

Development of Bi-Monthly Updates on Policies and Legislation Related to Agriculture and Agroecology

**Report for November and December
2023**

31st December 2023
(Revised 6th February 2024)

Prepared for PELUM Kenya by:

Dr Daniel K. Karugu
P.O. Box 854-00605
Nairobi

Contents

1.0 Objective 3

2.0 Methodology..... 3

3.0 Results..... 4

 3.1 National policies and legislation 4

 3.2 Results of Analysis of National Supplementary Budget..... 10

 3.3 County policies, legislation and budgets..... 11

 3.3.1 County government budgets and budgeting 20

4.0 Conclusions 22

5.0 Recommendations 22

Bibliography 22

1.0 Objective

The objective of the study was to establish whether the government of the Republic of Kenya at national and at 22 county levels have institutionalized in public policies, budgets and policy instruments the agroecological principles and practices as set out in Goal Number 15 of the United Nation's Sustainable Development Goal Number 15. The Goal aims at safeguarding terrestrial ecosystems so that they continue to support humanity with food, energy, timber and other services such as cleaning the air of carbon, maintenance of soil and water quality, provision of biodiversity and the adjustment of climate. Any gaps identified by the study in integration of agroecology or in implementation would be documented to inform the advocacy work of the Participatory Ecological Land-Use Management (PELUM), Kenya Chapter.

Excerpts of Terms of Reference

3.2.1 Review the developing policies and legislations bi-monthly at the national and 22 county levels that are related to agriculture with focus on small scale farmers, climate change and integration of agroecology.

3.2.2 Review the enacted policies and legislation every 2 months at the national and 22 county levels that are related to agriculture and NRM with focus on small scale farmers, climate change and integration of agroecology.

3.2.3 Support and provide information on government budgeting.

3.2.4 Compile updates with 3.2.1, 3.2.2 and 3.2.3 and any other information the consultant shall deem important.

2.0 Methodology

Desk review was carried out on relevant policy documents that were sourced from the national government and county government websites.

The websites visited were those hosted by national government Ministries responsible for agriculture, environment and natural resources, Parliament and the Kenyalaw which is hosted by the Kenya Law Reform Commission.

Websites of the executive and the assembly in the 22 counties were visited to identify relevant policies, legislation, bills and budgets.

A general internet search was also made for target policies and legislation and other relevant literature using the key words at Google®.

Agroecological principles and practices were identified in the review of policy and policy instruments by using the provisions set out in the PELUM publication called *elum Principles and Guidelines, 2013* (PELUM, 2013).

Budgets in national and county governments were assessed against national objectives and the 10% target of public financing for agricultural and rural development that was agreed upon by African governments at Maputo (African Union, 2003).

3.0 Results

The study identified and analyzed 2 enacted national Acts, 2 national draft policies, 1 national draft supplementary budget, 4 county policies and plans, 2 county draft policies, 1 county legislation, 2 county bills and 3 county budgets, as elaborated here-below.

3.1 National policies and legislation

The following national policy documents were reviewed:

- a. The Physical and Land Use Planning Act, No. 13 od 2019,
- b. The Draft Green Fiscal Incentives Policy Framework,
- c. Draft National Agroecology for Food System Transformation Strategy, 2024 – 2033,
- d. Draft Policy on Revitalization of the Sugar Industry,
- e. The Sustainable Waste Management Act, No. 31 of 2022,

The findings of review of the enacted national policies and legislation are detailed in **Table 1(a)** while the findings of the review of draft national policies and bills are set out in **Table 1 (b)** here below.

Table 1 (a): Results of Review of Enacted National Policies and Legislation

Name of policy / policy instrument	Provisions relating to smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders and pastoralists	Status of implementation	Opportunities for engagement
<p>The Physical and Land Use Planning Act, No. 13 of 2019 (GoK, 2019b)</p>	<p>The Act sets out the principles of land use in Kenya which include sustainability, environmental needs, conservation of scarce land resource and preservation of lands with important functions. It creates a National Physical and Land Use Planning Consultative Forum and also County Physical and Land Use Consultative Forum for each county. It provides for 20-year National Physical and Land Use Development Plan as basis for land use including environmental conservation, protection, improvement and optimal use of land and natural resources. County governments are required to domesticate the national development plan with county development plans and also with inter-county development plans, as necessary.</p>	<p>The Act provides no representation of rural land users cum farmers nor the civil society, other than Kenya Private Sector Alliance and residents associations, in the National Physical and Land Use Planning Consultative Forum and in the County Physical and Land Use Planning Consultative Forum. The Act also directs the Cabinet Secretary and the National Land Commission on their functions in spite of their functions being spelt out in the Constitution. In this respect the Act contravenes the Constitution by transferring the express functions of National Land Commission in land policy-making, oversight in physical planning, and land dispute resolution to other organs, respectively, under section 10 and section 75 of the Act. The Act also infringes on the Article 6 of the Constitution by having the Cabinet Secretary coordinate the national and county levels of physical and land use planning yet the two levels should be distinct and only cooperate and consult. Further the Director-General overlaps in the policy-formulating functions with the Cabinet Secretary, just as the County Director overlaps with the County Executive Committee Member on the same subject.</p>	<p>Smallholder and pastoralists are only impacted indirectly and would benefit when proper land use plans are put in place.</p>	<p>The Act is being implemented and the operating regulations have been enacted.</p>	<p>The application of the Act need to be informed by interests of rural land users and their special interest groups. PELUM should seek co-option into the National Physical and Land Use Planning Consultative Forum and also County Physical and Land Use Consultative Forum as provided for in s.6(2)(q) and s.14(2)(p) of the Act.</p>

