

# STATE OF HEALTH AND EDUCATION AMONG MINORITY AND INDIGENOUS PEOPLES IN KENYA

BY KANYINKE SENA



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AUGUST 2020

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### **Cover Photo**

A Sengwer village in Maron , Embobut, elgeyo Marakwet. Photo by: Kanyinke Sena

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Baskets made by Ogiek women in Laboot, Mt. Elgon. *Photo by: Kanyinke Sena*

A basket for the sanitary pads program was initiated during the research period. For each basket sold at KES 400/-, KES 70 /- goes towards purchase of sanitary pads for girls in Chepkitala.

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# Executive Summary

In 2015, all member states of the United Nations (UN) adopted the Sustainable Development Goals (SDGs), as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030. The member States rightfully recognized the importance of good health (Goal 3) and quality education (Goal 4) in the attainment of sustainable development. It can rightfully be argued that good health and education are the fulcrum of the fifteen other SDGs. With the adoption of this Agenda for Sustainable Development, the UN Member States further pledged to ensure that *"no one will be left behind"* and to *"endeavour to reach the furthest behind first"*.

The furthest behind include indigenous communities in Kenya like the Ogiek of Mau forest and Mt. Elgon, the Sengwer of Cherangany forest, the Endorois of Baringo and the Awer of Boni forest Lamu, who are the subject of this baseline study that was commissioned by Minority Rights Group (MRG) and the Ogiek Peoples, Development Program (OPDP). The study is part of a program that they are implementing with the aim of improving access to quality health care and education among the above named communities. The study began on 24th June, 2020. It involved extensive literature review, telephone interviews with various stakeholders as well as field visits to Mt. Elgon in both Bungoma and Trans Nzoia Counties, Cherangany in West Pokot, Trans Nzoia and Elgeyo Marakwet Counties, Baringo County and Mau Forest in Nakuru and Narok Counties.

The study came up with numerous findings, key among them being the recognition that the government has taken some measures to realize goals 3 and 4. However, there remains challenges because of factors such as Law and policy gaps; inadequate resources; insecure land tenure; security concerns; poor infrastructure; poverty; early marriages; the covid-19 pandemic and community attitudes among others.

The study offers a number of general and specific recommendations as follows:

## General recommendations

**There is need for a partnership** with the National Gender and Equality Commission to develop more detailed disaggregated **data** on each of the communities under study. The National and respective County governments should **enact laws for the recognition, protection and fulfillment of the rights of indigenous (marginalized) communities** within their jurisdictions. The **County Development Index health indicators** should be broadened to include overall access to health. There is also need for **Capacity building for activists and government officials** on the sustainable development goals as well as existing laws and policies for better inclusion in County Development plans.

Improve **sensitization on government programmes** and policies such as the 30% procurement reservations for women, youth and persons with disabilities, other government social economic

empowerment opportunities such as Uwezo Fund and Women Enterprise Fund. However, the amount allocated to this objective shall not exceed ten (10%) of the annual allocation of the Fund. **Securing land tenure** and **security issues** should be addressed urgently. Lastly, **there is need to play a role so as to influence the budgeting process** and increase investments in **Infrastructure**.

### SDG 3 Recommendations on Good Health and Wellbeing

**Increase the number of dispensaries, staff and availability of maternities** in all the community areas. **Create awareness on the importance of family planning and reproductive health issues** including basic hygiene. A four-wheel drive ambulance should be availed in all the areas. There is also need for the **Recognition and Certification of traditional midwives** as well as provision of basic equipment like gloves and sanitizers and government support to community livelihood initiatives.

### SDG 4 Recommendations on quality education

**Increase the number of ECDs, Provision of at least one secondary school in Chepkitale and Mangai for Mt. Elgon Ogiek and Awer respectively.**

**Building of boarding schools is recommended for the families that move from one place to another, increase the ratio of teachers to pupils while** ensuring that there is an adequate supply of books and laptops as well as training teachers on the use of government supplied Tablet computers. **There is need to construct at least one technical college/polytechnic in Chepkitale, Embobut, Laboi, Mangai and Mariashoni.** Also consider partnering with neighboring institutions including universities to create a quota for students from marginalized communities. This calls for lobbying of the Ministry of Education as part of the Constitutional affirmative action programs to lower admission marks/grades from C+ to C - or even D plus to allow students from the marginalised communities to access tertiary institutions and universities.

**For these communities, the lowering of entry points to tertiary institutions and universities is critical for the following reasons: -**

- **Their territories are hardship areas and employees from other communities do not want to work there leading to high turnover rates when they come to work in those territories.**
- **Lack of staff housing and other amenities for employees from outside these communities**
- **The low percentage pass of their children restricts their access to higher education**
- **It is in line with the Constitutional provisions for affirmative Action in Education as provided for under Article 56.**

# Introduction

“Why should I go to school when we are here digging trenches with a graduate?”. A 24-year old Endorois lady in Sandai, Baringo surprised us when we asked her why she did not continue with her studies. The question made us wonder if five years into the sustainable development goals, the government of Kenya was on track to deliver on any of the SDGs among the Ogiek, Sengwer, Endorois and Awer communities. But who are these communities and why are they a litmus test for the delivery of SDGs not only in Kenya but in other African Countries with similar communities?



Kapolet forest, Cherangany. Photo by Kanyinke Sena

At the time of writing this report, the government of Kenya had destroyed the homes of over 700 Ogiek families in various parts of the Mau Forest Complex ostensibly in an effort to conserve the forest. The eviction of the forest communities was scheduled to continue for the next few months and will affect more people from the Ogiek of Mau, the Ogiek of Mt. Elgon, the Sengwer of Cherangany forest, the Endorois in Mochongoi forest and the Awer in Boni forests. All these communities, who are the subject of this study, claim the respective forests as their ancestral territories/land.

The Ogiek Peoples' Development Program (OPDP), describes the Ogiek as an indigenous community of forest dwelling hunter-gatherers that inhabit different forest areas in Kenya, with the largest concentration of them scattered across the seven blocks of the Mau Forest Complex that is South West Mau, East Mau, Transmara, Mau Narok, Maasai Mau, Western Mau and Southern Mau. The total population of the Ogiek is estimated at 52000 people. <sup>ii</sup>Since the colonial times to date, they have experienced systemic injustices as upheld by the African Court on Human and Peoples Rights in a landmark ruling on 26th May, 2017. The systemic injustices include denial of property rights as well as a violation of cultures among other injustices. Their ancestral lands have been gazetted as forests reserves since colonial times to date.

Similarly, the Ogiek of Mt. Elgon inhabit Chepkitale in Bungoma and Taboo in Trans Nzoia Counties. Their ancestral lands are also gazetted as Mt. Elgon national park and Mt. Elgon biosphere reserve. The Sengwer are found in the Cherangany forests around Talau in West Pokot County, Kapolet in Trans Nzoia and Embobut in Elgeyo Marakwet. Their lands are gazetted as Cherangany forest. Land belonging to the Ogiek of Mt. Elgon and the Sengwer has been conserved to provide water for the communities living downstream.



The Endorois inhabit Lake Bogoria and Mochongoi forest areas in Baringo County. In 1974, they were evicted from Lake Bogoria for the establishment of the Lake Bogoria game reserve. Part of Mochongoi have also been gazetted as Mochongoi forest. The Endorois successfully contested the decision to evict them from this land at the African Commission on Human and Peoples Rights. In a landmark decision adopted by the African Union on 2nd, February, 2010, the African Commission on Human and Peoples' Rights ('the African Commission') declared the expulsion of Endorois from their ancestral land illegal and recommended that the government restitutes Endorois lands<sup>iii</sup>.

The Awer (also known as the Waboni, Boni and Sanye) are a Cushitic ethnic group inhabiting Lamu and Ijara in coastal Kenya. They are hunters and gatherers and their territories have also been designated as Boni and Dodori Forest Reserves.

From the foregoing, it is apparent that the Ogiek of Mau and those of Mt. Elgon, the Sengwer, Endorois and Awer communities have immense challenges with regards to their property rights. This has resulted in their marginalization politically, socially and economically. As a result of this marginalization, realizing all the SDGs targets has become a major challenge not only among these communities but also for other communities with similar circumstances in the region. It is therefore, imperative to critically address these challenges in a way that will lead to a realization of the SDGs for these communities.

Recognizing this need, Minority Rights Group (MRG) and Ogiek Peoples' Development Program (OPDP) are implementing a project aimed at improving access to quality health care and education among the Ogiek (Mau and Mt. Elgon), Sengwer, Endorois and Awer communities in Kenya. As part of the project, MRG and OPDP commissioned this baseline study to collect data, which will be used in the implementation of the project.

The report is divided into nine parts. Parts one and two provide the executive summary and introduction. Part three frames the context and part four discusses the methodology. Part five looks at the legal and policy framework, part six provides the data while part seven discusses some of the factors that will impact on the attainment of the SDGs. Part eight provides recommendations and part nine forms the conclusion.



Lobo dispensary submerged by the flooding in Lake Bogoria Photo by: Kanyinke Sena

## 2. Context Framing

As noted earlier, in 2015, all member states of the United Nations (UN) adopted the Sustainable Development Goals (SDGs), as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030. <sup>iv</sup>The member States rightfully recognized the importance of good health (Goal 3) and quality education (Goal 4) in the attainment of sustainable development. It can rightfully be argued that good health and education are the fulcrum of the fifteen other SDGs. With the adoption of this Agenda for Sustainable Development, the UN Member States further pledged to ensure that “no one will be left behind” and to “endeavour to reach the furthest behind first.”<sup>v</sup> In its discussion paper, *What does it Mean to Leave No One Behind*, UNDP (2018) cites discrimination in terms of: geographical coverage, governance, socio-economic status, shocks and fragility as the main five factors.

Do these communities under discussion fit within the meaning of the “furthest behind” necessitating their being placed first in any actions to achieve the SDGs generally and SDGs 3 and 4 in particular? Yes they do fit for the following reasons;

- All the five communities have faced various forms of discrimination from the colonial times to date. To understand historical and current discrimination against these communities, it is necessary to look at the biases, exclusions or mistreatment they have faced based on their identity as indigenous peoples and forest dwellers.
- As briefly described in the introduction above, the communities have been denied their property rights since the colonial times to date. This has been through non-recognition of their land rights, gazettment of their territories as forests/game reserves and regular evictions. The gazettment of their lands as Mt. Elgon Biosphere reserve in the case of Chepkitalo Ogiek, Mau Forest Complex in the case of Ogiek of Mau, Lake Bogoria game reserve in the case of Endorois and Boni forest in the case of the Awer. This was done without their participation and consent.
- Their hunting and gathering lifestyles have been criminalized from the colonial times to date. Not only did this deny the communities a vital source of protein, but the forceful destruction of their livelihood systems has forced them into farming livelihood systems that inevitably destroy the environment consequently leading to them being accused of destroying forests as a result of which they are evicted for conservation purposes.
- The communities have also endured isolation and marginalization in the remote environments they live in. This is evidenced by the lack of basic infrastructure like roads and hospitals in their territories. For a long time, infrastructural investment decisions in Kenya were guided by colonial laws and policies that deprived the African and then Sessional Paper Number 10 on Africa Socialism and its Application to planning in Kenya that emphasized investment in high potential areas hoping that the rest of the country could benefit from the trickle-down effect.

