



Promoting and Protecting Human  
Rights, Democracy, and the Rule of  
Law



# JUDICIARY PERCEPTION SURVEY PRESENTATION



Prepared by  
Infotrak Research & Consulting  
A member of Harris Interactive Global Network  
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- ❑ The Judiciary plays a very significant role in the socio-economic and political development of any democracy.
- ❑ In Kenya, prior to the promulgation of the Constitution of Kenya in 2010, the efficiency, independence, integrity and public confidence in the judiciary was at its lowest ebb. According to the **July 2010 final report of the Task Force on Judicial Reforms**, runaway and unabated corruption, political interference, ‘gatekeeping’, tribalism, nepotism were amongst the factors that contributed to this low public trust and confidence in the Judiciary. This report summarizes the state of the Judiciary then as;  
*“Over the years, patronage took hold at different levels of the institution, taking the form of political appointments; nepotism and tribalism; favouritism in appointments and promotion; and judicial subservience by some judicial officers.” As per page 2*
- ❑ The Kenyan Constitution heralded a number of progressive reforms in the Judiciary. With its full implementation, it is hoped that Kenyan judiciary will transform into an effective, efficient, independent and responsive institution that timely dispenses justice to all.
- ❑ **The Judiciary Perception Survey** was commissioned by International Commission of Jurists (ICJ Kenya) and conducted by Infotrak Research and Consulting from **15<sup>th</sup> June to 29<sup>th</sup> June 2012.**

- ❑ The overall objective of the survey was to establish Perceptions of Court Users towards Kenyan Judiciary.
  
- ❖ **Specific objectives included:**
  - To gauge Kenyans' level of knowledge, awareness and perceptions on the on-going judicial reforms;
  - To establish the impact of constitutional and judicial reforms on access to justice and service delivery in the justice system;
  - To establish the achievements/ challenges in the administration of justice as perceived by court users in Kenya;
  - To assess the perceptions of court users on access to and administration of justice in Kenya.



- ❖ Quantitative Approach was adopted and involved using face to face interviews with :-
  - ✓ A representative sample of 1500 adult males and females from the general public
- ❖ Desk research involving comprehensive review of previous reports, legislative and policy instruments as well as other documents relevant to the survey
- ❖ Qualitative Approach was also used. Focused Group Discussions with members of the public and Key In-depth Interviews were conducted with persons working in the Justice sector.

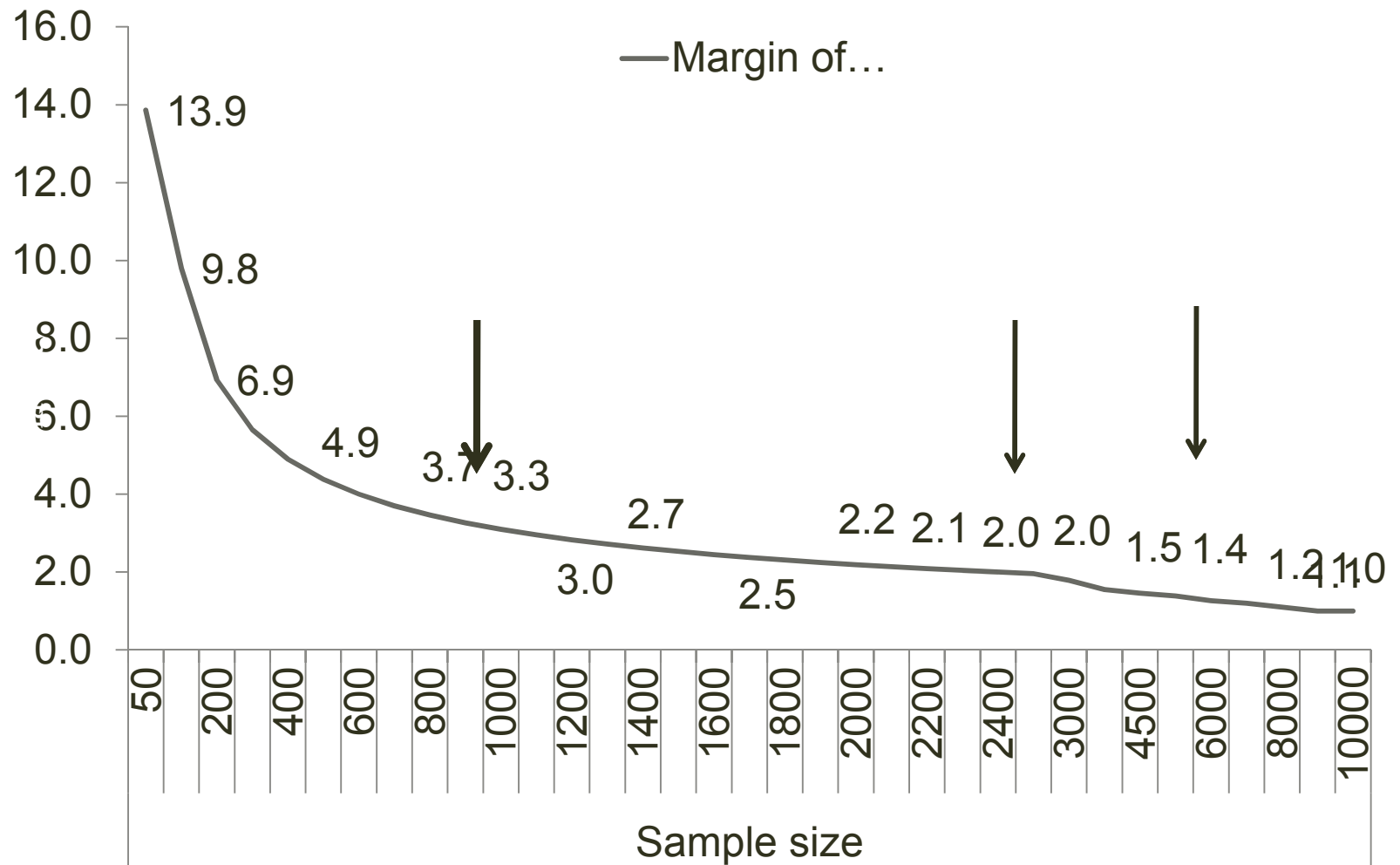
# The Quantitative Sample defined

Region	Sample Distribution
Nairobi	153
Eastern	337
N. Eastern	31
Nyanza	245
Western	184
Central	306
Coast	122
R. Valley	122
<b>TOTAL</b>	<b>1500</b>

- The sample distribution was arrived at using stratified sampling method as tabulated in the current slide.



# Margin of Error Illustration





ICJ KENYA  
Since 1959

# Survey findings



# Judicial Reforms



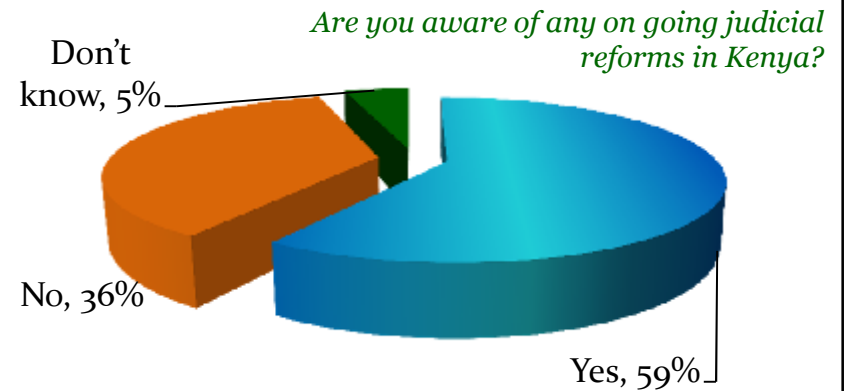


# About Judicial Reforms

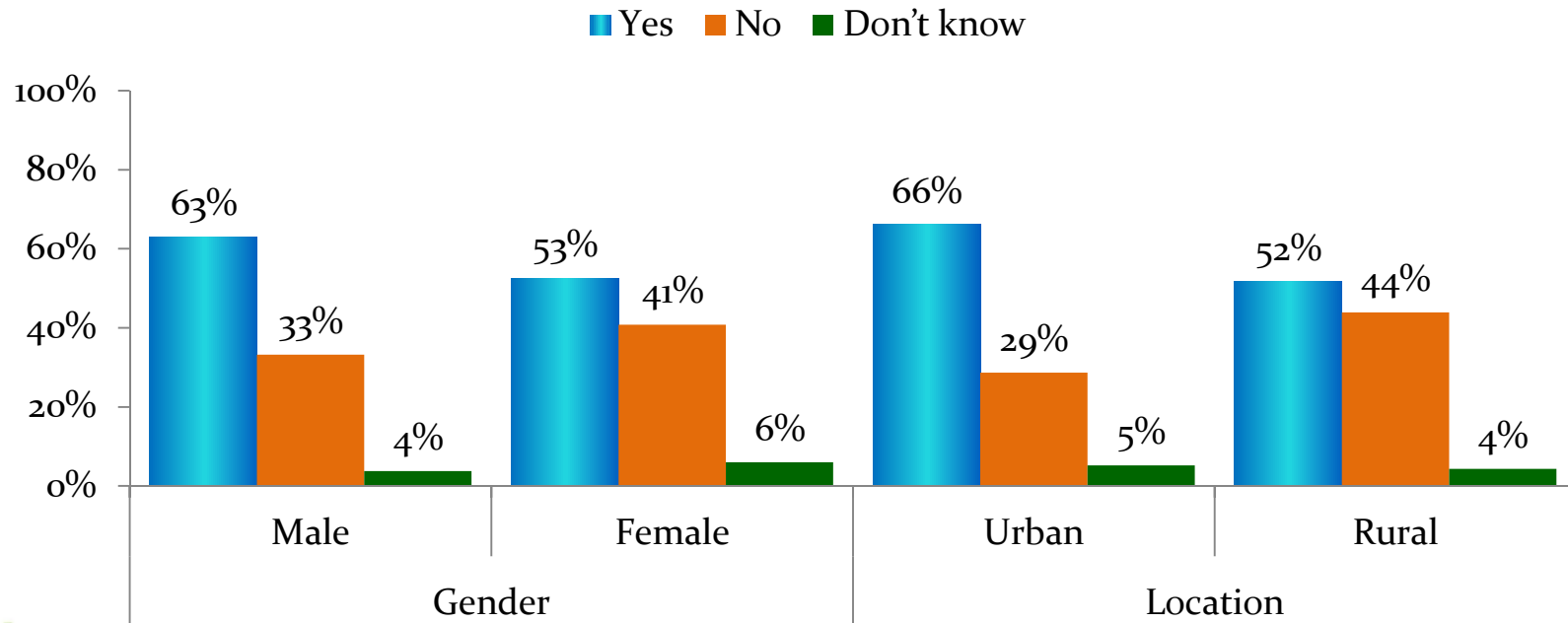
- ❑ A great number of reforms have been initiated in the Judiciary since the Constitution of Kenya 2010 came into force. Notable examples include:-
  - ✓ The competitive and fair appointment of senior Judicial staff (CJ, DCJ, Supreme Court and High Court Judges);
  - ✓ Advanced plans for automation of court processes and digitalization of court registry;
  - ✓ Reconstitution of Judicial Service Commission;
  - ✓ Judiciary open days;
  - ✓ Vetting of Judges and Magistrates who were in office before the Promulgation of the new constitution;
- ❑ The survey sought to determine the Public knowledge levels on the on-going Judicial reforms and the perceptions thereof.