Name of policy / policy instrument	Provisions relating to smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders and pastoralists	Status of implementation	Opportunities for engagement
<p>The Sustainable Waste Management Act, No. 31 of 2022 (GoK, 2022)</p>	<p>The Act sets out to achieve sustainable management of waste and a clean and healthy environment. In achieving these objectives, the Act provides for the legal framework for waste collection, separation, treatment, processing, recovery and the sanitary final disposal of waste. It advances the principle of ecosystem services including payments to farmers or landowners who have agreed to take certain actions to manage land or watersheds in order to provide ecological services as an incentive to conserve natural resources. It encourages a zero-waste principle where waste is treated as a resource that can be harnessed for wealth creation, employment and the reduction of pollution. It creates a multisectoral and multidisciplinary management and advisory Waste Management Council.</p>	<p>The specific measures that are expected to achieve the objective, for example recycling waste into organic fertilizer or into energy, and the necessary organization and incentives, are missing in the Act and are left to subsidiary legislation. By failing to legislate on the specific measures, the Act merely repeats the provisions in section 86 of the existing Environmental Management and Coordination Act (EMCA) and paragraph 6.3 of the National Environment Policy (GoK, 1999, GoK, 2014). This gap finds the Act inoperably on <i>Day One</i> after enactment and invariably leads to delay in the implementation of the novel measures under the Act. The Act overlaps in functions and structures with the EMCA hence putting into doubt the necessity of the Act; this observation is buttressed with the provisions in section 35 (3) where regulations on waste management under EMCA continues to apply under the Act until new regulations are enacted.</p>	<p>Impacts to pastoralists and smallholders would only be indirect through sustainable management of agricultural waste and a clean and healthy environment.</p>	<p>The Act is new and the operating regulations are yet to be published.</p>	<p>PELUM would need to advocate its inclusion in the Council as the civil society member under section 6 (2) (g). PELUM would need also to track the development of subsidiary legislation which can operationalize <i>elum</i> principles and practices regarding waste management.</p>

Table 1 (b): Results of Review of Draft National Policies and Bills

Name of draft policy / draft policy instrument	Status of enactment	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Opportunities for engagement
The Draft Green Fiscal Incentives Policy Framework (GoK, 2023g)	The draft policy have not yet been submitted to Parliament for debate and adoption. There is, therefore, room for engagement to enrich the draft.	The draft policy has the objective of seeking to steer Kenya’s economy onto a desired low-carbon climate-resilient green development pathway through a variety of fiscal and economic mechanisms. It sets out to enhance mobilization of private sector climate finance for Kenya’s updated Nationally Determined Contribution and National Climate Change Action Plans. The draft policy proposes financial incentives to achieve the following <i>elum</i> outcomes: reduction of greenhouse gas emissions in agriculture, harvesting, storage and efficient use of water, efficient use of energy with promotion of bioethanol, briquettes, pellets and biogas cooking appliances, reduction in the use of inorganic pesticides and fertilizers in favour of the organic farming options with waste recycling, afforestation and reforestation, soil retention, reduction in post-harvest losses, rehabilitation of degraded lands and the promotion of adaptive technologies in livestock production. The document discusses several fiscal and economic incentives including enabling tax policies, subsidies, expenditure programs regulatory instruments with fiscal components, credit guarantees, risk-reduction facilities, debt and equity, green bonds, blue bonds, resilience bonds and transactions using carbon credits.	<p>The specifics of the incentives that will be provided are not provided and this will negatively affect implementation and the realization of benefits.</p> <p>The draft policy is also silent biodiversity protection though it refers to literature on the same.</p>	PELUM should engage the Ministry of National Treasury and Economic Planning to have the draft enriched on <i>elum</i> principles and practices.

