



**NGEC**

National Gender and  
Equality Commission

## **FLARES OF MARGINALIZATION AMONG SELECTED MINORITY COMMUNITIES OF KENYA**



**RESULTS OF PUBLIC EDUCATION AND INFORMATION  
FORUMS HELD IN COAST, RIFT VALLEY AND EASTERN  
REGIONS: MAY 12 -19, 2013**





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# ABBREVIATIONS

ACHPR	African Commission on Human and Peoples Rights
CDF	Constituency Development Fund
KCPE	Kenya Certificate of Primary Education
KHRC	Kenya Human Rights Commission
KNBS	Kenya National Bureau of Statistics
MRGI	Minority Rights Group International
NGEC	National Gender and Equality Commission
TSC	Teacher Service Commission
TEPAD	Terik Essential Programs Agency for Development
TPA	Terik Professional Association
UNFPA	United Nations Population Fund

# ACKNOWLEDGEMENT

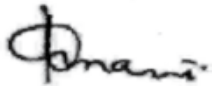
This report has been prepared by the National Gender and Equality Commission.

We would wish to thank all the people involved in the compilation of this report for their commitment to seeing this assignment through in a timely and professional manner.

The findings in this report are based on information gathered from the 12th May 2013 to the 19th May 2013 among the marginalized communities of the Coast, Rift Valley and Eastern regions in Kenya.

We thank staff of the National Gender and Equality Commission who participated in the synthesis of the proceedings and outcomes of the public educational forums. Commissioners Joni Ndubai and Gumato Ukur together with the Deputy Commission Secretary Mr. Paul Kuria led the field team.

We also acknowledge the contributions of the County Governments of Baringo, Nandi, Isiolo, Laikipia, Tana-River and Kilifi counties. Special thanks to members of the Il-Chamus, Terik, Watta, Yiaku, and Ilyana communities who participated in the design and execution of the public education and information forum.



Mrs Winfred O. Lichuma, EBS.

**Chairperson**



## EXECUTIVE SUMMARY

The National Gender and Equality Commission is a Constitutional body established by an Act of Parliament in August 2011. It is mandated under Article 27 of the Constitution of Kenya 2010 to promote gender equality and freedom from discrimination among all Kenyans and in all spheres of life with particular focus on Special Interest Groups (SIGs) among them the minority and marginalized groups and communities.

The commission has a functioning Minority and Marginalized department within the programming and research division whose responsibility is to mainstream issues of the minority and marginalized groups respectively in all national and county policies, laws and administrative rules as well as in private and public Sector Development agenda. In May 2013 the department designed a community based intervention with overall goal to identify key drivers of marginalization in the history and contemporary life of the minority groups. The activity aimed at sensitizing the minority groups of the mandate and functions of the commission, establish common issues to address and define entry points for promotion of equality and inclusion of marginalized groups in current county governments and private sectors in the region. The activity was conducted in collaboration with the County government, the community and the community leaders and targeted the (*Il-Chamus, Terik, Watta, Yiaku, Ilyana and Watta* peoples), in six counties of Kenya (Baringo, Nandi, Isiolo, Laikipia, Tana-River and Kilifi).

The educational forum found that the most common and influential factors promoting perpetual exclusion and inequalities included poverty, loss of identity, negative perceptions and stereotypes, historical and contemporary political exclusion and erosion of cultural values and traditions, underrepresentation in all sectors and spheres of life, government policies including subsidy interventions and past affirmative actions, and limited educational opportunities.

The levels of exclusion and inequities in access and utilization of opportunities varies significantly with gender, ability and age. Women, persons with disabilities, children and elderly are most affected. The forum further identified opportunities for reducing high levels of inequalities and exclusion among the minority communities such as protection and provisions in the 2010 constitution, formation of the community voluntary associations, tapping of skills and professional support from community elites, and reinforcement of community identities through select common values, practices and traditions.

There are varying factors that were identified to contribute in exclusion and marginalization; poverty, identity dilemma, political exclusion and discrimination, cultural attrition through assimilation, under-representation in decision making arms, government interventions and specific subsidy policies, limited access to educational opportunities, negative stereotypes among others. As right holders, the minority communities must continuously present their members to pursue elective and appointive positions in all levels of power. The national and county government and private investors equally need to demonstrate the will to promote equality and freedom from discrimination by enforcing affirmative actions, and deliberately increase opportunities of the minority groups in education, wealth creation, employment, among other sectors of development.



# 1.0 BACKGROUND

The National Gender and Equality Commission (NGEC) is a Constitutional Commission established under Article 59 (4) and (5) of the Kenya Constitution 2010 and operationalized through the national Gender and Equality Act 2011. The Commission's key mandate is gender equality and freedom from discrimination by facilitating, monitoring and advising on the integration of these principles in all national and county policies, laws and administrative regulations. The Commission's target groups include; women, youth, children, persons with disabilities and the marginalized groups.

In line with its mandate NGEC undertook public education and information initiatives among selected communities defined as minority and marginalized to increase their awareness of the opportunities provided for in the 2010 constitution for their inclusion in national and county development. The educational program also sought to sensitize the communities' on the mandate and functions of NGEC and explore mechanism of NGEC and the said communities working together for systematic inclusion in county development agenda. The communities were identified and involved in the educational program through wide consultations and consensus with the county governments of Kilifi, Tana River, Baringo, Nandi, Isiolo and Laikipia.

In addition, NGEC set out to capture and understand the communities' perspectives on the issues of gender equality and freedom from discrimination from the views and minds of historically marginalized communities. Interactions with key community leaders served as a guide to wider community participation in governance and management of public affairs at community and county levels during the early stages of establishment of the county governments. During the educational forum, NGEC observed the dynamics and interactions among and between the diverse sub-communities and a wide range of leadership within the county that would perpetuate further marginalization or reduce the equality gaps.

## 1.1. The 2010 Constitution of Kenya: depth and breadth of marginalization

The 2010 Constitution is an embodiment of renewed hopes and expectations towards addressing specific concerns of indigenous and minority groups and communities. Its adoption is held to be one of the most significant political events since the country gained independence in 1963. Its promulgation was followed by a series of legal and institutional reforms that created a niche for the Minority and Marginalized groups in Kenya. The Constitution grants juridical recognition and acknowledgement to the marginalized. It is also a progressive document which includes provisions that have the potential to secure the

rights of minorities and indigenous peoples in Kenya.

Under Article 260, the Constitution provides an understanding of the marginalized and minorities as follows;

“*Marginalized community*” means—

- (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;

“*Marginalized group*” means-

‘a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27 (4) of the Constitution’.

Constitutional provisions that directly or indirectly underscores the values, rights and protection of the minority and marginalized groups and communities are contained in the articles on national values and principles of governance and community land ownership which constitutes the crux of issues that have accelerated and perpetuated marginalization the socio-economic rights, guarantee of access to justice for all persons, guarantees the right to language and culture, equitable share of the national revenue and resources (and importantly, devolution of power to the people at the local level.

The protection and rights to community land ownership as enshrined in the 2010 Constitution was recently tested through an application filed by the Ogiek community in the African Commission on Human and Peoples Rights (ACHPR) halting forced evictions from Mau and Mt Elgon forests. Most significant to minority groups in Kenya is that, the

Constitution provides for ‘equal treatment of men and women including the right to equal opportunities in political, economic, cultural and social spheres’. This implies that women in Kenya, including those from indigenous and minority communities, have equal rights for instance to citizenship, matrimonial property and inheritance. The Constitution further outlaws any person from compelling another ‘to perform, observe or undergo any cultural practice or rite’. This provision effectively protects women and girls from harmful cultural practices, which are common in some indigenous and minority communities.

