THE REPUBLIC OF KENYA

Ministry of Education, Science and Technology (MoEST)

KENYA GPE PRIMARY EDUCATION DEVELOPMENT PROJECT

FINAL

VULNERABLE AND MARGINALISED GROUPS FRAMEWORK (VMGF)

JANUARY 2015

Prepared by: Tito Kodiaga
Environment and Social Safeguards Specialist
EMC Consultants Limited
Cell: +254-722-579-272
Email: tito@emconsultants.org
URL: http://www.emconsultants.org

EMC Consultants
ENVIRONMENTAL KNOWLEDGE IN PRACTISE

EMC Consultants
ENVIRONMENTAL KNOWLEDGE IN PRACTISE

ABBREVIATIONS AND ACRONYMS

ASAL	Arid and Semi Arid Land
BOM	Boards of Management
CEMASTEA	Centre for Mathematics, Science and Technology Education in Africa
COK	Constitution of Kenya
CPS	Country Partnership Strategy
CSO	Civil Society Organizations
DFID	Department for International Development
EGM	Early Grade Mathematics
EMIS	Environmental Management Information System
ESMF	Environmental & Social Management Framework
FPIC	Free, prior, and informed consultation
GOK	Government of Kenya
GPE	Global Primary Education
GRC	Grievance Redress Committee
GRM	Grievances Redress Mechanism
ILO	International Labor Organization
IPPF	Indigenous Peoples Planning Framework
KCPE	Kenya Certificate of Primary Education
KNCHR	National Commission on Human Rights
KNEC	Kenya National Examination Council
M&E	Monitoring and Evaluation
MOEST	Ministry of Education, Science and Technology
NESP	National Education Sector Plan
NGO	Non-Governmental Organisations
NLC	National Land Commission
PCU	Project Coordination Unit
PLO	Project Liaison Officer
PRIMR	Primary Research Initiative in Mathematics & Reading
RED	Regional Environment Divisions
SA	Social Assessment
SAP	Social Assessment Process
SDI	Service Delivery Indicator
SIP	School Improvement Plan
TAD	Teacher Appraisal and Development
TSC	Teaching Service Commission
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNPFII	UN Permanent Forum on Indigenous Interests
USAID	United States Agency for International Development
VMG	Vulnerable and Marginalised Groups
VMGF	Vulnerable and Marginalized Groups Framework
VMGP	Vulnerable and Marginalised Groups Plan

TABLE OF CONTENTS

1 EXECUTIVE SUMMARY

1.1 Introduction

This Vulnerable and Marginalized Groups Framework (VMGF) has been prepared for the Government of Kenya (GOK), Ministry of Education, Science and Technology (MoEST) the (client) under Global Primary Education (GPE) because the project has triggered Operational Policy OP 4.10 and thus to ensure compliance to this World Bank policy which stipulate that, in the event, that vulnerable and marginalized groups are likely to be affected by a Bank supported project, then a VMGF must be prepared. This VMGF for the GPE Project has been prepared based on the OP 4.10 of the World Bank ("Bank") and the applicable laws and regulations of the Government of Kenya. It is to guide the preparation of GPE projects investments that may affect Vulnerable and Marginalised Groups (VMGs) in the project areas.

OP 4.10 contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples. For all projects that are proposed for Bank financing and affect Vulnerable and Marginalised Groups (VMGs), the Bank requires the borrower to engage in a process of free, prior, and informed consultation. The Bank provides project financing only where free, prior, and informed consultation results in broad community support to the project by the affected vulnerable and marginalised groups. Such Bank-financed projects include measures to;-

(a) Avoid potentially adverse effects on the Indigenous Peoples' communities; or
(b) When avoidance is not feasible, minimize, mitigate, or compensate for such effects
(c) Ensure that the vulnerable and marginalised people receive social and economic benefits that is culturally appropriate and gender as well as inter-generationally inclusive. The VMGF must be based on free, prior and informed consultations with indigenous peoples.

The objectives of the policy are to avoid adverse impacts on vulnerable and marginalised groups and to provide them with culturally appropriate benefits.

1.1.1 Reasons for the use of a Vulnerable and Marginalized Groups Framework

A VMGF is developed when a proposed project design is not yet finalised so that it is impossible to identify all of the adverse impacts, as is required to prepare a VMGP. At the time of preparation of this VMGF, (a) host sites had not yet been identified; and (b) those vulnerable and marginalised groups whose rights and livelihoods may be affected adversely by the project activities have not yet been defined, as the location of the investments are yet to be decided.

During project preparation, it is becoming clear that investments under GPE might impact on VMGs' rights, livelihoods and culture. To qualify for funding from the Bank and following best practice documented in the World Bank's policy on Indigenous Peoples (OP 4.10), the

Government of Kenya has commissioned the preparation of a VMGF to ensure that the development process fully respects the dignity, human rights, economies, and culture of vulnerable and marginalised people and that the GPE project investments have broad community support from the affected vulnerable and marginalised people.

In such cases, and when the Bank's screening indicates that VMGs are likely to be present in, or have collective attachment to, the project area, but their presence or collective attachment cannot be determined until the programs or investments are identified, the borrower (in this case GOK) prepares a VMGF. The VMGF provides for the screening and review of the proposed investments in a manner consistent with this policy. The GPE Project will integrate the VMGF recommendations into the project design.

The VMGF outlines the processes and principles of screening to determine if a proposed GPE investments impacts adversely on vulnerable communities, the preparation of a VMGP including the social assessment process, consultation and stakeholder engagement, disclosure procedures, communication and grievances redress mechanism. A detailed VMGP will be prepared for each project once a project location is identified and screening conducted and determination via screening is made that VMGs are present in the project investment area.

The VMGF recognizes the distinct circumstances that expose VMGs to different types of risks and impacts from development projects. As social groups with identities that are often distinct from dominant groups in their national societies. VMGs are frequently among the most marginalized and vulnerable segments of the population. As a result, their economic, social, and legal status often limit their capacity to defend their rights to lands, territories, and other productive resources, and restricts their ability to participate in and benefit from development. At the same time, this policy, together with the Environmental and Social Management Framework (ESMF) also under preparation for this GPE Project, recognizes that VMGs play a vital role in sustainable development and emphasizes that the need for conservation should be combined with the need to benefit VMGs in order to ensure long-term sustainable management of critical ecosystems.

This VMGF describes the policy requirements and planning procedures that GPE will follow during the preparation and implementation of projects especially those identified as occurring in areas where VMGs are present.

This VMGF is to be used by the MoEST in order to ensure that the World Bank indigenous people's policies, with emphasis on Operational Policy OP 4.10 (Indigenous People) are adequately addressed. The purpose of this VMGF is to ensure that management of issues related to vulnerable and marginalised people is integrated into the development and operation of proposed investments to be financed under the GPE Project to ensure effective mitigation of potentially adverse impacts while enhancing accruing benefits.

1.2 Project Description

The GPE Project has four main project components. Component 1 focuses on improving early grade mathematics competencies. Component 2 supports the strengthening of school management and accountability. Component 3 aims to build capacity for evidence based policy development at national level. Component 4 covers project coordination, communication, monitoring and evaluation.

1.2.1 Component 1: Scaling Up Early Grade Mathematics

Component 1 will support the scaling up, across Kenya, of the early grade mathematics (EGM) methodology piloted under the Primary Research Initiative in Mathematics and Reading (PRIMR) with the support of United States Agency for International Development (USAID) and Department for International Development (DFID). The focus of the scale up is on schools located in rural areas, pockets of urban poverty and Arid and Semi Arid Lands (ASAL) Counties, which tend to be those performing poorly in mathematics. These schools estimated to comprise about 75% of all public primary schools would adopt the full EGM methodology and receive the requisite teaching/learning materials as well as training for their Grades 1 and 2 teachers and other concerned personnel. In addition, EGM materials (textbooks and teacher guides) will be made available to all 23,000 public primary schools, benefiting their students, teachers, and head teachers.

Specifically, the overall goal being to help teachers improve students' ability to master basic numeracy skills, the component will finance the implementation of a comprehensive program (the EGMA package) to increase teacher competency, provide adequate instructional materials, and strengthen classroom pedagogical support. Specific activities include: (i) training of a core group of 60 master trainers (EGM champions), teachers and head teachers in EGM instructional techniques; (ii) training of TAC tutors to undertake enhanced pedagogical supervision of teachers and monitor student learning; (iii) procurement of textbooks and teacher guides developed under the PRIMR for distribution to all participating Grade 1 and 2 students and teachers; (iv) provision of tablets to TAC tutors for monitoring teacher and student performance; and (v) awareness building at the PTTCs on new instructional materials and pedagogical practices for EGM.

In parallel with EGM roll out, the Government will be undertaking a national program (TUSOME) to scale up the PRIMR's early grade reading component. Alignment of the two programs is desirable, given that the success of mathematics is linked to the ability to read and have sound literacy skills, and there are efficiency gains from training the same teachers who are involved in both subject areas at the same time. However, full alignment of activities may be difficult due to the TUSOME starting one year ahead of the GPE project. Nonetheless, every effort will be made to align EGM and EGR methodology vis a vis teachers and schools, enable the EGM team to learn from the EGR experience, and ensure synchronization of implementation at school and county level.

The key results of this component include: (i) number of EGM textbooks distributed to schools; (ii) number of teachers trained in EGM instructional techniques; and (iii) number of classroom observations conducted by TAC tutors.

1.2.2 Component 2: Strengthened School Management

Component 2 will be a pilot to improve school performance through strengthened school management and accountability for results in the delivery of primary education. The pilot targets low performing schools (i.e. those schools whose Kenya Certificate of Primary Education (KCPE) scores in 2012 and 2013 were below the average of 242 for public primary schools), in each county and ASAL counties in particular. Based on the targeting criteria, some 6,000 schools were identified to be eligible pilot schools. From this pool, about 4,000 schools were randomly selected to be the participating or 'treatment' schools that will benefit from an integrated set of interventions whose impact can be rigorously evaluated at the end of project implementation. The interventions, to be provided under four sub components, include: (i) school specific analysis of KCPE results to inform planning at the school level; (ii) appraisal of teacher competency in knowledge, pedagogical practice and engagement; (iii) support and capacity building for school improvement planning, with enhanced participation of community stakeholders; (iv) enhanced financing to schools linked to achievement of management and accountability milestones; (v) strengthening school audit; and (vi) monitoring of pilot results.

Under the first sub component, the Kenya National Examination Council (KNEC) will produce reports on school specific analysis of KCPE results for the participating schools. The report will tabulate the percentage of students with correct scores on each test item and analyze the patterns of students choosing the distracters, with the aim of revealing student knowledge level, their misconceptions and misunderstanding. A profile of student cognitive skills (Bloom taxonomy) will be compiled to inform schools on how well they are providing their students with higher order cognitive skills. Finally, the report also includes an analysis on syllabus coverage and feedback on curriculum delivery at the school level, which is crucial for schools to identify their weaknesses and select appropriate measures to improve their curriculum delivery.

Sub component two will enable participating schools to implement the Teacher Appraisal and Development (TAD) tool developed by the Teaching Service Commission. Head teachers, teachers and TAC tutors will be trained in the use of the tool, which benchmarks teachers' knowledge, pedagogical practice and engagement against professional standards, using evidence and the results of a peer-review process. This is expected to contribute useful feedback for school improvement planning in general, and to teachers specifically, for their professional development.

Under the third sub component, participating schools will be provided with the resources to develop a School Improvement Plan (SIP) to address their key student learning challenges, and thereafter carry out the priority actions under this plan. Each school will be able to hire a facilitator to assist in the planning process, particularly to ensure that the SIP is: (a) based on sound problem diagnosis (using the outputs of the first two sub components); and (b) reflect the priorities that have been fully consulted with key stakeholders in the school community. A prequalified list of individuals/firms/service organizations will be produced from which schools

will select their facilitators. A SIP manual will be developed by the MoEST to guide the process, including a mechanism for putting in place, community oversight of resource use by the school.

Financial resources for hiring facilitators and implementing SIP priorities will be provided to participating schools in the form of a grant, similar to the existing school capitation grants, but disbursed in three tranches linked to the achievement of simple performance milestones. In year one of the Project, each school will receive US$500 when it has selected a facilitator from the county prequalified pool (i.e. first milestone). Thereafter, the school will receive another US$2,500 when it meets the second performance milestone of having submitted a SIP that satisfies stipulated information requirements. In year two, upon meeting the third performance milestone, which is, maintenance of proper education, financial and physical assets records, the school will receive the remaining US$2,500. Satisfactory record keeping will be evidenced by the timely (beginning of school year, end of each term) upload by schools, of education and SIP implementation data to a cloud based monitoring system managed by the MoEST.

To enable data to be directly collected from schools and reviewed to assess results of the pilot during implementation and at the end of the Project, participating schools are provided with an appropriate device (tablet/smart phone) to undertake data recording and dissemination. Key data on pupils (enrolment by gender, attendance, drop-out, transition, etc.), teachers (age, qualification, employment type, TAD profile, etc.) and school resources (financing, textbooks and learning materials, etc.) will be recorded and regularly updated using the tablets/smart phones. As the school grant is the same across the participating schools of varying sizes, de facto the pilot can bring evidence of optimal additional financing on top of the current unifying capitation grant. Furthermore, the choices of priorities for the school grants and the data on school characteristics will be invaluable in determining factors that improve or hinder learning achievement.

The fourth and final sub component will enable the 4,000 schools participating in the pilot to be audited annually during the project implementation period by the MoEST's School Audit Directorate whose capacity will be strengthened to carry out improved financial and system audits as well risk based assessments. Participating schools are expected to receive audit reports on a timely basis to enable the school management boards to act on the findings.

Key results of this component include: (i) number of participating schools receiving KCPE analysis reports; (ii) percentage of teachers in participating schools completing professional competency assessment; (iii) number of participating schools submitting satisfactory SIPs; (iv) number of participating schools receiving annual school grant allocations; and (v) number of participating schools audited.

1.2.3 Component 3: Strengthening Data/EMIS System

Component 3 will include (i) strengthening the data/EMIS system in primary education to make data more available, reliable and integrated; (ii) enhancing the system for monitoring student learning achievement; and (iv) enhancing the capacity to develop policies on equity, efficiency and quality at the national level.

Key results of this component will be several. For strengthening Data Environmental Management Information System (EMIS), the key results are (i) updated primary education statistics, starting from 2016 onwards. For enhancing the monitoring of student achievement: (i) two NASMLA for Standard 3 students will be conducted during the project life; (ii) SACMEQ IV results will be disseminated to all counties and sub-counties. For the enhanced capacity to develop policy, three key policy dimensions will be covered: quality assurance, equity and efficiency. For equity, the project will analyze cost-effective models for delivery of education to the disadvantaged groups (very poor, ASAL and children with special needs). For quality, the project will support the new Education Standards and Quality Assurance Council to consolidate all guidelines and regulations on quality standards and assessment procedures. For efficiency, the project will support the analysis of (ii) adequacy and utilization of the capitation grants; and (iii) teacher productivity. Policy options emerging from the analysis will feed into the preparation of the next five-year education sector plan starting 2018.

1.2.4 Component 4: Project Management Functions

Finally, Component 4 covers key project management functions including coordination, communication and result monitoring and evaluation.

1.3 Vulnerable and Marginalized Groups GPE Project Areas

The African Commission's Working Group of Experts on Indigenous Populations & Communities affirms ***"almost all African states host a rich variety of different ethnic groups. All of these groups are indigenous to Africa. However, some are in a structural subordinate position to the dominating groups and the state, leading to marginalization and discrimination. It is this situation that the indigenous concept, in its modern analytical form, and the international legal framework attached to it, addresses."***

Indigenous Peoples (OP 4.10) will be triggered[1] by proposed projects to be implemented under the GPE. Since the GPE Project is countrywide in nature an initial screening indicates the presence of groups that meet the World Bank criteria for indigenous peoples who likely to be present in, or have collective attachment to, the project areas that may benefit from the project especially bearing in mind that exact locations of investments remain unknown at this point in time. In addition to OP 4.10, screening and profiling marginalized community and marginal groups will be done in line with the interpretation of section 260 of the Kenya Constitution, 2012 which provides a list of those categorized as Marginalized Communities and Marginalized Groups.[2] ***See table 1*** for indicative list of groups that are categorized as VMGs using criteria from section 260 of the Constitution of Kenya (CoK).

[1] See Annex 1 for World Bank Operational Policy (O.P.) 4.10 Indigenous Peoples.

[2] The Constitution states thata marginalized community/groups is one that meet the following criteria: (a) **A community** that are unable to participate in the integrated social economic life of Kenya as a whole due to (i) relatively small population or (ii) any other reasons; (b) **Traditional Community** that has remained outside the integrated social and economic life of Kenya as a whole; (c) **Indigenous community** that has retained a traditional lifestyle and livelihood based on a hunter-gatherer economy; and (d) **Pastoral persons or communities**, whether: (i) **nomadic or (ii) a settled community** that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya .

This VMGF documents all the vulnerable and marginalised groups in Kenya as defined by the Constitution of Kenya (CoK) on the communities' categorised thus so. The reason why all the vulnerable and marginalized groups are considered in this VMGF is principally because the GPE is national in scope and since the exact investment locations are not known, the only sensible approach would be to consider all these communities and then during the project screening further determination and exclusion will be made.

Although the groups listed in ***table 1 (see section 4.32)*** are categorised as VMGs under GoK's legislation, they would also need to meet the Bank's criteria for determining whether they are Indigenous Peoples. Given that the application of OP 4.10 in Kenya is evolving, the framework document describes what groups GoK recognizes as vulnerable and marginalized and the Bank's policy criteria for determining if they are Indigenous Peoples. Through the social assessment process at the project level, an evaluation will be made if OP 4.10 policy will be triggered (it should be noted that some groups, such as the Ogiek and Sengwer, have met the criteria for OP 4.10 in other Bank-financed projects). Hence for that reason, the list provided in ***annex 7*** by GOK is only indicative for the moment.

The marginalised and vulnerable communities face similar problems. From the formal legal point of view they are citizens equal to all other Kenyans. However, they do not have the same access to land and other resources, social and political influence, legal status and/or organizational, technical or economic capacities as other citizens of Kenya. The Ogiek and Sengwer for example, who formerly ranged over broad areas of uninterrupted forests as full-time foragers, have increasingly been restricted to areas with home 'bases' involving agriculture and livestock rearing and outlying areas where some honey gathering is still practiced. The continual expropriation of land and steadily intensifying restrictions on access to natural resources – especially forests-have further increased their sedentarization, marginalization, social discrimination, and impoverishment. The Ogiek and Sengwer, who are more dependent on forests than others, were - often in contravention of their legal utilization rights - forced out of forests with little or no compensation, and with little or no land to go to or resources to live on.

1.4 Vulnerable & Marginalized Groups Requirements

The World Bank's Operational and Procedural Policies, specifically OP 4.10 requires the Government of Kenya to prepare a VMGF which establishes a mechanism to determine and assess future potential social impacts of the MoEST's planned activities under the proposed GPE Project on vulnerable and marginalized groups.

Projects affecting the vulnerable and marginalized, whether adversely or positively, therefore, need to be prepared with care and with the participation of affected communities. The requirements include social analysis to improve the understanding of the local context and affected communities; a process of free, prior, and informed consultation with the affected vulnerable and marginalized communities in order to fully identify their views and to obtain their broad community support to the project; and development of project-specific measures to avoid adverse impacts and enhance culturally appropriate benefits.

1.4.1 Screening, Preparation and Implementation of VMGPs

The steps to be undertaken for the preparation of VMGP for GPE investments will include a screening process, to determine whether VMGs are present in, or have collective attachment to, the project area. MOEST GPE/PCU will conduct this screening with expertise on the social and cultural groups in the project area. Ideally the screening for VMGs should also follow the GOK's framework for identification of Vulnerable and Marginalized Groups (VMGs) according to the New Constitution of Kenya (CoK). However, owing to the fact that the list of groups considered to be vulnerable and marginalized by the GOK is extensive and may not necessarily meet the criteria for consideration of VMGs by the bank, during screening, the bank criteria for identification of VMGs as per OP. 4.10 will be used to make a determination instead this is because in all cases where there is a conflict or disparity between Bank and host country regulations, then Bank policies supersede.

If, based on the screening, it is concluded that VMGs are present in, or have collective attachment to, the project area, a social assessment will be undertaken to evaluate the projects' potential positive and adverse effects on the VMGs, and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis in the social assessment will be proportional to the nature and scale of the proposed project's potential effects on the VMGs, whether such effects are positive or adverse Consultation and participation will be mandatory as part of the preparation of the VMGPs which will include engaging in free, prior, and informed consultation with the vulnerable and marginalized groups. Preparation of a specific project VMGPs will be done in accordance with the requirements of OP 4. 10 and each VMGP will be submitted to the Bank for review before the respective investment is considered eligible for Bank financing under the broader investment framework. ***Annex 3*** outlines the contents of a VMGP.

The need for VMGPs will depend on the nature and scale of the project impact and vulnerability of VMGs. The social assessment will identify requirements for preparing a VMGP and/or incorporation of VMGP elements in other project design documents such as resettlement plan. A VMGP would be required if VMGs are found to be distinct and vulnerable and they experience significant impacts, including (i) adverse impacts on customary rights of use and access to land and natural resources; (ii) negative effects on the socioeconomic and cultural integrity; (iii) effects on health, education, livelihood, access to the project benefits, and social security status; and (iv) other impacts that may alter or undermine indigenous knowledge and customary institutions

The VMGPs will set out the measures whereby GPE Project consults with VMGs and ensure that (i) affected VMGs receives culturally appropriate social and economic benefits; and (ii) when potential adverse impacts on VMGs are identified, these will be avoided to the maximum extent possible. Where this avoidance is proven to be impossible, VMGP will outline measures to minimize, mitigate, and compensate for the adverse impacts.

The level of detail and comprehensiveness of VMGP will vary depending on the specific subproject and the nature of impacts to be addressed. If VMGs are the sole or overwhelming majority of the subproject beneficiaries, the elements of the VMGP could be integrated into the

project design or documents such as community development program to ensure that all VMGs participate in and receive culturally appropriate benefits from the project. No separate VMGPs will be prepared in such cases.

1.4.2 Consultation and Stakeholder Engagement

This framework seeks to ensure that VMGs are informed, consulted, and mobilized to participate in the relevant subprojects. Participation of VMGs is to be ensured in selecting, designing and implementing the subprojects. The GPE/PCU will undertake prior consultations with any likely impacted VMGs and those who work with and/or are knowledgeable of VMGs development issues and concerns.

1.4.3 Grievance Redress Mechanisms

A grievance redress mechanism will be developed for addressing the grievances from the affected VMGs related to project implementation. The procedure of grievance redress will be incorporated in the project information pamphlet to be distributed prior to implementation. Participatory consultation with affected households will be undertaken during project planning and implementation stages.

