

**SUBMISSION TO THE COMMITTEE ON THE RIGHTS OF
PERSONS WITH DISABILITIES (CRPD)**

**ADOPTION OF THE LIST OF ISSUES PRIOR TO REPORTING
OF KENYA**

Focus on persons with disabilities belonging to minority and marginalized communities

**MINORITY RIGHTS GROUP INTERNATIONAL, ENDOROIS INDIGENOUS WOMEN
EMPOWERMENT NETWORK**

18th Pre-Sessional Working Group of the Committee on the Rights of Persons with Disabilities (CRPD),
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I. ABOUT THE AUTHORS

1. MRG is an international NGO working to secure the rights of ethnic, religious and linguistic minorities worldwide. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), observer status with the African Commission on Human and Peoples' Rights (ACHPR) and is a civil society organization registered with the Organization of American States (OAS).
2. The Endorois Indigenous Women Empowerment Network (EIWEN) is an indigenous local Community Based Organization founded in 2016 by local Endorois women who were committed to raising the voice and improving the living standards through capacity building of indigenous and marginalized women, persons with disability and girls within her community and other indigenous and marginalized communities of Kenya.

II. BACKGROUND

3. Kenya's population is ethnically, linguistically, religiously and culturally diverse, including various indigenous communities and ethnic minorities. Various indigenous communities and ethnic minorities are subsumed under the category of 'minorities and marginalized communities', defined under Article 260 of the Constitution as a community that "because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole" or as an indigenous, hunters and gatherers or pastoral communities affected that experience only marginal participation in "in the integrated social and economic life of Kenya".
4. Minorities and marginalized groups are awarded national protections under the Constitution of Kenya 2010 including the rights to develop their cultural values, languages and practices; recognition of community land, ancestral lands and lands traditionally occupied by hunter-gatherer communities; and redress for present or historical land injustices, in Article 56 (d), Article 63 (2) (d) and Article 67 (2) (e) of the Constitution of Kenya, respectively¹.

¹ Republic of Kenya. 2010. Constitution of Kenya. Accessed from: [Constitution-of-Kenya-2010-min.pdf \(kdc.go.ke\)](https://www.kdc.go.ke/constitution-of-kenya-2010-min.pdf)

5. Many indigenous communities, but particularly nomadic pastoralists, are vulnerable owing to their social, cultural and political marginalization and exposure to the impacts of climate change and unresolved land rights issues².
6. According to the 2019 Kenya Population and Housing Census Report there were 918,270 people with disabilities aged 5 years and above, representing 2% of Kenya's population with a vast majority (738,778) living in rural areas. Disability data is not disaggregated by ethnicity or indigenous status³.
7. Persons with disabilities who are members of indigenous communities' experience disproportionate impacts and particular disadvantages because of the intersecting discrimination they face on account of their multiple identities. Indigenous communities also face disproportionate impacts of climate change, land rights issues and related conflict that exposes them to greater incidence of impairment.
8. In the indigenous Endorois community of Kenya, persons with disabilities continue to face multiple layers of discrimination owing to complex interactions between disability discrimination, gender discrimination, ongoing historical land injustices, impacts of climate change, human exploitation of natural resources and the risks posted by rising water levels of Lake Bogoria.
9. In 1974, the Endorois community were evicted from their ancestral lands by the Kenyan government. Those affected received only nominal compensation of around 3 Kenya shillings; less than 0.03 USD in today's currency.
10. Indigenous women and children with disabilities are particularly disadvantaged because they may still be expected to perform specific gender roles which are difficult to fulfil on account of the lack of support within rural or inhospitable environments, such as gathering food and water, and are becoming increasingly difficult owing to the disproportional impacts of climate change, natural disasters and violence on their communities. Additionally, women and girls with disabilities are more likely to experience stigma and exclusion from education, paid work and from certain community traditions such as marriage, which affects their standing within their communities.

² World Directory of Minorities and Indigenous Peoples. 2021. Kenya. <https://minorityrights.org/country/kenya/>

³ Kenya Bureau of National Statistics. 2019. Accessed from: <https://www.knbs.or.ke/?wpdmprom=2019-kenya-population-and-housing-census-volume-iv-distribution-of-population-by-socio-economic-characteristics>

Tarkok – case study of an Endorois woman with a disability

Tarkok is an Endorois woman with a disability whose story provides an example of the extra difficulties faced by those who are located at the intersection of multiple identities. Tarkok was newly married when the 1974 evictions of the Endorois community from Lake Bogoria took place. She lost her sight a few years later. Having been resettled on government land that is inaccessible and underdeveloped, she is now unable to provide for her family and must deal with the associated stigma from within her family and community. One time she tried collecting food near her home but was bitten by a snake. She has no access to clean water and no personal assistant. Her family leaves her alone most days so that they can go out and look for food or work. Tarkok is not enrolled for social security fund and she does not have information about how to apply. In addition, she would need to travel to Kabarnet in Baringo county headquarters to complete the registration, but she cannot afford this travel. Without a personal assistant, and with no means of paying for the travel that is required to get the documentation to register as “disabled”, she is left without access to the national social security fund for people with disabilities.