Name of draft policy / draft policy instrument	Status of enactment	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Opportunities for engagement
Draft National Agroecology for Food System Transformation Strategy, 2024 – 2033 (GoK, 2023h)	<p>The policy document is at the 6th draft at the Ministry of Agriculture and Livestock Development and therefore amenable to enrichment.</p> <p>Strategies are instruments of implementation a public policy and are therefore approved at the level of the ministry.</p>	<p>The Draft Strategy sets out to implement provisions of the National Agricultural Policy which direct the promotion of agroecology. It proposes to achieve resilient and sustainable agriculture and food systems, sustainable consumption and healthy diets and enhanced social equity, inclusion and participatory governance through institutionalization of agroecological approaches. It provides for biodiversity conservation during land use planning. It also provides for facilitation of attainment of sustainable soil fertility and health through <i>elum</i> practices such as the use of organic fertilizers and bio-pesticides, soil nutrient management through precision farming and the diversification of crops and livestock. The Draft Strategy further proposes the enhancement of the use of natural solutions for holistic crop and animal health using locally available resources such as local and profiled seeds and fit livestock breeds. It further promotes agroforestry. To address post-harvest food losses, it proposes food harvest festivals and exchange visits though outcomes are unclear. It has proposals on sustainable use of water through harvesting, recycling, storage, conservation and efficient use in agriculture. The Draft Strategy further has suggestions on farm planning and well as promotion of enterprises and marketing which apply <i>elum</i> principles. The Draft Strategy desires the raising of the number of smallholder farmers using agroecological practices and also benefiting from market-based conservation programs such as carbon credits, eco-labelling and Payment for Ecosystem Service schemes. Overall, the Draft Strategy will assist in mitigating and adapting to climate change which will benefit both smallholders and pastoralists.</p>	<p>A strategy should be detailed enough to enable direct implementation without need for other operating documents. Though the Draft Strategy proposes holistic land use planning, it is silent on details on such <i>elum</i> practices as the application of terracing, contour farming, strip farming, vegetating of water-ways and land reclamation. It is further silent on details of soil fertility protection such as minimizing tillage, keeping soil covered and prevention of soil compaction. Whereas it promotes seed sovereignty, the Draft Strategy is also unclear on promotion of healthy seeds. Though it suggests natural solutions to crop and livestock health, it is silent on details on practices to achieve such health such as crop rotation, companion cropping, integrated pest and disease management, mulching and afforestation. Though it proposes livestock health and nutrition measures, it is silent on promotion of animal welfare. The Draft Strategy fails to adopt such <i>elum</i> practices for saving food being lost such as food grading and storage, food preservation and value addition. It promotes use of green energy though it is silent on proposals for reduction in use of wood-fuel and charcoal.</p>	<p>PELUM should engage the Ministry of Agriculture and Livestock Development to have the draft enriched to fill gaps and provide clarify on <i>elum</i> practices.</p>

Name of draft policy / draft policy instrument	Status of enactment	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Opportunities for engagement
Draft Policy on Revitalization of the Sugar Industry (GoK, 2023a)	<p>The policy document has not yet been submitted for adoption by Parliament. However, the Cabinet Secretary has signed the document, implying that it is an approved public policy. Approval of a public policy without endorsement by Parliament is contrary to the guidelines on policy-making by Kenya Law Reform Commission (GoK, 2015)</p>	<p>The draft policy document sets out to achieve the revitalization of the sugar industry and make it competitive and sustainable. It promotes block farming as a strategy of increasing sugarcane production, among other strategies. It observes that soil fertility in sugar belts have declined and fertility improvements is being done through fallowing and planting short term crops before the next cane crop. It further observes that cane farmers have over-relied on inorganic fertilizers and pesticides instead of more sustainable approaches to soil fertility through it provides no cure for that status. It documents the current climate change adaptation measures for sugarcane farming as crop diversification, improved water use management, soil conservation, agroforestry, improved pest and disease management, bio-fertilizers and adoption of climate-resilient sugarcane varieties and desires that farmers adopt these measures. It further observes that there is inadequate supply of certified seeds but offers no corrective direction. It documents high cane losses in-transit as well as other post-harvest losses through it fails to address the problem through specific policy statements.</p>	<p>The policy document is half-heartedly done by identifying problems, including <i>elum</i>-relevant problems, but failing to give solutions in the policy statements. For example, there is no new direction on soil fertility improvement or on promotion of certified seeds or on post-harvest losses despite identifying policy-issues relevant to them. It has also not directed integrated pest and disease management though it laments that such a measure is under-utilized.</p> <p>On a related subject, a Sugar Bill is being considered in Parliament, yet the enabling policy is not yet adopted by Parliament.</p>	<p>For practical purposes, the policy document is a draft and therefore subject to enrichment. PELUM should engage the agriculture Cabinet Secretary to have the document improved such that policy issues identified in the situation analysis translate into policy directions as “policy-statements”.</p>

3.2 Results of Analysis of National Supplementary Budget

Parliament is considering the first supplementary budget for the 2023 / 24 Financial Year, according to the Report on the Supplementary Estimates I (GoK, 2023e). The supplementary budget is necessitated by expenditures by government that had not been budgeted for, including:

- a. buying National Cereals and Produce Board Driers and Bulk Storage Facilities that will reduce post-harvest losses,
- b. upscaling fertilizer subsidy,
- c. establishing coffee cherry revolving fund, and
- d. payment of debt to sugar farmers.

For the Agricultural and Rural Development Sector, which comprises the agriculture, cooperatives development and marketing, lands, and livestock development, the effect on the supplementary budget will be as follows:

- i. Slight reduction in Recurrent allocation and increase in Development allocation for Lands and Physical Planning,
- ii. Decrease in Recurrent and Development allocations for Livestock Development,
- iii. Increase in Recurrent and Development allocations for Crop Development,
- iv. Unchanged budget for Blue Economy and Fisheries,
- v. Decrease in Recurrent allocation and increase in Development allocation for Cooperatives Development,
- vi. Decrease in Recurrent allocation and no change for Development allocation for Marketing,
- vii. Unchanged Recurrent allocation and decrease in Development allocation for Small and Microenterprises.

Overall the Agricultural and Rural Development Sector budget increased by Ksh 187.28 billion, with increase in recurrent vote by Ksh 86.4 billion and decrease in development vote by Ksh 40.9 billion.

PELUM may engage with Appropriation (Amendment) Bill, once it is published, so as to safeguard the gains and advocate for the preservation of the original budget for livestock development.

