



# Pastoralists Alliance for Resilience and Adaptation Across Nations

*Building and strengthening resilient, transformational  
partnerships and social movements*

## INPUTS TO THE UN SPECIAL REPPORTEUR ON THE RIGHTS OF INDIGENOUS PEOPLES – Mobile Indigenous

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**14<sup>TH</sup> March 2024**

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## **I. Introduction**

On behalf of member organizations of Pastoralists Alliance for Resilience and Adaptation Across Nations (PARAAN), We wish to thank UN Special Reportuer on the Rights of Indigenous Peoples for this call for inputs.

The Pastoralist Alliance for Resilience and Adaptations Across Nations (PARAAN) was formed in 2018 as a social justice movement with the purpose of consolidating a collective voice on the inclusion and rights of indigenous peoples to promote self-action for the mutual benefit and well-being of indigenous peoples and minorities.

Taking the advantage of this call for inputs, the leaders of Indigenous community under the burner of PARAAN converged through a digital meeting and developed this report for consideration.

Further, it's important to note that, PARAAN is a social justice movement with the purpose of consolidating a collective voice on the inclusion and rights of indigenous peoples to promote self-action for the mutual benefit and well-being of indigenous peoples and minorities.

The alliance environs protecting and promoting collective rights and resources of indigenous peoples and minorities for sustainable livelihoods in Kenya and EA Region. In recent years, the natural resources of these indigenous communities have come under unprecedented external pressures that are seriously affecting the unique rights of indigenous peoples and, by extension, their food and livelihood sovereignty, a situation that make this bill so timely.

## **II. Inputs Statements**

### **Land and Resource Rights:**

*1. Examples of law, policy or other safeguards developed in compliance with international human rights standards, to protect against the eviction and forced-induced sedentarization of mobile indigenous peoples from their traditional territories, including access to effective remedies such as judicial resources, restitution, and fair compensation.*

Examples of law, policy etc. in compliance of human rights standards:

1. The Constitution of Kenya – especially within Chapter IV of the constitution (“The Bill of Rights”) which talks about protecting the rights of all Kenyans (including indigenous communities). Other articles of the Kenyan Constitution are supposed to also ensure the rights of indigenous peoples specifically are (e.g. Chapter II Article 11 (2) or Chapter V).
2. Land Act (2012) & Community Land Act (2016) – which is also part of the Kenyan Constitution (Chapter V), and which is supposed to secure and protect individual and community land rights.
3. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) – ratified by the Kenyan Government.

4. The Convention on the Elimination of Discrimination against Women (CEDAW) – ratified by the Kenyan Government.

5. The Convention on the Rights of the Child (CRC) – ratified by the Kenyan Government.

However, the existing and/or (newly) developed laws, policies and legal frameworks proved to increase the challenges and difficulties of the indigenous communities in Kenya, instead of securing and protecting their rights. Hence, many of the recent political and legal developments were initiated and decided without the involvement and/or consent of the Kenyan indigenous communities. Hence, many communities are unaware of their rights and the legal framework that is supposed to protect them. In addition to that the government seems to be sometimes hesitant to inform and/or involve members of the indigenous communities in developing or enacting new policies or laws. Hence, there are cases from the Kenyan counties of Marsabit and Isiolo, where the government seems to be hesitant to assist communities to register their community lands, although the registration process is guided and predetermined by the Community Land Act 2016.

Mr. James Orre from the organization *Rebuilding Pastoralist Livelihood Livelihood* mentioned that it takes a long time to register community land in Marsabit County because certain hurdles put in place by the local government delay the process, although the new act of 2016 would oblige it to assist the communities to register their land.