These high potential areas were those areas inhabited by the mainstream communities who also controlled political and economic power. These actions marginalized indigenous people's territories.

- This marginalization led to the isolation of indigenous communities. As a result, the isolated communities not only had no access to education but became susceptible to numerous diseases as they lack basic infrastructure and public services such as public transport. This forces them to walk for several kilometers daily in search of water, food, pastures, education and health facilities. Though the Internet is now mostly available through private telephone companies, the cost and knowhow remains a challenge.
- Consequently, their livelihood systems have been constantly interrupted denying them the chance to live normal lives. With no livestock, farms or other income generating opportunities, they are the poor of the poorest. Poverty has therefore, negated their ability to participate in the economic, social and political life of Kenya as a whole. They are also unable to access education and health services. Their territories have no piped water despite some of them being the water towers that provide water to many Kenyan cities. Access to electricity remains a mirage because of insecure land tenure. They can also not compete in the labour market because of their low academic achievements.
- The communities are also under regular attacks from neighbouring communities and face climate shocks in the form of heavy rains and droughts.

In 2010, Kenya adopted a new constitution that recognized these communities as marginalized communities, established a devolved system of government so that such communities could be closer to decision making, <sup>viii</sup>provided for affirmative action programs in health and education and an equalization fund <sup>ix</sup> to bring them at par with the rest of Kenya in terms of public services. The domestication and integration of SDGs is embedded in the Kenya's Medium Term Plan (MTP) III (2018-2022). Under the plan, Kenya has put in place a number of measures to ensure inclusivity and that no one is left behind.

It is expected therefore, that with this strong constitutional language and MTP III, which embeds SDGs goals including on good health (goal 3) and quality education (4), achieving these goals for the Ogiek, Sengwer, Endorois and Awer will be a walk in the park.

Achieving Goal 3 and 4 provides a strong backbone for the achievement of all the other SDGs. This report therefore, looks at the current status of achievement of SDG 3 and 4 among the target communities. It also explores some of the challenges that hinder the attainment of the goals for the communities and gives a few recommendations.

### 3. Methodology

There was a review of the available literature on each of the communities involved in the study which included Law and policy documents from the international, regional, sub-regional, national and the County levels. Telephone interviews were conducted with fifty respondents who were selected from government, civil society, and community members. Group discussions and interviews were also conducted with over two hundred (200) respondents who were randomly selected from Iyyaa and Laboot villages in Chepkitala in Bungoma, Kesogon and Talau in West Pokot, Kapolet in Trans Nzoia, Embobut in Elgeyo Marakwet, Laboi, Sandai, Arabal, Chepinyiny, Kabel and Ngelecha in Baringo, Nessuit, Mariashoni and Kuresoi in Nakuru, Ololoiipangi and Sasimwani in Narok.

Physical visits were also made to Medical facilities and schools and covered the following: - Laboot dispensary in Mt. Elgon, Lobo health centre and Sandai dispensary in Baringo and Ololulunga sub-county hospital in Narok, Iyyaa and Laboot primary schools in Chepkitala, Sandai, Chepinyiny, Mochongoi and Ngelecha primary schools in Baringo and Nessuit primary school in Baringo.



Since 2018, desktops and tablets remain unused in Nessuit primary school : *Photo by: Kanyinke Sena*



## 4. Legal and Policy Framework in Kenya

Kenya has a robust health and education framework that includes international laws, regional policies and national laws. This include ‘

### 4.1.1 Health Laws and Policies

International health law includes international standard-setting instruments adopted in the context of the World Health Organization (WHO) and under human rights law, while health-related legal rules, norms and other (non-binding) standards can also be found in several other branches of international law, including under international humanitarian and environmental laws, in medical ethics and patients’ rights (see also Fig. 1). In addition, some instruments have an indirect bearing on health, such as the Trade Related Intellectual Property Rights (the TRIPS) Agreement of the World Trade Organization (the WTO). Kenya is actively involved in the WHO and has ratified a number of Conventions from the World Health Organization (WHO) or any UN organs that impact on human rights. For example, Kenya ratified the WHO Framework Convention on Tobacco Control on 25th June, 2004<sup>xii</sup>. However, the International Health Regulations (IHR) are an international legal binding instrument for 194 countries across the globe, including all the Member States of WHO<sup>xiii</sup>.

At the African regional level, the Africa Union has developed several strategies including the Africa Health Strategy 2016-2030<sup>xiv</sup>, the Africa Regional Nutritional Strategy 2015-2025<sup>xv</sup> the Maputo Action Plan<sup>xvi</sup> among others. At the sub-regional level, The East Africa Community Health Department has developed several frameworks and instruments to respond to identified regional health challenges and priority interventions. These include:

- The EAC HIV and AIDS Multi-Sectoral Strategic Plan (2008-2013)
- Regional Reproductive Health Strategic Plan, EAC Regional Pharmaceutical Manufacturing Plan of Action (2012-2016)
- Draft EAC Regional Pharmaceutical Policy
- Draft EAC Regional Food Safety and Quality Policy
- The Regional Strategic Plan on Sexual and Reproductive Health and Rights in East Africa (2008-2013)
- The EAC Biennial Work Plan on Disease Prevention and Control

At the national, the constitution provides for the right to health and education and the Ministry of Health have developed several laws and policies.

### i. Constitutional provisions

The Constitution of Kenya (2010) has several provisions that guarantee the right to health. Article 43 (1) (a) provides the right to every person to enjoy the highest attainable standard of health, including the right to healthcare services, including reproductive health care. Further, a person has a right to reasonable standards of sanitation; to be free from hunger and have adequate food of acceptable quality; and to clean and safe water in adequate quantities. Article 43 (1) (b) provides that a person shall not be denied emergency medical treatment.

The Fourth Schedule distributes health functions between the two levels of government as follows;

- a) National government - national referral health facilities as well as health policy functions<sup>xviii</sup>.
- b) The County Governments perform functions relating to:<sup>xix</sup>
  - County health facilities and pharmacies,
  - Ambulance services,
  - Promotion of primary health care,
  - Licensing and controlling undertakings that sell food to the public,
  - Veterinary services, excluding regulation,
  - Cemeteries, funeral parlours and crematoria,
  - Refuse, removal, refuse dumps and solid waste removal.

## ii. Statutes that govern the health sector in Kenya

The following laws govern the health sector in Kenya

**a) Public Health Act (CAP 242)** secures and maintains health. It provides for the administration of health in Kenya, as well as the prevention, containment and management of infectious diseases, provides for sanitation and housing, regulates health standards for foodstuffs and makes provisions for management of public health.

**b) Health Act, (No. 21 of 2017)** establishes a unified health system, to coordinate the inter-relationship between the national government and county government health systems, to provide for regulation of health care service and health care service providers, health products and health technologies and for connected purposes. It also provides for the right to health and other rights under it, as well as designated duties to various holders.

**c) Kenya Medical Training College Act, (CAP 261)** establishes the Kenya Medical Training College as a self-governing institution and to provide for its governance, control and management and for connected purposes. KMTC trains health manpower in various disciplines, to complement other health professionals, being trained at universities.

**d) Public Health Officers (Training, Registration and Licensing) Act, (No 12 of 2013)** makes provision for the training, registration and licensing of public health officers and public health technicians; to regulate their practice, to provide for the establishment, powers and functions of the Public Health Officers and Public Health Technicians Council and for connected purposes.

**e) Kenya Medical Supplies Authority Act, (No. 20 of 2013)** makes provisions for the establishment of the Kenya Medical Supplies Authority (KEMSA) and for connected purposes i.e. its management, functions etc. KEMSA is the main supplier for drugs and medical supplies in Kenya.

makes provisions for the training, registration and licensing of the health records and information managers; to regulate their practice; to provide for the establishment, powers and functions of the Health Records and Information Managers Board and for connected purposes.

**g) Medical Laboratory Technicians and Technologists Act, (No. 10 of 1999)** provides for the training, registration and licensing of medical laboratory technicians and technologists; to provide for the establishment, powers and functions of the Kenya Medical Laboratory Technicians and Technologists Board, and for connected purposes.

**h) Physiotherapists Act (No. 20 of 2014)** makes provision for the training, registration and licensing of physiotherapists; to regulate their practice, to provide for the establishment, powers and functions of the Physiotherapy Council of Kenya and for connected purposes.

**i) Pharmacy and Poisons Act, (CAP 244)** makes provision for the control of the profession of pharmacy and the trade in drugs and poisons.

**j) Medical Practitioners and Dentists Act, (CAP 253)** consolidates and amends the law to make provision for the registration of medical practitioners and dentists and for purposes connected therewith and incidental thereto. It is the main law on the training of medical practitioners and dentists. The Kenya medical practitioners and dentists council established under this accredits institutions and curricula to be used for training and sets standards for examination. It also registers and inspects health institutions, and oversee the conduct of medical practitioners and dentists. This act also provides for the qualifications one needs to become a medical practitioner or dentist in Kenya.

## Health Policies in Kenya

Currently, the guiding policy on matters of health is the Health Policy 2014-2030: Towards attaining the highest standard of health as published by the Ministry of Health. It guides the health sector towards meeting the constitutional threshold for health as expressed by the Kenyan citizenry. It is a wide policy paper touching on all aspects of health. However, there exists other sector specific/ issue policies, like on issues of breastfeeding, vaccination etc.

## Education Laws and Policies

According to the United Nation's Committee of Economic, Social and Cultural Rights, "the right to education epitomizes the indivisibility and interdependence of all human rights." Each State therefore has an obligation to respect, protect and fulfil the right to education. To meet its obligations on the right to education, Kenya is guided by a robust law and policy framework that includes international laws and declarations at the United Nations, regional policies at the Africa union, sub-regional laws and policies at the East Africa community and numerous national laws and policies.

Applicability of international laws and standards are grounded in the Constitution of Kenya (2010). Article 2 (5) provides that "the general rules of international law shall form part of the law of Kenya." Similarly, Article 2 (6) provides that "any treaty or convention ratified by Kenya shall form part of the laws of Kenya." Some of the standards applicable include the Universal Declaration of Human Rights, 1948 in which Article 26 provides everyone with the right to education. The UNESCO Convention against Discrimination in Education, 1960 addresses discrimination, equality of opportunity and the rights to education of minority groups. The right to education is further provided for under Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, 1966 and Article 18 (4) of the International Covenant on Civil and Political Rights, 1966. The 1989 Convention on the Rights of the Child refers to the right to education in Articles 28 and 29. Further references to the right to education are included in Articles 5 (v) and 7 of the 1965 Convention on the Elimination of All Forms of Discrimination (CERD), Article 10 of the 1979 Convention on the Elimination of Discrimination Against Women (CEDAW), Article 26 and 29 of the 1989 International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and Article 24 of the 2006 Convention on the Rights of Persons with Disabilities among others.