The GPE/PCU will establish a mechanism to receive and facilitate resolution of affected VMGs concerns, complaints, and grievances about the project's safeguards performance at each subproject having VMGs impacts, with assistance from Non-Governmental Organisations (NGO). Under the Grievance Redress Mechanism (GRM), a Grievance Redress Committee (GRC) will be formed for each project with involvement of VMGs representative & local stakeholders. The GRCs are to be formed and activated during the VMGPs implementation process to allow VMGs sufficient time to lodge complaints and safeguard their recognized interests. Assistance to VMGs will be given to document and record the complaint, and if necessary, provide advocate services to address the GRC. The grievance redress mechanisms is designed with the objective of solving disputes at the earliest possible time which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the law courts for resolution which would otherwise take a considerably longer time.

As is normal practice under customary law, attempts will be made to ensure that the traditional leaders solve all disputes in communities after a thorough investigation of the facts using the services of his officials. The traditional dispute resolution structures existing for each of the VMGs will be used as the first step in resolving grievances. All the grievances will be channeled to the existing structures in Kenya for handling grievances beginning with the traditional institutions as the first stop before resorting to the Kenyan Courts of Law as the last resort.

Marginalized and vulnerable communities will be provided with a variety of options for communicating issues and concerns, including in writing, orally, by telephone, over the internet or through more informal methods as part of the grievance redress mechanism. In the case of marginalized groups (such as women, young people and persons living with disabilities), a more proactive approach may be needed to ensure that their concerns have been identified and articulated. This will be done, for example, by providing for an independent person to meet periodically with such groups and to act as an intermediary. Where a third party mechanism is

part of the procedural approach to handling complaints, one option will be to include women or youth as representatives on the body that deals with grievances. It should be made clear that access to the mechanism is without prejudice to the complainant's right to legal recourse. Prior to the approval of individual VMGPs, all the affected VMGs will have been informed of the process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate access, flexibility and ensure transparency.

1.4.4 Disclosure

This VMGF and project VMGPs will be made available to the affected VMGs in an appropriate form, manner, and language. Once the Bank accepts the documents as providing an adequate basis for project appraisal, the Bank will make them available to the public in accordance with Bank Policy on Disclosure of Information, and the GOK will also make the documents available to the affected communities in the same manner as the earlier draft documents.

Each VMGP will be disclosed to the affected VMGs with detailed information of the subproject. This will be done through public consultation and made available as brochures, leaflets, or booklets, using local languages. Summary of the VMGP will be made available in hard copies and in language at: (i) Offices of MoEST HQ; (ii) County Government Offices; and (iv) any other local level public offices. Electronic versions of the framework as well as the VMGPs will be placed on the official website of MoEST and the official website of Bank after approval by the Bank.

1.4.5 Monitoring and Evaluation

The implementation of VMGPs will be monitored. The PCU will establish a monitoring system involving GPE/PMU staff, partner implementing agencies, County Governments, and VMGs to ensure effective implementation of VMGP. A set of monitoring indicators will be determined during VMGP implementation and will be guided by the indicators contained in the document ***(see table 3 section 7)***. The GPE/PCU support consultants will carry out monitoring. Appropriate monitoring formats will be prepared for monitoring and reporting requirements.

Several key indicators and topics for monitoring and evaluation of VMGP are (i) process of consultation activities; (ii) appropriateness of affected assets valuation and compensation cultural, political and economic status of VMGPs in comparison with pre project condition; (v) status of VMGs as identified in the SA; (vi) any disadvantaged conditions to VMGs that was not anticipated during the preparation of VMGPs, that required corrective actions; and (vii) grievance redress issues. The GPE/PCU will collect required data/information and regularly analyze project outputs and impacts considering impact on VMGs, and semi-annually report the results to the Bank.

1.4.6 Annual Reporting and Performance Review Requirements

Annual progress reports will be prepared by MoEST and the preparation of the progress reports will be supported by the social safeguards consultant contracted by the GPE/PCU. These reports will be submitted to the GPE/PCU, which will thereafter submit them to the Bank.

1.4.7 Budget

The GPE Project will finance all costs for implementation of VMGP. The costs will be estimated during feasibility based on interviews with community members and relevant government officials. This will be updated after the detailed survey and investigation as well as further consultations with VMGs. The budget for the implementation of the VMGP will mainly include costs for skills development and self-employment training of the VMGs, consultation/meetings, information dissemination, NGO/Agency hiring for VMGP implementation & monitoring, GRM etc. The VMGPs budget will also include costs for implementation of VMGPs, such as salaries and travel costs of the relevant GPE /PCU staff. In summary there should be adequate budgetary provisions to implement any VMGP where necessary for the subproject development.

2 INTRODUCTION

2.1 Project Description

2.1.1 Country and sector context

2.2 Sectoral and Institutional Context

The project activities are aligned with the Government's strategic objective of providing quality basic education for Kenya's sustainable development. Vision 2030 places great emphasis on linking education and labor market. To that end the National Education Sector Plan (NESP) 2013-2018 focuses on improving the quality of primary education, through: (i) improvement of schooling outcomes and impact of sector investment; (ii) development of relevant skills; (iii) improved learning outcomes; and (iv) improved efficiency and effectiveness in use of available resources. The GPE financed project, taking on two result areas of improving early grade learning competencies and strengthening the delivery systems, responds directly to all the NESP target areas.

The project is well aligned with the GPE goals of: (i) ensuring that all children master basic literacy and numeracy by early grades; and (ii) building national systems that have capacity and integrity to deliver, support and assess education quality. The project is also in line with the GPE focus that resources be targeted to the most marginalized groups, including schools with children with disabilities, schools in rural and nomadic communities in the ASAL with low female enrolment as well as schools in urban poor settlements.

The project is aligned with the twin goals of the World Bank's strategy on poverty reduction and boosting shared prosperity. Education builds human capital that directly contributes to enhancing productivity and welfare of the population, especially the poorest strata. Investing in human potential advances many development goals, from health and gender equity to civic engagement and innovation. By unleashing the power of the human mind, education provides individuals with opportunities to improve their own quality of life and allows them to make meaningful contributions to their communities.

The proposed project is also well aligned with the World Bank's Education Strategy – Learning for All, which promotes investment in education, early, smartly and for all. To achieve the Learning for All, the World Bank is working with client countries and development partners to help reform the education systems beyond inputs. While trained teachers, classrooms and textbooks are crucial, education systems deliver better results when standards, rules, responsibilities, financing and incentives are clear and aligned, and outcomes are measured and monitored.

2.2.1 Relationship to Country Partnership Strategy (CPS)

World Bank support to Government's program in education sector is contained in the new Country Partnership Strategy (CPS) that has recently been approved and launched. The CPS emphasizes importance of: (i) human resource development to help people of Kenya realize their full potential and to live in dignity, reduce inequality and social exclusion to develop shared

prosperity; and (ii) improving skills development, notably for young people. The project has special focus on developing foundational skills in numeracy at early age to enable students to continue successfully their educational path, to be fit for jobs, to be competitive in the labor market, employed and integrated into the economy. The ultimate outcome is improved livelihood especially of the disadvantaged groups of the population. The Project has a strong emphasis on strengthening governance and management systems at the national and school levels, which align with the CPS priorities on linking social accountability with enhanced development outcomes. The CPS highlights the World Bank's support to Kenya in roll-out of basic transparency and citizen participation mechanism in planning, budgeting, and performance management.

2.2.2 Proposed Development Objectives (PDOs)

The project development objectives are to improve early grade mathematics competency and to strengthen management systems at school and national levels.

Project Beneficiaries

- 6 million pupils in grade 1 and 2 who will benefit from improved early grade mathematics textbooks
- 40,000 teachers who will benefit from new methodologies of early grade mathematics instruction through improved in-service training and regular pedagogical supervision and support
- 1.3 million pupils in participating schools who will benefit from more effective and present teachers as well as improved teaching-learning inputs;
- Head teachers and Boards of Management (BoMs) who will receive guidance and support in school improvement planning and be empowered to implement plans to improve their school performance
- Parents and Communities whose aspirations will be met through greater information and enhanced voice in school management for improving quality of education.
- Education system administrators who will benefit from improved information and accountability through up to date EMIS data and school audit; and

PDO level result indicators: the project will monitor the following indicators

- Improvement in mathematics competencies of Grade 2 students between 2015 and 2018
- Number of participating schools completing top two priorities of School Improvement Plans
- EMIS data for primary education published annually from 2016
- NASMLA conducted and disseminated in 2015 and 2018

2.2.3 Objectives of the Project

New GPE funding will help Kenya to address key challenges in the primary education and rebuild the country's credibility. The project is intended to provide catalytic funding to help Kenya address areas not yet fully covered by other initiatives, drawing on the experience and lessons learnt from past projects. Specifically, the GPE project will contribute to:

- Improving early grade learning competencies by focusing on the scaling up of the Early Grade Mathematics intervention piloted under PRIMR. The decision to scale up is based on encouraging evidence from rigorous impact evaluations of the pilot. Specifically, the end line evaluation of the USAID funded intervention in 547 low performing rural and peri-urban schools finds that after one year of implementation, test scores across different mathematics subtasks improved by more than 0.2 standard deviations on average. The midterm evaluation of an ongoing DFID funded intervention in another 834 rural schools finds that after only four instructional months, the effect on mathematics performance is very similar to that of the USAID intervention. Notably, assessment of different treatment packages suggests that it is critical to have all the elements of the full PRIMR intervention, including teacher training, textbooks provision, instructional support and teachers' guides, to have a meaningful impact on student performance. Even with the full intervention, it is estimated that PRIRM is more cost-effective than many other previous pilots in Kenya (Piper and Mugenda 2014a, 2014b).

- Strengthening systems (at school and national levels) for improving primary education service delivery. At the school level, the idea stems from the notion that well-functioning school management committees (comprising the head teacher, parents and other key stakeholders) are able to mobilize and/or utilize resources effectively to improve learning conditions through notably, measures to reduce teacher and student absenteeism, thereby increasing teacher-student contact time in the classroom. Furthermore, in schools where such measures have emerged from a participatory decision making process, and accountability for the use of resources strengthened through oversight by community stakeholders (village elders, parents, and students), significant improvement in student learning has been observed.[3] In this component, schools serving vulnerable groups will deliberately be targeted for the project interventions.

2.3 Global Project Education (GPE)

2.3.1 GPE Components:

Component 1: Scaling Up Early Grade Mathematics

Component 1 will support the scaling up, across Kenya, of the early grade mathematics (EGM) methodology piloted under the Primary Research Initiative in Mathematics and Reading (PRIMR) with the support of USAID and DFID. The focus of the scale up is on schools located in rural areas, pockets of urban poverty and ASAL counties, which tend to be those performing poorly in mathematics. These schools estimated to comprise about 75% of all public primary

[3] Randomized, controlled trials in the Gambia (D. Evans, et al, World Bank, 2011) and Uganda (A. Zeitlin, et al, Oxford University, 2011) show statistically significant impacts of school-based management (school management committees, school grant program, capacity building) on reducing student and teacher absenteeism. Evidence from 22 impact evaluations in developing countries ("Making Schools Work", B. Bruns, H. Patrinos, D. Filmer, World Bank, 2011) indicate that three key strategies to strengthen accountability relationships in school systems - information for accountability, school-based management, and teacher incentives - can affect school enrollment, completion, and student learning.

schools, will adopt the full EGM methodology and receive the requisite teaching/learning materials as well as training for their Grades 1 and 2 teachers and other concerned personnel. In addition, EGM materials (textbooks and teacher guides) will be made available to all 23,000 public primary schools, benefiting their students, teachers, and head teachers.

Specifically, the overall goal being to help teachers improve students' ability to master basic numeracy skills, the component will finance the implementation of a comprehensive program (the EGMA package) to increase teacher competency, provide adequate instructional materials, and strengthen classroom pedagogical support. Specific activities include: (i) training of a core group of 60 master trainers (EGM champions), teachers and head teachers in EGM instructional techniques; (ii) training of TAC tutors to undertake enhanced pedagogical supervision of teachers and monitor student learning; (iii) procurement of textbooks and teacher guides developed under the PRIMR for distribution to all participating Grade 1 and 2 students and teachers; (iv) provision of tablets to TAC tutors for monitoring teacher and student performance; and (v) awareness building at the PTTCs on new instructional materials and pedagogical practices for EGM.

In parallel with EGM roll out, the Government will be undertaking a national program (TUSOME) to scale up the PRIMR's early grade reading component. Alignment of the two programs is desirable, given that the success of mathematics is linked to the ability to read and have sound literacy skills, and there are efficiency gains from training the same teachers who are involved in both subject areas at the same time. However, full alignment of activities may be difficult due to the TUSOME starting one year ahead of the GPE project. Nonetheless, every effort will be made to align EGM and EGR methodology vis a vis teachers and schools, enable the EGM team to learn from the EGR experience, and ensure synchronization of implementation at school and county level.

The key results of this component include: (i) number of EGM textbooks distributed to schools; (ii) number of teachers trained in EGM instructional techniques; and (iii) number of classroom observations conducted by TAC tutors.

Component 2: Strengthened School Management

Component 2 will be a pilot to improve school performance through strengthened school management and accountability for results in the delivery of primary education. The pilot targets low performing schools (i.e. those schools whose KCPE scores in 2012 and 2013 were below the average of 242 for public primary schools), in each county and ASAL counties in particular. Based on the targeting criteria (detailed in Annex II), some 6,000 schools were identified to be eligible pilot schools. From this pool, about 4,000 schools were randomly selected to be the participating or 'treatment' schools that will benefit from an integrated set of interventions whose impact can be rigorously evaluated at the end of project implementation. The interventions, to be provided under four sub components, include: (i) school specific analysis of KCPE results to inform planning at the school level; (ii) appraisal of teacher competency in knowledge, pedagogical practice and engagement; (iii) support and capacity building for school improvement planning, with enhanced participation of community

stakeholders; (iv) enhanced financing to schools linked to achievement of management and accountability milestones; (v) strengthening school audit; and (vi) monitoring of pilot results.

Under the first sub component, the KNEC will produce reports on school specific analysis of KCPE results for the participating schools. The report will tabulate the percentage of students with correct scores on each test item and analyze the patterns of students choosing the distracters, with the aim of revealing student knowledge level, their misconceptions and misunderstanding. A profile of student cognitive skills (Bloom taxonomy) will be compiled to inform schools on how well they are providing their students with higher order cognitive skills. Finally, the report also includes an analysis on syllabus coverage and feedback on curriculum delivery at the school level, which is crucial for schools to identify their weaknesses and select appropriate measures to improve their curriculum delivery.

Sub component two will enable participating schools to implement the Teacher Appraisal and Development (TAD) tool developed by the Teaching Service Commission. Head teachers, teachers and TAC tutors will be trained in the use of the tool, which benchmarks teachers' knowledge, pedagogical practice and engagement against professional standards, using evidence and the results of a peer-review process. This is expected to contribute useful feedback for school improvement planning in general, and to teachers specifically, for their professional development.

Under the third sub component, participating schools will be provided with the resources to develop a School Improvement Plan (SIP) to address their key student learning challenges, and thereafter carry out the priority actions under this plan. Each school will be able to hire a facilitator to assist in the planning process, particularly to ensure that the SIP is: (a) based on sound problem diagnosis (using the outputs of the first two sub components); and (b) reflect the priorities that have been fully consulted with key stakeholders in the school community. A SIP manual will be developed by the MoEST to guide the process, including a mechanism for putting in place, community oversight of resource use by the school.

Financial resources for hiring facilitators and implementing SIP priorities will be provided to participating schools in the form of a grant, similar to the existing school capitation grants, but disbursed in three tranches linked to the achievement of simple performance milestones. In year one of the Project, each school will receive US$500 when it has selected a facilitator from the county prequalified pool (i.e. first milestone). Thereafter, the school will receive another US$2,500 when it meets the second performance milestone of having submitted a SIP that satisfies stipulated information requirements. In year two, upon meeting the third performance milestone, which is, maintenance of proper education, financial and physical assets records, the school will receive the remaining US$2,500. Satisfactory record keeping will be evidenced by the timely (beginning of school year, end of each term) upload by schools, of education and SIP implementation data to a cloud based monitoring system managed by the MoEST.

To enable data to be directly collected from schools and reviewed to assess results of the pilot during implementation and at the end of the Project, participating schools are provided with an appropriate device (tablet/smart phone) to undertake data recording and dissemination. Key data

on pupils (enrolment by gender, attendance, drop-out, transition, etc.), teachers (age, qualification, employment type, TAD profile, etc.) and school resources (financing, textbooks and learning materials, etc.) will be recorded and regularly updated using the tablets/smart phones. As the school grant is the same across the participating schools of varying sizes, de facto the pilot can bring evidence of optimal additional financing on top of the current unifying capitation grant. Furthermore, the choices of priorities for the school grants and the data on school characteristics will be invaluable in determining factors that improve or hinder learning achievement.

The fourth and final sub component will enable the 4,000 schools participating in the pilot to be audited annually during the project implementation period by the MoEST's School Audit Directorate whose capacity will be strengthened to carry out improved financial and system audits as well risk based assessments. Participating schools are expected to receive audit reports on a timely basis to enable the school management boards to act on the findings.

Key results of this component include: (i) number of participating schools receiving KCPE analysis reports; (ii) percentage of teachers in participating schools completing professional competency assessment; (iii) number of participating schools submitting satisfactory SIPs; (iv) number of participating schools receiving annual school grant allocations; and (v) number of participating schools audited.

Component 3: Strengthening Data/EMIS System

Component 3 will include (i) strengthening the data/EMIS system in primary education to make data more available, reliable and integrated; (ii) enhancing the system for monitoring student learning achievement; and (iv) enhancing the capacity to develop policies on equity, efficiency and quality at the national level.

Key results of this component will be several. For strengthening Data/EMIS, the key results are (i) updated primary education statistics, starting from 2016 onwards. For enhancing the monitoring of student achievement: (i) two NASMLA for Standard 3 students will be conducted during the project life; (ii) SACMEQ IV results will be disseminated to all counties and sub-counties. For the enhanced capacity to develop policy, three key policy dimensions will be covered: quality assurance, equity and efficiency. For equity, the project will analyze cost-effective models for delivery of education to the disadvantaged groups (very poor, ASAL and children with special needs). For quality, the project will support the new Education Standards and Quality Assurance Council to consolidate all guidelines and regulations on quality standards and assessment procedures. For efficiency, the project will support the analysis of (ii) adequacy and utilization of the capitation grants; and (iii) teacher productivity. Policy options emerging from the analysis will feed into the preparation of the next five-year education sector plan starting 2018.

Component 4: Project Management Functions

Finally, Component 4 covers key project management functions including coordination, communication and result monitoring and evaluation.

2.4 The Vulnerable and Marginalized Groups in Operational Areas

There is no internationally agreed upon definition of indigenous people" (UN Human Rights and Indigenous Issues: 92). But for operational purposes and in line with other international organizations, such as the UN Working Group on Indigenous Populations, the UN Permanent Forum on Indigenous Issues and the International Labor Organization (ILO), the OP 4.10 of the World Bank suggests "to use the term 'indigenous peoples' in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:

- *Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;*
- *Collective attachment to geographically distinct habitats or ancestral territories in the operational area and to the natural resources in these habitats and territories;*
- *Customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and*
- *An indigenous language, often different from the official language of the country or region."*

The African Commission's Working Group of Experts on Indigenous Populations & Communities outlines the problems related to the use of the term "indigenous peoples" in Africa: "*There is no question that all Africans are indigenous to Africa in the sense that they were there before the European colonialists arrived and that they have been subject to sub-ordination during colonialism. We thus in no way question the identity of other groups. When some particular marginalized groups use the term indigenous to describe their situation, they use the modern analytical form of the concept (which does not merely focus on aboriginality) in an attempt to draw attention to and alleviate the particular form of discrimination they suffer from. They do not use the term in order to deny other Africans their legitimate claim to belong to Africa and identity as such*" (ACHPR 2005: 88). "*Almost all African states host a rich variety of different ethnic groups (…). All of these groups are indigenous to Africa. However, some are in a structural subordinate position to the dominating groups and the state, leading to marginalization and discrimination. It is this situation that the indigenous concept, in its modern analytical form, and the international legal framework attached to it, addresses*" (ACHPR 2005: 114).

In that logic it becomes clear that the concept of Indigenous Peoples is not fixed once and forever, but that it is possible that certain groups, which are marginalized and discriminated at national level, might at a local level be in a dominant position or at least able to defend their rights, interest and to voice their needs in local fora. Social discrimination might also change with time. It is possible that a group, which at a certain period had been in a dominant or equal position to others becomes marginalized and socially discriminated. Nevertheless, it seems as in most cases indigenous peoples remain, for structural reasons (for example because they are employing different livelihood patterns), in a marginalized and discriminated position.

2.5 Project Implementation Arrangements

The project implementation will be mainstreamed into the government education management system. The primary responsibility of the project management rests with the Ministry of Education, Science and Technology. The Teacher Service Commission will be responsible for the implementation of the teacher appraisal process at the school level. The KNEC will be responsible for the analysis of the KCPE results and the implementation of the national assessments of Grade 2 in mathematics and Grade 3 in core subjects as well as the dissemination of SACMEQIV. A committee led by the MoEST Principal Secretary and consisting of the TSC and KNEC Chief Executives will be responsible for overseeing the progress and effectiveness of the project interventions.

MoEST will appoint three full-time personnel to be responsible for the day-to-day project coordination and implementation. There will be one project coordinator and two deputy coordinators. One deputy coordinator will be in charge of Component 1 and the other deputy coordinator will be in charge of Component 2 and 3.

Component 1 implementation will be coordinated with inputs from the Basic Education Directorate, Procurement/Supply team for the textbook procurement and from Centre for Mathematics, Science and Technology Education in Africa (CEMASTEA) for the training and pedagogical supervision. Component 2 will be coordinated inputs from Basic Education Directorate, KNEC and TSC and School Audit Department.

Component 3 will be implemented by various concerned departments such as the Planning Directorate, the Policy Directorate, the Education Standards and Quality Assurance Council and the Basic Education Directorate. The project implementation will be supported by dedicated functions such as procurement, financial management/disbursement, communication and monitoring and evaluation.

A Project Coordination Unit (PCU) will be established to coordinate the project activities. The PCU is accountable to the Principal Secretary and will be headed by a full-time Project Coordinator and two Deputy Project Coordinators.