# Nearly 60% of the respondents are aware of the on-going reforms in Kenya

- Approximately four in ten indicated they were not aware of the on going judicial reforms in Kenya
- More males (63%) than females (53%) indicated they are aware of the on going reforms in Kenya



n= 1462



# Public understanding of Judicial Reforms

□ Public understanding of Judicial Reforms is as diverse as sampled:-

*“.....I think when we talk about the Judicial Reforms we are talking about the changes, Judiciary Bodies and how we want things done now compared to what we had before the passage of the new Constitution.” **FGD Respondent without a case in court***

*“.....to me, Judicial Reforms means doing away with those issues of court files getting lost. Eradicate corruption in the Judiciary. Thank God the Judges and Magistrates are being vetted....” **Respondent without a case in court***

*“.....Judicial reform means restoring confidence in the common man to make them believe that our courts can handle their disputes justly; a case example is what happened after Post- Election Violence. You had people say they did not have trust in our Courts.....” **Key in-depth informant, Nairobi***

# The top 8 on- going judicial reforms Kenyans are aware of



*Are you aware of any on going judicial reforms in Kenya?  
If yes, which reforms in the judiciary are you aware of?*

n= 862

## 66% of the surveyed respondents indicated that the institution responsible for interpreting the law in Kenya is the judiciary.

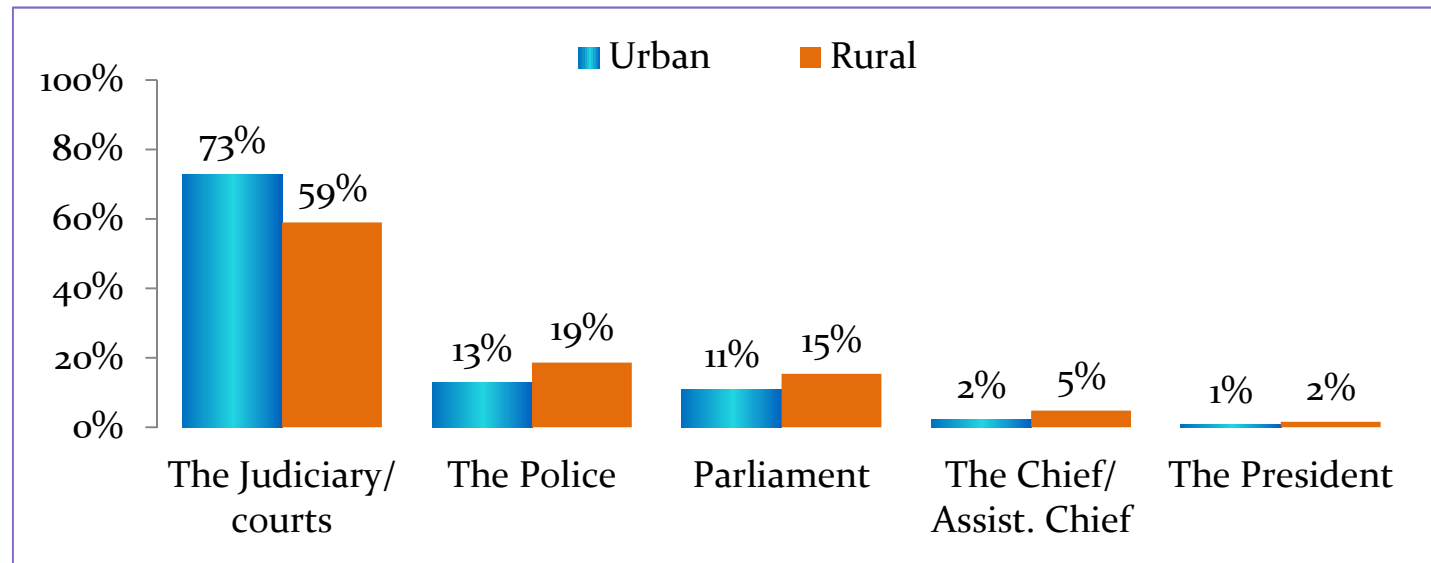
Which institution would you say is responsible for interpreting the law in Kenya?

- The Judiciary/ courts – 66%
- The Police – 16%
- The Parliament – 13%
- The Chief/ Assist. Chief – 4%
- The President – 1%

□ Nearly two in ten (16%) of the respondents indicated that the police is responsible for interpreting laws. This finding underscores the importance of reforms in the Police department

*n = 1449*

*Which institution would you say is responsible for interpreting the law in Kenya?*





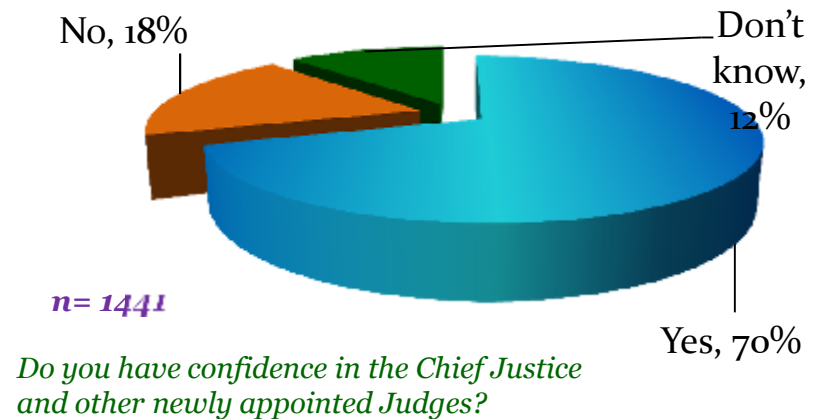
## Institutions respondents mentioned are responsible for interpreting the law in Kenya **By Region**

- Majority of those who mentioned the judiciary/ courts as the institutions responsible for interpreting the law in Kenya were from North Eastern, Coast and Nairobi at 93%, 88% and 76% respectively

Which institution would you say is responsible for interpreting the law in Kenya?	Coast	N.Easter n	Eastern	Central	R.Valley	Western	Nyanza	Nairobi
The Police	7%	0%	21%	10%	22%	25%	17%	6%
The Judiciary/ courts	88%	93%	57%	70%	62%	49%	70%	76%
Parliament	5%	7%	15%	16%	7%	17%	11%	15%
The President	0%	0%	2%	2%	0%	1%	2%	1%
The Chief/ Assist. Chief	0%	0%	5%	2%	9%	8%	0%	2%

## 70% of Surveyed respondents have confidence in the Chief Justice Dr. Willy Mutunga and other newly appointed judges

- ❑ 18% of the respondents mentioned they don't have confidence in the Chief Justice and other newly elected judges
- ❑ Majority of those who mentioned they have confidence in the Chief Justice and other newly appointed judges were respondents from North Eastern and Nairobi at 93% and 76% respectively.

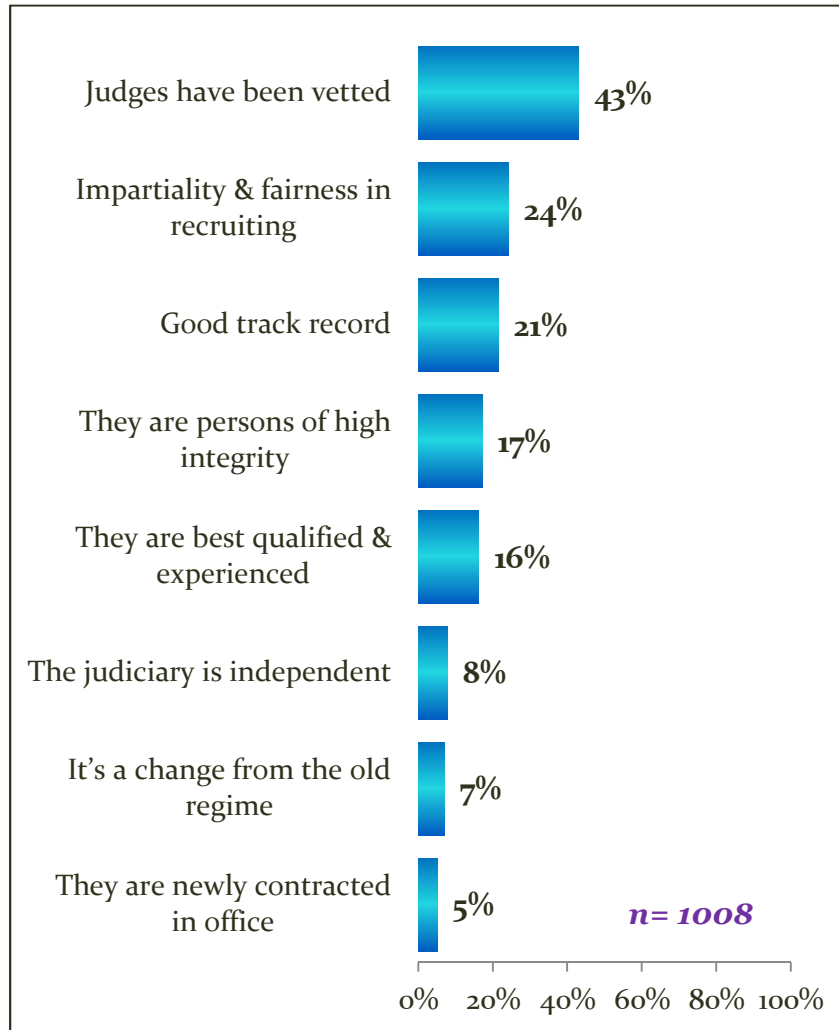


**The current Chief Justice and his team enjoys support even from the general public and among his professional peer as highlighted below:-**

