



Centre for
Minority Rights
Development



**JOINT SUBMISSION FOR THE
UNIVERSAL PERIODIC REVIEW (UPR)
4TH CYCLE OF KENYA
CENTRE FOR MINORITY RIGHTS DEVELOPMENT (CEMIRIDE)
AND
ACT FOR CHANGE TRUST**

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Contributing Organisations:

1. Endorois Welfare Council (EWC),
2. Dupoto E maa,
3. Network Empowering Samburu Transformation (NEST),
4. Emparnat,
5. Baringo Women and Youth Organization (BWYO),
6. Yiaku Laikipia Trust (YLT),
7. Koimugul Indigenous Women Network (KIWN),
8. Ogiek Sisters for Sisters,
9. Northern Indigenous People Organization (NIPO),
10. Shella Beach Management Unit (BMU),
11. Tuangazie Jamii,
12. Power,
13. Lamu Minority People and Development (LMPD),
14. Illaramatiak Community concerns,
15. Kimaeti Farmers Association,
16. Ajomi Farmers,
17. ASEGIS Community Network,
18. Initiative for Nature Volition and Environmental Development (INVOLVED),
19. Article 43 Human Rights,
20. SOET CBO,
21. Bunyala Development Forum (BUDEF),
22. Indigenous Livelihood Enhancement Partners (ILEPA),
23. Chepkitale Indigenous Peoples Development Programme (CIPDP),
24. Indigenous Women Council (IWC),
25. Catholic Dioceses of Machakos,
26. Utooni Development Organization,
27. Caritas Kakamega,
28. Catholic Dioceses of Kitui
29. Caritas Nyahururu
30. Indigenous Peoples for Peace and Climate Justice (IPPCJ)

A. INTRODUCTION

1. The Centre for Minority Rights Development (CEMIRIDE), established in 2001, is a non-profit organisation dedicated to empowering Kenya's minorities and indigenous peoples (pastoralists, forest communities, and fisher peoples), to advocate for their rights. CEMIRIDE has been instrumental in raising awareness of rights violations and achieving redress, notably securing the recognition of minority and indigenous peoples' rights as now seen in Constitution of Kenya (CoK), 2010 (Articles 56, 100, and 260). Through public interest litigation, CEMIRIDE won landmark cases for the Endorois, Ogiek, and Nubians, leading to the recognition of their claims to their ancestral land and citizenship rights. Through the Annual Kenya Pastoralists Week (KPW), the organisation also led the successful Great Trek Campaign, resulting in the construction of the Moyale-Isiolo highway. Additionally, CEMIRIDE has empowered indigenous communities to engage in national and international advocacy, influenced devolution discourse, and contributed to the creation of legal frameworks and institutions protecting these communities, such as the Ministry of Northern Kenya and the National Policy on Arid and Semi-Arid Lands, Sessional Paper No 3 of 2021 on the National Action Plan on Business and Human Rights.
2. Act for Change Trust is a Kenya-based non-profit organization established in 2021, dedicated to fostering sustainable food systems and climate resilience in rural communities across East Africa. Grounded in the principles of Ubuntu, the Trust employs a solidarity-based community engagement model to empower marginalised populations through innovative, localized solutions.

Over the past five years, Act for Change Trust has partnered with 12 grassroots organizations and directly benefited over 70,000 individuals, impacting the lives of an additional 120,000 people. Our work focuses on agroecology, economic resilience, and climate change mitigation. Key initiatives include the development of food forests, bio-intensive kitchen gardens, energy-efficient cookstoves, and community savings groups, all aimed at enhancing food security, reducing carbon emissions, and improving livelihoods.

Through strategic collaborations with local change agents and global partners, Act for Change Trust has established 700 solidarity groups, built 25,000 energy-efficient stoves, and set up 40 community nurseries. Our impactful projects and thought leadership culminated in the co-organization of a prominent agroecology conference with CIDSE partners, positioning the Trust as a leader in promoting sustainable agriculture and community resilience in the region.

Act for Change Trust is committed to catalyzing transformative, locally-led development, ensuring that rural communities have the tools and knowledge needed to thrive in a rapidly changing world.