*2. Impact of extractive industries, tourism projects, conservation initiatives and climate change mitigation and adaptation measures on mobile indigenous peoples' rights and indicate whether they are consulted on projects that impact their lands territories and resources. Also identify any other existing threat to mobile indigenous land rights.*

Many mobile pastoralists of northern Kenya are dispossessed and/or disowned of their ancestral land. According to Stephen Basele from the local organization *Pastoralist Peoples Initiative* one example for the unlawful eviction of indigenous communities is that of the Rendille, Turkana and El Molo communities of South Horr and Loyangalanyi, Marsabit County, who were evicted from their ancestral land to give way to a huge Wind Park, an important national megaproject. Although the Meru High Court ruled on the 19<sup>th</sup> of October in 2021 that big parts of the evicted land were acquired unlawfully by the government, no compensation to the various indigenous communities have been given so far.

James Orre from the organization *Rebuilding Pastoralist Livelihoods* mentioned furthermore that especially extractive industries (e.g. gold mining) frequently operate within Marsabit County within certain areas (e.g. Laisamis or Moyale) without the consent of the respective local communities. Apart from using the land of mobile indigenous peoples without consent, the industries often leave the natural environment within their area of operation destroyed and polluted and don't engage in any form of rehabilitation. This also has negative implications regarding Climate Change because the affected environment frequently is deforested and therefore the impact of floods and/or droughts within such an area increases. Furthermore,

James Orre stated, that the local indigenous communities are usually not involved in any form of benefit sharing regarding the extracted resources, and so the indigenous peoples of Marsabit (e.g. the Sakuye in northern Marsabit) are disadvantaged twice (financially and through the destruction of their ancestral land).

Bernhard Loolasho from a CBO named *Laikipia North Community Conservation Initiative* mentioned that the sedentary developments regarding land management in Laikipia County strongly affected the pastoralist peoples of the region, because especially mobile pastoralists that rely on moving with their livestock between pastures, wouldn't be able to follow their ancestral pastoral migration routes due to extensive fencing and land segmentation. He stated that there would be a need for migration corridors for mobile pastoralists in Laikipia County to ensure that mobile indigenous peoples are able to maintain their livelihoods.

Mrs. Christine Kandie from the Endorois community raised that another challenge for her community in Baringo County. She stated that would be difficult to hold the Kenyan Government accountable and to ensure that it is fulfilling its promises and legal obligations. Hence, the Kenyan Government was obliged in 2010 by the African Commission on Human and Peoples Rights (ACHPR) to grant the Endorois communities of Baringo access to their ancestral land around Lake Bogoria and to compensate them for their forceful eviction. Although the Endorois were returned access to parts of their ancestral land by the Kenyan government, the government didn't yet compensate the communities as it was ruled by the African Commission.

### **Political, Economic and Social Rights:**

*3. Indicate whether mobile indigenous peoples are guaranteed political representation and explain their level of participation and in decision-making at the national regional or local level. Indicate if their rights are recognized in constitutions or other relevant laws.*

Mobile indigenous peoples are not automatically granted political representation in Kenya. The country is divided into forty-seven (47) different counties that are given certain powers to govern themselves according to the Kenyan county governance structures and the national Kenyan laws. While mobile indigenous peoples have a certain amount of political representation in counties where they form the majority (e.g. Turkana, Narok & Kajiado), they are politically underrepresented (or even completely not represented) in other counties. Very small indigenous populations like the El Molo, Ilchamus and Yaaku are not politically represented at all.

At national level some of the bigger indigenous groups in Kenya (like the Maasai or Turkana) have managed to position politicians from their respective groups. However, these positions are not meant to be representative for mobile indigenous peoples but are purely linked specific job descriptions.

As mentioned in the section above Kenya has certain laws that are supposed to secure the rights of mobile indigenous peoples (especially in the Chapters IV & V of the Kenyan constitution).

However, the implementation of these laws cannot always be ensured, because certain political and/or economic interests may prevent the laws from being enforced.