III. DISPROPORTIONATE IMPACTS OF CLIMATE CHANGE AND CONFLICTS

11. Climate change and deforestation have increased water levels of the Great Rift Valley lakes and caused flooding to the South of Lake Bogoria, an area largely occupied by the Endorois community. The rising water levels have been ongoing since 2014 and increasing each year. Over 60 km square of land traditionally inhabited by the indigenous Endorois has been swallowed by the waters, leading to the closure of local health facilities and displacement of countless numbers of people, some multiple times. Displacement can have disproportionately negative impacts for persons with disabilities, who are unlikely to receive the support they need to be able to seek shelter, migrate or adapt to resettled lands.
12. Endorois communities in the areas of Arabal, Kapkechir and Chebinyiny are particularly impacted by ongoing insecurity and violence. Persons with disabilities are the most affected, since when community members flee violence, they are often left behind. There are documented cases of those left behind starving to death or being killed by bandits and cattle

rustlers. In May 2022, a person with a physical disability was killed because of her inability to escape; bandits killed her and then stole her family livestock⁴.

13. It is also noted that increasing human insecurity and protection issues resulting in permanent, temporary, or long-term impairments are caused by conflict relating to competitive access to natural resources, water and pasture owing to the impacts of climate change. This is increasing the number of people with disabilities in the area who are left in precarious economic situations and do not have access to the national social security fund because of administrative and financial barriers as previously outlined.
14. Non-conducive business environments for persons with disabilities, including lack of subsidies and business requirements/permit waivers, especially impact indigenous persons with disabilities located in areas impacted by climate change to access their right to work.
15. Endorois Indigenous Women Empowerment Network has noted that climate change and environmental pollution and degradation has negatively impacted on the lives of persons with disabilities within the Endorois community and within Baringo county South generally. They note that as a result of the pressures of the rising levels of Lake Bogoria, their quality of life has deteriorated; the ability to adapt or find new livelihood opportunities are declining due to climate change.
16. Climate change has also caused and increased the prevalence of many impairments such as asthma attacks and other respiratory and cardiovascular health effects.

IV. POLITICAL PARTICIPATION AND REPRESENTATION

17. Kenya has a number of laws and regulations in the electoral system that ensure the inclusion and participation of 'special interest groups' which include, women, persons with disabilities, youth, minority and marginalized groups⁵. Under Section 4 of the Kenyan Political Parties Act, 2011, political party membership and governing bodies must reflect representation of special interest groups in order to register⁶.

⁴ <https://nation.africa/kenya/counties/baringo/bandits-kill-two-more-in-fresh-attacks-in-baringo-west-pokot-4165862> ; <https://ntvkenya.co.ke/counties/grade-five-pupil-among-two-shot-as-bandits-raid-baringo-village/> ; <https://www.youtube.com/watch?v=GGLO8SduHCc>

⁵ The Republic of Kenya. 2011. Political Parties Act. Accessed: [PoliticalPartiesAct11of2011_revised2022.pdf \(orpp.or.ke\)](#)

⁶ *ibid.*

18. However, persons with disabilities in general but especially those from indigenous, minority and marginalized communities experience specific barriers that inhibits their participation in political spaces, both in terms of enacting their right to vote and their right to be elected as political leaders.
19. Despite making up at least 2 per cent of the population, during the 2022 general elections, only 6 people with disabilities were registered as candidates and only 0.65% of registered voters were persons with disabilities. Key barriers to participation included poor access to information in local languages and accessible formats, inaccessibility of registration centers, lack of national ID cards, lack of trust in the elections and apathy⁷, weak internal democracy in political parties, non-consideration of the needs of people with disabilities from indigenous and ethnic minority communities by the Independent Electoral and Boundaries Commission, financing challenges, stigmatization, propaganda and violence.
20. For the last three elections held after the dispensation of the new constitution in 2010, twenty-five counties out of forty-seven counties have been found in non-compliance of the rules for composition of members of the county assembly, which requires nomination of members of special interest groups . Persons with disabilities have experienced extreme marginalization in nominations during the past three elections, where they have been underrepresented in comparison to other groups within the special interest group category.

V. QUESTIONS FOR THE GOVERNMENT OF KENYA

Disaggregated Data

Q1. Does the government plan to collect accurate data on the numbers of persons with disabilities disaggregated by personal identity characteristics (nature of disability), including gender, ethnicity, language and age?

Women with Disabilities

Q2. What is the government doing to ensure that indigenous women with disabilities are economically empowered?

⁷ Election Observation Group. 2022. The Unaccounted Voice. Accessed from: https://elog.or.ke/election_reports/the-unaccounted-voice/

Q3. What is the government doing to ensure that indigenous women with disabilities are equally protected against gender-based violence?

Access and participation

Q4. What is the government doing to ensure that persons with disabilities from rural areas, indigenous and minority communities can access water, health services and infrastructure in line with the constitution?

Q5. What is the government doing to ensure that persons with disabilities from rural areas, indigenous and minority communities can register to receive the national security fund for people with disabilities?

Q6. What special measures does the Government have in place to ensure adherence to the constitutional requirement of full representations of County assembly leadership, specifically in relation to representation of indigenous people with disabilities?

Q7. What special opportunities for employment, education and economic empowerment are currently available and accessible to indigenous persons with disabilities, in line with the constitution?

Q8. What is the government putting in place as corrective measures so that Counties that have continue to violate the law and doesn't have PWD in their county assembly ensure that they comply in the coming general election 2027.

Protection from harm

Q7. What special measures is the Government putting in place to guarantee the rights of indigenous people with disabilities and protect them from disproportionate impacts of climate change, violence and natural disasters?