B. LEGAL FRAMEWORK AND PREVIOUS UPR RECOMMENDATIONS

3. This report was developed through a comprehensive consultation process involving peasant communitiesⁱ (indigenous peoples who include pastoralists, hunter gatherers and fisher peoples, and small-scale farmers) across various regions in Kenya. The methodology included consultations with community representatives who convened in Nairobi, Bungoma, Nakuru to gather firsthand insights on their issues. The communities also validated the report in Nairobi and participated at the validation of the national CSOs UPR Report. This approach ensured that the perspectives and experiences of the peasants' indigenous peoples were accurately represented and addressed in the report, reflecting their unique challenges and recommendations for the Universal Periodic Review (UPR).
4. The focus of this submission is the right to food, enshrined in the International Covenant on Economic, Social and Cultural Rights ratified by Kenya, the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP, which Kenya voted for in 2018), the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Constitution of Kenya, 2010, Sessional Paper number 3 of 2021 on the National Action Plan on Business and Human Rights, the Seeds and Plants Act CAP 326, the Climate Smart Agriculture Strategy 2017-2026, the Livestock Bill 2021 among other relevant policies and legislative frameworks.
5. The government of Kenya has made progress in recognising the rights of indigenous peoples through Sessional Paper No. 3 of 2021, which outlines the National Action Plan on Business and Human Rights. This represents a significant milestone in safeguarding the rights of minorities, indigenous peoples, and local communities (IPLCs). The management of land and natural resources is crucial for these communities, particularly for enjoying the right to food.
6. Throughout the previous three UPR cycles, we note that there was no peasants' specific right to food recommendation for Kenya. There have been however some recommendations that have addressed the general food situation, and at times food related rights like the right to land for indigenous peoples, especially pastoralists and hunter gatherer communities. In the 1st UPR cycle, Kenya accepted a recommendation on ensuring the equitable distribution of water and food to the entire population, especially during droughtsⁱⁱ. In the 2nd UPR cycle, Kenya accepted a recommendation to implement specific standards and regulations for affordable access to water, sanitation, and food for vulnerable groups, and to enhance efforts to eradicate poverty and hunger across the countryⁱⁱⁱ. At the 3rd UPR cycle, Kenya accepted a recommendation to advance efforts aimed at growing the economy and enhancing foodsecurity^{iv}.
7. Progress towards guaranteeing the right to food has been limited, and many challenges persist. In the 2022 Kenya Demographic and Health Survey (KDHS) Survey by Kenya National Bureau of Statistics (KNBS), three counties of Kilifi, West Pokot and Samburu predominantly populated by indigenous communities had very high rate (more than 30%) of children under age 5 who are stunted, a sign of chronic undernutrition^v. With the national average at about 18%, Tana River, Kitui, Narok, Baringo and Turkana and Mandera are also doing poorly with very high stunted rates of between 21 and 30% of their populations. These statistics are an indication of food insecurity and malnutrition in these communities, which could be a result of policies and legal frameworks that contribute to poverty and inhibit food production at local communities. Punitive laws criminalising access to and propagation of indigenous seeds and breeds, land laws that continue to disinherit indigenous peoples from their lands, as well as unimplemented judgements against the eviction and displacement of indigenous peoples from their lands have worsened food insecurity among the peasant communities in Kenya.