3.3 County policies, legislation and budgets

The following county policies, draft policies, legislation, bills and budgets were reviewed:

- a. Bungoma County Environmental and Social Safeguard Policy, 2019,
- b. Bungoma Draft Water Policy,
- c. Busia Citizen's Budget, 2023 / 2024,
- d. Isiolo County Integrated Development Plan, 2023 – 2027,
- e. Isiolo Annual Development Plan, 2023 / 2024
- f. Kakamega County Natural Resources Management Act, No. 5 of 2022,
- g. Makueni County Supplementary Appropriation Bill (2), 2023.
- h. Marsabit County Climate Change Action Plan, 2023 – 2027,
- i. Meru County Budget, 2023 / 2024,
- j. Murang'a County Agroecology Development Act, 2022,
- k. Nakuru Annual Development Plan, 2023 – 2024,
- l. Taita Taveta County Draft Climate Change Policy, 2021.

The findings of review of county policies and legislation are detailed in **Table 2 (a)** through to **Table 2 (g)** while the results of analysis of the budgets is **Table 3** below.

NB: no relevant documents were accessed for Bomet, Kajiado, Kiambu, Kirinyaga, Kisumu, Kitui, Laikipia, Machakos, Nyandarua, Tharaka Nithi and Trans Nzoia counties.

Table 2a: Review of Bungoma County Policies and Legislation

Name of policy / policy instrument	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders & pastoralists	Status of enactment / implementation	Opportunities for engagement
<p>Bungoma County Environmental and Social Safeguard Policy, 2019 (GoK, 2019a)</p>	<p>The objective of the policy is to achieve environmental and social sustainability through minimizing negative impacts during implementation of county projects.</p> <p>It sets out to customize international and national policies on environmental and social impact mitigation to the local level. It directs compliance to environmental and social safeguard standards that are elaborated in the document, including:</p> <ul style="list-style-type: none"> • prior environmental impact assessment for projects, • identification and conservation of biodiversity, • mitigating likely threats to ambient climatic conditions, • minimizing community exposure to risks and negative impacts, • minimizing accidents, injuries and diseases in the project work environment, • identification, preservation and protection of key cultural heritage sites, • avoidance of physical and economic displacement of people during project implementation, • minimizing of adverse impacts to the livelihoods of indigenous peoples and • maximizing resource utilization efficiency while minimizing environmental pollution with efficiency being expected in utilization of land, energy and water and potential pollutants including pesticides. 	<p>The policy directions in the document are already provided in the National Environment Policy and the Environmental Management and Coordination Act, two national policies that are implemented uniformly in all parts of Kenya in line with Article 191 (2) of the Constitution (GoK, 2010). No policy direction unique to Bungoma was spelt out to justify the policy as provided for in Article 191 (4) of the Constitution.</p>	<p>Smallholders and pastoralists are likely to benefit indirectly through the sustainability of land, water, atmosphere, biological factors of animals and plants and the social factors of aesthetics.</p>	<p>The policy is being implemented as an output of the Kenya Devolution Support Programme. However, no special budget was identified in the county budget for implementing the policy in the county (Bungoma County Government, 2023).</p>	<p>PELUM members in the county should oversee implementation of the policy to safeguard the gains alongside similar oversight on the implementation of EMCA and National Environment Policy</p>

Name of policy / policy instrument	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders & pastoralists	Status of enactment / implementation	Opportunities for engagement
Draft Bungoma Water Policy, (GoK, 2021a)	<p>The objective of the draft policy is sustainable water resources for domestic, industrial and agricultural use.</p> <p>It proposes directions for harvesting, storage and conservation of water including;</p> <ul style="list-style-type: none"> • construction of new dams, • promotion of rainwater and storm-water harvesting, desalination, re-use of water and recycling of wastewater, • rehabilitation of water infrastructure such as dams, feeder canals, water supply networks, and wastewater infrastructure such as treatment plants and sewers, <p>It further proposes directions for the conservation and protection of water resources, including;</p> <ul style="list-style-type: none"> • increasing tree cover in water catchment areas as well progressive restoration and protection of ecological systems and biodiversity in strategic water catchment • promotion of agroforestry and social forestry, • incentives for promoting environmental services, including ecosystem services, • catchment and riparian area protection. <p>It further proposes the conduct of research on the impact of climate change on the water resources and formulation and implementation of strategies for the mitigation of any adverse impact.</p>	<p>The draft policy is poorly drafted where the “goal” and “objectives” are really the “mission”. The document is missing directions in the management and control of soil erosion by water. The justification of the draft policy is unclear since the county of part of Kenya where the National Water Policy, which has the same objectives, applies (GoK, 2021b).</p>	<p>The proposals in the draft policy will likely impact positively on smallholders in availing water for irrigation, in protecting biodiversity and in ecosystem services.</p>	<p>The public policy is in draft form though rather has stagnated in processing for too long. It is therefore amenable to enrichment through advocacy.</p>	<p>PELUM should engage with the county government to have the draft policy improved and processed further to enactment, taking into consideration the similar directions in the National Water Policy.</p>