A communication strategy will be developed to engage all stakeholders on the project interventions, its implementation and result progress. The project will use a mix of communication channels to reach the general public and key stakeholders in education, combining the mass media, print, school and community-based events. For example, radio programs will be the main vehicles to reach out to parents. Schools, sub-county and county education offices will use print based materials such as posters, brochures, pamphlets and bulletins to disseminate the information. They will also use important events such as Education Days and Annual General Meetings to present the project progress and result and to recognize the achievement through symbolic prizes. At the national level, in addition to the above channels, information of the project objectives, activities and financing will be posted and updated in the MoEST website.

3 METHODOLOGY AND CONSULTATION

3.1 Detailed and in-depth literature review

Review on the existing baseline information and literature material was undertaken and helped in gaining a further and deeper understanding of the project. Among the documents that were reviewed in order to familiarize and deeply understand the project included:

- *World Bank Indigenous Peoples Operational Policy OP 4.10*
- *Technical Mission Aide Memoire*
- *GPE Project Appraisal Document*
- *Other relevant VMGF documents prepared in Kenya for bank projects*
- *Constitution of Kenya 2010*
- *Relevant legislative documents in Kenya on vulnerable and marginalised groups*

3.2 Interactive Discussions

Discussions have been held with project staff as well as the World Bank relevant staff and VMGs in Nakuru, West Pokot and Narok Counties in August 2014. These discussions were very insightful in understanding the issues and are the basis for most of the measures contained in this VMGF.

3.3 Preparation of VMGF

This involved;-

- *Collation of baseline data on the Vulnerable and Marginalized Communities in Kenya including lifestyle, livelihood, history;*
- *Identification of positive and negative impacts of the proposed investments on the VMGs;*
- *Formulation of monitoring and evaluation plan.*

4 SOCIAL ASSESSMENT OF THE VULNERABLE& MARGINALISED GROUPS IN GPE OPERATIONAL AREAS

New GPE funding will help Kenya to address key challenges in the primary education and rebuild the country's credibility. The project is intended to provide catalytic funding to help Kenya address areas not yet fully covered by other initiatives, drawing on the experience and lessons learnt from past projects. Specifically, the GPE project will contribute to:

- Improving early grade learning competencies by focusing on the scaling up of the Early Grade Mathematics intervention piloted under PRIMR.
- Strengthening systems (at school and national levels) for improving primary education service delivery.

The actual specific project investments are not yet known and specifically the locations which would be significant in helping to make a determination of the locations of the marginalized and vulnerable communities. Since the scope of the GPE Project is national it therefore implies that all the communities described as vulnerable and marginalized as per the Kenyan Constitution are likely to be affected by this project especially in view of the fact that the actual project locations remain unknown for the present. The ***annex 7*** describes all the vulnerable and marginalized communities in Kenya as described by the constitution of Kenya.

However, even though the GOK's constitution spells out communities categorized as vulnerable and marginalized, OP. 4.10 expressly defines the criteria within which a group is considered or qualifies to be vulnerable and or marginalized. During screening, groups categorized as vulnerable and marginalized by GOK will be subjected to the banks threshold screening of indigenous groups before they are qualified to meet the banks criteria and trigger OP.4.10 (some groups, such as the Ogiek and Sengwer, have met the criteria for OP 4.10 in other Bank-financed projects).

4.1 Vulnerable and Marginalized Peoples in Kenya

In Kenya, the peoples who identify with the indigenous movement are mainly pastoralists and hunter-gatherers as well as a number of small farming communities. Pastoralists are estimated to comprise 25% of the national population, while the largest individual community of hunter-gatherers numbers approximately 30,000.

Pastoralists mostly occupy the arid and semi-arid lands of northern Kenya and towards the border between Kenya and Tanzania in the south. Hunter-gatherers include the Ogiek, Sengwer, Yaaku, Waata, El Molo, Malakote, Wagoshi and Sanya, while pastoralists include the Turkana, Rendille, Borana, Maasai, Samburu, Ilchamus, Somali, Gabra, Pokot, Endorois and others. They all face land and resource tenure insecurity, poor service delivery, poor political representation,

discrimination and exclusion. Their situation seems to get worse each year, with increasing competition for resources in their areas. Both pastoralists and hunter-gatherers face land and resource tenure insecurity, poor service delivery, poor political representation, discrimination and exclusion. Their situation seems to get worse each year, with increasing competition for resources in their areas.

4.2 Brief Highlight of Vulnerable and Marginalized Peoples in Kenya

The vulnerable and marginalized groups in Kenya as per the CoK are described below in summary with a detailed description of the same contained in ***annex 7***of the report.

Sengwer

The Sengwer live in the three administrative districts of Marakwet, West Pokot and Trans Nzoia in and along Cherangany Hills. They are estimated to be 50,000 (30,000 of them live in their traditional territories and another 20,000 in the diaspora). They lived by hunting and bee keeping**.** In his evidence before the 1932 Kenyan Land Commission, Mr. C.H. Kirk, stated how they used to go over Cherengany shooting and the only peoples with whom they came into contact along Cherengany Hills were the Cherengany Dorobo, a small tribe of Dorobo (Sengwer).

As so many other ethnic minorities, the Sengwer were considered by the British to be served best if they were forced to assimilate with their dominant neighbors. Due to that their traditional structure was not recognized and integrated as independent ethnic group in the system of indirect rule, but as sub-structure of their neighbors. As their land in the plains of Trans Nzoia turned out to be the best area for agricultural production in Kenya, they were displaced entirely from there to make way for white farmers. A minority stayed behind as farm workers, but the majority went up into the forests of the Cherangany hills. As the Sengwer were not considered as independent group, they were also not invited to join the settlement schemes in which the independent Kenya redistributed the white farms to the farm workers and the dominant ethnic groups of the area. While most Sengwer are officially landless, some few Sengwer especially in the northern parts of the Cherangany hills received some land, but even this land is contested.

Livelihood

Before the colonial time, Sengwer used to be hunters and honey-gatherers. Following their contacts with the Arabs and the Maasai some adopted small-scale agriculture (shifting cultivation) and/or livestock rearing, but it is said that hunting remained their main source of livelihood until the 1920s. The elders reported collective as well as individual hunting techniques. Gathering of fruits and other non-timber-forest-products is mostly done by women, while honey collection from beehives as well as from natural places such as holes in trees etc. is traditionally a male activity. It has - beside being eaten - a variety of uses: Honey is mixed with water as a daily drink (breakfast), and used to brew beer; Honey plays a major role in marriages and other ceremonies. Before marriage, honey is given to the mother of the bride as part of the dowry. Honey has also medical use. People apply it to their body to drive away mosquitoes and against muscle pains. Another smelly mixture is spread around the compounds to keep wildlife at distance. Millet and Sorghum are the "traditional" crops, which were inherited from the Arab traders and mostly planted in the lowlands.

The current status of Indigenous Sengwer

The Sengwer have increasingly been restricted to areas with home 'bases' involving agriculture and livestock rearing and outlying areas where some honey gathering is still practiced. The Sengwer continue to experience expropriation of their land and restrictions on access to natural resources- especially forests and water- which have further increased their sedentarization, marginalization, social discrimination, and impoverishment. Even though they are considered, from the formal legal point of view, as citizens equal to all other Kenyans, they do not have the same access to land and other resources, protection against cattle rustlers, social and political influence, legal status and/or organizational, technical or economic capacities as other Kenyan citizens.

Ogiek

The Ogiek (*Ogiot - sing*.) ethnic group consists of 20-30 groups of former hunters and honey-gatherers, mostly living in forested highlands in western Kenya. Local groups have more specific names, e.g., Kaplelach, Kipsang'any, Kapchepkendi etc. Okiek, a Kalenjin language of the Southern Nilotic group, is the mother tongue of most Ogiek people, but several groups now speak Maasai as their first language. Traditionally the Ogiek had occupied most of the forests in the extreme west and south of Western Kenya, but today their main area of living is in and around the Mau forest, which is not part of the operational areas. Nevertheless, some Ogiek groups are found in the Upper Yala catchment near the villages Serengoni, Senghalo (Nandi South), in the Kipkurere forest (Nandi South) and some live scattered in the Uasin Gishu district.

Livelihood

Traditionally the Ogiek divided land into lineage-owned tracts stretching along the escarpment slope. Tracts transected four or five ecological zones, giving families access to honey and game during each season. Residence groups were small extended families, patrilineal cores that might be joined by affine and matrilineal relatives. Six to ten adjacent lineages constituted a named local group, i.e. a significant unit of cultural identity and history. Unlike many other hunter-gatherers, beside of honey, Ogiek collect hardly any plants, fruits or non-timber-forest-products from the forest. Honey is eaten, stored for future use, brewed into beer and traded. It is said to have been the main product for the barter with their agricultural and/or pastoralist neighbours.

Starting in the 1920s the Ogiek stated to cultivate small millet and maize gardens due to reduced production from the forest. This led to a more sedentary lifestyle in mid altitude forest and - in turn - a further increase of agriculture and/or pastoralism. Today, agriculture is the main source of subsistence and income, which is supported through some livestock rearing, hunting (which is illegal) and bee-keeping. Honey gathering is still a key activity and carried out the traditional way, with few Ogiek using modern bee-hives and/or processing the honey for regional markets. Blackburn concludes: "without honey and condition of getting it, Ogiek life would be entirely different. This explains why the Ogiek live in the forest" (Blackburn 1974:151).

Their access to land varies very much from village to village. Before independence most Ogiek lived on state or trust land (i.e. in the forests) with all usufructuary rights, but no letters of allotment. Following independence, the land reform and the general land demarcation in 1969

usufructurary rights were out-ruled. Legal access to land is now channelled through individual land titles and - in the Maasai-dominated districts – group ranches. Group-ranch demarcation began in the 1970s, crossing lineage land boundaries, incorporating non-Ogiek into some groups, and registering significant parts of Ogiek land to non-Ogiek. During the same time, the Ogiek were evicted from the forest reserves. As they were not provided with any land or compensation most had to go back and live illegally in the forests until the next eviction-team would show up. The regular evictions, arrests and loss of property, crops and even lives further increased the poverty of the Ogiek, underlined their social discrimination and cemented their marginalization.

Turkana

The Turkana people are the second largest of the pastoral people of Kenya with a population of 1,034,000. They occupy the far northwest corner of the nation, an area of about 67,000 square kilometers. This nomadic community moved to Kenya from Karamojong in eastern Uganda. The Turkana tribe occupies the semi Desert Turkana District in the Rift valley province of Kenya. Around 1700, the Turkana emigrated from the Uganda area over a period of years. They took over the area, which is the Turkana district today by simply displacing the existing people of the area. Turkana warriors today still take pride in their reputation as the most fearless fighters in East Africa. Adherence to the traditional religion is weak and seems almost nonchalant among the Turkana.

Location in the Country - Rift Valley Province, Turkana, Samburu, Trans-Nzoia, Laikipia, Isiolo districts, west and south of Lake Turkana; Turkwel and Kerio rivers

Livelihood: Like the Maasai and tribes, Turkana people keeps herds of **cattle, goats and camel**. Livestock is a very important part of the Turkana people. Their animals are the main source of income and food. Turkana's have also pursued other non-pastoral income-earning activity in both urban and rural environments. This includes various forms of wholesale and retail trade (e.g. selling livestock, milk, hides and skins, honey, and artisan goods etc.), traditional rental property ownership and sales, waged employment (local and non-local, including working as a hired herder, farm worker, and migrant laborer), farming (subsistence and commercial), and the gathering and selling of wild products (e.g. gum arabic, firewood, or medicinal plants). Fishing in Lake Turkana is another, long standing form of diversification. Fishermen along Lake Turkana migrate to follow the patterns of fish movement. The pastoralists also supplement their livelihoods by selling the fish. Many of them have also taken up weaving mats and baskets particularly near the lake where weaving material is readily available from the Doum Palm. Other natural resource-based livelihood diversification activities have included the collection and sale of aloe, gum arabic, honey, wild fruits, firewood, and the production and sale of charcoal and alcohol.

Rendille

The Rendille are a Cushitic tribe that inhabits the climatically harsh region between Marsabit hills and Lake Turkana in Northern Kenya where they neighbor the Borana, Gabbra, Samburu and Turkana tribes. They (Rendile) consist of nine clans and seven sub clans. They are culturally similar to the Gabbra, having adopted some Borana customs and being related to the Somali people to the east. Rendille are semi-nomadic pastoralists whose most important animal is the

camel. The original home of the Rendille people was in Ethiopia. They were forced to migrate southwards into Kenya due to frequent conflicts with the Oromo tribe over pasture and water for their animals. Being pastoralists, the lifestyle of the Rendille revolves around their livestock. In the northerly areas, camels are their main source of livelihood. This is because camels are best adapted to the desert conditions that prevail in the northern Kenya. The camels are an important source of milk and meat for the Rendille people. There are about eight or nine sub clans including the Urowen, Dispahai, Rongumo, Lukumai (Nahgan), Tupsha, Garteilan, Matarbah, Otola, and Saale with an estimated population of 63,000.The Rendille are located in Eastern Province, Marsabit District, between Lake Turkana and Marsabit Mt. The primary towns include Marsabet, Laisamis, Merille, Logologo, Loyangalani, Korr, Kamboi, Ngurunit, and Kargi.

Livelihood: The Rendille people are traditionally pastoralists keeping goats, sheep, cattle, donkeys, and camels. Their nomadic lifestyle is become more prominent in the areas exposed to little urbanization and modernization. In the recent past though, their livelihood has experienced constant competing interests from the Samburus and Gabras leading them to constant conflict over land and water resources particularly at the borderline of the boundary districts. In the most cases, the raids and conflicts have had the objective to replenish their herds depleted by severe droughts, diseases, raiding or other calamities.

Gabra

The Gabra are an Oromo people who live as camel-herding nomads, mainly in the Chalbi desert of northern Kenya and the highlands of southern Ethiopia. They are closely associated with other Oromo, especially their non-nomadic neighbors, the Borana. The Gabra speak the Borana dialect of Oromo, which belongs to the Cushitic branch of the Afro-Asiatic language family and have a population of about 3,000. They are located in Samburu District, Lake Baringo south and east shores; and in Rift Valley Province (Chamus), Baringo District.

Livelihood: Gabra are pastoralists who keep and depend on cattle, sheep, goats, donkey, and camels. They solely rely on access to water and pastures for the survival of their livestock. Typical Gabra household keeps 5-10 cattle; 20-25 goats; 15-20 sheep; and 0-5 camels. Cattle provide the majority of income from livestock production followed by goats, sheep, and camels. Majority of the grain consumed by Gabra household in this zone is purchased. This includes maize, rice, and sugar. Households also rely on the wild food including fruits and berries, honey, roots, and tubes. Climate change has had an impact on new weather patterns and prolonged drought pushing the Gabra community to frequent water shortages. They have a conglomerate of peoples living north of the Tana River in Kenya, the area around Lake Turkana and the highlands of southern Ethiopia.

Ajuran

The Ajuran are ethnically Somalis. They were a kingdom that ruled Somalia before the advent of Europeans into Africa. When the rest of the Somalis got fed up with their rule they took up arms against them in war popularly known as Eji iyo Ajuran meaning the rest of Somalis vs. the Ajuran. The wars that ensued deposed the kingdom and drove some of the Ajuran as far as where they live today in the North Eastern Kenya and Eastern part of Ethiopia. Some of those who settled in present day Kenya eventually adopted the language and customs of their neighbors and

hosts, the Borana. The Ajuran are best known in Somali history for establishing the Gareen dynasty based in Qalaafo (now part of Ethiopia). The Gareen dynasty ruled parts of East Africa from the 16th to the 20th century. Among the Kenyan Ajuran people, the majority speak the Borana language as their first language while others speak the Somali language as their first language especially those from Wajir North District in the areas of Wakhe and Garren. It is vital to note that since Somali is the language of wider communication in Northeastern Province, even the Ajuran who speak Borana as their first language learn the language. The link between the Garreh and Ajuran is their primary language, whichis Borana and not Somali. Population: 59,000.Location in the Country: Eastern Province, Marsabit, Isiolo and Moyale districts, Wajir North.

Livelihood: The Ajurans, like the rest other Somali tribes of Northern Kenya have traditionally lived a nomadic life. This way of life is dictated by the climate, which is semi-arid with two seasonal rains. They follow water and pasture for the animals they keep such as cattle, camels, goats, sheep, donkeys and mules that provide them their livelihood. Where the land is good for farming there are settled populations growing corn, millet, sorghum and some fruits and vegetables. The Ajuran live in an area with relatively high rainfall and good pasture for their animals. However, this blessing has on many occasions become troublesome to them in terms of marauding neighbors in need of the same resources. The intrusion by others has periodically resulted in clashes. Today, the Ajuran allow others to live and pasture their animals in their communal land. Some of the main causes of their vulnerability include the following: erosion of assets due to armed conflict during intermittent inter/intra-clan conflict, resulting in poverty; protracted conflict and insecurity; Systematic marginalization and discrimination based on ethnicity and caste; poor access to economic/employment opportunities. Notably, their right and ability of the transhumant pastoralists to eventually return to their homes characterizes this type of seasonal movement and gives rise to certain analyses.

Maasai

Kenya's most well known ethnic tribe, the Maasai (or Masai) are semi-nomadic people located primarily in Kenya and northern Tanzania. They are considered to be part of the Nilotic family of African tribal groups, just as the Scilluk from Sudan and the Acholi from Uganda. The Maasai probably migrated from the Nile valley in Ethiopia and Sudan to Maasailand (central and south-western Kenya and northern Tanzania) sometime around 1600 AD, along the route of lakes Chew Bahir and Turkana (ex Rudolph), bringing their domesticated cattle with them. Once considered fierce warriors, feared by all tribes in the zone, the Maasai lost most of their power during the late XIX century, as a consequence of a string of natural and historic calamities. They were hit by drought, smallpox, and cattle pest, and contemporarily had to mourn the departure of Laibon Mbatiani, their respected and much admired leader, direct descendant of the mythical OlMasinta, founder of the tribe. The Maasai speak the Maasai language, an Eastern Nilotic language closely related to Samburu (or Sampur), the language of the Samburu people of central Kenya, and to Camus spoken south and southeast of Lake Baringo. Maasai's population is about 684,000 and is located in the Rift Valley Province, Kajiado and Narok districts.

Livelihood: The Maasai are cattle and goat herders, their economy almost exclusively based on their animal stock, from which they take most of their food: meat, milk, and even blood, as

certain sacred rituals involve the drinking of cow blood. Moreover, the huts of the Maasai are built from dried cattle dung.

Illchamus

They are originally a pastoralist people who used to live on the mainland but due to clashes they have been forced to migrate to an island in Lake Baringo. It is a very traditional and culturally bound society, hierarchical and male-dominated. They live from fishing in small boats made of balsam tree that dates back maybe a thousand years. They also do some souvenirs and they have some livestock. Many are uneducated and illiterate. They are eager to learn new things, participating and seemingly eager to create a better life. They communicate mainly in their local language. They have a population of 34,000 and are located in Southeast and south shore of Lake Baringo, and southwest shore as far north as Kampi ya Samaki.

Livelihood: The majority of the Ilchamus practice both livestock rearing and agriculture, but on the islands in Lake Baringo there are about 800 Ilchamus who live nearly entirely from fishing. The mainland Ilchamus are semi-pastoralists with a long history of small scale agriculture. The main types of livestock owned by the Ilchamus are cattle (zebus), sheep (red maasai and dopper cross) and goats (small east African), but their herds are significantly smaller than those of their neighbours. The key problems here are the insufficient security against aggressions from their neighbours, access to water and pressure of other people on their land due to the non-existence of land titles. The nearest markets are at Marigat and Kiserian.

Aweer

The Aweer are a remnant hunter-gatherer group living along the Kenyan coast in Lamu District on the mainland. In the last 30 years, the Aweer have faced very difficult times. In 1967, their homeland became a battlefield in the war between Kenya and Somalia. In Kenya today, they are a vulnerable group, struggling to survive, in search of a new identity. Traditionally they depend on their elders for leadership and do not normally meet for village discussion. There are some men who have more than one wife, and each wife has her own house in which she lives with her children. The husband does not have his own home but lives with each wife periodically. The Aweer have a population of 8,000 and are located in the Coast Province, behind Lamu, and Tana River districts in forests; North-Eastern Province, Garissa District.

Livelihood: Hunters and Gatherers. They are indigenous hunter/gatherers famous for their longbows and poison arrows. The Aweer are often referred to - and even sometimes refer to themselves - as the "Boni". Considered by some as pejorative, Boni is based on the swahili word "kubuni" which means 'to move', in reference to their proclivity, historically, to move around in pursuit of their livelihoods, rather than settle in one place. The lives of the Aweer were drastically changed when the Kenyan government curtailed their traditional way of life as a response to the insecurity of the region after the Shifta War (1963–1967), forcing them to settle in villages along the Hindi-Kiunga Road on Government Land between the Boni National Reserve and the Dodori National Reserve while adopting slash and burn agriculture.

Pokot

They speak Pökoot, language of the Southern Nilotic language family, which is close to the Marakwet, Nandi, Tuken and other members of the Kalanjen grouping. Kenya's 2009 census puts the total number of Pokot speakers at about 620,000 in Kenya.They have once considered part of the Kalenjin people who were highland Nilotic people who originated in southern Ethiopia and migrated southward into Kenya as early as 2,000 years ago. Though the Pokot consider themselves to be one people, they are basically divided into two sub-groups based on livelihood. Population: 662,000. The Pokot are located in the Rift Valley Province, Baringo and West Pokot districts.

Livelihood: It is usually claimed that from the earliest time of the original Pokot, they were agriculturalist, they did not have many cattle, and the few they had were taken by wild animals abounding the area. They have been hunters and gatherer living in caves. Currently, Pokot are semi-nomadic, semi-pastoralists who live in the lowlands west and north of Kapenguria and throughout Kacheliba Division and Nginyang Division, Baringo District. These people herd cattle, sheep, and goats and live off the products of their stock. The other half of the Pokoot are agriculturalists who live anywhere conditions allow farming. Mixed farming is practiced in the areas of Kapenguria, Lelan and parts of Chepararia. These areas have recorded rainfall between 120mm to 160mm while pastoral areas include Kiwawa, Kasei, Alale and parts of Sigor receiving 80mm and 120mm. The livelihood of Pokot has led to constant conflict between them and other pastoral communities – the Turkana, Matheniko and the Pokot of Uganda. This clash has been sustained by semi-arid savannah and wooded grassland terrain that cuts along the habitation area. Resources such as land, pasture, water points are communally owned and they are no specific individual rights.