At the African regional level, the African Union (AU) has developed and adopted the Agenda 2063 that among others aims at "a prosperous Africa based on inclusive growth and sustainable Development." Among the goals of the Agenda 2063 is that of a "well educated citizens and skills revolution underpinned by science, technology and innovation." This responds to UN Sustainable Development Goal 4 of ensuring inclusive and equitable quality education and promotion of lifelong learning opportunities for all. The pursuit of education is critical in the attainment of fifteen (15) flagship projects under the Agenda 2063. The Africa Union has therefore, adopted several education strategies that include the Continental Education Strategy for Africa (CESA 16-25), the Technical and Vocational Training Strategy (TVET), Science, Technology and Innovation Strategy for Africa (STISA 2024). The AU also has several institutions and programs under its Education Division.

The East African Community also recognizes the fundamental importance of education, science and technology in economic development through harmonized curricula, examination, certification and accreditation of institutions; joint establishment and support of scientific and technological research as well as identifying and developing centres of excellence in the region.



At the national level, the Constitution has provided for education as a matter of right to its citizens. Under Article 53 (1) (b), every child has a right to free and compulsory basic education. Article 54 (1) (b) provides persons with disabilities the right of access to educational institutions and facilities that are integrated into society, to the extent compatible with the interests of the person. Article 55 (a) requires the State to take measures, including affirmative actions programs to ensure the youth have access to relevant education and training<sup>xxii</sup>. Further, Article 56 (b) specifically requires the state to put in place affirmative action measures to ensure that minorities and marginalized groups are provided with special opportunities in the educational fields. The right to education is closely tied to the freedom of conscience, religion, belief and opinion, as well as the freedoms of expression and access to information, without which, education would not be possible. All these rights are also protected under Kenya's constitution (2010)<sup>xxiii</sup>.

The constitution has also divided functions relating to education between the two levels of government.

- The national government performs functions<sup>xxiv</sup> that include setting education policy and standards, developing curricula used in the country, conducting national examinations, granting university charters, functions relating to universities, tertiary educational institutions and other institutions of research and higher learning, functions relating to primary schools, special education and their institutions, as well as high schools and the promotion of sports and sports education.
- County governments perform functions related to pre-primary education, village polytechnics, home-craft centres and childcare facilities<sup>xxv</sup>.

## Statutes governing the education sector in Kenya

Parliament has enacted the following statutes to ensure the enjoyment of the right to education, and to regulate the sector;

**a) Basic Education Act. (No. 14 of 2013)** to give effect to Article 53 of the Constitution and other enabling provisions; to promote and regulate free and compulsory basic education; to provide for accreditation, registration, governance and management of institutions of basic education; to provide for the establishment of the National Education Board, the Education Standards and Quality Assurance Commission, and the County Education Board and for connected purposes<sup>xxvi</sup>. This is the main law governing secondary primary and pre-primary education. It also makes provisions for adult basic education<sup>xxvii</sup>.

**b) Children's Act. (No. 8 of 2001)** provides for the right to education for children and also includes the right to religious education<sup>xxviii</sup>.

**c) Universities Act (No. 42 of 2012)** to provide for the development of university education; the establishment, accreditation and governance of universities; the establishment of the Commission for University Education, the Universities Funding Board and the Kenya University and Colleges Central Placement Service Board; and for connected purposes.

**d) The Kenya National Examinations Council Act, (No. 29 of 2012)** to establish the council, provide for its running and management. It also provides for their functions, which generally relate to the conduct of national examinations and setting and enforcing examination rules and standards.

**e) Kenya Industrial Training Act (Cap 237)** establishes the Kenya Industrial Training authority and board, and provides for the regulation of industrial training in the country.

**f) Kenya Institute of Curriculum Development Act (No 4 of 2013)** establishes the Kenya Institute of Curriculum Development (KICD); to establish the governing Council for the Institute and for connected purposes. KICD sets the standards and reviews curricula used in the country, both foreign and local, for basic education, and technical and vocational training education.

**g) Technical and Vocational Education and Training Act (No. 29 of 2013)** to provide for the establishment of a technical and vocational education and training system; to provide for the governance and management of institutions offering technical and vocational education and training; to provide for coordinated assessment, examination and certification; to institute a mechanism for promoting access and equity in training; to assure standards, quality and relevance; and for connected purposes.

**h) Science, Technology and Innovation Act (No. 28 of 2013)** to facilitate the promotion, co-ordination and regulation of the progress of science, technology and innovation of the country; to assign priority to the development of science, technology and innovation; to entrench science, technology and innovation into the national production system and for connected purposes.

Parliament has also enacted many laws to give professional bodies the latitude to govern training related to their particular field.

### 4.1.2 Education Policies in Kenya

The following policy documents guide the Kenyan education sector.

1. Sessional paper no. 1 of 2019 a policy framework for reforming education and training for sustainable development in Kenya<sup>xxix</sup>.
2. Education sector disaster management policy<sup>xxx</sup>.
3. Reforming education and training for sustainable development in Kenya<sup>xxxi</sup>
4. Basic education framework<sup>xxxii</sup>
5. Policy framework for nomadic education in Kenya<sup>xxxiii</sup>
6. Pre-primary policy <sup>xxxiv</sup>
7. Pre-primary policy 2 <sup>xxxv</sup>
8. Competency based education and training policy framework<sup>xxxvi</sup>
9. Mentorship policy for early learning and basic education <sup>xxxvii</sup>
10. National pre-primary education policy <sup>xxxviii</sup>
11. Kenya school readiness assessment tool (KSRAT) - child assessment tool<sup>xxxix</sup>
12. Basic standard requirements for registration<sup>xl</sup>
13. Easy to read version of education and training policy on learners and trainees with disabilities<sup>xli</sup>
14. Sector policy for learners and trainees with disabilities<sup>xlii</sup>
15. Implementation guidelines-sector policy for learners and trainees with disabilities<sup>xliii</sup>
16. Education and training sector gender policy 2015<sup>xliv</sup>
17. Ministry of education, science & technology Kenya school readiness assessment tool (KSRAT) for children transiting to primary one<sup>xl</sup>
18. A policy framework for science, technology and innovation<sup>xlvi</sup>
20. Education for sustainable development policy for the education sector<sup>xlvi</sup>
21. TVET GC policy<sup>xlvi</sup>
22. Sector plan for science and technology<sup>xlix</sup>
23. First final draft TVET policy<sup>l</sup>
24. ECD service standard guidelines final<sup>li</sup>
25. SNE draft policy-june\_2009<sup>lii</sup>
26. The national council for nomadic education in Kenya - strategic plan 2015/2016-2019/2020<sup>liii</sup>
27. Revised policy framework on nomadic education in Kenya<sup>liv</sup>
28. National education sector plan - volume one: basic education programme rationale and approach<sup>lv</sup>
29. National education sector plan - volume two: operational plan<sup>lvi</sup>



Artisanal Gold mining in Maron, Embobut. Photo by Kanyike Sena

Commission on Revenue Allocation submits its recommendations for the division of revenue between national and county governments by January 1st using the following formula. However, this formula is currently under discussion at the senate and may change by the time of submitting this report.

$$CA_i = 0.45PN_i + 0.26ES_i + 0.18PL_i + 0.08LA_i + 0.02FE_i + 0.01DF_i$$

Where:

CA=Revenue allocated to county

i = County: 1,,2, 2.....47.

PN<sub>i</sub>=Revenue allocated to a county on the basis of Population Factor.

ES<sub>i</sub>= Revenue allocated to a county on the basis of Equal Share factor. This is shared equally among the 47 counties.

PL<sub>i</sub>= Revenue allocated to a county on the basis of Poverty Factor.

LA<sub>i</sub>= Revenue allocated to a county on the basis of Land Area Factor.

FE<sub>i</sub>= Revenue allocated to a given county on the basis of Fiscal Effort.

DF<sub>i</sub>= Revenue allocated to a given county on the basis of Development Factor.

There is an ongoing debate at the Senate to review the formula



## 5. Data Presentation and Analysis

### 5.1 Overview of the Budgeting Process

A government budget is a document presenting the government's proposed revenues, spending and priorities for a financial year<sup>lvii</sup>. The Constitution of Kenya provides the broad principles of public finance whereas the **Public Finance Management Act, 2012** sets out the rules of how the national and county governments can raise and spend money<sup>lviii</sup>. Section 35 of the Public Finance Management Act sets out the budget making process at the national level as follows: - The budget process for the national government in any financial year shall comprise the following stages–

- a) Integrated development planning process which shall include both long term and medium term planning;
- b) Planning and determining financial and economic policies and priorities at the national level over the medium term;
- c) Preparing overall estimates in the form of the Budget Policy Statement of national government revenues and expenditures;
- d) Adoption of Budget Policy Statement by Parliament as a basis for future deliberations;
- e) Preparing budget estimates for the national government;
- f) Submitting those estimates to the National Assembly for approval;
- g) Enacting the appropriation Bill and any other Bills required to implement the National government's budgetary proposals;
- h) Implementing the approved budget;
- i) Evaluating and accounting for, the national government's budgeted revenues and expenditures; and
- j) Reviewing and reporting on those budgeted revenues and expenditures every three months.

**Public participation is a requirement in the budget making process at both the national and county levels.**

Section 126 to 133 of the Public Finance Act provide for the County Budget making process as follows: -

- a) County government to prepare development plan.
- b) County government to prepare cash flow projections.
- c) County Executive Committee member for finance to manage budget process at county government level.
- d) County Executive Committee member to submit budget estimates and other documents to County Executive Committee for approval.
- e) County Executive Committee member for finance to submit budget documents to County Assembly.
- f) County Assembly to consider budget estimates.
- g) Submission and consideration of the revenue raising measures in the county assembly.
- h) Approval of the Finance Bill.