Table 2b: Review of Isiolo County Policies and Legislation

Name of policy / policy instrument	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders & pastoralists	Status of enactment / implementation	Opportunities for engagement
<p>Isiolo County Integrated Development Plan, 2023 – 2027 (GoK, 2023d)</p>	<p>The CIDP captures the vision of Isiolo County Government of the county as “a secure, just, integrated and prosperous county where all enjoy full potential and high quality of life”. It directs the sustainable management of land including rangeland rehabilitation, restoration of degraded land, zoning for land-use, and biodiversity conservation. It directs soil analysis and sensitization of communities on soil fertility improvement, though it does not specify the applicable measures. It suggests the promotion of organic farming as a means of reducing water pollution by inorganic pesticides. It directs the protection and conservation of water catchment areas and afforestation.</p> <p>The CIDP directs the promotion of supply of seeds with certified quality, the promotion of agroforestry as well as the control of pest and diseases in livestock and crops. It provides for animal disease surveillance and the reduction of prevalence of disease, for example by use of sustained vaccination programmes. It also directs livestock feed and breed improvement and acknowledges current statuses of drought-tolerant animal breeds. It directs reduction of post-harvest losses with installation of cold storage facilities and promotion of processing and value-addition. It encourages biogas and clean-cooking technologies and fuels in the county. On climate change, it upholds a commitment of 2% of the county development funds for interventions towards mitigating against effects of climate change and mainstreaming of climate change issues in county development.</p>	<p>The CIDP is vague on soil fertility improvement and on promotion of organic composition of soil. It is silent on adoption of integrated pest and disease management practices. It is silent on elum-based enterprise development and marketing.</p>	<p>The main economic activity in 80% of the land in the county is pastoralism. However, other than promoting rangeland rehabilitation and training communities on rangeland management and governance, it pays little regard to the main challenges of the practice which is uncontrolled exploitation of forage and water resources for livestock feeding. The impact to pastoralists will likely be moderate.</p>	<p>The CIDP is being implemented through Annual Development Plans (ADP) (GoK, 2023c). The current 2023 / 2024 ADP allocated Ksh 18.9 million for climate change mitigation and adaptation which is 0.35% of the budget and is less than the 2% of budget as pledged in the CIDP. It also had no budget for soil fertility improvement or for conservation of water-catchment areas</p>	<p>PELUM should engage with the county ADP process which is annual and so that the gains in the CIDP can be protected via secure funding.</p>

Table 2c: Review of Kakamega County Policies and Legislation

Name of policy / policy instrument	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders & pastoralists	Status of enactment / implementation	Opportunities for engagement
<p>The Kakamega County Natural Resources Management Act, No. 5 of 2022 (Kakamega County Government, 2022)</p>	<p>The Act has the objective of sustainable use and conservation of natural resources within the county for socio-economic development. It establishes a multisectoral and multidisciplinary County Natural Resources Management Committee to oversee management of natural resources within the county as well as providing for authorized officers for enforcing the measures.</p> <p>The Act provides for the regulation of the management of forests while prohibiting in county forests smoking, charcoal burning, or lighting of fires. It further provides for regulation of low value mineral harvesting. It further provides for the regulation of the conservation of wetlands and riparian areas and their biological diversity, while prohibiting any act which directly or indirectly causes, or may cause immediate or subsequent water pollution or degrade or destroy a wetland.</p> <p>The Act establishes a multisectoral and multidisciplinary committee for conservation of biological diversity and genetic resources called County Technical Committee on Access to and Benefit Sharing. The committee disciplines the sharing of benefits from natural resources between the proponent entity, the county government and the local community.</p>	<p>The Act does not define the county natural resources, making unclear the boundary with national government which under Article 186 of the Constitution has the function of “protection of the environment and natural resources with a view to establishing a durable and sustainable system of development” (GoK, 2010). By application of Article 191 of the Constitution, the Act is prevailed upon by national law.</p>	<p>Smallholders are likely to be positively impacted through natural resource conservation.</p>	<p>The Act is new and operating regulations have not yet been published.</p>	<p>PELUM members in Kakamega should engage with the Act to lobby for joining the various committees established in the Act. They should also engage with the Act to influence the content of subsidiary legislation for the Act.</p>

Table 2d: Review of Marsabit County Policies and Legislation

Name of policy / policy instrument	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders & pastoralists	Status of enactment / implementation	Opportunities for engagement
<p>Marsabit County Climate Change Action Plan 2023 – 2027 (Marsabit County Government, 2023)</p>	<p>The Plan is a concerted program of action to combat the impact of climate change in the county. It lays out 5-year actions comprising;</p> <ul style="list-style-type: none"> • investment in water harvesting and ground water structures, investing in climate smart agriculture and in diversification of livelihoods, • promotion of participatory rangeland management, • proper land management in consideration of contours, terraces, and bridges, • control of livestock movement, mass vaccination of livestock and equipping of health centers with drugs, • early warning bulletins regarding flush floods, <p>These actions will be financed at the costs of Ksh 2,712,200,000 through the County Climate Change Fund.</p> <p>The county climate change unit will spearhead the actions, working closely with the County Climate Change Steering committee, the County Climate Change Planning Committee and Ward Climate Change Planning Committees, the latter which will submit their priorities for the action-areas.</p>	<p>Within the scope of the Plan, no gap was identified.</p> <p>It is assumed that the County Climate Change Fund will access the monies required.</p>	<p>Nomadic pastoralism is the mainstay of Marsabit County and the Action Plan largely advances the welfare of pastoralists.</p>	<p>The Action Plan has been launched for roll-out by the President (Hivos, 2023).</p>	<p>PELUM members in Marsabit should advocate to be members of the various multisectoral and multidisciplinary structures in the county and play their role in safeguarding the gains in the Action Plan.</p>