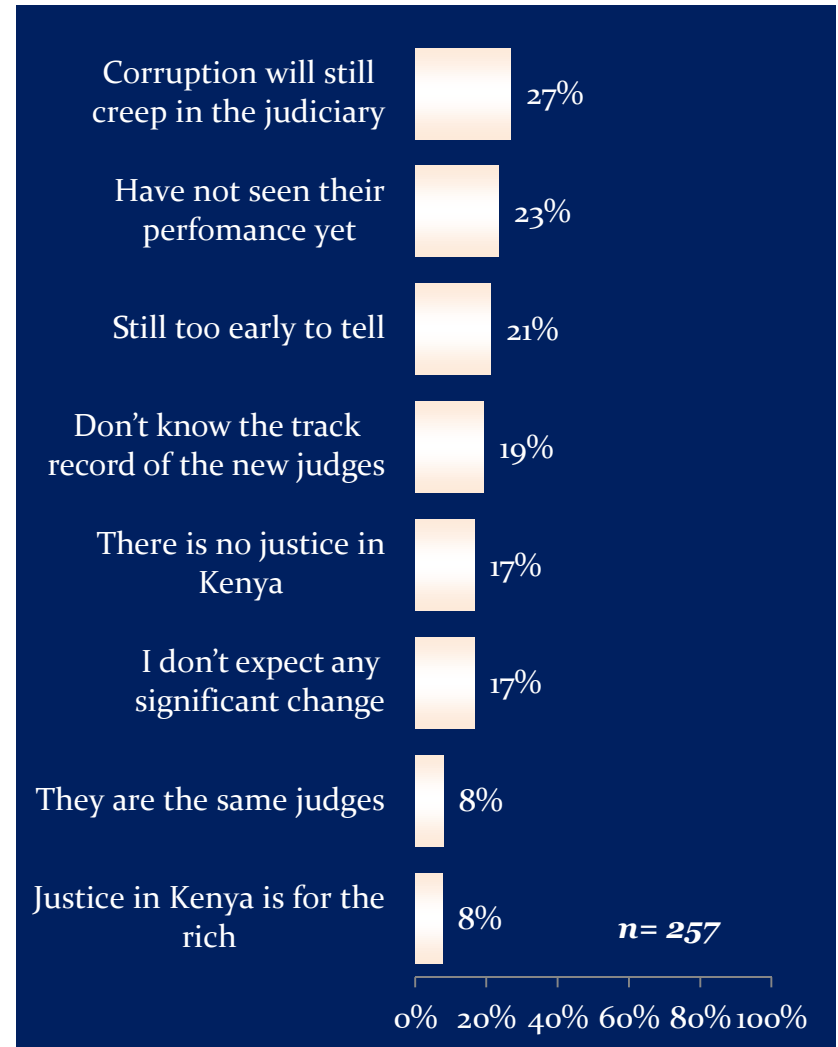
*"...Dr. Willy Mutunga is a humble, highly qualified, impartial, objective and Independent Chief Justice Kenya has ever heard. His conduct in and out of court leaves no doubt that the judiciary under his leadership can achieve quite a lot and regain the public confidence it had initially lost..." As per a Focussed Group Respondent from Nairobi.*

# Reasons for the level of confidence respondents have in the CJ and other Senior Judicial Staff recently appointed

## Reasons for confidence



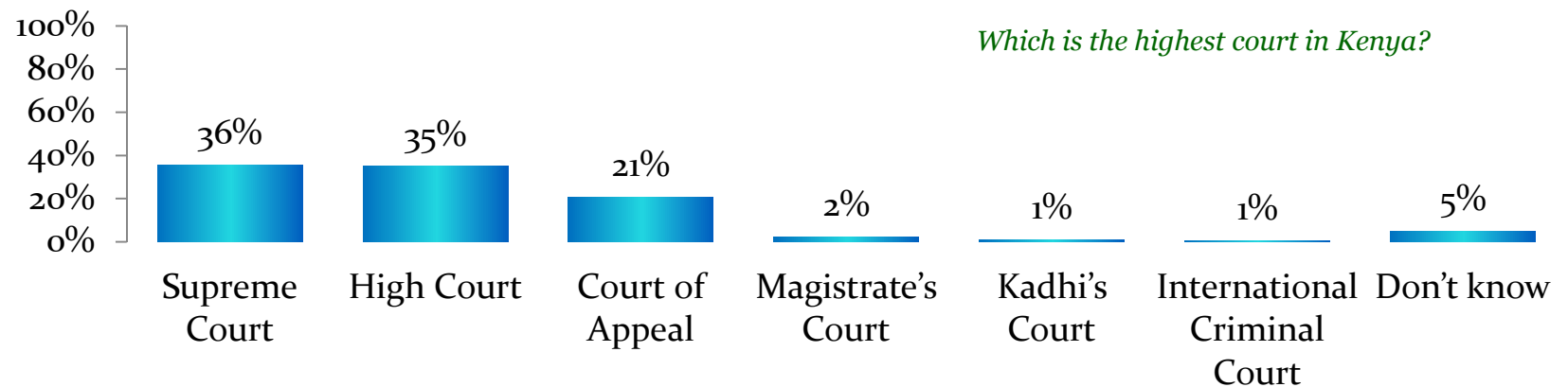
## Reasons for not having confidence



*Please give reasons for your answer in the question above?*

# Low Public awareness on the Supreme Court

- Asked which is the highest court in Kenya, 64% of the respondents gave an incorrect response or didn't know. Only 36% correctly mentioned the Supreme Court. The low public awareness on this otherwise important Court ought to inform Public sensitization campaigns.



**The low public confidence is aggravated by lack of Public knowledge on the composition of this court as highlighted**

*".....Me I know that they are five Supreme Court Judges; we have the CJ, Deputy CJ, Chief Kadhi, Kalpana Rawal and Smokin Wanjala....." FGD Respondent without a case in court*

# Knowledge of highest court in Kenya

## By Location & Gender

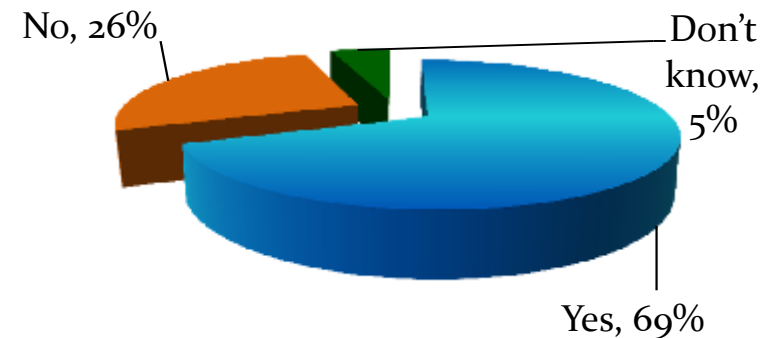
- More respondents from Urban areas (41%) are aware that the Supreme Court is the highest court in Kenya compared to their rural counterparts (29%).
- Additionally, more males (38%) than females (32%) correctly mentioned the Supreme Court as the highest court in Kenya.

Which is the highest court in Kenya?	Location		Gender	
	Urban	Rural	Male	Female
Supreme Court	41%	29%	38%	32%
High Court	28%	42%	36%	33%
Court of Appeal	25%	16%	19%	23%
Magistrate's Court	2%	3%	2%	2%
Kadhi's Court	1%	1%	1%	1%
International Criminal Court	0%	1%	1%	0%
Don't know	3%	7%	3%	9%

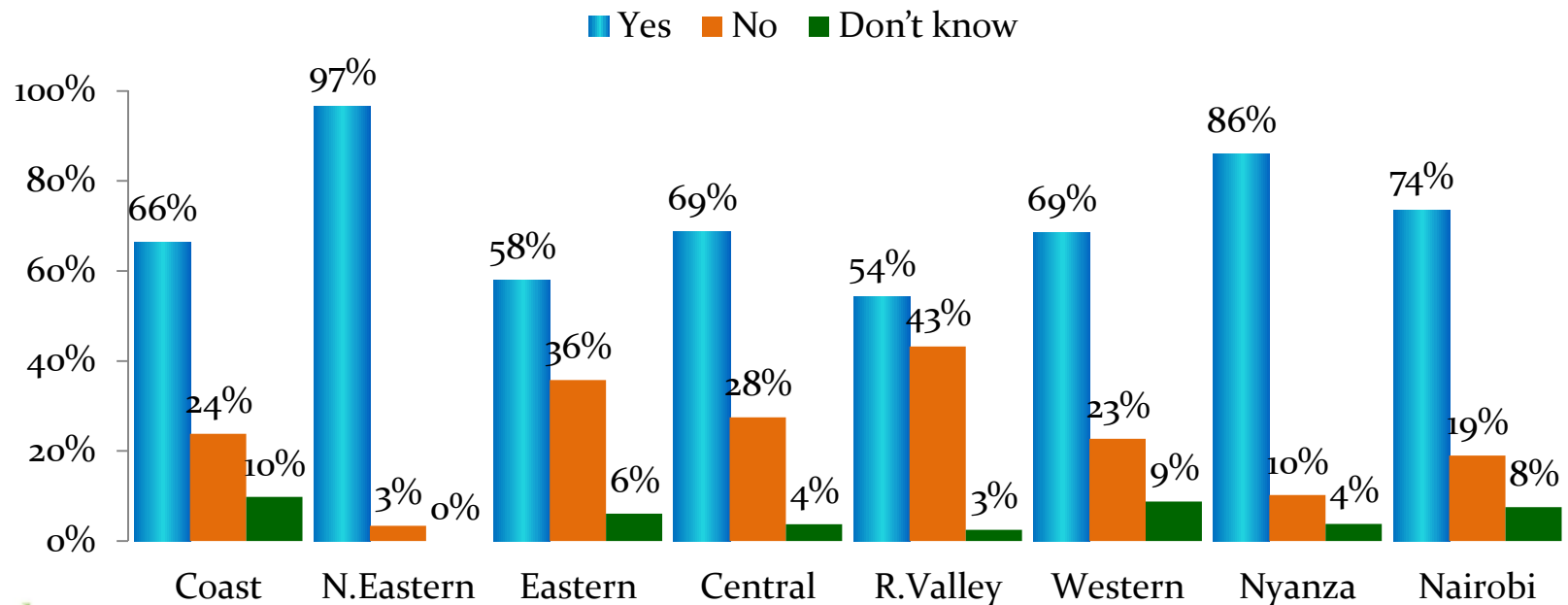


# The Vetting of Judges and Magistrates

- Majority of respondents are aware of the on-going vetting of Judges and Magistrates at 69%. Public awareness was highest in North Eastern and Nyanza regions at 97% and 86% respectively

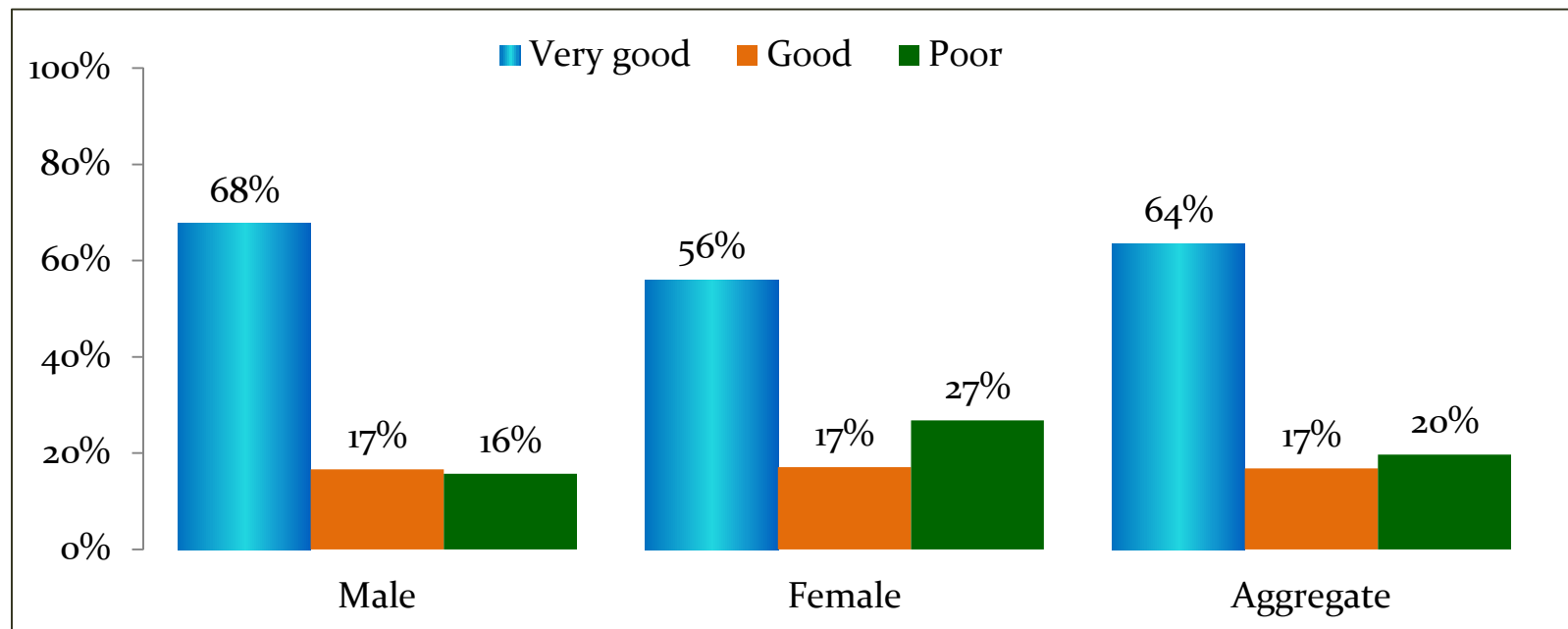


*Are you aware of the on going vetting of Judges and Magistrates?*



## A majority (64%) of respondents are emphatic that the Vetting of Judges and Magistrates Board is doing a commendable Job

