

# Endorois Peoples' Biocultural Protocol

SUSTAINABLE BIODIVERSITY RESOURCE MANAGEMENT FOR ACCESS AND  
BENEFIT SHARING AND PROTECTION FROM THREATS TO CULTURE





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# Abbreviations

|                |                                                                          |
|----------------|--------------------------------------------------------------------------|
| <b>ABS</b>     | Access and Benefits sharing                                              |
| <b>ACHPRs</b>  | Africa Commission on Human and Peoples' Rights                           |
| <b>BCP</b>     | Bio-Cultural Community Protocol / Bio-Cultural Protocol.                 |
| <b>CBD</b>     | Convention on Biological Diversity                                       |
| <b>CEAP</b>    | County Environment Action Plan                                           |
| <b>CIDP</b>    | County integrated development fund                                       |
| <b>CITES</b>   | Convention on International Trade on Endangered species                  |
| <b>CoK</b>     | Constitution of Kenya.                                                   |
| <b>EA</b>      | Environmental Audit.                                                     |
| <b>EIA</b>     | Environmental Impact Assessment                                          |
| <b>EMP</b>     | Environmental Management Plan                                            |
| <b>EWC</b>     | Endorois Welfare Council                                                 |
| <b>GR</b>      | Genetic Resource                                                         |
| <b>ICESCR</b>  | International Covenant on Economic, Social and Cultural Rights           |
| <b>IK</b>      | Indigenous Knowledge                                                     |
| <b>ITPGRFA</b> | International Treaty on Plant Genetic Resources for Food and Agriculture |
| <b>LBGR</b>    | Lake Bogoria Game Reserve                                                |
| <b>LBMP</b>    | Lake Bogoria Management Plan                                             |
| <b>MAT</b>     | Mutually Agreed Terms                                                    |
| <b>MEAs</b>    | Multilateral Environmental Agreements                                    |
| <b>MTA</b>     | Material Transfer Agreement                                              |
| <b>NEAP</b>    | National Environment Action Plan                                         |
| <b>NP</b>      | Nagoya Protocol                                                          |
| <b>PIC</b>     | Prior Informed Consent                                                   |
| <b>SEA/SIA</b> | Strategic Environmental/Impact Assessment                                |
| <b>SIA</b>     | Social Impact Assessment                                                 |
| <b>SOE</b>     | State of Environment Report                                              |
| <b>TK</b>      | Traditional Knowledge                                                    |
| <b>TCE</b>     | Traditional Cultural Expressions                                         |
| <b>UNDRIPs</b> | United Nations Declaration on the Rights of Indigenous Peoples           |
| <b>WGIP</b>    | Working Group on Indigenous Populations/Communities                      |
| <b>WIPO</b>    | World Intellectual Property Organization                                 |

# Acknowledgement

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The ABS Capacity Development Initiative contributes to achieving the Sustainable Development Goals (SDGs) by supporting the implementation of the Nagoya Protocol on Access and Benefit-sharing (ABS), framed by the third objective of the Convention on Biological Diversity (CBD). Through targeted support services the ABS Initiative facilitates three core processes: developing ABS regulatory and institutional frameworks, negotiating fair and equitable ABS agreements and integrating indigenous peoples and local communities in respective procedures.

Established in 2006, the multi-donor Initiative is implemented by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH and currently funded by the German Federal Ministry for Economic Cooperation and Development (BMZ, host of the Initiative), the Organisation Internationale de la Francophonie/Institut de la Francophonie pour le développement durable (OIF/IFDD), the Norwegian Ministry of Foreign Affairs, the 11th European Development Fund (through the ACP-EU Partnership Agreement) and the Swiss State Secretariat for Economic Cooperation (SECO). The Secretariat of the ABS Initiative is located at GIZ headquarters in Germany.

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# Preamble

Whereas we the Endorois People are proud of our ethnic, traditional, cultural and religious diversity, and while we are determined to live in peace and unity as one indivisible community; While exercising our sovereign and inalienable right to determine the form of governance that suits our Community's needs, culture, practices and customary law in accordance with the CoK, 2010 and other national and, international laws, and having participated fully in the making of this BCP;

And whereas we acknowledge and recognize that Access to biological resources and associated knowledge is governed by various Multilateral Environmental Agreements (MEAs) including but not limited to the Convention on Biological Diversity (CBD), Nagoya Protocol, International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), Convention on International Trade on Endangered species (CITES) and World Intellectual Property Organization (WIPO) Treaty

We hereby agree to adopt this BCP for ourselves and for the future generations of the Endorois People and Community

# Foreword

Endorois Community Bio-cultural Protocol (BCP) articulates community-determined values, procedures, priorities and sets out the community's rights, responsibilities under customary, cultural beliefs, national as well as international laws. It was developed after the community undertook a consultative process to outline their core ecological, cultural and spiritual values in so far as customary laws relating to their Traditional Knowledge (TK) and resources based upon which they provide clear terms and conditions to regulate access to these resources and knowledge.

The BCP of the Endorois provides an insight into important socio-cultural values of Endorois people. It documents their traditional knowledge, way of life and customary laws. It also identifies the current challenges the community faces as well as their impact on the Endorois people's way of life. It shows the community's role in protecting and conserving ecosystems, such as, Lake Bogoria and Mochongoi Forest. It further goes ahead to state clear terms and conditions regulating access to Endorois People's knowledge and resources.

By developing the BCP, the Endorois Community calls upon the National Government of Kenya, County Governments whose jurisdictions fall within its land as well as other stakeholders, to recognize and appreciate the Endorois People's vital role as guardians and conservators of biological diversity in Lake Bogoria and Mochongoi forest ecosystems, as well as their customary and legal rights in their land, territories and natural resources. The BCP is the Community's tool for negotiations and / or engagement with other parties, say, private and public investors, researchers, among others, as regards access, use and benefit sharing of its TK and natural resources.

It is imperative to state that this BCP's content coverage is not exhaustive by any measure, hence, it should be considered a "work-in-progress" which the documentation of all aspects of the Endorois community will continue being built upon.



**Eric K. Kimalit**

**Chairperson - Endorois Welfare Council (EWC)**

**30th August, 2019**

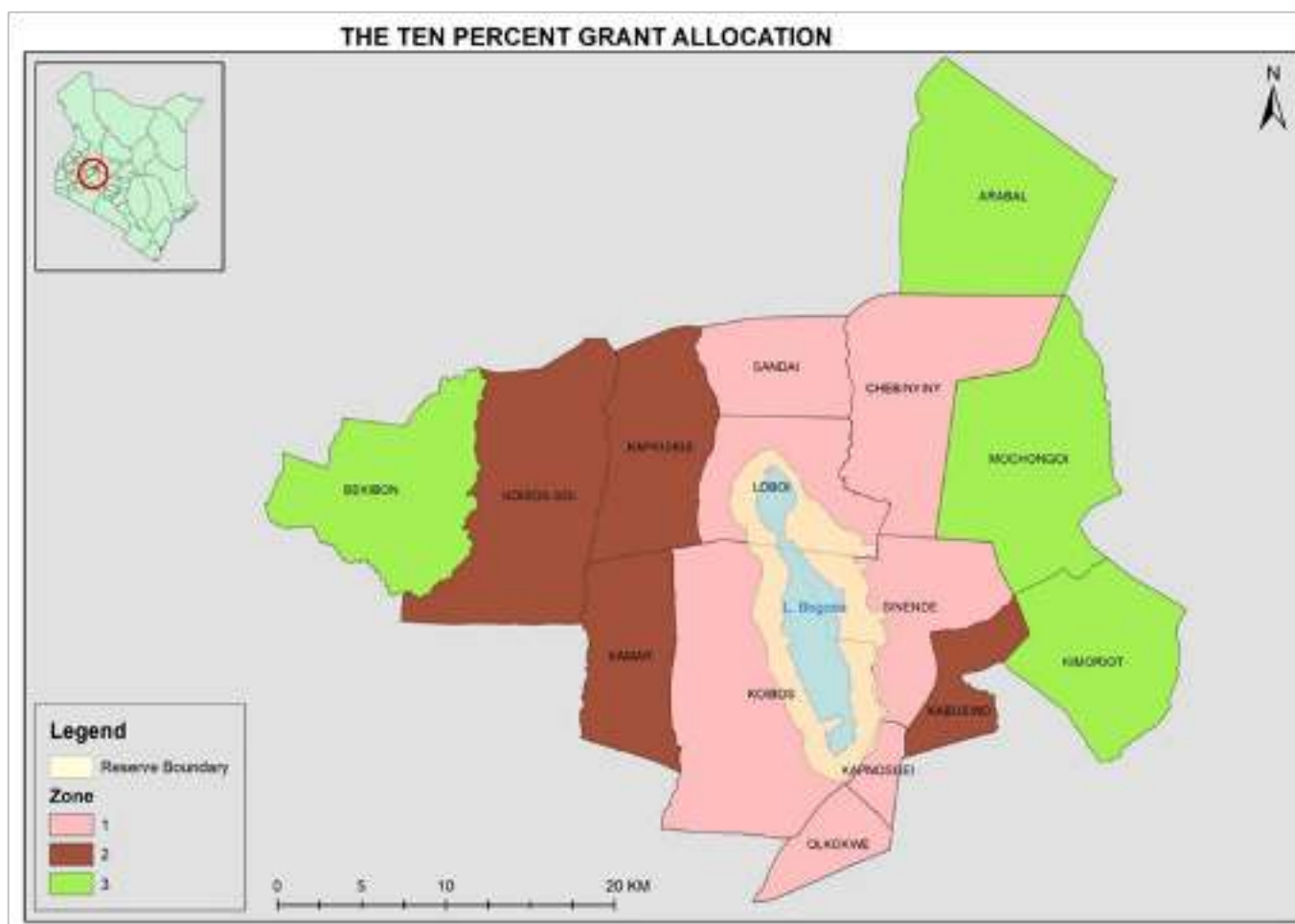
# I. Introduction

The Endorois are an indigenous minority community living around the shores of Lake Bogoria and Mochongoi Ol-Arabal and Marmanet Forest in Marigat (Baringo South Constituency), and Mogotio sub counties of Baringo County, as well as in Nakuru and Laikipia Counties within the Rift Valley of Kenya. The Endorois Community had been living around Lake Bogoria from time immemorial and regarded Mochongoi Forest and Lake Bogoria as sacred grounds due to the use of these locations for key cultural and religious ceremonies. The Endorois identify themselves both as an indigenous and minority community in Kenya. They have been formally recognized as such by both the African Commission on Human and People's Rights (ACHPRs) Working Group on Indigenous Populations/Communities (WGIP) and by the UN Special Rapporteur on Indigenous Rights. They are currently estimated to be about 60,000 in population but they have never been recognized by the government as a distinct ethnic community.