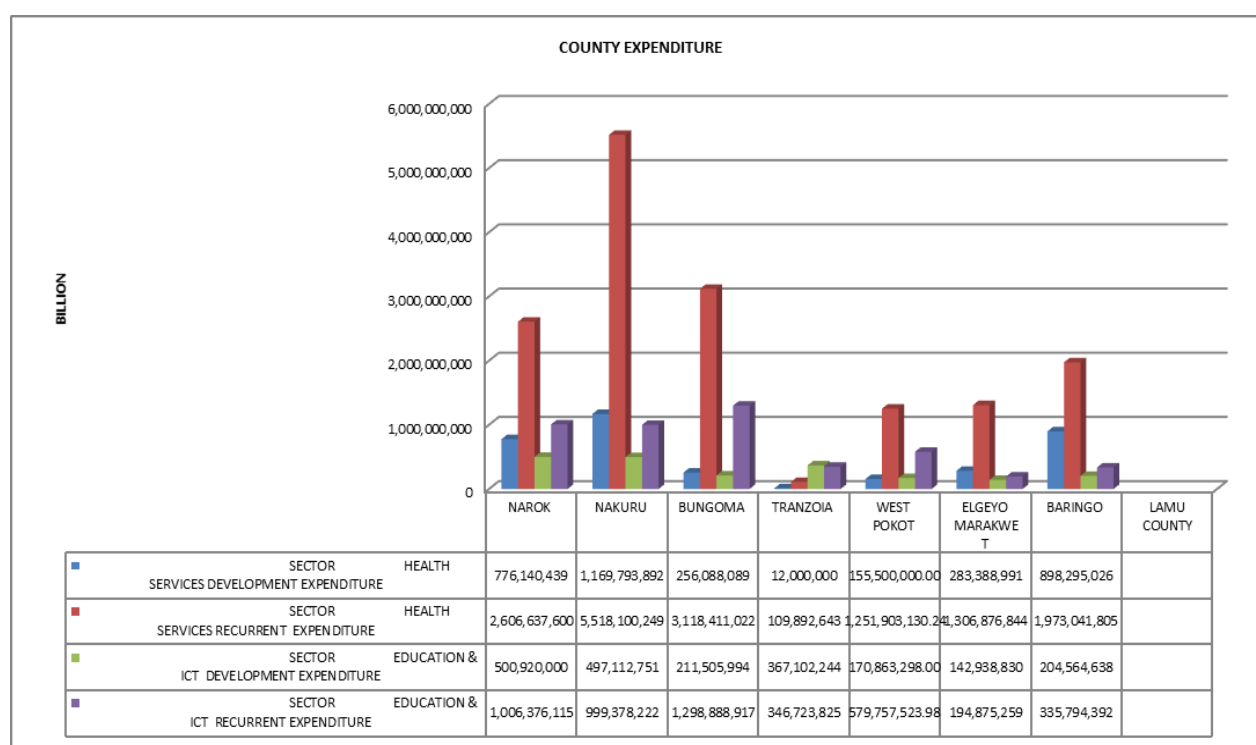
## 5.2. Budgetary Allocation Estimations

Development expenditure covers expenses incurred for purchases and production of long-term durable goods such as the construction of facilities while recurrent expenditures include repeatedly and often occurring expenses which influence the daily operations of the departments such as the salaries, transport, internet services etc. While every effort was made to get accurate data, restrictions of movement during the COVID 19 period caused a major challenge. Further, delays or non-responsiveness by those contacted impacted on the accessibility of data. Some of the Counties hardly upload their budget estimates online while others upload but do not update the data. Lamu County budget estimates were not available online.

Table No. 1

| COUNTY                 | SECTOR                  |                       |                         |                       |
|------------------------|-------------------------|-----------------------|-------------------------|-----------------------|
|                        | HEALTH SERVICES         |                       | EDUCATION & ICT         |                       |
|                        | DEVELOPMENT EXPENDITURE | RECURRENT EXPENDITURE | DEVELOPMENT EXPENDITURE | RECURRENT EXPENDITURE |
| <b>NAROK</b>           | 776,140,439             | 2,606,637,600         | 500,920,000             | 1,006,376,115         |
| <b>NAKURU</b>          | 1,169,793,892           | 5,518,100,249         | 497,112,751             | 999,378,222           |
| <b>BUNGOMA</b>         | 256,088,089             | 3,118,411,022         | 211,505,994             | 1,298,888,917         |
| <b>TRANZOIA</b>        | 12,000,000              | 109,892,643           | 367,102,244             | 346,723,825           |
| <b>WEST POKOT</b>      | 155,500,000.00          | 1,251,903,130.24      | 170,863,298.00          | 579,757,523.98        |
| <b>ELGEYO MARAKWET</b> | 283,388,991             | 1,306,876,844         | 142,938,830             | 194,875,259           |
| <b>BARINGO</b>         | 898,295,026             | 1,973,041,805         | 204,564,638             | 335,794,392           |
| <b>LAMU COUNTY</b>     |                         |                       |                         |                       |

Chart No. 1

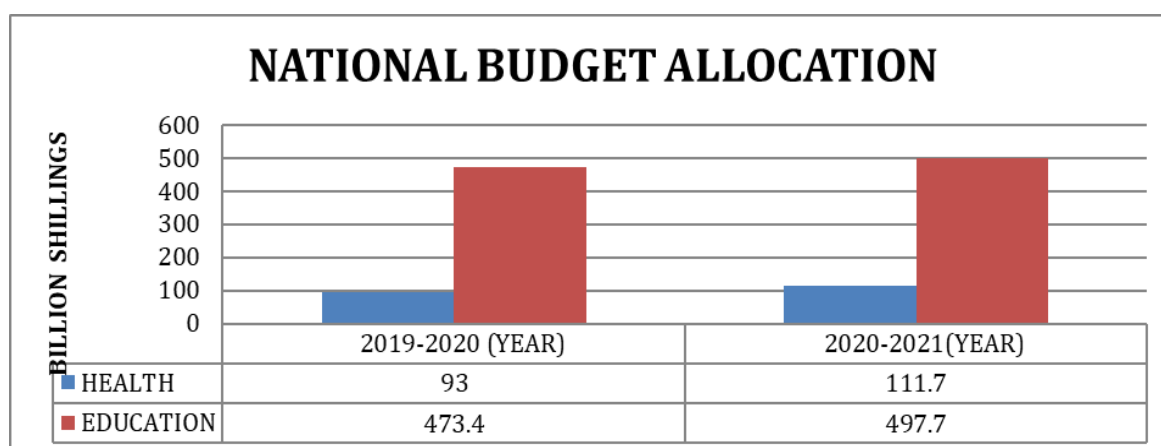


- The recurrent expenditure in the counties shot up in 2017/2018 to cater for the presidential repeat election, enhancement of the free primary and secondary school education as well as the implementation of the collective bargaining agreement in the education sector.
- Kenya continues to accrue debts. Interest payments on all the debts are tabled under the recurrent expenditures leading to the further bloating of this component of expenditure<sup>lix</sup>.

Table No. 2

| NATIONAL BUDGET ALLOCATION |               |               |
|----------------------------|---------------|---------------|
| SECTOR                     | 2019 - 2020yr | 2020 - 2021yr |
| HEALTH                     | 93.0 Billion  | 111.7 Billion |
| EDUCATION                  | 473.4 BILLION | 497.7 Billion |

Chart No. 2



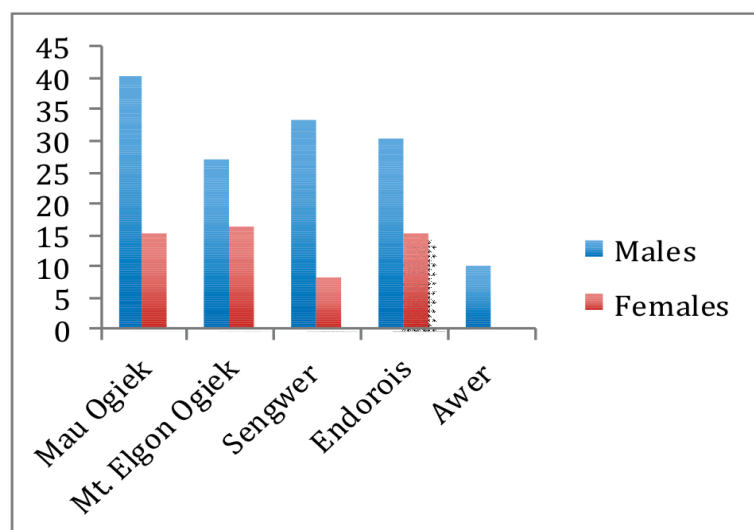
- The National budget on health increased by 18.7 from the last financial year probably because of the response to the COVID 19 pandemic.
- Similarly, the education budget has increased despite schools being closed until January, 2021.
- The Government has waived examination fees for KCSE and KCPE candidates<sup>lx</sup>.
- On the list of beneficiaries is the Education sector, which has been allocated KSh 497.7 Billion or 26.7% of the National Budget Out of this, KSh 59.4 Billion is for free secondary education and KSh 12.4 Billion for free primary school education. Treasury has further allocated KSh 2 Billion for the recruitment of 5,000 teachers, KSh 1.8 Billion for the School feeding program, KSh 6.3 Billion to TVET institutions, KSh 4 Billion to cater for exam registration fees waivers for class 8 and fourth form students and KSh 800 Million for Digital learning program as well as for implementing the Competence-Based Curriculum (CBC). The Higher Education Loans Board has been allocated KSh 16.8 Billion<sup>lxi</sup>.
- With KSh. 29.5 billion sent to public schools at the beginning of January 2018. The government grant of KSh. 12,870 per secondary school student has been increased to Sh22,244 as proposed by a task force in 2015 to help support the expected increase in admissions<sup>lxii</sup>.



## 5.3. Communities Health and Education

### Respondents distribution by gender

Chart No 3



The contact person, time, location and access to mobile telephones influenced gender interviewee distribution. Most women were able to multi-task during the interviews while men tended to be generally available in the shopping centers. This made it easier to reach more males than females. The age group ranged from 20 to 80 years.

#### 5.3.1. Data on SDG 3: Good Health and Wellbeing

Goal 3 has 13 targets that touch on diverse areas such as reducing the global maternal mortality ratio to less than 70 per 100 000 live births, ending preventable deaths of newborns and children under 5 years of age, ending the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases; reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being as well as strengthening the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol. It also targets ensuring universal access to sexual and reproductive health-care services, including family planning, information and education, and the integration of reproductive health into national strategies and programmes. Other issues include achieving universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all.

Access to healthcare involves availability of medical facilities, drugs, ease of access, and adequate well-trained staff among others. The ministry of health has different hospital levels ranging between level 1-6 with the services and facilities increasing and improving with the rise of the medical facility level<sup>lxiii</sup>. They are characterized by the number of staff members and the level of qualifications, with dispensaries being headed by clinical officers. The Health centers which rank higher have capacity to offer various medical services<sup>lxiv</sup>. The following is the health situation among the Ogiek, Sengwer, Endorois and Awer.

Table No. 4

| COUNTY HEALTH FACILITIES |                   |          |              |                |                |            |              |                 |                       |
|--------------------------|-------------------|----------|--------------|----------------|----------------|------------|--------------|-----------------|-----------------------|
| COUNTY                   | HEALTH FACILITIES | DISTRICT | SUB DISTRICT | MEDICAL CLINIC | HEALTH CENTERS | DISPENSARY | NURSING HOME | MATERNITY HOMES | OTHER                 |
| BARINGO                  | 89                | -        | -            | -              | -              | -          | -            | -               | -                     |
| NAROK                    | 104               | 3        | 1            |                | 16             | 84         |              |                 |                       |
| BUNGOMA                  | 138               | -        | -            | -              | 19             | 111        | -            | -               | 7(primary care ,1VCT) |
| ELGEYO MARAKWET          | 113               | 1        | 5            | 2              | 15             | 89         | -            | -               | 1                     |
| TRANSZOIA                | 78                | 2        | 2            | 28             | 7              | 33         | 2            |                 | 4                     |
| NAKURU                   | 278               | 3        | 3            | 82             | 43             | 115        | 8            | 6               | 18                    |
| WEST POKOT               | 31                | 1        |              |                | 3              | 27         | 1            | -               |                       |
| LAMU                     | 42                | 1        | 2            | 13             | 5              | 20         | 1            | -               | -                     |

- In Baringo, there are 89 public health facilities, though there is no data on the health facilities within Endorois territory. Therefore, there is a need for further study to desegregate data on the health facilities within Endorois territory.
- In Narok, there is no single health facility in Ogiek areas of Sasimwani and Olooloipangi
- In Bungoma, the Ogiek of Chepkitale only have one health facility, which is Laboot dispensary
- The Sengwer in Embobut in Elgeyo Marakwet have no health facility in their territory;
- The average walking distances to access a health facility is 3 kms (nearest) to 30 kms for the farthest.