## 1.2 Objectives of the public education and information forum

- a) To introduce the mandate and functions of NGEC to identified minority and marginalized groups in Kenya
- b) To understand the structure within which the target groups coordinate and engage themselves in laying claim to their rights and in the pursuance of their development agenda.
- c) To document differentials in levels of marginalization among women, children, youth, elderly, and persons with disabilities among the minority and marginalized groups
- d) To document current factors driving exclusion and discrimination of the selected groups and communities
- e) Identify structured mechanisms of engaging with the minority and marginalized groups geared towards reduction of gender inequalities and exclusion.

## 1.3 Methodology

The National Gender and Equality Commission through the program and research division (department of Minority and Marginalized groups in 2013) designed an intervention involving a sample minority and marginalized groups to identify feasible and effective structural framework through which the Commission could interact and engage these groups in efforts to ensuring their greater involvement and inclusion in county and national development agenda. Further, in April 2013 a Council of Elders of the Terik Community in Nandi County submitted a memorandum to the Commission seeking for an opportunity to meet and interact with the Commission. In May 2013, the Minority and Marginalized department rolled out its first intervention in selected counties in Kenya to meet with minority and marginalized groups and identify priority programmatic activities for the forthcoming financial year among other objectives provided for in earlier sections of this report. NGEC visited three regions and six counties of the country.

Six communities were purposively sampled from a list of minority and marginalized groups and communities developed through intensive literature review of publications on such

populations. The selection criteria applied included the geographical location (choosing communities that do not fall in same region), and memorandum previously issued to NGENC from minority and marginalized communities (that is communities that had served the commission with a memorandum seeking for a consultative meeting to discuss marginalization and equity issues) were also considered. The Terik of Nandi County and the Watta of Isiolo County were two of the minority communities that had sought audience with the commission. Other communities considered for the activity included the Il-Chamus, Watta (of Kilifi County), Yiaku, and Ilyana.



NGEC field team in a courtesy call on the Isiolo County Leaders.

From left to right; Mr.Maurice Ogola(County Secretary), H.E. the Deputy Governor Mr. Mohamed Gulleid, Mr. Ali Godana, Mr. Ibrahim Kosi( Watta Community representatives), NGENC Commissioner Gumato Ukur and Mrs Tabitha Nyambura( NGENC Program Staff)

In addition to paying courtesy calls to the respective county governor's offices, NGENC registered their presence in specific villages where the community assemblies were held through courtesy calls to heads of the sub-locations. The assemblies were chaired by either a chief or an assistant chief with assistance from religious and village elders. The assembly meetings were guided by locally identified resource persons who have demonstrable experience in public education. In each forum a sign language interpreter offered the public education to deaf and dumb participants noticeable in each of the forums organized.

The public education and information forum were conducted in an interactive manner attracting discussions, question-and-answer sessions, brainstorming sessions and sharing of experience. The practical sessions allowed participants to interact with NGENC team and field facilitators. Written memoranda from the community representatives were also received (see annex c). Men, women, youth, persons with disabilities, faith based organizations and community based organizations attended the meetings.

A leaders' forum including community leaders, religious and political leaders, women and youth representatives in each of the selected counties was convened separately from the general community assembly to engage community leadership in detailed discussions on drivers of marginalization and possible community driven solutions.

A desk review of secondary information about the distribution of minority and marginalized communities was undertaken to single out historical factors and social evolution of the marginalization of the respective communities and groups to set a context of the contemporary drivers of marginalization. The data gathered from the sources described were triangulated to a summary of findings presented in this report.

## 2.0 CONTEXTUAL INFORMATION

In Kenya, the concepts of minorities, marginalized groups and indigenous people have been used interchangeably by several actors including human rights advocates. This has led to confusion of these groups hence hindering comprehensive pursuit of their rights by various advocates. Often, human rights advocates equate minority rights to mean children, women, persons with disabilities and sexual minorities.

In 2006, the Kenya Human Rights Commission<sup>1</sup> noted that in most instances indigenous people's rights are also equated to those of marginalized groups. This characterization is incorrect as the rights of minorities and marginalized groups do not necessarily apply to indigenous peoples. The 2010 Kenyan Constitution explicitly identifies the minority and marginalized groups as a distinct sub-category of the Constitutional special interest groups. It adopts broad terms such as 'marginalized community', 'marginalized group' or 'vulnerable group' to describe minorities. Despite the potential ambiguities that could arise from such broad terms the Minority Rights Group International (MRI)<sup>2</sup> 2013 defines minorities groups in Kenya as 'groups that are:

- a) Numerically inferior to the rest of the population of a state;
- b) In a non-dominant position;
- c) Reside in the state, being either nationals or a group with close long-standing ties to the state;
- d) Possess ethnic, religious or linguistic characteristics that differ from those of the rest of the population, and
- e) Show, if only implicitly, a sense of solidarity directed towards preserving their distinctive collective identity'.

<sup>1</sup> Kenya Human Rights Commission (KHRC). 2006. Minorities and Indigenous Peoples' Rights in Kenya

<sup>2</sup> Jill Cottrel-Ghai, Yash Ghai, Korir Sing'Oei and Waikwa Wanyoike; 2013. Taking diversity seriously: minorities and political participation in Kenya

**Table 1: Presents some of the communities MRI has identified as constituting minority communities in Kenya.**

<b>Table 2.0: Examples of Minority Communities/Groups by 2009 Estimated Population Size</b>			
Group	Main location (county)	Population size	Comments
Turkana	Turkana	988,592	
Samburu	Samburu	237,179	
Endorois	Baringo	10,132	This figure is hotly disputed by the community
Ilchamus	Baringo	27,288	
Sengwer	Marakwet	33,187	
Nubians	Nairobi	15,463	
Ogiek	Nakuru	78,691	
Bajuni	Lamu	69,110	
Yiaku	Laikipia	2,844	Based on self-identification
El-molo	Turkana/Samburu	2844	
Boni		7602	
Maasai	Kajiado/Narok	841622	
Pokomo	Tana-river	94965	
Orma		66275	
Terik	Nandi/Vihiga	300741	
Dahalo		2398	
Suba	Homabay	139271	
Watta	Isiolo	3000	Also live in Kilifi and Tana-river

There are numerous other communities listed as minority groups in different resource material indicating that a comprehensive directory of minority and marginalized groups in Kenya could be lacking.

## **2.1 CRITICAL BACKGROUND INFORMATION OF SELECTED MARGINALIZED GROUPS AND COMMUNITIES**

### **2.1.1 Watta**

The Watta is one of the recognized minority and marginalised groups in Kenya and do not constitute a homogenous community. They live in scattered territorial groups along the Tana and Galana rivers, Taru Desert in eastern Kenya, Kilifi and Lamu counties on the



Kenyan coast, in Isiolo, Mandera and Marsabit counties of northern Kenya, and in parts of southern, central and western Ethiopia, as well as on the shores of Lake Tana in Tana River County<sup>3</sup>.

The Watta people of Tana and coastal region were originally from Shungwaya who then settled in Iwizoon of the banks of the Tana River where they are currently settled within the Lamu, Tana River and Kilifi counties. The community is made up of 7 clans: Walunku, Wamanka, Ebalawa, Ilam, Digilima, Simtumi, and Radhotu – speaking in sharp dialects that can compare to Xhosa in South Africa.

In Isiolo County, the population of Watta community is said to be between 2,000 - 3,000 people settled in Isiolo South and North constituencies, with a larger majority coming from Isiolo South constituency. The community has an enumeration code register under the Kenya National Population Census of 2009.