**Figure 1: Endorois territories Map displayed at the Endorois Cultural Centre.**

**Source: EWC, the community in partnership with ERMIS Africa**



**Figure 2: The Administrative boundaries of the 15 locations occupied by the Endorois in Baringo County.**

**Source: Adopted from LBMP reflecting how benefit sharing is distributed at the moment.**

In 1973, the Government of Kenya forcibly evicted the community to create the Lake Bogoria National Reserve without any prior consultation with the community, as a result of which their customary rights were compromised. The community was also not compensated for the inconvenience they suffered and for their land. Thereafter, the Endorois were not involved or consulted in the management and operation of the reserve; did not receive any share in the benefits emanating from the reserve nor compensated for the land that they lost following establishment of the reserve that would otherwise be used by the community for their cultural, livelihood, religious and pasture for their livestock. The community members were also arrested for allegedly trespassing when they visited the reserve for cultural and religious purposes as a result of which their spiritual and cultural survival emanating from their ties to their ancestral land were threatened. They were also not able to graze their cattle hence interference with their livelihoods considering that pastoralism is their major source of livelihood. In an earthmoving decision, the African Commission on Human and People's Rights (ACHPRs), found that the Endorois had among others, rights to preserve their identity through identification with their ancestral lands, to religious freedom and ought not to have been removed from their sacred grounds where they practiced their religion and culture<sup>1</sup>. However, it is important to note that the Endorois had earlier on negotiated a benefit sharing arrangement from the revenue collected from L. Bogoria National Reserve with Baringo and Koibatek County Councils. At the time, the community was being paid Kshs. 250, 000 annually. In 2013, after the county governance structures came into place, the County Government of Baringo on its own motion through a Cabinet Memo increased the benefit share due to the community to 10% of the revenue accrued annually.

<sup>1</sup>See, the case of Centre for Minority Rights Development and the Minority Rights Group Decision 276/03.

The community hopes that this BCP will assist them in organizing, managing and the protection of their natural resources, culture, traditions and heritage to ensure that future generations are able to benefit from their use and application. The BCP holds our traditional and cultural norms, and will be used as a negotiation tool with the various groups and stakeholders seeking to engage with the Endorois community and their resources.

## II. The methodology

The bio-cultural community protocol (BCP) was developed through a participatory process involving planning meetings with key stakeholders. More than 30 meetings in seventeen (17) locations, that sought to include traditional leaders, men, women, youth, KWS, and government officials over the one year it took to collect data to prepare the community protocol were held. Over 1,000 community members gave accounts of their traditional and cultural practices that they believe are important for their way of life. Subsequent steps involving consultative meetings and working groups saw involvement of over 2,000 people culminating into the information contained in this BCP. Among the meetings held were: technical committee meetings to draft and consolidate the views of the members of the community, the meeting between the technical committee and the EWC Board and a Full Council meeting when the Endorois Full Council meeting validated the BCP at the Kenya Forestry Research Institute in Marigat on 10<sup>th</sup> August 2019. The BCP was finally launched at the Endorois Cultural Centre, Lobo, on 31<sup>st</sup> August, 2019.



**Figure: Consultations taking place on 26/02/2017 at Radat in Koibos Location**

**Source: Endorois Welfare Council (EWC)**



**Figure 3: Consultations taking place on 2/3/2017 at Kamar in Kamar Location**

**Source: Endorois Welfare Council (EWC)**



**Figure: Consultations taking place on 9/3/2019 at Kapkuikui in Kapkuikui Location**

**Source: Endorois Welfare Council (EWC)**



**Figure 4: Consultations taking place on 14/3/2017 at Lobo Cultural Centre in Lobo Location**  
**Source: Endorois Welfare Council (EWC)**



**Figure 5: Consultations taking place on 9/3/2019 at Kapkuikui in Kapkuikui Location**  
**Source: Endorois Welfare Council (EWC)**

### III. The objective (s) and content of the BCP

The objective of the BCP is to articulate community determined values, procedures and priorities under customary, state and international law as the basis for engaging with external actors such as governments, companies, academia and other interested parties on the utilization of community resources<sup>2</sup>.

#### *Specific objectives*

This BCP was put in place to achieve the following specific objectives:

- ❖ To act as a negotiation tool between the Endorois community and other groups and stakeholders seeking to engage with the Endorois community and its resources;
- ❖ To ensure protection and conservation of among others, the Endorois community's' resources, cultures, traditional knowledge and cultural expressions in the interest of present future generations;
- ❖ To ensure the sustainability of natural resources within the community using traditional knowledge, cultural norms and scientific application which are so closely linked with their livelihood and identity, is done in accordance with traditions and customary practices sustainably.
- ❖ To ensure legally sound procedures including PIC are followed in the process of access and utilization the Endorois community's resources;
- ❖ To ensure benefits sharing under recognized international laws is achieved from any access and utilization of any of the Endorois' community's resources;
- ❖ To provide a link between local community processes and government processes.
- ❖ To ensure that relevant government processes are followed and adhered to in any access, utilization and benefits sharing arrangements and processes that affect the Endorois community.
- ❖ To ensure constructive and proactive responses to threats and opportunities posed by land and resource development, conservation, research and other legal and policy frameworks.

#### *Legal instruments supporting the existence of this BCP*

Art 8 (j) of the CBD - Obliges States, subject to their national legislation to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyle relevant for the conservation and sustainable use of biological diversity and promote their wider application with approval and involvement of the holders of such knowledge, innovations and practices and encourage equitable sharing of benefits arising from utilization of such knowledge, innovations and practices.

Art 10 (c) of the CBD – Obliges states to encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.

Art. 15 (1) of the CBD – Recognizes States sovereign rights over their resources and acknowledges their authority to determine how access to genetic resources should be undertaken within their own national legislation.

Art. (1), (4) (5) (6) and (7) of the Nagoya Protocol– provide that the Protocol is the instrument for implementation of access and benefits sharing provisions of the Convention on Biological Diversity. The Nagoya Protocol goes on to prescribe the processes and prescriptions for fair and equitable benefits sharing, access to genetic resources and, access to traditional knowledge associated with genetic resources.

Art. 12 (1) and (2) of the Nagoya Protocol – specifically provide that parties must take into consideration indigenous peoples and local communities customary laws, community protocols and procedures, as applicable with respect to traditional knowledge associated with genetic resources. States are also requested to support preparation by IPLCs

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<sup>2</sup>UNEP pamphlet on Bio-cultural Community Protocols.

of community protocols in relation to access to traditional knowledge associated with genetic resources and the fair and equitable sharing of benefits arising out of utilization of such knowledge.

Article, 25 of the UNDRIPs recognizes the right of indigenous peoples to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 12 of UNDRIPs – Provides that ‘Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain protect, and have access to privacy to their religious and cultural sites, the right to use and control of their ceremonial objects’

Art. 31 (1) of the UNDRIPs – provides that indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human genetic resources, seeds, medicines, knowledge of properties of fauna and flora, oral traditions, literature, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge and traditional cultural expressions.

Art. 32 of the UNDRIPs – provides that indigenous peoples have the right to determine and develop their own priorities and strategies for the development or use of their lands or territories and other resources.

Art 1 and 15 of the ICESCR – aim to ensure the protection of economic, social and cultural rights including the right to self-determination of all peoples. It also provides for the right to cultural freedoms.

Principle 22 of the Rio Declaration provides that indigenous peoples and their communities, and other local communities, have a vital role in environmental management and development because of their traditional practices and requests states to recognize and duly support their identity, culture and interests and enable their effective participation in achievement of sustainable development.

The CoK, 2010 Art. 11 (3) (a) 40 (5) and 69 (1) (c) – Obliges the state to put in place legislation to ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage. The State is also obliged to support, promote and protect the intellectual property rights of the people of Kenya.

The Protection of Traditional Knowledge and Cultural Expressions Act, 2016 that was put in place to provide a framework for the protection and promotion of traditional knowledge and cultural expressions; to give effect to Articles 11, 40 and 69 (1) (c) of the CoK and for connected purposes. Part II and III of the Protection of Traditional Knowledge and Cultural Expressions Act, 2016 provides for the protection of traditional knowledge and cultural expressions where the Kenya is required to document the community’s traditional knowledge and cultural expressions and register related claims.

#### **IV. Who we are**

##### ***The community and context***

We, the Endorois, are an indigenous, minority and marginalized community in Kenya, we define ourselves as a distinct community by virtue of our cultural practices and ways of life. i.e. traditional marriages, circumcision ceremonies, inheritance, building of homesteads and general naming of our children, clan totems, generational age set governance systems and linguistic dialect. We number about 60,000 people spread across Baringo County and in

parts of Nakuru and Laikipia Counties. We have developed a membership code to provide the criteria and procedures for identifying who qualifies to be a member of the Endorois community to determine who may be recognized as a member of the Endorois community.

Our connection with L. Bogoria is central to our religious and traditional practices and plays an integral role in our identity as a community. Our community's historical prayer sites, circumcision rituals and other cultural ceremonies are performed close to and around Lake Bogoria. We believe that the spirits of all departed Endorois, no matter where they were buried, live at the Lake. Lake Bogoria is our ancestral land, which we inhabited until 1973 when the Lake and its environs were gazetted by the Government of Kenya (GoK) as a game park. The subsequent establishment of Lake Bogoria as a National Reserve led to our eviction from our ancestral lands.

### ***Our way of life: Our customs, culture and traditions.***

#### ***Our traditional value system and principles.***

Our value system is defined by the several principles and values that have been handed down from generation to generation and which guide the application of our customs, traditions, cultural and spiritual norms. These principles apply to all the Endorois community and all the stakeholders who interact with the Endorois community for various reasons. They include:

- a. Respect for our resources, both plants and animals.
- b. Respect for our culture and cultural expressions.
- c. Sustainability and sustainable use of our resources.
- d. Respect for older generation members and elders.
- e. Consultation in decision making
- f. Cooperation
- g. Cohesiveness
- h. Transparency
- i. Accountability
- j. Integrity
- k. Equity and Equality
- l. Other values provided on the CoK, 2010 among other statutes applicable to us.

Our community is governed by a set of customary laws and taboos that were used to protect various resources and cultural way of life. They include the following terms whose meanings have been provided as follows:

- a. ***Kikirey (Kirutik)*** - Taboo
- b. ***Nokirwo*** - This is a symbol of authority by the elder men used to command and stop a dispute between two or more conflicting parties, disagreement or war. A stick from a specific tree species that could only be held by men was used.
- c. ***Legetio*** – A decorated leather belt made of cowhide with shells for women to stop conflict.
- d. ***Mumian*** – Oath, Mumeek - The oaths
- e. ***Nyomtutye*** –Special anointment through spitting saliva.
- f. ***Etan*** – Forbidden act.
- g. ***Kiruusta*** – Curse to kill someone or wild animal.
- h. ***Kiabusta*** – to curse away evil spirits.

- i. **Mamusta** - These are belts made from a cowhide after a cow was slaughtered for a ceremony. The hair had to be removed after which the belts would be made and cowrie shells affixed onto them. The ones with four cowrie shell rings were worn by women with one or more children and the ones with three cowrie shell rings were worn by young ladies who had not yet had children.
- j. **Songolye** - It is a special feather used by men at war. It was also used to resolve conflicts among men.

On the other hand, there were positive pronouncements and blessings that were pronounced in certain circumstances. They include the following:

- a) **Ayebisye** – To bless.
- b) **Ndasumee** – prayer during the challenges and disasters faced by communities. It was done by men in the presence of community members.
- c) **Kerekabeek** – Prayers performed by women only.
- d) **Kebirchibei** – This is a cultural rite undertaken when someone disappeared and was found alive or whenever livestock would be stolen by the enemy and were recovered. It was also used for cleansing after a curse.
- e) **Ketis** – Cleansing ceremony to sanctify evil spirit.