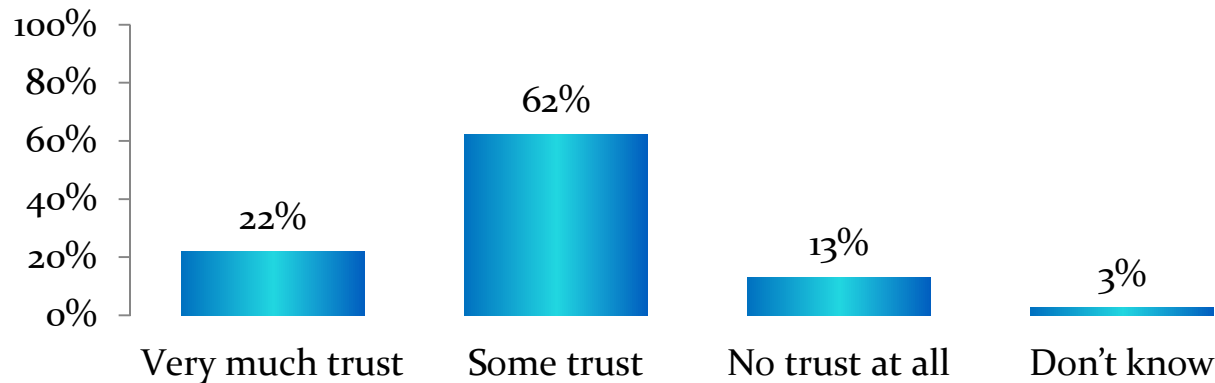
- More males (68%) than females (56%) indicated that the Vetting Board is doing a good job



*How would you rate the performance of the Vetting of Magistrates and Judges Board?*

*n= 1423*

# 84% of surveyed respondents trust the Kenyan Courts



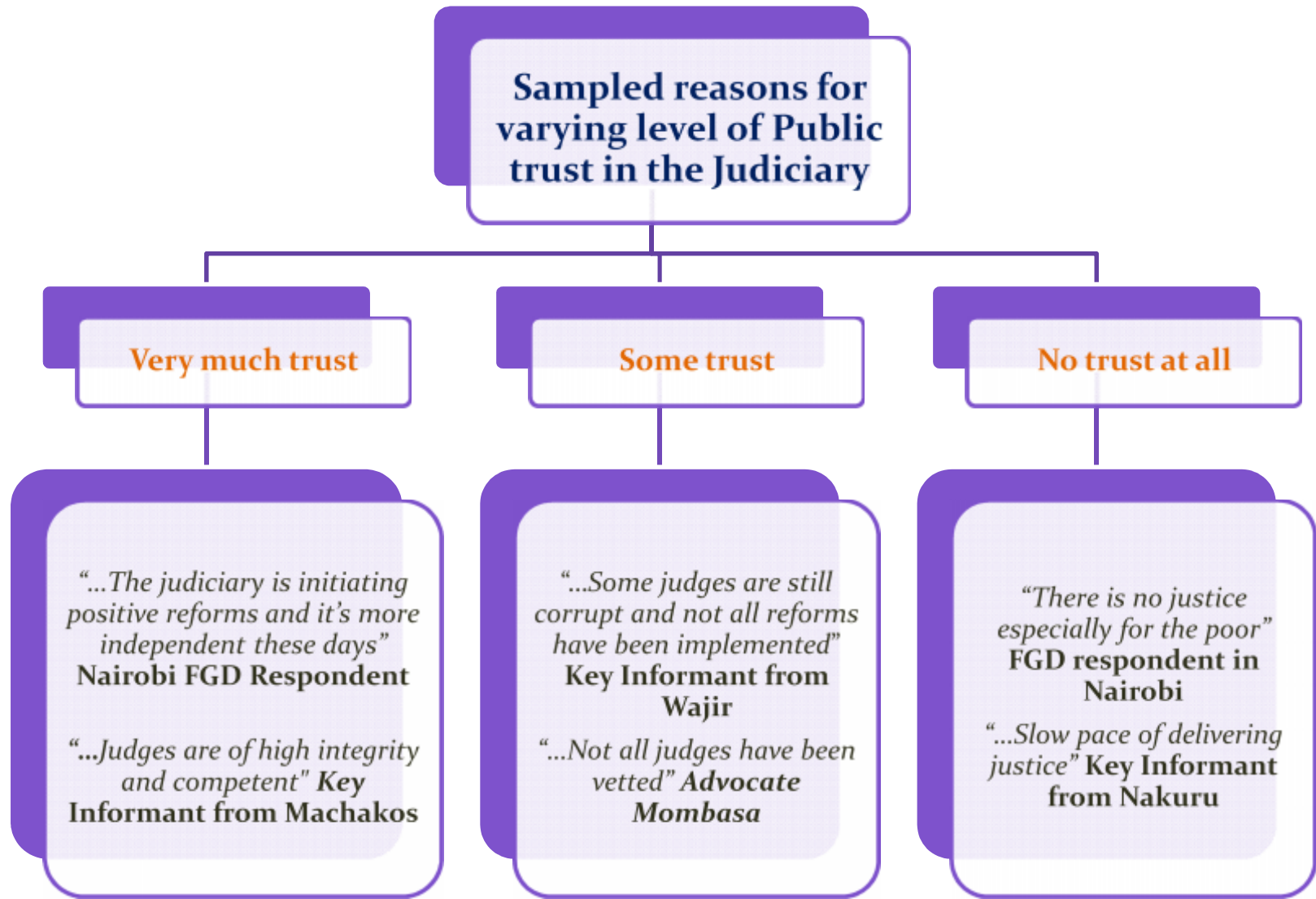
*How much trust, if any, do you currently have on the Kenyan courts?*

*n= 1402*

- ❑ Respondents from Rift Valley region recorded the highest level of trust on the Kenyan courts at 91% followed by those from Nairobi and Central regions at 88%

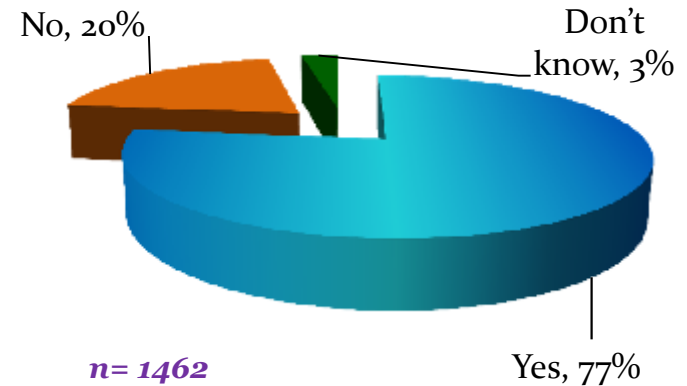
How much trust, if any, do you currently have on the Kenyan courts?	Coast	N. Eastern	Eastern	Central	R. Valley	Western	Nyanza	Nairobi
Very much trust	20%	60%	21%	16%	32%	19%	27%	18%
Some trust	62%	27%	62%	72%	59%	53%	60%	70%
No trust at all	19%	13%	11%	11%	9%	21%	12%	12%
Don't know	0%	0%	6%	0%	0%	8%	1%	0%

# Reasons for the different level of trust respondents have in the Judiciary

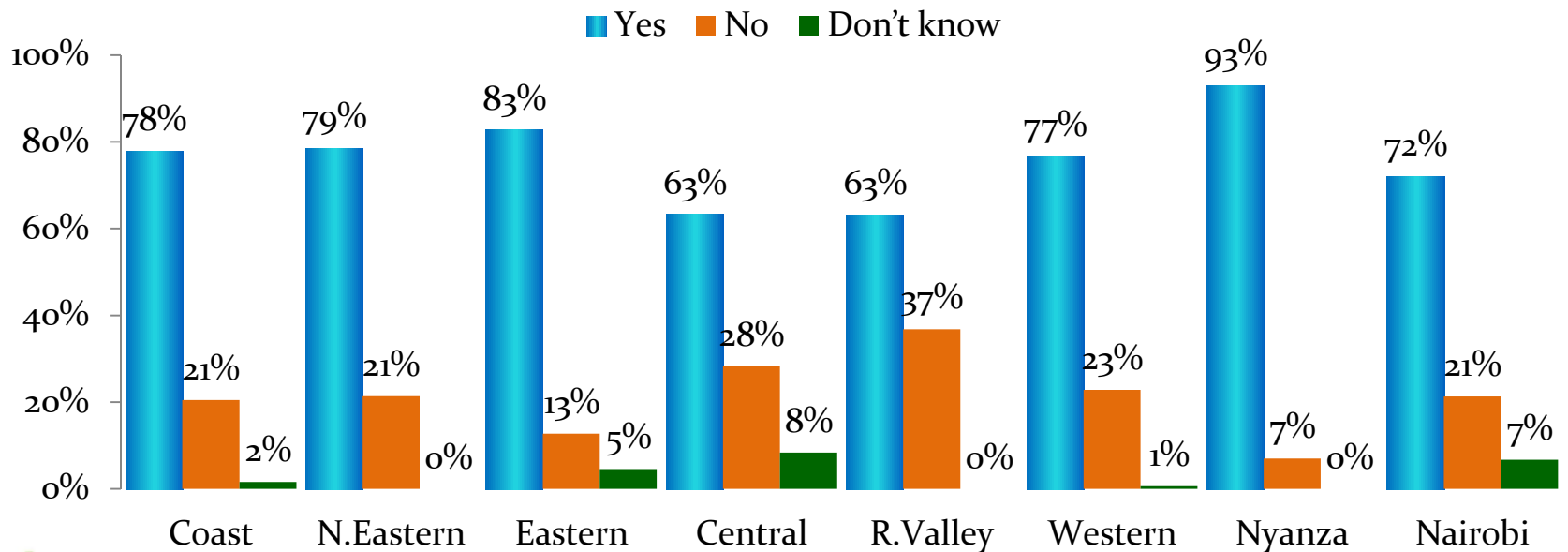


# A majority(77%) of Kenyans prefer using Kenyan Courts to resolve disputes

- Majority of those who said they would take a case or dispute requiring the intervention of a third party to a Kenyan court were from Nyanza and Eastern region at 93% and 83% respectively