C. ACCESS TO LAND AND RESOURCES

8. Kenya has a multi-ethnic population, among which more than 19% of its population is composed of communities that identify as indigenous^{vi}. Indigenous Peoples in Kenya include hunter-gatherers such as Ogiek, Sengwer, Yiaku Waata and Sanya, while pastoralists include Endorois, Turkana, Maasai, Samburu and others. Indigenous fisher communities include the Bajuni at the Coast, the Banyala and Suba along Lake Victoria, the Ilchamus around Lake Baringo, Elmollo and Turkana along Lake Turkana.
9. Land is crucial for securing the right to food for peasants, including pastoralists, forest peoples, and fisher communities. Both pastoralists and hunter-gatherers face land and resource tenure insecurity.^{vii} In the 400,000-hectare Mau Forest, divided into 22 blocks across six counties (Nakuru, Narok, Kericho, Baringo, Nandi, and Uasin Gishu), the Ogiek community has faced historical land injustices, with the most recent 2023 eviction displacing 700 families in the Maasai Mau Forest block. In 2023, Ogiek community members were displaced in Sasimwani forest in the Mau Complex without being given alternative land, in violation of Articles 40, 60 and 63 of CoK 2010. This happened in spite of ruling by the African Court on Human and Peoples' Rights in 2017^{viii} and the Ogiek obtaining interim court orders in both the Narok and Nakuru Law Courts, on 9th and 23rd November 2023 respectively, for the government to stop the evictions.^{ix}
10. Many members of the Yiaku community have been displaced by banditry due to insecurity. Further, Mukogodo forest, spanning 30,189 hectares, gazetted under Notice LN.174 of 1964, has seen over 700 community members affected by forced evictions since July 2023.
11. The Kenya coastline and Lake Victoria face significant challenges affecting fishing livelihoods. Fisher communities have lost access to their traditional waters due to nationalization without consultation, and the commercialized management of fisheries lacks a fair benefits-sharing framework. This exclusion has resulted in loss of livelihoods, severely impacting their right to food and food security. Nutritional levels among these communities have declined drastically, leading to food deprivation. Additionally, conflicts have arisen over access to fishing waters due to Kenya Wildlife Service (KWS) regulations, and boundary disputes with neighboring countries persist. In 2023, three Kenyan fishermen were killed, two injured, and over 75 arrested, with some still missing, in conflicts near Sumba Island and Lake Victoria. In 2023, three Kenyan fishermen were fatally shot and two others seriously injured near Sumba Island by suspected Ugandan military officers. In the same year 2023, over 75 Kenyan fishermen were arrested while fishing in Lake Victoria; 60 were released with the rest reported or missing.^x
12. Environmental degradation, such as siltation, pollution, and sedimentation, along with the encroachment of investors on riparian lands, disrupts fish breeding habitats. Additionally, shallow breeding waters as a result of impacts of climate change and human activity push fish into deeper areas, while government policies often neglect indigenous fisher peoples in favour of investors. Fishing also suffers from the degradation of seagrass and algae due to harmful fishing practices like trawling.
13. The government's forced evictions of communities from their lands, and particularly the Endorois community with the gazetting of the Mukutani Forest, has affected approximately 5,000 to 6,000 people. This has had significant impact on women who face limited access to land and their farming capabilities restricted, with poor nutrition especially affecting many children aged 1-14 years, as well as persons with disabilities. Insecurity in pastoralist communities in Laikipia and Baringo Counties has displaced over 1,400 families in the past

five years. The displacement, caused by banditry, has resulted in the loss of farmland, livestock, and homes. Projects like the Songa Barasa Dam, which began in 2008, remain stalled, limiting access to water for farming and livestock.

14. With the ever-decreasing land acreage for pastoralists and hunter gatherer communities, as well as increased fishing effort, climate change has further exacerbated the food insecurity these communities. Pastoralists and hunter gatherers experience frequent livestock deaths and reduced honey production, while among fisher communities, the fish catches have reduced. In Kirima and Baringo South Sub counties in Laikipia and Baringo counties respectively, prolonged droughts have devastated agriculture and livestock, affecting around 25,000 residents.^{xi} According to the National Drought Management Authority (NDMA), in Kajiado, over 600,000^{xii} people in 2022 faced starvation, with 110,000 households and 400,000 livestock affected.
15. Succession issues continue to also contribute to the loss of land for agriculture for many smallholder farmers, especially women headed families. The costs of succession are very high, and many cases have been witnessed where families have had to part with parts of their land as a way of paying for succession. Many such cases have been reported in Kajiado, Narok and Western Kenya, and mostly these parcels of land, previously used for food production have been converted into other use like residential estates. This has severely impacted on the ability of a number of indigenous peoples and small holder farmers to produce their own food.

Recommendations

We recommend the Government of Kenya:

16. **Enforce existing land laws to secure land rights for peasants, especially women, youth, and people with disabilities. This includes recognizing indigenous and local communities' land ownership and protecting against evictions, ensuring the right to food through secure land access**
17. **Should fully implement the Ogiek Judgement Task Force Report, and the 2009 Endorois Decision of the African Commission on Human and Peoples Rights (ACHPR).**
18. **Should put in place measures to addressing discrimination against women in access to productive land.**
19. **The government of Kenya should establish an inclusive resource management framework that prioritizes the rights of indigenous peoples and local communities to access and sustainably use natural resources essential for their livelihoods. This framework should also document and utilize indigenous knowledge and technologies to enhance environmental conservation and protect traditional resources and habitats.**
20. **Should develop a framework to put in place effective mechanisms for the prevention of and redress for any action that has the aim or effect of violating peasants' rights, arbitrarily dispossessing them of their land and natural resources or of depriving them of their means of subsistence and integrity, and for any form of forced sedentarisation or displacement.**
21. **Should engage with neighbouring governments in discussions to clearly define community rights for shared resources such as fisheries, water, and pasture across borders.**