It is important to note that culture is dynamic and changes from time to time.

### **Our Food**

The Endorois engage in bee keeping for production of honey, harvesting of white ants (Kong'aek or kumbikumbi in Swahili). The Endorois used to eat among others, sorghum, millet, meat, blood, milk and honey. The honey was consumed as food and medicine (as an antidote for poisonous substances). The community also ate wild fruits and nuts such as muchukek, ariek, tangororik, Komolik, sisitik taranik.

We have since adopted farming of crops, i.e. maize, millet, sorghum, beans, groundnuts etc, as a means of enhancing livelihood in the seventeen (17) locations occupied by our community around Lake Bogoria.

### **Our cultural and religious practices**

We have numerous sacred sites where we perform our traditional and religious rituals. Kapindasum is the place where the prayers are done. They are shrines. They are mostly hills and can also be forest. There were major communal sites such as L. Bogoria, Koibos, Keon, Mokobe, Barkiat, Kobuot Kapindasum in Arabal and Sinende which were done at the highest hills. In every village, there were sites for cultural and religious rites that were known to the community (for a list of the major and some of the sacred sites found in the villages refer to Appendix 3). Some of these are performed by men or women only and others are open to all community members. These sacred rituals are performed occasionally on need basis and on an annual basis for cultural festivities such as harvest seasons involving Endorois from the entire region.



**Figure 6: Lake Bogoria view from Nyalilbuch view point**

**Source : @ SamwelKimalit**

The landmass around Siracho escarpment contains sacred areas, used for prayer and rituals by the community. Mochongoi forest, Siginwo forest and Chepkuchumo in Bekibon location have always been Endorois sacred site since time immemorial. There are sacred sites that are not static such as the ones used for circumcision. The elders would consult and decide where the ritual would be held.

#### **Importance of our sacred areas and practices.**

The sacred areas also hold important resources that we utilize for different purposes as a result of which we have a lot of traditional knowledge. The rituals we perform at these sacred areas include thanksgiving for rains, livestock and good harvests, prayers for blessings to protect the community from illness, bad omens and destruction of our natural resources, prayers to end droughts and, very importantly, the anointment of our leaders and thanking God for granting our leaders wisdom.

Our elders, both men and women, preside over the rituals. Children are usually not allowed in these activities. However, for blessing ceremonies young men and women are invited to attend but are restricted from participating in certain aspects. They are involved so that they learn and are able to fully join the rituals in the future.

Most of these rituals are performed at certain times only; usually at a time or occurrence of great significance. For example, if it is reported that certain natural resources have been destroyed or degraded, men perform their ceremonies at a designated area - usually on top of the mountain, whilst women perform theirs at one of the community prime junctions or crossroads.

#### **IV. Our traditional and current economic activities**

The Endorois used to engage in among others subsistence farming of food crops such as millet and sorghum, keeping livestock for barter trade, preparation and selling of blacksmith equipment such as swords, arrows, spears, traditional hoes, traditional axe, traditional leather fur remover for making clothes, belts, shoes and bags. We identify ourselves as pastoralists, seasonally traversing and using Lake Bogoria in the lower lands during wet weather conditions and the highlands of Mochongoi, Nyahururu, Rumuruti, and Rongai in Nakuru during the dry weather conditions. Currently, the community goes to Mochongoi and L. Bogoria forest during the dry season. When it is wet, the community goes to Laikipia and part of the low lands of Lake Bogoria.



**Figure 7: Picture of flamingoes at L. Bogoria**

**Source: @Paul Chepsoi**



**Figure 8: Picture of L. Bogoria**

**Source: @Paul Chepsoi**

### ***Our traditional knowledge***

We hold and use a variety of traditional knowledge. Traditional knowledge is held and used by individuals, within families and within the community as a whole for purposes such as traditional and cultural purposes. Some of the knowledge is inherited within families and also passed down by elders to the younger generations to inform them about our cultural heritage, ways of life and the importance of our natural resources.

Much of our knowledge is associated with our natural resources, including plants, forests, animals and Lake Bogoria, and used for a range of purposes such as for medicinal purposes. Some of the medicinal plants and resources include: Tankartwee, (Aloe Vera), Parmukute, Asubweh Arweh and Muchukwe. Forest, natural and genetic resource products had a range of uses such as traditional ceremonies or medicinal purposes. They were carefully harvested having in mind the age and maturity of the herb by reapplying soil on the harvested part to ensure that the herbs continued to grow and were not depleted. Elders would also be tasked to foresee the future and advise the community on how to plan for their activities, for example migrations, farming. They could also predict if there would be disease, droughts, floods and wars.

## **V. Social organization**

### ***Our traditional systems of governance and decision making.***

Our social organization revolves around age-sets. There are seven rotational age-sets for both men and women characterized by the initiation stages prescribed by the community's set up. One age-set called Maina was wiped out over time and no longer exists. At the end of one age-set new members of that generation are born. Endorois community has been using this structure to ensure that its leadership structure and resources are protected. One of the reasons for developing this BCP was to find ways through which each age set will be responsible for protection and transfer of culture and traditional knowledge to the next generation.

The Endorois Council of Elders form the oldest age-set in the hierarchy of decision making in the society and are also responsible for decisions about how resources are to be managed and shared depending on the need of the community. They are elected by the community. In each family, the father is the head of the house. He is responsible for giving direction and also seeks advice from the wife or wives on matters such as what to share. The oldest men and women have the mandate to give directions in decision making within the community. They also ask the most senior men and women from the available age set to take charge on an issue that has been raised.

### ***Generational age sets***

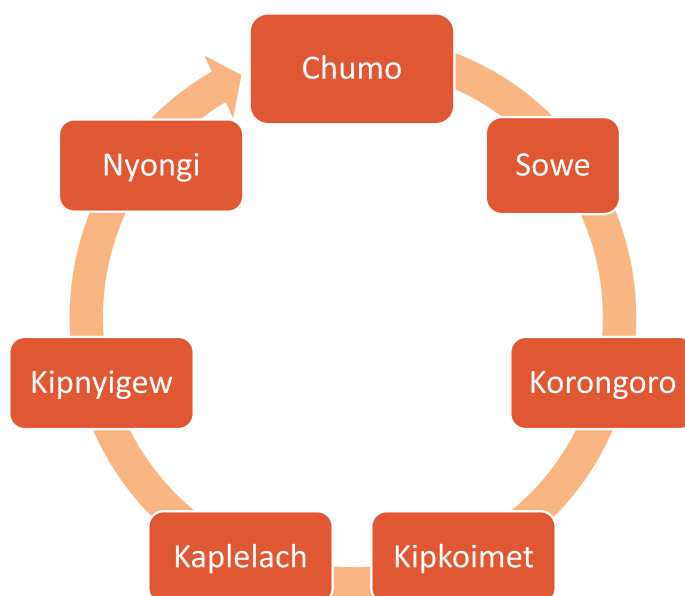
The roles and responsibilities of the Endorois community is dynamic and keeps changing depending on time and seasons. Responsibility therefore changes with time and is on rotational basis depending on age. At the time of preparing this BCP for instance, these were the roles but with time, the age sets move up the hierarchy. The roles of the community below define what is present and future, for example the present Chumo and Masinya age sets are too young to have any responsibility and the previous ones are too old to preside over any activity. According to the community, they would not marry from within their age set as they were all children of the same age.

**Table 1: The Endorois age sets and their responsibility within the community.**

This table explains how the current age set and past age-sets were organised and the kind of responsibilities they had within the community.

| No. | AGE-SETS  | DAUGHTERS      | SONS      | ROLE IN COMMUNITY                                                                                                                                                                                                                                                                                                               |
|-----|-----------|----------------|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | CHUMO     | 1. MASINYA     | KORONGORO | Chumo are currently the new age-set with no clear responsibility yet. The older generation Chumo are too old to preside over any function at the moment but they can preside over blessings ceremonies and those related to the history of our community. The Sowe will then succeed the Chumo and will be guided by the Chumo. |
| 2.  | SOWE      | 2. CHESUR      | KIPKOIMET | They are second most senior age-set who are responsible for blessing and advise, and guide the community at times of emergencies and wars. They are also successors of the Chumo's                                                                                                                                              |
| 3.  | KORONGORO | 3. KOSANJA     | KAPLELACH | They are third senior members of our community and they are responsible for blessing and leadership in terms of discipline and social development                                                                                                                                                                               |
| 4.  | KIPKOIMET | 4. CHELEMEI    | KIPNYIGEW | They forth senior members of the community and they are now tasked to take over from Korongoro to provide leadership, discipline and social development                                                                                                                                                                         |
| 5.  | KAPLELACH | 5. CHEPARKAMAI | NYONGI    | They are at the Leadership stage and most of them make the highest senior decisions among all other age sets                                                                                                                                                                                                                    |
| 6.  | KIPNYIGEW | 6. CHEP'INGWEK | CHUMO     | These age Clarify in term of execution of elders decision and protection to entire community                                                                                                                                                                                                                                    |
| 7.  | NYONGI    | 7. CHESIRAN    | SOWE      | They are the second last age set who take care of the security of the community and the ones sent to perform the directives from Kipyigew                                                                                                                                                                                       |
| 8.  | (Maina)   |                |           | Community used to have this age-set but it has since ceased to exist. The members of the age set were all killed at war and the elders then decided to stop it because no other age set could to perform their functions.                                                                                                       |

The age-sets and groups take over from the preceding age sets of both men and women in a cyclical manner as shown in figure 9 below.



**Figure 9: Cyclical impression of the Endorois Age-sets.**

**Source:** @ Cicilia Githaiga, Endorois Welfare Council (EWC), drafting committee and participants of meeting held between Natural Justice, the Endorois Welfare Council during its technical committee meeting.

### ***Rules that existed on access and use of natural resources.***

There were rules set out by the community that were used to govern and generally protect the resources available in the community over the years. These rules were not written anywhere, but were known by every community member. The general knowledge that protected these resources included use of traditional taboos and punishments. They include the following set of rules:

- a. Sacred sites were for special occasions only and not everyone was allowed to go there. There were people with special powers and who knew what was required in order to perform these rituals, e.g. when asking for rain, disease prevention etc.
- b. Herbal roots were uprooted very carefully and in moderation leaving enough to enable them to continue growing for future use. The same principle applies to trees where tree barks are cut in moderation as opposed to cutting down the entire tree. Failure to comply with these prescriptions would lead to curses.
- c. Some trees such as the fig trees were never cut. The leaves were only pruned to allow the tree grow and be of use in future. This helps the tree grow healthier and greener.
- d. Animals were not killed without a reason. Community members are not allowed to kill an animal that had not brought any harm to the community (people and their livestock). Clans were named after animals and these totems meant that it was their responsibility to protect the animal they were named after.
- e. Wild animals were to be protected so they would not attack and kill the livestock in retaliation.
- f. All plants along the rivers or in the water sources were not cut down.
- g. Fetching water and bathing in the river was controlled. One was allowed to fetch water and bathe where the dirty water does not come into contact with the clean water as many people depended on such water for drinking and other domestic uses. It was also meant to prevent diseases.
- h. The traditional knowledge was not allowed to be exposed to all people. It was only exposed to specific people, especially the elderly women who are the major herb specialists in the community.

