

report

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Challenges at the intersection of gender and ethnic identity in Kenya

By Laura A. Young





A Turkana woman prepares a hide for use as clothing in the village of Kache Imeri, Turkana district, Kenya.
Frederic Courbet / Panos.

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Minority Rights Group International

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Abbreviations

ACHPR	African Commission on Human and Peoples' Rights	IDP	internally displaced person
CEDAW	Committee on the Elimination of All forms of Discrimination Against Women	OECD	Organization for Economic Co-operation and Development
CEDMAC	Consortium for the Empowerment and Development of Marginalized Communities	OPDP	Ogiek Peoples' Development Programme
CERD	UN Committee on the Elimination of Racial Discrimination	TWADO	The Turkana Women and Development Organization
FGM	female genital mutilation	UN	United Nations
		UNHCR	UN High Commissioner for Refugees
		WIFIP	Women in the Fishing Industry Programme

Executive summary

*'Women have played a great role in minority and indigenous communities, but it's never in the books, never pronounced, never recognized.'*¹

Josephine Nashipae, League of Pastoralist Women of Kenya, Nairobi.

Minority and indigenous women in Kenya are at a crossroads. The Constitution passed in 2010 provides powerful opportunities for women from minority and indigenous communities to capitalize on the new legal and political framework that now exists in the country. This report describes the challenges at the intersection of gender and ethnic identity facing minority and indigenous women in Kenya, based on field visits and interviews with community members across the country.

The communities consulted for this research present a diverse cross-section of groups from the perspective of region, livelihood, and population size. However members of different communities voiced similar concerns. Poverty and lack of economic opportunities undermine the success of women across the country, be they hunter-gatherers, fisher peoples or pastoralists. Marginalization in terms of lack of infrastructure and access to basic services remain problematic for most communities. Every community identified girl child education as a major challenge.

While these development challenges affect many women and men in Kenya, minority and indigenous women experience these challenges as inextricably related to their identity and the marginalization that their communities have experienced. They are discriminated against on multiple levels; they are targeted because of their identification with a minority or indigenous group, and as women – both by cultural practices within their own community and because of gender discrimination more widely.

For hunter-gatherer women, many of whom have been displaced and forced to become squatters, community land rights are a primary concern. They view the lack of economic opportunities, lack of access to services and lack of education for girls as a direct result of their displacement. For pastoralist women, insecurity and conflict in areas where they live has a disproportionate impact on women and children. Cultural practices that are harmful to girls, such as female genital mutilation and early marriage, reduce girls' access to education and substantially entrench women's poverty. For fisher peoples, environmental degradation and collapsing fish stocks are major

fears. Women from these communities expressed their frustration at traditional gender roles that place much of the responsibility for meeting the family's basic needs on women.

All these challenges at the intersection of gender and ethnic identity highlight the multiple discrimination facing women and girls from minority and indigenous communities.

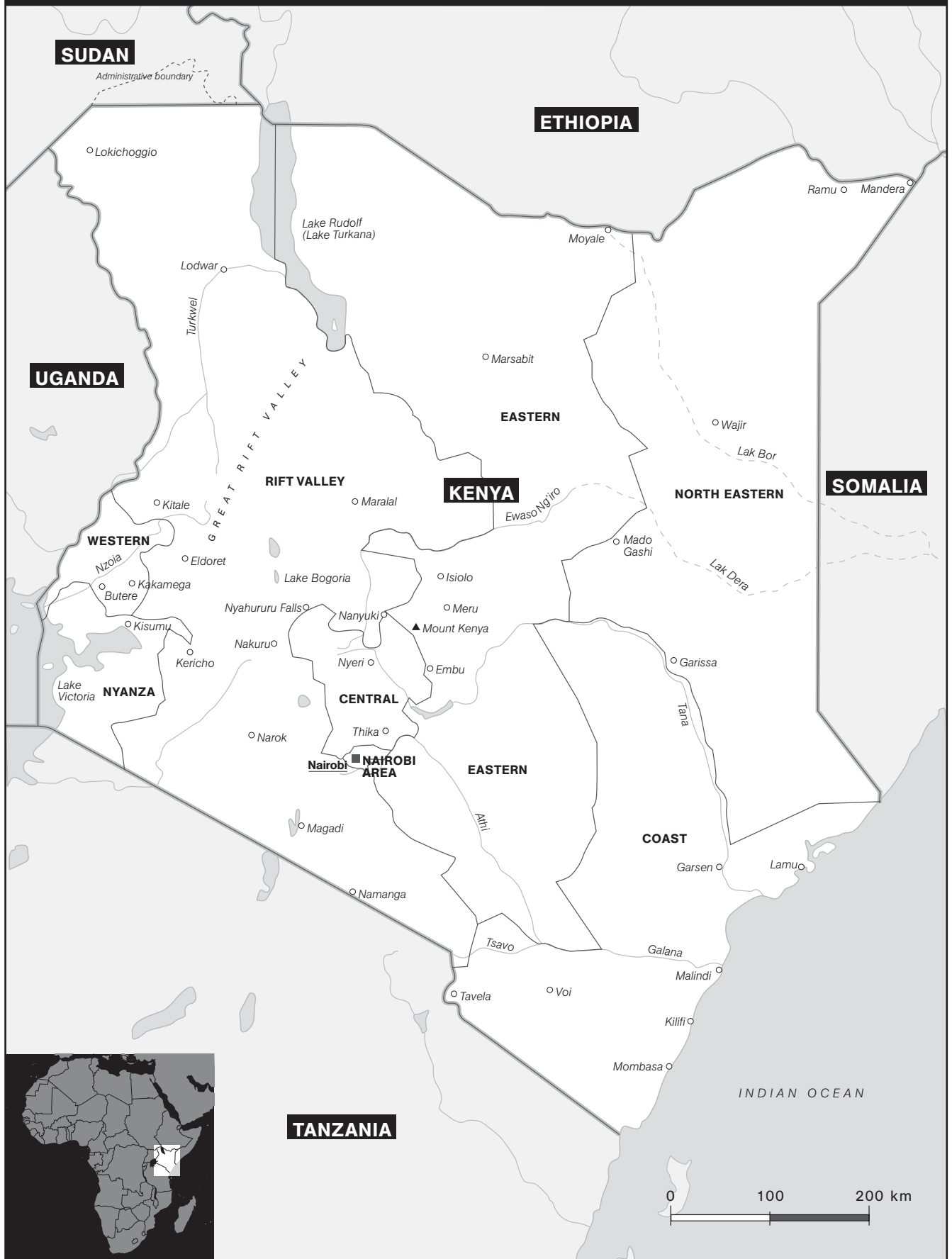
Despite the positive constitutional framework, there are significant challenges in ensuring that it benefits minority and indigenous women and girls in Kenya. Civic education for minority women is required to enhance their understanding of constitutional provisions that affect them. Low levels of education among minority and indigenous women also present a major challenge. In addition, parliamentary action is needed to implement many constitutional principles that benefit women, indigenous peoples and minorities, such as affirmative action and community land rights. Until the legislative process is complete, which will not be for several years, it will be difficult to assess what the true gains have been in addressing multiple discrimination.

Minority and indigenous women leaders, especially those running for political office or working to change harmful practices that target women, report gender-based discrimination hindering their attempts to lead within their communities. Nevertheless, minority and indigenous women have found ways to effectively navigate gender and community identity and work within cultural structures that have traditionally left little space for women leaders.

This report calls on the Kenyan government, civil society and communities themselves to change policies and cultural practices that undermine minority and indigenous women's participation in the decision-making processes that directly affect them.

Achieving this overall goal will require the government to take certain immediate measures to redress the marginalization that has affected minority and indigenous communities and the women and girls who live in them, such as providing immediate humanitarian assistance to displaced communities, ensuring security in marginalized areas and setting up scholarship support to keep girls in school. Over the longer term legislation and government programmes must ensure minority and indigenous women's participation and must specifically address the multiple discrimination they face.

Kenya



Introduction

This report examines the challenges and opportunities for minority and indigenous women in Kenya today. Specifically, the report highlights the challenges women face at the intersection of gender and ethnic identity. The term ‘minority’ encompasses a wide range of communities in the Kenyan context – this report focuses on ethnic minorities and indigenous peoples, particularly those that have traditionally practised specific livelihoods such as pastoralism, fishing, and hunting and gathering. The goal of the report is to reflect the voices and experiences of women from diverse minority and indigenous communities while also highlighting their interactions with the rapidly changing Kenyan legal and political context since the passing of the Constitution in 2010.

The information in the report is based on a review of secondary literature, field visits across Kenya, and interviews with key informants. Findings are mainly based on discussions with women from minority communities themselves – including both community advocates and women at a grass-roots level. MRG conducted field visits between May and September 2012 in the Rift Valley, Lamu County on Kenya’s east coast, western Kenya near Lake Victoria, and in Turkana County in north-western Kenya. The communities that participated in this research included the Abasuba, Aweer, Bajuni, Isaak, Maasai,

Endorois, Ogiek, Pokot, Rendille, Samburu, Sanye, Turkana, and Yiaku communities. These communities present a diverse cross-section of groups from the perspective of region, livelihood and population size. For instance, the Abasuba are a community of just under 140,000 people in the far south-western corner of Kenya and traditionally relied on fishing as their primary livelihood. The Sanye, on the other hand, are a micro-minority of only a few hundred people residing in Kenya’s eastern coastal forests and traditionally practised hunting and gathering.

The report begins with a general overview of the definitions and diversity of ethnic minorities and indigenous peoples in Kenya, including additional information about the communities that participated directly in this research. The report then discusses the current legal framework affecting minority and indigenous women in Kenya. The report highlights the Kenyan state’s key human rights and constitutional obligations with respect to minority and indigenous women, and describes main concerns identified by communities themselves during field research. Looking ahead to the Kenyan elections in 2013, the report analyses the opportunities and challenges for minority and indigenous women’s leadership and participation in that process.