A lady addressing a forum of Watta community organized by NGECC

The Watta are generally hunters and gatherers and have over the years experienced social and economic deprivation. This has been occasioned by the government control of forest land and resources. In their adaptation mechanism to contemporary livelihoods, Watta have resorted to massive deforestation through burning of charcoal and selling firewood. In 1977 hunting was officially banned forcing the Watta to almost fully abandon hunting and gathering to engage in small scale farming. They live in symbiosis with the Gabbra and Borana communities though are socially expected to practice selected cultural rituals

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<sup>3</sup> **Wanguhu Ng'ang'a.** Kenya's ethnic communities. Foundation of the Nation <http://www.kenyacommunities.org/articles&downloads/Whole%20Book%20Overview.pdf>



with these larger communities such as intermarrying. Although some members of the Watta made attempts to become literate, school is not a primary focus. The group still remained focused on the forests and take immense pride in their land. They largely use herbal medicine from their forests.

### 2.1.2 Yiaku

The Yiaku live in the Mukogodo forest of west central Kenya. They were originally an Eastern Cushitic group, predating the Nilotes and Bantu in this area. There are no remaining speakers of the original language, called Yiaku<sup>4</sup>. They have affiliated themselves with the Maasai. Most of them now speak Maasai language and are referred to as the Mukogodo Maasai (a sub-tribe of the Maasai). The current generation seem to have lost much of their ancient knowledge and culture.

### 2.1.3 Il-chamus or the Njemps

The Il-chamus are a Maa speaking people living to the South-east of Lake Baringo in Kenya. The Il-chamus claim to have settled around Baringo South from as early as the year 1800. They occupy Salabani, Kiserian, Mukutani, Ngambo, Il-chamus (Eldume) and parts of Marigat district. It is the second smallest community in Kenya as well as in Baringo County where the majority are the Tugen. Il-chamus are closely related to the Maasai and Samburu as Maa speaking group in Rift valley<sup>5</sup>. They are also commonly known as Njemps, and regarded as one of the minority groups in the world, with their population estimated at about 35,000 people by 2004.

In 2009, their population was estimated through the national census at 50,000 (KNBS 2010). They regard themselves as one of the indigenous communities pushed to the current residence by Maasai clan wars. The noun 'Il-chamus' means people who can predict the future.

### 2.1.4 Terik

The Terik people are a Kalenjin group inhabiting parts of the Vihiga and Nandi counties of western Kenya, numbering about 350,000 people. They live wedged in between the Nandi, Luo and Luhya (Luyia) peoples. Among the Luo they are known as *nyangóóri*, but to the Terik, this is a derogatory term. The Terik prefer to be referred to as the *Terikeek*. 'Terik' refers to language, land, and culture of the *Terikeek* or Terik community. According to own oral history, the Terik are "people of Mount Elgon" a presumption confirmed by linguistic evidence as well as by Bong'om traditions. Roeder 1986 observed that "the people who

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<sup>4</sup> **Wanguhu Ng'ang'a**. Kenya's ethnic communities. Foundation of the Nation <http://www.kenyacommunities.org/articles&downloads/Whole%20Book%20Overview.pdf>

<sup>5</sup> **Marigat Maarifa Centre** 2013: <http://marigatmaarifa.blogspot.com/2012/08/gender-and-maarifa-centre.html>

later called themselves Terik were still Bong'om when they left Elgon and moved away in a southern direction"<sup>6</sup>.

In pre-colonial times, relations between the Terik and the Nandi (their eastern neighbors) were characterized by mutual raids for cattle, land and women, a perspective still alive among old Terik people. However, in recent years the Terik have increasingly come to perceive the Nandi as friendly relatives. A number of factors have contributed to this change in perspective.

The territorial expansion of the Luhya people (the western neighbors of the Terik) has strained Terik-Luhya relations during the last decades. Luhya are felt to be a threat to the Terik identity and intermarriage has drastically reduced. The expansion of the Luhya (especially the Logoli group) into Terik territory has been a cause of population pressure. This, along with dwindling agricultural potential in the area, has in the second half of the twentieth century motivated many of the Terik to move eastwards, into 'Nandiland' as they call it. Some Terik even claim that they abandoned their homeland because they were afraid of the Luhya who have a sub-tribe known as the 'TIRIKI'. The Terik have become increasingly oriented at and assimilated to the Nandi. One of the results is a change towards a Nandi-type age set system. The Terik traditionally have twelve age sets, whereas the Nandi have seven. Terik living in Nandiland tend to name a smaller number of age sets than those living in traditional Terik territory. Terik boys also undergo initiation together with Nandi boys.

#### **2.1.5. Ilyana**

The Ilyana are a Bantu group who live along the Tana River to the north of the Pokomo people between Bura and Garissa. Their livelihood is based on farming, fishing and bee-keeping. They practice Islam mixed with animism and a scattering of Christianity. The community is mostly domiciled along the Tana River banks and suffers annual periodic displacements especially around the Minjilla area.

#### **2.1.6. Bajuns**

The Bajuns are Bantu farming and fishing group who live in the coastal region. Their original home was in Lamu but they later moved to Kilifi in the early 60's due to insecurity<sup>7</sup>. The Wawitu Mikunumbi and Wakowe forced them to move out of Lamu County. They still don't own land. Most community members have not attained secondary and higher level of education. Only a negligible number of people from Bajun community are in formal employment. Discussion with leaders of Bajun community indicate that their community is not represented in the county governance structures.

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<sup>6</sup> **Roeder Hike 1986: 142**

<sup>7</sup> Allen, Brian 2008. The Bajuni people of southern Somalia and the asylum process. The Researcher (published by The Refugee Documentation Centre, Dublin) 3 (1): 2.

## 3.0 SUMMARY OF FINDINGS

### 3.1.1. Factors driving exclusion and marginalization (historical and current)

Through meetings with the County governments, community leaders and in community assemblies, NGECE gathered and documented historical and current factors perpetuating marginalization, exclusion and discrimination among the selected communities/ groups. These factors varied by the community and within the community members, variations were significant among youth, persons with disability, elderly and women. The minority communities participating in NGECE educational and information forum such as the Terik, Watta and the Il-Chamus communities have remained unrecognized and continually excluded from the mainstream, economic and socio-political development during the pre and post-colonial era and in the contemporary Kenya as claimed by the representative council of elders during the forums. Some communities such as the Terik claimed to have been marginalized for more than a century (130 years). Key drivers for exclusion are identified as follows:

#### **Poverty**

Poverty is one of the major challenges facing the minority and marginalized communities. It is an outcome of historical and present exclusion and marginalization with the most disadvantaged experiencing discrimination and unequal access to social services such as health, clean and safe drinking water, and education infrastructure among other public services which entirely constitute the economic, social and cultural rights.

The Watta, Il-chamus, Ilyana and Yiaku communities for instance continue to live in abject poverty and impoverished life where their source of main income include charcoal burning, packing and unpacking of goods in transit, nomadism and other low paying manual work. It is no doubt that continued segregation of these communities has accelerated further alienation and deepened discrimination.



Community assembly meeting with the Watta in Isiolo

The Il-chamus for example face many challenges in the extent to which the government has provided social infrastructure such as electricity, poor markets for their animals, clean drinking water, flood protection mechanisms in their land. They also suffer from insecurity occasioned by the cattle rustling. The ensuing conflict and displacements has witnessed many unabated killings of the people and destruction of property. Many schools have also witnessed closure including Rugus, Akule and Noosukuro primary since 2005. Il-chamus health centers are not operational such as Ng'ambo and Mukutani dispensary among others. This is due to insecurity and displacement by natural disasters such as floods that recur every year.