Endorois

Endorois community is a minority community that was living adjacent to Lake Baringo and has a population of about 20,000. However, the Government of Kenya forcibly removed the Endorois from their ancestral lands around the Lake Bogoria area of the Baringo and Koibatek Administrative Districts, as well as in the Nakuru and Laikipia Administrative Districts within the Rift Valley Province in Kenya, without proper prior consultations, adequate and effective compensation. Endorois are a community of approximately 60,000 people who, for centuries, have lived in the Lake Bogoria area. They claim that prior to the dispossession of Endorois land through the creation of the Lake Hannington Game Reserve in 1973, and a subsequent re-gazetting of the Lake Bogoria Game Reserve in 1978 by the Government of Kenya, the Endorois had established, and, for centuries, practiced a sustainable way of life which was inextricably linked to their ancestral land.

However, since 1978 the Endorois have been denied access to their land, neighbouring tribes as bona fide owners of the land and that they continued to occupy and enjoy undisturbed use of the land under the British colonial administration, although the British claimed title to the land in the name of the British Crown. At independence in 1963, the British Crown's claim to Endorois land was passed on to the respective County Councils. However, under Section 115 of the Kenyan Constitution, the Country Councils held this land in trust, on behalf of the Endorois community, who remained on the land and continued to hold, use and enjoy it. The Endorois'

customary rights over the Lake Bogoria region were not challenged until the 1973 gazetting of the land by the Government of Kenya. The act of gazetting and, therefore, dispossession of the land is central to the present to their current predicament.

The area surrounding Lake Bogoria is fertile land, providing green pasture and medicinal salt licks, which help raise healthy cattle. Lake Bogoria is central to the Endorois religious and traditional practices. The community's historical prayer sites, places for circumcision rituals, and other cultural ceremonies are around Lake Bogoria. These sites were used on a weekly or monthly basis for smaller local ceremonies, and on an annual basis for cultural festivities involving Endorois from the whole region. The Complainants claim that the Endorois believe that the spirits of all Endorois, no matter where they are buried, live on in the Lake, with annual festivals taking place at the Lake. They believe that the Monchongoi forest is considered the birthplace of the Endorois and the settlement of the first Endorois community. Despite the lack of understanding of the Endorois community regarding what had been decided by the Kenya Wildlife Service (hereinafter KWS) informed certain Endorois elders shortly after the creation of the Game Reserve that 400 Endorois families would be compensated with plots of "fertile land." The undertaking also specified, according to the Complainants, that the community would receive 25% of the tourist revenue from the Game Reserve and 85% of the employment generated, and that cattle dips and fresh water dams would be constructed by the State.

To date, the Endorois community has not received adequate compensation for this eviction, nor have they benefited from the proceeds of the reserve. Because they no longer have free accesses to the lake or land, their property rights have been violated and their spiritual, cultural and economic ties to the land severed. Once able to migrate with the seasons between Lake Bogoria and the Mochongoi forest, the Endorois are now forced to live on a strip of semi-arid land between their two traditional sites with no access to sustain their former cattle rearing and bee-keeping livelihood. The eviction of the Endorois people by the Kenyan government and the 'gazetting' (or public declaration of state ownership) of their land began in 1973 and continued until 1986.

*Livelihood:*Dependent on land and fishing from Lake Bogoria. Critically, land for the Endorois is held in very high esteem, since tribal land, in addition to securing subsistence and livelihood, is seen as sacred, being inextricably linked to the cultural integrity of the community and its traditional way of life.

Boni

The Boni people are known for their unique tradition of whistling to birds that guide them to honey. They are found in Northeastern Kenya's district of Ijara and Lamu district. Their population is about 4,000, compared to 25,000 half a century ago (Source: Organization for the Development of Lamu Communities (ODLC). They are nomadic hunter-gatherer tribe of mainly Cushitic origin with a unique characteristic. The community sources their subsistence from forest products such as honey, wild plants/fruits for consumption and medicinal purposes. The Boni are found in the North-Eastern part of Lamu district and Ijara District. They are concentrated mainly in Witu, Hindi and Kiunga divisions. The community is located in villages of Bargoni

(Hindi Division), Milimani, Bodhei, Basuba, Mangai, Mararani, Kiangwe and Kiunga (Kiunga division), Pandanguo and Jima (Witu Division).

The Boni live in forested areas of the district i.e. within the Witu and Boni forests. They live deep into the forest and only come out to the periphery when there is hardship or hunger. They perceive the forest in the Boni inhabited areas as communally theirs. However, with the gazettement of all the forest by the government this has become a source of conflict.

Watha

The Watha people are mostly found in the rural arid and semi-arid lands of the country. A minority of them live in thick forests scattered all over the country. The people are traditionally hunters and gatherers. In Malindi district a Watha community is found in four divisions (i.e. Malindi, Langobaya, Marafa and Magarini). In Tana River district the Watha are found in Sombo and Laza divisions while in Mandera the Watha are found in Central division. The population of Watha community in the districts is estimated at approximately 30,000 persons. This is only 2.7% of the entire Malindi, Mandera and Tana River district population.

The Watha people are traditionally hunters and gatherers. However since the government abolished unlicensed hunting of game and wild animals, the Watha people now live in permanent settlements, some of them along the river and where there are forests, mainly in the mixed farming and livestock farming zones. The forests afford them an opportunity to practice bee keeping while those along the river practice crop production.

The land tenure system in the district is communal ownership. Most of the land in the three districts of Malindi, Mandera and Tana River are currently under trust land by the county councils. Few influential people in the district have however managed to acquire title deeds from the land offices in Nairobi. However, most of this trust lands are controlled by the majority tribes and becomes a point of conflict if the smaller tribes and outsiders get involved. This is what has pushed the small and marginalized tribes like Watha deep into the forests.

4.3 No Specific Legislation on Vulnerable & Marginalized Groups in Kenya

There is no specific legislation governing vulnerable and marginalized peoples in Kenya. However, the Constitution of Kenya (CoK) 2010 recognizes the rights of VMGs and requires that they be accorded special focus, attention and support. The CoK goes further and defines who are VMGs in Kenya and describes the VMGs in Kenya.

4.3.1 2010 Constitution of Kenya

The new constitution of Kenya 2010 specifically includes minorities and marginalized communities as a result of various historical processes, with specific reference to indigenous peoples. The definition of marginalized groups, being broad, encompasses most of the groups that identify as indigenous peoples. Kenya however, abstained from the vote when the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the UN General Assembly in 2007.

4.3.2 Constitutional Implementation

Kenya's 2010 Constitution provides a rich and complex array of civil and political rights, socio-economic rights and collective rights that are of relevance to indigenous communities. While important, constitutional provisions alone are not enough. They require a body of enabling laws, regulations and policies to guide and facilitate their effective implementation. In 2011, Kenya's parliament enacted 22 laws. In the main, these laws are of general application and will have a bearing on the way in which the state exercises power in various sectors, some of them of fundamental importance to indigenous communities.

Laws relating to reform of the judiciary, such as the Supreme Courts Act as well as the Vetting of Judges and Magistrates' Act, are already transforming the way in which the judiciary is dealing with claims presented to it by local communities. The revamped judiciary is already opening its doors to the poorest and hitherto excluded sectors of Kenyan society. Indicative of this changed attitude on the part of the judiciary - at least at the highest level – is the fact that the deputy president of the Supreme Court met with elders from the Endorois indigenous people in July 2011 and assured them of the possibility of supporting the implementation of the African Commission's decision in favor of the community. More substantively, indigenous groups are already using the revamped judiciary to ventilate their rights. For example, in***Ibrahim Sangor Osman et al.***the Hon. Minister of State for Provincial Administration & Internal Security, the High Court in Embu awarded a global sum of Kshs. 224,600,000 (US$ 2,670,750), equating to US$ 2,378, to each of the 1,123 evictees from Medina within Garissa town of Northern Kenya as damages following their forced eviction from their ancestral land within the jurisdiction of the Municipal Council of Garissa.All the petitioners were Kenyan Somalis. The court also declared that the petitioners' fundamental right to life (Article 26), right to inherent human dignity and security of the person (Articles 28 & 29), right to access information (Article 35), economic, social and specific rights (Articles 43 & 53 (1) (b) (c) (d) and the right to fair administrative action (Article 47) had been violated by virtue of the eviction from the alleged public land and the consequent demolition of property by the Kenya police.

Additionally, the adoption of a law establishing the Environment and Land Court is important for indigenous communities given that the Court will "hear and determine disputes relating to environment and land, including disputes: (a) relating to environmental planning and protection, trade, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources; (b) relating to compulsory acquisition of land; (c) relating to land administration and management; (d) relating to public, private and community land and contracts, chooses in action or other instruments granting any enforceable interests in land; and (e) any other dispute relating to environment and land."

While most indigenous communities are yet to become aware of the existence of this court, it will be an important arena for determining the land rights challenges of indigenous communities such as the Ogiek, which have remained unaddressed for decades. In the main, though, constitutional implementation has so far failed to take cognizance of indigenous peoples' core concerns. The Election Act, as well as the Political Parties Act, has failed to clearly articulate mechanisms for the political participation of indigenous peoples in terms of Article 100 of the Constitution. The constituency boundary reviews that started in 2011 indicate a limited

commitment on the part of the state to implement important court decisions that have a bearing on indigenous peoples' representation, such as that of Il-Chamus. Conversely, attempts to implement such decisions following limited consultation of indigenous communities have tended to exacerbate conflicts between different indigenous groups.

The new Revenue Allocation Commission, mandated by Article 204 of the Constitution to earmark 0.5% of annual state revenue to the development of marginalized areas, in addition to 15% of national revenue for direct transfer to county governments, has yet to take a specific interest in the concerns of indigenous communities. In implementing Article 59 of the Constitution, the government has split the Equality and Human Rights Commission into three: the Human Rights Commission, the Commission on Administrative Justice and the Gender Commission. These bifurcated human rights institutions may serve to either provide increased opportunities for indigenous peoples' rights activism or to weaken the collaboration hitherto established with the previous Kenya National Commission on Human Rights (KNCHR).

Table 1. List of Vulnerable and Marginalized Groups as per the New Kenyan Constitution;
Source: ERMIS Africa Ethnographic Survey of Marginalized Groups, 2005-2012

Name	Other Names Usually derogatory	Estimated Population[4]	Livelihood[5]	Administrative Location Counties[6]
1. Sengwer		50,000	HG/Farmers	Trans-Nzoia; Uasin-Gishu; West Pokot; Keiyo-Marakwet
2. Ogiek	Dorobo	40,000	HG/Farmers	Nakuru; Baringo; Uasin Gishu; Bomet; Kericho; Narok; Nandi
3. Waatha	Wasanye	13,000	HG/Farmers	Kwale; Tana River; Marsabit, Kilifi
4. Aweer	Boni	7,000	HG	Lamu, Tana River
5. Yiaaku	Dorobo	4,000	HG/Farmers	Laikipia
6. El Molo		2,900	Fishing	Marsabit, Samburu
7. Ilchamus		33,000	Fishing/Farmers/ Livestock Keeper	Baringo
8. Endorois	Dorobo	60,000	Fishing/Farmers/ Livestock Keeper	Baringo, Laikipia
9. Borana		136,936	Pastoralists	Marsabit, Wajir
10. Gabra		31,000	Pastoralists	Marsabit, Samburu
11. Rendille		62,000	Pastoralists	Marsabit, Samburu
12. Turkana		1,008,463	Pastoralists	Turkana, Baringo, Laikipia
13. Pokot		662,000	Pastoralists	West Pokot /Baringo
14. Maasai		666,000	Pastoralists	Narok, Kajiado

[4] Internet based – several sites
[5] Source: ERMIS Africa Ethnographic Survey of Marginalized Groups, 2005-2012
[6] Ibid.

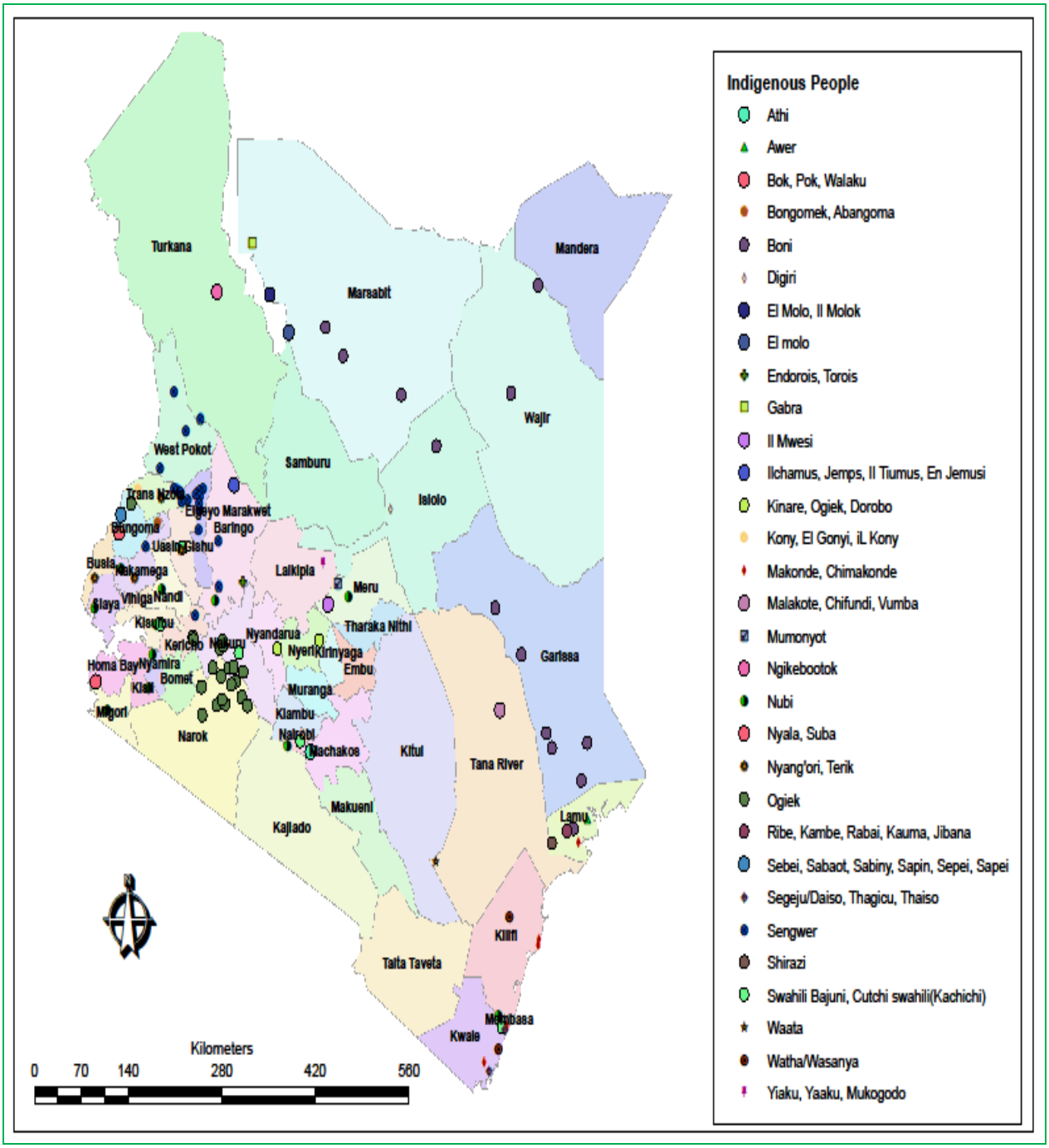

Figure 4. Map showing locations of Vulnerable and Marginalized Groups as per the CoK

5 POTENTIAL POSITIVE AND NEGATIVE IMPACTS OF GPE ON VULNERABLE & MARGINALISED GROUPS

Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected vulnerable and marginalized communities given their distinct circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to other social groups in the communities, regions, or national societies in which they live. The potential beneficial impacts of the GPE proposed project to the vulnerable and marginalised communities include among others:

5.1 Potential Beneficial Impacts

The project activities are aligned with the Government's strategic objective of providing quality basic education for Kenya's sustainable development. Vision 2030 places great emphasis on linking education and labor market, stemming from the need of creating entrepreneurial skills, competences and attitudes. It's critical to build the foundational learning skills on early stages of the education development.

The GPE financed project, taking on two result areas of early grade learning competencies and strengthening systems for service delivery, responds directly to all the NESP target areas.

The project is well aligned with the GPE goals of (i) ensuring that all children master basic literacy and numeracy by early grades and (ii) building national systems that have capacity and integrity to deliver, support and assess education quality education.

The project is also in line with the GPE focus that resources be targeted to the most marginalized groups, including schools with children with disabilities, schools in rural and nomadic communities in the ASAL with low female enrolment as well as schools in urban poor settlements.

Increased readiness to learn before Grade 1: although the two years before Grade 1 known as pre-primary classes are guided by the early childhood development policy of 2006 which emphasizes the principle of holistic development, in practice, public schools do not have well developed early-childhood services for children under the age of 6 years. Teaching is focused on formal literacy and numeracy skills meant for early primary education centers, partly because the providers and parents view pre-primary as early formal schooling. Child-centered pedagogical methods including developmental play, socialization and nutrition, would provide a better basis for learning, but only exist in a few private centers more likely to be found in urban areas. Many new County level staff lacks guidance on how to better plan for the above needs.

Enhanced levels of teacher subject mastery and pedagogical competencies: The 2012/13 Service Delivery Indicator (SDI) study found that in Kenya, low content knowledge, teacher absenteeism, and low time on task impact learning outcomes. Based on the representative survey sample, out of every 100 teachers, 55 were in class teaching, 16 were absent, 27 were in school but not teaching and 2 were in class and not teaching. With only two-fifths of Grade 4 teachers mastering the student curriculum for lower primary, the study also found that teachers' content knowledge in Mathematics and English was low. According to the UWEZO report (2010), teacher trainers expressed their inadequacies in teaching mathematics and reading in English at two levels: (a) methodology for training mathematics and reading in English that is, how to teach trainees to teach these subjects, and (b) lack of sufficient content knowledge of the primary school curriculum and how to train teachers to teach basic mathematical concepts and reading in English. This project will enhance the levels of teacher subject mastery and pedagogical competencies

Increase in instructional related resources: Students do not have sufficient books and other learning materials to adequately learn in classrooms. While there is a centrally defined curriculum for primary education, the provision of textbooks is deregulated. Textbooks, once vetted by the Kenya Institute of Curriculum Development, are listed in the Orange Book and sold by the publishers directly to schools. In some cases, books are reaching the schools but then are damaged through usage or taken to be sold at the market. Teacher reference materials are also in very short supply and often non-existent. Low cost materials are being trialed at some schools and offer a promising alternative/addition to the publicly provided books. There is also a serious need to upgrade and make more relevant the curriculum, an activity that is now being initiated in 2014. This will have implications for textbooks and other instructional resources, expected teacher competencies and classroom practice, teacher training and assessment methods;

5.2 Potential Negative Impacts

Adverse project impacts include:

Erosion of traditional languages

The GPE project is expected to use English and Kiswahili and the instructional languages and this may lead to erosion of and loss of vernacular languages among the students in the vulnerable and marginalized areas.

5.3 Proposed Mitigation Measures

A summary of the potential adverse impacts of project investments under GPE on VMGs and possible mitigation actions are highlighted in **table 2** below and should be considered as a guideline in the development of investment specific VMGP in terms of mitigation measures and considerations.

Table 2. Potential Adverse Project Impacts and Mitigation Measures

Impact	*Possible Actions*	*Responsibilities and Issues*
Erosion of Traditional Languages	GPE will promote use of catchment area languages in pre-primary and lower primary level, as guided by the Nomadic Education Act and Basic Education Act. GPE shall consider hiring teachers and facilitators from the local communities who understand the indigenous languages t	Schools receiving of GPE Funds MoEST, TSC and schools receiving funds
Exclusion of Vulnerable groups	GPE to use braille facilities for the case of blind pupils and establishing a curriculum suitable for the blind and the deaf. There will be special consideration for pupils coming from very poor schools through the GPE targeting approach	MoEST

6 FRAMEWORK FOR ENSURING FREE, PRIOR, AND INFORMED CONSULTATION

OP 4.10 requires that a process of free, prior, and informed consultation, with the affected vulnerable and marginalized communities, of the potential adverse and positive effects of the project be designed and used in consultation. It is likely that some of the proposed investments will result in significant adverse impacts for vulnerable and marginalized communities and as such the VMGs should be informed and consulted prior to project implementation.

Free, prior and informed consultation (FPICon), in relation to activities taking place on indigenous lands, refers to a process whereby affected vulnerable and marginalized communities, freely have the choice, based on sufficient information concerning the benefits and disadvantages of the project, of whether and how these activities occur, according to their systems of customary decision making.

This VMGF establishes an appropriate gender and inter-generationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the GPE, and other local civil society organizations (CSOs) identified by the affected Vulnerable and Marginalized Groups.

Free and prior informed consultation of the vulnerable and marginalized communities will be conducted at each stage of the project, and particularly during project preparation, to fully identify their views and ascertain their broad community support for the project in the following ways;-

Box 1. The Elements of Free, Prior and Informed Consultation

- Free – people are able to freely make decisions without coercion, intimidation or manipulation
- Prior – sufficient time is allocated for people to be involved in the decision-making process before key project decisions are made and impacts occur
- Informed – people are fully informed about the project and its potential impacts and benefits, and the various perspectives regarding the project (both positive and negative)
- Consultation – there are effective uses of consultation methodsappropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits.

Adapted from UN Permanent Forum on Indigenous Interests (UNPFII), the Tebtebba Foundation, the International Indian Treaty Council and others.

6.1 Project Investment Screening

Screening of all the GPE project investments will be a mandatory requirement prior to implementation to determine if vulnerable and marginalized people are present because the project investment locations have not yet been identified. Any project investment involving involuntary resettlement, acquisition or physical relocation of VMGs will be avoided at all costs and actually excluded for consideration.

Early in project preparation, screening to determine whether Indigenous Peoples are present in, or have collective attachment to, the project area will be undertaken. In conducting this screening, the technical judgment of qualified social scientists with expertise on the social and cultural groups in the project area will be sought. Consultations with the VMGs concerned and the executing agency will be undertaken. The Government of Kenya's framework for identification of VMGs during project screening will be followed only and only when that framework is consistent with this policy.

However, the projects that are selected may not impact the entire group or it may impact non-vulnerable group living in their midst (several VM groups appear to be dispersed among other ethnic groups). In view of which it is necessary to carefully identify who will be adversely affected by subprojects which may well turn out to be part of a VM group or parts of several different groups only some of which are VM. This will be done during the screening phase of the project implementation.