*4. Main barriers to mobile indigenous peoples' participation in political, economic, and social projects that impact their rights.*

One major barrier that prevents mobile indigenous people in participating successfully in political, economic, and social projects is the missing representation of mobile indigenous peoples in the respective decision-making organs. As stated in the section above, mobile indigenous peoples are often not sufficiently represented in the local and/or national government to influence big projects. Furthermore, their land and living environment is not sufficiently protected, because vast lands of northern and southern Kenya are still not registered as community land, although the political provisions to register the land accordingly would be theoretically given. James Orre from the organization *Rebuilding Pastoralist Livelihood* mentioned that the local county governments of Kenya (especially the ones of Marsabit and Isiolo counties) would often be not supportive in assisting the local communities in registering their respective community land, and therefore land registration processes would be frequently delayed or even dismissed.

Bernhard Loolasho from the *Laikipia North Community Conservation Initiative* additionally explained that mega projects like dams and wind power plants or newly emerging projects like Carbon Credit projects would benefit from the fact that big areas of land are not yet registered. He stated that the local or national government would use the fact that land is not registered as an argument to not involve the mobile indigenous communities of the land into the planning and implementation processes of projects. Furthermore, he explained that the various government structures would use the fact that land is not registered as an argument to not pay for any compensations to the local communities.

Andrew Lokitambaa from the local organization *Environmental Justice Team Samburu* in Samburu County stated that especially for big projects (that usually have no representation of the various indigenous communities) neither information nor sufficient accountability would be given to the various mobile indigenous peoples who are the rightful owners of the land. In addition to that he stated that a lot of money would be frequently embezzled.

*5. Is the indigenous knowledge of mobile indigenous peoples including their governance institutions, legal systems, land administration, food systems, and livestock herding incorporated in decision-making of the state and relevant laws and policies.*

Some of the Kenyan laws and policies provide provisions for the integration of indigenous knowledge. Hence, the Community Land Act from 2016 generally provides for example room for a community to utilize its community land according to its indigenous knowledge and traditions if these traditions are in line with the national Kenyan laws. For the registered community lands in Laikipia this meant for example, that the communities were given the power to develop their own land use- and land grazing plans. However, Bernhard Loolasho from the local organization

*Laikipia North Community Conservation Initiative* also explained that although the Kenyan Government generally acknowledges the existence of customary laws and gives provision for them within certain structures (like in community lands) such laws are finally not legally binding.

*6. Indicate the challenges mobile indigenous peoples face to fully enjoy their economic cultural and social rights including access to health services, education, employment opportunities, housing, and the justice system.*

Stephen Basele from the local organization *Pastoralist People Initiative* in Marsabit mentioned that the local and national government of Kenya frequently defines and assigns certain locations for government services (like schools, health centres, housing or markets), which force mobile indigenous communities to settle around areas they wouldn't have settled otherwise (induced sedentarization).

The mere number of certain communities (like the El Molo and Yaaku) as well as their remote places of residence makes these communities miss out on government planning as well as receiving certain employment opportunities. Furthermore, the small populations of some mobile indigenous peoples hinder them to be elected to certain government and/or juridical positions.

*7. Impact that national borders have on the full enjoyment of the human rights of transboundary mobile indigenous peoples whose ancestral territories span national borders.*

Especially along the northern, northeastern, northwestern, and southern Kenyan borders various mobile indigenous communities (like the Maasai, Borana, Turkana, Gabbra etc.) live and move traditionally across the national borders. Recently, these mobile indigenous peoples have frequently faced harassment from the various governments crossing the national borders. Hence, James Orre from the organization *Rebuilding Pastoralist Livelihood* mentioned that the free movement of people nowadays would not be as easy and possible as it was in the past. Hence, local, and national transboundary conflicts (among communities but also nation states) would hinder the free movement of peoples because borders could be temporarily closed, which might be fuelled by political interest at the local government level and/or the national state levels.

According to Bernhard Loolasho from the *Laikipia North Community Conservation Initiative*, this phenomenon can be increasingly observed at the northern Ethiopian border and the southern border between Kenya and Tanzania.