### **Identity dilemma**

Being small communities and living among numerically superior groups and communities, these communities continue to grapple with lost collective communal identity. Most of them have experienced cultural attrition through assimilation into the neighboring tribes. For instance the Terik community who are domiciled at the border region with Nyanza and Western regions where the majority Tiriki community resides reported historical coercion at registration of births, deaths, marriage, and educational to present as Tiriki, an identity of dominant community in the neighborhoods. Such forced registrations has reduced their numbers and contributed to loss of identity. During the meeting, NGEK received paper trail of individuals who had written to registrar of persons for change of their identity and civil registration details. In 2009, Terik received a demographic code 0617 and is likely to be assigned a cluster of enumeration in future demographic and national studies.

### **Political exclusion and discrimination**

Generally, politics on tyranny of numbers dominates Kenya political landscape and culture. The numerically non-dominant groups and communities thereby find themselves pushed

to the periphery in both elective and nominative positions as a result of conspiracies and lobbying by the majority for highly delicate and diplomatic positions. For instance, the wind in Isiolo County has tended to favor the five major communities for representation segregating the minority groups such as the Watta whose numbers are significantly low. The Watta, a community NGECC visited did not even benefit in the just concluded 2013 general election either through nomination, appointment and /or election to any of the six positions that were up for utility. Out of seven nomination slots five<sup>8</sup> were given to the five major communities (all male) with two women taking up the other two slots.

The Yiaku community alleged that when Kenya gained independence, they were not recognized as a distinct entity with rights to determine their political destiny through representative democracy. Instead, they became appendages of the dominant pastoral<sup>9</sup> groups with which they had been associated. They are thus suffered double marginalization, in both economic and political spheres.



A forum of Yiaku community organized by NGECC

For the Terik, the council of elders reported that the community has consistently been excluded in the socio-political and administrative spheres of the present and past regimes. This continues to manifest in mal-representation where politically connected persons from numerically superior communities camouflage as members of the Terik community while in actual sense they hail from the neighboring communities. For example in 2013, the local daily newspapers reported that the Governor elect of Vihiga County is from a minority and marginalized community –the Terik. The newspaper praises the minority community for struggling for democratic space and ensuring that an individual from their community is elected. The council of elders from the Terik community has evidence at their disposal showing that the governor of Vihiga County is not a member of the Terik community as claimed in the print media.

<sup>8</sup> Borana, Samburu, Meru, Turkana and Somalia

<sup>9</sup> The Maasai



Since 1963 no member from the Ilyana has held an elective or nominative position in Government. This also applies to their inclusion in local administration structures where the community's best shot has been that of village headman. It is important that those bestowed with significant state, county or other institutional authority or power should represent the sovereignty of people of Kenya including the marginalized groups and communities. The image would have been different if the members of the Ilyana would feel adequately represented even when none of persons from their community is directly appointed or elected in authority.

'Beyond the county executive positions, the minority communities have many more opportunities to serve in positions of responsibility'.  
Governor Kilifi County

In a short conversation with the Governor of Kilifi County during the courtesy visit, it was clear that the governor was fully aware of the constitutional provisions for minority groups and communities including appointments to positions within the county. He also acknowledged the minority nature of the persons from outside the coastal region whom he agreed were fully involved in the development process within the county. The governor pointed out that with completion of constitution of the County Executive Committees, future opportunities for inclusion and gender equality lie in the appointive positions of responsibility yet to be made.

### **Cultural attrition through assimilation**

The British colonial wildlife conservation laws and the creation of national parks in Kenya led the Watta community, a little known group of hunters and gatherers to brink of precipice and extinction. Through this policy and that of the containment of ethnic groups to 'tribal reserves', the Watta lost their place in the regional economic system and suffered loss of cultural identity. This has resulted to the Watta in northern Kenya being assimilated to Borana community while the Yiaku have been integrated to the Maasai community. The Watta of the coast have been largely integrated into the Giriama cultural ways of life. Moreover, the culture, including language, religion, worldview, knowledge, rites such as death and marriage ceremonies are fully assimilated into the culture of the majority communities living in the neighborhood.

The Terik community altogether lost their linguistic attributes, shrines, practices and tradition to the Nandi, Tiriki (Luhya) and Luo communities. Lack of a distinct cultural image and characteristics often inhibits efforts by the minority community to claim collective identity as groups and the momentum to build solidarity. The Tiriki communities have in the past decade noted the need for having a solidifying and uniting elements such as language, religion and selected traditions. The community received recognition by the UNFPA as a community under threat of extinction. The community has through collaboration with international development agencies and governments such as the government of Japan established a Terik language curriculum to be taught in lower primary schooling levels and in the last few years started off with the translation of the critical reference materials and

documents such as the Bible into Terik language. Today, the church remains the single most common element unifying clans and sub clans of the Terik community.

### **Under-representation in decision making arms**

Throughout Kenyan history, minority communities have continually remained under-represented in all political and decision making arms in government. While the state has strived to achieve inclusion, there is much more to be attained under the armpit of equality and inclusion. A ray of participation, inclusion and equality is largely awaited for in the devolution framework that is expected to accelerate economic, social and political development of the focal administrative units at the county level and as such would largely pay attention to the specific needs of numerically inferior and marginalized groups and communities that have little access to centralized opportunities and needs. The 2010 Constitution of Kenya further provides a mechanism through which minority and marginalized groups can demand for inclusion and participation in all spheres of life and some communities for instance the Terik community have demonstrated their prowess to fully utilize their Constitutional provisions and increase their representation in the county they are enumerated to belong.

### **Government interventions and specific subsidy policies**

Prior to 2013, the government of Kenya has been delivering state aid and subsidies through provincial administration and other government agencies at the grassroots to benefit populations with greatest need for specific relief interventions. The government through its surveys and early warning programs has put in place responsive humanitarian and empowerment needs and scheduled districts based on past and prevailing environmental, social, economic and political performance variables. For example the agricultural inputs subsidies and relief food are likely to target different districts even though some districts may be in need of both types of aid.

From the field visit, NGEC established that the same policy initiatives may not have been sufficient enough to suffice expanding needs in marginal communities. Some communities and groups like the Terik, Bajuni, Watta have perennially been discriminated against when such benefits are due. The Terik community for example located in the horticultural and subsistence viable zone of Nandi County reported that they hardly benefit from government agricultural subsidies and inputs that target mainly medium to large scale farmers growing mainly maize or cash crops due to their physical location and magnitude of farming they engage in.

At the same time, the community is prone to periodic food insecurity but hardly benefit from the government relief and supplementary foods because it is presumed by authorities that they are located in the agricultural basket of Nandi County. The Terik community thus suffers the double tragedy of exclusion in critical aspects of life including humanitarian sector.

## Affirmative action

While the intention of the affirmative action policy is to increase levels of fairness in the all sectors of development, the minority and marginalized communities sometimes lose opportunities due to poor implementation of the affirmative action policies and programs. For example while the recruitment of uniformed and disciplined forces applied affirmative action and ensured recruitment of candidates from each administrative unit of representation, persons from the minority and marginalized groups could hardly benefit from such declarations especially if they lived in districts or regions where, by virtue of the population, they are small in numbers.



An elder of Yiaku community making remarks in Laikipia during a forum organized by NGECC

The Terik, Il-chamus Yiaku and Ilyana communities for example are a small community in the Aldai, Marigat, Laikipia North and Tana Delta Sub-counties respectively and are often shadowed by the larger communities in the district when opportunities are available and implemented based on an affirmative policy anchored at the district level. Similarly, when opportunities arise for people to serve in various sectors such as health, and education, the minority and marginalized communities are under-represented. Candidates from such regions are forced to compete in similar available positions in the neighboring regions which often inhibit their chances of success.