Box 2. Indigenous Peoples in the Africa Region. Applying OP 4.10 in the Sub-Saharan African context poses significant challenges, the most important of which is determining to whom the policy applies. Many countries in the region are multi-ethnic, with tribal and local affiliations often cutting across geographical boundaries and national identities. Due to migration of peoples and attendant assimilation from inter-marriage, plus centuries of colonialism, the notions of ―place‖ and ―group identity‖ are often unclear. As a result, governments in the region, as well as local groups themselves, have become highly sensitive to applying and using the term Indigenous Peoples. Meanwhile, there are parallel efforts at the global level to officially recognize distinct, vulnerable social and cultural groups. These efforts, while meeting international definitions of Indigenous Peoples, have been difficult to apply in AFR due to increasing disagreements between government and local populations, especially grassroots social organizations and their advocates who support a more inclusive view. In the past, the Bank's Indigenous Peoples Policy has been applied to some of the most marginalized and vulnerable social and cultural groups who date back to pre-colonial times. Bank-financed projects provided social services and livelihood support to groups with relatively small populations who traditionally, and in a few cases still, live by foraging (hunting, gathering, and fishing) and whose claims to land have been routinely rejected by neighboring groups (adapted from World Bank 2011).

6.1.1 Preparation of Social Screening Form

The GPE/PCU recruited social consultants will prepare the screening forms in collaboration with the executing agency for the specific project considered for implementation. A sample screening form is shown in ***annex 1.*** The OP 4.10 of the World Bank suggests "to use the term 'indigenous peoples' in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following characteristics in varying degrees:

- *Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;*
- *Collective attachment to geographically distinct habitats or ancestral territories in the operational area and to the natural resources in these habitats and territories;*
- *Customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and*
- *An indigenous language, often different from the official language of the country or region."*

Therefore, during the screening exercise, even though the GOK has an exhaustive list of VMGs, the above stated definition and characteristics of VMGs according to the Bank will be used to screen and determine if indeed the VMGs on the GOK list meet the threshold and can be considered indigenous. If the results show that there are VMGs in the zone of influence of the proposed sub-project, a Social Assessment (SA) will be planned for those areas.

Screening Criteria: The GPE/PCU Consultants responsible for subproject preparation and implementation will visit all VMGs settlements near the selected subproject areas, which may be affected and influenced by the subproject components. Public meetings will be arranged in selected communities by GPE/PCU with the VMGs and their leaders to provide them information about the subproject and take their views on the subproject.

During this visit, the screening team mentioned above will undertake screening of the VMGs with the help of the community leaders and local authorities. The screening will cover the following aspects:

1. Name(s) of VMGs in the area;
2. Total number of VMGs in the area;
3. Percentage of VMGs to that of total area/locality population
4. Number and percentage of VM households along the zone of influence of the proposed subproject.
5. If so, any alternatives to avoid land acquisition?
6. If no, will this subproject be excluded?
7. Will a VMGPs be required if a subproject passes through any VMG?
8. If no, why?

If the results of the screening indicate the presence of VMGs in the zone of influence of the proposed subproject, a social assessment will be undertaken for those areas.

6.2 Bank Decision on Project Investments

In deciding whether to proceed with the project, GPE Project will ascertain, on the basis of the social assessment and the free, prior, and informed consultation, whether the affected VMGs' provide their broad support to the project. Where there is such support, the GPE/PCU will prepare and submit to the Bank a detailed report (Vulnerable and Marginalized Groups Plan) that documents:

1. The findings of the social assessment;
2. The process of free, prior, and informed consultation with the affected VMGs';
3. Additional measures, including project design modification, that may be required to address adverse effects on the VMGs' and to provide them with culturally appropriate project benefits;
4. Recommendations for free, prior, and informed consultation with and participation by Indigenous Peoples' communities during project implementation, monitoring, and evaluation; and
5. Any formal agreements reached with VMGs' communities and/or the VMGOs.

The Bank reviews the process and the outcome of the consultation carried out by the GPE to satisfy itself that the affected VMGs have provided their broad support to the project. The Bank will pay particular attention to the social assessment and to the record and outcome of the free, prior, and informed consultation with the affected VMGs' as a basis for ascertaining whether there is such support. The Bank will however not proceed further with project processing if it is unable to ascertain that such support exists.

6.2.1 Who Conducts the SA

The social consultants who will be recruited by the GPE/PCU will undertake the social assessment. The SA consultants will provide information on the project and gather relevant information from separate group through meetings: Discussions will focus on sub-Project impacts, positive and negative; and recommendations for design of sub-Project. The social consultants will be responsible for analyzing the SA, and for leading the development of an action plan with the ethnic minority leaders, project engineers and other staff. If the SA indicates that the potential impact of the proposed project will be significantly adverse or that the VMGs rejects the project, the project will not be implemented in that locality; no further action is needed in this case.

7 THE VULNERABLE & MARGINALISED GROUPS PLAN

The constitution of Kenya recognizes a number of communities in various parts of the country and vulnerable and marginalized ***(see table 1 and annex 3)*** but although they may be considered VMGs under GoK's legislation, they also need to meet the Bank's criteria for determining whether they are indigenous. The Bank's policy criteria for determining indigenousness will be used during the social assessment and a determination and evaluation made if the policy will be triggered. If the VMGs support the sub-Project implementation a VMGP will be developed.

This Vulnerable and Marginalized Groups Framework (VMGF) contains specific measures to ensure that the VMGs receive social and economic benefits that are culturally appropriate, including measures to enhance the capacity of the project implementing agencies and other stakeholders. This VMGF calls for the preparation of a VMGP for each project investment screened and determined to be implemented in areas where VMGs are present or have a collective attachment. The Vulnerable and Marginalized Groups Plan (VMGP) will be prepared in a flexible and pragmatic manner, and its level of detail will varies depending on the specific project and the nature of effects to be addressed.

7.1.1 Elements of a Vulnerable and Marginalized Groups Plan

All the VMGPs that will be prepared under the GPE will include the following elements, as needed:

1. A summary of a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples. Baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples' communities, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend.
2. A summary of the social assessment.
3. A summary of results of the free, prior, and informed consultation with the affected VMGs that was carried out during project preparation and that led to broad community support for the project.
4. A framework for ensuring free, prior, and informed consultation with the affected VMGs during project implementation
5. An action plan of measures to ensure that the VMGs receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies.
6. When potential adverse effects on VMGs are identified, appropriate action plans of measures to avoid, minimize, mitigate, or compensate for these adverse effects.
7. The cost estimates and financing plan for the VMGP; each project will bear full cost of assisting and rehabilitating VMGs.
8. Accessible procedures appropriate to the project to address grievances by the affected VMGs arising from project implementation. When designing the grievance procedures,

the borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the VMGs'.

9. Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the VMGP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected VMGs'.

Vulnerable and Marginalized Groups Plan

The action plan will consist of a number of activities and will include mitigation measures of potentially negative impacts, modification of sub-project design, and development assistance. Where there is land acquisition in VMGs, the Project will ensure that their rights will not be violated and that they be compensated for the use of any part of their land in a manner that is culturally acceptable to them.

Table 3.Vulnerable and Marginalized Groups Framework

Issues	Activity	Responsibility	Indicators
Screening	Carry out an inventory of VMGs in the proposed project operation areas	MoEST	
Vulnerable and Marginalized Groups Orientation and Mobilization	Reconnaissance survey Community meetings	MoEST	Population and dynamics of VMPs in screened areas well understood by key players VMGs in all areas identified give broad support for the project
Consultations with Vulnerable and Marginalized Groups	Participatory Rural Appraisals	MoEST	Information from consultations verified by VMGs and VMGOs as correct and a true representation of their needs and priorities
Mapping of community resources critical to VMGs	Baseline Surveys	MoEST	Community transect reports Information from consultations verified by VMGs and VMGOs as correct and a true representation of natural, cultural and social, technical resources critical to their survival
Development of strategies for participation of VMGs and mitigation measures	Social Screening	MoEST	Activities implemented respect the conditions and do not leave the VMGs worse off than they were Activities respect the rights, culture and dignity of the VMGs
Carry out VMGP(s), if the need arises	If the inventory documents that the proposed projects might impact on the indigenous peoples: carry out VMGPs Carry out training and provide backstopping	MoEST	The VMGPs are accepted by the GoK, the World Bank and the VMGs
Capacity Building	Trainings for VMGs and VMPOs	MoEST	VMGs and VMGOs use training to advance their cause
Equitable representation of VMGs in decision making organs	Election of representatives Annual Steering Committee meetings Bi-annual District Level meetings	MoEST	Active participation of VMGs in forums VMGs and M&E indicate that representation is satisfactory to the VMGs

Participatory M&E with VMGs	Internal M&E External M&E	GPE/PCU and VMGOs	M&E reports accessible to VMPs and implementing agencies Mechanism for feedback into VMGF in place and implemented
Training and Capacity Building for implementation of VMGF	Training of VMG Organizations	GPE/PCU	Participants are able to implement VMGF

8 STRATEGY FOR PARTICIPATION & CONSULTATION WITH VULNERABLE & MARGINALISED GROUPS

Participation of VMGs in selection, design and implementation of the subprojects will largely determine the extent to which the VMGP objectives would be achieved. Where adverse impacts are likely, GPE/PCU will undertake prior and informed consultations with the likely affected indigenous communities and those who work with and/or are knowledgeable of indigenous people's development issues and concerns. The primary objectives would be to examine the following:

1) To seek their inputs/feedback to avoid or minimize the potential adverse impacts associated with the required works;
2) Identify culturally appropriate impact mitigation measures; and
3) Assess and adopt economic opportunities, which the EA could promote to complement the measures required to mitigate the adverse impacts.

Consultations will be carried out broadly in two stages. First, prior to final selection of any subproject located in an area inhabited by VMGs, GPE/PCU will consult the VMGs about the need for, and the probable positive and negative impacts associated with the expansion/renovation works. Second, prior to detailed impact assessment, ascertain how the VMGs in general perceive the need for undertaking physical works for the subproject and gather any inputs/feedback they might offer for better outcomes, which would eventually be addressed in VMGPs and design of the physical works.

GPE/PCU will:

1) Facilitate widespread participation of VMGs with adequate gender and generational representation; customary/traditional VMG organizations; community elders/leaders; and civil society organizations VMGs development issues and concerns.

2) Provide them with all relevant information about the subproject, including that on potential adverse impacts, organize and conduct the consultations in manners to ensure free expression of their views and preferences.

3) Document details of all consultation meetings, with VMGs perceptions of the proposed works and the associated impacts, especially the adverse ones; any inputs/feedbacks offered by VMGs; and an account of the conditions agreed with indigenous people.

Consultation stages, probable participants, methods, and expected outcomes are suggested in the VMGs consultation matrix below.

Table 4. VMGs Consultation Matrix

Consultation Stages	Consultation Participants		Consultation	Expected
	Project Authority	**VMGs Community**	**Method**	**Outcome**
Reconnaissance& ground verification of existing and location/sites for projects	GPE/PCU, project consultants (Social Scientist) and other stakeholders	VMGs, including organizations, community leaders/elders	Open meetings &discussions, visit of proposed project sites, IP settlements &surroundings	First-hand assessment of VMGs' perception of potential social benefits and risks
Screening of the proposed projects	GPE/PCU, APs, consultants (Social Scientists) &other stakeholders	VMGs, including likely affected IPs, IP organizations, community leaders/elders, key informants	Open meetings, focus group discussions, spot interviews, etc.	Identification of major impact issues, feed back from VMGs and would-be affected persons
In-depth study of risks and benefits taking into consideration, inter alia the conditions that led to community consensus	GPE/PCU, project consultants (Social Scientist), NGOs / CBOs, other knowledgeable persons	Would-be affected VMGs, VMGs, organizations, Community leaders/elders, key informants	Formal/informal interviews; focus group discussions; hotspot discussion on specific impacts, alternatives, and mitigation; etc.	More concrete view of impact issues & risks, and feedback on possible alternatives and mitigation and development measures
Social Assessment (SA)	GPE/PCU, project consultants (Social Scientist)	Adversely affected individual VMGs,/households	Structured survey Questionnaires covering quantitative & qualitativeinformation	Inputs for VMGP, and identification of issues that could be incorporated into the design of project
Preparation VMGP	GPE/PCU, Project consultants (Social Scientist) and other stakeholders	VMGs, organizations, community leaders/elders, adversely affected VMGs	Group consultations, hotspot discussions, etc.	Preparation of VMGP, and incorporation of SA inputs into engineering design to avoid or minimize adverse impacts, and VMGs development programs
Implementation	GPE/PCU, APs, consultants (Social Scientists) &other stakeholders	Individual VMGs, organizations, community leaders/elders & other stakeholders	Implementation monitoring committees (formal or informal)	Quick resolution of issues, effective implementation of VMGP
Monitoring & Evaluation	GPE/PCU, APs, consultants (Social Scientists), NGOs & CBOs	VMGs organizations/groups and individuals	Formal participation in review and monitoring	Identification & resolution of implementation issues, effectiveness of VMGP

Once the VMGs are identified in the project area, the VMGPs will ensure mitigation of any adverse impact of the project. The project should ensure benefits to the VMGs by providing, in consultation with the VMGs themselves, opportunity to get them involved in various income earning opportunities and activities;

The following issues need to be addressed during the implementation stage of the project;

- Provision of an effective mechanism for monitoring implementation of the VMGF and any VMGPs

- Development of accountability mechanism to ensure the planned benefits of the project are received by indigenous people;
- Involve suitably experienced NGOs to address the VMGs' vulnerability through developing and implementing action plans;
- Ensuring appropriate budgetary allocation of resources for the VMGs' development plans;
- Provision of technical assistance for sustaining the VMGF;
- Ensure that VMGs traditional social organizations, cultural heritage, traditional political and community organizations are protected;

9 GRIEVANCES REDRESS MECHANISM

Even with the best-designed social impact assessments, agreements, engagement programs and risk mitigation strategies, conflicts and disagreements can still occur, in some cases with the potential for rapid escalation. Grievance handling procedures are required to ensure that VMGs are able to lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue. Stakeholders will be informed of the intention to implement the grievance mechanism, and the procedure will be communicated at the time that the VMGPs are finalized.

Vulnerable and marginalized local communities and stakeholders may raise a grievance at all times to the GPE/PCU and the executing agencies about any issues covered in this framework and the application of the framework. The VMGs should be informed about this possibility and contact information of the respective organizations at relevant levels should be made available. These arrangements should be described in the project-specific frameworks and VMGPs along with the more project-specific grievance and conflict resolution mechanism. Many of the factors that may give rise to conflict between VMGs and proposed projects can be a source of conflict with non-VMGs as well. These include, for example:

- *Inadequate engagement or decision-making processes*
- *Inequitable distribution of benefits*
- *Broken promises and unmet expectations of benefits*
- *Failing to generate opportunities for employment, training, supply or community development*
- *Environmental degradation*
- *Disruption to amenity and lifestyle*
- *Loss of livelihood*
- *Violation of human rights*
- *Social dislocation*
- *Historical grievances not being adequately addressed.*

In addition, however, there are some contextual factors that have particular salience for vulnerable and marginalized people and their relations with project investments. For example, a lack of respect (perceived or actual) for indigenous customary rights or culture, history and spirituality, is likely to trigger a strong reaction. Similarly, issues around access to and control of land and the recognition of sovereignty are very important for many VMGs and can lead to serious conflict if they are not handled sensitively and with due respect for the rights of affected groups.

9.1 Overview

A key element during the development of the project investment VMGPs will be the development and implementation of a grievance mechanism. Grievances will be actively managed and tracked to ensure that appropriate resolution and actions are taken. A clear time schedule will be defined for resolving grievances, ensuring that they are addressed in an appropriate and timely manner, with corrective actions being implemented if appropriate and the

complainant being informed of the outcome. The grievance procedure will be simple and will be administered as far as possible, at the project level by the relevant institutions and partners.

The grievance procedure does not replace existing legal processes. Based on consensus, the procedures will seek to resolve issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal actions. If the grievance procedure fails to provide a result, complainants can still seek legal redress bearing in mind that the constitution of the Government of Kenya recognizes the rights of vulnerable and marginalized groups.

9.2 Grievance Redress Process

All sections of the community where a project investment is identified, including those with low levels of literacy, should be able to access the grievances mechanism easily. The GPE/PCU should facilitate access by maintaining and publicizing multiple access points to complaint mechanisms, such as at the project site and in key locations within communities, including downstream and remote communities.

A grievance redress mechanism will be developed for addressing the grievances from the affected VMGs related to project implementation. The procedure of grievance redress will be incorporated in the project information pamphlet to be distributed prior to implementation. Participatory consultation with affected households will be undertaken during project planning and implementation stages.

GPE/PCU will establish a mechanism to receive and facilitate resolution of affected VMGs concerns, complaints, and grievances about the project's safeguards performance at each subproject having VMGs impacts, with assistance from Non-Governmental Organisations (NGO).

9.2.1 Establishment of Grievance Redress Committee

A Grievance Redress Committee will be established at the project area once it has been determined that VMGs are present in an area and that a VMGP is needed. Under the Grievance Redress Mechanism (GRM), a Grievance Redress Committee (GRC) will be formed for each project with involvement of VMGs representative & local stakeholders. The GRC will comprise of the following representatives from the area namely;-

1. County Administrator/
2. Representative from MoEST
3. Representative of CBOs/NGOs active in the area
4. Representative of the VMGs
5. Government ministries representatives
6. Consultants (social specialists)

The GRCs are to be formed and activated during the VMGPs implementation process to allow VMGs sufficient time to lodge complaints and safeguard their recognized interests. Assistance to VMGs will be given to document and record the complaint, and if necessary, provide advocate

services to address the ggrievances. The grievance redress mechanisms is designed with the objective of solving disputes at the earliest possible time which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the law courts for resolution which would otherwise take a considerably longer time.

As is normal practice under customary law, attempts will be made to ensure that all disputes in communities are solved by the traditional leaders via the GRC after a thorough investigation of the facts using the services of his officials. The traditional dispute resolution structures existing for each of the VMGs will be used as the first step in resolving grievances.

Marginalized and vulnerable communities will be provided with a variety of options for communicating issues and concerns, including in writing, orally, by telephone, over the internet or through more informal methods as part of the grievance redress mechanism. In the case of marginalized groups (such as women and young people), a more proactive approach may be needed to ensure that their concerns have been identified and articulated. This will be done, for example, by providing for an independent person to meet periodically with such groups and to act as an intermediary. Where a third party mechanism is part of the procedural approach to handling complaints, one option will be to include women or youth as representatives on the body that deals with grievances. It should be made clear that access to the mechanism is without prejudice to the complainant's right to legal recourse. Prior to the approval of individual VMGPs, all the affected VMGs will have been informed of the process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate access, flexibility and ensure transparency.

How conflicts and disagreements are interpreted and handled is shaped by culture, both indigenous and corporate. For this reason, it is very important that the GPE/PCU understand the cultural preferences that VMGs have for dealing with disputes. Well-designed and executed baseline studies should be used to help to build this understanding.

Before the approval of individual VMGPs all the affected VMGs will have to be informed of the process for expressing dissatisfaction and to seek redress. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate access, flexibility and ensure transparency.

9.2.2 Use of Alternative Dispute Resettlement Mechanisms

The traditional dispute resolution structures existing for each of the MVGs will be used as the first step in resolving grievances. All attempts would be made to settle grievances.

9.2.3 Further Redress-Kenya Court of Law

All the grievances that will not be resolved by the GRC or which the VMGs are dissatisfied with in terms of resolution will be channeled to the existing structures in Kenya for handling grievances which is the Kenyan Courts of Law as the last resort.

9.2.4 Complain Pattern

If a complaint pattern emerges, GPE/PCU and County administrations, with the traditional leaders will discuss possible remediation. The local leaders will be required to give advice

concerning the need for revisions to procedures. Once they agree on necessary and appropriate changes, then a written description of the changed process will be made. GPE/PCU, County administrations and the traditional leaders and representatives will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

In selecting a grievance structure, the VMGs should take into account their customary dispute settlement mechanisms, the availability of judicial recourse and the fact that it should be a structure considered by all stakeholders as an independent and qualified actor.

The aim will be to integrate both indigenous and corporate ways of resolving problems into the complaints mechanism. Systems and procedures must adequately reflect VMGs preferences for direct or indirect interaction, negotiation, debate, dialogue, and application of indigenous traditional management and/or ceremony, with external agents to ensure mutually acceptable processes and outcomes.

Where a project investment is dealing with more than one VMG, there may well be multiple culturally appropriate methods for dealing with problems by different interests. Given the often marked differences between corporate and indigenous cultures, it is highly desirable to utilize processes that focus on dialogue, building cross-cultural understanding and through this, finding mutually agreeable solutions. Such approaches are more equitable and, on a practical level, are more likely to facilitate viable, long-term resolution of community issues and concerns.

9.2.5 Grievance Log

Documentation and Recording

Documentation of complaints and grievances is important, including those that are communicated informally and orally. These should be logged, assessed, assigned to an individual for management, tracked and closed out or "signed off" when resolved, ideally with the complainant(s) being consulted, where appropriate, and informed of the resolution. Records provide a way of understanding patterns and trends in complaints, disputes and grievances over time. While transparency should be maintained – for example, through regular reports on issues raised and rates of resolution – provision should also be made for confidentiality of information or anonymity of the complainant(s) whenever necessary.

A grievance log will be established by the GPE/PCU and copies of the records kept with all the relevant authorities at the County, Sub County and Village level and will be used in monitoring of complaints and grievances.

In each project investment, GPE/PCU will appoint a VMGs/Project Liaison Officer (PLO) who will ensure that each complaint has an individual reference number, and is appropriately tracked and recorded actions are completed. The log also contains a record of the person responsible for an individual complaint, and records dates for the following events:

- *Date the complaint was reported;*
- *Date the grievance log was uploaded onto the project database;*
- *Date information on proposed corrective action sent to complainant (if appropriate);*

- *The date the complaint was closed out; and*
- *Date response was sent to complainant.*

Responding to complaints

Once parties agree on a path forward – such as an apology, compensation or an adjustment to operations – an action plan should be formalized and implemented. Depending on the issue, responses may vary from a single task to a program of work that involves different parts of the operation. Effective responses will also include engagement with parties involved to ensure that the response continues to be appropriate and understood. Communities should also be advised of the close-out of the issue and what has been done to achieve it. This feedback provides an opportunity for GPE to demonstrate that it has addressed the issue as well as confirming that the community considers the response satisfactory and the matter closed.

Understanding root causes

As outlined above, there are many factors that can potentially lead to conflict or disagreement between GPE project investments and communities, both vulnerable and marginalized or otherwise. Although it is not always possible to identify root causes, some issues will warrant deeper analysis in order to better understand the issue and avoid its further escalation. In the absence of a tailored methodology for analyzing community-related disputes and grievances, these methods may be adapted to guide this analysis. Funding will be allocated in during the preparation of each VMGP to support community-based research to highlight the VMGs perspective, which could further provide a deeper understanding of the causes of conflict.

9.2.6 Monitoring Complaints

It is important to collect data on community interactions – from low-level concerns and complaints to ongoing disputes and higher-order grievances – so that patterns can be identified and project management alerted to high-risk issues. Effective monitoring may also help to prevent the escalation of lower-level disputes into more serious conflicts.