D. SEEDS AND INDIGENOUS PRACTICES

22. Peasants in Kenya face significant challenges due to restrictive policies on local seed use, and unsustainable farming practices. Government policies, such as the Seed and Plant Varieties

Act^{xiii}, limit the use, exchange, and sale of indigenous seeds, leading to reduced access to seeds that are resistant to climate conditions and pests. The Seed and Plant Varieties Act of 2012 outlawed seed saving, sharing and multiplication of indigenous seeds, which attracts an imprisonment term of up to two years or a fine of Kes 1 Million (approx. \$7800.00). Restricted access to indigenous seeds, caused by stringent regulations, has left many peasants unable to share seeds, forcing them to rely on expensive, commercially available seeds. For smallholder farmers, these high costs have led to exploitation and reduced productivity, ultimately contributing to a decline in local food production.

23. It is important to note that indigenous seed systems provide 80-90% of seeds. Therefore, criminalising indigenous seeds increases food insecurity for peasants. Thus, peasants are left with no option other than to use any seed that is available to them without proper understanding of their consequences. They are also vulnerable to poor quality fake seeds. This violates the rights of peasants to rely either on their own seeds or on other locally available seeds of their choice, to decide on the crops and species that they wish to grow, and to maintain, control, protect and develop their own seeds and traditional knowledge. ^{xiv} Poor seed policies and legislative frameworks have exacerbated the loss of traditional seed preservation knowledge leading to food insecurity and exploitation.
24. Unsustainable farming practices, driven by government promotion of synthetic fertilizers and overuse of herbicides, have further degraded soil quality, reduced land availability, and lowered food production. This has led to a sharp decline in crop yields, with maize production in Western Kenya dropping from 20 to 25 bags per acre in 2000 to less than 10 bags in 2024, despite higher investments in inputs. UNDROP Article 16 emphasises the importance of sustainable agricultural practices and specifically calls on States to stimulate sustainable production, including agroecological and organic production.
25. The adoption of modern fish rearing methods like fish cages posed many challenges to the fisher communities. This has sidelined the efficient and sustainable traditional fishing methods that have been passed down through generations; local communities have limited access to diverse, nutritious fish species and their cultural identity^{xv}. The cage aquaculture has prioritized profit margins and market demands, which has made caged fish more accessible in local markets at prices too high for the local community to afford^{xvi}. Moreover, artificial and synthetic inputs and methods of fish production can result in interference with indigenous food production ecosystems, which is clearly demonstrated by recent fish deaths in Lake Victoria resulting in an estimated loss of over Kes 200 million (over \$1,500,000) due to upwelling and oxygen deficiency

Recommendations

We recommend the Government of Kenya:

- 26. Should enact legislation that permits farmers to freely share and use indigenous seeds, while also fostering the preservation and promotion of indigenous seed knowledge and technologies among smallholder farmers and indigenous communities.**
- 27. Should review and implement policies that ensure access to affordable farm inputs, including reducing taxes and levies.**
- 28. The Government of Kenya should develop and implement agroecology policies, as a strategy towards realizing the right to food.**

- 29. The Government of Kenya should increase extension advisory services at the county level to support small-scale farmers with the necessary sustainable agricultural knowledge and resources.**

E. COMMUNITY LAND

30. The Community Land Act 2016 has not been fully implemented. Only a few community land parcels have been registered to date. The government has not provided enough budget to facilitate the registration processes of community lands, including effective community engagement, sensitisation and involvement. During the development of community land inventory process, some communities have complained about losing their lands. For instance, the Endorois community of Baringo county has raised concerns that some of their community lands were omitted from the community land inventory that was developed by the Baringo County government and submitted to the Ministry of Lands. There are also complaints from communities about their lands being converted into other use without their consent and without compensation.
31. One of the challenges that has been noted is the use of geographical demarcation of community lands following a sub county boundary system, or villages, as opposed to land use models, where the use and exploration of resources of community lands that traverse several sub counties and even counties. For indigenous peoples like pastoralists, this creates a potential conflict situation within communities over the use of pasture and water as they navigate different weather seasons.
32. For the fisher communities, one of the problems is that the water bodies that they traditionally controlled and used for their livelihoods have been converted into government resources, without their consent. For instance, the few landing sites, and water bodies including rivers, lakes and oceans, which are essentially fisher community lands are instead gazetted as government lands.^{xvii} This has been a hinderance to access to landing sites and water bodies for fisher communities