*Assuming you had a case or dispute requiring the intervention of a third party, would you take it to the Kenyan courts?*





# Likes & dislike of Kenyan Courts



## Likes about Kenyan courts

- They are just & fair - 35%
- Ready for reforms - 30%
- Independent - 28%
- Incorruptible - 18%
- Have competent staff like judges and Magistrates - 13%
- Technologically up to date - 13%
- Capable of handling complicated cases well - 10%

n=1132



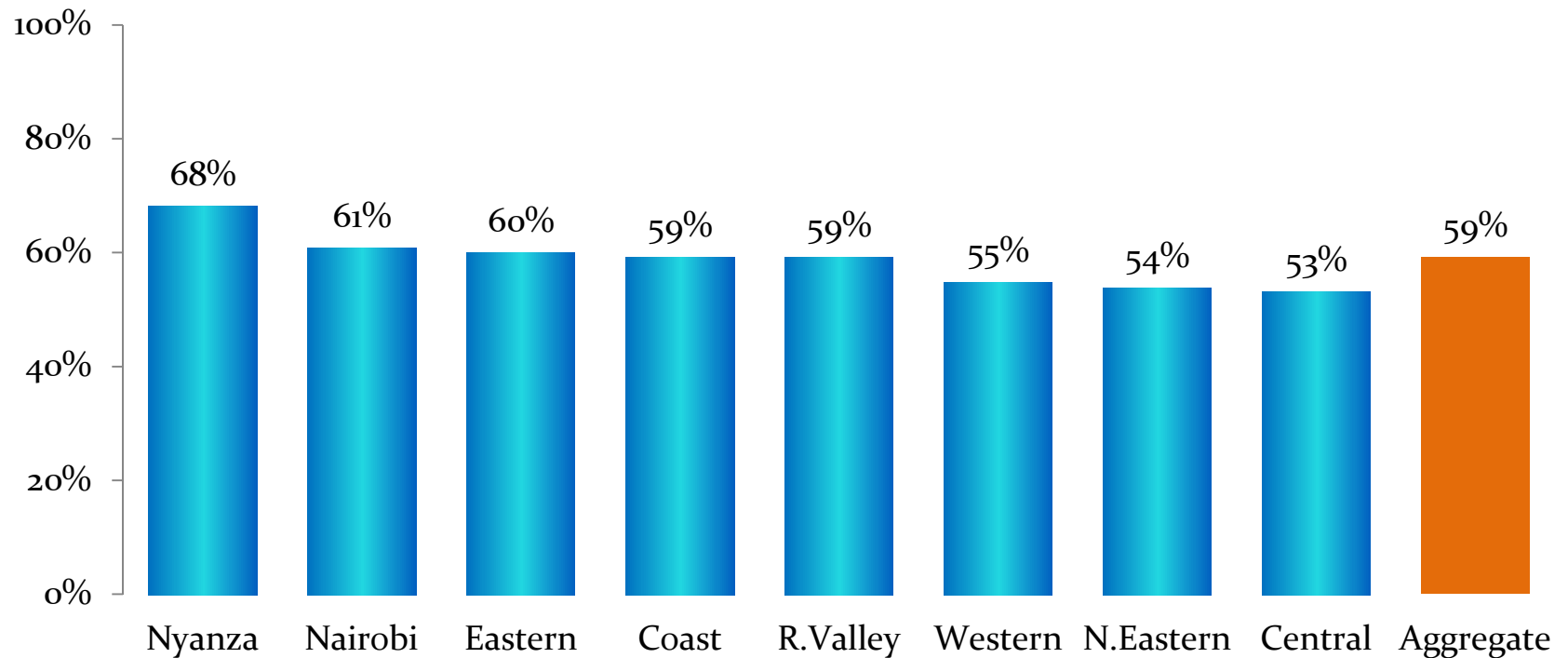
## Dislikes about Kenyan courts

- Delay in handling cases - 45%
- Easily corruptible - 44%
- Courts are expensive avenues - 22%
- Politically influenced - 14%
- Rampant nepotism - 7%
- Poor working environment - 4%
- Can't enforce their decisions easily - 4%
- Very disorganized - 3%
- Kenyan courts are redundant (do same things over & over again) - 2%

n=1222

# 59% was the rating the public gave to the Kenyan Judiciary/ courts performance

- Nyanza, Nairobi and Eastern were the regions that gave the Judiciary highest performance rating at 68%, 61% and 60% respectively

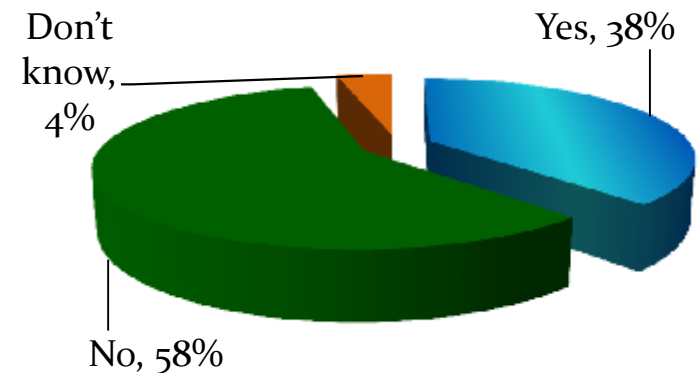


*On a scale of 1 to 5 where 1 is very poor, 2 is poor, 3 is fair, 4 is good and 5 is very good, how would you rate the performance of the Kenyan judiciary/ courts so far?*

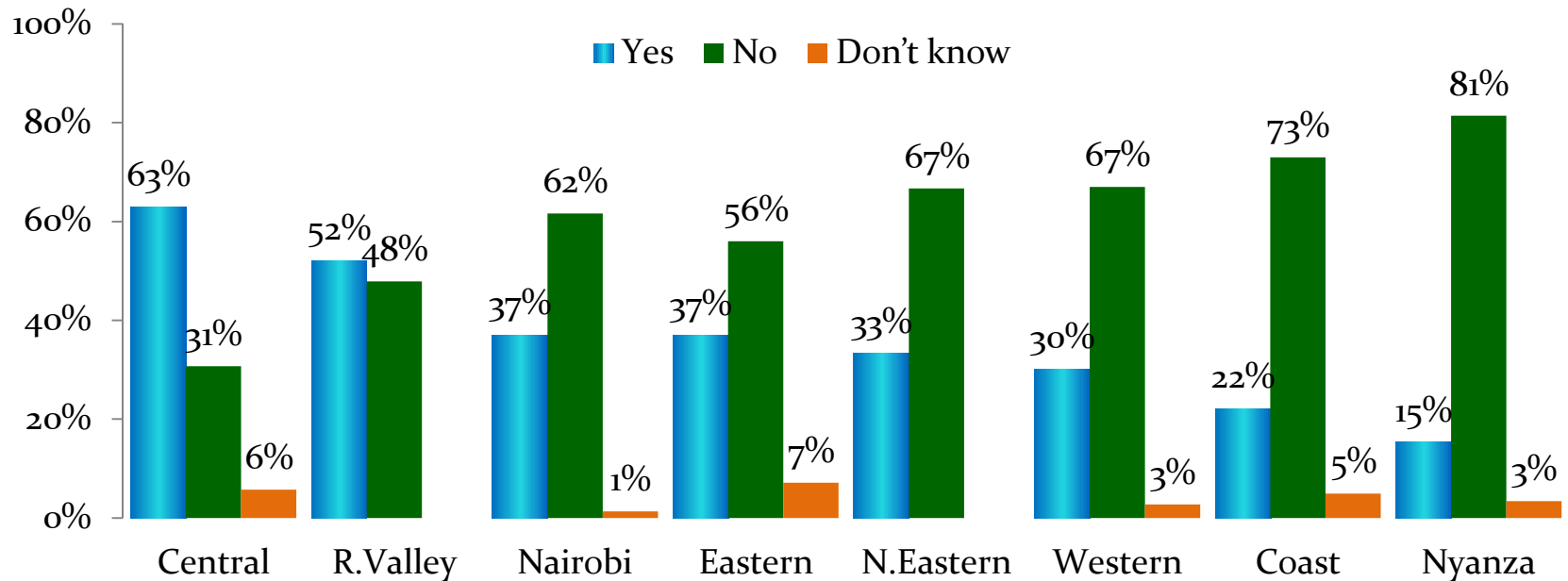
*n= 1452*

# Majority of respondents (58%) do not support local Judicial trials for the 4 Post Election Violence Suspects

- Majority of the surveyed respondents who mentioned they prefer the post-election violence suspects to be tried by the Kenyans courts were from Central and Rift Valley regions at 63% and 52% respectively



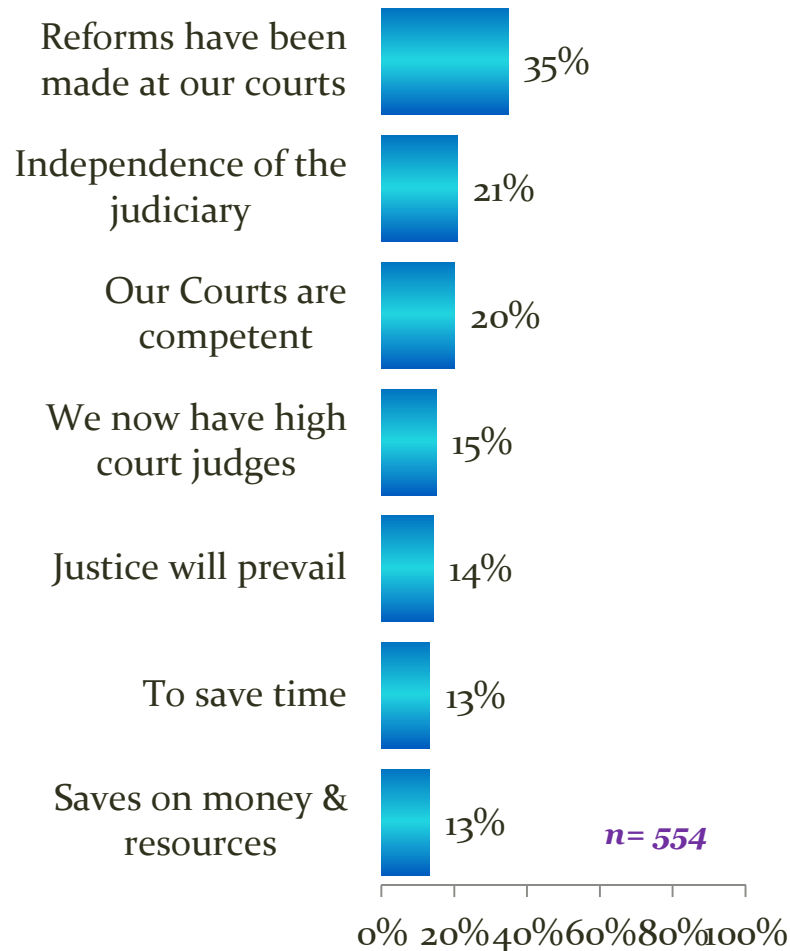
*Following the on going judicial reforms, would you prefer the post-election violence suspects to be tried by the Kenyan Courts?*