Information related to monitoring of the VMGPs will be gathered through various channels, such as formal review, evaluation and analysis or through day-to-day interaction with VMGs. Monitoring will help determine the effectiveness of processes for responding to community concerns; for example, by tracking complaint resolution rates over time. This information can then be used to refine the system and improve the outcomes being achieved. The outcomes of monitoring should be reported formally to the community on a regular basis, in addition to being used for internal management purposes. The VMGs/Project Liaison Officer for each project will be responsible for:

- *Providing the project investment reports detailing the number and status of complaints;*
- *Any outstanding issues to be addressed; and*
- *Monthly reports, including analysis of the type of complaints, levels of complaints, and actions to reduce complaints.*

10 MONITORING AND REPORTING ARRANGEMENTS

10.1 Monitoring and evaluation mechanisms

Monitoring and Evaluation (M&E) are fundamental components of projects involving affected communities. Monitoring should be participatory and include the monitoring of beneficial and adverse impacts on Indigenous peoples within project impact areas. M&E should be based on free, prior and informed consultation with the VMGs who should play an integral role in its implementation. All monitoring activities will principally remain the responsibility of the GPE/PCU and will also be responsible for compiling the data and auditing for completeness of the records.

The overall goal of the M&E process for the Vulnerable and Marginalized Groups Plan is to ensure that:

- *Effective communication and consultation takes place;*
- *Reporting of any grievances that require resolution;*
- *Document the performance of the GPE as regards the VMGs; and allow program managers and participants to evaluate whether the affected VMGs have maintained their rights, culture and dignity and that they are not worse off than they were before the project.*

The specific objectives of evaluation will include:

1. An assessment of the compliance of activities undertaken in relation to the objectives and methods identified in the VMGF;
2. An assessment of the consultation procedures that have taken place at the community and individual level;
3. An assessment on whether the affected communities have had access to mitigation activities;
4. The occurrence of grievances and extent of resolution of disputes;
5. An evaluation of the impact of the Project on income and standard of living within the communities; and
6. Identification of actions that can improve the positive impact of the Project and mitigate potential negative impacts.

The VMGPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. The GPE/PCU will institute an administrative reporting system that will:-

- *Provide timely information about all grievances arising as a result of GPE activities;*

- *Identify any grievances that have not been resolved at a local level and require resolution through the involvement of the GPE/PCU;*
- *Document the timely completion of project obligations for all vulnerable and marginalized peoples grievances;*

The M&E reports for each project investment will be prepared by GPE/PCU each year and presented to VMGs for feedback etc., before being handed over to the VMGF-committees at district or county level for discussion and prepare recommendations on how to fine-tune the VMGP. There will be a project steering committee, which will be established for each project where VMGs are involved and a representative of the VMGs will sit in this committee. The M&E report will be submitted to this committee for review and then submitted to the World Bank.

Every year an independent external evaluation will be carried out to further cross check the quality of and to guarantee that the indigenous peoples' dignity, human rights, economies, and cultures are respected by the GPE, that all decisions which affect any of these are based on the free, prior, and informed consultation with the indigenous peoples, that the indigenous peoples receive social and economic benefits that are culturally appropriate and gender and inter-generationally inclusive, that adverse effects on the indigenous peoples' communities are, as much as possible, avoided, and if this was according to the VMGF project committees not feasible, minimize, mitigate, or compensate in a culturally appropriate manner, based on broad support by the indigenous peoples' communities.

10.1.1 Participatory Impact Monitoring

The monitoring and evaluation of the VMGF implementation as well as the implementation of the projects in the operational areas inhabited by VMGs is an important management tool, which should include arrangements for the free, prior, and informed consultations with the affected VMGs. The implementation of the participatory impact monitoring (PIM) at district or county level will be an important element to assist the various structures to fine-tune their intervention in view to maximize culturally appropriate benefits and provide space for the indigenous peoples' communities to voice their concerns.

The PIM will be based on the data gathered by the screening process/social assessments, the organizations of the VMGs, the relevant governmental structures (lands, forests, development and social) at county or district level etc. The organizations representing the VMGs will play a key role as facilitator of the PIM process and the selection of the facilitators will be the decision of the communities, but it is advised to choose people who are able to elaborate on the basis of the PIM reports, which reflect the situation on the ground in a transparent and plausible way.

Table 5. Monitoring and Evaluation Indicators for GPE/VMGF

Issues	Indicator	Responsibility	Data Sources
Capacity Building for implementation of VMGF	Number of individuals & institutions trained	GPE/PCU	Training workshops reports
Vulnerable and Marginalized Groups Orientation and Mobilization	Number of VMGs meetings; Number of VMGs sensitized	GPE/PCU Vulnerable and Marginalized Groups Organizations/Elders	Reconnaissance survey reports Community meeting reports
Consultations with Vulnerable and Marginalized Groups:	Number of PRA/RRA Attendance of PRA/RRA PRA reports acceptable to VMGs	GPE/PCU Vulnerable and Marginalized Groups Organizations	RRA reports PRA reports
Mapping of community resources critical to VMGs	Level of VP participation Reports verified and accepted by VMGs	GPE/PCU Vulnerable and Marginalized Groups Organizations	Baseline survey reports Community transect reports
Development of strategies for participation of VMGs and mitigation measures	Number of projects passed by social screening Number of projects implemented	GPE/PCU Vulnerable and Marginalized Groups Organizations	GPE reports
Capacity Building	Types of training Number of Trainings Attendance by VMGs	GPE/PCU Vulnerable and Marginalized Groups Organizations	Training reports
Equitable representation of VMG in decision making organs	Number of meetings attended by VMG representatives Number and types of VMGs issues articulated	GPE/PCU Vulnerable and Marginalized Groups Organizations	District Level and National Steering Committee reports VMGO reports
Participatory M&E with VMG	Internal M&E External M&E	GPE/PCU Vulnerable and Marginalized Groups Organizations	

11 DISCLOSURE ARRANGEMENTS FOR VMGPs

11.1 Communication framework

MoEST is the principal implementing institution for this project and will also be responsible for day-to-day implementation (project management, financial management, procurement, disbursement, monitoring, including environmental and social aspects of the project etc.) for all components.

In regard to ensuring compliance with the banks' safeguards, the GPE/PCU will recruit social safeguard consultants. These specialists will provide technical support and ensure compliance with the VMGF by coordinating and working with the executing institutions in the GPE. This communication framework elaborates principles, strategies and structures on how the GPE and the affected VMGs should interact at each stage of project preparation and implementation to satisfy the criteria of free, prior and informed consultations.

11.2 Disclosure

This VMGF and project VMGPs will be made available to the affected VMGs in an appropriate form, manner, and language. The Bank will make the documents available to the public in accordance with Bank Policy on Disclosure of Information, and the GOK will also make the documents available to the affected communities in the same manner as the earlier draft documents.

Each VMGP will be disclosed to the affected VMG with detailed information of the subproject. This will be done through public consultation and made available as brochures, leaflets, or booklets, using local languages. Summary of the VMGP will be made available in hard copies and in language at: (i) Offices of the EA; (ii) District or County Office; and (iv) any other local level public offices. Electronic versions of the framework as well as the VMGPs will be placed on the official website of the EA and MoEST and the official website of Bank after approval and endorsement of the VMGF and each VMGP by the Bank.

11.3 Roles and Responsibilities

11.3.1 GPE/PCU

GPE/PCU specifically the environment and social safeguard specialists will remain responsible for:

- *Screening for projects affecting Vulnerable and Marginalized Groups;*
- *Review and approve project proposals, ensuring that they adequately apply the World Bank's Indigenous Peoples Policy;*
- *Assess the adequacy of the assessment of project impacts and the proposed measures to address issues pertaining to affected indigenous communities. When doing so project activities, impacts and social risks, circumstances of the affected indigenous communities, and the capacity of the applicant to implement the measures should be assessed. If the risks or complexity of particular issues*

- *Assess the adequacy of the consultation process and the affected indigenous communities' broad support to the project—and not provide funding until such broad support has been ascertained; and*
- *Monitor project implementation, and include constraints and lessons learned concerning VMGs and the application of this VMGF in its progress and monitoring reports; it should be assured that affected indigenous communities are included in monitoring and evaluation exercises*

11.3.2 World Bank

The Bank will receive all the VMGPs prepared and review and provide a No Objection or otherwise prior to project implementation. During appraisal, the bank will also conduct field monitoring and evaluation.

12 REFERENCES

1. Anderson,Dave (2002)Eroding the Commons: The Politics of Ecology in Baringo,Kenya, 1890-1963; James Currey.
2. Anonymous (2001). Ogiek: Evicted and displaced. Nomadic News 2001(1):17.
3. Anonymous (n.J.) The Okiek of Kenya. http://www.ogiek.org/indepth/Okiek.pdf.
4. African Commission's Working Group of Experts on Indigenous Populations & Communities ACHPR 2005: 114).
5. Blackburn, R. (1974) The Okiek and their History, Azania vol 9:132-153.
6. Blackburn, R. (1976) Okiek history. In B. A. Ogot (ed.), Kenya before 1900. Nairobi: East African Publishing House.
7. Blackburn, R. (1982) in the land of milk and honey. In E. B. Leacock and R. B. Lee (eds.), Politics and history in band societies, pp. 283-305. Cambridge: Cambridge University Press.
8. Coldham, S. 1978. The effect of registration of title upon customary land rights in Kenya, J. African Law, 22(2): 91 - 111.
9. Constitution of Republic of Kenya, 2010
10. Francis, Paul &Amuyunzu-Nyamongo, Mary (2005) Bitter harvest: The social costs of state failure in rural Kenya. Paper presented at the workshop "New Frontiers of Social Policy: Development in a Globalizing World" Arusha/Tanzania12th-15thof December,2005.
11. ERMIS Africa Ethnographic Survey of Marginalized Groups, 2005-2012
12. Gloor,Rolf (1986) IlChamus-Njemps;Zetzwil,Switzerland:Schüch-Verlag, 1986
13. Gloor, Rolf (1986) Il Chamus - Njemps; Zetzwil, Switzerland: Schüch-Verlag, 1986
14. Government of Kenya, 2012, Land Act, Government Printers
15. Government of Kenya Kenya's Vision 2030
16. Huntingford, G. W. B. (1929). Modern hunters: some account of the Kamelilo-KapchepkendiDorobo (Okiek) of Kenya colony. Journal of the Royal Anthropological Institute 59:333-76.
17. Huntingford, G. W. B. (1954). The political organization of the Dorobo. Anthropos 49:123-48.
18. World Bank Indigenous Peoples Policy OP. 4.10
19. World Bank Country Partnership Strategy (CPS) for Kenya (March 2010-2012).
20. World Bank 2011, Implementation of the World Bank's Indigenous Peoples Policy A Learning Review (FY 2006-2008)
21. UN Human Rights and Indigenous Issues: 92
22. Organization for the Development of Lamu Communities

13 ANNEX

13.1 Annex 1-Social Screening Form

This form/checklist will be filled by GPE/PCU Team

SOCIAL SCREENING FORM FOR GPE ACTIVITIES	
A. BACKGROUND INFORMATION	
A 1. Type/description/justification of proposed activity	
A 2. Location of activity	
A3. Duration of activity	
A 4. Focal point and person for activity	
B. EXPECTED BENEFITS	
B1. Benefits for local people	
B2. Benefits to Vulnerable and Marginalized Groups (VMGs)	
B3. Total Number of expected beneficiaries	
B4. Total Number of expected Vulnerable and Marginalized Peoples beneficiaries	
B5. Ratio of B4 and B5; Are benefits distributed equitably?	□ YES □ NO If NO state remedial measures
C. POTENTIAL ADVERSE SOCIAL IMPACTS	
C1. Will activity entail restriction of access of VMP to lands and related natural resources	□YES □NO If yes exclude from project
C2. Will activity entail commercial development of natural and cultural resources critical to VMGs	□YES □NO If yes exclude from project
C3. Will activity entail physical relocation of Vulnerable and Marginalized Peoples □YES □NO If yes exclude from project	□YES □NO If yes exclude from project
D. CONSULTATION WITH IP	
D1. Has VMP orientation to project been done for this group?	□YES □NO
D2. Has PRA/RRA been done in this area?	□YES □NO
D3. Did the VMP give broad support for project	□YES □NO

Prepared by: _____ Verified by: _____

Date: _____ Date: _____

Note: Attach sketch maps, PRA/RRA results and other relevant documents.

13.2 Annex 2- Contents Vulnerable and Marginalized Groups Framework

OP 4.10, Indigenous Peoples Planning Framework	**These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.**

1. The Indigenous Peoples Planning Framework (IPPF) sets out:

(a) The types of programs and subprojects likely to be proposed for financing under the project.

(b) The potential positive and adverse effects of such programs or subprojects on Indigenous Peoples.

(c) A plan for carrying out the social assessment for such programs or subprojects.

(d) A framework for ensuring free, prior, and informed consultation with the affected Indigenous Peoples' communities at each stage of project preparation and implementation (see paragraph 10 of this policy).

(e) Institutional arrangements (including capacity building where necessary) for screening project-supported activities, evaluating their effects on Indigenous Peoples, preparing IPPs, and addressing any grievances.

(f) Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate to the project.

(g) Disclosure arrangements for IPPs to be prepared under the IPPF

13.3 Annex 3-Contents of Vulnerable and Marginalized Groups Plan (VMGP), OP 4.10

Indigenous Peoples Development Plan
Prerequisites
Prerequisites of a successful development plan for indigenous peoples are as follows:

(a) The key step in project design is the preparation of a culturally appropriate development plan based on full consideration of the options preferred by the indigenous people affected by the project.

(b) Studies should make all efforts to *anticipate adverse trends* likely to be induced by the project and develop the means to avoid or mitigate harm.

(c) The institutions responsible for government interaction with indigenous peoples should possess the social, technical, and legal skills needed for carrying out the proposed development activities. Implementation arrangements should be kept simple. They should normally involve appropriate existing institutions, local organizations, and nongovernmental organizations (NGOs) with expertise in matters relating to indigenous peoples.

(d) Local patterns of social organization, religious beliefs, and resource use should be taken into account in the plan's design.

(e) Development activities should support production systems that are well adapted to the needs and environment of indigenous peoples, and should help production systems under stress to attain sustainable levels.

(f) The plan should avoid creating or aggravating the dependency of indigenous people on project entities. Planning should encourage early handover of project management to local people. As needed, the plan should include general education and training in management skills for indigenous people from the onset of the project.

(g) Successful planning for indigenous peoples frequently requires long lead times, as well as arrangements for extended follow-up. Remote or neglected areas where little previous experience is available often require additional research and pilot programs to fine-tune development proposals.

(h) Where effective programs are already functioning, Bank support can take the form of incremental funding to strengthen them rather than the development of entirely new programs.

Contents of VMGP
The development plan should be prepared in tandem with the preparation of the main investment. In many cases, proper protection of the rights of indigenous people will require the implementation of special project components that may lie outside the primary project's objectives. These components can include activities related to health and nutrition, productive infrastructure, linguistic and cultural preservation, entitlement to natural resources, and education. The project component for indigenous people's development should include the following elements, as needed:

(a) *Legal Framework.* The plan should contain an assessment of (i) the legal status of the groups covered by this OD, as reflected in the country's constitution, legislation, and subsidiary legislation (regulations, administrative orders, etc.); and (ii) the ability of such groups to obtain access to and effectively use the legal system to defend their rights. Particular attention should be given to the rights of indigenous peoples to use and develop the lands that they occupy, to be protected against illegal intruders, and to have access to natural resources (such as forests, wildlife) vital to their subsistence and reproduction.

(b) *Baseline Data.* Baseline data should include (i) accurate, up-to-date maps and aerial photographs of the area of project influence and the areas inhabited by indigenous peoples; (ii) analysis of the social structure and income sources of the population; (iii) inventories of the resources that indigenous people use and technical data on their production systems; and (iv) the relationship of indigenous peoples to other local and national groups. It is particularly important that baseline studies capture the full range of production and marketing activities in which indigenous people are engaged. Site visits by qualified social and technical experts should verify and update secondary sources.

(c) *Land Tenure.* When local legislation needs strengthening, the Bank should offer to advise and assist the borrower in establishing legal recognition of the customary or traditional land tenure systems of indigenous peoples. Where the traditional lands of indigenous peoples have been brought by law into the domain of the state and where it is inappropriate to convert traditional rights into those of legal ownership, alternative arrangements should be implemented to grant long-term, renewable rights of custodianship and use to indigenous peoples. These steps should be taken before the initiation of other planning steps that may be contingent on recognized land titles.

(d) *Strategy for Local Participation.* Mechanisms should be devised and maintained for participation by indigenous people in decision-making throughout project planning, implementation, and evaluation. Many of the larger groups of indigenous people have their own representative organizations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilizing people and should be brought into the planning process, with due concern for ensuring genuine representation of the indigenous population.No foolproof methods exist, however, to guarantee full local-level participation. Sociological and technical advice provided through the regional environment divisions (REDs) is often needed to develop mechanisms appropriate for the project area.

(e) *Technical Identification of Development or Mitigation Activities.* Technical proposals should proceed from on-site research by qualified professionals acceptable to the Bank. Detailed descriptions should be prepared and appraised for such proposed services as education, training, health, credit, and legal assistance. Technical descriptions should be included for the planned investments in productive infrastructure. Plans that draw upon indigenous knowledge are often more successful than those introducing entirely new principles and institutions. For example, the potential contribution of traditional health providers should be considered in planning delivery systems for health care.

(f) *Institutional Capacity.* The government institutions assigned responsibility for indigenous peoples are often weak. Assessing the track record, capabilities, and needs of those institutions is a fundamental requirement. Organizational issues that need to be addressed through Bank assistance are the (i) availability of funds for investments and field operations; (ii) adequacy of experienced professional staff; (iii) ability of Indigenous Peoples' own organizations, local administration authorities, and local NGOs to interact with specialized government institutions; (iv) ability of the executing agency to mobilize other agencies involved in the plan's implementation; and (v) adequacy of field presence.

(g) *Implementation Schedule.* Components should include an implementation schedule with benchmarks by which progress can be measured at appropriate intervals. Pilot programs are often needed to provide planning information for phasing the project component for indigenous peoples with the main investment. The plan should pursue the long-term sustainability of project activities subsequent to completion of disbursement.

(h) *Monitoring and Evaluation.* Independent monitoring capacities are usually needed when the institutions responsible for indigenous populations have weak management histories. Monitoring by representatives of Indigenous Peoples' own organizations can be an efficient way for the project management to absorb the perspectives of indigenous beneficiaries and is encouraged by the Bank. Monitoring units should be staffed by experienced social science professionals, and reporting formats and schedules appropriate to the project's needs should be established. Monitoring and evaluation reports should be reviewed jointly by the senior management of the implementing agency and by the Bank. The evaluation reports should be made available to the public.

(i) *Cost Estimates and Financing Plan*. The plan should include detailed cost estimates for planned activities and investments. The estimates should be broken down into unit costs by project year and linked to a financing plan. Such programs as revolving credit funds that provide indigenous people with investment pools should indicate their accounting procedures and mechanisms for financial transfer and replenishment. It is usually helpful to have as high a share as possible of direct financial participation by the Bank in project components dealing with indigenous peoples.

13.4 ANNEX 4: SAMPLE TERMS OF REFERENCE FOR DEVELOPING A VMGP

A. Executive Summary of the Vulnerable and Marginalized Groups Plan

2. This section should concisely describe the critical facts, significant findings, and recommended actions.

B. Description of the Project/Background Information
3. This section provides a general description of the project; discusses project components and activities that may bring impacts on indigenous people; and identify project area.

The ToR should provide pertinent background for preparing the VMGP. This would include a brief description of:

- Statement of the project objectives,
- Implementing agency/sponsor and their requirements for conducting a VMGP,
- Project components, especially those that will finance subprojects;
- Anticipated types of subprojects/components, and what types will not be financed by the project;
- Ares of influence to be assessed (description plus good map)
- Summary of environmental/social setting
- Applicable Bank safeguards policies, and consequent Project preparation requirements.

The ToR should also include a brief history of the project, including alternatives considered, its current status and timetable, and the identities of any associated projects. Also include a description of other project preparation activities underway (e.g., legal analysis, institutional analysis, social assessment, baseline study).

C. Social Impact Assessment
4. This section should among others entail:
(i) Review of the legal and institutional framework applicable to indigenous people in the project context

(ii) Provide baseline information on the demographic, social, cultural, and political characteristics of the affected Vulnerable and Marginalized Groups (VMGs); the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.

(iii) Identify key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with VMGs at each stage of project preparation and implementation, taking the review and baseline information into account.

(iv) Assess, based on meaningful consultation with the affected indigenous people's communities, the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected indigenous people's communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to those available to other social groups in the communities, regions, or national societies in which they live.

(v) Include a gender-sensitive assessment of the affected VMGs perceptions about the project and its impact on their social, economic, and cultural status.

(vi) identify and recommend, based on meaningful consultation with the affected indigenous peoples communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the indigenous peoples receive culturally appropriate benefits under the project.

Information Disclosure, Consultation and Participation

5. This section of the ToR should:

(i) Describe the information disclosure, consultation and participation process with the affected VMGs that was carried out during project preparation;

(ii) Summarize their comments on the results of the social impact assessment and identifies concerns raised during consultation and how these have been addressed in project design;

(iii) in the case of project activities requiring broad community support, document the process and outcome of consultations with affected indigenous people's communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities;

(iv) (iv) Describe consultation and participation mechanisms to be used during implementation to ensure indigenous people's participation during implementation; and

(v) Confirm disclosure of the draft and final VMGP to the affected VMGs.

E. Beneficial Measures

6. This section should describe and specify the measures to ensure that the VMGs receive social and economic benefits that are culturally appropriate, and gender responsive.

F. Mitigation Measures

7. This section should specify the measures to avoid adverse impacts on indigenous people; and where the avoidance is impossible, specifies the measures to minimize mitigate and compensate for identified unavoidable adverse impacts for each affected indigenous people groups.

G. Capacity Building

8. This section should provide measures to strengthen the social, legal, and technical capabilities of (a) government institutions to address indigenous people's issues in the project area; and (b)indigenous people's organizations in the project area to enable them to represent the affected indigenous peoples more effectively.

H. Grievance Redress Mechanism

9. This section should describe the procedures to redress grievances by affected indigenous people's communities. It also explains how the procedures are accessible to VMGs and culturally appropriate and gender sensitive.

I. Monitoring, Reporting and Evaluation

10. This section should describe the mechanisms and benchmarks appropriate to the project for monitoring, and evaluating the implementation of the VMGP. It also specifies arrangements for

participation of affected indigenous people in the preparation and validation of monitoring, and evaluation reports.