Communities visited reported that cash and social aid transfer for persons with severe disabilities and orphaned vulnerable children equally benefited families from the larger communities justifiably because such communities will present large number of needy and genuine cases. In future such social security interventions need to consider minority and marginalized communities and groups in a separate cluster and recognize that irrespective of the small cases presented for consideration, their impact before and after intervention to the community is enormous.



## Limited access to educational opportunities

Access to education is a critical equalization variable for members from the minority and marginalized backgrounds owing to its transformative power to access and control of power and resources. During the public education forums, it was established that academic qualification poses major hindrance to the communities in marginal areas to accessing readily available opportunities in private and public sectors. For instance in Isiolo County, the deputy governor informed the meeting that out of the three hundred applicants for Cabinet Executive Committee, they never received any from the Watta community. The interactive forums confirmed that poverty and cultural practices and beliefs remain formidable contributors to high rate of School dropouts for young boys and girls and is Perpetuated by the parents and the community Leadership at large.

For Watta and Yiaku communities, 90% of the highest academic qualification attained is probably the Kenya Certificate of Primary Education (KCPE). The few with post-secondary education are unlikely to be serving in their communities due to limited opportunities and are scattered in the urban areas of Kenya and other countries.

Limited educational opportunities were evident among the Ilyana peoples. The Umoja Primary school constructed by CDF in the Ilyana area of Minjila has not been operational for over 12 years and there has been no teacher posted by the Teacher Service Commission (TSC) making the school dysfunctional.

One parent complained that her daughter who is currently admitted to Form One at Mpeketoni Secondary School was denied an Equity Bank scholarship despite her having the leading marks and her place taken by a Pokomo due to non-Ilyana representation on the scholarship recruitment panel

## Historical biases

Historical factors such as colonialism, expansion and development of religion, and colonial education system that favored collaborators and punished resistant groups embedded significantly a culture of mainstreaming marginalization of select communities in Kenya. The Terik community for example claims that they never yielded to colonial rule hence lost formal education and other opportunities. Christianity carried with it favors but at the expense of not securing and protecting their traditions. Such resistance was opposed by their neighboring communities such as the Luo and Maragoli who ceded territory and community tradition to modernity.

The colonialists did not invest in the preservation of worthwhile cultures, values and traditions of the resistant communities and it's only recently under the efforts of elites in 'resistant' minority and marginalized groups and communities that development partners and governments of the day have begun investment in the preservation of the cultural values, traditions and practices of these communities. The Terik community for example has in the past five years received funding from development partners through the Terik Professional Association (TPA) and Terik Essential Programs Agency for Development

(TEPAD), to establish Terik language and linguistic lessons in lower primary levels of education with hope for offering advanced courses in secondary education levels.



A section of youth from Terik community during a community forum organized by NGEC

### **Negative stereotypes**

The history of marginalization is synonymous with the ingrained stereotypes of minorities and marginalized groups and communities. They have since been referred in derogatory terms such as ‘backward, primitive, cattle rustlers’, and so forth. The Watta for instance have continually been perceived as ‘impure’ people, regarded as low caste group in the eyes of other communities. This negative attitude has resulted to direct and indirect discrimination where they are not allowed to marry or get married to other communities that they live among. The fact that the pastoral communities have a very strong lineage identification system, makes the descendant of the Watta community easily identified and isolated so that they do not ‘spoil the pure breed’ as alleged, an aspect that continue to haunt them in the 21st century. However, as much as there are negative attitudes towards the Yiaku from other communities they do intermarry with them.



A section of the members of the Njemps community with program staff from NGEC during a minority public forum held in Baringo.

### 3.1.2 Variations in exclusion and levels of marginalization by special interest groups

The public education and information fora held in all targeted communities recorded the fact that women and persons with disabilities appear most affected by factors of marginalization, exclusion and discrimination across all sectors. By virtue of their vulnerability, women and persons with disabilities are least involved in the design, planning, and implementation of the development programs and agenda at national and county levels. It's also evident that men and youth are fairly included in the development agenda (where this exists) perhaps due to their social and physical mobility and exposure to the myriad of social, cultural, economic and political opportunities.

Children suffer exclusion across the board. Among the Ilyana of Tana Delta, the children have to travel over six kilometers to access the nearest primary school in the major area of domicile.

Though women have been appointed to the County Executive Committees, women representation in Isiolo County account for only 29%, falling below the Constitutional threshold, 38% for Laikipia County, and 33% for Baringo and Kilifi counties. A lot needs to be done to ensure that they participate equitably at all levels and more so in the governance sector. The County governments have been urged to consider greater enforcement of the affirmative action in the remaining appointive positions to ensure participation of minority and marginalized groups.

### 3.1.3 Factors promoting inclusion for the minority and marginalized groups in development agenda

NGEC also sought to understand opportunities for promoting routine inclusion of the minority and marginalized groups in the development agenda. Such opportunities have been used or are critical factors useful in reducing communities' vulnerability to marginalization and exclusion. The most common factors include:

- **The 2010 Constitution:** Some of the minority and marginalized groups have benefited from the Constitutional provisions on devolution, bill of rights, political representation and affirmative actions among others. In the County Assembly representation, the Terik community had two members nominated in Nandi and Vihiga counties respectively. The community lobbied for the two positions in the two counties on the basis of past under-representation of the interest of minority and marginalized communities in the counties where Terik predominantly reside. The Yiaku on the other hand had one County representative nominated who is a woman. This can be attributed to pressure from NGEC and the community during the visit to the Laikipia governor's office.

- **Establishment of voluntary associations:** This is meant to represent issues of minority and marginalized groups. A few of the marginalized and minority groups are organized into associations whose main purpose is to represent the interest and issues of their communities at all levels. The Terik communities have formed the Terik Council of Elders with a management and governance structure. The Watta of Kilifi and those found in Isiolo too have an association.
- **Community participation:** The Terik and Watta council has in the past sent representatives to annual global convention meetings, conferences and workshops to discuss various issues of interest to the community ranging from identity, social and cultural rights, and development projects among others. The council prepares memorandums and publications of interest to the community and shares such with relevant authorities. The council also represents the community in the round donor tables and present priority needs of the community in such meetings. The Ilyana of Tana River also have a functional associations complete with recognized leadership (See annex c).
- **Community elite:** The minority and marginalized groups through structured voluntary associations have tapped into the knowledge and expertise of the small elite class from their communities in professional bodies, institutions of learning among other sectors. The elite have provided technical advice to these communities on effective strategies of advancing their agenda in political, cultural and economic spheres. The elite class often referred to as the ‘patrons’ or ‘advisors’ of the community also raises funds and lobby for opportunities for the community members to attend international, national, and county meetings, conferences and conventions to discuss issues affecting the community. The patrons of the Terik council of elders have for example raised funds to establish the Terik linguistic classes and advocated for a demographic recognition in Kenya.
- **Cultural and religious identity:** The minority and marginalized communities and groups have very distinct cultural and religious identity commonly shared among members that bind all to a common world view. Such a common identity has been used positively to raise a common voice of the community to fight exclusion and discrimination.



## 4.0 OPPORTUNITIES OF COLLABORATION FROM THE VIEW OF THE MARGINALIZED GROUPS

The program staff and commissioners discussed in detail the mandate and functions of the Commission during the assembly and community leadership meetings. The team shared copies of NGEAC Act with Governors and all community leaders<sup>10</sup> and special interest groups represented including women, youth, persons with disability and elderly.

The communities through a facilitator/translator reiterated their lack of involvement at national and county levels and in all decision making processes and development agenda. They felt privileged to have been visited by NGEAC with most of the participants appreciating the fact that NGEAC is soon devolving its services to the County level.