Table 2e: Murang’a County Policies and Legislation

Name of policy / policy instrument	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders & pastoralists	Status of enactment / implementation	Opportunities for engagement
<p>Murang’a County Agroecology Development Act, 2022 (Murang’a County Government, 2022)</p>	<p>The Act provides for the development, promotion and regulation of the organic food industry and the establishment of the agroecology development and marketing board. It defines “agroecology” as the interdisciplinary combination of agronomy, agriculture, scientific ecology that integrates practices of organic farming, regenerative agriculture and aspects of permaculture.</p> <p>The Act provides for the promotion and enhancement of agro-ecosystem health, soil health, organic farming, marketing of organic products, the ensuring that organic produce of the county meets the quality standards and regulations of the international markets and the encouragement of research and partnership with international, regional and national stakeholders in developing natural pesticides and herbicides.</p> <p>The Act established Agroecology Development and Marketing Board with responsibility for managing and regulating the agroecology sub-sector. The Board is multisectoral and multidisciplinary and includes members drawn from organizations with presence of activity on agroecology promotion in the county. It commits the county government to allocate 10% of agriculture sector budget toward supporting and promoting agroecology. It establishes a governance unit on organic farming. It further promotes the certification, value addition, processing and marketing of organic farming produce by the Board.</p>	<p>The definition of agroecology misses out on some of the principles and practices such as sustainable land management, healthy crops and livestock, harvesting and post-harvesting management practices, efficient harvesting and use of water and efficient use of farm energy. The specific organic farming and food standards to be certified upon are missing in the Act.</p>	<p>The Act is largely the ideal instrument for adoption and application of agroecological principles and practices as advocated by PELUM. Smallholders therefore stand to benefit immensely through improvements in the sustainability of their agricultural enterprises.</p>	<p>The Act appear not to have been published in the Kenya Gazette as required by the Constitution in Article 199 (1) as no gazette notice with the publication was accessed in the internet; so in effect it is not yet law.</p>	<p>The enactment of the Act was a break-through for <i>elum</i>. However, the apparent non-publication of the Act in the Kenya Gazette renders all the efforts a nullity.</p> <p>PELUM should urgently engage Murang’a county to have the publication done or confirm if publication was done. The Bill for the Act appears to have been passed on 21/11/2023 and should have been published by now.</p>

Table 2f: Nakuru County Policies and Legislation

Name of policy / policy instrument	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders & pastoralists	Status of enactment / implementation	Opportunities for engagement
Nakuru Annual Development Plan, 2023 – 2024 (Nakuru County Government, 2023)	<p>The Annual Development Plan (ADP) implements the County Integrated Development Plan which, for Nakuru County, is yet to be accessed. The Nakuru ADP identified the priority interventions and assigns them resources. The financially supported priorities include:</p> <ul style="list-style-type: none"> • promotion of climate smart and regenerative agricultural practices, including biogas production, agroforestry and circular economy, • soil sampling and testing services and promotion of crop diversification, • minimizing losses due to crop pests and diseases through plant clinics, surveillance, and pesticide spraying, • support with supply of seeds for various crops and also fertilizers, • improvement in livestock breeding through artificial insemination and the supply of live animals, • improvement of livestock nutrition through support for fodder harvesting and preservation as well as for feed formulation, • livestock disease surveillance and control, using such tools as mass vaccination, quarantine, and dipping, • soil and water conservation, • afforestation, prevention of biodiversity loss and riparian area protection, • natural resource mapping, • water harvesting, storage and use for irrigation, • reduction of harvest and post-harvest losses through installation of cooling facilities and grain driers as well as promotion of storage, processing and value addition. 	<p>The ADP is silent on sustainable land management practices such as terracing and contour and strip farming. It is also vague in maintenance of organic content of soils or the use of organic farming technologies. It is silent on integrated pest and disease management and in addressing overall animal welfare. It also misses on promotion of efficient use of farm energy & promotion of <i>elum</i> enterprises and marketing.</p>	<p>Smallholders stand to gain immensely if the priorities are financed and implemented as planned. The county is not strong on nomadic pastoralism.</p>	<p>The ADP is being implemented in the current year, subject to availing of the planned funds.</p>	<p>PELUM should take note of the ADP and purpose to participate actively in developing the next one of 2024 / 2025.</p>

Table 2g: Taita Taveta County Policies and Legislation

Name of policy / policy instrument	Provisions relating smallholders, pastoralists, climate change, natural resource management and agroecology	Gaps in the policy / policy instrument	Likely impacts on smallholders & pastoralists	Status of enactment / implementation	Opportunities for engagement
Taita Taveta County Draft Climate Change Policy, 2021 (Taita Taveta County Government, 2021)	<p>The draft public policy proposes the objective of achieving resilience to climate change in the county including adaptation and mitigation to climate change. To achieve this objective, the draft proposes the promotion of;</p> <ul style="list-style-type: none"> • adoption of sustainable land use management practices • traditional crops and use of appropriate crop varieties and livestock breeds, • practice of climate smart agriculture such as mulching, terraces, minimum or no tillage, low carbon emissions and application of other pollution-reduction measures, • adoption of strategies to access carbon credit, • waste recycling for commercial use, • irrigation agriculture, • fodder and feed production and preservation, • water harvesting, storage and efficient use, • rehabilitation and conservation of water catchments, wetlands and riparian lands, including on-farm soil and water conservation in catchment areas, • protection of biodiversity, • renewable energy technologies such as solar, biogas, and improved stoves at household level, • afforestation and agroforestry, • livelihood diversification through agricultural enterprises, • livestock disease monitoring and surveillance, <p>The draft policy further proposes the setting aside of 2% county development budget to fund climate change adaptation and mitigation strategies</p>	<p>The draft policy is silent on integrated pest and disease management, organic farming, animal welfare, harvest and post-harvest practices, farm planning and promotion of <i>elum</i>-based enterprises and marketing.</p> <p>The National Climate Change Action Plan and national Climate Change Act applies also to Taita-Taveta (GoK, 2016b, GoK, 2016a); it should have been rolled out instead of repeating the measures in a local document.</p>	Smallholders stand to gain immensely if the policy directions are enacted and implemented, though the county is not strong on nomadic pastoralism.	This is a draft policy and therefore amenable to enrichment. However, the enactment process is very slow and is unusually being overtaken by the instrument that is supposed to implement it, i.e. Taita-Taveta Climate Change Bill, 2022 (Taita Taveta County Government, 2022).	PELUM should engage the county to advocate for enrichment of the draft policy and for conclusion of the enactment process.

