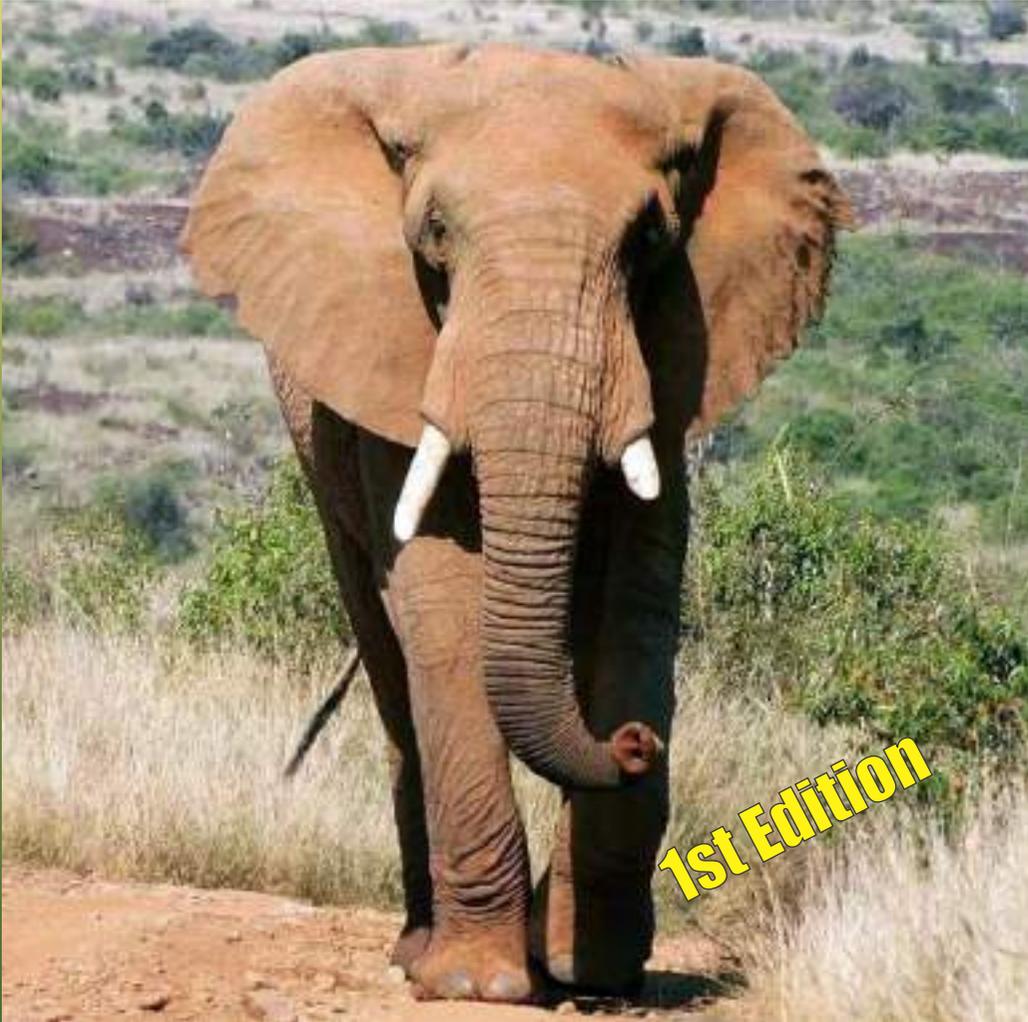


# WAATA BIO-CULTURAL PROTOCOL



**1st Edition**

**Discovering Our Cultural Heritage,  
Traditional Knowledge and Natural  
Resources to Safeguard Our Rights  
as The Waata Community**



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Cultural Heritage,  
Traditional Knowledge  
and Natural Resources**

**to Safeguard Our Rights as  
The Waata Community**

**1st edition**

Compiled by **Indigenous Information Network.**

Information and discussions shared by Indigenous Community Support Program( ICSP), Waata Women Group, Waata Community Based Organization - Tana Delta, Waata Barite CBO, Waata Elders, communities, Women and Youth from Marsabit, Isiolo, Tana-River, Lamu, Malindi, Kilifi, Boni Forest and Garissa.

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## Acronyms

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ABS	Access and Benefit Sharing
BCP	Bio-Cultural Protocol
CBD	Convention on Biological Diversity
UNFCC	United Nation Framework on Convention to Climate Change
CEDAW	Convention on Elimination of all forms of Discrimination Against women
CITES	Convention for International Trade on Endangered Species
NJ	Natural Justice
CIDP	County Integrated Development Plan
FPIC	Free Prior Informed Consent
GFP	Global Forest Principles
GoK	Government of Kenya
ICSP	Indigenous Community Support Program
ILO	International Labor Organization
IR	Indigenous Resources
TK	Traditional Knowledge
IIN	Indigenous Information Network
OPDP	Ogiek Peoples Development Programme
UDHR	Universal Declaration of human rights
UN	United Nations
UNCED	United Nations Convention on Environment and Development
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific and Cultural Organization
WIPO	World Intellectual Property Organization

## **Acknowledgement**

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Sincere gratitude to All the Waata communities in Marsabit, Isiolo, Tana River, Lamu and Mombasa Counties for all the contributions made to the development of this Bio-cultural Protocol. To the County staff who through this development gave support and created more interest to ensure the process reaches out to far and remote communities. The senior elders who worked with us all through the long process of getting the right information. Mariam Farah of Natural Justice for the support, Ogiek Peoples Development Programme (OPDP) and Yaakuu Peoples programme for sharing your experiences in the development of your own Protocol which has helped motivate the other communities to develop their own. Special Gratitude to Siemempuu Foundation for financial support. Thank you for your dedication to supporting the Indigenous Peoples, local communities and minority groups in their quest to self-determination and recognition of their rights. Your patience and understanding the process undertaken by these remote communities in reaching out to each other is very much appreciated.



## **Executive Summary**

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Community Protocols also have a range of broader benefits in a number of policy areas including biodiversity, natural resource management, climate change, human rights, planning and development in a community. Protocols are an emerging concept in environmental law and policy. The term “community protocols” was introduced into the text of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol) as a measure for implementing some of its provisions, as proposed by the African Group of negotiators, and is closely linked to the work of the Convention on Biological Diversity (CBD).

### **Article 7 - Nagoya Protocol:**

#### **Access To Traditional Knowledge Associated with Genetic Resources**

In accordance with domestic law, each Party shall take measures as appropriate, with the aim of ensuring that traditional knowledge associated with genetic resources that is held by indigenous and local communities is accessed with the prior and informed consent or approval and involvement of these indigenous and local communities, and that mutually agreed terms have been established.

### **Article 12 - Nagoya Protocol:**

#### **Traditional Knowledge Associated with Genetic Resources**

1. In implementing their obligations under this Protocol, Parties shall in accordance with domestic law take into consideration indigenous and local communities, customary laws, community protocols and procedures as applicable with respect to traditional knowledge associated with genetic resources.