*n = 1459*

# Reasons advanced for supporting and opposing Local trials for the 4 PEV Suspects

## Prefer suspects to be tried locally



- ❑ 35% of those who prefer PEV suspects to be tried locally said because our courts have made reforms

Don't prefer suspects to be tried locally	Incidence
Only the ICC can deliver justice	32%
The suspects are superior in society	28%
Local Judges are corrupt and & untrustworthy	24%
Local Courts lack the capability	16%
Political influence	9%
The local Kenyan courts are corrupt	6%
Judges will be compromised	6%
Cases are already at the ICC	6%
Witnesses will not be free to testify	5%
Judges will be intimidated and threatened by influential people	3%

*Following the on going judicial reforms, would you prefer the post-election violence suspects to be tried by the Kenyan Courts?*

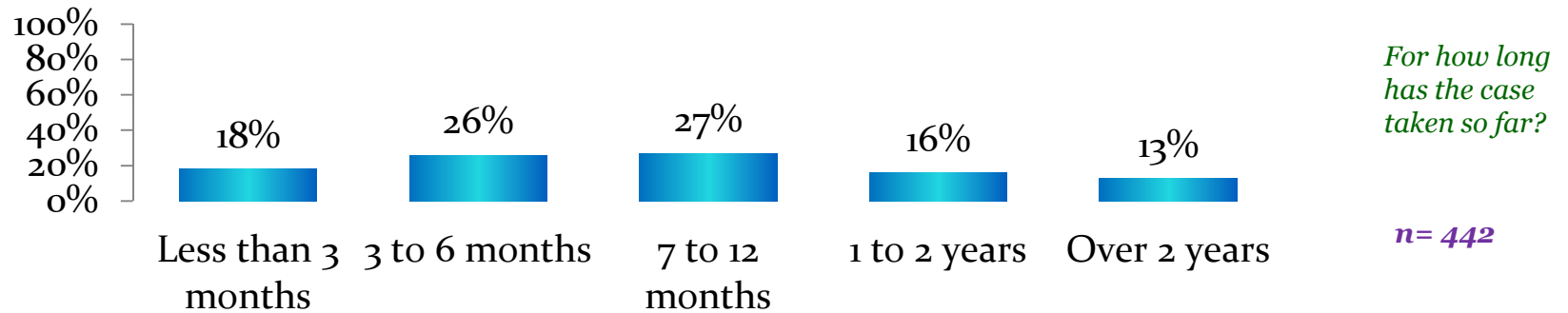


# Access to justice in Kenyan Courts





## 13% of the respondents indicated that their cases had taken over 2 years to be heard and determined by courts

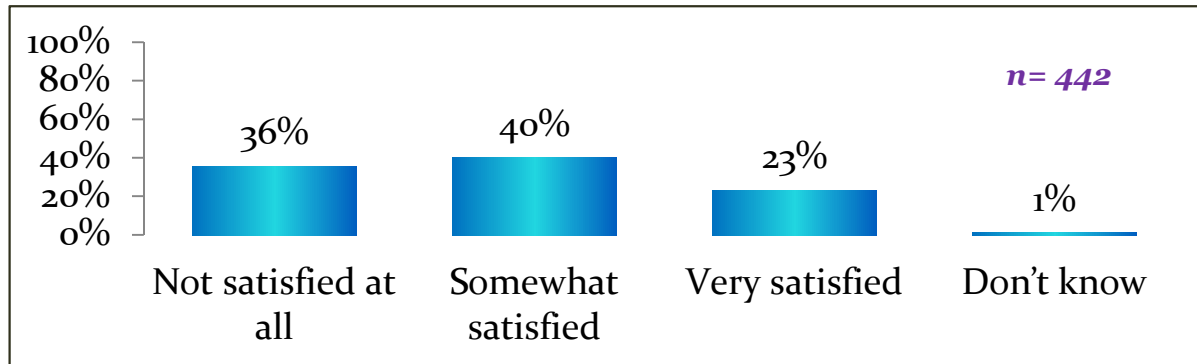


- ❑ 27% of those who mentioned the cases took over 2 years were those from Western Province whereas 17% were from Nairobi

Longevity	Coast	N. Eastern	Eastern	Central	R. Valley	Western	Nyanza	Nairobi
Less than 3 months	8%	7%	12%	10%	42%	18%	27%	28%
3 to 6 months	30%	43%	24%	41%	16%	16%	29%	20%
7 to 12 months	35%	29%	33%	32%	0%	23%	26%	20%
1 to 2 years	22%	11%	18%	16%	26%	15%	11%	14%
Over 2 years	5%	11%	13%	1%	16%	27%	7%	17%



## 36% of the respondents indicated they were not satisfied at all with the progress of their cases in court



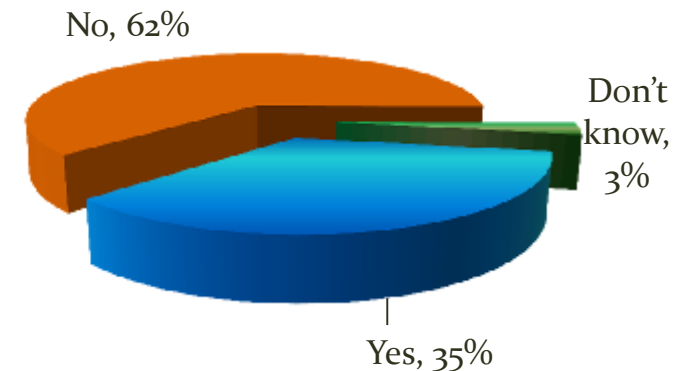
*On a scale of 1 to 3, where 1 is not satisfied at all, 2 is Somewhat satisfied and 3 is very satisfied, kindly rate your satisfaction with regard to the progress of the case you indicated you have been part of?*

### *Below is a sample of opinions the public had with regards to the progress of their cases in court*

- “...It is time consuming the way cases are handled and whenever you go the cases are adjourned. Sometimes you have to travel from Upcountry to Nairobi to attend to a case ...it becomes tiresome...” **Kisumu Respondent with case in court***
- “.....Sometimes they are just colluding to frustrate you, the Magistrate is never in attendance and all the time they postpone.....” **An in-depth Informant in Kericho***
- “....Mine required that we go with certificate of urgency and I remember there was a time our Lawyer was asked for a case number and he said he forgot and I realized he was making a joke of the whole thing.....” **Embu Respondent with case in court***

## 62% of the surveyed respondents considered the cost for accessing justice unaffordable

- ❑ Only 35 percent of the respondents surveyed found the costs affordable
- ❑ Majority (68% ) of the respondents who found the costs not affordable were from rural areas as compared to urban (56%)



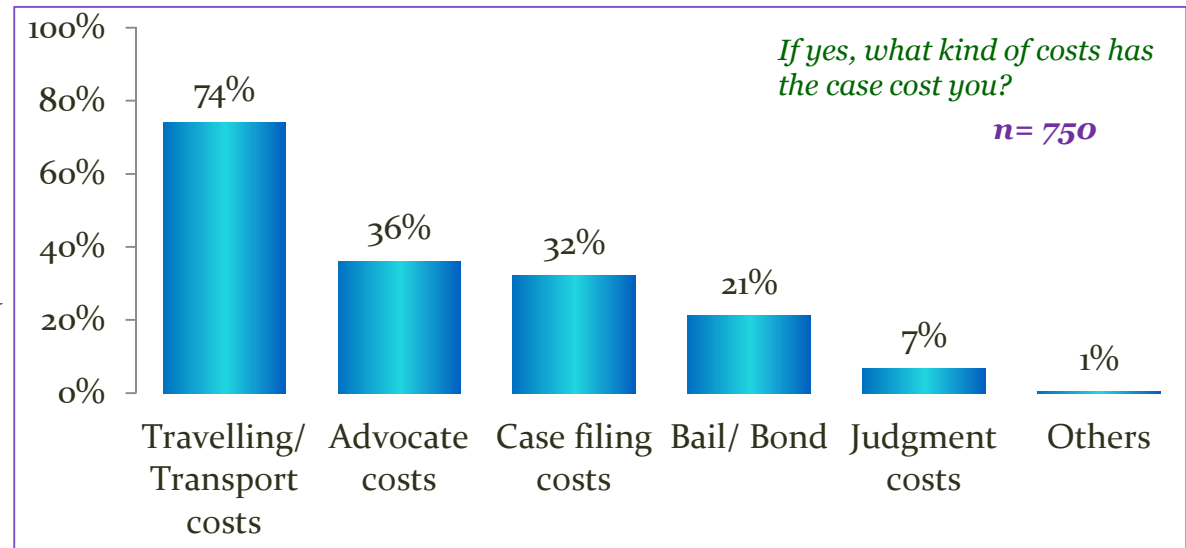
### *Below is a sample of the views respondents had on cost of justice in Kenya*

*“...It depends on the magnitude of the case. The legal fee for the common man is quite high. Hiring a Lawyer or booking just an appointment is around Ksh.1,500/=, so for a common man like us who may be earning less than a dollar in a day, it becomes too expensive.....” Respondents with case in Court*

*“.....Like mine which was involving a letter of administration you must have a court order and a court order is almost 20,000/=. And the court order is only active within the first one and half years. So on the second year when you want to renew you are told to give the same amount until I asked myself, what was I doing?.....” Respondent with a case in court*

## Asked what kind of costs they incurred, majority (74%) mentioned travelling costs

- Advocate and case filing costs were mentioned by the respondents at 36% and 32% respectively