They identified NGEAC's capacity to assist them in resolving long-standing community disputes (for example community coding, land acquisitions and compensations for compulsory acquisitions, accessing health facilities/ general development access) and the need to sustain community visibility in appointive offices especially at County level.

### 4.1.1 Attendance levels of the public education forum

A total of 862 members of various minority and marginalized communities and groups attended the meeting out of whom 47.4 percent were women and 52.6 percent were men. Persons with disability constituted 2.9 percent of the total participants'. Table 4.1 presents the distribution of attendance by community and gender. The total numbers are higher due to double attendance where separate leaders and community general meetings were held.

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<sup>10</sup>. Isiolo Deputy Governor, Garbatulla District Officer, Laikipia County Governor, Laikipia County Deputy Governor, and Doldol District Officer, Kilifi Governor and deputy Governor, Deputy Governor Tana River



**Table 4.1. Attendance levels by community and type of meeting**

Date	Community/ Group	Type of the Meeting	Participants with Disability	Total participants by Gender		Total number of participants
				F	M	
14.05.2013	Watta in Isiolo	Leaders forum	0	6	4	10
15.05.2013		Community assembly	2F	50	68	118
16.05.2013	Yiaku in	Leaders forum	0	1	2	3
17.05.2013	Laikipia	Community assembly	0	52	48	100
14.05.2013	Watta /Sanye in Malindi	Leaders forum	2M	5	8	13
		Community Assembly	0	65	61	126
15.05.2013	Terik in Kapsengere	Leadership forum	5M,1F	24	61	85
14.05.2013		Community Assembly	3M	48	83	131
17.05.2013	Il-chamus/ Njemps in Marigat	Community Assembly	2F,8M	73	49	122
16.05.2013	Ilyana/ Malakote in Garsen and Minjila	Leaders forum	2M	10	5	15
17.05.2013		Community Assembly	0	75	64	139
<b>TOTAL</b>			<b>25</b>	<b>409</b>	<b>453</b>	<b>862</b>

#### 4.1.2 Recommendations

Arising from field deliberations with community members, local administration, local civil society organizations and elders, the following recommendations were considered.

1. There is an opportunity for the National and County governments to implement the affirmative action policies to expand the window of empowerment and inclusion of the marginalized communities. The National Gender and Equality Commission will continue to work with all county governments and separate arms of National government as well as the private sector on full integration of principle of equality and inclusion in development agenda.
2. The local administration embraces the spirit of citizen participation while specifically ensuring that the minority groups are involved with sufficient representation in all development and welfare committees within the county. A framework that seeks for optimal participation of the marginalized groups need to be developed or domesticated in each of the county.

3. In letter and spirit of article 260 of the constitution, it is important to have an elaborate and comprehensive definition, description and attributes of the marginalized communities at national and county levels, followed by a clear spatial analysis of their distribution. Local contexts should be considered when making such definitions and spatial analysis.
4. The County government endeavors to use clear guidelines when requesting for job applications to ensure minority groups specify their status in the application documents hence assist in identification. In line with this, there is need to involve community representatives in the vetting of appointive/nominative persons to ensure that only those that genuinely hail from these groups are cleared to represent them.
5. The National and County government has the opportunity to prepare their budgets sensitive to equality and inclusion in design, processes, and implementation of the National and County programs to ensure deliberate interventions are prioritized to reduce inequities.
6. The National Gender and Equality Commission should develop a simple handbook to guide the national, county and private sector of the pathways to progressive realization of the economic, social, and political rights of the special interest groups particularly the marginalized communities.

## 5.0 ANNEXES

### a) **The mandate and functions of the National Gender and Equality Commission**

#### **Mandate of NGEC**

NGEC derives its mandate from the Constitution of Kenya 2010 in Articles 10, 27, 43, 59 and Chapter Fifteen among others. Article 10 provides for the national values and principles of governance, which include: human dignity, equity, social justice, inclusiveness, equality, human rights and non-discrimination. Specifically, Article 27 of the Constitution sets out the principle of equality and freedom from discrimination by stating that, every person is equal before the law and has a right to equal protection and benefit under the law.

#### **Functions**

The functions of the Commission are as provided in Section 8 of the NGEC Act 2011, which states as follows:-

- (a) To promote gender equality and freedom from discrimination in accordance with Article 27 of the Constitution;
- (b) Monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions;
- (c) Act as the principal organ of the State in ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination and relating to special interest groups including minorities and marginalized persons, women, persons with disabilities, and children;
- (d) Co-ordinate and facilitate mainstreaming of issues of gender, persons with disabilities and other marginalised groups in national development and to advise the Government on all aspects thereof;
- (e) Monitor, facilitate and advise on the development of affirmative action implementation policies as contemplated in the Constitution;
- (f) Investigate on its own initiative or on the basis of complaints, any matter in respect



of any violations of the principle of equality and freedom from discrimination and make recommendations for the improvement of the functioning of the institutions concerned;

- (g) Work with other relevant institutions in the development of standards for the implementation of policies for the progressive realization of the economic and social rights specified in Article 43 of the Constitution and other written laws;
- (h) Co-ordinate and advise on public education programmes for the creation of a culture of respect for the principles of equality and freedom from discrimination;
- (i) Conduct and co-ordinate research activities on matters relating to equality and freedom from discrimination as contemplated under Article 27 of the Constitution;
- (j) Receive and evaluate annual reports on progress made by public institutions and other sectors on compliance with constitutional and statutory requirements on the implementation of the principles of equality and freedom from discrimination;
- (k) Work with the Kenya National Commission on Human Rights, the Commission on Administrative Justice and other related institutions to ensure efficiency, effectiveness and complementarity in their activities and to establish mechanisms for referrals and collaboration in the protection and promotion of rights related to the principle of equality and freedom from discrimination;
- (l) Prepare and submit annual reports to Parliament on the status of implementation of its obligations under this Act;
- (m) Conduct audits on the status of special interest groups including minorities, marginalized groups, persons with disabilities, women, youth and children;
- (n) Establish, consistent with data protection legislation, data bases on issues relating to equality and freedom from discrimination for different affected interest groups and produce periodic reports for national, regional and international reporting on progress in the realization of equality and freedom from discrimination for these interest groups;
- (o) Perform such other functions as the Commission may consider necessary for the promotion of the principle of equality and freedom from discrimination; and
- (p) Perform such other functions as may be prescribed by the Constitution and any other written law.

## b) Checklist used to facilitate the educational forum

### Objective of the activity

- a) To introduce to the identified minority and marginalized groups in the selected regions on the mandate and functions of NGECE
- b) To understand the structure within which the target groups coordinate and engage themselves and their agenda.
- c) To document differentials in levels of marginalization among women, children, youth, elderly, and persons with disabilities.
- d) To document main current factors driving exclusion and discrimination of the selected groups and communities.
- e) To identify structured mechanism of engaging with the minority and marginalized groups as well as identify priority programs for the minority and marginalized communities towards reduction of gender inequalities and exclusion.