### ***Terms that refers to rules on natural resource management.***

- a. Kikirei (kirutik)- Taboo
- b. Etan- Forbidden
- c. Kemurto - To swear or oath
- d. Kerusta - Curse
- e. Kianyiny - To restore sanctity after a curse

### ***Uses of Endorois community resources.***

The resources found within the community are beneficial to the community for among others, the following uses:

- a. Food
- b. Medicinal use
- c. Building and construction
- d. Cultural practices
- e. Economic activities
- f. Aesthetic value

### ***Resources within Endorois community***

Among the resources found within the Endorois Community include the following:

- a. Herbal medicine e.g. Aloe Vera plants, Parmukute, Asubweh etc.
- b. Wild animals-Greater Kudus, antelopes, Tortoise Elephants, leopard, Lion etc.
- c. Lake Bogoria and the resources it hosts
- d. Rivers-Perkerra, Waseges, Arabal and Molok rivers
- e. Honey (Bee hives)
- f. Acacia gum
- g. Livestock e.g. Cattle, Goats. Sheep, Donkeys etc
- h. Traditional/Local fruits- Ariek, Muchukek, Muyeng'ik, etc.
- i. Minerals and Precious stones e.g. Ruby, Diatomite etc.
- j. Sun
- k. Wind
- l. Forests e.g Mochongoi, (Ol-arabel per colonial government records) Kipchuchumo, Mokope and signwo in Bekibon
- m. Pastures (Grass)
- n. Swamps such as Kiborgoch, Kesubo and Kasiela

### ***Traditional herbs (Medicinal plants)***

- a. Mormorwe
- b. Sogee
- c. Kibung'wee
- d. Tapararyee
- e. Lobotwee
- f. Asenwee
- g. Nergwee
- h. Sirwopboyon
- i. Tilolwe
- j. Koloswee
- k. Kelwontee

## **VI. Our challenges and cultural erosion**

### ***Community's concerns***

- a. Nowadays, norms are not being followed as much as in the past e.g. The rivers and streams were protected since water was essential in domestic uses unlike nowadays where some people even shower on the banks of the water sources yet the same water is used for drinking. This practice can lead to spreading of diseases and risky health hazards to the community. There are also negative effects of soap on drinking water.
- b. Charcoal burning has also been a menace to the society as it destroys trees which are one of our main resources. This has caused people to resort to modern medicine yet we had our own herbs that could cure all those diseases and had been used long before modern medicine came.
- c. The age group and age set systems were consistent in the past and were being followed in the community though there is some slight changes due to economic and social dynamics. This is a culture that is being protected. This practice, if not protected, is going to diminish and finally become extinct or diluted.

- d. Respect was a major factor in the past and elders were highly respected because they were full of wisdom and were resourceful to the community, but currently, some undesirable external influences are a threat to our culture.
- e. Taboos and norms were the guidelines to all these practices. The elders used to go to the lake to perform rituals in times of crisis or when in need of help but with the current situation, it is not done as frequently as it used to be done.
- f. There is little transfer of knowledge to the younger generation. Some are not interested at all and this is a threat to our culture in future.
- g. In the past, people never used to fetch water at the river sources or the oasis. They would fetch it downstream unlike nowadays. These days, some people are destroying the water sources as a result of which there is a reduction in the water levels yet the population is rising. Newly discovered water sources were never used for domestic purposes until the elders performed some rituals to cleanse it, after which the community was allowed to use it.

### ***Threats to our culture***

We are concerned about the continued restriction of access to L.Bogoria, which remains the central element of the Endorois cultural rights and celebrations. Since time immemorial, the elders would go to the lake to perform rituals in times of crisis. After the government took over the reserve, people were arrested and detained for what was termed as trespass yet they only wished to perform their cultural rituals. As a result, none of the rituals to protect the community are being performed without express authority of the County Government. Further, we are concerned that the ruby mining concession given to Corby Mining Company and other precious gemstone concessionaires very close to L. Bogoria pose an additional threat to the cultural and spiritual integrity of our ancestral lands.

### ***Threats to our genetic resources from bio-piracy and other cultural, intellectual, religious or spiritual expressions.***

The Endorois community have previously lost some of their genetic resources and are now aware of their rights and responsibilities in so far as protection, conservation and monitoring the proper use of their resources is concerned. To this extent, the Endorois community will actively monitor activities within their community and will have a system where any visitor who comes to the community is made aware that they should not collect anything from the community without prior informed consent of the local administration and the community. The community members will therefore report cases of any suspicious collection or access to the local administration and relevant government authorities for further action. Thus the Endorois community requests the National and County Governments to put in place appropriate policy and legal frameworks to implement and to ensure protection and conservation of their genetic resources.

### ***Threats from loss arising from 'conservation' of L. Bogoria by the Government.***

The LBMP will address matters of conservation and management of L. Bogoria. There are no proper legislative procedures that seek inclusion of communities in planning and decision making and sharing of benefits arising from the reserve. There is likelihood of denial of access to pasture, cultural and religious sites in certain cases. The national and county governments are called upon to put in place appropriate policy, legal and legislative processes that ensure the communities rights are protected, and included in planning and decision making processes that ensure transparency and accountability.

### ***Threats from failure to implement the decision of the African Commission on Human and Peoples' Rights.***

In a decision of the African Commission on Human and People's Court<sup>3</sup>, the Endorois rights were said to have been violated and among others, orders for restitution of their ancestral land and compensation were made. The proposed Lake Bogoria Management Plan will act as a tool to aid in the management of Lake Bogoria National Reserve. The Lake is Community Land under the CoK, 2010 was also with and was recently reported to be held in trust for the community during 43<sup>rd</sup> Session of the World heritage Committee UNESCO meeting held in Baku<sup>4</sup>.

### ***Threats from deforestation***

We are anxious about the sustainability of herbal medicines, the decline and loss of which is attributable to various factors. Charcoal burning has been a menace as it has resulted not only to deforestation and environmental degradation, but also to the loss of herbal medicine and other plant genetic resources. Further, unsustainable harvesting of herbal roots, leaves and bark is equally contributing to the extinction of the practice of herbal medicine collection, a practice that the community is discouraging and preventing. For example, illegal harvesting of important plants of high commercial value such as sandalwood which is almost is discouraged.

The Endorois community calls on the government to ensure capacity building and awareness of all members of the community so that they can assist in protecting, conserving and regenerating indigenous plant and tree species. The county government is particularly requested to participate and budget for regeneration of the environment and threatened and rare species to ensure sustainability. The government should study the economic value our resources so that the community can be able to estimate the value of their resources before getting into any benefit sharing agreement and to encourage them to take care of their resources. This will also enable the national and county governments to undertake a cost benefit analysis before undertaking and approving any projects within the Endorois community's lands. There is need for continuous research for regeneration, bulking and value addition.

### ***Threats from insecurity in the region***

We are concerned by the insecurity advanced by Pokot livestock rustling and banditry for business and cultural practices and other people trading in animals and their products for commercial purposes in Baringo and Laikipia Counties. This is a threat to our livelihoods, our pastoralist way of life, and our right to education.

Thus, the Endorois community requests the National and County Governments to put in place mechanisms for consultation and peace building initiatives between the Endorois and the neighboring communities for overall stability of the region. The National Government should erect staffed police posts along all boundary points. The same should be supported with cameras and other security infrastructure. The community also calls upon the government to allow them to use their own traditional mechanisms of ensuring security and conflict prevention and resolution in addition to the Government mechanisms.

### ***Threats from climate change.***

Climate change has affected the Endorois community's resource base. Lake Bogoria for instance has risen and even submerged some housing structures nearby. This is a major problem for resources. The real threat lies in extinction of our indigenous species and genetic resources. The algae which serves as food for flamingoes is affected, as a result of which less flamingoes come to the L. Bogoria.

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<sup>3</sup>Centre for Minority Rights Development and Minority Rights Group International on behalf of the Endorois Welfare Council Vs. Kenya (in decision 276/03).

<sup>4</sup>Decision of the 43rd Session of the World heritage Committee held in Baku, Azerbaijan (30th June – 10th July 2019). See WHC/ 19/43.COM/18 accessed on 26th August, 2019.

The Endorois community therefore undertakes to engage in climate change adaptation and mitigation actions to shield the community from the impacts of climate change as a result of which the community will contribute to national goals and targets that Kenya must meet when it is required to report on milestones. The Endorois together with the government should engage in climate smart agriculture to shield themselves from the impacts of climate change. The Endorois will also create awareness among its community's members on the impacts of climate change and how they can be dealt within the community and the government is requested to support their efforts.

The Endorois community will also seek funding to engage in climate change adaptation and mitigation activities within their jurisdiction in line with relevant government policies. The government should take measures to resettle and compensate victims of displacement resulting from the swelling events. The Government should undertake afforestation to provide the water flowing into the river the necessary trap so that it does not all go into the river. Rivers flowing into the lake should be dammed carefully to avoid excess water flow into the Lake. Reclaiming of rangelands needs to be handled in a manner that allows the community to regenerate pastures in place of shrubs and bushes. The government and Endorois community should also plant drought resilient trees with priority choices being given to indigenous species.

#### ***Lack of resources such as monetary, equipment, lab, technical and functional skills.***

The Endorois community is an indigenous minority community which does not have many educated people. There is therefore need for continuous capacity building and awareness raising coupled with formal education<sup>5</sup>. The community is keen on ensuring that there is transfer of knowledge in the benefit sharing arrangements made with the community such as those under the Nagoya Protocol. Some of the benefits that could trickle down to the community include sponsored degrees such as bachelors, masters and PhD students from among the members of the community. Engagement in research during the data collection, analysis and interpretation particularly when the researchers, academia and industry engage the community is key to continuous learning and knowledge transfer. Building of research facilities within the community to enable joint research, to add value to the community's resources and improve their knowledge and experience before leaving the community would be a good way to impart knowledge. The government is requested to put in place relevant infrastructure and resources to ensure the community is educated, capacity built and is able to engage in and undertake research in future. This would also assist the community to build their own capacity to undertake primary research of their resources before they leave the County.

### **VII. Agreed community practices, procedures principles**

The Community principles, practices and procedures shall be considered as additional to the traditional values and principles set out in this BCP and shall also be consistent with the rights spelt out in various National and International instruments that support Endorois peoples' rights over their resources and rights to get benefits arising from access, utilization of those resources. They will also be a reflection of the relationship between the customary and current ways of governance of resources by the community. They include:

#### ***Alignment with the principles and values of Governance in the CoK, 2010***

The national values and principles of governance set out in article 10 of the Constitution of Kenya, 2010 apply whenever any person applies or interprets this BCP. In addition, the National and County Government shall observe the responsibilities set out in Article 11, 40, 63 and 69 (1) among other relevant provisions of the CoK when making any plans or programs that will affect the Endorois community, land or other resources.

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<sup>5</sup>Pers comm. Wilson Kipkazi, and others members of the community September, 2018.