Recommendations

We recommend the Government of Kenya:

- 33. Should fully implement the Community Land Act of 2016 by establishing clear timelines and allocation of budgets.**
- 34. Should speed up the review of historical injustice claims for community lands taken from indigenous communities, ensuring the return of such lands or the development of co-management frameworks for the benefit of affected communities, particularly their right to food. This includes lands for the Ogiek, Sengwer, Endorois, Yiaku, fish landing sites, fishing grounds, and lands for other affected communities.**
- 35. should, in consultation with indigenous peoples and local communities, implement safeguards against unauthorized conversions of community lands. In line with the Sessional Paper No. 3 on the National Action Plan on Business and Human Rights and UNDROP, any land use changes should involve full consultation and fair compensation for affected communities.**
- 36. Should conduct a thorough review of the community land inventory to rectify any omissions and inaccuracies and provide a redress mechanism for communities that have lost their community lands from 2010.**

37. **should consult with peasants to develop land use policies that address the needs of indigenous and pastoralist communities, incorporating traditional practices and resource requirements while mitigating conflicts over pasture and water.**

F. RIGHT TO ADEQUATE FOOD AND NUTRITION AND CLIMATE CHANGE

38. One of the National Climate Change Action Plan (NCCAP)'s 2023-27 expected result by 2028 is coherence between the National Development Plan and the Peacebuilding and Conflict Management Policy on climate security, in recognition of the wider impact of climate change on food, livelihoods, and water security, incorporating indigenous knowledge and existing arrangements.
39. In Lower Eastern Kenya (Machakos, Makueni, and Kitui Counties), 70% of the population is facing famine, with 39% living below the poverty line, as prolonged drought and four consecutive failed rain seasons in 2022-2023 have worsened food insecurity and malnutrition. Farmers in these areas, along with Kajiado, were forced to sell their cattle at throwaway prices—less than KES 10,000 (approx. \$75), far below the usual market rate of KES 50,000 to 70,000 (approx. \$375 to \$525)—or move their livestock to distant areas in search of pasture and water, resulting in significant livestock losses. This situation violates UNDROP Article 11, which guarantees the right to adequate food and freedom from hunger. Climate change has affected the livelihoods of the Yiaku, as the honey production has declined among the Yiaku and Ogiek community and this was their traditional livelihoods. Deforestation and forest degradation over the past drought witnessed in the consecutive four years 2018-22 led to depletion of forest resources negatively impacting on access to food and nutrition in both Ogiek and Yiaku hunter gatherer communities.
40. Frequent flooding in the Bunyala region disrupts fishing and agricultural activities, which are primary sources of food and income for the community. Because of diking the riverbanks, flooding destroys crops and disrupts fishing activities, leading to shortages of food.^{xviii} In April 2024, about 700 families were affected by floods and are still in Budala and Kholohongo IDP camps in Bunyala South to date^{xix}. In the coastal region, degradation of mangrove forest by unpredictable flooding patterns in coastal region exacerbated the loss of breeding grounds for various fish species.
41. Increased taxes and licensing fees for fishing activities have placed a substantial financial burden on indigenous fisher peoples, affecting their ability to sustain their livelihoods and maintain food security.

Recommendations

We recommend the Government of Kenya:

42. **Should set aside adequate resources to ensure that peasants and other people working in rural contribute to the design and implementation of national and local climate change adaptation and mitigation policies, including promoting the use of practices and traditional knowledge to especially support the realization of the right to food.**
43. **Should allocate sufficient resources to involve peasants and rural communities in designing and implementing climate change adaptation and mitigation policies, while promoting traditional practices and knowledge to support the right to food**
44. **The Government of Kenya should strengthen indigenous early warning systems for climate-related events and enhance community preparedness for floods through education. It should also incorporate indigenous knowledge in flood management,**

including desilting, reopening waterways, and using controlled flash floods for irrigation and fish farming.