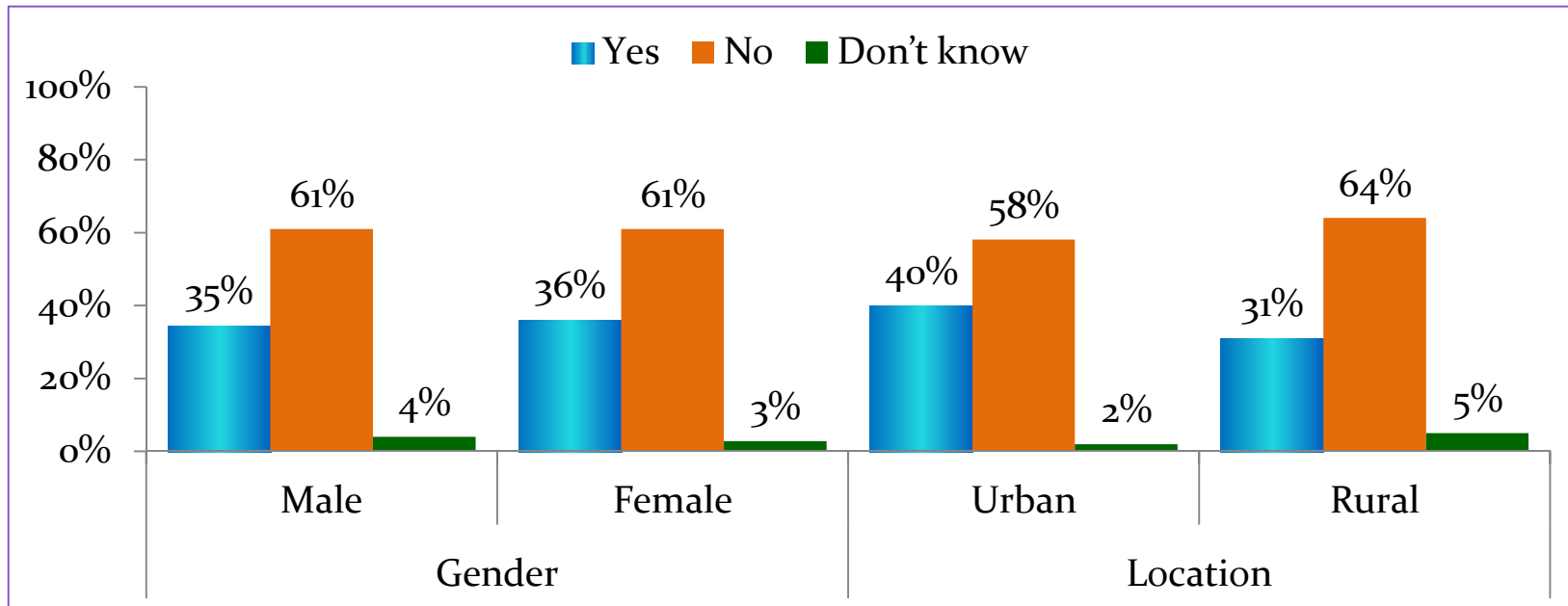
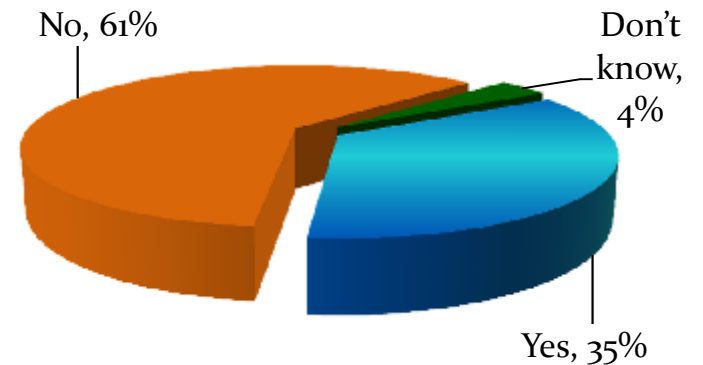


Many respondents expressed their outrage at the cost of accessing justice. Below is a sample of such outrage;

*“...it is not in doubt that if you have no money, your chances of getting justice are very slim. First you cannot even transport yourself and witnesses to court. Because you cannot also hire an advocate, you are likely to lose a case in court on legal technicalities...” FGD Respondent in Nairobi*

# Majority (61%) of the surveyed respondents had no access to legal services

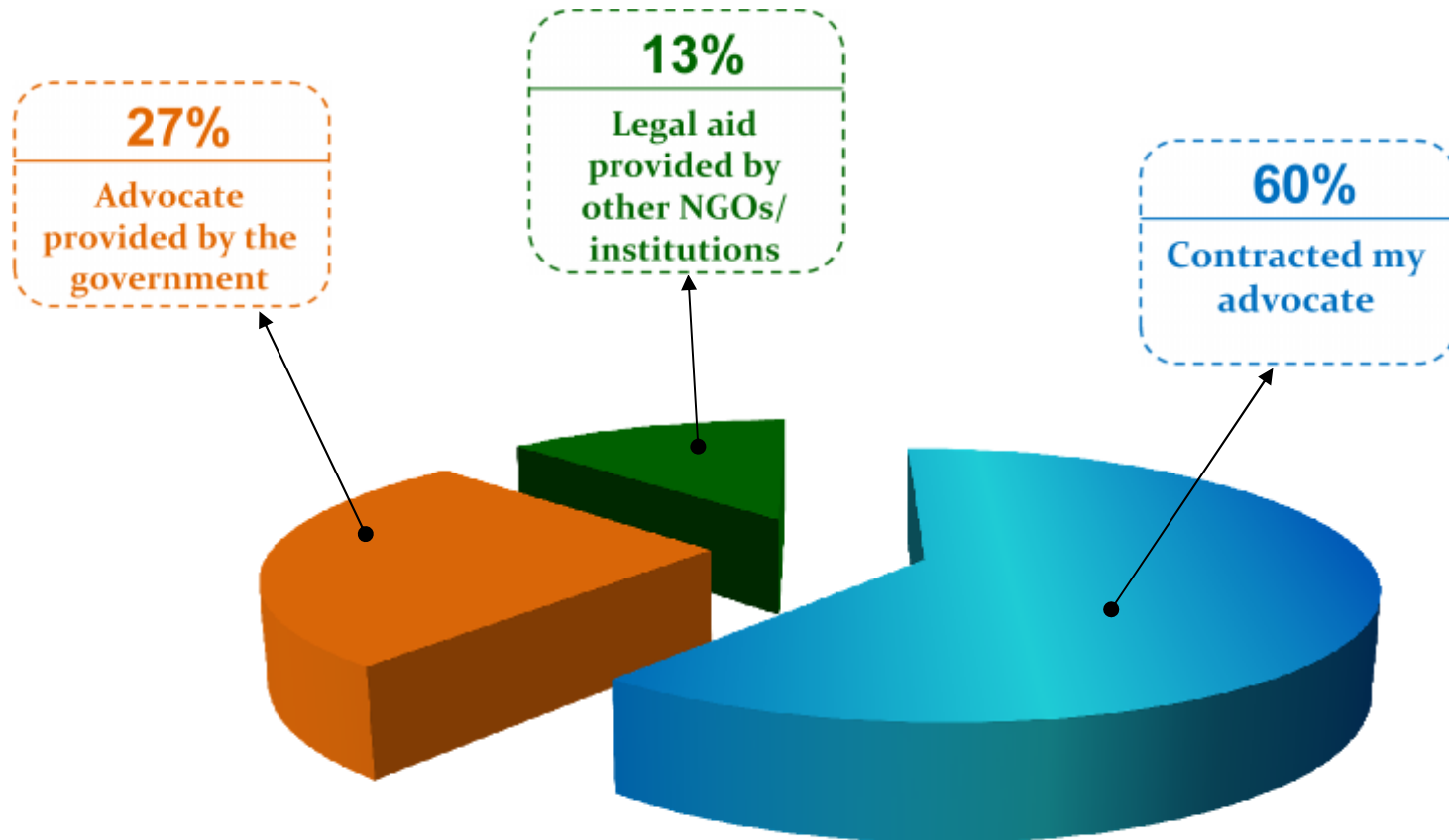
- ❑ Unaffordable cost of litigation is made worse by the fact that more than six in ten of the respondents had no access to legal services and aid
- ❑ More rural dwellers (64%) compared to urbanites (54%) were not able to access any legal services / aid



*Did you have access to any legal services / aid?*

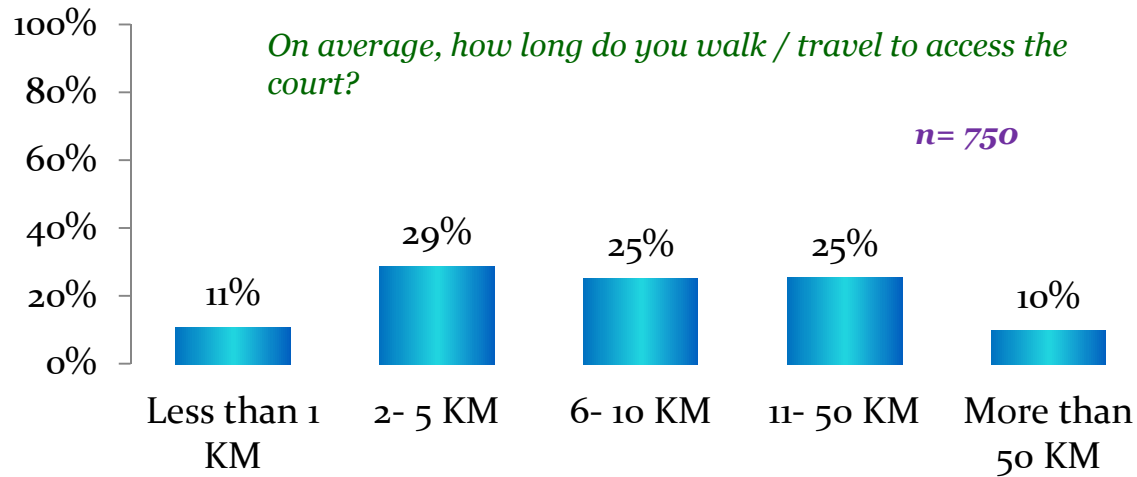
*n= 750*

## Majority of those who mentioned they got legal services indicated they contracted their own advocate, with 27% saying an advocate was provided by the government