*8. The impact of internal or international conflicts on mobile indigenous peoples and indicate whether the specific needs of mobile indigenous peoples are included in transnational justice and post-conflicts policies and programmes.*

Internal conflicts between various mobile indigenous peoples in northern Kenya (e.g. the Borana-Gabbra conflicts or the Samburu-Pokot conflicts) hinder the communities to agree on certain land boundaries, which again is a pre-condition to successfully register community land. In some parts of Marsabit, Isiolo and Samburu the constant (frequently resource-based) conflicts among communities have resorted to situations where some communities entirely left their ancestral

land (which again led to deserted areas) that are neither legally registered nor acknowledged by the local government to be community land. In addition to that many mobile indigenous communities of northern Kenya who are currently in conflict with each other are not involved in national or transnational projects or programmes that address their respective conflicts.

International conflicts also have a strong impact on the livelihood of mobile indigenous peoples. Hence, two of the world's biggest refugee camps (Daadab and Kakuma) are located within the ancestral boundaries of mobile indigenous peoples in northern Kenya. This means that the indigenous communities of some areas are facing a huge influx of refugees that are fleeing the wars of neighbouring Somalia and South Sudan. This again creates a stronger pressure on the scarce (natural) resources of the respective area (e.g. pasture or water). In addition to that the tensed situation in some neighbouring countries often leads to a higher alert of the Kenyan Security Forces, which sometimes impacts the lives of mobile indigenous peoples because they are hindered in following their traditional transnational migratory routes. In addition to that cases had been reported that mobile indigenous people were presumed by the Kenyan Security Forces to be terrorists, which led to human rights violations against individuals and communities.

*9. Specific challenges that are faced by indigenous peoples living in voluntary isolation and initial contact.*

This does not apply for Kenya.

### **Identity recognition and culture:**

*10. Is the identity of mobile indigenous peoples legally recognized by the state and if not describe the implications that non-recognition has on the realisation of their rights.*

The Kenyan government generally acknowledges the existence of indigenous peoples, however, classifies all of them as minorities. While some indigenous minorities have been recognized and given an ethnic code by the Kenyan government, others such as the Yaaku communities of Mukogodo Forest in Laikipia County are still facing the challenge of being fully recognized as indigenous peoples. As a result of that, they were not able to register themselves in last census under their indigenous name and therefore were registered as "others". The general lack of a recognized identity marginalizes mobile indigenous peoples like the Yaaku even more because it leads to a stronger fragmentation of such peoples and forces them to further assimilate to their neighbours.

*11. Mobile indigenous peoples are at greater risk of human rights violations due to the intersecting forms of discriminations including but not limited to women and girls, persons with disabilities, LGBTI and gender diverse persons, older persons, and children. Please explain the specific situations and views these groups and the requirements needed to ensure that their rights are protected.*

The general lack of political representation of mobile indigenous peoples in Kenya puts especially the most vulnerable members of such communities at risk because they are frequently entirely overlooked. Hence, the discrimination of women, girls, persons with disabilities, LGBTI, gender diverse persons, older persons and children of mobile indigenous peoples is exacerbated by the sheer lack of representation.

Frequent inter-ethnic conflicts in northern Kenya and the displacement of certain communities from their land specifically affect women, girls, persons with disabilities, LGBTI, gender diverse persons, older persons, and children. Hence, access to social amenities such as hospitals and schools is hampered. In addition to that a higher number of women and girls falls victims to cases GBV during conflicts and are prevented to engage in their usual daily activities/chores.

### **Best practises:**

*13. Provide examples of resilience, good practises and strategies led by indigenous peoples and their organizations to improve the lives of mobile indigenous peoples.*

By forming networks like the *Pastoralist Alliance for Resilience and Adaptation Across Nations (PARAAN)*, the *Indigenous Women Council (IWC)* or the *Kenya Indigenous Youth Network (KIYN)* mobile indigenous peoples started to pull together shared resources and to amplify their voices on issues affecting them on a local, national, and transnational level.

In addition to that big local organizations like IMPACT or ISID started to sensitize the mobile indigenous peoples of Lakipia, Isiolo, Samburu and Marsabit on issues of community land registration and advocacy for securing land tenure rights. Hence, big fora like the Annual Community Land Summit that was initiated by IMPACT provided a big sharing platform for members of the various mobile indigenous peoples of Kenya to share their strategies, experiences and struggles regarding collective land tenure rights.