Minority and indigenous women: facing multiple discrimination

Defining indigenous and minority groups

There is no majority ethnic group in Kenya so defining parameters for minorities has proven controversial. Minorities are disadvantaged ethnic, national, religious, linguistic or cultural groups who are smaller in number than the rest of the population and who wish to maintain and develop their identity, according to MRG.² Many minority groups in Kenya can often also be described as indigenous peoples, whose livelihood, culture, and identity is intimately linked with their traditionally occupied territory. In addition, minorities and indigenous peoples are likely to be discriminated against on the basis of their membership to the minority group.³

Kenya's 2010 Constitution addresses the definition of 'minority' through the lens of marginalization. Article 260 of the Constitution defines marginalized communities to include:

- (a) a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole;
- (b) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;
- (c) an indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy; or
- (d) pastoral persons and communities, whether they are—
 - (i) nomadic; or
 - (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole.

The table below reproduces census data for selected communities who often are understood to be marginalized. There is significant diversity – of size, culture, religious faith and livelihood pattern - among these communities.

Table 1: 2009 Kenyan census data on marginalized communities⁴

Community	Population size	Community	Population size
Abasuba*	139,271	Nubian	15,463
Aweer (Boni)*	7,602	Ogiek*	78,691
Bajuni*	69,110	Orma	66,275
Barawa	(not reported)	Pokot*	632,557
Borana	161,399	Pokomo	94,965
Burji	23,735	Rendille*	60,437
Dassenach	12,530	Saboot	240,886
El Molo	2,844	Sakuye	26,784
Endorois*	10,132	Samburu*	237,179
Gabra	89,515	Sanye*	(not reported)
Galjeel	7,553	Sengwer	33,187
Isaak*	3,160	Taita	273,519
Konso	1,758	Taveta	20,828
Maasai*	841,622	Teso	338,833
Marakwet	180,149	Turkana*	988,592
Munyoyaya	1,611	Walwana	16,803
Njemps	5,228	Yiaku	(not reported)

The communities who participated in this research (starred in Table 1) include hunter-gatherers such as Ogiek, Sanye, Aweer, and Yiaku, traditional fisher peoples such as Abasuba and some segments of the Turkana, and pastoralists such as Endorois and Maasai.

Marginalization of minority and indigenous women

Minority and indigenous women face multiple forms of marginalization as recognized in the Kenyan Constitution. The Constitution makes a distinction between marginalized *communities* and marginalized *groups*. Marginalized groups encompass women, children, the disabled, and the elderly among others.⁵ While many ethnic minorities and indigenous peoples are considered marginalized communities, women as a whole are considered a marginalized group under the Constitution. This reflects the notion that minority and indigenous women confront multiple forms of discrimination; they are discriminated against because of their gender and because of their identification with groups that have been marginalized over time.

All women in Kenya continue to struggle to attain gender equality in many areas of social, cultural, economic and political life. In 2012, Kenya was ranked 46 out of 86 countries in the OECD Social Institutions and Gender Index, which assesses countries based on the existence of discriminatory social institutions, such as early marriage, discriminatory inheritance practices, violence against women, son preference, restricted access to public space and restricted access to land and credit.⁶ This ranking puts Kenya in a better position than Uganda (83), Ghana (50), Nigeria (79) and Tanzania (47) but it is still outpaced by some regional neighbours. Rwanda for instance moved from 66 in 2009 to 28 in 2012, and Mozambique improved from 77 in 2009 to 39 in 2012.

Among the issues that impede women's equality in Kenya is the fact that until the passage of the 2010 Constitution, Kenya's family code was a combination of multiple discriminatory laws. Even with constitutional changes many women do not benefit from formal legal protection related to equality in marital relations and family life. Moreover, in many areas there is no legal framework to protect the rights of women – Kenya still has no law on domestic violence for example, though a bill is currently under consideration.

The tension between formal legal systems and customary practices in many communities also significantly influences women's ownership and control over land. Despite constituting half of the population,

women only hold title to between one and five per cent of land in Kenya.⁷ Because they generally do not own assets such as land, women's economic empowerment through access to credit and other services is substantially undermined.

Women from minority and indigenous communities in Kenya also contend with the legacy of decades of marginalization from the state and wider society. In the Kenyan context, marginalized communities suffer from government policies that discriminate against them based on ethnicity or identity – sometimes to the point of denying the very existence of the group; they struggle to access basic needs and services; and they often suffer violence as a result of inter-communal conflict due to state failure to provide security to the population. Minority and indigenous women also face discrimination within their own communities. Cultural practices that are harmful to women and girls, such as female genital mutilation and child marriage, continue to present challenges for minority women in attaining full equality.

The Kenyan Constitution has made significant changes in the legal framework related to women's rights and the rights of marginalized communities and groups, as described in the following section. Women, including minority and indigenous women, played an important role in the constitutional review and drafting process in Kenya. For example, women from minority communities acted as delegates at the 2005 Bomas Constitutional Review Conference, which provided much of the basis for the Constitution that passed in 2010.

One women leader from the Rendille community, Alyce Kureya, described the role that the intersection of gender and ethnicity played at the conference. Men and women from minority communities worked closely together to demand protections for minority rights, especially for community land rights – an issue that almost brought the conference to a standstill. However, when it came to certain provisions for women's rights, minority women found themselves fighting without the support of their male counterparts.

According to Kureya, while the male delegates from minority communities were willing to support provisions that addressed some forms of violence against women and girls, such as rape, on other provisions related to 'culture', such as inheritance, land ownership, and domestic violence, minority women found themselves on the opposite side of the debate from their male counterparts.⁸

Despite these gendered divisions, with the passing of the 2010 Constitution, the legal framework for both women and minorities improved significantly. However, as with past changes in law and policy, implementation remains the main hurdle to advancing equality in Kenya.

Minority and indigenous women under the new Constitution

Under the Constitution, marginalized groups, including women and minorities and indigenous peoples, have been recognized as having unique needs that must be addressed by the state. The Constitution specifically provides that:

All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.⁹

Minority and indigenous women stand to benefit from three main constitutional pillars: non-discrimination and affirmative action; domestication of international law; and protections for economic, social and cultural rights.

In contrast to the past, the Kenyan Constitution now includes an enforceable Bill of Rights. The Bill of Rights, in combination with several affirmative action provisions, balances the goals of non-discrimination with redressing past historical injustices through positive legislation and policy. Article 27 of the Constitution outlaws direct and indirect discrimination by the state and by private individuals on the basis of ‘race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth’.

Several other articles attempt to redress past discrimination. For instance, Article 56 mandates that the government put in place programmes to ensure that minorities and marginalized groups (including women) are represented in government, have special opportunities in education and economic empowerment, have special access to employment, are supported in developing their culture, and have equal access to the fruits of development such as water, health services, and infrastructure.

Article 100 requires parliament to pass legislation that promotes the representation of women in parliament, as well as that of ethnic and other minorities, by 2017. Although legislation to implement Article 100 has yet to pass, the Constitution provided for 47 dedicated women’s seats in the National Assembly, one per county. This amounts to 13.5 per cent of the 349 seats, and only increases the pre-2010 number of women from 21 to 47.¹⁰

In the senate, the Constitution dictates that 18 seats are reserved for women, a total of 26.7 per cent. The Constitution also requires that no more than two-thirds of any government body can be of the same gender, so legislation is currently pending to address the potential deficit should the number of elected women for non-reserved seats be insufficient. At a county level, the two-thirds requirement applies directly so no new legislation is required to ensure that at a minimum two-thirds of members of county assemblies and other bodies at the devolved level will be women.

The 2010 Constitution’s automatic domestication of Kenya’s existing treaty commitments as well as the general rules of international law is also significant for minority and indigenous women.¹¹ This provides women with constitutional grounding to demand that the government meets its commitments under instruments such as the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol). Both of these instruments, along with many others that have also been ratified by Kenya, include provisions that are directly relevant to the circumstances of minority and indigenous women, such as banning harmful practices and protecting women’s property rights.

Constitutional provisions on economic, social, and cultural rights should also benefit women and girls. The Constitution provides for the right to accessible and adequate housing, reasonable standards of sanitation, adequate food, clean and safe water, social security and education.¹² The right to access health care, including reproductive health services also is protected.

Challenges in bringing constitutional benefits to minority and indigenous women

Despite the positive constitutional framework, there are significant challenges in ensuring that it benefits minority and indigenous women and girls in Kenya. Interviews with communities and advocacy organizations across the country highlighted several concerns. First, the huge need for civic education for all community

members, but specifically for minority and indigenous women and girls.¹³

A woman elder in the Sanye community in Lamu County said: ‘We have heard there is a new constitution, but no one has educated us about it. We hear about it on the radio sometimes or in town, but how will it really help us?’¹⁴ On the other side of the country, on the shores of Lake Turkana, women who work as fish sellers noted that they had heard about the new women’s seats in the National Assembly, but that they didn’t know anything about the provisions of the Constitution that protect women’s rights.

The opinions of women at a grass-roots level were echoed by community leaders. According to the executive director of the Turkana Women and Development Organization, Seline Locham: ‘Because of illiteracy, there is little they can grasp from the Constitution. Their lack of education hinders them’ in realising their rights.¹⁵ Abasuba leaders agreed: ‘The *Katiba* [Constitution] is still far from the people. There is still room for much education – the *Katiba* has too much professional language that the common person cannot understand.’¹⁶ Without a better understanding of their rights, both as women and as members of marginalized communities, minority and indigenous women will be unable to claim those rights effectively in the new constitutional era.

