budgeting process to enable local communities determine the impact of their participation and how their participation was able to influence the planning and budgeting processes and resource allocation decisions. This will enable the local communities feel a part of the governance processes and give them the power to hold the County Government accountable in the budget implementation processes to ensure that resources are spent for the benefit of the people of Kwale.
According to the household survey respondents, the decentralisation of leadership and resources by the Constitution and the creation of the County Government of Kwale have not changed their socio-economic situation much. There are many reasons for this, some of which have already been distilled in the preceding sections of this report. One of the major reasons for the failure has been due to the failure of the County Government of Kwale to recognise the mining host communities in Nguluku and Bwiti as vulnerable groups. This failure was acknowledged by the County Government Officers interviewed, who affirmed that it would have been prudent to recognise that these communities faced a distinctly different challenge faced by other local communities in Kwale County. Recognition of vulnerability of these mining host communities would have required the prioritisation of resources in the planning and budgeting process to ameliorate their situation. It would also have required the adoption of specifically targeted development programs to ameliorate their unique challenges resulting from the mine-induced relocations as well as the adverse economic, social and cultural impacts of the large-scale mining project in Maumba.

As a result, the socio-economic condition of the mining host communities in Nguluku and Bwiti has worsened since the titanium-mining project and the County Government has not been able to ameliorate the situation. The biggest indicator of the multidimensional nature of their poverty is reflected in the dire food insecurity situation in Nguluku and Bwiti. In Nguluku, of the households interviewed, only 18.2% have three meals a day, with the majority 68.2% having two meals a day and the other 13.6% having only one meal a day. Of these, 95.5% reported their households going to bed hungry sometimes as compared to only 4.5% whose households do not go to bed hungry. The food insecurity situation is the same for Bwiti, where 5.9% have three meals a day, 82.4% have two meals a day and 11.8% only have one meal a day.

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85 Some of the reasons include: paucity of resources due to the failure of the National Government to remit royalty resources; failure of the community development projects by Base Titanium; lack of participation of the local communities in the mining project as well as in the County Government planning and budgeting processes; adverse weather conditions drastically reducing agricultural yields; insecurity leading to the deterioration of the tourism industry, among others.

86 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti. The meals mostly contain starch and vegetables, with fish and other protein foods being rare.

87 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
day. Of those interviewed, all (100%) reported their households going to bed hungry sometimes. The multidimensional nature of poverty is further reflected using other socio-economic indicators. On health, the mining host communities have continued to suffer from poor access to health facilities. The situation is better in Bwiti, where Base Titanium constructed a Dispensary, but the same has not been sufficiently equipped with qualified health personnel and medicines, with only one nurse and two community health volunteers serving the over 1,500 people in Bwiti. The health situation in Nguluku is far poorer, with the mining community experiencing increased diseases as a result of the mining operation at Maumba. Major diseases reported are malaria due to the forest and dam that breeds mosquitoes; skin diseases due to mining; coughing due to dust from mining; diarrhea and typhoid from contaminated river water; and eye problems due to dust. The Nguluku population struggle to access healthcare due to the poor health infrastructure around them, with the majority having to travel between 10-15KM to access health services at Msambweni Sub District Hospital (34.6% of the population), Shimba Hills Dispensary (9.1% of the population) or Mivumoni Health Centre (54.5% of the population). The two government health facilities suffer from poor infrastructure and lack of medication, with the majority deciding to go to Mivumoni Health Centre that is run by the Catholic Church, though they are required to pay consultation fee of around Kshs. 600 to get health services as compared to more affordable services in the government facilities. Little has been done to improve the health infrastructure for the mining host community in Nguluku by the County Government despite the fact that they are on the frontline of the mining operation and bear the health burdens of the mining project.

Access to water for domestic consumption is critical to human wellbeing. The mining community in Bwiti is again faring better on access to water as a result of borehole drilling that was done by Base Titanium. On average, approximately 82.4% of the community in Bwiti gets their water from a borehole that is clean with water safe for household domestic use, with only 17.6% drawing water from streams. As a result, there are fewer waterborne diseases reported in Bwiti. Nguluku, however, still struggles with access to water, as there has been no commensurate drilling of boreholes for the mining host community. 63.6% of the population draws their water from open wells, 13.6% from rivers and 22.7% from water tanks provided by Base Titanium. The Base Titanium water tanks are approximately 0.5-3km away for most families in Nguluku, who are unable to make the distance and thus rely on open wells and river water that are not so clean, leading to many instances of waterborne diseases such as cholera

88 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
89 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
90 The dispensary is approximately between 0.5-1km for the majority of the population in Bwiti and is thus reasonably accessible for most.
91 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
92 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
93 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
94 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
95 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
and typhoid. The water situation has not improved despite complaints of river water contamination resulting from the mining operation.