J. Consulting Team

11. The general skills required of VMGP team are: Social Specialist or Anthropologist, Stakeholder engagement specialist, Community Development expert.

K. Services, Facilities and Materials to be provided by the Client

The ToR should specify what services, facilities and materials will be provided to the Consultant by the World Bank and the Borrower, for example:

- The Project ISDS and draft PAD;
- Relevant background documentation and studies;
- Example VMGPs that demonstrate best practice, especially from the region or country;
- Making all necessary arrangements for facilitating the work of the Consultant and to provide access to government authorities, other Project stakeholders, and Project sites.

L. Schedule and Deliverables

Specify dates for the consultancy deliverables (e.g. detailed work plan within 2 weeks, interim report within 7 weeks, and final draft report within 10 weeks of contract signature), and the overall duration of the consultancy (e.g. 15 weeks from contract signature).

M. Technical Proposal Contents

The ToR should require a technical proposal that at least:

- Demonstrates that the Consultant understands the overall scope and nature of the VMGP preparation work, and what will be required to respond satisfactorily to each component of the ToR;
- Demonstrates that the Consultant and his proposed team have relevant and appropriate experience to carry out all components of the ToR. Detailed curriculum vitae for each team member must be included;
- Describes the overall methodology for carrying out each component of the ToR, including desk and field studies, and data collection and analysis methods; and
- Provides an initial plan of work, outputs, and staff assignments with levels of effort by task.

N. Budget and Payments

The ToR should indicate if there is a budget ceiling for the consultancy. The ToR should specify the payment schedule (e.g. 10% on contract signature, 10% on delivery of detailed work plan, 40% on delivery of interim report, 30% on delivery of final draft VMGP, 10% on delivery of final VMGP).

0. Other Information

Include here lists of data sources, project background reports and studies, relevant publications, and other items to which the consultant's attention should be directed.

13.5 Annex 5; Sample Fact Sheet for VMGPs; VMGP Review – Fact Sheet for VMGPs

This form/checklist will be filled by GPE/PCU Team and World Bank as part of review and monitoring

[Country] – [Project ID #] – [Project Name]

Last Update: [11/20/ 2008] **A.**	**PROJECT DATA AND RECOMMENDED ACTIONS**
Reviewer:	**Date of Mission:**
Country:	Project Loan Amount:
Project title:	Total Project Cost:
Project ID:	Appraisal Date:
IPP #:	Effectiveness Date:
Task Manager:	Closing Date:
Environment Spec.	Last PSR/ISR
Social Spec.	
MTR	Last Aide Memoire
REVIEW SUMMARY (Based on Desk and Field Review) **Issues / Observations** **Proposed Actions (short term / long term, for TTL, SD, etc.)**	
B. SAFEGUARD IDENTIFICATION AND COMPLIANCE AT PREPARATION	
1 Environmental Safeguard Classification:	
2 Safeguard Policies Triggered at Preparation According to the ISDS, EDS, ESDS, PAD: **Applicable** **Source**	
Environmental Assessment (OP/BP 4.01)	
Natural Habitats (OP/GP 4.04)	
Forestry (OP 4.36)	
Pest Management (OP 4.09)	
Cultural Property (OP 4.11) – OPN 11.03	
Indigenous Peoples (OP 4.10)	
Safety of Dams (OP/BP 4.37)	
Projects in Disputed Areas (OP/BP 7.60)	
Involuntary Resettlement (OP 4.12) – OD 4.30	
Projects on International Waterways (OP/BP 7.50)	
3 Project Objective and Components **Project Objectives** **Project Description**	
4 Social Safeguard Triggers: Are there any social safeguard policies, which should have been triggered but were not?	
C. SOCIAL MANAGEMENT PLANS AT PREPARATION	
This review is based on IPP PAD SA RAP ISDS (check all that applies)	
SCREENING	
Have all IP groups in project area been identified (is screening by the Bank adequate)?	
SOCIAL ASSESSMENT	
Has a social assessment taken place (is baseline data given)? Provide summary of social assessment.	
Has the legal framework regarding IPs been described?	
Have benefits/ adverse impacts to IP groups been identified?	

CONSULTATION, PARTICIPATION, COMMUNITY SUPPORT
Have IPs been involved in free, prior and informed consultation (at the project's preparation stage)? Are there any records of consultations? Is there a description of steps for increasing IPs participation during the project implementation?
Does the project have verifiable broad community support (and how has it dealt with the issue of community representation)?
Is there a framework for consultation with IPs during the project implementation?
INDIGENOUS PEOPLES PLAN
Is there a specific action plan (implementation schedule)?
Does the IPP include activities that benefit IP?
Are activities culturally appropriate?
Have institutional arrangements for IPP been described?
Is there a separate budget earmarked for IPP?
Are there specific monitoring indicators? If yes, are these monitoring indicators disaggregated by ethnicity?
Has a complaint/conflict resolution mechanism been outlined?
Disclosure: Were IPP/IPPF disclosed at the *Infoshop*? Y / N **Was IPP/IPPF disclosed in Country and in a form and language accessible to IPs? Y / N** **What's missing: _____**
SPECIAL CONSIDERATIONS
If applicable, what considerations have been given to the recognition of the rights to lands and natural resources of IPs
If applicable, what considerations have been given to the IP sharing of benefits in the commercial development of natural and cultural resources?
Does the project involve the physical relocation of IPs (and have they formally agreed to it)? If yes, has the project prepared a resettlement instrument (resettlement policy framework, process framework, resettlement action plan)?
D. IMPLEMENTATION AND SUPERVISION (Based on initial desk review and verified by field assessment)
1 Social Safeguards
1.1 **Have issues (anticipated and unexpected) been monitored and reported systematically in Aide Memoires and ISRs? Have appropriate actions been taken?**
1.2 **Were social specialists included in supervision missions and how often?**
1.3 **What are the project impacts on IPs culture, livelihoods and social organization?**
1.4 **In terms of consultation process, are there ongoing consultations with the IP communities? Are there records of carried out consultations?**
1.5 **Have any social risks been identified? Have appropriate risk management strategies/actions been recommended to the Borrower?**
1.6 **Are IPOs (beyond the community level) actively engaged throughout the life of the project?**
1.7 **Does the project contribute to the respect of IP rights as recognized by the country's legal and policy systems?**
2 **Effectiveness**
2.1 **Are IPPF and/or IPP implemented satisfactorily? Are they effective? Is funding adequate?**

2.2 **In relation to the implementation of IPPF/ IPP, were problems identified, if any? If yes, how were they resolved by the Borrower?**
Effectiveness of Monitoring Program
3.1 **Has the monitoring program been adequately supervised? Are performance indicators effective?**
3 **Effectiveness of Institutional Responsibilities/Training as outlined in the project documents**
4 **Effectiveness of relevant Legal Covenants:** Is compliance with legal covenants being adequately supervised?
E. SITE VISIT(s) - Date - Location
1.1 **Activity**
1.2 **Observations**
F. OVERALL ASSESSMENT (including desk and field reviews)
1 Overall Assessment and Risk Rating
1.1 **To what extent is the OP4.10 relevant in delivering effective development to IP?**
1.2 **To what extent has OP4.10 (and previously OD4.20) been applied and how?**
1.3 **To what extent has OP4.10 been efficacious (cost effective) in achieving its objectives?**
2 Recommendations
3.1 **Project specific**
3.2 **Country / Program specific**
3 *List of Attachments* - *Key People Met* - *photos* -etc.
G. FEEDBACK FROM TTL / SD - Date of feedback received

13.6 Annex 6; Three Point Rank Order System for VMGPs

This form/checklist will be filled by GPE/PCU Team and World Bank as part of review and monitoring

Criterion	Points	Explanation
Screening		
1. Have all IP groups in project area been identified (is screening adequate)?	0	Not stated
	0.5	The names of some groups have been mentioned; baseline survey has been proposed; Aggregates all groups together
	1	Detailed description of all indigenous groups is given
Social Assessment		
2. Has a social assessment been done (Is baseline data given)?	0	Not stated
	0.5	Proposed to collect all relevant data - no specifics; data briefly stated; or not updated, data not disaggregated
	1	Disaggregated population data of IP; relevant socio-economic indicators have been stated; data that needs to be collected are listed;
3. Has legal framework been described?	0	Not stated
	0.5	Brief mention of framework given
	1	Constitutional provisions, legal statutes and government programs in relevant sectors related to indigenous peoples stated
Have benefits/ adverse impacts to IP groups been identified?	0	Not Discussed
	0.5	Potential impacts have been briefly discussed
	1	Potential positive and negative impacts identified and discussed
Consultation, Participation, Community Support		
Have IP been involved in free, prior and informed consultation at the project implementation stage? Are there any records of consultation?	0	Not determinable
	0.5	Brief mention that consultations have taken place; no details provided
	1	Detailed description of process given; appropriate methods used, interlocutors are representative
Does project have verifiable broad community support (and how has it dealt with the issue of community representation)?	0	Not stated
	0.5	States that IP groups will be involved in preparing village/community action plans; participation process briefly discussed
	1	Detailed description of participation strategy and action steps given
7. Is there a framework for consultation with IPs during the project implementation?	0	No
	0.5	Passing mention
	1	Detailed arrangements
Indigenous People Plan		
8. Is there a specific plan (implementation schedule)?	0	Not stated
	0.5	Flexible time frame (activities need to be proposed); given activity wise; year-wise distribution; mentioned but integrated into another project document (RAP, etc.); no separate treatment; combined with RAP;

	1	Detailed description given
9. Does the IPP/IPDP include activities that benefit IP	0	Not stated
	0.5	Activities stated but not detailed
	1	Activities clearly specify
10. Are activities culturally appropriate?	0	Not stated
	0.5	Cultural concerns noted but not explicit
	1	Activities support cultural norms
11. Have institutional arrangements for IPP been described?	0	Not stated
	0.5	Mentioned but integrated into another project document RAP, etc.); no separate treatment
	1	Detailed description of agencies involved in implementation of plan, including applicable IPO's or tribal organizations.
12. Is a separate budget earmarked for IPP?	0	Not stated
	0.5	Mentioned but integrated into another project document (RAP, etc.); not broken down activity-wise
	1	Detailed description given
Are there specific monitoring indicators?	0	Not mentioned
	0.5	Proposed that monitoring indicators shall be designed later; Project outcomes that need to be monitored are stated
	1	Monitoring indicators disaggregated by ethnicity
Has a complaint/conflict resolution mechanism been outlined?	0	Not mentioned
	0.5	Passing mention of mechanism in document
	1	Detailed description and few concrete steps of mechanism given
Were the Indigenous Peoples Plan or Framework (IPP/IPPF) disclosed in Infoshop and in Country in an appropriate language?	0	No
	0.5	Disclosed in Infoshop
	1	Detailed Summary in appropriate form, manner and language
Special Considerations		
If applicable, what considerations have been given to the recognition of the rights to lands and natural resources of IPs?	0	None
	0.5	Passing mention
	1	Detailed considerations
17. If applicable, what considerations have been given to the IP sharing of benefits in the commercial development of natural and cultural resources?	0	None
	0.5	Passing mention
	1	Detailed considerations
18. Does the project involve the physical relocation of IPs (and have they formally agreed to it)?	0	No resettlement unless with their prior consent
	0.5	Only within traditional lands or territories
	1	Yes, physical relocation outside their traditional territories with no compensation or consent

13.7 Annex 7- Profile of Vulnerable and Marginalized Groups in Kenya

The Constitution of Kenya has established a list of all the vulnerable and marginalized groups in Kenya and they are described below. Although they may be considered as VMGs under GoK's legislation, they also need to meet the Bank's criteria for determining whether they are indigenous. Given that this topic is currently under discussion, the framework document describes what groups GoK recognizes as vulnerable and marginalized and the Bank's policy criteria for determining indigenousness - through the social assessment at the subproject an evaluation is made if the policy will be triggered

13.7.1 Sengwer

The Sengwer live in the three administrative districts of Marakwet, West Pokot and Trans Nzoia in and along Cherangany Hills. They are estimated to be 50,000 (30,000 of them live in their traditional territories and another 20,000 in the diaspora). The Sengwer in Kapenguria and Kesogon hold the total population of the Sengwer at 70,000. They lived by hunting and bee keeping**.**In his evidence before the 1932 Kenyan Land Commission, Mr. C.H. Kirk, stated how they used to go over Cherengany shooting and the only peoples with whom they came into contact along Cherengany Hills were the Cherengany Dorobo, a small tribe of Dorobo (Sengwer). The Sengwer in diaspora are spread in and out of Kenya living amongst Maasai (Kenya and Uganda), Pokot (Uganda and Kenya), Sabiny (Uganda), Luhya (Sirikwa Mpai, Apa Sengeli), Tugen, Ogiek, Kipsigis, Nandi, Marakwet, Keiyo, Sabaot (Kiptum 2006).

Oralhistory traces the history of the Sengwer back to a man called Sengwer, who isconsidered to be the mythical first inhabitant of the Cherangany hills. It is said thathe had two sons named Sirikwa (elder) and Mitia, whose children formed the clans: Kapchepororwo, Kapchepar (Kaptoyoi), Kapumpo, Kaptogom, Kapcherop, Kakisango,Kimarich (Kamosus), Kapsormei (Kapseto), Kapteteke, Kipsirat,Kamengetiony (Kopoch & Kapkotet), Kaplema and Kamesieu. Each patrilineage issaid to have had their portion of land running from the highlands to the plains. The elders said that before the advent of the colonialists, the Sengwer lived during the rainy season in the vast plains of what is today Trans-Nzoia and during the dry season in the forest on the mountain slopes of the Cherangany hills. It is said that the Sengwer lived in good relation with their neighbors as they were not competing forthe same resources, but barter honey and dry meat for food crops and/or milk etc.

It is believed that the first Arab slave and ivory hunters came to the area around1600 and oral history claims that the Sengwer have been quite involved into the trade. In exchange for the ivory they were provided with Millet and Sorghum seedlings. During the Maasai immigration they acquired their first cattle, but it is a common belief that hunting and gathering remained the main source of livelihood for all Sengwer until the mid of the last century.

As so many other ethnic minorities, the Sengwer were considered by the British to be served best if they were forced to assimilate with their dominant neighbors. Due to that their traditional structure was not recognized and integrated as independent ethnic group in the system of indirect rule, but as sub-structure of their neighbors. As their land in the plains of Trans Nzoia turned out to be the best area for agricultural production in Kenya, they were displaced entirely from there to makeway for white farmers. A minority stayed behind as farm workers, but the majority went up into the forests of the Cherangany hills. When the government started to protect the water-catchments and forests in the 1920ies and 30ies as forest reserves, they acknowledged the presence of the Sengwer and provided them with all usufructuary rights

for this area as well as the right to farm on the openings in the forest. They enjoyed these rights until the 1970ies, when a new fashion of conservation recommended that all hunting should be prohibited and forests should be cleansed of people.

As the Sengwer were not considered as independent group, they were also not invited to join the settlement schemes in which the independent Kenya redistributed the white farms to the farm workers and the dominant ethnic groups of the area. While most Sengwer are officially landless, some few Sengwer especially in the northern parts of the Cherangany hills received some land, but even this land is contested.

Livelihood

Before the colonial time, Sengwer used to be hunters and honey-gatherers. Following their contacts with the Arabs and the Maasai some adopted small-scale agriculture (shifting cultivation) and/or livestock rearing, but it is said that hunting remained their main source of livelihood until the 1920s. The elders reported collective as well as individual hunting techniques. During the Sakas (collective hunt) a group of people would try to circle large animals such as elephants and buffalos on the plains and spear or arrow them down. In contrast, the Kwo (individual hunt) is carried out by a nuclear family and mostly based on the use of poisoned baits and/or traps.

Gathering of fruits and other non-timber-forest-products is mostly done by women, while honey collection from beehives as well as from natural places such as holes in trees etc. is traditionally a male activity. It has-beside being eaten - a variety of uses: Honey is mixed with water as a daily drink (breakfast), and used to brew beer; Honey plays a major role in marriages and other ceremonies. Before marriage, honey is given to the mother of the bride as part of the dowry. The night before the marriage, wife and husband had to smear honey on their future house, each starting in a different direction until they meet and unite. Honey has also medical use. People apply it to their body to drive away mosquitoes and against muscle pains. Another smelly mixture is spread around the compounds to keep wildlife at distance.

Millet and Sorghum are the "traditional" crops, which were inherited from the Arab traders and mostly planted in the lowlands. These days, maize, potatoes, beans and a variety of vegetable are grown. Before land became scarce, the Sengwer used shifting cultivation patterns and changed their farms every three years. Trans planting, harvesting transforming, marketing and preparing of crops is considered beside of gathering, the provision of water and the education of the children as core female activities.

The Sengwer learned to keep animals, especially cattle, from the Maasai, when these arrived in the area in the context of their expansion from the north. The herds of the Sengwer are - also due to the common cattle rustling - very small and milk and livestock mostly used for auto-consumption. Most of the ancestral land of the Sengwer is occupied either by other ethnic groups or demarcated as forests, which prohibit legal settlements or agriculture. It is said that around 20% of the Sengwer have legal access to land, but that these plots are on average only 2.5 acres per household, i.e. very small. The majority of the community members are landless. Significant parts of the ancestral lands have been demarcated as forests: Kapkanyar 70,000 acres; Kipteber 57,000 acres; Kapolet 10,800 acres; Chemurgoi 9,800 acres; Sogotio 8,800 acres; Kerer 5,340 acres; Kaisingor 2,680 acres and Embobut 8,000 acres. The problem of the Sengwer to access land and/or resources legally might best be described best through an assessment of the three communities visited:

The Embobut forest in the Marakwet district contains, according to local sources, approximately 5,000 Sengwer, which claim to have arrived in the area in the 1930swhen they were displaced from the plains of

Trans-Nzoia. The settlements are located right on top of the highest lines of the Cherangany hills, with a view into the Rift Valley and the plains of Trans-Nzoia on either side, but without roads, schools, health infrastructure as it is officially considered as forest. The people who took refuge there, report of ongoing conflicts with forest officials and neighboring communities. They commonly stated that the forest guards would arrive every three to four years to burn and destroy their houses and farms in the name of forest conservation and to loot their property. In the meantime armed cattle rustlers would come time and again to take crops and cattle and shoot those who resisted. The Sengwer of the Embobut forest made clear that the local and central administration did not react on any complaints against the evictions, with the argument that the Sengwer are illegally in the area and due to that not entitled to any protection from the state and county council. Their average annual cash income is said to be around KSh 3,000 (USD 40) per household as significant parts of their production are taken away before they can market it.

The situation of the Sengwer of the Kapolet forest is not much better. Presently thereare 487 Sengwer households living in this half-legal settlement, which had been given to them after they invaded a state lodge. The history of these people is closely linked to the quest of the Sengwer for land and recognition: In result of years ofbroken promises from side of the government approximately 2,000 Sengwer invaded on March, 22, 1997 a state owned farm in the plains (ADC Milimani) and stayed there even when their elders and leaders were arrested. After a month of serious fights, the government offered them a new settlement scheme in the Kapolet forest (in total over 3,000 acres) in exchange for a peaceful end of the invasion. The Sengwer accepted, and in a first phase 1,000 acres were demarcated for nearly 500households, who moved in the same month, but the promised letters of allotment were not even issued by December 2005 with the official reason that the land is officially a forest and due to that not suitable for a settlement scheme. Due to the same reason, the second and third phase of the settlement scheme, which supposed to provide the entire 3,000 acres to Sengwer, have not yet started.

In view of legal access to land, the Sengwer of the Talau Location are quite lucky. All 755 households have letters of allotment and they are satisfied with the quality and size of their lands, but they also have significant problems: Only in 2005 about 20Sengwer of this small location with a total population of around 4,000 people have been killed by cattle rustlers. The total loss of cattle is reported to be around 400 and the non-economic losses might be even higher as most families have to be on alert each night. The Sengwer complained bitterly that even those cattle which have been identified to be theirs, were not returned and that no support was coming from the government. In contrast, some rifles, which had been organized by the only Sengwer councilor to protect the lives and property of the Sengwer, have been confiscated by the police, leaving the Sengwer unarmed to stand well equipped intruders. From that perspective it is not surprising that most Sengwer feel marginalized by the government.

Social organization

Patrilineages led by the elders are the traditional form of self-organization. In contrast to other hunter-gatherer societies, the influence of the elders seems to be quite strong among the Sengwer and have also survived the advent of modern forms of self-organization. In their struggle for land and recognition the Sengwer-elites have created a good number of Community Based Organizations and NGOs among others the Sengwer Indigenous Development Project and the Hunter-Gatherer Forum of Kenya, Sengwer land allocation committee). These groups will be consulted during the stakeholder consultation period.

Those Sengwer who have managed to obtain legal access to land also received some form of representation at local and regional level. The Sengwer of the Talau location have a Sengwer sub-chief and also an elected councilor (who presently serves as assistant mayor) in the county council since 1971, while those Sengwer who remain in illegal (Embobut forest) or partly legal settlements (Kapolet forest), are not represented by one of their people, but by members of other ethnic groups in the area.

Ancestral Territories, Lands and Natural Resources

The Sengwer tribal boundary covers the whole of what is today's Cherengany constituency, parts of Sabaot and Kwanza constituencies in Trans-Nzoia district, parts of Lugari district, parts of West and East Marakwet constituencies in Marakwet district, and parts of Kapenguria and Sogor constituencies in West Pokot district. Before the coming of the colonialists Sengwer lived in these areas from time immemorial and bordered the Nandi, Pokot (Suk), Marakwet, Uasin Gishu Maasai, Keiyo, Karamojong (Uganda), Kony, and Sebei (Uganda) communities (Kiptum 2006).

The Sengwer claim to have used the forest continuously since the advent of colonial government5. The Sengwer in West Pokot (Kapenguria and Kesogon) complain about Pokot cattle rustlers who steal their cattle, kill their people and hide in the forests. The ancestral land of the Sengwer commences from Kiporoom River in Uasin Gishu District and extents along Kapsumbeywet River through Ziwa (Sirikwa) center, Moiben Posta and Kose hills in Uasin Gishu from here it goes down to join Moiben River. The boundary goes up Moiben River to the confluence of Ko'ngipsebe and Kamowo streams. It turns eastwards to cover areas of Maron Sub-location in Emboput location in Marakwet District.

Turning to the West it then goes to Kamolookon along Marakwet/West Pokot and Marakwet boundary. From here it drops to Sebit, Somor, then to Kongelai and up along Swom River. From Swom river to the confluence of Swom and Cheptenden River and from hereto the confluence of Cheptenden River and Moiben River where these two Rivers confluence with Kiboroom (Kiptum 2002). Today, the Sengwer believe that land the Cherenganyi Hills and the plains was their ancestral land before it was taken away to make room for White settlements (KARI 2005).