Developing legislation to implement key constitutional principles also remains a challenge. Since 2010, the process of drafting and passing implementing legislation through parliament has been a contentious one, and many bills relevant to the concerns of minority and indigenous women are pending, such as the Health Bill, the Marriage Bill, the Matrimonial Property Bill, the Protection Against Domestic Violence Bill, and the Community Land Bill.

Legislation on critical governance issues, such as land and devolution of government powers has already been passed but critics argue that laws do not fully ensure the implementation of the letter and spirit of the Constitution. Until the legislative process is more complete, it will be difficult to assess actual gains for minority women and girls under the Constitution.

Another concern is the continuing tension between customary and formal law in the area of women’s rights under the Constitution. The daily lives of most minority and indigenous women in Kenya are governed by customary rules and community-based justice systems. On issues such as cultural practices, marriage, family, land-holding, and

political participation, minority and indigenous women first interact with their community governance systems, before they encounter formal governance systems imposed by the Kenyan state. For many reasons such as physical isolation, marginalization, and the desire to maintain community identity through culture, women from minority communities face substantial challenges in claiming constitutional gains if those gains conflict with traditional cultural governance systems. Although in theory the Constitution applies to all people in Kenya, the reality for women outside of towns and without the benefit of education is very different. As one Samburu community advocate described: ‘We have seen the new Constitution but it is really for women in towns and elites.’¹⁷

Box 1: Constitutional commission to address gender and ethnic discrimination

The 2010 Constitution established the National Gender and Equality Commission and in 2011 parliament passed legislation to operationalize its work.¹⁸ The Commission is responsible for promoting, monitoring, and investigating issues related to gender and equality.¹⁹ Its work also includes auditing the status of special interest groups including ‘minorities, marginalized persons and women’. Importantly, the Commission’s mission is to ‘coordinate, implement and facilitate gender mainstreaming in national development’. The Commission also will advise on the development of the affirmative action provisions of the Constitution, which could have a substantial impact on minority and indigenous women.

The model is a good one, according to the chief executive of the Consortium for the Empowerment and Development of Marginalised Communities (CEDMAC), Jarso Mokku, because experience elsewhere demonstrates that commissions of this type, with a combined mandate on gender and other minorities, are more likely to address the intersection of multiple forms of discrimination.²⁰

According to the chair, Winfred Lichuma, the Commission’s ‘priorities will be to reach out and work with all those willing to make a contribution to gender and equality in the country and to ensure fairness for all people in Kenya through engagement with the government and private sector and monitoring compliance with the equality and freedom from discrimination principles as provided in the Constitution’.²¹

Challenges at the intersection of gender and ethnic identity

Common challenges for indigenous and minority women emerged from visiting communities and carrying out focus groups and interviews for this report. Communities identified lack of economic opportunities, unequal access to education, and lack of access to essential services, such as water and health care, as critical challenges facing women and girls across Kenya. While these development challenges affect many women and men in Kenya, and indeed in Africa, minority and indigenous women experience them as inextricably related to their minority identity and the marginalization that their communities have experienced. This section describes the challenges confronting minority and indigenous women, both as members of marginalized communities, and as women, and then examines the impact of multiple forms of discrimination on their lives.

Poverty

‘Life is getting worse because poverty is increasing,’ said a woman who works as a fish seller on the shores of Lake Turkana; ‘we need government support to escape poverty.’²² The government defines the poverty line as income below 1,562 Kenyan Shillings (less than US\$20) per person per month in rural areas. Government data reflects the fact that the highest poverty rates are in regions where minority and indigenous communities have traditionally lived. In 2006, Turkana district had the highest poverty rate at 94 per cent, with nearly half a million people living in poverty.²³ The poverty rate in Samburu was 73 per cent and in Isiolo, home to Gabra, Somali and other pastoralist communities, it was 71 per cent. West Pokot, home to many Pokot pastoralist communities, had a poverty rate of 69 per cent and Baringo, home to the Il Chamus and Endorois communities, had a rate of 59 per cent.²⁴ This data is in sharp contrast to poverty rates of 22 per cent in Nairobi and 37 per cent in Mombasa, the country’s major cities where the poverty line is placed at less than 2,913 Kenyan Shillings (US\$40).

Girl-child education

Women from all minority and indigenous communities also described access to education for girls as a paramount problem. Statistics bear out their concern; while Kenya

generally has a high literacy rate, almost double the proportion of women (21 per cent) compared to men (12 per cent) are illiterate.²⁵ The Kenya National Bureau of Statistics released data on school attendance by county (age three years and above), which while imperfect, gives a sense of educational parity concerns in regions where minority communities live.²⁶

Table 2: School attendance (age three years and above)

County	Females currently in School (% of total)	Males currently in School (% of total)
National	49%	51%
Lamu	47%	53%
Marsabit	46%	54%
Isiolo	48%	52%
Garissa	41%	59%
Mandera	42%	58%
Turkana	44%	56%
West Pokot	48%	52%
Samburu	45%	55%
Baringo	49%	51%

For minority and indigenous communities, educational success is key to enabling them to capitalize on constitutional gains and to advocate for their own rights. For small communities in particular, interviewees noted that service providers, such as teachers and medical personnel, only rarely come from the communities that they serve. Moreover, while the new Constitution provides for affirmative action for women and marginalized groups and special posts through the devolved government system, some communities expressed concern that because of lack of access to education they do not have any individuals from their communities who can meet the educational requirements to fill the available posts.

Access to critical services

The Kenyan Constitution protects the right to adequate food, sufficient water, housing, and sanitation, as described above. Meeting these basic needs is a key

concern for many minority women, who have the primary responsibility for providing them for their families. From the corner of Turkana in western Kenya, to the east coast, women report that ensuring adequate food and water is a major concern.

In 2011, the drought in northern Kenya was so severe that it led to multiple deaths in Turkana. Even with the end of the drought, access to water remains a challenge – during the rainy season women can access water from streams, but during the dry season they have to wait in line sometimes for hours to use the only hand pump in the area.

In Lamu on the east coast, piped water is available in areas near Sanye and Aweer settlements, but it must be purchased and women from the communities report that they cannot afford the three to five Kenyan shillings (less than US\$0.10) for a full jerry can.²⁷ During the rainy season a spring is available but the community reports getting sick from water-borne diseases. During the dry season, it can take up to five hours every day for women to access water for their families. In Suba, water both for drinking and irrigation was identified as a major challenge, despite the fact that the community lives near Lake Victoria. Women reported that they have to queue at 4am to access a borehole or they have to make the trek to the lake.

Housing and sanitation, especially for communities who have been displaced, is often inadequate. Many people in Kenya face problems of inadequate housing – for example those displaced in Kenya by the 2007-08 election-related violence – but many indigenous peoples have been displaced for decades. While the government took immediate action to address the plight of people who were displaced by the post-election violence,²⁸ displaced indigenous groups still languish without any government assistance. As one Ogiek woman from Kosabei said: ‘Where is the government of the Ogiek? Many levels of government claim to know the Ogiek, yet they do nothing. They hope the Ogiek will simply disappear.’²⁹

Adequate health care services, which is a fundamental right protected by the Constitution, remain inaccessible for many minority and indigenous communities, because of problems of both physical and financial access. According to the Kenya National Commission on Human Rights, maternal mortality rates reflect clear disparities in access to health services across regions. In its recent report on reproductive and sexual health rights, the Commission stated that material mortality in Northeastern province, home to the majority of Kenya’s pastoralist groups, was more than three times the national average.³⁰ This statistic is borne out in discussions during field visits. Not only pastoralist women, but women from every community

reported that access to health services and to maternal health services in particular, was inadequate.

The overlap of gender and ethnic discrimination expresses itself differently depending on the history and culture of each particular group, and past interactions with the government and other communities.³¹ For instance, Sanye hunter-gatherer women relate their inability to afford maternal health services directly to their eviction from traditional lands and subsequent impoverishment. Pastoralist women view the unequal educational attainment of pastoralist girls as a problem of government policy that has marginalized pastoralist areas as well as the result of harmful practices perpetuated by their own communities.

As described above, the Constitution itself has implicitly recognized these challenges through a number of measures designed to remedy the situation, including women’s rights provisions, protections for marginalized groups, affirmative action programmes, and a special fund designed to ‘equalise’ resources across the nation. The Constitution mandates that the fund be used ‘to provide basic services including water, roads, health facilities and electricity to marginalised areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible’.³²

The key question is whether measures to implement the Constitution will effectively take into account the interaction of gender and ethnic discrimination and its manifestation in the daily lives of minority women across Kenya. The following section highlights the particular challenges for women raised by the communities who participated in the field research, by linking them to the intersection of gender and ethnic identity.

Pastoralist women and girls

Pastoralist communities in Kenya are diverse – they inhabit different regions, ascribe to different religious faiths, and have unique cultural practices in many respects. For this report, MRG held focus groups and interviews with representatives of seven different pastoralist groups all of which have distinct histories and unique challenges. Despite this diversity, however, pastoralists linked women’s rights concerns, such as economic empowerment and lack of access to education, to some important common themes. For pastoralist women, generalized insecurity and violence in pastoralist areas as well as harmful practices within their community that target women, were the key challenges at the intersection of gender and ethnicity.