- 45. The Government of Kenya should provide targeted support to farmers, including access to indigenous drought-resistant crops, improved pasture management, and financial assistance for livestock recovery.**

G. ACCESS TO WATER

46. Kenya's agriculture is largely rainfed or water bodies dependent with minimal irrigated food production. Rainwater harvesting and access to irrigation are crucial for improving food production among peasants. To address this issue, we note that the Government of Kenya has implemented various water harvesting technologies, such as sand dams and boreholes, in several counties, including Laikipia (at Gathanji Primary School and Githima Secondary School), Baringo, Kitui, Makueni, and Machakos. Other initiatives include providing solar dryers to farmers in Makueni, training community health promoters to support children's health, and constructing sand dams in Kitui. The Thwake Dam project aims to enhance water availability, and measures such as the prohibition of sand mining in water bodies have been implemented.
47. Access to water for farming remains a significant challenge for peasants in Kenya. The high cost of water storage facilities, such as tanks and gutters, poses a barrier, making it difficult for many to store sufficient water for their needs. Bureaucratic hurdles and high costs associated with accessing underground water, including shallow wells, further complicate the situation, often placing this critical resource out of reach for those who need it most. In Makueni county, 70% of the 987,000 people living in the area have limited access to safe drinking water. Long distances are covered searching for water, particularly by women, consuming more time which may be used in other work like farming.

Recommendations

- 48. The Government of Kenya should prioritise investing in water harvesting in areas heavily affected by climate change and insecurity and in the development of water infrastructures, such as water supply systems to support agricultural productivity.**
- 49. The Government of Kenya should implement and upgrade water and sanitation infrastructure to prevent contamination and reduce the prevalence of waterborne diseases.**

H. PARTICIPATION IN DECISION-MAKING

50. The National Climate Change Action Plan (NCCAP) 2023-27 recognises the participation of marginalised communities in climate change mitigation and adaptation strategies. The NCCAP notes that among its goals is to strengthen the participation in climate change action by members of minority or marginalised communities, and indigenous peoples. The Plan also seeks to tapping essential local traditional and indigenous knowledge, and co-produce climate information with communities.
51. Articles 2 and 10 of UNDROP provide for the right to participation by peasants in decision making. Article 10 of the Constitution of Kenya, 2010, also provides for the right to participation. We commend the government for putting in place the Sessional Paper number 3 of 2021 that provides protection against human rights violations by businesses and investments.

This should involve meaningful consultation with potentially affected groups. There have been also judicial pronouncements on the importance of effective public participation before any decisions that impact of the rights of Kenyans are taken.

52. There is also concern about ineffective public participation in the management and utilisation of natural resources in the indigenous communities' areas. This issue has been evident in instances where the government has undertaken compulsory land acquisition for development purposes or after discovering valuable minerals, such as geothermal sites, coal, gold, and, more recently, oil in Turkana. While there exists some legislation like the Mining Act 2016 and the Petroleum Act 2019 that protect community rights in mining and extraction of oil, there are no clear safeguards and implementation of these laws have not effectively protected the rights of indigenous communities.
53. In the formulation of policies and regulations, like the Participatory Forest Management Act, fees have been introduced for various forest user groups, including grazers, beekeepers, and small-scale farmers, restricting their access to forests for livelihood purposes. In addition, these payments do not benefit the local communities. The gazettement of forest lands previously used by communities has resulted in the loss of land ownership e.g. the gazettement of Mukutani Forest in Baringo, leading to forced evictions or threats of eviction, and displacement, as seen in the Sasimwani Forest case, where local communities were neither consulted nor provided with alternative land. Fisher communities are hardly involved in the formulation of policies involving fisheries and water bodies. In 2023, the review of Beach Management Unit regulation was done with minimal involvement of indigenous fisher communities. The levy board comprises of only one board member from coast water body region while the rest are from the government agencies. This has led to minimal representation and contribution from fisher communities.
54. These issues lead to insecurity of tenure, resource conflicts, health and livelihood challenges, cultural and indigenous knowledge and technologies erosion, and environmental degradation.

Recommendations

We recommend the Government of Kenya:

55. **Should strengthen the efforts to implement National Action Plan on Business and Human Rights by developing and adopting a Free, Prior and Informed Consent policy which safeguards indigenous peoples and local communities' rights to be fully informed about projects and safeguards their rights for all investments.**
56. **Should strengthen community participation in resource management by implementing a mandatory framework for involving indigenous peoples and local communities in the decision-making processes related to the management and utilization of natural resources within their areas, ensuring that traditional and indigenous knowledge is protected.**
57. **Should enact the natural resource benefits sharing framework to ensure that the benefits from natural resource exploration/exploitation will be equitably shared with the local communities.**

I. RIGHTS AND TRADITIONAL KNOWLEDGE

58. The disregard for indigenous knowledge and technologies has negatively impacted peasants' right to food. Although Article 11 mandates government protection of indigenous seeds and plant varieties, the 2012 policy on seeds and plant varieties undermines this. As a result, local

crops and culturally significant practices are neglected, contributing to the rise of diseases such as cancer and diabetes.