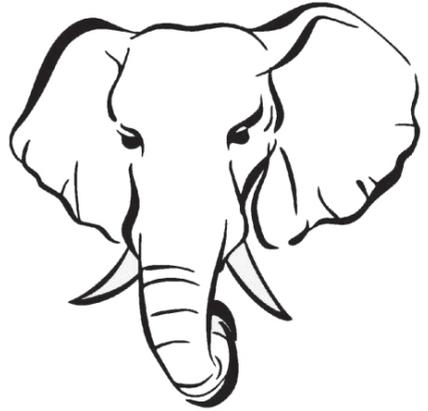
2. Parties, with the effective participation of the indigenous and local communities concerned, shall establish mechanisms to inform potential users of traditional knowledge associated with genetic resources about their obligations, including measures as made available through the Access and Benefit-sharing, Clearing-House for access to and fair and equitable sharing of benefits arising from the utilization of such knowledge.
3. Parties shall endeavour to support, as appropriate, the development by indigenous and local communities, including women within these communities of:
  - (a) Community protocols in relation to access to traditional knowledge associated with genetic resources and the fair and equitable sharing of benefits arising out of the utilization of such knowledge.
  - (b) Minimum requirements for mutually agreed terms to secure the fair and equitable sharing of benefits arising from the utilization of traditional knowledge associated with genetic resources.
  - (c) Model contractual clauses for benefit-sharing arising from the utilization of traditional knowledge associated with genetic resources.
4. Parties, in their implementation of this Protocol, shall, as far as possible, not restrict the customary use and exchange of genetic resources and associated traditional knowledge within and amongst indigenous and local communities in accordance with the objectives of the Convention. Forthwith notify the Secretariat of any changes in the designation of its national focal point or in the contact information or responsibilities of its competent national authority or authorities.
5. The Secretariat shall make information received pursuant to paragraph 4 above available through the Access and Benefit-sharing Clearing-House.



Customary laws include customary worldviews, principles or values, rules and codes of conduct and established practices. They are enforced by community institutions and can have sanctions attached. They are derived from natural resource use. Some practices and beliefs acquire the force of law. They are locally recognised, orally held, adaptable and evolving. (Swiderska et al. 2009). External actors those outside ILCs, include researchers, industry, the media, government agencies, NGOs, and tourists. Indigenous and community conserved areas are natural and/or modified ecosystems containing significant biodiversity values, ecological services and cultural values, voluntarily conserved by indigenous peoples and local communities – both sedentary and mobile – through customary laws or other effective means. (Borrini-Feyerabend, 2008). Indigenous peoples and their communities and other local communities are two distinct groups, usually defined by a number of factors, including history. Indigenous peoples, usually refers to the original peoples of a place, while local communities, usually refers to communities other than original peoples that have migrated and settled in a place. Both dwell in a certain geographical location and may possess the same knowledge, practices, norms, values, etc. and at the same time contribute to various aspects of social, economic and ecological sectors. The term indigenous peoples and their communities and other local communities is used to be inclusive of the two groups.

The term traditional knowledge (TK) refers to the knowledge, innovations and practices of indigenous and local communities around the world. Developed from experience gained over the centuries and adapted to the local culture and environment, traditional knowledge is transmitted orally from generation to generation. It tends to be collectively owned and takes the form of stories, songs, folklore, proverbs, cultural values, beliefs, rituals, community laws, local language, and agricultural practices, including the development of plant species and animal breeds. Traditional knowledge is mainly of a practical nature, particularly in such fields as agriculture, fisheries, health, horticulture, and forestry.





## SIRB ARBAA

### Waata Elephant song

*Woyo doe doyateh garsen boe  
Lil jette chachanen bela jet  
Badason sagal bulle sagale goman dide  
Aba abdi malmalen aba gabdi  
Eetoban yatte korm chiqilen doqe qabdi  
Bonan yate awar sarban qabdi  
Ilman jarsa nam afri qabu jars  
Jarsan galte arri bokore gate  
Wachu dayo dayahe mani dette  
Mani dette dayahe gaman keb  
Chake ursa boqotii arba urss  
Chake amena sodatan gara amena  
Burusayo bursi ulla nyencha  
nyenchi inyanne lmote teh adun nyate  
Chorus  
Doye doe eeh eeh doya teh garsen  
boe eeh eeh he hahoyo*



## Introduction

Bio-Cultural Community Protocols (BCPs) articulates community-determined values, procedures and priorities and sets out community's rights and responsibilities under customary, state and international law. It contains information on the community's customary way of life, knowledge of resources and customary use of biodiversity. They support communities to assert their rights and duties in respect of how they govern their lands, as well as conserve and sustainably use their natural resources.

Waata, an Indigenous community in Kenya that resides in five different counties of Marsabit, Isiolo, Tana River, Lamu, Kilifi, Garissa, Malindi and Mombasa is slowly developing their Bio Cultural Community Protocol. The representatives of the community are scattered in different areas of the different counties listed but at the same time can be promptly said to be more visible in Moyale, North Horr, Marsabit, Sololo, Kina, Arapsu, Duse, Garbatulla, Merti, Kombola, Madogashe, Eldera, Madogo, Boni, Garsen, Boji, Barambate, Gulicha, Hakbafat, Dhidimtu huchu efe, Witu and kilifi. As of 2019 census, Kenya had 47 communities, and the Waata community had not been included thus the reason why Indigenous communities such as the Waata should come together to create their visibility. There has been a concern that these minority groups such as the Waata, El Molo, the Yiakuu and others are losing their language and identity due to assimilation into larger groups such as Borana, Turkana and Samburu respectively.



## **Objectives of the Bio-Cultural Protocol**

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The main objective is to try and understand who are the Waata, and what is their history, as a minority group what was and is their economy? What are some of their cultural practices, customary beliefs and traditions? How do they live as a community, and do they have any traditional institution? How can the Bio-cultural protocols enhance their Traditional institutions if they have them and if not how can developing the Biocultural Protocol enhance their traditional institutions. But why do we need the BCP, this is because the Protocol will help the community understand the interface between customary law and formal legal and policy frameworks. The Protocol also will help in having more education, capacity building and improved participation; and understanding conservation and sustainable use of biodiversity and protection of Traditional Knowledge while they also try to improve relationships between themselves external actors.

On the other hand, Bio cultural protocols serve as customary law for the community. Bio cultural protocols arise from other international laws such as the Convention on Biological Diversity and its Nagoya Protocol. The most important laws to indigenous communities are those that help protect biodiversity and access and benefit sharing of their natural resources and guides the Indigenous communities use their traditional knowledge during the process of protecting their rights.

## **History of the Waata community**

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For Indigenous Information Network to understand better about the Waata Community and their origin, cultures and traditions as we tried to compile and develop the community Protocol, we organized workshops and consultations in three main Counties, Marsabit, Tana River and Isiolo and invited selected Waata community from CBOs, Grassroot Organizations, Self-help groups, elders, women, youth and other key partners working with them, especially from the County Government. It was very interesting as we worked and talked with a diversity of the Waata



groups from different counties, they each had a different version of their own history as told by their elders. But despite all the views they agreed that they originated from Ethiopia and still have their relatives and their ancestors there. Their migration route followed the river banks because they followed the water just like the other many African tribes who migrated years back before colonization and were later displaced by the borders introduced by the different colonizers and current governments.

## Waata Marsabit County

The Waata are a hunting and gathering community who have unfortunately been assimilated to the Borana, Gabra, and other Oromo speaking communities. They unfortunately lost their language and only have a few elders left who speak the language and they now speak the Oromo language. During the 2019 Census, they were counted amongst the communities that they have been assimilated into, they are however estimated to be around 20,000 people. They now practice agriculture and keep livestock such as cows, goats and camels and no longer live like their great grandfathers because it is now illegal to hunt wild animals.



## The origin story from the Waata in Marsabit.

There were 3 sons who were born of the same mother and father. The first born was Waata followed by Borana then Gabra. The first-born son was the richest and he grew with pride. He was reputable because of his wealth and position. Due to his position and wealth, the pride got better of him to the extent that he thought of competing with God. He believed that his standard transcends the divine standards and because of that, God challenged him to display all his wealth. Waata brought all his wealth; goats, camels, cows etc. and miracle God also displayed his wealth which included wild animals and other creations so that their respective wealth is compared and contrasted. Waata brought forth all his animals and



God brought deadly wild animals like lions and snakes that devoured all of Waata's animals except for one he-goat (Korbes). The wealthy and reputable Waata become poor and because he had nothing to feed on, he resorted to hunting and gathering as the remaining goat became an alternative for their source of livelihood. They would hunt all animals like the elephant, porcupine, tortoise among others as a source of food and they would use the tusks, skin and spikes for barter trade and other domestic uses. They were referred to as (Worr gubbee) which means the people of bows and arrows. Waatas esteemed and cherished their target animals for hunting by composing songs for them. Because he was poor, he was at the mercy of other people, including his brothers, which later led to the assimilation. To date, once a year, the Waatas slaughter one he-goat to remember how their ancestor lost everything.



