

## Changes in the civic space for water, sanitation and sexual health rights: A case study from Kajiado County, Kenya 2016–2019

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### Key findings

Overall, citizens holding governments to account is dependent on effective civil society and media shaping the space that is created by the Kenyan government.

### Strengths

Between 2016 and 2019, with targeted capacity strengthening, civil society organisations (CSOs) working in water, sanitation and hygiene (WASH) and sexual and reproductive health and rights (SRHR) are now better organised to hold government accountable and participate in decision-making processes.

- CSOs increased their participation in government processes.
- County government has acted upon the requests and feedback of CSOs.
- Kajiado County government increased the budget allocations for sanitation from Ksh 1 million to Ksh 4 million.
- Capacity building of CSOs triggered other sustainable outcomes: increase in resource mobilisation, enhanced internal capacities in other sectors and coordination with other CSOs.
- The most effective strategies for increasing the civic space included dialogue with government and building the capacity of and using the media as a tool to raise awareness and advocate for issues.

### Weaknesses

In the period between 2016 and 2019, most weaknesses relate to the lack or complex budget data and to missing formal documentation both by CSOs and government. Staff changes in the executive, lead to difficulties in holding each other accountable.

- Lack of a public participation in policy making processes for Kajiado County means that meetings are held but in a haphazard manner.
- The number of citizens in public participation meetings have increased but the number of women is low. The meeting venues are sometimes over 80 km away.
- Lack of key policies has delayed the development of important legislation such as the community health service bill, the reproductive maternal and adolescent health legislation, the gender mainstreaming bill and the water policy bill.
- Budget documents are shared but they are too complicated for most participants to understand them. CSOs still lack the adequate knowledge and skills to understand fully the budget cycles and the key moments to influence them.
- Transparency and communication from the county governments on decision-making processes and policies is very limited. The utilisation of budget on planned activities is not shared or made public. Accountability is hence needed from government not only in inclusive planning processes but also on budget expenditure.

## Recommendations

### For CSOs:

- CSOs need to be trained further on the devolution process including the budget cycle and the budget formats. Simplifying the budgets for citizens to understand them would improve the quality of the participation.
- CSOs need to hold more civic education meetings, targeting more communities to identify advocacy issues and develop community advocacy plans and strategies.
- CSOs need to target educating women on their importance in public participation processes in relation to their specific gender needs. See for instance the youth parliament model for structured advocacy (box).

### For government:

- Make available formal document proceedings and decisions made during public participation meetings, as part of the process to hold government accountable in subsequent plans and forums.
- Seek technical support to fast track the finalisation of the pending policies and bills – especially the health and water policies.
- The county needs to increase the number of public participation venues to reach more people and seek support of CSOs to contribute to the organisation of the forums ensuring more women are mobilised and heard.

### The Ugunja Youth Parliament

Ugunja Youth Parliament is an initiative which aims at amplifying youth voices for action on good governance and social accountability in Siaya County. It functions like a traditional parliament including having a speaker, ministers, and members—but it is not a political organisation.

As the representatives are all members from different local CSOs, the UYP ensures an inclusive platform for building consensus on the development needs of youth and engaging decision makers in meeting those needs.

During the parliamentary sessions: the members interrogate and raise governance issues at the county and national level; analyse, critique and appraise development processes and priorities for the community; and establish an engagement framework between the youth and the leaders and deliberate and determine solutions to youth socio-economic challenges (Amref, 2019).





## 1. Context for water, sanitation and sexual health rights in Kenya

Kenya Vision 2030 has set the ambitious aim to achieve full access to water and sanitation for all. Progress has been made on access to water, but there is still a major gap towards achieving full access by 2030 and there has been limited to no progress made towards achieving the sanitation targets. Weak allocation, planning and implementation of water resource management regulations as well as reclamation and conversion of wetlands for agricultural development, human settlement and industrial development are among the biggest threats to the sustainable management of Kenya's water resources.

The water sector in Kenya has undergone substantial governance reforms in the last two decades and will continue to do so for years to come. The Water Act 2002, which was reviewed and enacted again in 2016, introduced a clear separation of policymaking, regulation and service delivery functions. Following the new dispensation of the 2010 constitution, the water sector is currently undergoing devolution of water resources management and service delivery functions to the county level.