The vulnerability of women and girls to violence during conflict or generalized insecurity is well

documented. The chief executive of the Consortium for the Empowerment and Development of Marginalised Communities (CEDMAC), Jarso Mokku, identified insecurity and the resulting health and psychological trauma as the number one issue facing minority and indigenous women in Kenya.³³

For pastoralists across northern Kenya, cattle-rustling³⁴ and conflicts with neighbouring communities remain huge concerns. This is a concern for other minority groups, but for pastoralists the problem has been a chronic one for many decades. Traditional customs that made it taboo for women and children to be harmed during inter-communal raids have broken down in recent decades as rustling has become a way to secure resources as well as a means of political intimidation.³⁵

In August and September 2012, Kenya experienced a major outbreak of inter-communal violence and generalized insecurity in several areas that are home to pastoralist communities. From Mandera and Wajir in the north, and along the coast, a spate of killings erupted and culminated in a massacre in an Orma village in the Tana River delta. More than 50 people were killed, many of which were women and children. The perpetrators were reportedly members of the Pokomo ethnic community who attacked in retaliation for an earlier raid by Orma pastoralists on a Pokomo village.³⁶ Revenge attacks followed, with dozens more deaths. Rendille and Samburu community leaders also report that levels of violence in Northern Kenya are on the increase in the run-up to the 2013 elections. According to a Rendille leader, Alyce Kureya:

*When the cattle are taken and when small trading is stopped because of insecurity, the whole family becomes destitute. There are many widows and orphans because of the fighting. Rustling selectively kills able-bodied men, leaving many female-headed households. They have to move into urban areas and become very vulnerable.*³⁷

Community advocates also reported that women had an important role to play in challenging community practices that support cattle rustling. In particular, women and girls learn early on to sing praises for warriors who are preparing to raid or who are returning from raids. If women can change their own practices as well as the values they transmit to their children, they can have a significant impact on violence in their communities.

And it is women who often have the most to lose; continuing violence contributes to the cycle of poverty in which many women find themselves trapped. In urban areas, widowed women may resort to prostitution in order to survive. In Turkana, one community advocate reported

that many of those living in communities around Lake Turkana had moved into the area when they were widowed after inter-communal raids. Women themselves reported that prostitution was a major concern because of poverty in the area and that this practice led to the spread of HIV. 'We have lost a lot of people to HIV,' related one Turkana woman who lives near the lake.³⁸

Conflict and insecurity negatively affects women and girls not only through direct violence perpetrated against them, but through limitations on their freedom of movement, which results in reduced access to food and water, and interrupts education. This can have a significant negative impact on girls' schooling, when they are unable to travel to their schools because of insecurity.³⁹ Despite multiple policy initiatives throughout the years, the Kenyan state has failed to effectively provide security to populations in pastoralist areas.⁴⁰ Interviewees attributed this to long-term marginalization and neglect of minority and indigenous groups and to the fact that some individuals want to exploit insecurity for political gain.

Pastoralist women also identified certain cultural practices that are harmful to girls as a key factor preventing pastoralist girls from attending schools in the same numbers as boys. As Table 1 shows, disparities in school attendance between boys and girls are highest in pastoralist areas. Female genital mutilation (FGM) and child marriage, as well as other harmful practices such as 'child beading' (see box 3 opposite), remain major

Box 2: Enhancing women's access to fistula care in the Rift Valley

Fistula is a devastating condition affecting many girls and young women as a result of FGM, early marriage or sexual violence. Because of the severity and side-effects of the condition, it often leads to sufferers being rejected by their husbands, families and communities. Although access to reproductive health care remains a major concern, advocates working with multiple minority and indigenous communities in the Rift Valley described the relative success of a UN Population Fund (UNFPA) supported programme to provide a surgical remedy for women and girls suffering from fistula. Fistula surgery is a relatively simple and successful procedure.

UNFPA has supported Moi referral hospital in Eldoret, a major urban centre in the Rift Valley, to retain a fistula specialist. Any woman from the region can go for treatment and receive free care. It is estimated that the hospital treats approximately 300 women a year for the condition. Nevertheless, those who want treatment must travel to Eldoret, the cost of which alone can prevent many from seeking assistance.

challenges for pastoralist women trying to access education and other opportunities.

FGM is practised in more than three quarters of the country, although the prevalence varies widely from one ethnic group to another. The practice is widespread amongst Somali (97 per cent) and Maasai (93 per cent) women. It is also common among Taita/Taveta (62 per cent) and Kalenjin (48 per cent) groups. Levels are much lower among the Turkana (12 per cent).⁴¹ Statistical information as well as MRG's field research suggest a steady reduction in the practice overall since the 1990s, especially in urban areas.⁴²

Despite this decreasing prevalence, FGM continues amongst minority communities across Kenya for a number of reasons. In many communities, FGM is considered an important cultural rite of passage and the only way to prepare a girl for marriage. Women from the Endorois community said that women who have not undergone FGM generally are not selected to perform certain important roles, such as hosting and preparing food for meetings of the elders, because they are not considered to be competent to participate in important community matters.⁴³ Endorois women also noted that that the prevalence of FGM is declining as a result of education. Women from other pastoralist areas, however, noted that the practice still persists at high levels. A Pokot FGM activist estimated that 75 per cent of girls are being cut in that community.⁴⁴

Women leaders from multiple communities directly linked FGM and early marriage to poverty. Families who are poor cannot afford to keep girl children in school and instead look to bridewealth payments as a source of income when a daughter is married off. As a result, girls undergo FGM to prepare them for marriage as early as possible.

For minorities and indigenous peoples, transmission of culture can be a critical way of maintaining identity in the face of assimilation and marginalization. But some cultural practices marginalize and discriminate against women and children. There is ongoing debate over how communities and governments should address such practices. In 1990, the CEDAW Committee recommended that states take all appropriate measures to eliminate FGM and other harmful practices.

In 1992, the CEDAW Committee reaffirmed in its General Recommendation No. 19 that harmful practices are a form of violence against women. The Maputo Protocol also places an obligation on states to ensure that women in Africa are not subject to harmful practices. The protocol defines violence against women as 'all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the

Box 3: Child-beading among the Samburu

Amongst the Samburu and certain other pastoralist groups in Northern Kenya, the practice of girl-child beading was also identified as a discriminatory harmful practice that undermines girls' ability to stay in school, among other negative consequences. Samburu *morans* (or warriors)⁴⁵ agree with a young girl's family that she should be 'beaded', a practice that allows the moran to use the young girl as a sexual partner without any obligation to marry her or support children that result from the union. Beaded girls generally are between nine and 15 years of age.⁴⁶ Girls receive large quantities of red beads to signify the arrangement; the girl and her mother are generally provided with other forms of support such as food stuffs; and the girl's mother builds the pair a hut, called a *singira*.⁴⁷ A local community based organization, Samburu Women Trust, calls the practice a modern form of sexual slavery.⁴⁸

The practice is based on a belief that it reduces promiscuity, enhances the attractiveness of girls to older suitors who might marry them, and that it helps to prepare girls for their roles as wives. However, the practice leads to multiple negative consequences for Samburu girls. Beaded girls are not permitted to attend school. In addition, a community organization working with the Samburu noted that girls who are beaded suffer psychological trauma, unwanted pregnancy, unsafe abortion, and sometimes contract HIV and other sexually transmitted infections.⁴⁹

imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war'.⁵⁰

Kenya's Constitution, laws and treaty obligations also outlaw harmful practices⁵¹ and provide specific protection for children and youth.⁵² Despite these important legal protections, minority women continue to suffer the consequences of harmful practices, often with little intervention from the state.

Women and girls from pastoralist communities are often the main losers from state discrimination and government failure to provide security in the areas where they live; women also face discriminatory harmful practices from within their own community. In pastoralist communities, identity remains a powerful force for pastoralists (unlike other groups described in the following sections who have been fighting assimilation) but some cultural practices are also a source of gender discrimination. Poverty and lack of access to education has exacerbated this double discrimination for pastoralist women.

Hunter-gatherer women and girls

For hunter-gatherer groups in Kenya, the most urgent challenge is land tenure insecurity and the resulting loss of cultural identity. Women from all of these communities trace their top concerns, specifically poverty, lack of access to education, and lack of access to basic services, directly to loss of land and the failure of the government to provide the community with secure land title. For hunter-gatherers, who are generally smaller in number than other minority groups and who have been removed from a crucial source of their identity – their ancestral lands – women face many external threats to their community's existence as a people.

MRG conducted community meetings with the Aweer, Ogiek and Sanye communities, and interviewed community leaders from these groups and from the Yiaku. When the government outlawed hunting in 1977 the livelihoods of hunter-gatherers around Kenya were undermined. In addition, legislation gazetted forests for protection, development, or settlement by non-hunter gatherers has resulted in the exclusion of these indigenous peoples from their traditional lands and source of livelihood. These groups have been removed from all or most of their traditional territories through government policies over the years. While forced evictions have been a problem for many communities in Kenya, the situation for hunter-gatherers is particularly dire.

Along the Kenyan coast Sanye women, who were evicted from their traditional territory when the Kenyan government established settlement schemes on the coast for non-coastal ethnic groups, described land loss as the direct cause of their poverty. Prior to their eviction, the Sanye traditional lands centred around a lake, which was the customary seat of their king. The lake and the forests around it also held spiritual significance for the Sanye.⁵³

In the 1970s, the Sanye were evicted when the Kenyan government began creating settlement schemes along the Kenyan coast. According to elder women in the community, they were loaded onto trucks and taken to another location known as Jamhuri. 'We lost everything during the evictions – houses, personal property, everything.'⁵⁴ But most importantly, the community lost access to the lake – which was their source of livelihood – and to sacred trees, which held a spiritual significance for them. The influx of settlers into Lamu County eventually squeezed Sanye into a small piece of land where they are now squatters.

Sanye women describe the eviction as a very 'bitter and nasty experience'. They report that they are afraid to access the lake because they fear being attacked by settlers who

now live there. They are angry that settlers from other parts of Kenya now have paper title to land that they believe was once theirs, and that the government has never provided them with any title to land of their own. Moreover, they view the extensive development assistance that was provided to the settlers (such as farming inputs, piped water etc.) as unfair, since they have never been provided with similar types of assistance. Most of all, they constantly fear renewed displacement since they have no formal title to any of the land on which they reside.