In addition to that a number of women and youth led organization have been established and are at the forefront of advocating for the inclusion of women, girls, children and persons with disabilities; pushing for the development of new national policies or the amendment of the existing legal framework to increase the visibility, equality and quality of life of mobile indigenous peoples.

*14. Provide information on measures taken by the state and international organizations to address the needs of mobile indigenous peoples in both law and practise and explain how these measures have led to the promotion protection and fulfilment of their rights in particular the measures to ensure that mobile indigenous peoples have access to adequate healthcare, employment opportunities etc.*

In October 2023 the *Pastoralist Alliance of Resilience and Adaption Across Nations (PARAAN)* as well as the Kenyan organization *Samburu Women Trust (SWT)* were invited by the National



Assembly Department Committee of Environment, Forestry and Mining to deliver and defend a memo on the Natural (Resource) Sharing Bill 2022, which was reflecting the concerns of the mobile indigenous peoples of northern Kenya regarding this bill.

In addition to that the National Land Commission of Kenya participated in the Annual Community Land Summit, guiding mobile indigenous peoples how to secure their collective land tenure rights.

*15. Information on access of mobile indigenous peoples to technical and financial support, global markets, and direct financing of conservation practises and/or other initiatives.*

Generally, the information to access technical and financial support, the global market or direct financing is still little amongst most mobile indigenous peoples. However, the number of organizations and initiatives that promote the various cases of mobile indigenous peoples has increased during the last years. Therefore, cases affecting violations of the rights of indigenous peoples in Kenya (like the cases of the Ogiek and Endorois) widely received attention, solidarity and support in 2023 from national and international circles advocating for indigenous peoples' rights.

### **III. Members of the Alliance**

*The current PARAAN-members are:*

<b>NO.</b>	<b>ORGANIZATION</b>	<b>CONTACT</b>	<b>COUNTY OF OPERATION</b>
1.	Indigenous Movement for Peace Advancement and Conflict Transformation (IMPACT) TRUST	<a href="mailto:olekaunga@yahoo.com">olekaunga@yahoo.com</a>	Laikipia, Isiolo, Samburu and Marsabit
2.	Kivulini Trust	<a href="mailto:haisack@yahoo.com">haisack@yahoo.com</a>	Isiolo and Marsabit
3.	Land, Environment, Advocacy and Research Net (LEARN) – Waso	<a href="mailto:learnwasocbi@gmail.com">learnwasocbi@gmail.com</a>	Isiolo
4.	Indigenous Strategies and Institution for Development (ISID)	<a href="mailto:didahomohamed@gmail.com">didahomohamed@gmail.com</a>	Marsabit and Isiolo
5.	Samburu Women Trust	<a href="mailto:jmeriwas@gmail.com">jmeriwas@gmail.com</a>	Laikipia, Samburu, Isiolo and Marsabit
6.	Isiolo Gender Watch	<a href="mailto:gracelolim@gmail.com">gracelolim@gmail.com</a>	Isiolo