59. On the other hand, Livestock Bill 2021 does not recognise neither protect the rights of [animal genetic resources](#) (AnGR) for indigenous peoples. Kenya's pastoral economic sector is worth of US\$1.13 Billion. Despite this reality there is no mention of pastoralists and their rights in the Bill.
60. Environmental pollution, particularly related to oil and gas exploration in areas like Turkana South, East, Loima, and Kibich remains a significant concern. Since the discovery of oil in 2012, there have been ongoing issues with hazardous waste disposal. A case in 2023 highlighted this problem when 90 goats died^{xx} after drinking contaminated water downstream. Despite community demands for testing, the water report obtained in June 2024 left the affected community dissatisfied, as they suspected the tests concealed cancer risks. Traditional knowledge, which emphasizes the use of shallow wells and springs, continues to be vital in such situations.
61. Modern fishing methods and equipment are not only costly but also highly destructive to marine ecosystems. Unlike indigenous fishers who used manual labour over short periods and smaller areas, allowing for continued breeding of native species, modern technology enables overfishing, including the capture of undersized fish, which disrupts population sustainability. Traditional practices, such as seasonal fishing and using biodegradable natural traps, allowed ecosystems to recover and minimized environmental harm. In contrast, modern synthetic fishing gear does not degrade and contributes to significant water pollution. Overfishing and pollution have decreased fish populations, threatening food security. Additionally, restrictions on traditional fishing and farming practices are eroding cultural traditions and knowledge, leading to a loss of cultural identity and heritage.

Recommendations

We recommend the Government of Kenya:

62. **Should review policies and amend laws to ensure that they protect peasants' rights to share and use indigenous seeds and animal genetic resources, while promoting organic and agroecological farming practices to enhance food security and address climate change impacts.**
63. **Should consider reviewing policies and amending laws to safeguard the rights of peasants to share and utilize indigenous seeds and animal genetic resources. Furthermore, it is recommended that they promote organic and agroecological farming practices to bolster food security and mitigate the impacts of climate change.**
64. **Should strengthen environmental regulations and oversight related to oil and gas exploration. Immediate actions should be taken to address contamination issues and provide communities with accurate and accessible information regarding potential health risks.**^{xxi}

J. ACCESS TO MARKETS AND FAIR TRADE

65. In pastoralist areas, some counties have developed livestock markets co-management frameworks, through county legislation. This is the case in counties like Isiolo, Marsabit and Samburu, with over 24 livestock markets now using the model.^{xxii} This model is however not yet available in most counties, and more so in predominantly crop farming counties. This makes

the Kenyan markets to be increasingly dominated by middlemen who exploit farmers, eroding their profits.

66. The lack of farmer friendly market structure thus leads to exploitation by middlemen. For example, middlemen in the onion trade measure onions in bags when purchasing from farmers but sell them to consumers by weight in kilograms. This allows them to underpay the farmers. Some farmers get seeds from suppliers, and upon maturity, they are forced to sell the produce at lower prices. As a result of these challenges, many farmers are abandoning local farming to seek alternative solutions for their agricultural activities.
67. Insecurity in conflict-prone areas like Baringo, Laikipia, Pokot, and Boni Forest has also severely impacted market access. Bandits and insurgents target pastoralists, stealing livestock before they can be sold. The lack of local livestock markets also forces pastoralists to sell cheaply, especially when buying prices in Tanzania are lower than in Kenya, a case of Kajiado County.
68. The high costs of certification for agricultural practices create significant barriers for small-scale farmers, restricting their access to broader markets. The rising costs of farm inputs, like seeds and equipment, further strain their resources, reducing profitability and driving up food prices. Poor food storage and preservation capacity, also leads to wastage during surplus periods. In rural areas, farmers face low prices for indigenous vegetables, while urban markets are highly priced, discouraging small scale farmers. Additionally, inadequate infrastructure, such as in the Mt. Elgon region hampers food distribution and market access.
69. Indigenous fisher peoples face financial strain due to the need for multiple licenses from national and county governments and other bodies, affecting their market access. A significant portion of fish harvested along the Kenyan coast fails to meet export quality standards due to poor handling practices. Meanwhile, the government has granted concessions to foreign investors, enabling them to fish and export these resources. Chinese companies, often co-owned by wealthy Kenyans, dominate the coastal waters, operating close to shore and restricting local fishermen's access to fishing grounds and market opportunities. The fish value chain, particularly in marketing, has not been adequately developed by locals or the government, leaving fisher communities with limited market access.