In Kenya, as in other parts of Sub-Saharan Africa, adolescents face severe challenges to their lives and general well-being. They are vulnerable to early and unintended pregnancy, unsafe abortion, female genital mutilation (FGM), child marriages, sexual violence, malnutrition and reproductive tract infections including sexually transmitted infections (STIs) as well as HIV and AIDS.

Kenya's first Adolescent and Reproductive Health and Development (ARHD) policy was developed in 2003. Since then a lot of things have changed at the national and international levels that needed to be taken into account when the policy was reviewed in 2015.

### 1.1 Civic space in Kenya

Civic space is the environment that enables civil society to play a role in the political, economic and social life. It allows individuals and groups to contribute to policy making, and influence the implementation of policies, that affect their lives (Civicus, OECD).

In Kenya, the County Governments Act (2012) and the Public Financial Management Act (2012) make it a mandatory requirement for County Governments to ensure that they involve their citizens from the start of the county development plans up to implementation of the plans and oversight.

The performance of water and sanitation service delivery indicate poor governance and poor responsiveness across all levels of the water sector, which has been confirmed through available assessments, reports and key informant interviews. CSOs have largely focused on filling the resulting service delivery gaps, especially in rural areas.

Consequently, only a few CSOs have the required experience and capacities to advocate for systemic changes at county and national level that could lead towards more sustainable and effective management of water services, resources and the environment (Hermann-Friede, 2016).

## 1.2 The Kajiado County

The county of Kajiado is located in the South Western region of the Republic of Kenya, within the geographical realm of the Great Rift Valley. In 2012 the county's population was estimated at 807,069 and at 1,117,840 in the 2019 census. 40% of the population live in urban areas, while 60% live in rural areas. The high population rate in Kajiado is attributed to its proximity to Nairobi city where many people work in the city and reside in satellite towns. The county is experiencing rapid urbanisation. The county faces social injustice and human rights abuse, especially children and women are disproportionately affected by female genital mutilation, early/arranged marriages, gender inequalities, domestic violence, retrogressive cultural beliefs, poor infrastructure in health, education, security, water and sanitation.

Most parts of the county are arid and semi-arid lands. Land is mainly used for livestock rearing and crop growing. Nomadic pastoralism is predominant throughout the county and the main source of livelihood for rural households. For pastoralist communities, water is equally important for livestock and for domestic use. Significant change in land use in the urban areas where industrial and commercial use is gaining momentum is increasingly affecting water availability and quality for pastoralist communities. Economic activities such as agricultural productivity, tourism, crops and livestock production have a bearing on the demand and supply of water (Hermann-Friede, 2016).

Kajiado is categorised as a water scarce county and most of its rivers are seasonal. Ground water yields vary throughout the county with reportedly good average water quality and a salinity problem in some areas of the county (e.g. Amboseli region). Other sources of water for domestic and livestock use are subsurface sources such as water pans, dams and shallow wells as well as seasonal streams and lakes. Population growth and urbanisation are expected to translate into enhanced demand for clean and safe water, making it increasingly challenging to reach the international requirement of supplying at least 40 litres per capita and balance urban and rural interests.

In 2016, Kajiado had a draft water policy and a water conservation strategy. These documents provided an initial orientation for water management priorities in the county. Underlying policy and water governance issues include weak planning and enforcement resulting in resource conflicts between upstream (largely agricultural) and downstream (frequently pastoralists) users and a lack of coordination between county governments, the Water Resources Management Authority and Water Resource Users Associations (WRUAs) as well as low stakeholder engagement in planning processes and high levels of politicisation of water management.

## 1.3 Programmes to create and improve civic space

Two large scale programmes have been working in Kajiado County to improve the civic space since 2016. Namely:

- Watershed, which focuses on water, sanitation, hygiene and Integrated Water Resource Management (WASH/IWRM), with a budget for Kenya of about € 450.000 per year for 5 years (including work at national level and in Laikipia and Kajiado counties)
- Health Systems Advocacy (HSA), which works on Sexual and Reproductive Health and Rights (SRHR), also had a budget of about € 500.000 per year for 5 years (Kajiado County and national level).

The two programmes were funded by the Dutch Ministry of Foreign Affairs' "Dialogue and Dissent" which aimed to strengthen the capacities of civil society organisations in evidence-based lobby and advocacy for a range of human rights in low-income countries.