### Methods

- a) Secondary review of the inventories and studies about the minority and marginalized groups in the selected regions
- b) Meetings with opinion leaders including community leaders, religious and political leaders, women and youth group representatives
- c) Public administration led community assembly

### Coverage

Region	County	Name of the community or group considered a minority or marginalized	Specific location of the activity
Rift Valley	Nandi	Terik	Kapsengere
	Baringo	Ilchamus/Njemps	Marigat
	Laikipia	Yiaku	Doldol
Coast	Tana River	Ilyana	Garsen/Minjila
	Kilifi	Sanye/Watta	Malindi
Eastern	Isiolo	Watta	Garbatula

## **Check list** (document and/ or observe)

- How did NGEC know about the existence of the targeted group/community?
- What is the estimated total population of the targeted community? When did the last count happen?
- Access any documents or evidence that support recurrence of marginalization and exclusion; document factors reported as perpetuating exclusion? State sectors the community or group feel most excluded from
- Does the level of exclusion vary by gender, youth, children, elderly and PWD? If so how?
- Are there specific sectors or spheres of life the targeted groups and communities feel fully included and less discriminated? What are they? How did that happen?
- In your own assessment, what is the clarity of the targeted group on the mandate and functions of the NGEC? Does the community feel that NGEC has a role to play in their inclusion of participation in development agenda? Were they able to identify areas of collaboration and partnership with NGEC?
- How would you rate targeted community participation in the meetings and assemblies organized by NGEC?
- Are there priority activities or actions the targeted community would like NGEC to pursue in the next one year? List and where possible attach evidence
- Record any other relevant information.

## **Expected output**

- Clear understanding of structures and mechanism through which NGEC and stakeholders can mainstream issues of marginalized and minority groups in development agenda at national as well as county devolved structures
- Compiled report on target groups (women, youth, children, persons with Disabilities and the elderly) and dissemination to other constitutional jurisdictions.

## **Action plan**

- Priority sectors
- Priority issues

**c) Copies of memoranda from marginalized communities**

FRIENDS OF WATTA ASSOCIATION  
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MALINDI  
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Mob: phone : 0722 224947

**MEMORANDA FROM THE WATTA COMMUNITY THROUGH NATIONAL  
GENDER & EQUALITY COMMISSION AREAS OF INTERVENTIONS BY  
THE COUNTY-& NATIONAL GOVERNMENT TO ASSIST THE  
COMMUNITY.**

**1. INTRODUCTIONS - WHO ARE THE WATTA?**

They are Cushitic speakers who are indigenous and the earliest inhabitants of coast province who entered Kenya through southern Ethiopia as early as before 1300. This is evidenced by the many names of places in Coast province which have a distinct meaning in the Watta language eg. The famous KAYAS in Coast , Gede , Arabuko, Jilore , Ganda , Malindi, Tezo, Kilifi etc.

The Watta are the same community referred to with many derogatory misnomers such as Walangulo or Wasanye but the correct identify is the Watta. This community were once hunters and gathers moving from one place to another allover the coast province and Kenya as a whole.

2. Areas which need intervention are :-


- (a) Language and cultural development through writing of the Watta language, history of the Watta and building of Watta cultural centres so that the Watta language and culture does not go extinct.
- (b) Proper coding of the Watta community as one of the tribes in Kenya but not be referred to as coastal Watta and Northern Watta and coastal Waata not to be regarded as part of the Mijikenda .
- (c) Need for political representation at the county and national government . At present the Watta community has never been represented at county and National level since independence to date in Kilifi county and in Kenya as whole.
- (d) Need for affirmative action in allocation of education bursaries at constituency level. The community also asks for representation in the


constituency bursary committee which at present has not given the community a slot to represent the community.


- (e) Need for affirmative action in allocation of special slots for the Watta community by lowering university cut points to at least C+ for JAB.  
At present, the year of the lord 2013, in the whole of Coast province the community boasts of only three university graduates having completed .
- (f) Need for affirmative action in employment both at the county and National government. Eg a case in reference, at present at the county level there are only two Watta working with the former Malindi county council and Malindi Municipal Council.
- (g) Need for acquisition of community title deeds in the areas in which they are majorly found e.g Soso-chamari in Magarini District, Bombi in Malindi District.
- (h) Need for a certain percentage of income from the national parks and game reserve to harness education and economic development for the community.  
This we request because the community used to depend on wild life as a way of living and was turned away from subsistence hunting without an alternative and learnt about farming the hardway. Many members of the community died through merciless beating by game rangers .

**Conclusion**

The Watta community have every hope and trust that the National Gender and Equality commission through which this memoranda is addressed is the right advocate for a minority and marginalized community who have no shoulder to lean on but this commission to address the above grievances strongly with the relevant authorities.

ONOTTO JILO JOSHUA  
Signed : .....  
Chairman

HEZRON GUYO  
Signed : .....  
Secretary

MARY HIRIBAI  
Signed : .....  
Member representing Women



## **A MEMORANDUM OF COMPLAIN**

### **WAILWANA COMMUNITY GARSEN CONSTITUENCY TANA-DELTA DISTRICT**

#### **INTRODUCTION**

Wailwana community is among the small tribes that exist in Tana county in Kenya. It is a bantu speaking tribe whose main commercial activities is small scale mixed farming, bee keeping and fishing in the river Tana. However, the output from these activities is only enough for domestic use. Following the unfavourable conditions experienced in their original home e.g war from hostile tribes, deceases and drought ,the community migrated to different places. The group found at Garsen came as early as 1962 and settled at the shores of lake Dumzika. The seven families later on grew big and are now about 1000 people.

Despite their existence in the county this community does not even exist in the books at records in the country. The map of Kenya, Geography books in both primary ,secondary and the Universities have no history about the existence of the community. Due to lack of proper information about the tribe, many among the problems faced in the country fall on the back of this community. Among the problems they face are:-

- a) Access to education
- b) Lack of involvement in socio-Economic activities.
- c) Communication (ROADS)
- d) Preserve from the majority tribes
- e) Tribalism
- f) Access to medical services
- g) Representation in offices.

#### **A: ACCESS TO EDUCATION**

A school was constructed at Umoja but learning is not in progress. Despite both verbal and written communication to open the school. This building is now a waste. Children are forced to walk long distances to attend school .The young children cannot walk the distance in fear of wild animals attack. The few that go to school and finally do the K.C.P.E don't acquire bursary to pay for their fees. The main reason is lack of representation in the C.D.F office thus the majority take advantage, more over access to National schools is hindered by lack of funds.

#### **B: LACK OF INVOLVEMENT IN SOCIO-ECONOMIC ACTS**

The majority tribes come up with plans to make minor schemes. The scheme is then supervised and all farming activities is done by the pokomo without involving any other tribe. *e.g. ITSOME MINOR IRR SCH- CHANGED. TO (MARIKAND IRR SCHEME)*

### C: COMMUNICATION ROADS

There is no time you can easily reach the community due to lack of roads .Many roads within the majority is well constructed i.e murrum is put on the road. This does not apply to the Wailwana-community .Until today, one cannot reach the hospital not unless small boats are used to board the patient to the hospital or carry farm products for sale in the market. *THE COMMUNITY WANTED TO KNOW WHO IS THE PERSON AND AS DICKSON JILLO MARTIN BETWEEN THE CAPACITY & HEALTH*

### D: PRESSURE FROM THE MAJORITY TRIBE ON OUR RIGHTS:

(1) COURT CASE NO.HCCC NO.265 FF 2002

A court case Ref:Jilo Shuma Mambasa vs/Gen Electric generating Company was resolved and money for payment released. Funny enough this payment never reached the complainant. The payment was hindered by Mungatana Advocates and his Co-Advocates. A letter by Ken-Gen is giving evidence on the matter.Mungatana who comes from the majority tribes is silent about this since it is an issue connected to the minority Wailwana. *THE COMMUNITY WANTED TO KNOW WHO IS THE PERSON KNOWN AS DICKSON JILLO MARTIN. BETWEEN THE COMMITY AND THE*

### KETRACO (HIGH POWER) PROJECT *KEN-GEN? ASK CAROLIN ODHIANG - LATER 10<sup>th</sup> FEB 2008*

The high voltage power which has passed through our shamba's agreed to pay for the effects caused to the community. Efforts to pay were hindered by the chief who comes from the majority tribes.