Only a few kilometres away, the coastal Aweer community faces a similar situation. Aweer were excluded from the lands they traditionally inhabited when the government designated the Boni and Dodori National Reserves and when the government created the settlement schemes that also removed the Sanye. As one Aweer woman said: 'Aweer is forest and forest is Aweer.' Aweer women, *idoho aweer* in the Aweer language, work to preserve the forests because of the food, medicines, sacred trees and shelter that the forest provides. Women from the community expressed the anger they feel when they now see land grabbers and illegal loggers destroying forest resources on what they regard as their community land, as well as their frustration that the community has never been afforded title to any land after their removal. Despite multiple proposals to the Kenya government to resettle the Aweer and provide tenure security, the government has taken no action over the past four decades.

In Laikipia North, the Yiaku hunter-gatherers of the Mukogodo Forest have also suffered from land loss and the outlawing of their hunting-gathering livelihood. Although the community still lives in parts of the forest, they no longer live deep in the caves within the forest. They continually fear loss of access to their land, where they continue to maintain traditional bee hives.⁵⁵ Like many other hunter-gatherer groups, their traditional lifestyle has been undermined over the years, and has led to their assimilation and given rise to fears of cultural extinction. Like Sanye, Aweer and Ogiek languages, very few people speak the traditional Yiaku language, *Yiakunte*. The language has been listed as extinct by UNESCO, and there are only a handful of elders remaining who can speak the language.⁵⁶

In the Rift Valley in the remnants of the once vast Mau Forest, Ogiek face the same crisis. Ogiek have been removed from the forest over many decades as more and more of the Mau has been gazetted for protection and settlers have moved into the region. Ogiek have been scattered around the region that was once the Mau Forest and Mount Elgon. Despite several court cases and government task forces set up to protect the Mau and resettle Ogiek people, issues of tenure security have never been resolved. Evicted Ogiek communities in Tinderet, for

example, still live as squatters along the roadside at the edge of the forest they once inhabited.

Women describe the fact that because the community has no secure land tenure, they have no economic power to purchase the things they need nor do they have any political power to demand that the government provide them with those things. For instance, displaced hunter-gatherer villages are often so far from schools that children cannot access them, as in the case of the Ogiek, or the schools in the villages are so inaccessible that the teachers attend inconsistently, as in the case of the Aweer. Aweer and Sanye were clear for example, that girl-child education is not necessarily an issue of discrimination against girls, but is an issue of discrimination against the entire community as a whole in the form of land loss. Even in relation to gender-specific concerns such as maternal health care, women described the fact that they cannot access care because of their poverty as a result of land loss and because they have been pushed to marginal lands that are far from any services.

Women also described the specific ways in which land loss had led to upheaval in gender roles and gendered spaces. Women in hunter-gathering communities play important roles as builders of the family home within a specific village plan, caring for children and transmitting important cultural principles, as well as accessing certain foods, medicinal plants, and other products from their environment. Men traditionally were those who went deeper into the forest to hunt game. After eviction, women from hunter-gathering communities are no longer able to carry out these roles in the same way or sometimes at all. Women from the Aweer, Sanye and Ogiek communities all described loss of food sources, loss of access to medicinal plants, and loss of access to sacred sites for women.

Ogiek families in Tinderet, for example, are squeezed into tiny mud huts, where women complain that they cannot maintain the family and village structures they once relied upon. In particular, women described the fact that with so little space huts can no longer be gender-segregated as they were when the community lived in the forest. 'There is no privacy for any of the key events in a girl or woman's life', such as childbirth, one woman explained, which has led to constant violation of key cultural taboos.⁵⁷

Sanye women described the fact that they don't build homes or develop the land in the way they would if they had title. 'We can't enjoy a permanent life,' said one participant in a Sanye focus group, because we fear that we will be 'displaced at any time by land grabbers or government programmes'.⁵⁸ Aweer women described a special bond between women and the forest because of the way women traditionally used it for shelter, sacred herbs,

and food. In particular, the cycad tree is a traditional relief food that women use in cases of drought. With increasing land loss and destruction of forest resources, their bond with the forest and their basic food security is under threat.

The Constitution provides clear protections for community land rights,⁵⁹ a provision that is paramount for hunter-gatherers, but that is also important for other minority and indigenous communities across Kenya. After several failed attempts to create draft legislation, the government in September 2012 established a task force of experts to develop legislation on community land and evictions. The task force and any resulting legislation must take into account how community land tenure and evictions interact with both gender and minority status.

As described here, minority women see their own rights (access to economic opportunities, access to education for girls and basic services such as reproductive health care) as fundamentally related to their community's land rights. Moreover for women, whose land rights in most indigenous groups are relational and governed by customary law, the loss of traditional lands often undermines the customary systems of land allocation to clans and families.⁶⁰ If communally held lands are replaced by individually held property, which has been the case for a substantial portion of Maasai ancestral lands for example, women generally are the losers, as plots are registered in the name of male heads of household. Accordingly, the intersection of gender, minority status and land rights under the new Constitution must be critically examined as new community land legislation is developed.

Women in fishing communities

For women in fishing communities, living in marginalized areas combined with unequal gender roles within their communities presented major challenges. In particular, as fish stocks decline and family finances become more desperate, the impact of gender roles that place many responsibilities for basic family needs on women emerged as a source of frustration.

In both Turkana and Suba, interviewees noted that women are extremely overworked and overburdened 'because they are responsible for everything'. In combination with under-development in marginalized areas, women become doubly burdened in trying to provide for their families.

Women in these communities expressed frustration that the majority of responsibility for supporting the family fell upon their shoulders, while at the same time they had so few income-generating opportunities because of intense under-development and environmental destruction. Women reported that they were responsible

for providing water, fuel and food from the garden, and for paying for school fees; they were also expected to give some of their earnings to their husbands.

A lack of road networks, electrification, and phone networks in some areas frustrate attempts to enhance economic opportunity. At the same time, declining fish stocks has made it harder for women to provide for their families. For women, the fishing trade provides some additional income, even if it is minimal. Women in fishing communities in Kenya generally do not own the boats and nets used in the fishing trade, but are hired as day-labourers once the fish are brought to the beaches. Women interviewed for this report said that they earned less than US\$1 a day to scale, clean, transport and sell fish from the lakes.⁶¹

There are several reasons for the decline in fish populations. First, there are too many people fishing out on the lakes, according to interviewees. In Turkana for example, many years of drought have forced more and more people to become dependent on the lake and its fish population for survival. In Suba, interviewees noted that for those without land or when times get hard, anyone can go to the lake to try to make a living because 'the lake belongs to no one, it is free for all'.⁶²

Fishing has also become increasingly commercialized over the past decades, whereas in the past, communities simply fished for subsistence.⁶³ 'The lake has changed. There used to be fish just jumping out of the water, but now there are so little fish in the lake,' described Theresa Ekiro, a fish seller on Lake Turkana.⁶⁴ Community members and environmental advocates agree that the existing legal and policy regime is well-designed, but

enforcement is virtually non-existent.⁶⁵ As stocks decline fishermen resort to destructive fishing practices: using poisons to enhance catches; taking fingerlings before they have a chance to mature; and ignoring seasonal fishing restrictions to protect fish breeding periods. Personnel from the Ministry of Fisheries are too few in number and are reportedly bribed to overlook violations.⁶⁶

Other challenges also hinder the recovery of fisheries. Water and sediment levels in the lake are changing dramatically as a result of changes in rainfall patterns due to climate change.

Development projects have also had negative environmental impacts, particularly in Lake Turkana. Ethiopia is building a controversial hydroelectric dam upstream on the Omo River, which feeds into Lake Turkana. The Kenyan government has also licensed oil exploration in the Turkana region. Fishing communities in Turkana are worried about possible damage to the lake and fisheries as a result of the seismic blasts and industrial waste pollution, as well as restricted access to the lake because of oil drilling.⁶⁷

Turkana women who depend on fishing described their fear that they would lose their livelihood because of the oil exploration on Lake Turkana. 'We have no other options here. If access to the lake is restricted, we will not be able to work because the fishermen will lose business.'⁶⁸

Interviewees from Suba and Turkana asserted that the government neglects minority areas because these groups have less political power than others. For minority women, this neglect contributes to the double discrimination they face when it compounds gender roles that place substantial economic burdens onto women.

Minority and indigenous women taking the lead

Ultimately, minority and indigenous women themselves are in the best position to direct the types of changes they believe will address the double discrimination they face. Women leaders are working in minority communities across Kenya to address issues described in this report. However, women's leadership itself often highlights the intersection of gender and ethnic identity, as described in the following section.

Enhancing women's leadership by working within cultural structures

There are women leaders in virtually every minority community in Kenya working to change practices that undermine women's rights and empowerment. Many women who have succeeded have worked within cultural structures that provide an important component of their identity, while at the same time gradually expanding the space available for women to claim their voice and their rights. Working to promote women's rights often involves recognizing and working within patriarchal systems that dominate life in many minority communities in Kenya. The following examples highlight three organizations led by minority women that are working at the intersection of gender and identity to empower minority and indigenous women.

Peace building in the Rift Valley

The organization Rural Women Peacelink works on women's rights and peace building with communities across the Rift Valley. Director Selline Korir said that she founded the group to give women space and a voice in the decisions that affect them. 'When women and men were coming to meetings initially together, either the women would never speak or they would just agree with the men. We started organizing women in internally displaced peoples (IDP) camps to speak up for their own needs,' said Korir. The group started holding women only meetings, but husbands and *wazees* (male elders) still showed up. Women in the communities said that they needed mediation with their husbands and the *wazees* to enable them to participate in the organization's activities.