Watershed CSOs and partners provided capacity strengthening to CSOs and local government on civic space and water management, motivated citizens' engagement in water resources management, provided technical support to policymakers, for example on monitoring of water resource management and operationalising coordination platforms that were created on paper but had never been active.





Similarly, the HSA partnership, and specifically the Kajiado CSOs network, Amref Health Africa in Kenya and NCPD (a government body overseeing population issues) played, among others, the following roles:

- Support the development of different legislative documents such as the health bill, the female genital mutilation bill, gender policy and implementation plans, and operationalise the policies;
- Establishment of a technical working group to oversee different sexual and reproductive health rights and family planning issues;
- Establishment of multi-stakeholder forums to address the issues from different government departments;
- Track the development and implementation of county legislative processes;
- Facilitate coordination meetings with relevant government departments and agencies including health, gender and social services to incorporate population management in their planning process;
- Disseminate and update appropriate educational materials to create demand for quality family planning services;
- Engage strategic advocacy tools and organise public events to sensitise the general public on critical population, reproductive and family planning issues;
- Support public participation in policy and budget processes;

- Capacity build policy makers and grassroots CSOs on advocacy and policy processes in sexual and reproductive health rights and gender mainstreaming.

#### 1.4 A cross-sectoral case study

The scope of a cross-sectoral study was to determine the extent to which civic space in governance in Kajiado County had changed from 2016 up until August 2019. Three aspects were investigated:

- **Accountability** of government and civil society organisations about their plans, activities, and results
- **Participation** of different stakeholder groups on governance processes, and
- **Transparency and communication** about government decision-making processes

The study used a qualitative approach, conducting key informant interviews with CSOs, community representatives and policy makers and focus group discussions with CSO and community representatives. A quantitative tool, the civic space rating scale, was used. Through a questionnaire (Likert scale) respondents could rate their perception (with evidence) on a scale of 1 to 5, with 1 being very poor, 2 poor, 3 average, 4 good, and 5 very good. Key Informant Interviews were held with influential policy people with a broad knowledge of policy issues both at county and national levels and to validate the outcomes of the programmes.

## 2. Results

### 2.1 Accountability from government improved slightly

Local CSOs such as Center for Social Planning and Administrative Development (CESPAD), ACHEST-KOGS and Amref Health Africa have provided social accountability training to other CSOs and communities. Through awareness creation, citizens have been informed about their rights under the new constitutional laws and are no longer afraid to question government officials. County government has involved CSOs in the development of the County Participation Bill which has been returned by the County Assembly for public participation. The County Ministers have pledged support to CSO efforts.

According to respondents this was made possible through vibrant and better organised CSOs. Currently, the CSOs are organised in sub county and county forums that help in collective lobby and advocacy. For instance, CSO participation in government processes has been made possible through the WASH/WRM forums where the CSOs get information and organise themselves to participate in county government processes. The CSO Network (Kajiado Social Transformation Network (KASTNET)) has also been able to engage with government. CSOs working with Amref Health Africa started to use a social accountability tool in 2018 to track progress on universal health coverage (UHC) and to strengthen CSOs in holding governments accountable for progressing UHC.

Jointly with the Watershed partners, the Kajiado County government Departments for Water and Health, established the Kajiado County WASH/WRM technical working group in December 2017 to provide a platform for joint planning, information sharing and effective coordination of WASH/WRM interventions.

Similarly, HSA partners initiated the formation of the Kajiado reproductive, maternal, newborn and child health technical working group to address reproductive health in the county.

The Kajiado County Health Management Team included the Community Health Workers in the five-year County Integrated Development Plans 2017 - 2022 as part of the County Health workforce by allocating budget to pay them a monthly stipend.

In 2018 and 2019, the government has started making the documents on its plans available to the citizens. Citizens are now more able to hold the government accountable on its activities through asking questions during the public forums.

Evidence of results of CSOs working with citizens to push for accountability include securing of catchment areas from grabbing and response on complaint documents on noise pollution at dumpsites.

Another case where government has responded to CSO and citizens' complaints is when the Kajiado County public health officers stopped flower farms from discharging untreated wastewater into water courses after Isinya WRUA reported the problem to the authorities.