*Members of the Waata community during discussions in Marsabit county*

During the colonial times, the name Waata was unknown. The only members of the Waata community during discussions in Marsabit county recognized tribes were Borana and Rendile. The voices and the identity of the rest were suppressed. Many Waatas hide under the pseudo-identity of Borana/Gabra because the name Waata was derogatory. The Waata were given the nickname Dorobo which is a term used to refer to backward and underdeveloped people. Slowly the Waata eventually re-surfaced as a community so that their autonomy as a tribe can be recognized. They lived together with Borana in southern Ethiopia and they enjoyed staying under an indigenous tree named Chana which was mostly used for the



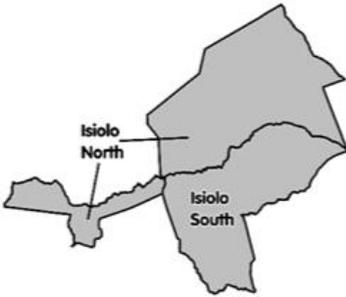
Borana ceremonies like the Korma-Korbesa ceremonies. This is a special ceremony that was done by a certain clan from the Waata and Borana where they slaughtered a bull and he goat. The bull was slaughtered by a specific clan and the he-goat was slaughtered by another specific clan. No certain clan could slaughter both. The Waata were not entirely separated from the Borana. They took part in many Borana cultural events even if they were looked down upon due to their mode of life. They also had a qallu (a spiritual leader) just like Borana although his power was limited because he was the Qallu for the Waata only while the Borana one was the Qallu for all the other tribes. Waatas took part in Borana traditional ceremonies like gadamoji (head shaving ceremony for gadamoji elders) they also took part in nyachiis and gubiis (traditional naming ceremonies for children). It is believed that if Waatas are absent from Borana cultural ceremonies the said ceremonies are deemed incomplete. After the Waatas decided to resort to hunting they are given some respect when a Karayu qalu (king) marries his Qaliti (queen), on the first night of the marriage the Qalu and Qaliti do not spend the night together instead a Waata is the one who spends the night with the Queen. A member of the Waata community is supposed to light the fire using traditional means (uchum). They also had sacred sites (Garr Abbo) where they prayed to God under their sacred Trees. Only a specific clan who went there to pray on behalf of the rest of the community including all the other tribes. They only took an ewe (she sheep) which has not given birth. If the prayers were delayed for any reason, the Mountain roars and the earth shakes and the Waata have to be called to go and conduct prayers.

### **Waata in Isiolo County (majority came from Kina subcounty)**

According to the Waata community members from Isiolo, the Waata is a branch of the Borana community who came from Ethiopia and have been set aside as Dorobos. They are hunters and gatherers, bee keepers and plant trees. When hunting, they only kill the male animals and not the female ones, those who have children or are pregnant.



## The origin story from the Waata in Isiolo.



They came from a family of three, the first-born son was a Waata. He enjoyed hunting but his parents denied him permission to hunt which forced Waata to run away to the forest to continue hunting. Waata was a very rich man and even claimed to be richer than God. He competed with God through the game of draft and God won the game. God then told Waata that he would become poor because he lost the game. God told him to bring all his properties to compare with God's. Waata brought all his property in form of cows, goats, camels etc. On the other hand, God brought his property in form of lions and snakes which ate all of Waata's property except for one goat. The goat opened a door for hunting and war which later opened a generation (kizazi).

The Borana used to meet under a tree called Chana which had a big shed. The Borana sold the Chana shade to the Waata in exchange for cows and Waata sold the cows and became hunters. Wild animals were known to be the property of the Waata community but the colonialists came and told the community that wild animals belong to the government.



*Members of the Waata community from Isiolo County during discussions*

They became poor post the colonial period; they didn't have clothes or property. The Waata believe that the Boranas used witchcraft to ensure



that Waata remained poor and had no say. Borana had ‘usemi kali’ (strong lethal saying) that when the Waata community stayed with the Borana they would remain poor. But at the same time, when the people go for war the head of the team is Waata, and the person who lights fire is Waata. In the history, when the Borana animals are taken away by the enemies, they would call Waata Tiyole after 6 months to help them return their animals”. Waatas living in Moyale and Marsabit came from Ethiopia and stayed there. The others living in Isiolo and Tana River migrated and settled in the respective counties they are found in. The Waata community were the first community to discover River Ewaso Nyiro, River Garbatulla and River Tana because they would go looking for water. The community mostly live along the river banks. Some set up camp in the now known town called Watamu. After meeting outsiders, they packed their bags and left because they couldn’t communicate well with the outsiders. Watamu is named after the Waata. It means “You are not a Waata” The name of Waata’s father was called Wayuu Bano. It is also believed that in Wando-Ethiopia and Mogadishu- Somalia there are people from the community speak the Waata language. They moved to Somalia as they went looking for elephants to hunt. While in Somalia, they were asked to bring elephant tusks and in exchange they were given clothes to wear. This later made some members of the community settle in Somalia.

Even though Waata are hunter-gatherers, in the community, only one man kept the cows. The remaining members went back to forest to hunt wild animals and this led to a conflict with the Government.

## Waata in Tana River

The Waata recognize that there are different versions of their history depending on what they were told by their forefathers. Some elders shared that the Waata, Orma (Oromo speaking communities that settled in Tana River) and Borana were brothers from the same mother. They lived in Ethiopia. The



first born was Waata. They always migrated from one place to another. During migration whenever the donkey would stop moving the one for Boranas would also stop moving. Orma's donkey passed. They all started moving afterwards. On their way, they found meat to eat they ate it and left a piece behind. They were instructed not to go back for it by the father but Waata went back to eat the remaining pieces. This annoyed the father making him chase Waata away. The name Waata means the one who remained with meat. After he was chased away, this made him move from one place to another in search of bush meat.



*Group discussions in Minjila – Garsen, Tana River County*

The Waata are a hunter-gatherer community who hunted animals and their other source of food was honey. The community liked staying alone and with wild animals because they were their source of livelihood. They were friends to animals and after hunting they would smear their bodies with blood and urine of the animals they have hunted to camouflage. Waata would only kill male animals and older animals but would not hunt pregnant ones. They hunted wild animals like; Ostrich, gazelle, antelope and elephant. They sold the elephant tusks to fend for their families. They also collected wild fruits and honey. They would sometimes mix honey with the dried wild fruit. This lifestyle ensured that they never stayed hungry. They collected honey from the forest using Gorfo, a tool made by women used to remove honey from the bee hive. Tongi is where they store the honey. The Waata worshipped in the forest under a sacred tree called Jarsjallan to worship and pray to God for rain during draughts,



victory during conflict and war and disease outbreaks amongst other issues facing the community.

The Waata, Borana and Orma all came from the same region in Southern Ethiopia and started to be divided into groups. The first group dropped off in Moyale and others Marsabit. The Waata of Marsabit called themselves Waata and others called themselves Wayuu. Other members of the Waata community took the route to Ukambani. They decided to migrate till they reached Mombasa. During migration, one man saw a big elephant and named it Mombasa this is where the name Mombasa came from. The two tusks in Mombasa town were from an elephant that was killed by the Waata community. The route that they used was called barabara ya changarawe nyekundu and when they reached Mutha, Kone till Assa where they decide to dig a well. There was a water problem in the community and a man called Banta Adele found it fit to dig a well. Their livestock and the community drank the water. After this the members divided once again into three groups.