### INVOLVEMENT IN POLITICS

There is no time when we were nominated in a political position I,e councilor,member of parliament nor do we appear in provincial administration,above all even representation in the C.D.F office so as to air our problems for awareness and help.

### PAYMENTS TO OPHANS/PESA YA WAZEE

This program me which is initiated by the Government does not favour any among the minority as it is the majority tribe whose representation in the office decide whom to put in the list or not for the purpose of payment. No elder in wailwana community has ever been paid a single coin.

## 2 YEARS CASE IN MOMBASA

A boy from the community suspected of rape -is in police cells for 1 year t7 months until recently when a file was opened No-3470/11 for hearing. In accordance to the laws of the country, is there any justification for a person to be kept for such a long period without being sent to court. Efforts by the father to get information on the way forward proved futile and resulted to his death.

## PERMANET SETTLEMENT AT MINJILA

Although the Wailwana are settled at Minjila plans by the majority groups to evacuate them from the land is going on. Frequently survey on the land that they are setting in is done. This is deliberately done by the leaders of the <sup>MAJORITY</sup> minority including the area chief <sup>S</sup> to remove them from the land. <sub>1</sub>

## CONCLUSION

Wailwana like any other community in Kenya has all rights to leave a peaceful life, recognized and enjoy the freedom that is experienced by other communities.

Despite their low educational standards which resulted to lack of awareness, the community needs to be helped to reach the required levels human life.

Even other groups of people among the marginalized communities need to be made aware of the current changes experienced among all other things.

CHAIRMAN:.....ALI CHARLES DIMA.....SIGN: [Signature].....DATE: 3/6/2013  
SECRETARY:.....OBENI GILLO TOFILO.....SIGN: [Signature].....DATE: 3/6/2013  
TREASURER:.....ABD. RAHMAN ASHAKU BASANI.....SIGN: [Signature].....DATE: 3/6/2013



MEMORANDUM OF TERIK PEOPLE TO NATIONAL GENDER AND EQUALITY  
COMMISSION ON 13<sup>TH</sup> MAY 2013.

We Terik people are Minority and Marginalized community resident in Vihiga and Nandi counties. The most deprived, excluded and vulnerable are those to be found in Hamisi constituency and in Terik and Kapkerer locations of Aldai constituency.

For over a century, since the advent of colonialism in 1895 Terik people have suffered all manner of cultural, social, economic and political abuses. It is only in the last National census of 2009 that Terik people got their first Demographic code No. 617.

We had hoped that with this recognition as a community, we would also be equally be represented in both elective and appointive positions, as a minority, in the National and County Government in line with the New Constitution. However we appreciate the one position each, we have been allocated in both Vihiga and Nandi counties as county executive committee members.

But we are stunned with disbelief by recent happenings after the last general election. We have been left out in the cold in Nominations to National Assembly, Senate and County Assemblies.

We as Terik Council of Elders recommend that the issue of nomination pertaining to nomination of minority, marginalized and vulnerable groups should be left to them to nominate their own representative other than the political parties.

We now kindly request your intervention to save us from further suffering. We had hoped that with the new constitutional dispensation our continued marginalization would come to an end.

But it appears our constitutional rights as provided in Article 100 continue to be abused unabated.

CHAIRMAN:



JOHN C. BOR.

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C.C.

1. THE CHAIRMAN  
I.E.B.C.  
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2. THE CHAIRMAN  
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Email:

A. SECRETARY:



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EDUCATION MAKES PEOPLE EASY TO LEAD BUT VERY DIFFICULT TO DRIVE; EASY TO GOVERN BUT VERY IMPOSSIBLE TO ENSLAVE IN THE 21<sup>ST</sup> CENTURY\_\_ IN THE DEMOCRATIC GOVERNMENT OF THE PEOPLE BY THE PEOPLE FOR THE PEOPLE.AND ALL INCLUSIVEI..I.E BY; KIPYATOR, KOREBEI ARAP KOKWENY AND (SOMANET\_KALIET\_BANDABTAIII)...KAKOECH EMET) INTERGRATION

25.02.2013

SUB MISSION



0720817736/0708191408



**THE NEED AND SUMMARY OF THE OGIEK MEMORANDUM OF UNDERSTANDING WITH THE OGIEK PREFERED HON GOVERNOR ISAACK RUTOH ARE AS FOLLOWS;**

1. RESETTLEMENT ( NEED LONG TERM SOLUTION \_ISSUE THAT IS STRATEGICALLY PLANNED THROUGH STRATEGIC PLAN OF 10 YEARS AND OVER.
2. INFRASTRUCTURE OF ROADS , SCHOOLS AND HEALTH(MEDICARE )
3. CULTURAL AND TRADITIONAL CUSTOM RECOGNITION AS PER KENYA FOREST ACT 2005 SECTION 22 AND ARTICLE 11 OF CONSTITUTION 2010 WATER ACT 2002(WRUAS)AND ENVIROMENTAL MANAGEMENT COORDINATION ACT 1999.
4. FORMATION OF COMPANY LTD TO BE CONTRACTE THE PROJECTS WITHIN CUR ZONES
5. SUPPORT IN FUNDING SCOUTS FOR CONSERVATION (YELLOW PATROL SCOUT)
6. SUPPORT IN FUNDING COMMUNITY FOREST ASSOCIATION I.E KIFCAN-(KENYA INDIGENOUS FOREST COMMUNITY ASSOCIATION NDOINET CFA),NDOIMAR- (NDOINET,ITARE,MARAMARA )CENTRAL UMBRELLA CFA AND OGIEK INDEPENDENT COUNCIL OF SOUTH WEST MAU FOREST(OIC) TO UNDER TAKE THEIR ACTIVITIES OF REPRESENTING THE OGIEK MARGINALISED MINORITY COMMUNITY INTEREST
7. TWO OF US MR.WILIAM KOROS AND MISS MARY CHEPKOECH THROUGH THE OGIEK INDEPENDENT COUNCIL OF SOUTH WEST MAU FOREST SUMMITTED THEIR NAMES BEFORE THE GENERAL ELECTIONS AND WERE PROMISED BY THE URP PARTY THAT THE SHALL BE CONSIDERED ON SPECIAL SEATS AND TOP UP GENDER YET MARGINALIZATION CONTINUES AND NOTHING FORTH COMING ON NOMINATION OF MCAS BOMET COUNTYASSEMBLY. **TO REPRESENT ,LEGISLATE AND OVERSEE THE IMPLEMENTATION OF THE POLICIES REGARDING THE INTEREST OF THE COMMUNITY ,PLEASE DO SUPPORT US CONSTITUTIONALLY AS A DUTY TO REALISE THE SAME**
8. LEAD US TO ACCESS VARIOUS RELEVANT OFFICES THAT RELATE TO OUR GRIEVANCES I.E TO THE PRESIDENT OF THE REPUBLIC OF KENYA AND THE GOVERNOR BOMET COUNTY.

**THERE USE TO, A TIME WHEN SOMEBODY SOMEWHERE COULD CHEAT ALL THE PEOPLE ALL THE TIME, AND SOME PEOPLE ALL THE TIME , BUT NO LONGER ALL THE PEOPLE ALL THE TIME IN THE 21<sup>ST</sup> CENTURY . BECAUSE BRAINS ENCOUNTER BRAINS AND FOOLS CARRY THEMSELVES.**





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REPUBLIC OF KENYA



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EMBASSY OF SWEDEN



MINISTRY FOR FOREIGN  
AFFAIRS OF FINLAND

*The views and opinions expressed in this report are those of the author and do not necessarily reflect the views of the funding agencies or their associates.*