



Highlights from public deliberation on Equitable Development Act (EDA)

Elgeyo Marakwet County, October 2016

Kerio Center

Introduction

In the month of October 2016, Kerio Center partnered with Elgeyo Marakwet County to bring the public's voice into the process of amending the county's Equitable Development Act 2015. The EDA is a unique law that regulates the distribution of the county's development budget across its wards. While this law is pioneering, many officials and analysts believe it could be improved further, leading to a reform process initiated by the county in 2016.

In order to ensure this reform process was inclusive, we agreed with the county government to consult members of the public from across the county to obtain their input into making the Equitable Development Act 2015 more equitable. We agreed to convene two deliberative sessions—one at Kapsowar and another at Iten with a total of 60 participants. Both sessions were similarly moderated, and participants deliberated on the same content. We also conducted surveys before and after these forums to obtain information about public understanding of the law and views on fairness. Finally, we filmed the deliberations and produced a short documentary.

Our premise was that an informed public could provide useful input into the reform processes, particularly in regard to fairness. We believe that when ordinary people understand and can define principles of fairness, they are more likely to actually practice fairness in decision-making. To demonstrate this idea, we engaged participants in series of exercises that would allow them to discuss principles of fairness and then use a set of data about hypothetical wards to make decisions about sharing resources. We used hypothetical wards in order to encourage participants to focus on principles rather than interests.

From the deliberations, we learnt that;

1. People can evaluate fairness in terms of common principles like need.

Scenario 1: Consider two people, one lives in urban while the other lives in a rural area – both earn Ksh.40, 000. How would you share Ksh. 100,000 among them?

There was consensus that the person living in an urban area should get a larger share of the money. Participants eventually agreed that the cost of living in an urban area is more expensive than in a rural area, implying that the person living in urban area has more financial NEEDS and therefore should get a larger share of the money.

2. People believe that efficiency should be rewarded, but also that everyone deserves at least a minimal share of resources regardless of their status, needs, lifestyle, etc.

Scenario 2: Consider two people, both earn Ksh 40,000 – but, one borrowed a loan to buy a Prado to enjoy life while the other invested in business. How would you share Ksh.100, 000 among these two people?

There was a heated discussion on scenario which also related to another scenario about two people – one is drunk and non-punctual while the other does not drink and is punctual at work. The key issue in these scenarios is that some people make poor decisions. Initially, some of the participants felt that both the person who invests in a Prado and the one is drinking should not get a share of the money. However, after further discussion, participants agreed that choices or status should not matter when sharing resources. They said that everyone deserves to be part of the process and should get something.

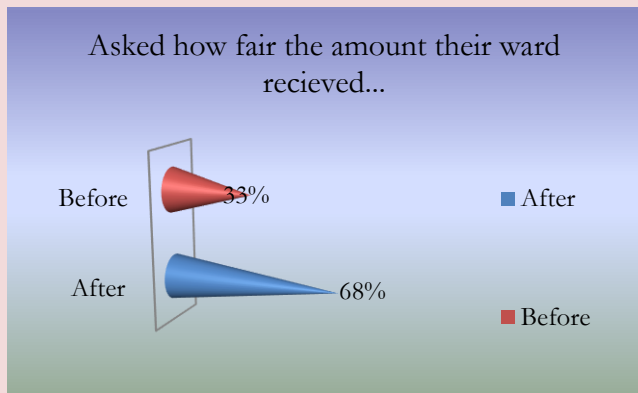
3. When forced to make trade-offs between need and capacity, people tend to privilege need over capacity.

Scenario 3: you have two people, one is sick and will have to visit the hospital several times in the year, while the other is healthy. The sick one earns Ksh 200,000 while healthy one earns Ksh. 20,000. How would share Ksh. 100,000 among them?

Scenario 3 was testing two things; 1) capacity and need. There was general agreement among participants that despite the sick person earning more (having higher capacity to pay for his/her needs), he/she should get a larger share of the money owing to his/her needs. This indicates that people are biased toward need if they have to make tradeoffs between need and capacity.

We also established that;

Finding 1: People can change their minds when exposed to information. They do not have fixed views on matters of resource distribution. Given more information about the rationale behind policy, citizens tend to find it more legitimate.