The first group headed to Sabaki, the second group Godana Abiyu while the third Golbanti Ege Kumbi and another group left Egekumbi to Gede, Chamari, Malindi, Kamale passing through Kilifi. As they migrated, they saw a bird (Burrian) that was holding a green branch. This meant that the bird knew where to find water. They followed the bird till they found a big lake with water. Waata then decided to settle in that area called Bilisa. The name Bilisa means something to admire from a distance. (kitu cha kuangaa kwa umbali) Later on as the explorers were doing their research and visited the area inhabited by the Waata Bilisa. They gave the lake a name called Lake Asso. They set a camp to hunt animals especially in areas where there were water sources. After hunting, they headed to Sera where an elder called Abaganda passed on while his son called Boru crossed Tana River and settled in Kulesa village. There was a group that settled in Lamu next to the home of the Awer community (Witu area), another group diverted to Kipini while another group settled in Somalia (Born Marehan).



Before independence, Waata community members were carried and taken to Kolbiyo, Somalia to go and sell elephant tusks. Their livestock were all auctioned and sold leaving them hungry. This is the reason why when the community was coming back to Kenya, they were poor. Upon independence, the community was forgotten and their needs were never met. there was continuous conflict between the Waata and Somali over resources such as land, livestock, grazing land and water. Waata community were however left with nothing since the government prevented them from hunting the wild animals and as a result, they became poor. According to them, the community has been discriminated since time immemorial because they didn't own anything. They also felt more isolated and neglected because community did not have a chief and were left to govern themselves. Only few members of the community have finished school. They are discriminated against when applying for jobs because of being Waata and poor. Later donors visited the area and helped them build schools and churches and mosques.

There are different clans in the Waata community, these include;

1. Chako- deals with religious responsibilities like worshipping on Mt. Aabo	12. Baches
2. Dabsata	13. Akoki
3. Shirshiro	14. Hegen
4. Workula	15. Rogobla
5. Kodele	16. Arbole
6. Sagan	17. Hoqoqo
7. Tiyole	18. Qochol
8. Kochot	19. Arbole
9. Gorile	20. Ilani
10. Shamma	21. Karara
11. Egal	22. Karayu
	23. Gamadu
	24. Meta
	25. Tomal- Tomal are blacksmiths



## Waata Genealogy

Other than the different clans that the Waata have, some of their genealogy and ancestry can be traced back to wild animals and the animal kingdom. For example, We take a look at the genealogy of Wako Korma who is a member of a council of elders in Marsabit.

His genealogy is as follows:

*‘Wako Korma Duba Bilala Inya Dawa Bukure Bukana kaa Uthan Arbah  
Kessa Busan’*

Translation in English;

*‘Wako the son of Korma, Korma the son of Duba, Duba the son of Bilal,  
Bilal the son inya, Inya the Son of Dawa, Dawa the son of Bukure, Bukure  
the son of Bukana, Bukana was taken from feascas of Elephant’*

Some families have association and have wild animal names in their genealogy that is;

1. Jaldesa - Monkey
2. Arbb - Elephant
3. Qurri - Young one of Monkey
4. Worabo - Hyena
5. Mangura - small species of elephant
6. Koto - Birds
7. Gafarss - Bufallo



## System of Governance

The Waata are Organized into clans and each of the clans had their own governance and leadership systems under one umbrella which was led by Hayuu.

<b>There are 5 leaders under the umbrella</b>	<b>Qualities of leadership</b>
<ol style="list-style-type: none"> <li>1. Hayuu</li> <li>2. Kae</li> <li>3. Jalab</li> <li>4. Makall - Messenger of the above leaders</li> <li>5. Torbi - Council of elders consists of 7 members</li> </ol>	<ol style="list-style-type: none"> <li>1. Strong.</li> <li>2. Knowledgeable on the existing traditional systems.</li> <li>3. God fearing and not selfish.</li> <li>4. Visionary.</li> <li>5. Brave.</li> <li>6. They should have a trustworthy wife of good virtues.</li> <li>7. Wealthy</li> </ol>

<b>Hayuu - functions of the leader</b>	<b>Qualities of Hayuu</b>
<ol style="list-style-type: none"> <li>1. He is the planner for the community</li> <li>2. Guides the community in regards to the hunting matters and resource mobilization</li> <li>3. Select warriors that will go hunting</li> <li>4. Solve disputes</li> <li>5. Make laws for the community</li> <li>6. Gave direction on the various migration routes that should be used.</li> <li>7. Gave direction on conservation and how to properly conserve their territories.</li> </ol>	<ol style="list-style-type: none"> <li>1. Bravery</li> <li>2. Visionary</li> <li>3. Strength</li> <li>4. Wisdom</li> <li>5. Honesty</li> </ol>



<b>Jalab - functions of the leader</b>	<b>Qualities of a clan leader</b>
<ol style="list-style-type: none"> <li>1. Follows instructions of Hayuu.</li> <li>2. Solves minor disputes.</li> <li>3. Helps create bond between Hayuu and community.</li> <li>4. Guides in the establishments of honey harvesting guidelines.</li> </ol>	<ol style="list-style-type: none"> <li>1. God fearing.</li> <li>2. Obedient.</li> <li>3. Brave.</li> <li>4. Wise and strong.</li> <li>5. Knowledgeable on traditional systems.</li> <li>6. Visionary.</li> <li>7. Honest.</li> </ol>
<b>Kae - Speaker</b>	
<ol style="list-style-type: none"> <li>1. He is the meeting organizer.</li> <li>2. Participates in marriage ceremonies and dowry with other elders.</li> <li>3. Adviser to the Hayu.</li> <li>4. Messenger.</li> </ol>	

## The role of the council of Elders

The council of Elders (Torbi) consists of seven members and are an important part of the community because of their function of ensuring that the community lives harmoniously with each other and even their neighbors. It should be noted that the Waata were and still are a very patriarchal community where women were not part of the council of elders and they did not have a voice in decision making in the home or the community. It has been shared by some members of the community that if a woman wanted to get involved in any decision making, she would be told ‘there is no day the shoulders will pass the ears’ to mean that women can never make decisions if men are present. Currently in Marsabit there are 333 elders and none of them is a woman.



- (i) To bring the Waata community together since they were assimilated.
- (ii) To teach the Waata community about their culture and traditions.
- (iii) They act as peace makers, they settle disputes.
- (iv) They control the borders, help in resolving conflict borders.
- (v) Ensure unity in the community.
- (vi) They disciplined the community members when they go wrong.
- (vii) Represent the Waata community in government projects/  
thus helps in affirmative action and lobbying.

## **Different roles of Waata community members**

Women build houses, milk the cows, fetch water, take care of the children and the family, look after animals, fetch firewood, wash clothes, clean the compound and cook food for their families, they nature the family and give advice to their daughters on how to take care of the husband and family during marriage, administering traditional medicine and treating the family members such as traditional birth attendants.

The men hunted for food for the family, protected the family and livestock, grazed the livestock, settled conflicts, disputes and ensuring peaceful existence. They acted like messengers and they were the decision makers. The youth/kaim/Qero would take part in hunting activities. They would protect the community against enemies and also would help to search for pastures.

The Waata community did not treat people living with disabilities differently. They could marry and get married and were regarded in high esteem and well taken care of.