According to the Kenya Health Policy (2014-2030), the 10 leading causes of death in Kenya are HIV-related ailments (29%), perinatal conditions (9%), lower respiratory tract infections (8%), tuberculosis (6%), diarrheal diseases (6%), malaria (5%), cerebrovascular diseases (3%), ischemic heart disease (3%), road traffic accidents (2%)<sup>lxv</sup> and violence (2%). In all the areas visited, the reported common diseases include, Malaria, Pneumonia, Typhoid, Upper Respiratory Tract Infections (URTI), Urinary Tract Infections (UTIs) especially among women, Sexually Transmitted Diseases (STDs) including HIV /AIDS (Talau), Brucellosis, and Snake bites (Baringo).

There was no desegregated data available on the infection rates per disease among the communities. However, a study on Malaria in the Mt. Elgon side of Uganda revealed that on average, 66±69/1000 individuals suffered from malaria on a monthly basis. Malaria patterns varied with the seasons and altitude. The high altitude zones have become malaria hotspots as cases variably occurred in the zone.<sup>lxvi</sup> Climate change is a key contributor to the increasing

incidences of Malaria in the high altitudes.<sup>lxvii</sup> This explains the high number of reported cases in Mt. Elgon, Cherangany and Mau. In Baringo, the increasing cases of Malaria are attributed to the high temperatures and flooding of Lake Bogoria and Baringo. In 2019, several counties including Baringo experienced elevated levels of malaria cases which put a strain on the health care delivery system. The most affected persons were children under the age of five years and expectant women<sup>lxviii</sup>.

However, the government has put in place a number of interventions to control Malaria. The Ministry of Health has distributed 20 million mosquito nets to the most at risk populations, increasing the ownership of the nets in households in the high burden areas to 83%, which translates to increased protection against malaria. However, no disaggregated data is available on Malaria interventions among the Ogiek, Sengwer, Endorois and Awer.

Pneumonia was found to be the major public health problem especially in children aged less than 5 years in the developing countries, with 150 million new clinical cases occurring each year. Between 11-20 million (7-13%) of the children require hospitalization out of which two million die.<sup>lxix</sup> Communities in Mt. Elgon, Kapolet, Embobut, Sasimwani and Olooloipangi reported pneumonia as the most common disease in the territory. They attribute the high prevalence to extreme cold in the high altitude areas, lack of blankets and heavy clothes and the nature of the structures they live in which are semi-permanent. They cannot construct permanent homes because of their insecure land tenure. There are constant evictions from their territories which often leave them in the cold making them susceptible to pneumonia. This together with the high number of cases of upper respiratory tract infections reported; pose a major challenge especially in the midst of the threat of Covid 19.

STDs which were largely as a result of unsafe sexual practices and UTIs were also reported as a common problem in Chepkitala, Talau, Embobut, Baringo, Nakuru and Narok. In Laboot and Sandai dispensaries in Mt. Elgon and Baringo respectively, there were no condoms available for the public. Similarly, no shops sold condoms in Laboot, Iyyaa, Laboi, Sandai, Sasimwani and Olooloipangi. To get a condom, a person needs to travel for 27 kms to Kapsokwony or 10 kms in Kuresoi. In Sasimwani, a person travels for 2 kms to Olokirikirai. Community attitudes were a major reason behind the lack of condoms. This is because, if a shop keeper sells a condom or a customer asks for one, they will be labelled as people without morals. An elder in Mt. Elgon requested that the community be sensitized on the importance of condoms and how to use them. UTI cases were high especially among women. In Talau, UTIs are prevalent because of the numerous illegal alcohol drinking dens. The Sengwer council of elders blamed the provincial administration for laxity in stemming the vice of illegal brews which were exacerbating the prevalence of STIs.

Brucellosis, a bacterial infection that spreads from animals to people through eating raw or unpasteurized dairy products was also a common problem in all areas. Each family in all the communities targeted by the study had at least one cow for milk. Poor milk boiling habits were the main cause of the high prevalence of brucellosis.



Ogiek traditional medicine merchants in Narok: *Photo by: Kanyinke Sena*

### 5.3.2. Data on SDG 4: Quality Education

SDG 4 aims at inclusive and equitable quality education and promotion of lifelong learning opportunities for all. Quality education and lifelong learning opportunities for all are central to ensuring a full and productive life to all individuals and to the realization of sustainable development. As Arnaud Diemer (2020) argued, among the SDGs, SDG 4 is of the highest importance. Beyond the fact that education is a key variable in a country's development, SDG 4 was positioned as a key factor for change, a change which is more qualitative than quantitative because it assumes that sustainable development (and its education) leads to real changes in individual behavior.

Under Kenya's Basic Education Act 2013, it is mandatory for any parent who is a Kenyan or whose child resides in the country to enroll them for primary and secondary education. However, for indigenous communities compulsory enrolment was determined by several factors such as availability of facilities, distances to schools and staffing among others. The following section gives an overview of the state of the rights to education among the Ogiek, Sengwer, Endorois and Awer:-

Table No.5

| EDUCATION COUNTY FACILITIES |               |           |                    |            |                       |
|-----------------------------|---------------|-----------|--------------------|------------|-----------------------|
| COUNTY                      | CONTITUENCIES |           | NO OF INSTITUTIONS | ENROLLMENT | TERTIARY INSTITUTIONS |
| BARINGO                     | 6             | PRIMARY   | 349                | 73,933     | 17                    |
|                             |               | SECONDARY | 34                 | 31,435     |                       |
| NAROK                       | 6             | PRIMARY   | 571                | 175 409    | 20                    |
|                             |               | SECONDARY | 61                 | 13852      |                       |
| BUNGOMA                     | 9             | PRIMARY   | 804                | 400,407    | 45                    |
|                             |               | SECONDARY | 207                | 41,310     |                       |
| ELGEYO MARAKWET             | 4             | PRIMARY   | 373                | 110,399    | 15                    |
|                             |               | SECONDARY | 75                 | 20,877     |                       |
| TRANSZOIA                   | 5             | PRIMARY   | 471                | 229,408    | 40                    |
|                             |               | SECONDARY | 120                | 24,361     |                       |
| NAKURU                      | 11            | PRIMARY   | 898                | 358,556    | 48                    |
|                             |               | SECONDARY | 334                | 25,475     |                       |
| WEST POKOT                  | 4             | PRIMARY   | 318                | 105,452    | 10                    |
|                             |               | SECONDARY | 34                 | 9,897      |                       |
| LAMU                        | 2             | Primary   | 139                | -          | 17                    |
|                             |               | Secondary | 25                 | -          |                       |

Table No 6. Number of schools by sample location

| COUNTY IPS COMMUNITIES |            |                                   |                    |               |          |
|------------------------|------------|-----------------------------------|--------------------|---------------|----------|
|                        |            |                                   | NO OF INSTITUTIONS |               |          |
| COMMUNITY              | POPULATION | LOCATION                          | PRIMARY            | SECONDAR<br>Y | TERTIARY |
| Mt. Elgon<br>Ogiek     | 52 596     | Chepkitale<br>(5000)              | 4                  | 0             | 0        |
| Mau Ogiek              |            | Nessuit<br>(7000)                 | 8                  | 2             | 0        |
|                        |            | Sasimwani<br>(oloropil)<br>(2600) | 5                  | 2             | 0        |
|                        |            | Kuresoi                           |                    |               |          |
| Sengwer                | -          | Talau                             | 4                  | 2             | 0        |
|                        |            | kapolet                           |                    |               |          |
|                        |            | Embobut                           | 1                  | 0             | 0        |
| Endorois               | 47 000     | Loboi                             |                    |               |          |
|                        |            | Chepinyiny                        | 1                  | 0             | 0        |
|                        |            | Muchongoi                         |                    |               |          |
| Awer                   | 20,103     | Basuba ward                       | 5                  | 0             | 0        |



- The population reflects the total population of the tribe in Kenya and is not desegregated by County or location. For example, the Ogiek total population of 52, 596 is the total population of the Ogiek in Kenya and is not desegregated to the Ogiek in Mau forest or Mt. Elgon.
- The figure below the location name is the estimated population of the community in the location as given by elders interviewed as no disaggregated data is available.
- The 2019 population census does not reflect the actual population of the respective communities as some members of the Ogiek registered themselves as Maasai or Kalenjin, Kalenjin or Cherangany in case of the Sengwer, Tugen incase of Endorois etc.

### 5.3.3. Completion and Transition rate



At 17yrs of age, , this Sengwer girl already has two children: *Photo by: Kanyinke Sena*

Goal 1 of SDG 4 envisions that by 2030, all girls and boys complete free, equitable and quality primary and secondary education. Completion rate refers to the percentage of a cohort of pupils enrolled in the first grade of primary education in a given school year who are expected to complete a certain level of education. In 2015, the completion rate for primary education for Kenya was 105.2 %. Completion rate for primary education in Kenya increased from 48.4 % in 1970 to 105.2 % in 2015 growing at an average annual rate of 5.97%<sup>lxxii</sup>.

Transition from one level of education to the next level becomes a critical indicator for the attainment of SDG 4. Hueblar (2011) defined education transition rate as the percentage of learners advancing from one level of schooling to the next. Transition rate is thought to be a good indicator of balanced or unbalanced development of education between two levels (Acheampong, 2002) . There were various transitions in the education system from pre-school (SDG 4.2) to primary school, from primary to secondary school (SDG 4.1), from secondary to university or tertiary institutions(SDG.3) (Veronica Nduku Mwikya, 2019). Transition from one level to another is thought to empower an individual socially and economically<sup>lxxiii</sup>.

In 2004, Kenya's national average transition rate from primary to secondary school was 56%. But this jumped to 81.3 % in 2017 after the introduction of Free Primary Education (FPE) in 2003. In 2008, Kenya introduced a Free Secondary Education policy with the aim of making secondary education affordable so as to enhance access, transition and student academic performance. Under the policy, all candidates who sit for the Kenya Certificate of Primary Education Examination must transit to secondary school. Against this brief background, the transition rates among the Ogiek, Sengwer, Endorois and Awer remained low as shown in the following table.