### ***Prior Informed Consent (PIC)***

Any project within the Endorois community's lands, be it access to genetic resources, mining of among others precious stones, minerals, infrastructure or other development must be accompanied by prior informed consent (PIC) and no agreements shall be entered into on behalf of the community without their prior consultation and participation in decision making. Such consent must be given, without manipulation or any other form of intimidation or inducement failing which any discussion leading to any concessions or agreements will be null and void. The community must have been fully informed about the project, and have a clear understanding of the purpose, methodology, and intended outcomes of the proposed project, including potential risks, uses and possible commercialization options.

Adequate opportunities and time frames have been provided for community to make their own decisions about the proposed project. This will be through their community governance structures. The consent given is an ongoing engagement between the community and the project proponent. Subject to local circumstances, it can be suspended or withdrawn should the commitments made in the Prior Informed Consent (PIC) and the Mutually Agreed Terms (MAT) or any other contracts entered into as a result fail. Prior Informed Consent (PIC) shall apply to all State and Non-State Actors.

### ***Legal instruments supporting PIC***

Article 11, 69 (c) Article 40 (5) 69 and 1C of the Constitution of Kenya recognize the communities right to culture and provides that they shall benefit from use of their culture and protection of the communities intellectual property rights. In addition, Article 69 (1) (a) provides for sustainable exploitation, management, utilization and equitable sharing of benefits from use of natural resources

Art. 8j CBD – Obliges States to ensure respect, preserve and maintain knowledge and innovations of indigenous peoples and local communities, embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of traditional knowledge, innovations and practices and encourage equitable sharing of benefits arising from utilization of such knowledge, innovations and practices.

Art. 15 (5) of the CBD - Specifically provides that access to genetic resources shall be subject to prior informed consent of the party providing such resources.

Art. 6 (2) and (3) and 7 of the Nagoya Protocol requires each Party to take measures, as appropriate, with the aim of ensuring that the prior informed consent or approval and involvement of the indigenous peoples and local communities is obtained for access to genetic resources. In addition Art. 6 (3) of the Protocol requires states to set out relevant “criteria and or processes for obtaining prior informed consent or approval and involvement of indigenous peoples and local communities for access to genetic resources. Art 7 goes on to require that in accordance with domestic law, Parties should take measures as appropriate, with the aim of ensuring that traditional knowledge associated with genetic resources that are held by indigenous peoples and local communities is accessed with their prior informed consent, approval and involvement and that mutually agreed terms have been established.

Art. 16 and 17 of the Nagoya Protocol – requires each Party to take effective and proportionate legislative, administrative or policy measures to provide that traditional knowledge associated with genetic resources utilized within their jurisdiction have been accessed in accordance with the PIC or approval and involvement of indigenous peoples and local communities and that Mutually Agreed Terms have been established, as required by the domestic ABS legislation or regulatory requirements of the other party where such indigenous peoples and local communities

are located. States are also supposed to take effective and appropriate measures to address situations of non-compliance.

Article 19 of UNDRIP obliges States to consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Art. 32 (2) of the UNDRIP – Obliges States to consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their informed consent prior to the approval of any project affecting their lands and territories and other resources, particularly in connection with exploitation of mineral, water or other resources. UNDRIP Art. 10 provides that Indigenous Peoples should not be forcibly removed from their lands or territories and that no relocation should take place without the, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

### ***Access to our resources and benefit sharing.***

ABS from utilization of TK and resources in Endorois land should be fair and equitable, Benefit sharing is an ongoing process of negotiation and must be embedded in the processes of prior informed consent (PIC), Mutually Agreed Terms (MAT) and Material Transfer Agreement (MTA). Endorois community through their legitimate representative structures have the right to negotiate ABS agreements with all state and non-state actors. Some of them include mining companies, timber companies, academia, research institutions, tour companies, hotels and construction companies etc. These benefits shared include both monetary and non-monetary benefits some of which are stipulated in the Annex of the Nagoya Protocol and such other community benefits as may arise from time to time after deliberations with the community and its stakeholders. Endorois community members working on any project shall also be paid at standard rates as shall be agreed from time to time and all work must be valued, compensated and benefits across the entire value chain shared appropriately.

### ***The project proponents should among other duties stipulated in PIC and MAT:***

- Facilitate sessions with nominated community members to talk about the project in English, Swahili and or interpretation to the Endorois local language.
- Facilitate interpreting, translation and transcription of sessions.
- Share the community copies of the final research products (reports, publications, etc) in order to build a body of knowledge within the community

### ***The Endorois community should be involved in:***

- Assisting in formulation of data collection methods especially questionnaires as far as is appropriate.
- Making informed comments on the data collected.
- Assisting in the co-authorship of project material as relevant
- Making comments on the outputs.

### ***Legal instruments supporting access and benefits sharing of our resources***

Article 69 (a) of Constitution of Kenya, 2010 – provides that the state shall ensure sustainable exploitation, utilization, management, protection and conservation of the environment and natural resources, and ensure equitable sharing of the accruing benefits.

Section 43 of EMCA provides for protection of traditional interests and requires the National Environment Management Authority in Consultation with other lead agencies and stakeholders to prescribe measures for co- management of habitats such as the Endorois one and take into account the interests of local communities' resident therein.

Section 50 (f) of EMCA requires the Cabinet Secretary to ensure conservation of biological diversity in Kenya and undertake among other duties protection of indigenous property rights of local communities in respect of biological diversity.

Section 51 and 52 of EMCA requires the Cabinet Secretary to ensure conservation of biological diversity in-situ and ex-situ. Ex-situ conservation particularly requires conservation of species that are threatened with extinction.

Section 53 of EMCA requires the Cabinet Secretary to ensure proper access and benefits sharing of resources across the board.

Wildlife Conservation and Management Act 2016– Section 73 of the Act gives the Cabinet Secretary powers, after consultations with other stakeholders, to formulate regulations and guidelines on Access and Benefits Sharing.

CBD Art 15 (1) (2) (4) (7)– Provides for sovereignty of states over their resources and their right to determine the procedures to be adopted in accessing these resources subject to PIC and mutually agreed terms (MAT). These provisions also oblige states to take legislative, administrative or policy measures to ensure fair and equitable sharing of benefits arising from results of research and development and the benefits arising from commercial or other utilization of their genetic resources.

Nagoya Protocol Art. (5) (6) (7) (9) – These provisions prescribe the processes and prescriptions for fair and equitable benefits sharing, access to genetic resources and, access to traditional knowledge associated with genetic resources. Art. 9 also encourages parties to encourage users and providers to direct benefits derived towards conservation of biological diversity and the sustainable use of its components. The Annex to the Nagoya Protocol also sets out some of the monetary and non- monetary benefits expected to be shared by various parties.

Indigenous and Tribal Peoples Convention, No. 169 - Art. 15 of the Convention provides that the 'Peoples' concerned have a right to participate in the benefits of activities where the state proposes to retain ownership over their resources and to receive fair compensation for any damages which they may sustain as a result of such activities. The State is also obliged to establish and maintain procedures through which they will consult with the 'people' with a view to ascertain the degree of their interests and the extent to which they would be prejudiced before undertaking or permitting any programmes for exploration or exploitation of their resources.

Article 20 (2) of UNDRIP provides that indigenous people deprived of their means of subsistence and development are entitled to just and fair redress.

### ***Photography, film, recording and use of various broadcasting media within Endorois community***

Consideration and disclosure should be given at the beginning of a project about the types of media activities that are likely to be undertaken in the community when discussing the project proposal. The taking of photographs, making of film, video and sound recordings should be conducted with PIC of both the individual and the community before taking any photographs, films video, sound recording, publication, dissemination or any distribution of such material along the value chain. Emphasis here being laid on seeking the consent of the community due to their collective culture, folklore, music and dance that belongs to the Community as a whole.

### ***Legal instruments regulating filming, recording and use of broadcasting media***

CoK, 2010 – Art. 11 obliges the state to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science information, communication, mass media, publications, libraries and cultural heritage. Art. 40 (5) of the CoK also obliges the state to support, protect and protect the intellectual property rights of the people of Kenya. Towards this end, the Protection of Traditional Knowledge and Cultural Expressions Act, 2016 was put in place to provide a framework for the protection and promotion of traditional knowledge and cultural expressions; to give effect to Articles 11, 40 (5) and 69 (1) (c) of the CoK and for connected purposes.

Part II and III of the Protection of Traditional Knowledge and Cultural Expressions Act, 2016 provides for the protection of Traditional knowledge and cultural expressions where the Kenya is required to document the community's traditional Knowledge and cultural expressions and register related claims.

Copyright Act, 2001 and the Copyright (Amendment) Act of 2019 was as put in place to make provision for copyright in literary, musical and artistic works, audio visual works, sound recordings, broadcasts and for connected purposes and is useful in defining which of the traditional knowledge and cultural expressions have aspects that ought to be protected through copyright laws.

### ***VIII. Land administration***

Land used to be communally owned. The families living within clans used to manage the land. Every clan had a head who was the eldest in the community. Within the family there were also heads of families. The heads of families used to decide where their kin would build their homes within their family land. Members of the community would also move about during their pastoralist lifestyles and settle where they would be allowed to stay or were accommodated for a specific period of time. However, they had to seek consent of the community they found before settling in.

Under the Community Land Act, communities are expected to register their land as community lands and can own land communally. Communities are allowed to take into account the different aspects of protection of cultural sites, sacred sites, grazing sites and other significant areas in planning their land administration matters. However, it is important to note that there are parts of the Endorois community where there are private lands such as Mochongoi sub- location, Kaibossoi location and Mogotio (parts of Maji Moto and Kamar). However the areas around L. Bogoria and its surroundings are communally owned.

### ***Legal instruments supporting participation, representation and self-governance and ownership of land by community***

CoK, 2010 – Art 61 of the CoK, 2010 provides that all land belong to the people of Kenya collectively as a nation, as communities and as individuals. The CoK then recognizes the three classes of land as public, community and private. Art 63 then provides that community land shall vest in and be held by communities and goes on to define what constitutes community land as including: land lawfully held, managed or used by specific communities as community forests, grazing areas or shrines, ancestral land and lands and lands occupied by hunter gatherer communities, land lawfully held as trust land by County governments, e.t.c

Community Land Act (CLA) – The Act seeks to implement Article 63(5) of the CoK; to provide for recognition protection and registration of community land rights; management and administration of community land; to provide for the role of county governments in relation to unregistered community land and for connected purposes.

Art. 29 (1) of the CLA - provides that special purpose areas can be set aside by the community for farming, settlement, community conservation, access and rights of way, cultural and religious sites, urban development or any other purpose.

Land Act, 2012 – Section 5 of the Act recognizes the customary land rights as one of the forms of land tenure in Kenya. It also states that there shall be equal recognition and enforcement of land rights arising from all tenure systems and non- discrimination in ownership of and access to land under all tenure systems. Section 37 then goes on to state that community land will be managed under the Community Land Act.