Education infrastructure is also lacking in the two mining communities of Bwiti and Nguluku, though in comparative perspective, Bwiti seems to be better off than Nguluku. There are two schools in Bwiti, Bwiti Primary School built by Base Titanium that is approximately 0.5KM from most households and that has absorbed 82.4% of the pupil population. The other school is Mshihu Primary School that has absorbed 17.6% of the pupil population. The infrastructure and personnel at the two schools is average, with 3 students sharing a desk and teachers being few compared to the pupil population (8 teachers in Bwiti Primary and 11 teachers in Mshihu Primary). On average, the performance in both schools has improved due to cooperation between teachers and parents. However, school dropout is still a challenge due to poverty and early pregnancies, with school dropouts getting married early or engaging in odd jobs like motorcycle transport. In Nguluku, however, the two schools – Mwadogo Primary (50% of pupil population) and Duncan Ndegwa Primary (50% of pupil population) are far from most households, approximately 3-6km. The two schools have generally recorded deteriorating performances due to long distances that pupils have to make to school coupled with the threat of wild animals. As a result, the dropout levels are high, with poverty, early pregnancy and poor learning environments being the major causes of dropouts. School dropouts get married early or engage in odd jobs like motorcycle transportation or farming.

Lastly, the multidimensional nature of the poverty of the mining population in Nguluku and Bwiti is reflected in the nature of housing and sanitation. In Bwiti, 64.7% are traditional houses constructed of makuti and mud; 17.6% are semi-permanent constructed of iron sheets and mud; and only 5.9% are permanent houses constructed of iron sheets and cement. Of these, 53% have title deeds for their land; 35.2% have no title deeds for their land; and 11.8% are renting their houses. All the interviewed households (100%) have access to pit latrines that are not shared, though they have no proper systems for the disposal of kitchen waste. The situation is not any better in Nguluku, with 81.8% of households living in traditional houses of makuti and mud; 13.6% in semi-permanent houses of iron sheets and mud; and only 4.5% living in permanent houses of iron sheets and cement. Of these, only 13.6% have title deeds for their land.

96 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
97 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
98 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
99 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
100 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
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104 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
105 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
106 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
deeds for their land, while 86.4% have no title deeds for their land. Like in Bwiti, all the households in Nguluku have access to a pit latrine that is not shared, though they have no proper system for the disposal of kitchen waste.

It is thus critical that the County Government reconsider their budget allocations and adopts special programs directed at meeting these very urgent needs of the mining host communities in Nguluku and Bwiti. Such programs will go a long way in ameliorating the dire socio-economic situation of the mining host communities, resulting in better living standards for these communities.

107 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
108 Hakijamii Household Survey conducted between 22-26 May 2017 in Nguluku and Bwiti.
6 Conclusion and recommendations

6.1 Conclusions

A framework of laws, which include the Constitution, the County Government Act and the Public Finance Management Act, regulates the county planning and budgeting processes. These laws affirm that the planning and budgeting processes are public processes that must be undertaken in an open, transparent and accountable manner. It also requires the substantive participation of the people in the planning and budgeting processes, with a view to ensuring that the needs and aspirations of the people are effectively captured in these processes. In planning and resource allocation, the laws further require the prioritisation of the special needs of the most vulnerable segments of society, with special measures being put in place to address vulnerability and marginality of specific sections of society.

In Kwale County, however, the County planning and budgeting processes have failed to recognise the vulnerability of the mining host communities in Nguluku and Bwiti, who are experiencing the adverse economic, social, environmental and health consequences of the large-scale titanium mining project in Maumba. As a result of the failure, these mining host communities have continued to live in conditions of poverty and destitution, with their socio-economic situation deteriorating due to lack of basic socio-economic services like water, healthcare, education, food security, human security, among others. Even though the County Government has identified education, healthcare, water and agriculture as priority areas of development in the CIDP and the ADPs, it has not directed special socio-economic programs to deal with the specific vulnerabilities of the people of Nguluku and Bwiti.