Recommendations

We recommend the Government of Kenya:

- 70. Should establish and enforce regulations and monitoring systems to ensure fair trade practices in the agricultural sector. This should include standardizing measurement units, such as requiring sales by weight instead of volume, to protect farmers from exploitation by middlemen using unfair measurement practices**
- 71. Should initiate programmes to scale up the co-management, by using the co-management of livestock markets model for local markets to storage facilities, and infrastructure in rural areas.**
- 72. Should provide subsidies or financial assistance to reduce the high costs of agricultural certification and inputs for small-holder farmers to enable them access broader markets, improve their profitability.**
- 73. Should reevaluate and regulate the concessions granted to foreign companies, ensuring that local fisher communities have fair access to fishing grounds and market opportunities.**
- 74. Should strengthen and support small holder farmer cooperatives to enable collective bargaining and bulk purchasing.**

ⁱ For purposes of this report, the term peasants will be used in the meaning of the United Nations Declaration on the Rights of Peasants and Other Rural Workers UNDROP (Article 1). In Kenya, these include indigenous peoples like pastoralists, forest dwellers (hunter gatherers), and fisher communities, as well as small scale farmers

ⁱⁱⁱ UPR Recommendation No 101.93. Ensure the equitable distribution of water and food to the entire population, especially during times of drought (Spain). Report of the Working Group on the Universal Periodic Review of Kenya, 17 June 2010, UN Doc. A/HRC/15/8

ⁱⁱⁱ UPR Recommendation No 142.154. Implement specific standards and regulations ensuring affordable water, sanitation and food for the most vulnerable groups and the barriers and challenges to poverty alleviation are properly addressed (Albania). Report of the Working Group on the Universal Periodic Review of Kenya, 26 March 2015, UN Doc. A/HRC/29/10

^{iv} UPR Recommendation No 142.66 Advance efforts aimed at growing the economy and enhancing food security (Barbados). Report of the Working Group on the Universal Periodic Review of Kenya, 20 March 2020, UN Doc. A/HRC/44/9

^v KDHS 2022 Page 41

^{vi} 2019 Census

^{vii} Numbers of affected populations (Community Representatives to give estimates

^{viii} <https://www.african-court.org/cpmt/storage/app/uploads/public/5f5/5fe/9a9/5f55fe9a96676974302132.pdf>

^{ix} <https://www.iwgia.org/en/news/5317-kenyan-authorities-evict-ogiek-defying-court-orders-escalating-violence.html>

^x <https://nairobiwire.com/2023/07/two-kenyan-fishermen-reportedly-shot-dead-by-ugandan-military-at-lake-victoria.html>

^{xi} Catholic Diocese of Nyahururu internal survey that was conducted by Caritas Nyahururu in January 2023

^{xii} <https://www.the-star.co.ke/counties/rift-valley/2022-10-13-over-600000-people-face-starvation-in-kajiado-ndma-says/>

^{xiii} <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/SeedsandPlantVarietiesActCap326.pdf>

^{xiv} UNDROP Article 19

^{xv} **Kenya Marine and Fisheries Research Institute (KMFRI)**. (2020). *Assessment of Fish Production and Aquaculture Development in Lake Victoria Basin*.

^{xvi} **Ochieng, J. G., & Abila, R.** (2015). *The Socio-Economic Effects of Cage Aquaculture in Lake Victoria: Case Study of the Kisumu Area*.

^{xvii} with no issuance of community title deeds. In cost province out 5 coastal counties only four fish landing sites in Kilifi County are gazetted without title deeds. In Busia only four beaches (Openji Beach, Sisenye Bugoto beach, Marenga beach and Sialala beach) are gazetted as a government landing site with no title deed.

^{xviii} Ibid

^{xix} <https://youtu.be/oS6MFq1L-qU>

^{xx} <https://www.the-star.co.ke/counties/central/2023-05-16-90-goats-sheep-die-after-drinking-water-from-shallow-well-in-turkana/>

^{xxii} Phone interview by Nyang'ori Ohenjo of Centre for Minority Rights Development (CEMIRIDE) with Abdikadir Mohammed, the Executive Director of Kenya Livestock Marketing Council (KLMC), for this report on 7th October 2024