#### Accountability: main hampering factors

- Inadequate political will on CSO engagement due to harsh approach by some CSOs
- General elections and change of government
- Inadequate CSO knowledge of devolution processes
- Inadequate data (evidence) by CSOs to push for accountability
- Low funding for CSOs
- Lack of key policies to formalise accountability processes
- Government's general non-friendly attitude towards advocacy

### 2.2 CSOs and citizens are better organised

Members of the public are also better organised and are increasingly able to hold the office bearers to account. CSOs working with Amref Health Africa started using a social accountability tool in 2018 to track progress on universal health coverage and to strengthen CSOs in holding governments accountable on progress.

However, more awareness creation is needed. Using local media and advocacy in combination with CSO advocacy interventions result in 'double pressure advocacy' which has been very effective in Kajiado. As one respondent puts it, 'legislators are keen on the local radio stations'.

### 2.3 Dialogue between CSOs and government is a good strategy

CSOs are key in lobbying with counties on government issues, but the relationship with government determines the outcome. Previously Kajiado Youth Alliance and the county were not on good terms due to the CSO's harsh approach which is why it was 'perceived to be too pushy' by the county.

After capacity building in smart advocacy by Amref Health Africa under the HSA partnership, the Kajiado Youth Alliance adopted a more diplomatic approach, and this has enhanced their relationships with the county and has yielded better results.



Figure 1 Trends in accountability in Kajiado County 2016-2019 scores

On a similar note, Amref Health Africa’s good relationship with Kajiado County has enhanced Amref Health Africa’s clout and influence, with key results such as increased allocation for health care workers, family planning, and improved doctors’ terms of service.

Progress in the perception scores concerning accountability in Kajiado between 2016-2019, suggests that building accountability is a slow process that needs continuous effort as it requires institutional changes at local government level (Figure 1).

#### 2.4 Public representation of men and youth (male) has improved, but not of women and persons with disabilities

Four neighbourhood committees (Maparasha North, Keekonyokie South, Ilmaroro and Arroi) in Kajiado County, with a total of 117 persons, 34 males and 83 females, for the first time participated in the ward budget making process in their respective wards in March 2018. The number of citizens participating in for the year 2019/20 doubled in comparison to 2017/18. This is attributed to use of media to enhance public participation.

One of the strategies has been the formation of CSO networks (such as KASTNET) with the support of ACHEST-KOGS and social media platforms used by the youth. Use of mainstream media (radio) has also assisted the campaigns. For instance, the Neighbours Initiative Alliance (NIA) ran radio adverts in the local stations using local Maasai language and also the national language, Kiswahili to inform and sensitise citizens on the dates and venues of the Kajiado County budget estimates for 2019/20 so that they could get involved.

However, public participation meeting attendance is still poor for some groups. As one focus group discussant puts it, ‘at least the public participation has improved with big representation of men and youth but women and persons with disability attendance is still not good’.

The county is vast, but the county officials only conduct public forums at sub county level which cover several wards. So most times, the venues are far from the communities, for example people from Kiserian being expected to attend a meeting in Magadi which is 80 km away. A respondent says, ‘the meetings are held in towns and some people are not able to attend’.

The voice of women and persons with disability in decision making has dwindled while that of men increased.

This is confirmed by the fact that the numbers of women attending public participation meetings has continually decreased over time, a phenomenon that needs to be investigated. Most of the policies e.g. gender and water policies have been pending for over 4 years.

Attendance in public participation meetings is normally limited to a few select people. Cases abound where the key government person arrives at the public participation gathering at 6.00 pm when most people especially women, youth and CSOs have left.