**IX. Participation and representation of Endorois community**

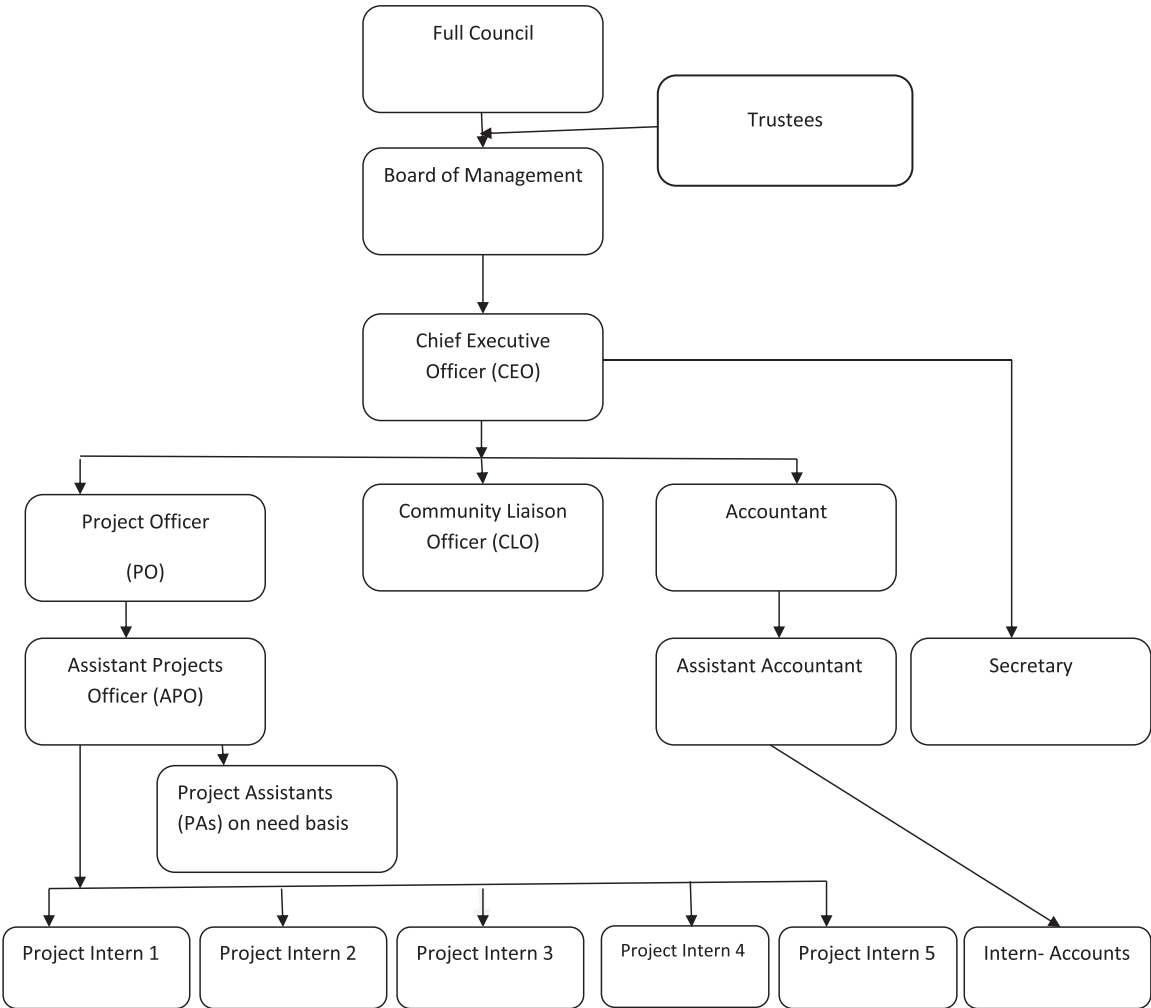
***Establishment of the Endorois Welfare Council***

The current governance arrangement of the Endorois community involves a legally established community based organization within the community called the Endorois Welfare Council (EWC). The EWC was established in 1996 but officially registered in May 2007. It was founded by senior members of the Endorois indigenous minority community (see Appendix 4). One of the reasons for establishing the organization was to seek restitution of Endorois land which was seized by the Government of Kenya in 1973 to create the present Lake Bogoria National Reserve. The Community also seeks restoration of Mochongoi Forest from illegal settlers to the Endorois Community as original owners.

***Structure of the Endorois Welfare Council.***

The Endorois Welfare Council (EWC) is the governing body of the Endorois community comprising of chairmen of all locations of the Endorois community.

**ENDOROIS WELFARE COUNCIL ORGANOGRAM**



**Figure : Endorois Welfare Council (EWC) Organogram. Source: @ Endorois Welfare Council (EWC)**

Executive authority is vested in the full council while the board is responsible for management. The secretariat implements policies and programmes as directed by the board and the full council. Authorized spending and authorization of spending will also be done in accordance with the decision making structure of the EWC.

#### **X. Relationship between this BCP and Endorois community membership code**

This BCP shall take into account the prescriptions of the Endorois community membership code and any approved amendments to it shall apply as appropriate to this BCP to give effect to the spirit and letter of the BCP.

#### ***Legal instruments supporting participation, representation and self-governance.***

CoK, 2010 – Art 61 of the CoK, 2010 provides that all land belongs to the people of Kenya collectively as a nation, as communities and as individuals. The CoK then recognizes the three classes of land as public, community and private. Art 63 then provides that community shall vest in and be held by communities and goes on to define what constitutes community land as including: land lawfully held, managed or used by specific communities as community forests, grazing areas or shrines, ancestral land and lands and lands occupied by hunter gatherer communities, land lawfully held as trust land by county governments, e.t.c

CoK, 2010 - Art 40 of the Constitution provides that every person has a right either individually or in association with others to acquire and own property in any part of Kenya. It further provides that the state shall not deprive a person of property of any description, or of any interest, or of any right over, any property unless the deprivation results from an acquisition of land or an interest in land, is for public purpose or in the public interest and that prompt payment, in full, of just compensation to the person is made.

CoK, 2010 - Art 60 provides that land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable and in accordance with the principles of sustainable and productive management of land resources, sound conservation and protection of ecologically sensitive areas.

Community Land Act, 2016 (CLA) – The Act seeks to implement Article 63(5) of the CoK: to provide for recognition protection and registration of community land rights; management and administration of community land; to provide for the role of county governments in relation to unregistered community land and for connected purposes.

Community Land Act - Art 29, 2016 (1) of the Act provides that special purpose areas can be set aside by the community for farming, settlement, community conservation, access and rights of way, cultural and religious sites, urban development or any other purpose.

Land Act, 2012 – Section 5 of the Act recognizes the customary land rights as one of the forms of land tenure in Kenya. It also states that there shall be equal recognition and enforcement of land rights arising from all tenure systems and non- discrimination in ownership of and access to land under all tenure systems. Section 37 then goes on to state that community land will be managed under the Community Land Act.

Land Act, 2012 - Section 4 provides the guiding principles and values of land management and administration, including but not limited to sustainable and productive management of land resources; conservation and protection of ecologically sensitive areas; participation, accountability and democratic decision making within communities, the public and the Government.

## **XI. Custody of our TK, IK, TCE information about our GRs and related protected matters.**

We the Endorois community hereby agree to record our resources, traditional knowledge and cultural expression in accordance with the Laws of Kenya and the same are not accessible without following due process of the law. In the event that due process is not followed, all the resources, any research, innovation and technology shall be recoverable in full through appropriate local, national and international mechanisms as may from time to time be put in place. Custody of our resources, traditional knowledge and traditional cultural expressions shall be retained with the community until such a time that the community will register the same with appropriate legally sound and confidential mechanisms that will ensure the security of our information.

### ***Legal instruments supporting custody of TK, TCE and GRs and related matters.***

The Protection of Traditional Knowledge and Cultural Expressions Act, 2016 – is legislation that was put in place to provide a framework for the protection and promotion of traditional knowledge and cultural expressions; to give effect to Articles 11, 40 and 69 (1) (c) of the CoK and for connected purposes. Part II and III of the Protection of Traditional Knowledge and Cultural Expressions Act, 2016 provides for the protection of traditional knowledge and cultural expressions where the Kenya is required to document the community's Traditional Knowledge and cultural expressions and register related claims.

UNDRIP Art. 11 (1) of UNDRIP also provides that indigenous peoples have a right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

## **XII. Relationship between this BCP and existing government structures, planning and decision making processes.**

### ***Relationship between this BCP and the LBMP***

Community supports this plan because it will be used for future interaction among various actors on the one hand and the community on the other. It will also be used as a negotiation and a management tool with any user or researcher of our resources. It is expected that the users will be guided by the management instruments and requirements put in place by community i.e. requirements for PIC and MAT before access and utilization of the community's TK, TCE, GR and BCP.

### ***Legal Instruments supporting the relationship between this BCP and existing government structures, planning and decision making processes***

Article 19 of UNDRIPs obliges States to consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20 (2) of UNDRIPs provides that indigenous people deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21 of UNDRIPs also provides for the right to just and fair redress where they have been deprived of their means of subsistence and development. States are therefore obliged to take effective measures to ensure continuing improvement of their economic and social conditions with particular attention to the rights and special needs of indigenous elders, women youth, children and persons with disabilities.

Art. 31 (2) of the UNDRIPs – obliges states, in conjunction with indigenous peoples, to take effective measures to recognize and protect the exercise of their rights to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human genetic resources, seeds, medicines knowledge of properties of fauna and flora; oral traditions; literature; designs; sports and traditional games; visual and performing arts; intellectual property over such cultural heritage; traditional knowledge and traditional cultural expressions.

Indigenous and Tribal Peoples Convention, No. 169 - Art. 15 of the Convention provides that the ‘Peoples’ concerned have a right to participate in the benefits of activities where the state proposes to retain ownership over their resources and to receive fair compensation for any damages which they may sustain as a result of such activities. The State is also obliged to establish and maintain procedures through which they will consult with the ‘people’ with a view to ascertain the degree of their interests would be prejudiced before undertaking or permitting any programmes for exploration or exploitation of such resources.

Article 10 (2) (f) of the UNCCD obliges states to provide for effective participation at the local, national and regional levels of non-governmental organizations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organizations, in policy planning, decision making, and implementation and review of national action programmes.

Sec 102 (h) of the CGA obliges county governments to provide a unifying platform for unifying planning, budgeting financing, programme implementation and performance review and serve as a basis for engagement between county government, public, other stakeholders and interest groups.

Sec 103 of the CGA provides that among the objectives of county planning are to ensure harmony between national, county and sub- county spatial planning requirements; provide the pre-conditions for integrating under developed and marginalized areas to bring them to the level generally enjoyed by the rest of the county; protect the historical and cultural heritage, artefacts and sites within the county;

Section 104 of the CGA obliges counties to promote public participation and promote non- state actors in planning processes by all authorities.

Section 105 of the CGA provides responsibilities of county planning units as including coordinating integrated development planning within counties, ensuring linkages between county plans and national planning frameworks, and ensuring meaningful engagement of citizens in planning processes.

### ***Relationship of this BCP with environmental impact assessment processes***

#### **a. (SEA, EIA, EA, SIA, EMP, SOE, CEAP, e.t.c)**

Considering the sensitive nature of some of our community’s resources and the value attached to our traditional knowledge, in so far as strategic impact assessment and environmental Impact assessment and, audit process consultations shall be required for utilization of any of the communities’ lands, the same shall be done through our community’s structures established herein and consent sought through the said processes.