Rural Women Peacelink spent time over the years in many meetings with men, helping them understand how

women's organizing can support the family and the community at large. Although women's space for communal action was initially limited, Rural Women Peacelink encouraged women to use whatever space was available, and then to slowly expand it. 'The cow may belong to the man, but if he says the milk belongs to the woman, we said, milk the cow for all it's worth. The key theme is using all available spaces within the cultural framework.' Today, Rural Women Peacelink has 15 networks across Kenya linking more than 500 women's peace building groups. Korir believes the time spent working with men to bring them on board has paid off, in that men in communities are now generally supportive of Rural Women Peacelink's work.

Tackling female genital mutilation

The SETAT Women's Organization works with women from the Pokot, Marakwet, Sabaot, Il Chamus, and Keiyo communities in the Rift Valley. The group uses positive cultural practices to counteract the practice of FGM. SETAT has been running a programme for the past decade using the traditional Kalenjin *tilya* system, which translates roughly as 'economic relative'. Under the *tilya* system, someone suffering economic distress is given a loan of livestock and the lender becomes an 'economic relative', regularly checking on the borrower to assess progress and provide advice. When the livestock gives birth to young, those animals must be passed back to the lender.

SETAT's programme to disincentivise FGM practitioners uses the same system, putting SETAT in the place of an economic relative for practitioners who agree to abandon their work. The programme provided livestock to former practitioners to stop their work as FGM practitioners and who were then monitored for a decade. The first group of ex-practitioners gave the offspring of their livestock back to SETAT who then used them for *tilya* for another group.

Increasing women's access to justice in Turkana

In Turkana, a community-based organization has been working to increase women's access to justice and reduce impunity for violence against women through interaction with both the formal and community-based justice

systems. The Turkana Women and Development Organization (TWADO) trains women paralegals who are then seconded to councils of elders around Turkana. The paralegals identify and monitor cases of violence against women and children that come before the elders. Significantly, the women participate in meetings of the council of elders, a traditionally all-male space, when cases of violence against women and children, as well as marital and inheritance issues, come before the group. The paralegals provide their recommendations, based on their training from TWADO, and encourage use of the formal courts in appropriate cases. The organization then provides ongoing legal assistance and monitors the progress of such cases.

TWADO reports that the women paralegals generally have been positively received into the elders' system of dispute resolution. Their recommendations are acceded to in many of cases. However, challenges remain. Women working in the TWADO programme have received threats and are sometimes harassed because of their work. In addition, they often come across victims' families who would prefer to use traditional dispute resolution instead of the formal courts. This can lead to families colluding with perpetrators and police to destroy evidence and make cases impossible to prosecute.

Leadership in community governance

Supporting women's leadership remains a challenge in many minority groups; however, the Abasuba community on the shores of Lake Victoria in south-western Kenya presents a changing picture. Abasuba, who traditionally were a fishing community, migrated to Kenya several hundred years ago from Uganda. Historically, Abasuba have confronted many of the same issues of marginalization and discrimination as other minority groups in Kenya. Their existence as a distinct group was not recognized by the Kenyan state and they were considered to be members of the Luo ethnic group. Their national identity cards previously defined them as Luo-basuba. 'In the past, it was like the Abasuba didn't exist. We were mixed up with the Luo... All the resources would be handed out [in other areas] and no one ever thought of the people living behind the hills and on the islands.'⁶⁹ The Abasuba were being assimilated by Luo culture; the community had largely lost its unique language and many of its traditional cultural practices had been altered to match those of the Luo.⁷⁰

The distinct identity of Abasuba was only recognized in the past few decades after former President Moi granted the Abasuba their own district and called it Suba. Abasuba

elders described how this has led to positive changes: 'Since Suba was created the government and other organizations recognized our existence so any time there is a distribution we are considered. This is important in allocation of teachers, offices, professionals, projects etc.'⁷¹ The Abasuba language has now been reintroduced into many local primary schools.

In reasserting their identity, Abasuba have created new governance structures for the community. The Suba Elders Council for Development and Culture draws members from the six Suba sublocations of Mfangano Island, Rusinga Island, Gembe, Lambwe, Kaksingiri, and Gwasssi. Importantly, the council includes women as general members and in its executive leadership. One male elder described the council's philosophy on women's leadership: 'The Suba recognize the Constitutional provisions on women's equality and we want other parts of Kenya to know that Suba women can succeed.'⁷² The council also has recently inaugurated a women's section to empower women to address their own concerns in the community. At the very local level, women are also appointed as clan elders.

Abasuba community governance structures exemplify the changes that are occurring in many minority and indigenous communities, as women's leadership roles become increasingly accepted. In other communities across Kenya, women are playing important leadership roles in key community institutions and on the international stage. The Ogiek Peoples' Development Programme (OPDP) is supporting women human rights monitors to find creative ways to document information about human rights violations, despite traditions that restrict the way men and women interact.⁷³

In the Endorois community, women leaders play a key role in community-based structures that have been designed to implement a recent land rights decision of the African Commission on Human and Peoples' Rights, which ruled in 2010 that the Kenyan government must restore ownership to the Endorois of their ancestral land around Lake Bogoria. Women also act as the public face of the community on the international stage, by representing the Endorois at the African Commission's meetings. Other minority communities in Kenya, such as the Yiaku and the El Molo, are represented by women leaders in international forums such as the UN Permanent Forum on Indigenous Peoples and the Indigenous Peoples' of Africa Coordinating Committee.⁷⁴

Minority and indigenous women in political leadership

For minority and indigenous groups, who are by definition small in number, political representation is a

fundamental problem. In Kenya, minority and indigenous communities find themselves excluded, in a country where politics is often based on ethnic block-voting and where the spoils of government are disbursed as rewards for political loyalty.

Lack of political representation leads to lack of services in minority and indigenous areas, inability to access government benefits such as scholarships, and little opportunity to voice community concerns at the national level. Aweer women for example stated that: 'In the past there was a local councillor, who represented our interests, but in the last election that position was lost, and now it is all controlled by the settlers. Now we don't feel comfortable going to the new councillor with our concerns.'⁷⁵

Given the minimal space for political participation by minorities in general, the space for minority and indigenous women to participate in politics is even smaller. In the opinion of one advocate, women start from a disadvantage even in the voting process. 'Because of their responsibilities at home, women are always the last to get to the polls. They have to prepare the children, care for the livestock, make the food and only then can they get to the polls. By then there are long lines and many women don't see that it's worth it,' said Josephine Nashipae, executive director of the League of Pastoralist Women in Kenya.⁷⁶

With these kinds of barriers simply to voting, running for local or national office can seem impossible for women. 'Most women are very afraid to go into politics,' said Raya Ahmed, a health worker and member of the coastal Bajuni community. Those who do take the risk however, can find themselves under pressure from the power structures within their communities.

Women interviewed for this report reported discrimination, harassment and sometimes outright violence as a result of participating in politics. 'There's always a level of resistance from men when you don't conform. Men take these things as a power balance, and you threaten their power. They'd say "we cannot elect a woman to be our member of parliament – what if you had to deal with a security issue? What if you got pregnant?" Your opponents always play on gender to defeat you,' explained Alyce Kureya, a Rendille woman leader who is running for office for the second time during the 2013 election cycle.⁷⁷

A woman who successfully gained the post of assistant chief in one of the communities in Suba County described that during her job interview she was asked: 'if your husband beats you, won't you run back to your mother?'⁷⁸ Other Abasuba women in leadership positions, even those in respected positions such as clan elder, reported that they are called *thakathaka*, which means a 'mere woman', and were told that women cannot effectively lead.⁷⁹

Despite these perceptions about women's leadership, minority and indigenous women political leaders have

emerged across Kenya. Supported by the affirmative action provisions of the Constitution, aspirants range from local women running for local and county offices, to highly educated elites running at the parliamentary and senatorial level.

The 2010 Constitution has radically changed the landscape for women's political participation. Every county will now have a female member of parliament, through a reserved seat system. These so-called women's seats have galvanized women in many communities and raised expectations for change. 'Women are waking up to their rights,' said a Pokot community activist and political aspirant. 'Women are asking for more participation and expecting the newly elected women's MP to facilitate women's participation in decision-making,' said a candidate from the Maasai community in Laikipia.⁸⁰ Over the past decade, more and more structures to support minority women in Kenyan politics have emerged. Organizations to provide training, capacity building, networking and direct campaign funding will be critical for women candidates in the new constitutional system.

Despite the high expectations and the constitutional mandate for women's participation, there are substantial barriers to overcome before minority and indigenous women can capitalize on these gains. These include lack of education, lack of awareness of the new campaigning procedures and legal requirements to qualify to be on the ballot, inability to access sufficient financing, and family and community resistance. For minority women who run for office in rural areas, these challenges can be particularly acute. According to the League of Pastoralist Women, culturally, women cannot raise and distribute funds in the same way as men. On top of that, running for a women's seat is more expensive because women must canvas an entire county, instead of a single constituency like the other members of parliament. For large rural counties, this makes raising funds even more critical simply because of the logistics of moving around such a large and inaccessible area.

Patriarchal barriers also often force indigenous and minority women out of the political arena before they even begin. Prior to the creation of the women's seats, women were regularly asked to step aside so that a male community member could run. 'They come to you with a delegation that you cannot refuse, your father, your brother, the elders and tell you that it's best for the community if a man runs instead.'⁸¹

With the advent of the women's seats, there is a perception that women now have permission to engage politically, but only in a limited way. Women express concern that they may become pigeon-holed into these seats, or that men will control them through sponsorship and party politics. Despite this, there is little doubt that the constitutional mandate for women's participation in

Kenyan politics has generated immense excitement among women across the country. Ultimately, the Constitution's affirmative action provisions will bring more women into parliament, 'giving them a platform to show their capabilities. This will eventually break barriers and bring women to a new level,' said Rendille woman leader, Alyce Kureya.⁸²

Conclusion

Women from minority and indigenous communities across Kenya are standing up to take leadership in their communities and work for political and cultural change, despite challenges they face from society at large and from within their own communities. These challenges include discrimination, patriarchy, violence and insecurity, economic disempowerment, as well as harmful cultural practices. Minority and indigenous women in Kenya, like their counterparts around the globe, navigate their daily lives and their paths to leadership through the context of their culture, which they recognize as a crucial and positive part of their identity. Recognizing these contexts, minority and indigenous women are working to maintain and promote their cultural identity while creating new spaces to claim their rights.