3.3.1 County government budgets and budgeting

The budget for Meru and Busia county governments was reviewed together with Makueni County Supplementary Appropriation Bill (2), 2023, for the purpose of informing on relevant budgeting by the respective governments. The agricultural funding target in Maputo Declaration, which is at least 10% of total budget being allocated for agricultural and rural development, was used to determine if financing for agricultural and rural development was sufficient (African Union, 2003). The findings are detailed in **Table 3**.

Meru and Busia county governments did not attain the 10% target. The two county governments underfunded agricultural and rural development and, consequently, under-supported the interests of farmers, including smallholders.

Makueni County Government proposed to support agricultural and rural development with 10% of the total budget as in the Maputo Declaration; but the Amendment Bill has not yet become law.

It is, therefore, recommended that PELUM lobbies Meru and Busia county governments to increase the development budget for agricultural and rural development in compliance with the Maputo Declaration and also tracks the process of enactment of the Makueni Amendment Bill to safeguard the gains realized.

Table 3: Funding for agricultural and rural development as compared to Maputo targets

County	Total Budget (Ksh)	Development Budget (Ksh)				Total Development Budget (Ksh)	% of development budget to total budget	Comment	Opportunity for engagement
		Agriculture	Cooperatives Development & Marketing	Lands	Livestock Development				
Meru ¹	11,029,414,444	279,915,057	22,100,000	75,850,000	(included under "agriculture")	377,865,057	3.4%	Below Maputo target of 10%	PELUM should lobby county to increase development budget for agriculture & rural development in the future
Busia ²	8,542,604,277	466,948,206	74,700,000	44,900,000	(included under "agriculture")	586,548,206	6.9%	Below Maputo target of 10%	PELUM should lobby county to increase development budget for agriculture & rural development in the future
Makueni ³	11,170,315,259	921,207,508	(included under "agriculture")	206,205,576	(included under "agriculture")	1,127,413,084	10%	Met Maputo target	PELUM to take note

¹ Source: Meru County Budget 2023 / 2024 (GoK, 2023b)

² Source: Busia Citizen's Budget 2023/24 (Busia County Government, 2023)

³ Source: Makueni County Supplementary Appropriation Bill (2), 2023, (GoK, 2023f)

4.0 Conclusions

The study assessed 17 national and county documents relevant to integration of agroecological principles and practices in public policy and budgeting. Many agroecological principles and practices have been integrated in public policies and policy instruments but gaps still exist in most of the documents. PELUM would need to do more advocacy to realize its calling in this subject matter.

5.0 Recommendations

It is hereby recommended that PELUM;

- a. take note of the findings of the research, and**
- b. consider the opportunities for engagement that are identified in this report.**

--0--

Bibliography

African Union, 2003, Assembly of the African Union: Maputo: Declarations, last accessed at <https://scalingupnutrition.org/wp-content/uploads/2017/12/Maputo-declaration-on-agriculture-and-food-security.pdf> on 28th December 2023,

Bungoma County Government, 2023, Approved Programme Based Budget, last accessed at <https://www.bungoma.go.ke/wp-content/uploads/2023/08/approved-pbb-2023-24-final.docx> on 28th December 2023,

Busia County Government, 2023, Approved Budget Estimates for the Financial Year 2023/2024 and Medium-Term Expenditure Framework, last accessed at <https://repository.kippra.or.ke/bitstream/handle/123456789/4393/BUSIA%20ASSEMBLY%20APPROVED%20BUDGET%20ESTIMATES%202023%202024.pdf?sequence=1&isAllowed=y> on 28th December 2023,

GoK, 1999, Environment Management and Coordination Act, last accessed at http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/EnvironmentalManagementandCoordinationAct_No8of1999.pdf on 28th December 2023,

GoK, 2010, Constitution of Kenya, last accessed at <http://kenyalaw.org/lex/actview.xql?actid=Const2010> on 28th December 2023,

GoK, 2014, National Livestock Policy, last accessed at <https://repository.kippra.or.ke/handle/123456789/647> on 28th December 2023,

GoK, 2015, A Guide to the Legislative Process in Kenya, last accessed at <https://klrc.go.ke/images/images/downloads/klrc-a-guide-to-the-legislative-process-in-kenya.pdf> on 28th December 2023,

GoK, 2016a, Climate Change Act, last accessed at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2011%20of%202016> on 28th December 2023,