Further, the County Government has failed to substantively and effectively include the people of Nguluku and Bwiti in the planning and budgeting processes. This is clear from the household survey, which indicated that most people in Nguluku and Bwiti have never participated at all in the planning and budgeting process, and have also never seen the resulting and budgeting documents. Due to the lack of involvement and participation, the perception of these communities is that their needs and aspirations have not been taken into account and effectively captured in the county planning and budgeting processes. If the County is going to effectively capture the needs and aspirations of these communities and address them in the planning and budgeting processes, it must give them an opportunity to articulate their concerns through open and transparent mechanisms of public participation. It is through the involvement and the participation of the people that the County Government of Kwale will achieve its CIDP aspiration of a competitive, industrialised and socio-economically self-sustaining County.
6.2 Recommendations

i) County Government

- Create opportunities for public participation by undertaking civic education to create public knowledge on the planning and budgeting process;
- Empower the relevant institutions of the County Government such as the County Treasury and the County Budget and Economic Forum to undertake substantive and effective public participation during the planning and budgeting cycle through adequate financial allocation, human resource capacity and adequate time to effectively engage the people and document their needs and aspirations;
- Develop simplified versions of the draft planning and budgeting documents in local languages and avail these in advance to members of the public to enable them understand the planning and priority areas of the County and respond to these effectively during the public participation processes;
- Recognise the vulnerability of the mining host communities of Nguluku and Bwiti and their dire socio-economic conditions and adopt specific socio-economic programs to ameliorate these dire socio-economic conditions;
- Follow up with the National Government on the mining royalties from Base Titanium accruing to the County Government as well as to the mining host communities and ensure that these royalties are utilised effectively to ameliorate the dire socio-economic conditions of the mining host communities in Nguluku and Bwiti;
- Effectively balance financial allocations to the key priority areas of health, education, agriculture and water to ensure integrated development of these areas due to their interlinked nature. This will ensure that there are no claw backs to socio-economic development in the County, which is currently due to the poor funding of agriculture that contributes immensely to food security, a critical determinant of health and educational attainment.

ii) Communities in Bwiti and Nguluku

- Spare time to learn and participate in the county planning and budgeting processes so as to ensure that local needs and aspirations are effectively captured in county planning and resource allocation;
- Actively pursue the County Government through local community leadership and demand opportunities for participation in the planning and budgeting processes to ensure that local needs and aspirations are effectively addressed;
- Undertake follow up and demand feedback from the County Government on the impact of local participation on the budgeting process to determine whether and to what extent the County Government incorporated local views into the county planning and budgeting documents.
iii) **Civil society**

- Undertake civic education and empower local communities to enable them understand and participate in the county planning and budgeting processes;
- Participate actively in the county planning and budgeting processes and scrutinise the county planning and budgeting documents to ensure that local community needs and aspirations are effectively captured and sufficient resources are allocated towards the amelioration of the dire socio-economic conditions of local communities;
- Undertake active follow up of the implementation of the County budgets to ensure transparency, openness, integrity and accountability in the utilisation of public funds by the County Government on behalf, and for the benefit of, the people of Kwale County in general and the mining host communities in particular.

iv) **National Government**

- Timely release of the equitable share of national revenue to the county government to enable them increase their absorption capacity;
- Fast track the implementation of Mining Act 2016 by establishing all relevant institutions and publish data on royalties received from various mining companies.
Selected Reference

- The Constitution of Kenya 2010
- The County Government Act, 2012
- The Public Finance Management Act
- The County Allocation of Revenue Acts 2013-2017
- The Kwale County Integrated Development Plan 2013-2017
- The Kwale County Annual Development Plans 2015 and 2016
- The Kwale County Budget Review and Outlook Papers 2015 and 2016
- The Kwale County Fiscal Strategy Papers 2015 and 2016

(Footnotes)

1 The development estimates reduced from Kshs. 1,133,977,851.00 in the original approved budget estimates to Kshs. 1,107,977,851.00 in the revised budget estimates, a difference of Kshs. 26,000,000.

2 The development estimates reduced from Kshs. 1,286,638,045.28 in the original approved budget estimates to Kshs. 788,701,256.98 in the revised budget estimates, a difference of Kshs. 497,936,788.30.

3 The development estimates reduced from Kshs. 1,747,769,695.91 in the original approved budget estimates to Kshs. 785,251,852.74 in the revised budget estimates, a difference of Kshs. 962,517,843.17.

4 The development estimates reduced from Kshs. 674,343,830.48 in the original approved budget estimates to Kshs. 619,430,017.47 in the revised budget estimates, a difference of Kshs. 54,913,813.01.

5 The development estimates reduced from Kshs. 318,363,462.20 in the original approved budget estimates to Kshs. 230,913,462.20 in the revised budget estimates, a difference of Kshs. 87,450,000.

6 The development estimates reduced from Kshs. 171,804,816.41 in the original approved budget estimates to Kshs. 132,674,495.65 in the revised budget estimates, a difference of Kshs. 39,130,320.76.

7 The development estimates reduced from Kshs. 573,909,626.28 in the original approved budget estimates to Kshs. 501,282,626.28 in the revised budget estimates, a difference of Kshs. 72,627,000.

8 The development estimates reduced from Kshs. 794,164,679.01 in the original approved budget estimates to Kshs. 659,388,499.03 in the revised budget estimates, a difference of Kshs. 134,776,179.98.
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