Table No. 7

| COUNTY             |                                |                |                         |                         |   |
|--------------------|--------------------------------|----------------|-------------------------|-------------------------|---|
|                    | % Completion & Transition rate |                |                         |                         |   |
|                    | School                         | Completi<br>on | Primary to<br>secondary | Secondary<br>completion | Secondary to<br>tertiary/universit<br>y |
| NAROK              | Olooloipangi                   | 40             | 30                      | 50                      | 5                                       |
|                    | Sasimwani                      |                |                         |                         |   |
| NAKURU             | Nessuit                        | 55             | 72                      | 75                      | 30                                      |
|                    | Kuresoi                        | 60             | 75                      | 45                      | 25                                      |
|                    |                                |                |                         |                         |   |
| BUNGOMA            | IYAA                           | 60             | 30                      | 40                      | 15                                      |
|                    | Laboot                         | 80             | 60                      | 55                      | 20                                      |
| WEST POKOT         | Talau                          |                |                         |                         |   |
| TRANSZOIA          | Kapolet                        | 80             | 75                      | 70                      | 45                                      |
| ELGEYO<br>MARAKWET | Maron                          | 50             | 40                      | 50                      | 20                                      |
| BARINGO            |                                | 70             | 50                      | 60                      | 45                                      |
| LAMU               |                                | 60             | 80                      | 95                      | 2                                       |

Because of the long closure of schools as a result of the COVID 19 pandemic, it was impossible to find any of the primary or secondary schools head teachers so that they could give more accurate data on the completion or transition rates. The few tertiary institutions that we visited had no desegregated data on the student's tribes. Most of the information above is therefore, from interviews with the Chairperson of the Board (Nessuit), parents and general community members in the rest of the schools. A more desegregated study is therefore, necessary.

Among the Awer, the total population of those who had completed primary school was about 200. Total completion of secondary schools stands at 50 and only 5 college completions. However, there was a high completion rate from primary to secondary schools for the past 3 years because of some factors such as increased participation of the provincial administration in forcing parents to send children to school, free primary education and role models from the community. At the secondary school level, bursaries from the County government and availability of boarding schools, albeit far, are contributing to the high secondary school completion rate.

Among the Ogiek, different areas determine data sets. For example, proximity to a major tribe determines the extent of facilities and student numbers. There is no exclusive primary or secondary school for Ogiek children. In Nessuit primary school, 50 % of the students are Ogiek. Unconfirmed reports indicate that about 1500 Ogiek children from Sasimwani are in neighbouring primary schools. There are approximately 1500 children in secondary schools, 50 in various colleges and less than 15 in various universities from Sasimwani.

Baringo County is expansive and the Endorois occupy 15 locations. As there was no disaggregated data and the information we got was from the Endorois Welfare Council, it was difficult to get an accurate completion or transition rate.



Endorois Territory from Ngelecha: *Photo by Kanyinke Sena*

## 6. Factors that affect the attainment of SDG's 3 and 4

### 6.1. Cross cutting

#### a) Law and policy gaps

There is very little awareness and understanding by indigenous activists of the Sustainable Development Goals and the various laws, policies and frameworks for its delivery.

Though the constitution has strong Acts on affirmative action programs to support indigenous peoples health and education, there is very poor understanding of how these were being actualized in legislations and policies. Efforts by indigenous rights activists to push for the enactment of an indigenous people's law and policy have so far been fruitless.

Though mandated by the National Gender and Equality Act to pursue rights of marginalized communities, the Commission has focused more on the Gender component. The mandate of the Kenya National Commission on Human Rights in regard to indigenous/marginalized communities is unclear in law. Similarly, a Marginalized community office was recently established at the Deputy President's office but there is little awareness of its existence. This necessitates a law and institution purely focused on indigenous/marginalized communities.

Further, the Public Finance Management (National Government Affirmative Action Fund) Regulations, 2016 for example, do not focus on indigenous/marginalized communities specifically but through generalities like women, youth, elderly and persons with disabilities. Consequently, little or no effort has been put on the sensitization of the communities on government programmes and policies such as the 30% procurement reservations for women, youth and persons with disabilities, existence of other government social economic empowerment opportunities such as Uwezo Fund and Women Enterprise Fund among others.

#### b) Inadequate resources

Budgetary allocations at both the national and county levels are insufficient to meet SDGs goals 3 and 4 on time. For example, though the government of Kenya introduced an automatic transition policy from primary to secondary school three years ago, the cost of implication of the policy will hamper its full realization in indigenous communities' territories by 2030. Several factors will increase the costs. These include the increased number of students, school and facilities, books among others. The Equalization fund disbursement is not well understood at the community level. Also, since budgetary allocations are mostly politically driven, indigenous communities are still the last to benefit especially at the County levels. This goes contrary to SDGs commitment of leaving no one behind by putting the furthest first.

### **c) Unsecure land tenure**

Though Chepkitale is the ancestral home of the Ogiek, the territory was gazetted as the Mount Elgon Forest Reserve and Chepkitale National Reserve in 2003. Similarly, both Kapolet and Embobut, the ancestral home of the Sengwer are gazetted forest reserves comprising the larger Cherangany forest. The Ogiek of Mau forest in both Sasimwani and East Mau also have not secure tenure despite an African Court on Human and Peoples Rights ruling which recognized the entire Mau forest as Ogiek ancestral territory. The communities are regularly evicted or threatened with evictions and they cannot therefore, make and invest in any meaningful long-term plans. The legal status of the communities land as public forests provides an excuse for the government not to provide hospitals or schools. Local politicians also use the same excuse so as not to allocate any Community Development Funds to the communities.

The non-secure title to their lands also limits the communities from enjoying services like electricity. For example, residents of Maron village in Embobut cannot access electricity to their homes despite the government having connected electricity to the nearby Maron primary school. This is because an application for power connection must be accompanied by a copy of a title deed.

A few days after visiting Embobut, about 30 homes were set ablaze by the Kenya Forest Service. These regular disruptions force parents to take their children to schools outside their territory which forces them to seek shelter from relatives or friends who live near the schools. Not only does this separate the children from their families, it exposes them, especially girls to early pregnancies.

### **d) Security**

Terrorism is the greatest threat to Awer health and education in Boni forest. Besides being directly impacted by terrorist attacks, they are also victims of any security operations in the area. Similarly, there is very little movement of vehicles in the territory because of land mines. This limits their access to education and health facilities, that are located several kilometers away. Armed conflicts between neighboring communities also directly impact on health and education. In Mau forest, armed conflicts between the Kipsigis and Ogiek reoccur every few months especially in Nessuit. Similarly, commercial livestock keepers, armed Pokot and Marakwet drive their cattle to Sengwer territories in Kapolet and Embobut. In May 2019, for instance, Kapindasm, Arabal, Kasiela and Chemorongion Primary Schools were closed after armed Pokot bandits reined terror on Endorois villages in Baringo<sup>lxxxv</sup>. Such attacks have continued to date. During data collection for this report for example, we had to pass through a Ngelecha General Service Unit camp that is equipped with armored personnel carriers to access a school that had been razed completely by the bandits in 2015. The school is being rebuilt from scratch. After an hour of our interviews, we heard gunshots in some bushes about 500 meters away from us. There are a lot of insecurities in most parts of Endorois Community. When one is taken ill at night, they are forced to wait for daybreak to confirm that it is safe to travel because no one is allowed to travel at night.



### **e) Poor/lack of roads**

The bad roads in Sasimwani, Olooloipangi and Kuresoi in Mau, Laboot in Mt. Elgon, Kapolet in Chepkitale and in almost all parts of Endorois territory in Baringo, hinder access to health and education for the communities under study. While the government has made some effort to gravel roads that link market centres in all territories visited, maintenance has not been done for a number of years. Furthermore, there are no feeder roads to connect far off villages with either the gravel roads or the markets. Communities therefore, have to walk for up to 40 kilometers to access health and education facilities. In Iyyaa village in Chepkitale for example, we encountered a 14 year-old boy who was bleeding profusely from a deep cut on his thigh after a machete bounced off and hit him as he was cutting down a stem of a tree. His father had carried him on his back for 2 kms on steep terrain to reach the village. He was in tears, concerned about his son's health and desperate to get to the hospital which was 27 kms away in Chepkitale. There was no public transport and at the same time motorbikes were costly and rarely found.

The lack of roads is especially difficult for children who have to walk long distances to school in rainy, extremely cold weather conditions, steep valleys, through forests and bushes which are inhabited by wild animals such as hyenas, hippos, and elephants. This is not only a threat to the lives of the children but also exposes them to pneumonia and upper respiratory diseases. This discourages them from going to school.

### **f) Poverty**

The rate of poverty is high among all the communities targeted by the study. Insecure land tenure, limited livelihood options, lack of access to markets and lack of proper exposure to the market economy are the main drivers of poverty. No desegregated data is available on the poverty levels of the Ogiek, Endorois, Sengwer and Awer. However, 95 % of people interviewed primarily practice livestock keeping in the moorlands of Mt. Elgon, glades of Embobut, in the dry lands of Baringo and in Mau forest. Livestock numbers per household vary with an average of six. Higher livestock numbers are more prevalent among the educated working class and among the Endorois. One study estimated that the average number of cattle, sheep, goats, donkeys, and hens was 5.0, 4.0, 2.0, 1.0, and 7.0 respectively per Ogiek household in Mariashoni.<sup>[xxvi]</sup> Livestock trade is prevalent among all the communities targeted by the study.

The Ogiek of Mau, Sengwer and less than 40% of Endorois families also practice small-scale agriculture. They grow crops that include maize, beans and potatoes among other crops. The Perkerra irrigation scheme<sup>[xxvii]</sup> is mainly responsible for the expanding crop farming activities among the Endorois in Lobo, Sandai and neighbouring areas. Numerous Conservancies around Lake Bogoria further support Endorois livelihoods around the lake. Though not openly discussed, all communities practice hunting and gathering to supplement their food requirements. However, this is done secretly for fear of reprisals from Kenya Wildlife Service, Kenya Forest Service, the Police and the Provincial Administration. The Endorois have several bee-keeping cooperatives, such as the Ratemo bee-keepers association in Radat.

The Ogiek of Sasimwani source for honey from different parts of Narok County and sell the honey and traditional medicine at the Narok bus stage. Ogiek in Nessuit and Sengwer in Kapalet are working on starting bee keeping cooperatives.

## **g) Early marriages**

There is abundant evidence of the negative impact of early marriages on the health and education of girls and boys in all communities targeted by the study. In Mt. Elgon and Embobut, 85% of girls are married at the age of 14 years but in some cases, as soon as they start their menstrual cycle or undergo female genital mutilation. Similarly, in Embobut, Nessuit and Baringo (especially in the more rural parts of Baringo), early marriages of girls are about 97%. We also noted that on average; about 45% of boys also get married as soon as they are circumcised at a mean age of 15 years. This denies both the sexes the opportunity to pursue education. A government nurse at Laboot dispensary informed us that most girls in the area have an average of seven children by age of 25 years.