While there is strong leadership from individual women in many of the minority and indigenous

communities described in this report, the majority of women face ongoing violations of their human rights as women, as minorities and indigenous peoples, and as minority women. Trapped in a cycle of poverty that they attribute directly to decades of marginalization, they fear that they and their children will not be able to take advantage of gains in the new Constitution. Many minority and indigenous women express deep frustration about this negative relationship with the larger Kenyan society, especially the relationship with the government itself. Despite a lack of faith in the government's ability to bring change, communities nevertheless clearly identified actions that could be taken by the state and other actors to support minority and indigenous women's empowerment. The recommendations offered by minority and indigenous women, men, and community advocates are reflected in the following section.

Recommendations

Relevant ministries of the Government of Kenya should:

- Develop programmes to equitably assist displaced people, with an urgent focus on addressing the plight of indigenous communities who have been displaced for more than a decade. Provide urgent humanitarian assistance to these communities in the form of food, water and housing and immediately implement resettlement and tenure-security plans, ensuring that women's specific needs are addressed, such as creating gender-separated housing options when requested.
- Immediately allocate resources to organizations serving minority and indigenous groups for civic education on the Constitution, with particular emphasis on provisions addressing gender equality, the rights of marginalized groups, and land rights. These programmes should be rigorously monitored to ensure that allocated funds result in increased civic education and citizen knowledge.
- Fast-track passage of the Marriage Bill, the Protection from Domestic Violence Bill, the Matrimonial Property Bill, along with other legislation that directly affects the human rights of minority and indigenous women.
- Set aside scholarship funds specifically for pastoralist, hunter-gatherer, and other indigenous girls from marginalized areas as a component of implementing Article 56 of the Constitution. Formulate a suitable literacy programme for members of nomadic pastoral communities.
- Develop economic empowerment programmes that directly target the most vulnerable minority and indigenous women with financial support and other inputs to help them start or improve businesses and increase their financial independence.
- Develop gender-sensitive, culturally-appropriate guidelines on community consultation for development projects (taking into account international norms) and implement those procedures on existing projects, such as the Lake Turkana oil exploration. Ensure that women have spaces where they can safely share their views during these consultations, especially in communities in which gender equality in leadership has not been the norm.
- Work with legitimate community representatives to address emergent conflict, particularly in pastoralist areas, in advance of the 2013 elections. Specifically include women representatives in peace building activities and ensure their equitable participation in decision-making on conflict-mitigation planning. Require that humanitarian service providers include a component of psychosocial support for women who have been affected by generalized insecurity in cases of inter-community conflict.
- In consultation with communities, develop and urgently implement a plan to enhance physical and financial access to health care services, especially maternal health and reproductive health care services, in marginalized areas.
- Enhance enforcement of laws and policies regulating fisheries in Kenya, such as increasing numbers of enforcement staff and taking measures to eliminate corruption, so as to protect a livelihood upon which many minority and indigenous women and families are dependent.
- Work with minority and indigenous communities, NGOs and women's organizations to end violence and discrimination against women, whether perpetrated by members of their own or other communities. Enforce prohibition of practices that contravene standards such as those set out in the Convention on the Elimination of All forms of Discrimination Against Women or the Maputo Protocol.

The National Gender and Equality Commission should:

- Review and update the National Gender and Development Plan to ensure that it is responsive to the needs of minority and indigenous women. Ensure that women from minority and indigenous communities are actively engaged in any such review.
- Develop a task force including representatives of minority and indigenous communities, especially women, to develop policy proposals on implementation of affirmative action provisions in Article 56 of the Constitution.

- Ensure that the concerns of minority and indigenous women are effectively addressed in treaty reporting processes to the African Commission as well as United Nations bodies, such as the CEDAW Committee.
- Undertake a detailed assessment of gender-related legislative and policy provisions to ensure that they also incorporate the concerns of minority and indigenous women.
- Review data collection procedures across the Kenyan government, as well as at county level, and make recommendations for data disaggregation as needed.
- Create programmes to link minority and indigenous women's organizations to the larger women's movement in Kenya and Africa, such as through a national conference on minority and indigenous women.
- Work with donors to develop comprehensive and equitable programmes to support minority and indigenous women candidates for all levels of political office, from local to national, through capacity building, networking, and direct financial support.
- Create a monitoring system for government and non-government programmes to evaluate whether resources allocated to minority and indigenous women are indeed reaching those who are most vulnerable.
- Provide training and capacity building support to minority and indigenous communities in processes,

such as social auditing, to ensure that they can hold leaders accountable for resource allocation and use, specifically in relation to the Equalization Fund and the Constituency Development Fund under the Constitution.

- Work with community-based partners to eradicate violence and discrimination against minority and indigenous women through culturally relevant programmes and provide ongoing training for police, civil servants, and health care providers who often are first responders.

Minority and indigenous communities should:

- Make provision for gender equality in their governance structures, community-based organizations, and resource distribution, in compliance with the Constitution.
- Work towards ending harmful practices, such as FGM, early marriage, and violence against women and girls while maintaining other positive cultural structures.
- Continue to enhance inter-community networks, to share best practices on gender equality, land rights, access to justice and other key themes.

Notes

- 1 Interview with Josephine Nashipae, League of Pastoralist Women of Kenya, Nairobi, Kenya, May 21, 2012.
- 2 MRG: <http://www.minorityrights.org/566/who-are-minorities/who-are-minorities.html>
- 3 UN HCR definition of minorities under international law: <http://www.ohchr.org/EN/Issues/Minorities/Pages/internationallaw.aspx>
- 4 Please note that this list is necessarily incomplete given that there is no community in Kenya that comprises more than 50 per cent of the population and there are more than one hundred ethnically distinct groups and sub-groups according to the census. Many groups that self-identify as marginalized minorities may not be listed here. For complete census information, please visit <http://www.knbs.or.ke/censusethnic.php>.
- 5 Constitution of Kenya (2010), arts. 27(4), 260; Ghai, Yash P., and Jill Cottrell Ghai. 2011. *Kenya's Constitution: An Instrument for Change*. Nairobi: Katiba Institute, pp. 46-48.
- 6 "Social Institutions and Gender Index", (OECD Development Centre, 2012), at <http://genderindex.org/country/kenya>.
- 7 "Social Institutions and Gender Index", (OECD Development Centre, 2012), at <http://genderindex.org/country/kenya>.
- 8 Interview with Alyce Kureya, Rendille women leader, Nairobi, Kenya, May 23, 2012.
- 9 Constitution of Kenya (2010), art. 21(3).
- 10 Ghai, Yash P., and Jill Cottrell Ghai. 2011. *Kenya's Constitution: An Instrument for Change*. Nairobi: Katiba Institute, p. 51.
- 11 Constitution of Kenya (2010), art. 2(5)-(6).
- 12 Constitution of Kenya (2010), art. 43.
- 13 E.g., Interview with Joseph Samal Lomwa, PREMAP, Nanyuki, Kenya, June 12, 2012.
- 14 Sanye Women Focus Group, Mukonumbi, Lamu County, Kenya, 27 May 2012 (translated from Swahili).
- 15 Interview with Seline Locham, Turkana Women and Development Organization (TWADO), September 7, 2012.
- 16 Interview with Gabriel Matta, Suba Elders Development and Cultural Council, Sindo, Kenya, August 24, 2012.
- 17 Interview with Dominic Lepamarai, Samburu Women Trust, Nanyuki, Kenya, June 13, 2012.
- 18 National Gender and Equality Commission Act (2011).
- 19 National Gender and Equality Commission Act (2011), art. 8.
- 20 Interview with Jarso Mokku, Consortium for the Empowerment and Development of Marginalised Communities (CEDMAC), Nairobi, Kenya, Aug. 30, 2012.
- 21 "Gender Not Just About Women, says Lichuma," *Daily Nation*, May 11, 2012, <http://www.nation.co.ke/News/Gender+not+just+about+women+says+Lichuma+/-/1056/1404234/-/item/0/-/wbgbl2/-/index.html>.
- 22 Interview with Theresa Ekiru, Fish Hawker, Longech, Turkana County, Kenya, September 7, 2012.
- 23 'Poverty Rate, by District', Open Kenya, Transparent Africa. Available at: <https://opendata.go.ke/-Environment-And-Natural-Resources/Poverty-Rate-by-District/i5bp-z9aq> [Accessed July 9, 2012].
- 24 Id.
- 25 (Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), *Female Genital Mutilation in Kenya* 2007.
- 26 Kenya National Bureau of Statistics, Population, 3 years and above by Sex, Age and School Attendance Status up to County Level, at http://www.knbs.or.ke/detailed_population_results.php.
- 27 Aweer Women Focus Group, Mokowe, Lamu County, Kenya, 26 May 2012 (translated from Kiswahili/Aweer); Interview with Raya Ahmed, Health Worker, Lamu, Kenya, May 28, 2012.
- 28 It is important to note that the Government response to this IDP crisis has also been extensively criticized.
- 29 Minority women also confront challenges as a result of other identities, such as religious affiliation or disability. Those concerns are not addressed in this report, not because they are any less important or real in the lives of women, but due simply to space constraints. Accordingly, this section examines challenges for minority women in relation to gender roles and ethnic identity.
- 30 Ogiek Focus Group, Nandi Hills, Kenya, May 31, 2012.
- 31 Kenya National Commission on Human Rights, *Realising Sexual and Reproductive Health Rights in Kenya: A Myth or a Reality? A Report of the Public Inquiry into Violations of Sexual and Reproductive Health Rights in Kenya* (Nairobi, 2012), p. 18.
- 32 Constitution of Kenya (2010), art. 204(2).
- 33 Interview with Jarso Mokku, Consortium for the Empowerment and Development of Marginalised Communities (CEDMAC), Nairobi, Kenya, Aug. 30, 2012.
- 34 Cattle-rustling is a term used to describe what originated as a traditional form of inter-communal raiding, in which young morans (warriors) would raid cattle from other communities during coming of age ceremonies or in order to pay bridewealth. Today however, cattle-rustling has become primarily a means of political intimidation and an organized criminal activity practiced for economic gain.
- 35 Young, Laura A., and Korir Sing'Oei. *Land, Livelihoods and Identities: Inter-community Conflicts in East Africa*. London: Minority Rights Group International, December 2011.
- 36 Momanyi, Bernard. "Kenya: Curfew Imposed in Wajir As Violence Spreads." *Capital FM*, August 23, 2012. <http://allafrica.com/stories/201208240076.html>; Gari, Alphonse. "Kenya: Massacre." *The Star*, August 23, 2012. <http://allafrica.com/stories/201208231162.html>; Gari, Calvin Onsarigo and Alphonse. "Kenya: Attackers Ferried to Tana - NSIS." *The Star*, August 27, 2012. <http://allafrica.com/stories/201208280218.html>.
- 37 Interview with Alyce Kureya, Rendille Political Aspirant, Nairobi, Kenya, May 23, 2012.
- 38 Interview with Theresa Ekiru, Fish Hawker, Longech, Turkana County, Kenya, September 7, 2012.
- 39 Interview with Alyce Kureya, Rendille Political Aspirant, Nairobi, Kenya, May 23, 2012; Interview with Jane Meriwas, Samburu Women Trust, Nanyuki, Kenya, June 13, 2012.
- 40 See e.g., Young, Laura A., and Korir Sing'Oei. *Land, Livelihoods and Identities: Inter-community Conflicts in East Africa*. London: Minority Rights Group International, December 2011.
- 41 Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), *Female Genital Mutilation in Kenya*, November 2007.
- 42 Id.; Interview with Lillian Flapan, SETAT Women's Organization, Makutano, Kenya, May 30, 2012; Endorois Women Elders Meeting, Lake Bogoria, Kenya, January 27,