The consultative process shall follow the Community’s established structures and decision making model shall be followed for all systems of environmental management planning including County Environment Action Plans that feed into the National Environment Action Plans and the State of Environment Action Plans.

### ***Legal instruments supporting relationships between this BCP and Environmental Impact Assessment processes***

The Constitution of Kenya, 2010 Art. 69 (e) (f) and (h) obliges Kenya to protect genetic resources and biological diversity, put in place mechanisms for environmental impact assessment and environmental audit and, monitoring of the environment. It also requires Kenya to utilize the environment and natural resources for the benefit of the people of Kenya.

Section 58 (2) Environmental Management and Co-ordination Act (CAP 387) and resultant amendments- Provides a schedule of the projects that are required to undertake environmental impact assessment. Among the projects earmarked for impact assessment are those intended to be located in indigenous forests and projects that affect any areas designated as environmentally sensitive areas,

Environmental Management and Coordination (Impact Assessment and Audit) Regulations, 2003 and resultant amendments provide guidelines on considerations and the process of review before an EIA license is issued. The regulations entrench the principle of public participation which gives the community an opportunity to air their concerns and have them considered in the EIA licensing process.

Article 19 of UNDRIPs obliges States to consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Art 14 (1) a of the CBD requires states to introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate allow for public participation in such procedures.

### **b. Relationship between this BCP and county policy and processes such as budget, CIDP county committees such as the county environment committees,**

All county processes and decisions that require the input of our community shall be done through the community's established processes to ensure that the community's sensitive resources, their traditional and cultural practices are taken into account and incorporated into the county's budgets, plans and programmes to ensure the protection, preservation and conservation of the Endorois community's resources and to further the objects of this BCP.

### ***Legal instruments supporting relationships between this BCP and county processes***

Article 19 of UNDRIPs obliges states to consult and cooperate in good faith with indigenous peoples concerned through their own representative institutions in order to obtain free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Art. 31 (2) of the UNDRIPs – obliges states, in conjunction with indigenous peoples, to take effective measures to recognize and protect the exercise of their rights to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human genetic resources, seeds, medicines knowledge of properties of fauna and flora; oral traditions; literature; designs; sports and traditional games; visual and performing arts; intellectual property over such cultural heritage; traditional knowledge and traditional cultural expressions.

Art. 174 of the CoK provides that among the objects of devolved governance is to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the state and in making decisions affecting them.

Art. 201 of the CoK guiding principles on public finance requires, public participation in financial matters, expenditure be directed in a manner that promotes equitable development of the country, including by making special provision for marginalized groups and areas.

Section 87 (a) (b) and (c) of the CGA requires county governments to inculcate among other principles of citizen participation by ensuring timely access to information, data, documents, and other information relevant or related to policy formulation and implementation. The county governments are supposed to ensure reasonable access to the process of formulating and implementing policies, laws and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance targets. They are also supposed to ensure protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information.

Section 91 (b) (c) and (d) of the County Government Act also requires counties to establish modalities and platforms for citizen participation such as town hall meetings, budget preparation and validation fora and notice boards announcing among others, matters of public interest.

Section 102 of the CGA requires county government to adhere to among other principles, integration of national values in all processes; protection the right of self-fulfillment within the county communities with responsibility to future generations; protection and integration of rights and interest of minorities and marginalized groups and communities; promote the pursuit of equity in resource allocation within the county and provide a platform for unifying planning, budgeting, financing, programme implementation and performance review and serve a basis for engagement between county government and the citizenry, other stakeholders and interest groups.

### **XIII. Awareness creation and capacity building.**

The EWC with support of the National and County Government of Baringo will ensure that there is continuous awareness creation on the cultures, practices, customs and way of life of the Endorois community among the Endorois locations to ensure that information is passed on from one generation to the next to guard against erosion of their culture and loss of traditional knowledge, traditions, culture and customs that make the Endorois people who they are. The national and county governments are required to support the community by allocating resources for it, by equipping the cultural centre, supporting employees of the cultural centre, among other duties.

#### ***Legal instruments supporting awareness creation and capacity building***

Article 11 of the CBD obliges parties to adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity.

Article 12 (a) of the CBD obliges parties to establish and maintain programmes for the scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and compositions.

Art. 23 of the Nagoya Protocol and its Annex requires that some of the benefits shared with communities should include transfer of technology. Towards this end, parties are expected to cooperate in technical and scientific research and development programmes.

Article 26 of the Rio Declaration urges governments to enroll indigenous peoples in full global partnership, including providing indigenous people with suitable technologies to increase the efficiency of their resource management.

Article 19 (1) (e) of the United Nations Convention on Desertification obliges parties to promote capacity building by adapting, where necessary, relevant environmental sound technology and traditional methods of agriculture and pastoralism to methods of agriculture and pastoralism to modern socio-economic conditions.

Schedule IV Part 2 (14) of the CoK requires the county government to ensure that coordination and participation of communities and locations in local governance at the local level and assist communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

Art. 97 of the CGA requires as one of its principles that counties ensure there is integration of minorities and marginalized communities by among other means promotion of diversity and intercultural education and promotion of effective participation of marginalized and minority groups in public and political life.

Art 98, 99 and 100 of the CGA also requires that Civic education be carried out to ensure and enlightened and empowered citizenry and government to achieve among other objectives appreciation for diversity of Kenya's communities as building blocks for national cohesion and integration.

#### **XIV. Resource mobilization.**

This is the role of the community organizations and EWC in collaboration with development partners, NGOs, CBOs and the county and national government. The EWC may also fundraise for small community based registered organizations who will in turn expect that these organizations will account on receipt and expenditure of funds.

The kind of resources anticipated to be collected and managed under the EWC and its management structure include:

- a) ABS benefits from agreements on genetic resources, mining and other infrastructure and developments established within and without the Endorois people's jurisdiction
- b) County funds for among others awareness and capacity building,
- c) Benefits shared from L. Bogoria National Reserve and any other relevant resources.
- d) Funds raised from fundraising efforts.
- e) Any other sources as may from time to time be available.

The resources collected would be put to among other uses the following: conservation, awareness creation; sustainable livelihoods; capacity building; bursaries and scholarships and water harvesting. However, we note that the first responsibility to provide these services and utilities lies with the national and county governments and that this undertaking does not therefore shift the responsibility of the government to provide these services as required by law. Decision making on resource management and governance will be made in accordance with the EWC structure.

#### **XV. Monitoring for compliance and evaluation on implementation of this BCP**

It is envisaged that the monitoring and evaluation process will help the community understand the impacts and effectiveness of what has occurred in the past in order to plan and respond accordingly in the future. It is an important part of adapting to the changing nature of national and international laws and strategies with time. The objective is to assess compliance with laid down processes and procedures. This will be done by:

- a. Reporting cases of illegal access and dealing with resources within the Endorois Community to government agencies and following up with relevant agencies for action and remedial measures;
- b. Reports on Community consultation and participation;
- c. Reports of PIC, MAT entered into with community and the benefits agreed;
- d. Other modalities as may be agreed from time to time between the EWC and the Community.

### **Legal instruments supporting monitoring and compliance measures**

Art. 16 and 17 of the Nagoya Protocol – requires each party to take effective and proportionate legislative, administrative or policy measures to provide that traditional knowledge associated with genetic resources utilized within their jurisdiction have been accessed in accordance with the PIC or approval and involvement of indigenous and local communities and that Mutually Agreed Terms have been established, as required by the domestic ABS legislation or regulatory requirements of the other party where such indigenous and local communities are located. States are also supposed to take effective and appropriate measures to address situations of non-compliance.

Art. 29 and 17 of the Nagoya Protocol also requires each party to monitor implementation of the Nagoya Protocol, and report to the Conference of Parties on measures that it has taken to implement the Protocol. Towards this end, States are required to put in place mechanisms that enhance transparency about use of genetic resources including establishing or designation of checkpoints.

Art. 31 (2) of the UNDRIPs – obliges states, in conjunction with indigenous peoples, to take effective measures to recognize and protect the exercise of their rights to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human genetic resources, seeds, medicines knowledge of properties of fauna and flora; oral traditions; literature; designs; sports and traditional games; visual and performing arts; intellectual property over such cultural heritage; traditional knowledge and traditional cultural expressions.

### **XVI. BCP outcomes for the community.**

The outcomes of the BCP are, among others, the following:

- a. Due recognition of community and acknowledgement of the existence and role of the community in protection and conservation of biological diversity resources;
- b. Community has been brought together and is now more cohesive;
- c. Consultation is facilitated with knowledge of community members;
- d. Better organization of the community as a whole is achieved;
- e. Better decision making is achieved;
- f. Better safeguard of resources and prevention of bio-piracy or over exploitation of resources is achieved;
- g. Better appreciation and awareness of what exists in the community;
- h. Inter-generational knowledge can now be passed;
- i. Community has a voice in decision making processes particularly where they are affected;
- j. More awareness is created as community is now aware of potentials of protection of TK genetic resources and other resources within their jurisdictions;
- k. Better opportunities to enforce the community's legal rights are provided;
- l. Equitable benefits sharing with the community will be achieved ; and
- m. Sustainability of resources is achieved.

### **XVII. Relationship with other laws.**

Our customary law will apply in accordance with the Constitution of Kenya, 2010 and the laws of Kenya and the community will be represented by the EWC who will at all material times represent all the locations of the Endorois peoples' community. More specifically, attention will be paid to the Protection of Traditional Knowledge and Cultural Expressions Act (TKCEA), 2016 was put in place to provide a framework for the protection and promotion of traditional knowledge and cultural expressions and to give effect to article 11, 40 and 69 (1) (c) of the CoK, 2010. International

law will also be applicable in so far as it seeks to protect the rights of indigenous peoples, their culture, religion, intellectual and spiritual property and everything that appertains to achievement of the objectives and outcomes of this BCP.

### **XVIII. Amendment and review of this BCP**

This BCP is a live document. Review of BCP may be done by the community separately or following developments of other process such as the LBMP which has a 10 year plan, the CIDP which has a five year planning cycle, any other processes including the developments within the county, the country or other international processes such as the CBD or the Nagoya Protocol or other processes that may impact the Endorois community, land or their resources.

### **XIX. Dispute resolution**

Traditionally, there were elders who would be consulted regarding a dispute. Two of them would give their opinion and if the parties failed to agree, the dispute would be referred to another set of elders who would go for another meeting. The parties in the dispute would be asked to bring their elders and experts. The elders were selected on the basis of their experience in resolving similar disputes in the past. The parties would be asked to leave the room to allow deliberation of the elders to decide the dispute. The parties were given options for mediation and arbitration with a view to reconciliation. If there was an issue that was not clear, a party would be called back to clarify. They would make use of precedent and success stories of past dispute resolution – experience in dispute resolution. The elders would give their verdict and after that they would give directions. The parties had the option to appeal to another set of elders.

The penalty would be imposed where a party was found guilty and restitution and compensation would be ordered. The penalty would vary depending on the gravity of the travesty or grievance. Failure to comply would result to curses attaching to the persons found responsible for causing the dispute.