## **Hunting and gathering as a means of livelihood for the Waata.**

In the Waata community the husband and wife strictly lived together where they found and hunted animals together with their children. The Waata hunted different types of animals to supplement their diet. They used dogs which were highly trained to hunt down fast running animals like antelope and the bow and arrow (Gube and Tiyyah) were also used in hunting wild animals. Our people also used traps to catch some animals. e.g they used Gombisa and ashkilla to catch different type of birds. When they hunted huge animals like elephants and giraffe, meat was carried on camel that was commonly used by our community.

Traditionally they hunted elephants, giraffes, zebras, bufallos, rhinos, gazelles, impalas, dikdik, nugu nugu, porcupine, kudu, warthogs, and tortoise. Animal skins are used to make water containers, bags, sleeping mats, clothes, shoes and other accessories such as knife handles, ties etc. Hunting became easy with the use of poisonous arrows which was made from strong herbs like Qararu. The poison had to be prepared under the Garse tree using its firewood by a virgin girl. If you did not follow these strict rules the poison will not work as intended. There are two types of Qararu tree, the male one is poisonous while the female one is edible. They can tell the difference between the two trees based on the fruit it bears.

They also gathered wild fruits to supplement their diet. Some of these fruits included madderr, deka, bururi, ogomthi and dagamss. Toktoke, Qolati, Jajab, qurqurra, qumude, Tatesa, huruba, kuraa, qoone, Dabel, dabobes, qachor,

Bee keeping and harvesting of honey was another means of livelihood and an economic activity to the Waata people. There existed a special group of people who would search for wild honey (Sorobduu) who were responsible of identifying and harvesting honey. After harvesting honey, they stored in Golondi which is traditional cultural artefacts for storing honey for both short and long period.



## Eco-climatic zones

The Waata have deep knowledge about their geographical and ecological land settings that is the guide to use their land correctly. We are able to classify different eco-climatic zones by observing rainfall, soil type, topography, vegetation types and temperature.

<b>Broad Classification of Waata Eco-climatic Zones</b>	
<b>Baadha</b>	This is the region which is highly forested and receive high rainfall and has many species of wild animals and wild honey.
<b>Gamojii</b>	Dryland with little vegetation cover and relatively flat.
<b>Goolboo</b>	This region is characterized by high temperature, short shrubs and prone to flood.
<b>Wayaaam</b>	This zone is characterized by red soil and has no permanent water supply like rivers, spring and wells.
<b>Maalbee</b>	Desert like Chalbi.
<b>Chaffa</b>	This are water logged area such as swamps and wetlands that are prone to flooding.

## Traditions and Beliefs

Waata hold a celebration annually in remembrance of the 1st born son. They slaughter a male goat during these Korbes celebrations. This is mostly done during the 8th, 10th, 12th or 14th day of the moon. The Waata community also had special ceremonies for children such as naming and circumcision where livestock was slaughtered. Sorio is a ceremony conducted in the remembrance of a departed/deceased one. Waata hold a celebrations for Gubis (first born son) and Mogati (last born son). According to the traditions of Waata every animal has its song. During Korbes celebration they sang all the animals song.



## Marriage

All women of the community were married regardless of any physical deformities that a woman may possess. As long as a woman can bear children, she can get married. In the past there were no intermarriages among the Cushitic communities like the Gabra, Orma, Borana and Waata but currently due to changing circumstances, there are intermarriages with other communities.

The community would have several visits over a period of time to finalize marriage. This would could be years because they sometimes used to ‘book’ a girl when she was young and wait for years before she was finally married. During these visits they would take tobacco, raw coffee beans and honey to the family of the bride. The groom’s family would also pay a dowry depending on the wealth they had and finally the families would set the date of the wedding depending on the weather.

## Naming Ceremonies

The Waata had naming ceremonies. Naming of the community members depends on the amount of wealth the family have. A naming ceremony was expensive and when the parents didn’t have enough wealth the community will come together to conduct the ceremony. Members of the community wore a special Ruff (a special head gear) during naming ceremonies of the boy that can go on for almost three days. If the child is a girl, the ruff was not worn. Instead Mogati ceremony was conducted where there was slaughtering of goats and the women and men would sing songs of the cow sometimes all night and then afterwards, they go home.

Shaving of the boy was also done during the naming ceremonies. When a male child is born people celebrate him for three days with song and dance and if it’s a girl, there is no major celebration. First born sons are given a grand naming ceremony called Gubisa, the ceremony for subsequent children aren’t as grand as it is only a one day celebration. The first



born is given inheritance and the second born didn't get any inheritance. According to Waata law of inheritance the properties left behind by the diseased parent is inherited by the elder son. In most cases Council of Elders were involved in the process of inheritance, they follow "damms" which is unwritten/oral will be proclaimed by the diseased which help them in identifying rightful heir.

The children were named according to season and time of the day they are born. Some names are specific only to the first borns like Boru, Liban, Arero etc. For the unnamed child, their head remained unshaved till the day of the naming ceremony.

They were named according to trees or even medicinal plants. Others were named according to the time and season. They could also name a boy after the Chana tree.

For example;

**Guyo** - Male born during the day.

**Diram** - Female born in the morning.

**Abduba** - Male born after the son comes back from hunting.

Naming ceremonies were conducted by men. The ceremony was meant to give blessings. Naming was done 1-3 months after birth. When they are born, they are given a nickname. If a child is not named early, the parents will bear the expenses of the ceremony. The Boronas would ask the Waata community to help them bear children.

Most names are given according to the time such as Guyo- Boy and Guyatu- Girl, names of trees, hard times e.g. drought or floods, names of animals e.g. name of an elephant for a boy Raq and a girl Dather and Titima for a person who walks faster in search for pasture or hunting animals.



## Examples of names and identification in the Waata.

Male	Female	Male	Female
Dadach	Urbu	Chachane	Chachole
Halo	-	Boru	Diram
Bires	-	Guyo	guyatu
Bonaya	Bonne	Jarso	Jarte
Galgalo	Galgalu	Jattani	Jattane
Sirgirso	-	Halkano	Halaku
Wachu	-	Dhathe	Dhathe
Wanga	-	Arb/Arbicho	Arbe
Gafars	Hagadarsa	Warabes	Warabo

## Religion

There exists three religious groups in Waata Community. Namely Waaqeffataa (those practicing Waata traditional religion), Christians and Muslims.

### Waaqeffataa

Before the coming of Christianity and Islam, Waata Community worshiped one God 'Waaq' the divine, omnipotent, omnipresent, omniscient, supernatural power, spirit and creator, all good, all wise and righteous.

They believed in sky God 'Waaq guaracha garaa Arbaa' meaning God of tolerance.

*Waata Waaqeffataa* often conducts prayers and blessings separately and communally. They pray for peace, health, deliverance from wrongdoing harmful spirit, human and livestock fertility, growth of babies, long life for adults, rain, harvest and development.



Every Communal activity in Waata starts by blessings (Eebba). Sacred places of worship include Acacia trees, water wells and rocky areas.

## **Islam and Christianity**

Many Waata embraced Islam and Christianity in the mid of 19th century after they interacted with Muslims and Christian missionaries. Foundation of Islam is found in the Waata community. Other communities do not have a religion but are traditionalists. Boranas would term the Waata community as miracle workers. In case of barrenness, Boranas would bring the Wataa wife to the elders for prayers. If the wife bears a child, the child would be given a Waata name.

## **Traditional Knowledge**

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Waata community have a rich culture in the traditional knowledge, practices and guidelines that contributed to the community. Among the Waata Community, there existed people with special skills, knowledge and extra ordinary talents who served community in their capacities. These included;

1. Chiress/Chireti (Local medicine men and women). These people took care of Waata and neighboring local communities' health and that of their livestock. They administered oral medicine and some performed basic surgeries. They still practice this art to date and community members visits them.
2. Tumtu (Black-smith). The black smith provided means of acquiring hand tools such as knives and farm tools, weapons, ornaments and ritual beads.
3. Ayaantu (astrologists). Waata astrologists read the movement and positions of the stars and forecast corresponding events.
4. Bochuu (wood carvers). These are people who use trees and logs to make wood made cultural artefacts like traditional stools, milk churns, combs and others.