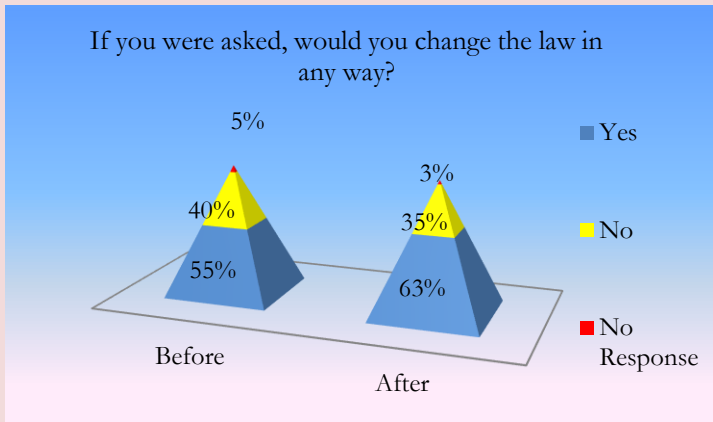


People who believed that the share their ward received currently was fair increased by 35 percentage points after people understood how the EDA worked. This suggests that participants are capable of thinking about fairness as an idea beyond their own self-interests.

There were similar results about how people viewed fairness of the distribution of resources in the county as a whole. 50% of the respondents thought that the distribution was fair before the forum, while this increased by 23 percentage points after the forum.

Finding 2: People think the formula can be improved in ways that are reasonable, meaning they are rooted in principles of equity or fairness, and they can provide plausible reasons for their arguments.

There was an increase of 8 percentage points in the share of respondents who wanted to reform the law after understanding how it works during the forum. We observed that people both saw the EDA as fairer after they understood it, and also saw a greater need for improving it.



We asked respondents how they would change the law. We gave them three options: removing a factor, maintaining the factors but changing their weights, or adding a new factor. All the seven factors of the formula had at least one respondent propose removal both before and after the forum.

However, some of the factors received a high number of responses for removal before the forum, which reduced significantly after the forum.

While many respondents were hostile to flagship

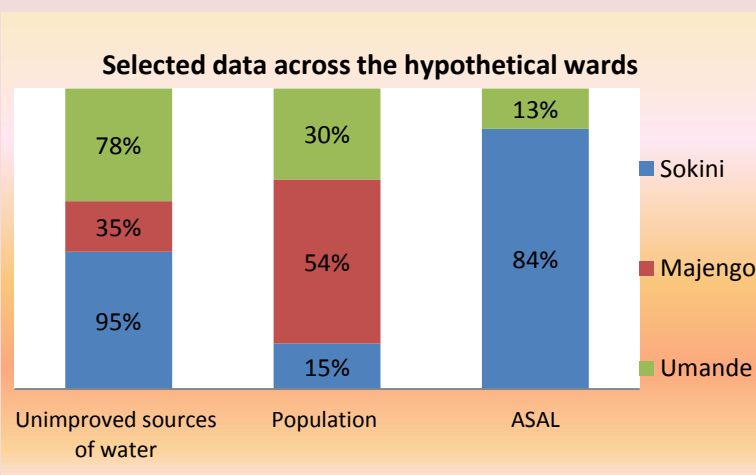
projects at the outset of the discussion, fewer respondents wanted to remove the flagship (countywide) project factor after the forum. The flagship and ASAL factors had the largest shifts in responses comparing views before and after the forum – the share of participants calling for elimination of flagship projects reduced by 12 percentage points after people understood what flagship projects meant, while for ASAL, the share of respondents calling for dropping it reduced by 13 percentage points.

When participants engaged in the exercise of using the data to share Ksh. 1 billion among the three hypothetical wards, ASAL was regarded as a crucial proxy to measure water development and infrastructure needs in efforts to promote farming in Arid and Semi-Arid areas and eventually to address poverty.

Finding 3: Residents of Elgeyo Marakwet believe that taking into account inequalities is important and that giving equal shares is not ideal, sending a clear signal against high equal distributions promoted by some political leaders.

In framing the deliberations, we did not indicate whether or not participants should provide for a minimum (equal) share for the hypothetical wards or individual people in the case of scenarios. However, while debating on how to share the Ksh 1 billion among the three hypothetical wards, a section of the participants proposed that every ward should get a share of the money equally as a default share. The group said that the wards share common things that require resources to run, but are not necessarily considered by other parts of the formula. This was similar in theory to the 60% equal share in the current EDA, but participants thought that a 60% weight in the case of the EDA was too high and that equity should be given more weight than equality, given inequalities across wards. In principle, while it is important to note that there are common and shared drivers of expenditure across the board, it is reasonable for the equitable share to be larger than the equal share, especially if there are large service and development disparities among the places to receive the money.