GoK, 2016b, Sessional Paper No. 3 of 2016 on National Climate Change Framework Policy, last accessed at <https://www.undp.org/sites/g/files/zskgke326/files/migration/ke/0540af2c4328bfbad3dd0f5da6f817f450428f6bb96dc4e2c5d9647085794f93.doc> on 28th December 2023,

GoK, 2019a, Bungoma County Environmental and Social Safeguard Policy 2019, last accessed at <https://repository.kippra.or.ke/handle/123456789/3093> on 28th December 2023,

GoK, 2019b, Physical and Land Use Planning Act, last accessed at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2013%20of%202019> on 28th December 2023,

GoK, 2021a, Bungoma County Draft Water Policy, last accessed at <https://repository.kippra.or.ke/bitstream/handle/123456789/3102/BUNGOMA%20Water-Policy-2020.pdf?sequence=1&isAllowed=y> on 28th December 2023,

GoK, 2021b, Sessional Paper No. 1 of 2021 on the National Water Policy, last accessed at <https://faolex.fao.org/docs/pdf/ken214263.pdf> on 29th December 2023,

GoK, 2022, Sustainable Waste Management Act, last accessed at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2031%20of%202022> on 28th December 2023,

GoK, 2023a, Draft Policy on Revitalization of the Sugar Industry, last accessed at <https://kilimo.go.ke/sugar-industry-revitalization-policy-2023/> on 28th December 2023,

GoK, 2023b, FY 2023/2024 Programme Based Budget Estimates, Meru, last accessed at <https://repository.kippra.or.ke/bitstream/handle/123456789/4373/meru-county-fy-20232024-pbb.pdf?sequence=1&isAllowed=y> on 28th December 2023,

GoK, 2023c, Isiolo Annual Development Plan, 2023 – 2024, last accessed at <https://repository.kippra.or.ke/bitstream/handle/123456789/4574/ISIOLO%20annual-development-plan-2023-24.pdf?sequence=1&isAllowed=y> on 28th December 2023,

GoK, 2023d, Isiolo County Integrated Development Plan, 2023 – 2027, last accessed at <https://repository.kippra.or.ke/bitstream/handle/123456789/4433/county-integrated-development-plan-iii-county-government.pdf?sequence=1&isAllowed=y> on 28th December 2023,

GoK, 2023e, Report on the Supplementary Estimates I for FY 2023/ 2024, last accessed at <http://www.parliament.go.ke/sites/default/files/2023-11/REPORT%20OF%20THE%20BAC%20ON%20THE%20SUPPLEMENTARY%20ESTIMATE%20I%20FOR%20FY%202023%202024-1.pdf> on 28th December 2023,

GoK, 2023f, Supplementary Appropriation Bill, Makueni, https://slo-countybills.go.ke/api/v1/bill/pdf/RCETI5NYPE_7_THE%20MAKUENI%20COUNTY%20SUPPLEMENTARY%20APPROPRIATION%20BILL,%202023.pdf on 28th December 2023

GoK, 2023g, The Draft Green Fiscal Incentives Policy Framework, last accessed at <https://www.treasury.go.ke/wp-content/uploads/2023/01/Draft-Green-Fiscal-Incentives-Policy-Framework.pdf> on 28th December 2023,

GoK, 2023h, Draft National Agroecology for Food System Transformation Strategy, 2024 – 2033, last accessed at https://kilimo.go.ke/wp-content/uploads/2023/12/DRAFT-SIX-NATIONAL-AGROECOLOGY-STRATEGY-FOR-FOOD-SYSTEM-TRANSFORMATION-For-use-during-County-Consulatations_NOVEMBER-15_2023.pdf on 6th February 2024,

Hivos, 2023, Marsabit County Climate Change Action Plan, 2023 – 2027, last accessed at <https://hivos.org/kenyas-marsabit-county-launches-climate-change-action-plan/#:~:text=Marsabit%20County%20Climate%20Change%20Action,climate%20change%20in%20the%20county.> On 28th December 2023,

Kakamega County Government, 2022, The Kakamega County Natural Resources Management Act, last accessed at <https://kakamega.go.ke/download/the-kakamega-county-natural-resources-management-act-2022/> on 28th December 2023,

Marsabit County Government, 2023, Climate Change Action Plan, 2023 – 2027, last accessed at <https://marsabit.go.ke/uploads/documents/1701758503.pdf> on 28th December 2023,

Murang'a County Government, 2022, Agroecological Development Act, last accessed at <https://muranga.go.ke/wp-content/uploads/2023/11/AGROECOLOGY-ACT1.pdf> on 28th December 2023,

Nakuru County Government, 2023, Annual Development Plan, last accessed at <https://nakuru.go.ke/wp-content/uploads/2023/01/Nakuru-County-Annual-Development-Plan-2023.24.pdf> on 28th December 2023,

PELUM, 2013, *elum* Principles and Guidelines <https://www.pelumkenya.net/wp-content/uploads/2014/07/elum-Principles-and-Guidelines-Manual-2014.pdf> on 28th August 2023

Taita Taveta County Government, 2021, Taita Taveta County Draft Climate Change Policy, last accessed at https://taitataveta.go.ke/ova_doc/ on 28th December 2023,

Taita Taveta County Government, 2022, Climate Change Bill, last accessed at <https://taitatavetaassembly.go.ke/documents/the-taita-taveta-county-climate-change-bill-2022/> on 28th December 2023,