Some of the cultural practices also promoted environmental conservation. There are trees and shrubs that cannot be cut down because of their cultural and spiritual values. They only used the barks, leaves and roots of these trees. After collecting some parts of the bark of the tree for medicinal purposes they could cover the bare part with soil. At Waata shrines and sacred areas, cutting of trees and any plants is forbidden. Some of the trees and shrubs that cannot be cut down included;

- |   |            |              |
|---|------------|--------------|
| 1. Thambi   | 2. Wothes  | 3. Arores    |
| 4. Anonn  | 5. Dhirri  | 6. Dhogomthi |
| 7. Qilta  | 8. Dannis  | 9. Amess     |
| 10. Miesah  | 11. Gathaa | 12. Sholole  |
| 13. Mafuno  | 14. Yaqa   |              |
| 15. Odha (symbolizes where there is water. This is where wells are dug) |            |              |

## Waata Socio-Cultural Practices

Some of the practices that the Waata undertook in their community included;

**1. Wrestling** - This was a strength gauging spot that was done within the community and it was also a source of entertainment.

**2. Song and dance** - These were related to the wild animals and their behaviors. They relayed different messages on the importance of the animals to the community and conservation and protection of the animals. Before starting the song Waata traditional dancers prepared themselves by decorating their faces with white clay paint and put ostrich feathers back into their turbans. These songs were much more boisterous



*Some of Waata cultural artifacts*



and lively in form and content. They were sung in praise of the various animals formerly hunted by the Waata, such as elephants, primarily, but also rhinoceros, giraffe, warthog, kudu, ostrich, dogs and porcupine. These songs recounted the hunt and its techniques and imitated the sounds of the animals. The dances mimicked both the hunter and the hunted. The men generally led the songs. They stamped on a dry cow-hide to produce a resounding sound and gesticulated or went into the middle of the circle to mime the hunt. The women formed the chorus and clapped to the rhythm of the singing. Children joined in the fun. It was a highly dramatic spectacle, which captured the mood and excitement of the hunt. Songs were also sung about bees and plants.

3. During their leisure time Waata community engaged in different games for the purpose of entrainment. The following is the list of Waata Indigenous Games;

- (i). **Tokhi/Qarto** -This involves three small stones; a player throws the three stones up at the same time and tries to catch them all.
- (ii). **Qorasumo** - This game is played at night, entails lighting a stick and throwing the stick far away, the competitors look for the stick and return to the point of lighting it, in the mean process of returning the stick the people struggle to snatch the stick from each other like in rugby game.
- (iii). **Chompo** -This is the game of measuring strength where two competitors struggle to bring or knock his opponents to the ground.
- (iv). **Satheq** -This is the traditional game that is played using traditional cultural artefacts called Satheq, that is a wooden mancala board with 10-12 hole filled with small circular seeds. It involves two or more people and opponents sit on the opposite sides.
- (v). **Saball/walee** -This game involves more than two people where opponents sit in opposite sides and compete in raising hand fast after following subsequent orderly manner which is triggered by rhythmic tone of song. Opponents are classified Camel vs Goats, Cattle vs Goats e.t.c



- (vi). **Dhokoo** - Hide and seek game.
- (vii). **Gonni** - it is like the game of archery that is trying to hit your identified target with the used of arrows, spear and sharpen sticks.
- (viii). **Hartito** - squid game.
- (ix). **Obbe** - moving target practice/testing.

Birds for instance were of great importance because the sounds they made had different meanings. This included:

- Shimpirr Damma** Commonly known as Chirchir in Tana River according to the sound it makes, this bird knew everywhere you can find honey. Whenever they would hear the bird chirp, the Waata community would make noise and follow the bird so as to find honey.
- Baqas** is the bird that alerted people and wildlife of the possible danger when the Waata were hunting and gathering in the bush.
- Chiri** is a bird that led the community to where the wild animals were. It is the bird that eats ticks from the cattle and buffalo and other wild animals such as the giraffe and zebra.
- Burriya** is a bird that brought green grass to build their nest. When the community saw this, they followed the birds because it led them to water.
- Thumathes** Like the baqas its sound alerted people of possible danger.
- Urrthuthe** When people heard it they knew the rain would soon fall.
- Chukulis** This bird alerted people of coming visitors.



Bees were of great importance to the Waata as they provided them with honey. They had different types of bees that gave them different qualities and quantities of honey. These types of bees according to the Waata included:

**kinis Baadha**

Bees found in forested areas.

**Rasaa**

Bees found in desert, they are very poisonous but produce very sweet and high-quality honey. These are found mostly in mountain areas.

**Thamu**

They are small species of bees and live underground in holes and ant-hills that are well aerated.

**Tunale/Arbo/ Bake**

These are small bees found on trees but produce less honey than Thamu.



## Traditional Medicine

They had different traditional medicines that were used to treat a number of illnesses. These included and are not limited to;

- Burquqe - Acid in the stomach
- Ithigaga - Anaemia/tooth problems
- Walena - Malaria/cough
- Bires/sotowes - Yellow fever
- Marachisa - Severe headache/cough /malaria
- Burrs - Mental problems
- Oil from the Ostrich can cure Asthma
- Gorra gallah - Pimples and headache
- Sabans - Treats snake poison
- Hamarich -Treats cramps during monthly period
- Qararu - used to make poisonous arrows
- Hames koree - used to treat severe or chronic injury
- Arken- Cold, chest infection (used by the community during Covid-19)
- TukK - Topical application for wounds under the skin, Etc
- Butte worbesa - severe headache
- Arges (Aloe vera) - Malaria, stomach
- Wangaa - Malaria, stomach parasites, STDs
- Wolda - Treats persistent cough
- Hagar nyabs - Toothache and menses
- Adama - Cancer and boils
- Arsah - Allergies, cold
- Hawacho - Typhoid
- Dalidi - Deworming
- Hurur - Amoeba
- Huroh - Cold
- Mokhofa - Cough
- Rogolich - Detoxifier
- Anon - Fertility



## Language

The Waata language is slowly becoming extinct. There are only few elders who still know the language while the large population has been assimilated to larger Oromo speaking tribes that they encountered during migration and settlement. Their language was mostly associated with animals. Some of the words known to the members include;

Head - Diqa	Boni minku -Kitchen
Ear - Moku	Hida - Belt
Eye - Qulumi	Tarsa - Where water has cracked the earth's surface
Mouth - Afku	Aarayyah - Married women
Huna - Coffee	Galtacho - Girl
Minjila - House for conducting weddings	Nyadi - Boy
Garcity - Tree	Jerra - Married man
Godoba - Stomach	Koroo - Old man
Ruppu - Maize	Niino - Meat
Gawa - Saucepan	Adino - Goat
Onyor - Soldier	Cherko - Cow
Arro - Water Chilifi	Lawa - Sheep
Fresh milk Ababo - Mala	Tonne - Camel
Kuft - Dead	Kokoshe - Donkey
Dukato - Tobacco	Ganae - Dog
Absole - Magadi	
Minku - House	