Finding 4: People have some degree of agreement about the importance of a set of principles of fairness



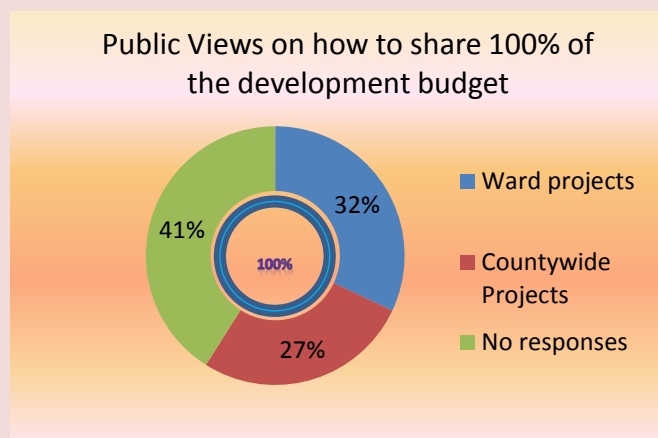
The data that we gave to participants included varied levels of access to services such as improved sources of water and different populations. Sokoni ward had the lowest percentage of its residents accessing improved sources of water, but also the smallest population while Majengo’s ward had developed water sources but with high population.

These two sets of data were meant to test how people consider infrastructure needs associated with marginalization against ongoing service needs. At least some participants understood that both issues in the respective wards were important: they thought

that Sokoni should get more money to develop its water infrastructure, while Majengo would also get sufficient resources to deliver ongoing water service to its large population. Balancing marginalization versus ongoing service needs is a challenge, but recognizing both as reasonable claims can help lead to acceptable approaches.

Finding 5: While wananchi do want money for their wards, it is not true that they believe all of the money should go to ward projects. Instead, citizens are open to discussion on the best way to allocate funds.

Figure 1: Countywide versus ward projects: where should the development budget go?



Results from this question suggest considerable ambivalence about countywide versus ward projects. Although slightly more respondents (32%) preferred larger share of the total development budget to go to ward level projects while 27% thought that larger share should go to Countywide projects, the big winner was no response (41%), suggesting people were not sure how best to distribute funds. This opens the possibility to persuade citizens of the most effective use of funds in spite of the apparent preference at the outset for more ward funding.

Finding 6: People have distributional and public participation concerns over countywide projects. This contributes to their desire to limit the share of the budget for countywide projects, even if they see the value of such projects.

Participants are more likely to support countywide projects when they are involved in the decisions about these projects, and especially when they are given a list to choose from. We gave participants a list of four specific types of projects and options for implementation as countywide, ward and other. In three of the four cases, a majority preferred that the projects be implemented as countywide projects.

Additional points emerged from the discussion of how to revise the EDA:

- ✚ People have some knowledge of the EDA, but a majority of them do not understand how it works and therefore, it was difficult for them to rate its fairness. The fact that there is limited knowledge about how the law works contradicts claims by some political leaders that the formula is widely seen as legitimate. In revising it, there is a need to ensure that people do understand. Our data shows that when people understand more about the rationale for the formula and how it works, they tend to see it as fairer and more legitimate.
- ✚ Avoid dividing resources into small allocations such that the projects implemented are not useful to the public. Participants said the law should cap the number of projects at certain maximum number per ward per year to ensure the development shares for wards are used to fund reasonable projects.
- ✚ Any new approach should put emphasis on interventions that have the potential of addressing key service and development needs as opposed to using proxies that have little impact. For example, participants were skeptical of the use of ASAL as proxy. They noted from the data that ASAL areas tended to be poorer and that this related to lack of agricultural activity in these areas. Thus, rather than measure ASAL or poverty, they wanted to focus on the need for support for agriculture.

- ✦ Participants had little knowledge of what flagship projects were at the beginning of the discussion. However, upon getting to know that these were countywide projects that benefited the whole county, they were more open to funding them. They wanted the public to be consulted in deciding these projects just as there is participation at the ward level for ward projects. They said this should be anchored in the law.
- ✦ Lastly, there was a general concern about transparency and accountability, especially when it comes to project implementation. People viewed fiscal responsibility as factor that should be maintained in the law, but with its purposes defined as a reward for efficiency and effectiveness in utilization of public resources.
- ✦ Justifications and reason-giving were at the heart of the public discussion. While participants had different views and proposals on how to divide the money, they could listen and convince each other (giving reasons and justifications) for why one approach to sharing the money was better than another, and they could eventually agree.
- ✦ Ordinary people are able to deliberate together with data and reasons and come to an agreement. This suggests that people have views, and that, those views can change when people are given data, time to reflect and an opportunity to deliberate. As a result of the process followed, these views are widely seen as legitimate.

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