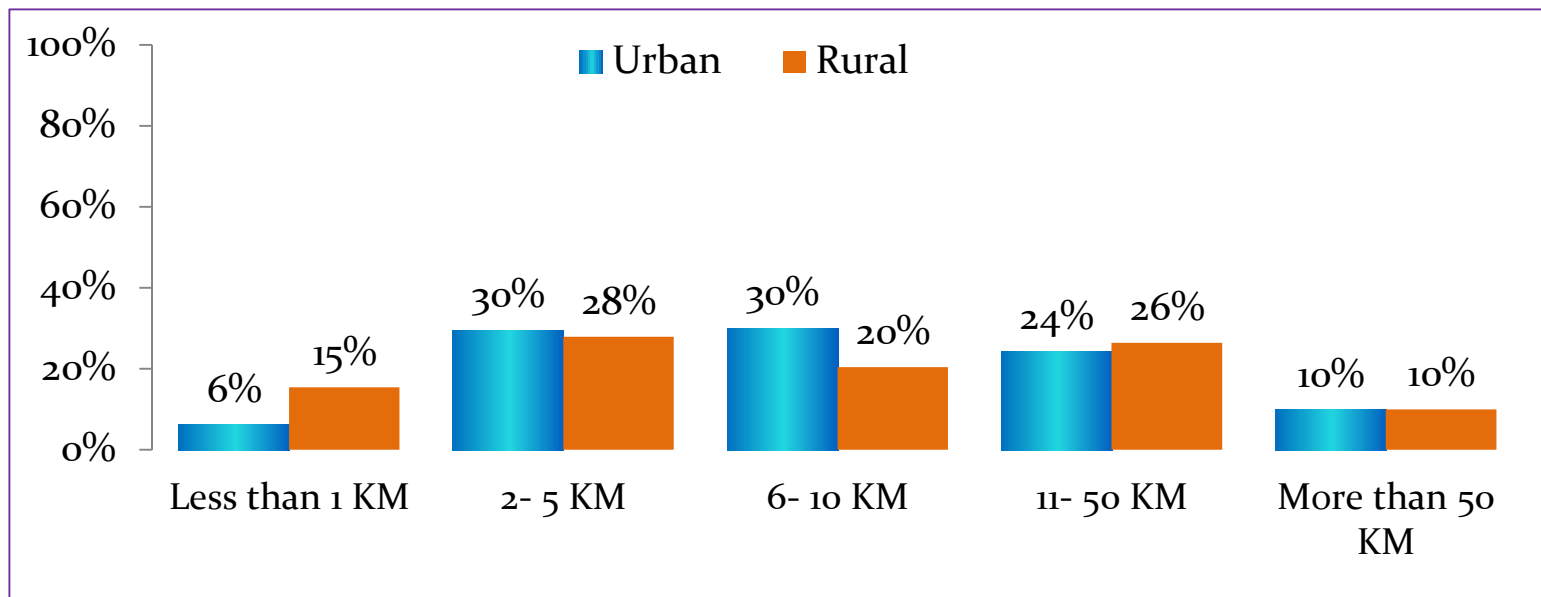


n= 263

# 35% of the respondents mentioned on average they walk for over 10KM to access the court

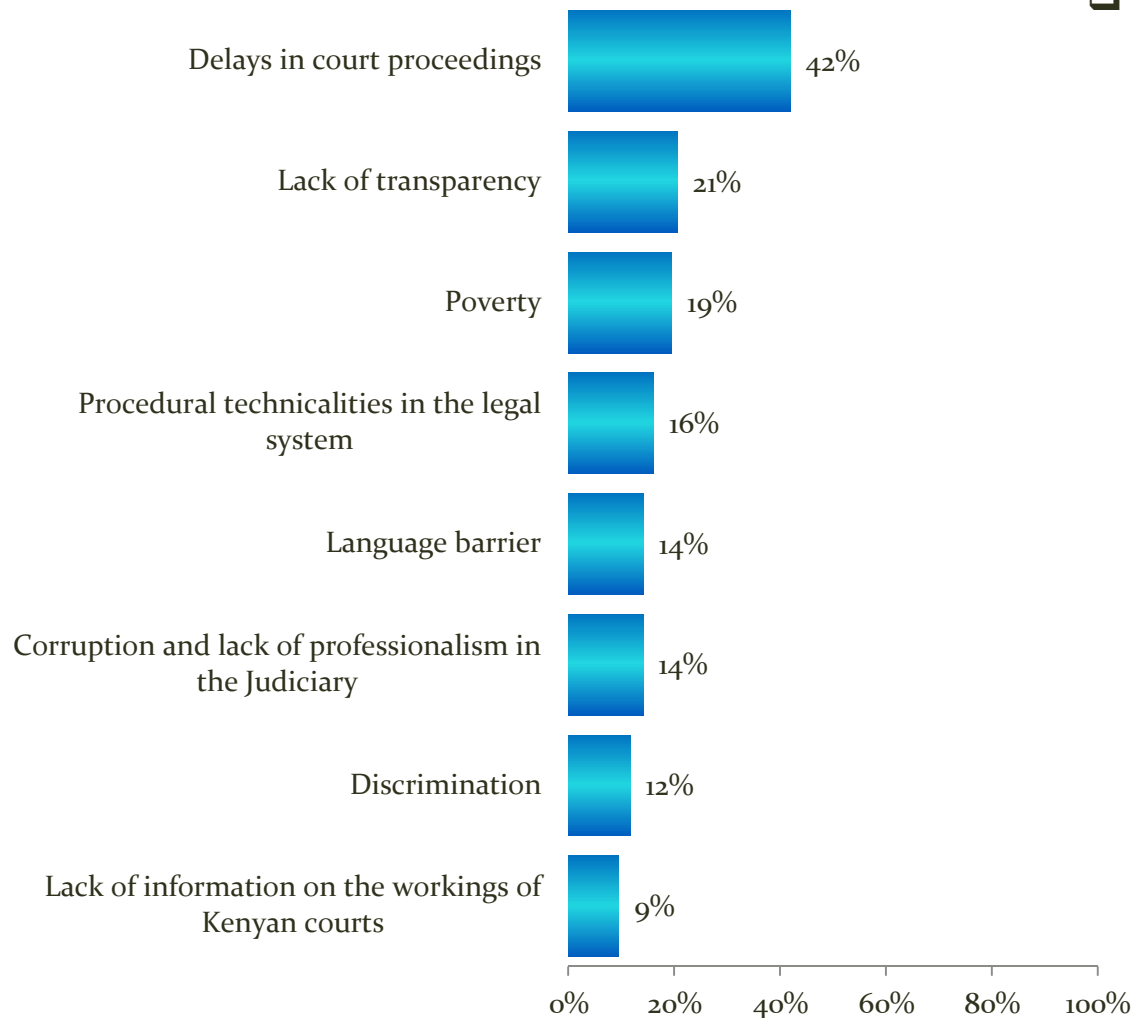


□ 10% of respondents travel for over 50km to access court services. This calls for the establishment of more court structures





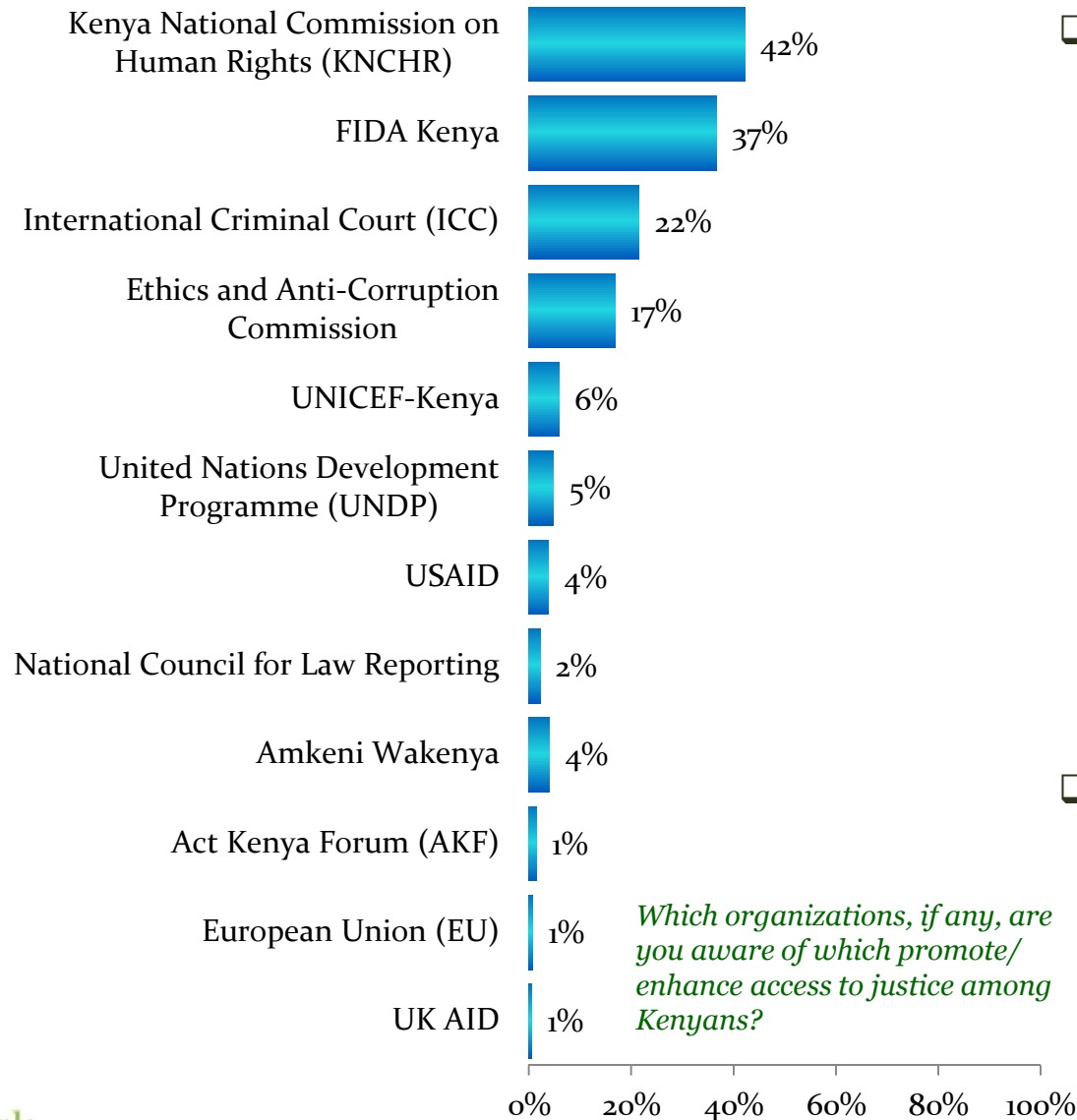
# Delays in court proceedings at 42% is the main challenge facing access to justice in Kenya.



□ Other challenges include:

- ✓ Lack of transparency (21 %)
- ✓ Poverty (19 %)
- ✓ Procedural technicalities in the legal system (16%)
- ✓ Language barrier (14%)

# Organizations which promote/ enhance access to justice amongst Kenyans



More than four in ten of the respondents mentioned Kenya National Commission on Human Rights (KNCHR) as the organization which promotes/ enhances access to justice in Kenya. FIDA Kenya was mentioned by 37% of respondents

Interestingly International Criminal Court was mentioned by 22% of the respondents

# Positive changes Kenyans would like to see in the Judiciary

- Efficiency and **timeliness** of court proceedings - 26%
- Ensuring justice is felt across all social divide - 17%
- Declare corruption a common enemy & strive to finish it completely - 16%
- Employ more professional & competent judicial officers - 14%
- Initiating civic education to the general public on legal matters - 14%
- Automate and digitalize all court processes - 14%
- Ensure advocates are affordable & accessible to all - 9%
- Promote ethical standards on the bench and in the bar - 9%
- Adherence to performance contracts - 8%
- Avoid use of police prosecutors - 7%
- Ensure the reforms in the judiciary are adhered to - 4%
- Pay the judicial staff well to reduce temptations of bribery- 3%

*If you were to change anything in the Kenya Judiciary, what would it be?*

*n= 1043*

Generally, what would  
you recommend to be done  
in order to enhance access  
to justice in Kenyan?

*n= 1040*

- ❖ Fight corruption to the fullest - 23%
- ❖ Install more courts especially in rural areas - 22%
- ❖ Initiate Civic Education to the general public on legal matters - 19%
  - ❖ Avoid discrimination along any line - 12%
  - ❖ Make courts easily accessible - 10%
  - ❖ Hire competent & Judicial officers- 17%
- ❖ Strengthen bodies that supervises the Judicial staff and advocates - 9%
  - ❖ Ensure the judiciary is independent - 9%
  - ❖ Good customer care services in courts- 8%
  - ❖ Ensure advocates are affordable & accessible to all - 7%
  - ❖ Increase working hours in courts - 4%
- ❖ Have a reward system for competent judicial officers - 7%





# Promoting and Protecting Human Rights, Democracy, and the Rule of Law