*A display of some of the utensils used by the Waata*



## List of Wild Animals in Waata language

1. Arba - Elephant	16. Roppi - Hippopotamus
2. Nyench - Lion	17. Sare - Dog
3. Gafarsa - Buffalo	18. Boff - Snake
4. Gadamsa - Greater Kudu	19. Kiniss - Bee
5. Sala - Orex	20. Yaii - Wild Dog
6. Ithii - Gazelle	21. Worabess - Hyena
7. Gugufto - Antelope	22. Sapalis - Pigeon
8. Dathe - Porcupine	23. Butii - Puff adder
9. Hare Dida - Zebra	24. Haranqess - Vulture
10. Sotowa - Giraffe	25. Rare - Bat
11. Kocha - Tortoise	26. Qerrass - Cheetah
12. Guchi - Ostrich	27. Jaldess Garah - Monkey
13. Worrsees - Rhino	28. Nyachh - Crocodile
14. Illes - Dear	29. Wakala - Alligator
15. Goljah - Warthog	



## Examples of basic sentences in the Waata language

Words/Sentence	It's equivalent in English
Warsad Moqun Qabshad	Listen very carefully
Warao Kamsata	Campsite for Waata hunters
Naal Alchis	Give me that chair
Turkum Tarata	There is a person who will be coming
Nino Alchis	Give me the meat
Rupuu Na Alchis	Give me the maize
Rupuu	Maize
Gawa Na Karsite	Did you cook for us
Nyadi Ya Kufft	The young man has died
Bonekes Warsad	Check in the house
Esa Tarat	Where are you from
Ess Shar	Where are going
Gar Arroo Shak	Am going to the dam
Karara Kabshad	I knew he had a bad eye



The Waata also had names for the 12 months of the year. Below is the full calendar names of the months.

<b>Waata</b>		<b>English</b>
Ammaji	-	January
Guraandhala	-	February
Bittottessa	-	March
Chamsaa	-	April
Bufaa	-	May
Wac Abbaajjii	-	June
Obora-Gudha	-	July
Obora-Diqqa	-	August
Birra	-	September
Ciqaawa	-	October
Sadaasa	-	November
Muddee	-	December

## **Waata Community Genetic Resources**

Waata Community have a variety of resources on their land which include trees, rocks and other forms of Genetic Resources. These included;

1. The land is the greatest resource of the Waata people.
2. Rocks are resources that have many uses such as, and more recently used for construction. (Shidah- for grinding maize, Susum- for fire three stones for cooking, Chabbi- for traditional sauna, Qarr-the kids (small goat) shelter, Qarsa used for sharpening tools and collecting/ purifying water.
3. There is different types of soil, sand, loam, top soil and Clay soil which was used for making pots, Madabi- a clay platform used as a bed.



4. Magalat (horn trumpet) was used to alert people of dangers ahead and to call/gather people together when there is an issue.
5. Wild life skin was used to make different items. For example, Gazelle and Giraffe, skin were used as belts or clothing during traditional ceremonies, shoes and other accessories.
6. The Waata practised barter trade with other communities like the Habash, Gabra, Borana, Kamba, Pokomo, Giriama and other local communities. They would exchange honey, milk and ivory for different items such as cattle and food stuff.
7. They had special trees used to make several things such as; a drinking trough for animals (Gombo/Obbe), sour milk (ikibire/Irba), drinking straws (Duyum) and a carrier bag (chanchal)
8. Trees used to make cultural artefacts such as Tille, Agarsu and Garse were used to make pestle and mortar.
9. Bamba, Agarsu were used to make the ring put on animals' necks and also soap.
10. It was believed that the ivory of the elephant was used to treat breast-related diseases and to cast evil spirits.
11. Waata have two type of gum Arabica that is;
  - Lubathin** - Black Gum Arabica
  - Lubathin silchacho** -White Gum Arabica
12. Resins-They possess three types of Resins;
  - Kumbi** - Myrr which is used as medicine to cure chronic headache for children and wounds.
  - Urrr/Hagar** -Apponau which is used to kill parasites in livestock.
  - Waraa** - It is used as detergents for cleaning clothes.
13. Babitho - t is used as a food.
14. Qundi - the root is used as frankincense.
15. Forors - it is a soft wood remains that is obtained from the hollow. trees and it is used to produce good fragrance.
16. Ladan - it is a small stick that is placed in the fire to produce good smell.
17. Wato - Sandalwood, use to make traditional frankincense
18. Antero - it is placed in the fire to produce good smell.



Other than the medicinal trees, the Waata also had trees that were used for different purposes including food, utensils, soap amongst other uses. These trees included the following;

1. Maagalat - Whistle
2. Gaafa sallah - Digging a holes
  - Storeing milk and blood
  - Making traditional cups, stools, beds and tables.
  - Make the traditional soap.
3. Wild fruits such as ogomthi, deka, arores etc.
4. Otha - sacred place of worship
5. Qolati, dogomthi, mader - edible fruits and leaves
6. Athe - some trees are used as toothbrush
7. Erges - container for storing milk
8. Buthunu - cup for serving coffee.
9. Dambi - sacred trees for prayer
10. Wachu and Tille - used for colouring artefacts
11. Ejers - building houses, firewood
12. Dadach - shade tree

The Watta community gather different species of edible wild fruits gums and root tubers. The gathering of fruits was mostly undertaken by women. These included;

<b>Wild fruits</b>	<b>Roots/tubers</b>	<b>Leaves</b>
Dogomdhi Dabobes	Burri	Moringa
Bururi Deka	Rupis	
Dagams Qone	Kurte	
Deka	Singo	
Mader	Shame	



## Challenges

1. Waata were not concerned with their land in the past years but more recently there has been a challenge because of encroachment and scarcity of resources. They are concerned that the challenges arising from land encroachment and want to understand the community land act. In 2016, Parliament enacted into law the Community Land Act, Providing a framework for recognition and registration of customary land rights in Kenya. The Act aspires to foster these rights and address the prolonged unresolved historical land and natural resource injustices.
2. Five years since the promulgation of the Community Land Act, 2016 (CLA), Communities continue organizing themselves to meet the requirements spelt out in the Act. They are sharing these resources with other communities such as the Burji, Oromo and Borana, Pokomo, Wardei. These shared resources include Water.
3. The Waata community has been assimilated by the Orma in Tana River and the Borana in Marsabit and Isiolo counties.
4. Political conflict/influence of names. There is a conflict between the name Wayuu and Waata. The participants unanimously and unequivocally asserted that their identity and communities' name is undisputedly Waata and not Wayu. Waata has been their identity and name since time immemorial.
5. Water shortage.
6. Inadequate resources.
7. Lack of access to social amenities such as schools and health facilities.
8. There is discrimination against Waata when it comes to school bursaries, sponsorship and other opportunities available.
9. Language and cultural practices have been depleted and some are extinct.
10. The Waata are still being discriminated against when it comes to political recognition, inclusion and participation.



## **Some recommendations given by different members of the Waata community from the counties.**

1. Development of a cultural centre which will assist in protection and revitalization of Waata culture and language. In addition to have an exchange with the Waata in Ethiopia to learn about their lost traditions, practices and language.
2. Recognition, registration, access, protection and rights to community land.
3. Educational opportunities to increase capacity of the people.
4. Equal Job opportunities for the people.
5. Social justice especially on land rights issues.
6. Representation especially in leadership positions in government and decision making platforms.
7. Government projects/infrastructure so as to enable the community to adjust to the modern ways of living.
8. Building of a conservancy which will enable them to protect their resources.
9. Organizing of the community to a Community Based Organization, Co-operatives, women groups and youth groups.
10. Capacity building for women and sensitization of communities at regional levels.
11. All existing women groups should register with social services. They should also draft their constitution with the aims of the group and the activities. Registration will enable one to open a bank account.
12. The council of elders should be diverse; inclusive of persons living with disabilities, women and youth.
13. Traditional medicinal herbs need to be preserved and communities must step up to protect and preserve their cultural heritage including their territories and resources found there.
14. Creating partnership between Women, Youth & other groups so that they tackle issues in unison and amplify their voices.
15. Planting of trees and creation of diverse indigenous tree nurseries and botanical gardens.