The community encourages use of traditional dispute resolution mechanisms to resolve disputes but in the event that these mechanisms fail, the parties to the dispute are free to seek alternative avenues to resolve their disputes. These include mediation, arbitration or court process.

### ***Legal instruments supporting and prescribing means of dispute resolution***

Art 159 of the CoK, 2010 provides that the Courts and Tribunals shall be guided by the among other principles, ‘alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted. Art. 60 also encourages communities to settle land disputes through recognized local community initiatives consistent with the CoK, 2010.

Section 7 (6) of the Protection of traditional Knowledge and Cultural Expressions Act, 2016 provides that where concurrent claims arise from different communities with respect to their Traditional Knowledge, the Kenya Copyright Board or county government shall, while determining the claim, consider customary law and protocol of the communities in question, local information sources and any other means that may be applicable.

Section 15(4) and (5) of the Protection of Traditional Knowledge and Cultural Expressions Act, 2016 provides that ‘where a community in Kenya shares cultural expressions with a community outside of Kenya, the national and county government shall register the owners of the cultural expression in Kenya and maintain relevant records’ and ‘Where more than one community in the same or different counties share the same cultural expressions, respective county governments shall register the owners of the cultural expressions and maintain relevant records’.

Art. 27 of the CBD requires parties to the convention to settle their disputes by way of negotiation or seek mediation by a third party, arbitration or reference to the International Court of Justice as prescribed in the Convention.

Art. 11 (2) of UNDRIPs – Obliges states to provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior informed consent or in violation of their laws, traditions and customs.

Article 20 (2) of UNDRIPs also provides that indigenous people deprived of their means of subsistence and development are entitled to just and fair redress.

Art. 31 (2) of the UNDRIPs – obliges states, in conjunction with indigenous peoples, to take effective measures to recognize and protect the exercise of their rights to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human genetic resources, seeds, medicines knowledge of properties of fauna and flora; oral traditions; literature; designs; sports and traditional games; visual and performing arts; intellectual property over such cultural heritage; traditional knowledge and traditional cultural expressions.

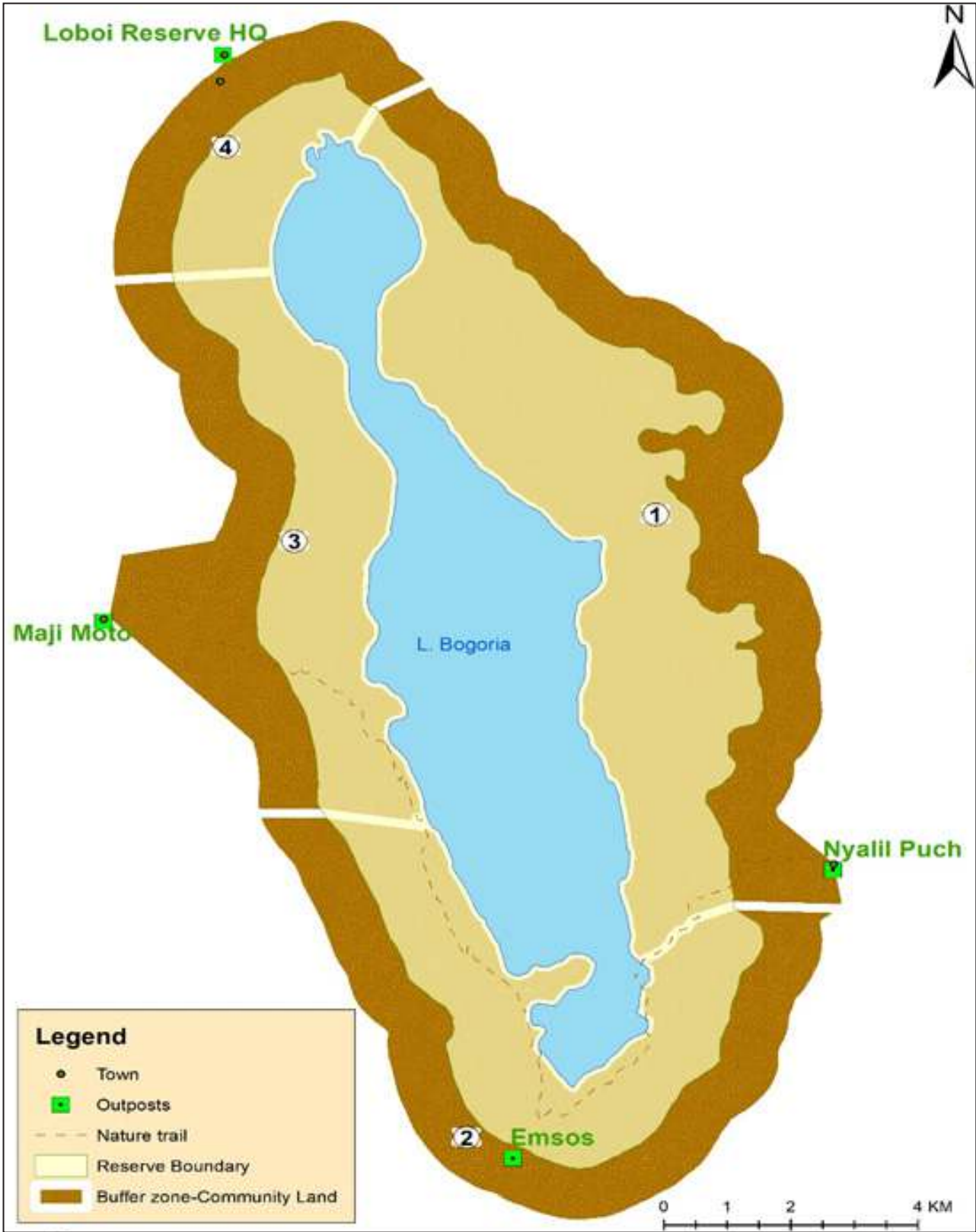
Art. 32 (3) of the UNDRIPs – Obliges states to put in place effective mechanisms for just and fair redress any activities involving relating to acquisition of FPIC regarding approval of any project affecting their lands and territories and other resources, particularly in connection with exploitation of mineral, water or other resources. It also requires that appropriate measures be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

## **XX. Enforcement of this BCP**

This BCP is among the instruments that will be used to implement national and international laws at community level. This BCP and all materials and natural resources accessed under it is duly recognized by the community as a community document, a negotiation tool and any agreements and rights to resources arising from it are enforceable under existing local, national and international legal regimes. In the event of conflict with any of the existing local, national and International legal instruments and, agreements the most favorable interpretation to the Endorois community will be adopted in order to give effect to the spirit and letter of this BCP and their rights under various county, national and international laws.

XXI. APPENDICES

APPENDIX 1 : Our Lake Bogoria National Reserve.



Source: Lake Bogoria Management Plan (LBMP)

## **APPENDIX 2 : The 17 Locations of the Endorois Community**

### ***The 17 Locations of the Endorois Community***

- |                                          |                                            |
|------------------------------------------|--------------------------------------------|
| 1. Lobo                                  | 2. Kapkuikui                               |
| 3. Sandai                                | 4. Koibos                                  |
| 5. Kamar                                 | 6. KoiboiSoi                               |
| 7. Bekibon                               | 8. Olkokwe                                 |
| 9. Kapnosgei                             | 10. Sinende                                |
| 11. Kabuswo                              | 12. Mochongoi                              |
| 13. Kimoriot                             | 14. Chebinyiny                             |
| 15. Arabal                               | 16. Kaptich sub location (Laikipia County) |
| 17. Koisamo sub location (Nakuru County) |                                            |

## **APPENDIX 3: The Endorois Sacred sites.**

### ***Major Communal Sacred Sites.***

- |                |                        |
|----------------|------------------------|
| 1. L. Bogoria, | 2. Koibos,             |
| 3. Keon,       | 4. Mokobe,             |
| 5. Baryat ,    | 6. Kobuot              |
| 7. Sinende     | 8. Siracho escarpment. |

### ***Village Sacred Sites.***

- |                   |               |
|-------------------|---------------|
| 9. Irong          | 10. Mutaran   |
| 11. Kapindasum    | 12. Tirion    |
| 13. Koibokirwook  | 14. Mwekian   |
| 15. Bariat        | 16. Lorwai    |
| 17. Marabachemwok | 18. Kimwochee |
| 19. Bechulolong   | 20. Kapkiach  |
| 21. Lama          | 22. Sosiche   |

## **APPENDIX 4: Heroes and Heroines of the Endorois Welfare Council**

### **Founders**

1. Mr. Juma Kiplenge, Advocate (Chebinyiny Location)
2. The late Mr Waseges Kipkelwon (Chebinyiny Location)
3. Mr Richard Yegon (Kapkuikui Location)
4. The late Mr Arusei Barsemoi (Mochongoi Location)
5. The late Mr Benjamin Kobetbet (Koibos Soi Location)
6. The late Mr William Ngasia (Sandai Location)
7. Hon. Charles Kamuren (Sandai Location)

### **Others**

- |                     |                                  |
|---------------------|----------------------------------|
| 1. Peter Changole   | 2. Jimmy Karatu                  |
| 3. Joseph Yegon     | 4. William Ng'asia               |
| 5. Elizabeth Kochei | 6. James Kiptek                  |
| 7. Johana Karatu    | 8. Benjamin Cheserem (Meno Tano) |

- |                                           |                               |
|-------------------------------------------|-------------------------------|
| 9. Kiprotich Kobetbet                     | 10. Kipkertich Kipkoech       |
| 11. Geoffrey Chepkuto                     | 12. Samuel Lorwai             |
| 13. Elijah Kipng'ok                       | 14. Michael Kitilit           |
| 15. Ezekiel Kases                         | 16. Jackson Kipsambu          |
| 17. Eric Arap Bett                        | 18. Simon Motoloi             |
| 19. Grace Chesang Lang'at                 | 20. William Lorukoti          |
| 21. Jackson Chelagat (Arap Tarkok Kosiom) | 22. Joseph Kiploman Cheruiyot |
| 23. Waseges Kipkelwon                     | 24. Daniel Kipng'ok           |
| 25. Philemon Yegon                        | 26. Reuben Chirchir (Lomekel) |
| 27. Arap Chumalima                        | 28. Thomas Koima              |
| 29. Moses Kimeli                          | 30. Susan Kibowen             |
| 31. Charles Rotich                        | 32. William Arusei            |
| 33. Wilson Kipkazi                        | 34. Paul Korir                |

#### **APPENDIX 5: EWC Chairpersons**

- |                         |   |                       |
|-------------------------|---|-----------------------|
| 1. Peter Changole       | - | <b>1<sup>st</sup></b> |
| 2. Joseph Yegon         | - | <b>2<sup>nd</sup></b> |
| 3. Juma Kiplenge        | - | <b>3<sup>rd</sup></b> |
| 4. William Ngasia       | - | <b>4<sup>th</sup></b> |
| 5. Hon. Charles Kamuren | - | <b>5<sup>th</sup></b> |
| 6. Dr. Samuel Marigat   | - | <b>6<sup>th</sup></b> |
| 7. Eric Kimalit         | - | <b>Current (2019)</b> |

## NOTES

[illegible]



## **ENDOROIS WELFARE COUNCIL**

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**Website:** [www.endorois.org](http://www.endorois.org)