In Nessuit, about 70 % of girls who undergo early marriages and about 50% of the boys who married early opt to go back to school. However, pressing parental responsibilities interfere with their learning resulting in non-completion or poor performance. Early marriages affect girls' reproductive and mental health and the boys' mental health. Teen pregnancies and dropout<sup>lxxviii</sup> rates among the Ogiek of Mau is a serious problem as noted by Ogiek Peoples' Development Program.

Factors that drive early marriages include female genital mutilation and boys circumcision among all communities visited. Menstrual cycles especially disadvantage girls as they have no sanitary pads and are stigmatized about the same. When boys acquire a few livestock, they start believing that they can afford a family. The attitude of elders remains a great challenge. An Endorois elder insisted that girls must give birth until they are no longer fertile so that their population can grow. This is so that they can have numbers in politics.

The long walks to schools by girls alone through heavy forests in Embobut, Chepkitale and thickets in Baringo contribute to 70 % of the pregnancies. According to the head teacher, Iyyaa primary school in Chepkitale, the girls fear walking through the forests alone. This is especially so because they leave home as early as 5:00 am so as to be in school by 8:00 am. In the evening after school, they arrive home around 8:00 pm. Boys or young men take advantage of this situation and sweet-talk the girls into consensual sex. A lady in Sandai told us that the roads to the schools were too dangerous as they are filled with "men like hyenas." She had therefore, withdrawn her daughters from school for their own safety.

There are a lot of early marriages for girls aged between 14-18 years. This is because the community believes in procreation; continuation of family and also in marriage as a sign of respect between the two families. After getting two or three children, the newly married mother undergoes FMG and later legalizes their marriage after dowry is paid. Lastly, community attitudes to births as a blessing and continuation of family encourage girls to give birth early. Marriage is held in high esteem and one is respected for getting married.

## **h) COVID-19**

Though there were no reported cases of COVID-19 in all the sample locations visited, awareness of the pandemic was more in Ogiek of Mau territories than in other areas. In Nessuit shopping centre, we observed that a majority of people wearing masks though not properly. OPDP was also recording a song in Nessuit primary school to create awareness on the pandemic. However, the school officials we interviewed had no masks. In Kuresoi, the 16 Ogiek (13 men and 3 women) we interviewed in a group all wore masks. But a drive through their village and in Kuresoi revealed that a majority of persons were not wearing masks. The Ogiek in Narok wore masks only in markets to avoid being arrested by the police.

In Iyyaa and Laboot villages in Mt. Elgon, we did not see a single Ogiek with a mask on. There was no water to wash hands and neither did they have hand sanitizers. During the interviews with the Sengwer council of elders, they wore masks at the beginning but later removed them as the discussions proceeded. However, social distancing was maintained. In Lobo, Sandai, Chepinyiny and Kabel villages, Endorois told us the pandemic is a disease of the city.

Government anti-Covid measures and protocols have also had an impact especially on Endorois livelihoods. The pandemic has restricted entry into Lake Bogoria with no tourists visiting since April, 2020. Endorois businesses around the game reserve entry points had closed since April. Endorois employed to collect gate fees and act as tour guides no longer have a source of income. Circulation of money in Lobo and its environs had greatly reduced, impacting on Endorois ability to meet their health and education needs.

Since the closure of schools in March, children were idle at home. Not a single school in Ogiek, Sengwer and Endorois territories is undertaking any online studies. Informal home schooling only focuses on the normal household aspects of life like cooking and cattle herding. Child labour increased tremendously among all the communities. Though no data is available, teenage pregnancies increased as a result of girls and boys interacting more frequently in the villages. A lady in Sandai estimated that not more than 10% of the girls in the village will return to school without being pregnant during this COVID-19 period. With the 7th July announcement by the Cabinet Secretary for Education that all schools will reopen in January 2021, the situation is expected to worsen.

## **i) Community attitudes**

The Communities had negative attitudes towards education and health. In Laboot, Embobut, we met three university graduates who had no jobs and were just idling in the villages. In Sandai, a trained nurse who had searched for employment for almost four years was working as a casual labourer at the trenches of Perkera irrigation scheme. The communities had not seen major success stories from those who have gone to school. "So why should I sell my livestock to take a child to school if they will just come back and do subsistence farming like me?" asked an elder in Laboot village. Similarly, a young form four drop out in Sandai told us as those who have gone to school are manually digging water canals for Perkera irrigation scheme with those who have not gone to school. This has reduced the value of education significantly in the village.

Similarly, in health matters, people take little responsibility to safeguard their health and wellbeing. In Ngelecha area personal hygiene is not a priority among the Endorois. We had examples of a recent YALI fellow who previously could stay for six (6) years without taking a shower. In Embobut, the average shower rate is one in two months for men and once a month for women. A Sengwer activist informed us that people only take a bath when they need to travel to Kapsowar, which is on very rare occasions. Open defecation is also a major problem in most areas visited except Kuresoi. This is leading to high incidences of typhoid.

### **j) Lack of technical knowhow**

Through the National Government Digital Learning program aimed at utilizing digital technologies in primary schools,<sup>lxxix</sup> the national government issued Learner digital devices (tablets) as per the number of pupils in class 1 with content for class 1 and class 2 from 2016. Ilyaa, Laboot in Mt. Elgon, all primary schools in Cherangany and Baringo and Mau all had the tablets. Besides the tablets, Nessuit primary school had ten old desktop computers and a commercial grade printer. Some of the schools e.g Nessuit are connected to the national electricity grid. In the schools that were not connected to the grid, the government had supplied solar charging systems for the tablets. However, besides Laboot where the head teacher confirmed that they are using the tablets in teaching, all the other schools had not used the tablets or desktops (Nessuit) and they were gathering dust in the head teachers' offices. The reasons given for the non-use include lack of teacher training (government rolled out the training from 2016<sup>lxxx</sup>), the children will spoil the tablets, or the tablets might explode on the pupils.

## **6.2 SDG 3: Good Health and Wellbeing**

The attainment of SDG 3 among the Ogiek in Mau and Mt. Elgon, the Sengwer, Endorois and Awer is impacted by factors that include the following:-

### **a) Faulty County development index indicators**

The indicators used to measure access to health are the percentage of mothers per county who delivered in facilities with the help of qualified medical personnel, access to improved sanitation and the percentage of immunized children in each county. These indicators measure access to very specific services, but ignore overall access to health facilities, which is also highly unequal across the counties<sup>lxxxi</sup>.

### **b) Nonexistent or inadequate medical facilities**

In all areas visited, lack of medical facilities was a major challenge. In the few places where they had dispensaries; they were mostly inadequate to serve the population. The findings below provide examples of the difficulties experienced by the communities.

There was only one dispensary in Chepkitala which serves the Ogiek from as far as 20-30 kms away. Until last year, it had no laboratory to properly diagnose diseases.

The existing laboratory was not funded by the government but by the Chepkitale Indigenous Peoples Development Program (CIDP). There was no maternity wing and examination beds had to be used for delivery.

Over 70 % of the deliveries happen at home and are carried out by traditional midwives who also work without any equipment such as protective gloves or pay. Fortunately, three out of the four staff members are from the area and therefore, operate from their homes. The rest commute from Kapsokwony, which is 30 kms away whenever they are able to. There have been discussions to renovate some colonial buildings destroyed by the Gisu people from Uganda, but no funding has been allocated. In case of emergencies that require speedy transportation to Kapsokwony, there was no single ambulance in the area. They use either donkeys or motorbikes or hire vehicles from Kapsokwony at exorbitant prices. This is unaffordable for most people.

In Lobo, the increased flooding in Lake Bogoria had submerged the dispensary and staff houses. A smaller room loaned by the warden of Lake Bogoria game reserve now serves as the consultation room. A section of the Endorois Welfare Council had allocated their cultural centre to serve as the maternity ward in the interim. With no staff houses, the two nurses who work at the dispensary commute from Mogotio some 21 Kms away. Last year, the County government promised to renovate an old building to serve as their quarters. However, the COVID 19 pandemic changed funding priorities. Daily Travel of the staff from Mogotio was very expensive. They therefore, opted to work on alternate shifts.

### **c) Lack of staff in the few existing facilities**

The few medical facilities in their territories also lack medical personnel. For example, Sandai health centre in Baringo has only one nurse. She does everything from diagnosis, dressing to maternity services. On average, she serves 60 people from as far as 30 kms away. She lives five kilometres away from the facility and when called at night, she cannot access any means of transport and cannot travel due to the insecurity posed by the wildlife at night. She was not permanently employed and serves as an intern. She only opens the dispensary only when there are medicines. When she is called to attend meetings outside Sandai, the dispensary remains closed until she got back. Weekends are her off days and so she does not open the facility. This denies the communities access to health services when the health centre is closed.

### **d) Shortage of drugs**

An acute shortage of drugs was reported in all the medical facilities visited. In Laboot, drugs are supplied once or twice a month and they not even adequate. The shortage of drugs especially during this Covid 19 period has been exacerbated by an amendment in the law in mid-march, 2020 that barred county governments from buying medical supplies from any agency except the Kenya Medical Supplies Authority (KEMSA)<sup>lxxxii</sup>. However, failure by the County governments to pay for medical supplies has been a thorny issue and a major cause of suppliers refusing to deliver drugs to county medical facilities. The shortage of drugs in the few medical facilities had pushed the communities to continue relying on traditional medicines<sup>lxxxiii</sup>.



### e) Distances to the available facilities

Access to public education and health was mostly determined by the distance one had to travel. In Chepkitala, Ololoipangi, Baringo and Awer territories, the average distance a child walks to school is 3 kms to 15 kms. These densely forested territories are inhabited by wildlife. In Sandai, such wildlife includes hippos and snakes. In Mt. Elgon, there are elephants. During the rainy seasons, it is even harder for the children to go to school. They have no means of transport like bicycles or motorbikes. In Mt. Elgon, Baringo and Lamu, people travel as much as 40 kms on foot to access hospitals. Distance therefore, hampers access to education and health.

### f) Natural calamities

Natural disasters that include locusts' invasion and droughts in parts of Baringo over the last two years have impacted on the availability of food and nutrition. These natural calamities have forced the Endorois to move from their territories, e.g. Arabal, to other communities' areas or market centers in search of food and pasture. Over the last few years, Lake Bogoria and Lake Baringo have been experiencing double increase in water levels. This has affected the tourism sector leading to reduction in revenue collection by the county government resulting to reduced 10% percent income which Endorois community usually receive from revenue. Additionally, the grazing areas have shrunk and community cut off from doing daily business at the entrance to Lake bogoria due to flooding affecting their livelihood.

At Lobo location, the health center was flooded by water from Lake Bogoria and was inaccessible to the people. The staff houses and farms were also were flooded leading to the displacement of people living near the lake. A borrowed room was converted to a health center. As a result of the flooding, a new problem of understaffing arose as the staff members had to commute to their work station from as far as Marigat, some 20 kms away. This in turn affected the concentration and responsiveness of the health officers to emergencies. The fact that they had to cater for their transport costs to their work station did not make matters any better.