16. To restore lost biodiversity in the area, including reforestation in areas such as Boni and Arabuka Sokoke forests.
17. Research to be carried out, with the full and effective participation of the Waata community members, on the genetic resources.
18. Members of the Waata community should form different environmental working groups which involves youth and women so that it can be an alternative source of livelihood through the selling of seedlings.
19. More trainings on how to utilize the resources in their territories. For example; the Aloe vera plant, wild honey and sandal wood that is in their territory. They haven't been able to benefit from the plants because they don't know how to make them profitable.
20. Education on grass growing and the varieties of grass available in their territory. The growing and marketing of grass varieties such as hay.
21. Training on farming skills like how to growing of food crops and cash crops, poultry farming and growing of tree nurseries.
22. Education on their rights. Rights of indigenous peoples, women and youth.



## **National and international legal instruments relevant in supporting the work of work of the BCPs**

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### **Constitution of Kenya 2010 (article 69 a)**

Provides that the state shall ensure sustainable exploitation, utilization, management, protection and conversation of the environment and natural resources, and ensure equitable sharing of the accruing benefits. The Environmental Management and Coordination Act (EMCA) OF 1999 recognizes the importance of indigenous knowledge in national development. Section 43, section 50 (f) and section 51(f) of the act calls for the integration of traditional knowledge in the conversation of biological diversity, involvement of local communities, and promotion of equitable sharing of benefits accruing from research with local communities.

The forest act of 2016 promotes conversation and sustainable use of forest resources where most of the traditional medicine is obtained. Most importantly, the act promotes participatory forests management. Under section 22, communities are entitled to use, subject to such conditions as may be prescribed, such forest produce as it has been the custom of that community to take from such forest otherwise than for the purpose of sale.

In full the abbreviated United Nations Declaration on the Rights of Indigenous-Peoples (UNDRIPs Article 2, 10, 12, 20, 27 & 30).

These articles provide for the rights to determine and develop priorities and strategies for the developments or use of indigenous peoples lands, territories and other resources. That indigenous people should have access and direct benefits of resources found in the lands. These includes thorough consultations with state and other non-state actors in connection with developments and utilization of surface and subsurface resource.



## **CBD (article 8j and 10c)**

Provides for states to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities and promote their wider application with the approval and involvement of the holders of such knowledge, innovation and practice. Nagoya Protocol and convention on biological Diversity (CBD)

The Nagoya Protocol draws on certain bio-cultural elements of the CBD and codifies them in legally binding obligation that States must enact. The Protocol has the following four pivotal bio cultural rights that significantly affirm the self-determination of indigenous people and local communities:

- The right over their genetic resource.
- The right over their traditional knowledge.
- The right to self-governance through respect for their customary laws and community protocols.
- The right to benefit from utilization of their traditional knowledge and genetic resources by third parties.

## **ILO 169**

According to ILO Convention No. 169, indigenous and tribal peoples have the right to participate in the benefits of exploration and exploitation as well as the right to be compensated.

## **Convention on elimination of racial discrimination (CERD)**

This spells out state obligations and indigenous peoples rights and calls upon states to ensure that members of indigenous peoples have rights in respect of effective participation in public life and that no decision directly relating to their rights and interests are taken without their informed consent.



## **UNCED (Agenda 21 Chapter 22)**

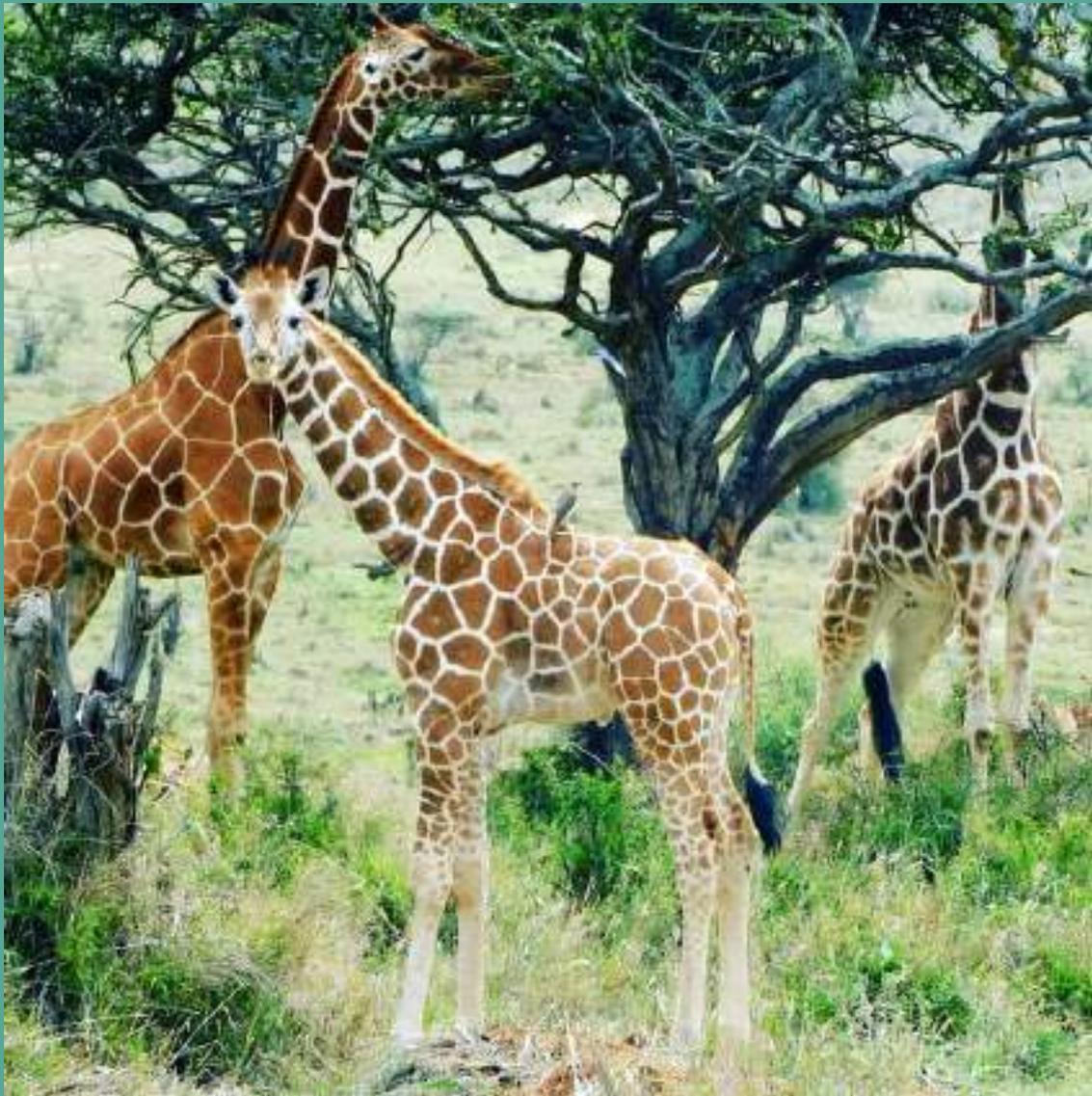
Provides that indigenous peoples and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable.

## **Community Land Act 2016**

In 2016, Parliament enacted into law the Community Land Act, Providing a framework for recognition and registration of customary land rights in Kenya. The Act aspires to foster these rights and address the prolonged unresolved historical land and natural resource injustices.

Five years since the promulgation of the Community Land Act, 2016 (CLA), Communities continue organizing themselves to meet the requirements spelt out in the Act. Provides for the recognition, protection and registration of community land.





In partnership with

*UNDRIP, Article 20*

*1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.*