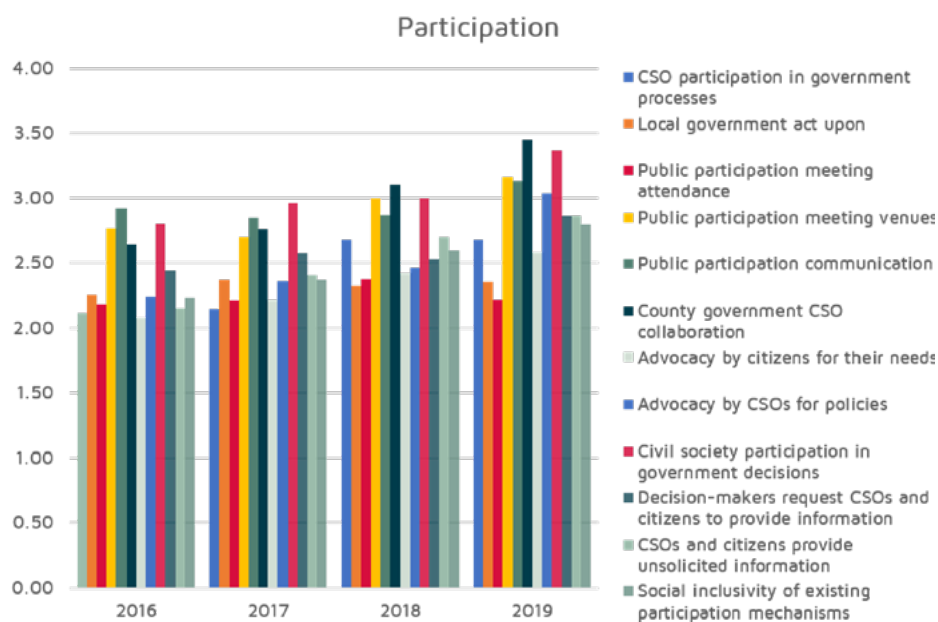


Figure 2 Trends on participation in Kajiado County 2016-2019 scores

### 2.5 Public participation is still ad-hoc and feedback is not always integrated

Information about public participation is put in the county press which is monthly. Information on public participation is sometimes put in the gazette notice which is not accessible by most members of the public.

Through the county citizen forums, the citizens and CSOs are able to collectively advocate for their needs. Through these forums, the county has shown willingness and is supporting the initiatives by CSOs. One hampering factor in participation has been the lack of a public participation policy to guide the process. Without a policy, the process is done in a haphazard manner.

As shown in the participation perception scores (Figure 2), although communication on the meetings has improved slightly since 2016, the meetings are announced in print media which few people can afford to buy. The county government also uses social media which does not reach some categories of people such as pastoralists and people living in areas with no phone network or who lack such phones or means to charge them and the older generation which does not use social media.

The county needs to use other means of communication like public barazas, churches and media (local radio). The Chief Officer of Environment and Natural Resources suggests to use more local radio and local churches to reach people and ask help from retired professionals to interpret the documents.

Most of the projects identified in the public forums do not find their way into the final documents. This implies that the use of allocated budget to planned activities as per the County Integrated Development Plan (CIDP) and annual plans does not necessarily reflect public needs, making public participation of little use, or just ticking the box to satisfy legal requirements.

#### Participation: main hampering factors

- Lack of public participation policy
- Long distances to meeting venues
- Inadequate communication on dates and venues
- Political interference and rubber stamping decisions
- Lack of high-level representation in meeting
- Frequent staff reshuffles
- Budget documents complicated and not easily understood by public
- Low participation of women and people with disabilities



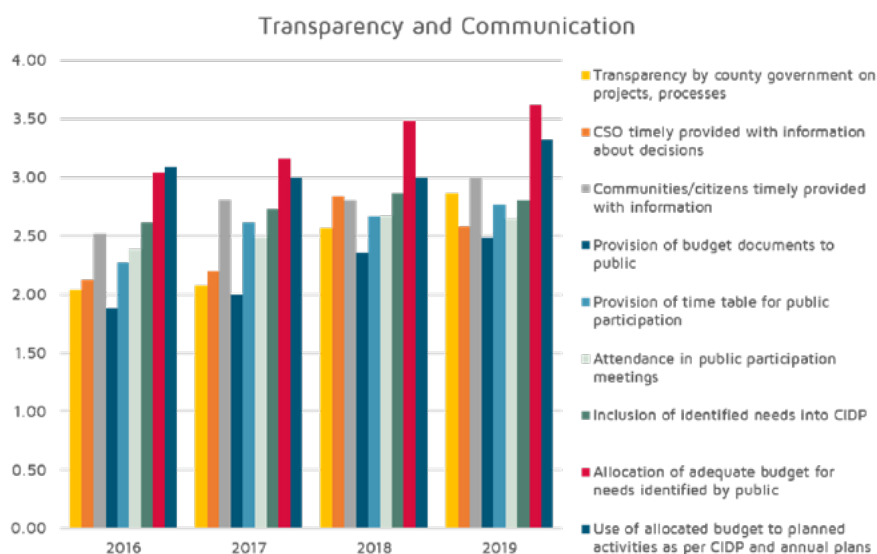


Figure 3 Trend on transparency and communication in Kajiado County, 2016-2019 scores