- 2012; Interview with Anab Mohamed, Northern Aid, Nairobi, Kenya, August 30, 2012.
- 43 Endorois Women Elders Meeting, Lake Bogoria, Kenya, January 27, 2012; Interview with Lillian Flapan, SETAT Women's Organization, Makutano, Kenya, May 30, 2012.
- 44 Interview with Lillian Flapan, SETAT Women's Organization, Makutano, Kenya, May 30, 2012.
- 45 Morans include men who have been initiated into the warrior age-set but who are not yet eligible to marry.
- 46 Samburu Girl Child Beading – A Silent Sacrifice (video), (Samburu Women Trust/IWIGIA 2012).
- 47 Interview with Jane Meriwas, Samburu Women Trust, Nanyuki, Kenya, June 13, 2012; Samburu Girl Child Beading – A Silent Sacrifice (video), (Samburu Women Trust/IWIGIA 2012)
- 48 Samburu Girl Child Beading – A Silent Sacrifice (video), (Samburu Women Trust/IWIGIA 2012).
- 49 Interview with Jane Meriwas, Samburu Women Trust, Nanyuki, Kenya, June 13, 2012; The Samburu Girl Child Magazine: Beads of Bondage (Samburu Women Trust, 2011).
- 50 Art. 1(j).
- 51 Constitution of Kenya (2010), art. 53(1)(d), 55(d).
- 52 See e.g., the Children's Act (2001) and the Anti-FGM Act (2011), both of which outlaw FGM, and the Sexual Offences Act (2008), which implicitly outlaws the practice of girl-child beading.
- 53 Interview with Mwalimu Baadi, SAVE Lamu, Lamu, Kenya, 26 May 2012.
- 54 Sanye Women Focus Group, Mukonumbi, Lamu County, Kenya, 27 May 2012.
- 55 "Yiaku – A tribe on the edge of extinction", *The East African Standard*, Oct. 8, 2006.
- 56 Mhando, J., *Safeguarding Endangered Oral Traditions in East Africa*, (UNESCO, 2006). Personal Communication from Jennifer Koinante, Yiaku Peoples Development Organization, June 29, 2012.
- 57 Interview with Esther Chepkosgey, Tinderet, Kenya, May 31, 2012.
- 58 Aweer Women Focus Group, Mokowe, Lamu County, Kenya, 26 May 2012.
- 59 Constitution of Kenya (2010), art. 63.
- 60 Young, Laura A., and Korir Sing'Oei. *Land, Livelihoods and Identities: Inter-community Conflicts in East Africa*. London: Minority Rights Group International, December 2011.
- 61 Interview with Christine Nangolia, Fish Hawker, Longech, Turkana County, Kenya, September 7, 2012; Interview with Jennipher Atieno, WIFIP, Kisumu, Kenya, August 23, 2012.
- 62 Abasuba Youth Focus Group, Kaksingri Location, Suba District, Kenya, August 23, 2012.
- 63 Gabriel Matta, Suba Elders Development and Cultural Council, Sindo, Kenya, August 24, 2012.
- 64 Interview with Theresa Ekiru, Fish Hawker, Longech, Turkana County, Kenya, September 7, 2012.
- 65 Abasuba Elders Focus Group, Kaksingri Location, Suba District, Kenya, August 23, 2012; Interview with Jennipher Atieno, WIFIP, Kisumu, Kenya, August 23, 2012; Abasuba Youth Focus Group, Kaksingri Location, Suba District, Kenya, August 23, 2012.
- 66 Interview with Jennipher Atieno, WIFIP, Kisumu, Kenya, August 23, 2012; Interview with Billy Kapua, Friends of Lake Turkana, Lodwar, Kenya, September 6, 2012.
- 67 Interview with Billy Kapua, Friends of Lake Turkana, Lodwar, Kenya, September 6, 2012.
- 68 Interview with Theresa Ekiru, Fish Hawker, Longech, Turkana County, Kenya, September 7, 2012; Interview with Christine Nangolia, Fish Hawker, Longech, Turkana County, Kenya, September 7, 2012.
- 69 Interview with Nicholas Ouma Ajwang, Suba Elders Development and Cultural Council, Sindo, August 24, 2012.
- 70 Interview with Elijah Ogolo Abiri, Mfangano Island Elder, Sindo, Kenya, August 24, 2012.
- 71 Interview with Gabriel Matta, Suba Elders Development and Cultural Council, Sindo, Kenya, August 24, 2012.
- 72 Id.
- 73 Ogiek Youth Focus Group, Nakuru, Kenya, June 2, 2012.
- 74 Personal Communication from Jennifer Koinante, Yiaku Peoples Development Organization, June 29, 2012.
- 75 Aweer Women Focus Group, Mokowe, Lamu County, Kenya, 26 May 2012 (translated from Kiswahili/Aweer).
- 76 Interview with Josephine Nashipae, League of Pastoralist Women of Kenya, Nairobi, Kenya, May 21, 2012.
- 77 Interview with Alyce Kureya, Rendille Political Aspirant, Nairobi, Kenya, May 23, 2012.
- 78 Interview with Grace Kamaria, Assistant Chief, Kaksingri Location, Suba District, Kenya, August 23, 2012.
- 79 Abasuba Women Focus Group, Kaksingri Location, Suba District, Kenya, August 23, 2012 (translated from Luo).
- 80 Interview with Sarah Lekore, Maasai Political Aspirant, Nanyuki, Kenya, June 12, 2012.
- 81 Interview with Josephine Nashipae, League of Pastoralist Women of Kenya, Nairobi, Kenya, May 21, 2012.
- 82 Interview with Alyce Kureya, Rendille Political Aspirant, Nairobi, Kenya, May 23, 2012.

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Challenges at the intersection of gender and ethnic identity in Kenya

Minority and indigenous women in Kenya are discriminated against on multiple levels; they are targeted because of their identification with a minority or indigenous group, and as women – both by cultural practices within their own community and because of gender discrimination more widely.

This report examines the challenges and the new opportunities that have emerged with the passing of the new Constitution in 2010. The goal of the report is to reflect the voices and experiences of women from diverse minority and indigenous communities in Kenya.

For hunter-gatherer women, many of whom have been displaced and forced to become squatters, community land rights are a primary concern. They view their lack of opportunities, basic services and education for girls as a direct result of their displacement.

For pastoralist women, insecurity and conflict in areas where they live has a disproportionate impact on them. Cultural practices that are harmful to girls, such as female

genital mutilation and early marriage, reduce girls' access to education and entrench women's poverty.

For fisher peoples, environmental degradation and collapsing fish stocks are major fears. Women from these communities expressed their frustration at traditional gender roles that place much of the responsibility for meeting the family's basic needs on women.

While there is strong leadership from individual women in many of the minority and indigenous communities described in this report, the majority of women face ongoing violations of their human rights. Trapped in a cycle of poverty that they attribute directly to decades of marginalization, they fear that they and their children will not be able to take advantage of gains in the new Constitution.

This report highlights actions identified by minority and indigenous women that should be taken by the government and other actors to support women's empowerment and participation in the decision-making processes that directly affect them.

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