7.	Pastoralists Women for Health & Education (PHWE)	<a href="mailto:shobagolicha@gmail.com">shobagolicha@gmail.com</a>	Isiolo
8.	Isiolo Peace Link	<a href="mailto:halimaa558@gmail.com">halimaa558@gmail.com</a>	Isiolo
9.	The New Dawn Pacesetter (TNDP)	<a href="mailto:emily.lerosion@gmail.com">emily.lerosion@gmail.com</a>	Laikipia, Samburu and Isiolo
10.	Yaaku Laikipia Trust	<a href="mailto:koinante6@gmail.com">koinante6@gmail.com</a> ; <a href="mailto:koinante6@yahoo.com">koinante6@yahoo.com</a>	Laikipia
11.	Indigenous Women and Girls Initiative	<a href="mailto:myatorsi@gmail.com">myatorsi@gmail.com</a>	Baringo
12.	Mukogodo Girls Empowerment Program	<a href="mailto:mukogodogirls@gmail.com">mukogodogirls@gmail.com</a>	Laikipia & Meru
13.	Pastoralist Peoples Initiative	<a href="mailto:margaretsuper57@gmail.com">margaretsuper57@gmail.com</a>	Marsabit
14.	Maasai Cultural Heritage	<a href="mailto:laissamalih@gmail.com">laissamalih@gmail.com</a>	Laikipia
15.	Nasaru Women Group	<a href="mailto:julianarono85@gmail.com">julianarono85@gmail.com</a>	Kajiado
16.	Endorois Indigenous Women Empowerment Network	<a href="mailto:cjbarken@gmail.com">cjbarken@gmail.com</a>	Baringo, Laikipia and Nakuru
17.	Endorois Welfare Council	<a href="mailto:kipkaziwk@gmail.com">kipkaziwk@gmail.com</a>	Baringo, Laikipia and Nakuru
18.	Indigenous Peoples Climate Change Watch	<a href="mailto:ipscctrack@gmail.com">ipscctrack@gmail.com</a>	Garissa
19.	Environmental Justice Team Samburu	<a href="mailto:environmentaljusticeteam18@gmail.com">environmentaljusticeteam18@gmail.com</a> ; <a href="mailto:trizaruoro@gmail.com">trizaruoro@gmail.com</a>	Samburu
20.	Community Empowerment and Development Initiative (CEDI)	<a href="mailto:saladbshana@gmail.com">saladbshana@gmail.com</a>	Isiolo
21.	Laikipia North Community Conservation Initiative (LANCCI)	<a href="mailto:lashperenb@gmail.com">lashperenb@gmail.com</a>	Laikipia

22.	Baringo Women and Youth Organization (BWYO)	<a href="mailto:nelesantash@yahoo.com">nelesantash@yahoo.com</a>	Baringo
23.	Center for Research and Development in Drylands (CRDD)	<a href="mailto:husein.tadicha@crdd-kenya.org">husein.tadicha@crdd-kenya.org</a>	Marsabit
24.	Kaputir Resource Management Organization (PARMO)	<a href="mailto:ekitelalucas@gmail.com">ekitelalucas@gmail.com</a>	Turkana
25.	Marti Elite Home Grown Peace Initiative	<a href="mailto:lorunyeibenzamin@gmail.com">lorunyeibenzamin@gmail.com</a>	Samburu
26.	Gurapau Women Group	<a href="mailto:louwachristiana@gmail.com">louwachristiana@gmail.com</a>	Marsabit
27.	Livestock Direct	<a href="mailto:rmt4olelegei@gmail.com">rmt4olelegei@gmail.com</a>	Laikipia
28.	Marsabit Women Advocacy and Development Organization (MWADO)	<a href="mailto:nuriagollo@yahoo.com">nuriagollo@yahoo.com</a>	Marsabit
29.	Samburu Well-Being Initiative for All (SWIFA)	<a href="mailto:gabriellalorere@gmail.com">gabriellalorere@gmail.com</a>	Samburu
30.	Rebuilding Pastoralist Livelihoods	<a href="mailto:jameorre1@gmail.com">jameorre1@gmail.com</a>	Marsabit
31.	Laikipia Paralegals Organization (LAPO)	<a href="mailto:matunge@yahoo.com">matunge@yahoo.com</a> , <a href="mailto:manassehrux@gmail.com">manassehrux@gmail.com</a>	Laikipia
32.	Sangida Foundation	<a href="mailto:jacinta.sangida@gmail.com">jacinta.sangida@gmail.com</a>	Laikipia
33.	Ardha Jabesa Foundation	<a href="mailto:ardhajabesafoundation@gmail.com">ardhajabesafoundation@gmail.com</a> <a href="mailto:halake3@gmail.com">halake3@gmail.com</a>	Isiolo
34.	Isiolo Conservation Trust (ICT)	<a href="mailto:boruissa@gmail.com">boruissa@gmail.com</a>	Isiolo