## 2.6 Transparency and communication on government projects is still very low

There has been some improvement in sharing of information especially through the county website, but a lot more needs to be done to enhance the transparency of all Kajiado citizens. The website needs to have all the required documents including budget, CIDP, county budget review and outlook paper. Another respondent says the information on county projects is available for those who need it. ‘When you go for consultation, they answer and give you full information about projects’.

The score card introduced for use in the health sector has been hailed by the respondents as a good milestone in transparency. It was requested by CSOs.

Action Now Kenya (ANK) has developed a structured format for informing citizens about planned meetings targeting communities. They have also enhanced documentation of community meetings with government for use as reference in subsequent processes. ACHEST-KOGS in partnership with KASTNet has developed a website where CSOs can post information about their organisations, activities they are undertaking and also highlight their success stories. The website acts as a resource centre where publications and grant opportunities for the different CSOs and the network as a whole are shared.

The perception scores on transparency, are the ones where faster change has been observed between 2016-2019 (Figure 3).

### Transparency: main hampering factors

- Fear of ‘non-supporters’
- A lot of dependence on print media (unable to reach grassroots communities)
- Language barrier
- Complex budget documents

## 3. Changes in the civic space in Kajiado County

### 3.1 Overall changes

From the research findings, the civic space in governance in Kajiado has been enhanced since 2016, with CSOs and the public actively participating in governance through structures such as county and sub county committees, and getting their voice heard in county decision-making processes. There is more involvement in public participation, raising complaints and following up on resolutions with county government.

According to CSOs, citizens, policy makers, government officials, journalists and other experts interviewed, the civic space has improved, and government is involving civil society and the public more in decision-making processes since 2016.

The highest change in civic space relates to accountability particularly on CSO participation in government processes, local government acting upon the demands and complaints of CSOs and communities and public members pushing for accountability with government. The least change was on government accountability on results. This suggests that a first step towards improved accountability has been made through stronger CSO engagement in governance processes. A second step is needed to empower citizens to raise their voice to get the attention of the legislators for deeper institutional change.

### 3.2 The critical Role of the partnership programmes in civic space expansion

The HSA partnership strengthened the CSOs and Community Based Organisations (CBOs) in order to effectively engage the county government among others via the creation of a CSO Network (KASTNet), comprising of a majority of CSOs/CBOs in the health sector, training the CSOs/CBOs in SMART advocacy as well as in the utilisation of a social accountability tool to track the universal health coverage and also to strengthen CSOs/CBOs in holding governments accountable for progress. HSA partners continue to support the capacity of these CSOs and networks in the use of locally applicable social accountability methods that engage communities in identifying challenges and demanding improvements in the local health system.

The HSA partnership worked with champions or community representatives who they linked with main duty bearers (mostly government officials) at the county and national level. Examples include using scorecards and conducting social audits. These approaches have proved effective, with empowered communities working with non-state actors to demand for accountability and services from the government. Examples of outcomes include allocation of funding for health staff, services and infrastructure.

Watershed partners also used local CSOs to reach and work with communities. CSOs and other citizen groups which include WRUAs have been empowered in different capacities including training on the new Kenya Water

Act 2018 and implications for CSOs in the WASH/WRM sector; understanding social accountability processes and tools used; understanding public participation guidelines and the need for CSOs and citizens to actively engage in various governing planning processes cycles; information campaigns on government planning processes and responsibilities – especially in relation to devolved county government functions.

The approach has been effective, leading to many CSOs and citizen groups being invited and participating in government planning processes (policy, budgets, CIDPs); raising voices to question service provider roles on issues affecting them (right to water and sanitation services, water quality, tariffs); and challenging unsustainable practices (illegal water abstractions, water pollution menace).

The capacity development from both programmes has led to an increased influence and involvement of CSOs (and media) with the county government. All stakeholders are valuing the cooperation and improvement in water and health services.

We expect to see other long term self-driven actions that improve the scores further.

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Photo credits: Watershed.

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