### g) Reproductive health issues

According to the WHO, reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease in all matters relating to the reproductive system and to its functions and processes<sup>lxxxiv</sup>. Some of the components of reproductive health issues observed and discussed with the communities include: -

- **Parental care ;-** reproductive health includes facilities and services for safe motherhood to enable monitoring of the pregnancy itself all the way to delivering a baby, as well as neonatal, perinatal and postnatal periods, and breastfeeding. The low number of health facilities poses a major challenge to parental care. However, reports from Laboot and Sandai indicated that young mothers from the Ogiek and Sengwer communities respectively are increasingly committing to perinatal and post-natal services despite the long distances they walk.

- **Family planning;**– Family planning was not being practiced across all the communities visited. This was as a result of low awareness mostly attributed to negative attitudes by the communities. Children are a status symbol and therefore, the more the number of children one had, the higher the social status. As noted earlier, in Lobo, the elders informed us that they wanted to have more children so that they can grow their political numbers.
- **Treatment and prevention of STIs;**– Condoms were not provided in the health centres and were also not sold in shops in Chepkitala, Embobut, Ololoipangi, Sasimwani and most of Baringo. Parents and the Sengwer council of elders for example, insisted that they cannot buy their children (boys and girls) condoms. The first line of treatment for STIs was traditional medicine. However, at Laboot health centre, the nurse noted that STIs are a common complaint.
- **Treatment of non-infectious diseases related to reproduction;**– In all communities visited especially in Embobut, women were unwilling to disclose any information pertaining to diseases related to reproduction health. However, fistula was common in all the communities but was rarely discussed due to the stigmatization attached to it.
- **Sex education;**– Sex education between the parents and children is a culturally a taboo subject among all the communities. Sex education was therefore, only given in schools especially during biology lessons and even then, teachers were not comfortable with the subject. Elders claim that sex education used to take place after circumcision but this is no longer the case.
- **Harmful cultural practices;**– Female Genital mutilation was still practiced, albeit quietly among all the communities visited. It was encouraged by the older generation.
- **Sexual health;**– personal hygiene which is a strong component of sexual health was not a priority in most of the communities visited. In Embobut, the average number of baths is twice a month for women and once a month for men. In the more remote parts of Baringo, for example Ngelecha village, people could go for a year more without a bath. The cold weather, availability of water or soap were the major reasons for this. Availability of sanitary pads and panties was also a major issue. A simple lack of sanitary towels meant that many girls stopped attending school when their menstrual cycle begins. This means that every month, girls are absent from school for approximately 5 to 7 days. All parents interviewed stated that they do not budget for their daughters' sanitary pads.

### **h) Lack of maternity facilities**

In the dispensaries we visited in Laboot and Sandai, there were no maternity facilities. Most deliveries are done at home and in the rare occasion that a woman is rushed to a local dispensary to deliver, the consulting table/room is also used as the maternity.

## **6.3 SDG 4: Quality Education**

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Several factors impact on quality education. These include;-

- a) Placing each ECD in a primary school meant that younger children had to travel long distances in difficult terrain and sometimes in bad weather to access education. This has discouraged many parents from taking their children to ECDs.
- b) The primary schools were few and lack the requisite personnel, desks and books. Most teachers were from outside the communities and find living in squalid conditions unbearable. This encourages high turnover rates and absenteeism. The four schools in Chepkitale share one examination centre.
- c) In Chepkitale and Awer territories, there is no single secondary school. This makes the automatic transition from primary to secondary school unachievable.
- d) Due to the long distances, child pregnancies and other hazards face the students and discourage them from continuing with education. There was no single boarding school in Ogiek and Awer territories. In Talau, the one boarding school was not adequate for all the students.
- e) Though the government supplied tablets for primary schools in most areas visited, teachers had not been trained on their use. In Nessuit, the tablets were brought in 2016 but have never used. In Ilyaa primary school, the tablets were brought in 2018 but have only been used once.
- f) There is no technical college/polytechnic in Chepkitale, Embobut, Laboi, Mangai and Mariashoni. The high marks needed as entry points for college also bars the students from these communities from accessing these institutions.

There were also bad roads that made walking to school a challenge especially during the rainy season and also predisposed the students and pupils to diseases such as Malaria, Pneumonia Typhoid, Common cold, Chest problems, and Arthritis.

In most communities visited, it was observed that the ECDs were situated within the primary schools which were located several kilometers away making it hard for many of the ECD attending children to access the schools. There was therefore, need to build ECDs near their home locations. The government also needs to construct secondary schools to the communities living around Mount Elgon as it was observed that there were no such schools near them. Further, there was need to have technical colleges near the communities as most of the dwellers lack technical skills due to lack of such facilities within their vicinity.

There was need to provide the communities with support homes especially for those girls who live in bushy areas as it becomes hard for them to attend school.

There are no boarding schools located near the communities as most school going children go back to their old norms of looking for 'kibaruas after completing their studies' meaning that they do not have a positive impact on the communities. The presence of drunken teachers has affected the students' attitude towards education.



Ngelecha primary school in Endorois territory was completely destroyed by armed bandits in 2016. It is currently being rebuilt along with a police station. *Photo by: Kanyinke Sena*



Ngelecha primary school after a month of construction. *Photo by Kanyinke Sena*

## 7. Recommendations

### 7.1. General Recommendations

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**a)** There is need for a partnership with the National Gender and Equality Commission to develop deeper desegregated data targeted on each of the communities. This would be in line with its mandate as outlined in Section 8 of the National Gender and Equality Act 2011.

#### **b) Laws and policies**

- i. The National and the respective County governments should enact laws for the recognition, protection and fulfillment of the rights of indigenous (marginalized) communities within their jurisdictions.
- ii. County Development Index health indicators should be broadened to include overall access to health.
- iii. Capacity building for activists from the five communities to create awareness on the Sustainable Development Goals, the various laws and policies at all levels and the development of a comprehensive strategy to utilize the laws for the benefit of the communities.
- iv. Capacity building for government staff on the sustainable development goals and existing laws and policies for better inclusion in County Development plans.
- v. Sensitization on government programmes and policies such as the 30% procurement reservations for women, youth and persons with disabilities, existence of other government social economic empowerment opportunities such as Uwezo Fund and Women Enterprise Fund, but the amount allocated to this objective shall not exceed ten (10%) of the annual allocation of the Fund

#### **c) Securing land tenure**

- i. The national government should speed up the process of securing the lands of the Endorois, Sengwer and the Ogiek communities including by implementing the decisions of the African Court on Human and Peoples Rights, the African Commission on Peoples and Human Rights and its own laws from example the Community Land Act.
- ii. The Ogiek of Kuresoi to be supported in their quest to convert their freehold title deeds into a community title to stem the loss of land through land sales. This would serve as pilot for other communities interested in securing their lands.

- iii. The Sengwer of Embobut land rights in the forest glades to be recognized, respected and fulfilled and a joint management plan for Embobut forest developed in partnership with the Kenya Forest Service.
- iv. The review of the Lake Bogoria Management that began in 2015 but stalled to be finalized.

#### **d) Addressing security issues**

An interest-based approach to addressing security issues should be developed jointly by the national government, the county governments and the respective communities and investors.

#### **e) Influencing the budgeting process**

OPDP and other Civil Society Organizations should ensure the participation of the communities at all the stages of the budget making process both at the national and county levels as required by law.

#### **f) Infrastructure**

- i. Improvement of roads in all the community areas
- ii. Provision of water and sanitation for all the communities. This includes public toilets and bathrooms, creation of awareness to stop open defecation and encouragement to construct toilets at home among others.
- iii. Electricity connectivity by reaching the last mile, lowering the high costs of connectivity and as an affirmative action, enabling connections without requiring the production of title deeds.

#### **g) General Capacity Building**

- i. Enhancing livelihood options. This should involve mapping of the available resources, developing products, marketing and access to markets among others
- ii. Establishment of resource centres and training on ICT skills to utilize computers and tablets in school and Internet opportunities. Medical staff can also partner with experts in other parts of Kenya and countries using the Rwanda example.
- iii. Mentorship programs for opinion leaders, the youth especially girls and the community generally. This should include programs to change community mindsets on early marriages and FGM, etc
- iv. Building on initiated programs like baskets for livelihoods and sanitation began in Mt. Elgon.



## 7.2. SDG 3 Recommendations on Good Health and Wellbeing

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- a)** Increasing the number of dispensaries and availability of maternities in all the community areas and the upgrading of at least one dispensary to a health centre all the community areas (Laboot, Sandai and Mangai). This will increase the availability of personnel, medicines and facilities. Provision of at least one health centre in Chepkitale. Living quarters for the medical staff will be necessary too.
- b)** Target awareness on the importance of family planning and reproductive health issues including basic hygiene. Condoms should be availed in public places like the market centres. A sanitary towels program should be initiated by both CIDP, OPDP, EWC and Awer in partnership with the County governments and other stakeholders.
- c)** An 4wd Ambulance should be availed in Chepkitale, Kapolet, Embobut, Sasimwani and Mochongoi and Awer areas to enable speedy response to emergencies.
- d)** Recognition and Certification of traditional midwives and provision of basic equipment like gloves and sanitizers.
- e)** There was need for the government to empower the community through supporting their initiatives. For example, women in MT Elgon face challenges while raising funds to purchase pantie and sanitary towels for their girls hence the need for the government to intervene in supporting such initiatives. The government should educate the community on preparing business plans to government funding.

## 7.3. SDG 4 Recommendations on quality education

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- a)** Increase the number of ECDs and place them in the villages to reduce the distance young children walk to ECDs centers in primary schools.
- b)** Provision of at least one secondary school in Chepkitale and Mangai for Mt. Elgon Ogiek and Awer respectively.
- c)** Building of boarding school is recommended to the families that move from one place to another
- d)** There was need to increase the ratio of teachers to pupils.
- e)** The government should also ensure that there is plenty supply of books and laptops. Teachers should be trained to use government issued tablets. OPDP and CIDP Could partner with universities to teach ICT skills to teachers and students in Ogiek, Endorois, Sengwer and Awer territories.

- f)** Provision of at least one technical college/polyethnic in Chepkitale, Embobut, Laboi, Mangai and Mariashoni and enter partnerships with neighboring institutions including universities to create a quota for students from marginalized communities
- g)** Lobby the Ministry of Education as part of the Constitutional affirmative action programs, to lower admission marks/grades from C+ to C - or even D plus to increase for students from the communities to be able to access tertiary institutions and universities.

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## 8. Conclusion

In conclusion, it would be argued that the government has put its best foot forward in trying to achieve the SDGs including for the Ogiek, Sengwer, Endorois and Awer community. However, there were several challenges in place. These includes: infrastructure, financing and community attitudes/cultures. Serious capacity building is needed at the community level going forward. But more importantly, the government's commitment to 'putting the furthest behind first' will be critical.

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