Alienation of Sengwer ancestral lands

The alienation of Sengwer traditional territory has been going on systematically since the colonial times. The British colonial administrators alienated much of Sengwer land for European settlement. The Chairman of the Carter Land Commission (1932) was clear in stating that "there was no question of the Europeans' land being handed back to the Sengwer".

The Sengwer who occupied Soi (the plains of Kapchepkoilel) lost their land stretching from Kapkoi in Trans Nzoia through Naitiri to Turbo in Uasin Gishu to white settlers. Likewise, the territory from Turbo, through Ziwa (Sirikwa) all the way to Moiben was also lost to colonial settlement. Other communities which took over land belonging to the Sengwer include Marakwet, Keiyo, Pokot (Suk), Nandi, and recently other migrants such as Kikuyu, Akamba, Kisii and a few Turkana. The Marakwet for example settled in between the Moyben and the Ndungiserr and spread beyond over the Cherenganyi country. In 1938 and 1939, meetings were held at Lelan in Cherenganyi to consider the claims of the members of the Cherengayi tribe to expel the Elgeyo who occupied the Cherenganyi location.

This claim was based on prior occupation by the Cherenganyi and bad behavior taught to the Cherenganyi by the young people of the Elgeyo. In 1939 there were 50 Elgeyo immigrants owning approximately 1,200 hectares of land belonging to the Sengwer. A large area of Sengwer land was converted into forests and thus denying access to their home, herbal medicine, food and peaceful coexistence with nature. In 1943 for example, some of the Cherenganyi 'Dorobo' once more attempted to return to Kapolet Forest reserve in spite of the police raid and severe penalties imposed on them. The then Assistant Conservator of forests instructed the District Commissioner to shift them once and for all from the forest into West Suk

The following are some of the Sengwer ancestral lands that were converted into forest:-

1. Kapkanyar 70,000 acres

2. Kipteber 57,000 acres
3. Kapolet 10,800 acres
4. Chemurgoi 9,800 acres
5. Sogotio 8,800 acres
6. Kerer 5,340 acres
7. Kaisingor 2,680 acres
8. Empoput 8,000 acres
9. Other Forests within Kitale Municipality.

Part of Sengwer ancestral land in Trans Nzoia was converted into a game park. It is now known as Saiwa Swamp National Park. This was and is still a home for wild animals. This area was one of the most prestigious hunting areas of the Sengwer people. Immediately, after independence most of the land left by the Europeans was given out as settlement schemes to groups and individuals while the remaining portion was made Agricultural Development Cooperation (ADC) farms run by the government. After independence Sengwer territory continued to be lost to other groups such as the Marakwet, Kisii and Kikuyu.

Forced Assimilation and Loss of Identity

Assimilation policies and lack of recognition of separate and distinct identities of hunter-gatherers in Kenya began in colonial days, when it was decided that they be absorbed into larger ethnic communities12. In 1932, Mr. A.C. Hoey giving evidence before the Kenya Land Commission had an idea "of amalgamating the Elgeyo and Marakwet and Cherenganyi (Sengwer) into one tribe" without the right to identity, right to profess and enjoy their cultural values and traditions. While other communities were given native reserves, Sengwer community was not considered. The colonial administration also promoted livestock keeping and potato planting for purposes of transforming the hunter/gatherer livelihood systems of the Sengwer and in so doing undermined Sengwer culture, language, customs and laws. This strategy was also aimed at getting the Sengwer out of the forest. The post-independence government also failed to provide for a classification of hunter-gatherers as separate groups, and by imposing a ban on hunting in 1970s, the independent government imposed more changes of the livelihoods of the Sengwer.

Land tenure among the Sengwer (past and present)

Discussions with the community revealed that only about 70 per cent of them have partial ownership of land, having been issued with allotment letters by the government. The area around Kapolet forest is still gazetted as forest land not available for settlement. Those in Emboput forest are literally squatters with no papers which exposes them to regular evictions. Sengwer resettlement along the Kapolet and the Emboput forests face more problems associated with land ownership. The Sengwer in Talau location in Kapenguria (West Pokot district) are relatively better of, in that they have ownership documents and have relatively made more investment on their land (KARI 2005).

The current status of Indigenous Sengwer

The Sengwer have increasingly been restricted to areas with home 'bases' involving agriculture and livestock rearing and outlying areas where some honey gathering is still practiced. The Sengwer continue to experience expropriation of their land and restrictions on access to natural resources- especially forests and water- which have further increased their sedentarization, marginalization, social discrimination, and impoverishment. Even though they are considered, from the formal legal point of view, as citizens equal to all other Kenyans, they do not have the same access to land and other resources, protection against cattle rustlers, social and political influence, legal status and/or organizational, technical or economic capacities as other Kenyan citizens. The Sengwer can be characterized thus:

- The incomes of indigenous peoples are only about one third of those of other rural Kenyan households.
- Most of them are landless, and lack legal access to natural resources or other assets for income generation.
- They are ill equipped to defend even the informal, de facto access that they retain to the remnants of their 'homelands' from encroachment or restriction by outside authorities and interests
- They do not have the institutional capacity or degree of empowerment that will enable them to benefit from reform processes in the forestry, water and lands sectors which are intended to give more say to communities in the management of resources that are central to this project.
- Few indigenous people hold positions in government, even at junior levels (such as chiefs and sub-chiefs).
- Face further physical and economic displacements from their lands and forests traditionally utilized by them as a source of livelihood and basis for their cultural and social survival;
- Lose all legal access to natural resources, which are an important source of livelihood and basis for their cultural and social system;
- Continue to be harassed by cattle rustlers;
- Become even more marginalized in the society and become alienated from national life;
- Receive less support from governmental services;
- Have less capacities to defend their legal rights;
- Become or remain dependent on other ethnic groups;
- Lose their cultural and social identity;
- They have little representation even as local government councilors, let alone at higher political levels, and are thus administered and represented by members of non-governmental groups (NGOs)

13.7.2 Ogiek

The Ogiek (*Ogiot - sing*.) ethnic group consists of 20-30 groups of former hunters and honey-gatherers, mostly living in forested highlands in western Kenya. Local groups have more specific names, e.g., Kaplelach, Kipsang'any, Kapchepkendi e.t.c. Okiek, a Kalenjin language of the Southern Nilotic group, is the mother tongue of most Ogiek people, but several groups now speak Maasai as their first language. Traditionally the Ogiek had occupied mostof the forests in the extreme west and south of Western Kenya, but today their main area of living is in and around the Mau forest, which is not part of the operational areas. Nevertheless, some Ogiek groups are found in the Upper Yala catchment near the villages Serengoni, Senghalo (Nandi South), in the Kipkurere forest (Nandi South) and some live scattered in the Uasin Gishu district.

Most publications (Ogiek.org etc.) and most NGOs assume that the hunter-gatherers at Mt. Elgon belong to the Ogiek and that they are not –as they claim - an independent hunter-gatherer group. Their argument is not very convincing as they address themselves as Dorobo, which is – as said before - the Maa word for people without cattle, while they share most cultural practices with the Ogiek. Precise demographic figures are not available as the last national census did not count the Ogiek as an independent group.

History

Knowledge of Ogiek history before 1900 is limited. Oral history traces back the origin to the Kiplombe hills near Siswek. It is said that all Ogiek have lived there before a famine forced some of them to migrate

to the Mau and Tindiret forests. Before the advent of the colonialists, they were already involved in the local and regional trading networks, bartering honey and meat for agricultural products.

Colonial administration affected Ogiek groups in different ways. Between the 1920sand 1940s, many Ogiek were displaced from their lands by European farmers, while others – especially deeper in the forests – received at least full usufructuary rights for their lands, which were transformed into forest reserves. Initially they had limited direct government interaction, but felt colonial policies through the ever-increasing encroachment of their neighbours, who were forced into the forests by the government to create space for the farms in the plains. Due to the reduction of land and increasing hunting pressure, the Ogiek gradually diversified their economy, adding agriculture and/or herding to the traditional hunter-gatherer lifestyle.

Livelihood

Traditionally the Ogiek divided land into lineage-owned tracts stretching along the escarpment slope. Tracts transected four or five ecological zones, giving families access to honey and game during each season. Residence groups were small extended families, patrilineal cores that might be joined by affine and matrilineal relatives. Six to ten adjacent lineages constituted a named local group, i.e. a significant unit of cultural identity and history.

Unlike many other hunter-gatherers, beside of honey, Ogiek collect hardly any plants, fruits or non-timber-forest-products from the forest. Honey is eaten, stored for future use, brewed into beer and traded. It is said to have been the main product for the barter with their agricultural and/or pastoralist neighbours. Traditionally the Ogiek hunt with dogs, bows and arrows, spears, clubs and poison. Traditionally they were going for buffalos, elephants, duikers, hyraxes, bongos, and giant forest hogs. Now that hunting is illegal, they only hunt with small traps around their garden farms resulting in some meat from monkeys and other smaller game.

Starting in the 1920ies the Ogiek stated to cultivate small millet and maize gardens due to reduced production from the forest. This led to a more sedentary lifestyle in midaltitude forest and - in turn - a further increase of agriculture and/or pastoralism. Today, agriculture is the main source of subsistence and income, which is supported through some livestock rearing, hunting (which is illegal) and bee-keeping. Honey gathering is still a key activity and carried out the traditional way, with few Ogiek using modern bee-hives and/or processing the honey for regional markets. Blackburn concludes: "without honey and condition of getting it, Ogiek life would be entirely different. This explains why the Ogiek live in the forest" (Blackburn 1974:151).

The economic activities are organized by gender groups: Men traditionally make beehives; collect honey, hunt and these days herd cattle and/or clear land to plant maize and beans. Women's work traditionally included building the houses under thick canopies (*Sanet*) and the making of leather bags, straps and clothing. Today they concentrate on the planting and harvesting of crops, the processing and cooking of food, the maintaining of firewood and water supplies and the childcare.

Their access to land varies very much from village to village. Before independence most Ogiek lived on state or trust land (i.e. in the forests) with all usufructuary rights, but no letters of allotment. Following independence, the land reform and the general land demarcation in 1969 usufructurary rights were out-ruled. Legal access to land is now channelled through individual land titles and - in the Maasai-dominated districts – group ranches. Group-ranch demarcation began in the 1970s, crossing lineage land boundaries, incorporating non-Ogiek into some groups, and registering significant parts of Ogiek land to non-Ogiek. During the same time, the Ogiek were evicted from the forest reserves. As they were not provided with

any land or compensation most had to go back and live illegally in the forests until the next eviction-team would show up. The regular evictions, arrests and loss of property, crops and even lives further increased the poverty of the Ogiek, underlined their social discrimination and cemented their marginalization.

Those Ogiek that managed to obtain group-ranch titles, started in the 80ies and 90ies to divide the land into individual plots following the example of their neighbours and supported by governmental services. Settlement patterns shifted again as people moved to live on their own land, but it also attracted many Ogiek to lease or sell their lands to other ethnic groups. Many of these land sales were technically illegal as they were made before group-ranches were legally divided and many sales were undertaken before Ogiek learned about the market value of their land and at ridiculously low prices. Today the majority of the Ogiek have still no legal access to land or any source of livelihood and live a life at the mercy of their non-Ogiek neighbours and local and national governments in which they are not represented (Huntingford 1929, 1954; Blackburn 1976, 1982; Kratz 1981, 1994; Marshall 1994; Tuweit 2004).

Social organization

Ogiek live in local groups dispersed throughout the highlands, typically near one or more other Ogiek groups and adjacent to more populous ethnic groups. In quite a good number of cases Ogiek speak their neighbours' language better than their own. Ogiek groups thus have distinctive histories of interaction with one another, with their neighbours, and with local government administration. Modes of social organization vary among Ogiek groups, but in general one can say that patrilineages are central in land holding and residence, legal matters, inheritance, and marriage arrangement, while matrilineal and affine relations are important for ceremonial occasions, in some residential and work groups, and in emotional terms. Further units are the age-sets, which create relationships among members, crosscutting relations defined by lineage and clan. Women have no separate age-sets, but become associated with male age-sets through relatives. Political and legal matters are discussed in meetings of men.

Depending on the issue, gatherings involve men from one lineage, several lineages, or a large neighborhood. All adult men have the right to attend and speak at meetings, though older men often speak more extensively. This changes of course in meetings with officials as most elders don't speak Swahili or English. Women were traditionally excluded from formal councils, but this traditional setting is no longer ruling as government officials and external visitors demand and invite the presence of all gender groups (Huntingford 1929, 1954; Blackburn 1976, 1982; Kratz 1981, 1994; Marshall 1994).

13.7.3 Turkana

The Turkana people are the second largest of the pastoral people of Kenya with a population of 1,034,000 They occupy the far northwest corner of the nation, an area of about 67,000 square kilometers. **Turkana tribe** is the second largest **pastoral community** in Kenya. This nomadic community moved to Kenya from Karamojong in eastern Uganda. The Turkana tribe occupies the semi Desert **Turkana District** in the Rift valley province of Kenya. Around 1700, the Turkana emigrated from the Uganda area over a period of years. They took over the area, which is the Turkana district today by simply displacing the existing people of the area. Turkana warriors today still take pride in their reputation as the most fearless fighters in East Africa. Adherence to the traditional religion is weak and seems almost nonchalant among the Turkana.

Location in the Country - Rift Valley Province, Turkana, Samburu, Trans-Nzoia, Laikipia, Isiolo districts, west and south of Lake Turkana; Turkwel and Kerio rivers

Livelihood: Like the Maasai and tribes, Turkana people keeps herds of **cattle, goats and Camel**. Livestock is a very important part of the Turkana people. Their animals are the main source of income

and food. However, recurring drought in Turkana district adversely affect the nomadic livelihood. Turkana's have also pursued other non-pastoral income-earning activity in both urban and rural environments. This includes various forms of wholesale and retail trade (e.g. selling livestock, milk, hides and skins, honey, and artisan goods etc.), traditional rental property ownership and sales, waged employment (local and non-local, including working as a hired herder, farm worker, and migrant laborer), farming (subsistence and commercial), and the gathering and selling of wild products (e.g. gum arabic, firewood, or medicinal plants). The sale of livestock and milk products at the herd gate are not included in this definition, nor are herd diversification strategies that instigate a mix of animal species to cope with drought etc. Over recent years, Turkanas have also had to employ other supportive activities to supplement pastoralism, which has proved to be ineffective in meeting all their economic and social needs. Key areas of activity include sedentary agriculture, particularly along the Turkwel River, where settled farmers and agro-pastoralists grow maize, sorghum, sukuma, oranges, mangoes, bananas and vegetables.

Fishing in Lake Turkana is another, long standing, form of diversification. Fishermen along Lake Turkana migrate to follow the patterns of fish movement. The pastoralists also supplement their livelihoods by selling the fish. Many of them have also taken up weaving mats and baskets particularly near the lake where weaving material is readily available from the Doum Palm. Other natural resource-based livelihood diversification activities have included the collection and sale of aloe, gum arabic, honey, wild fruits, firewood, and the production and sale of charcoal and alcohol. In addition, there is now more emphasis on the processing and sale of skins and hides

Cultural Profile: The biggest events for life of Turkana are marriage and child birth. Other cultural rituals such as circumcision are completed with little ceremony. The marriage however, may be in process for as long as three years. Subsequent to the payment of bride price, the wife to be is brought into the home of her husband. The wedding ceremony is not performed until after at least one healthy child is weaned. Houses are constructed over a wooden framework of domed saplings on which fronds of the Doum Palm tree ***Hyphaene thebaica,*** hides or skins, are thatched and lashed on. The house is large enough to house a family of six. Usually during the wet season they are elongated and covered with cow dung. Animals are kept in a brush wood pen. Due to changes in the climatic conditions most Turkana have started changing from the traditional method of herding cattle to agro-pastoralism. Traditionally, men and women both wear wraps made of rectangular woven materials and animal skins. Today these cloths are normally purchased, having been manufactured in Nairobi or elsewhere in Kenya. Often men wear their wraps similar to tunics, with one end connected with the other end over the right shoulder, and carry wrist knives made of steel and goat hide. Men also carry stools (known as ekicholong) and will use these for simple chairs rather than sitting on the hot midday sand. These stools also double as headrests, keeping one's head elevated from the sand, and protecting any ceremonial head decorations from being damaged.

It is also not uncommon for men to carry several staves; one is used for walking and balance when carrying loads; the other, usually slimmer and longer, is used to prod livestock during herding activities. Women will customarily wear necklaces, and will shave their hair completely which often has beads attached to the loose ends of hair. Men wear their hair shaved. Women wear two pieces of cloth, one being wrapped around the waist while the other covers the top. Traditionally leather wraps covered with ostrich egg shell beads were the norm for women's undergarments, though these are now uncommon in many areas. The Turkana people have elaborate clothing and adornment styles. Clothing is used to distinguish between age groups, development stages, occasions and status of individuals or groups in the Turkana community.

13.7.4 Rendille

The Rendille are a Cushitic tribe that inhabits the climatically harsh region between Marsabit hills and Lake Turkana in Northern Kenya where they neighbor the Borana, Gabbra, Samburu and Turkana tribes. They (Rendile) consist of nine clans and seven sub clans. They are culturally similar to the Gabbra, having adopted some Borana customs and being related to the Somali people to the east. Rendille are semi-nomadic pastoralists whose most important animal is the camel. The original home of the Rendille people was in Ethiopia. They were forced to migrate southwards into Kenya due to frequent conflicts with the Oromo tribe over pasture and water for their animals. Being pastoralists, the lifestyle of the Rendille revolves around their livestock. In the northerly areas, camels are their main source of livelihood. This is because camels are best adapted to the desert conditions that prevail in the northern Kenya. The camels are an important source of milk and meat for the Rendille people. When migrating to new pastures, the camels are also used to carry all the family possessions in a specially designed saddle. The Rendille people living in the southern and less dry part of their region have had a good relationship with their Samburu neighbors where intermarriage with the Samburu has led to the emergence of a hybrid culture. Their ceremonies are similar to the Old Testament Jewish traditions, providing a basis for discussion of Christ's sacrifice and an opportune introduction to personal salvation.

Traditionally the Rendille are a very religious people, believing in one God, an omnipresent creator and provider who answers prayer and cares for the poor. They practice many magical rituals, involving their camels or sheep. For example, the way a certain bull camel approaches a proposed new settlement area is taken as a good or bad omen. A propitious camel may be placed outside the camp facing the direction of an expected enemy attack in order to prevent the attack. Age-sets are the main component of Rendille society.

The oral history of this Cushitic tribe indicates they are of Jewish descent. They traveled through the Suez Canal through Ethiopia to their present homeland. They descended through the Cushitic family lines with the Somali people. When the Somali people were traveling from the Suez Canal through Ethiopia the Somali people chose to go toward Somalia for good pastures. The Rendille people refused to go with them and separated to their present homeland around Marsabit.

They had rejected the land of the Somali's and were thereafter called Rertit. The Somalis consider them rejected people. Their name "Rendille" is a colonial misinterpretation of the word "rertit", which means separated, refused or rejected in the Somali and Rendille languages. The Rendille occupy an area in Northeastern Province of Kenya from the Merille River and Serolivi in the South to Loyangalani in the North from Marsabit and Merti in the East to Lontolio in the West. The climate of their homeland is semi arid. The Rendille people speak Rendille, which is very close to Somali but is spoken more slowly. Many Rendille also speak Samburu (the tribe neighboring them to the South). Those of the Rendille language are called Rendille and those who speak Samburu are called Arielle Rendille.

There are about eight or nine sub clans including the Urowen, Dispahai, Rongumo, Lukumai (Nahgan), Tupsha, Garteilan, Matarbah, Otola, and Saale with an estimated population of 63,000.

Location in the Country: Eastern Province, Marsabit District, between Lake Turkana and Marsabit Mt. The primary towns include Marsabet, Laisamis, Merille, Logologo, Loyangalani, Korr, Kamboi, Ngurunit, and Kargi.

Livelihood: The Rendille people are traditionally pastoralists keeping goats, sheep, cattle, donkeys, and camels. Their nomadic lifestyle is become more prominent in the areas exposed to little urbanization and modernization. In the recent past though, their livelihood has experienced constant competing interests

from the Samburus and Gabras leading them to constant conflict over land and water resources particularly at the borderline of the boundary districts. In the most cases, the raids and conflicts have had the objective to replenish their herds depleted by severe droughts, diseases, raiding or other calamities. Elders often sanction the raids blessing raiders before they set off.During draught some take little lambs to the raga or laga (dry river bed) and sacrifice them to god asking for rain. Others go to Mount Moile where the women sing and pour milk and men offer sacrifices of goats to the gods and ask for rain

Cultural Profile: In terms of creed, many Rendille practice a traditional religion centered on the worship of Waaq/Wakh. In the related Oromo culture, Waaq denotes the single god of the early pre-Abrahamic, montheistic faith believed to have been adhered to by Cushitic groups.Some Rendille have also adopted Islam or Christianity. Initiation rituals take place precisely every seven or fourteen years, creating a series of generational age-sets, each with its own role in society. In the common Kenyan practice, the first initiation is circumcision. Men have many stages of warrior-hood, but women are simply married or unmarried.

Traditional dress includes beautiful beads worn by the women around the neck, wrists, and ankles. Children can often be seen without clothing. The moran wears colorful shukas (clothe wrapped around their bodies) and colors their hair with a mud/mineral mixture. Men often wear a wrapped cloth rather than trousers. Western clothing is becoming more popular, but more among the men than the women.
Ancestral spirits of deceased men must be appeased. Among some of the Rendille, after a man dies, the manyatta will be burned, a sheep slaughtered, and the family must move to another place. Rites of passage include the young men (moran) living in the bush, learning traditional skills, and undergoing traditional circumcision. Men marry after circumcision and the time of becoming a moran is as young as about eighteen to twenty years.

The Rendille are organized into an age grade system of patrilineal lineage groups (keiya), which are subsumed under fifteen clans (goup). Of those, only nine are considered authentic Rendille. These Northern Rendille or Rendille proper are consequently the only ones that are included in the traditional Rendille moiety (belesi). The remaining six clans that are excluded from the moiety consist of mixed individuals. Five of those clans are of Rendille (Cushitic) and Samburu (Nilotic) descent. Collectively, the latter hybrid groups are referred to as the Ariaal or Southern Rendille.

13.7.5 Gabra

The Gabra are an Oromo people who live as camel-herding nomads, mainly in the Chalbi desert of northern Kenya and the highlands of southern Ethiopia. They are closely associated with other Oromo, especially their non-nomadic neighbors, the Borana. The Gabra speak the Borana dialect of Oromo, which belongs to the Cushitic branch of the Afro-Asiatic language family. Population: 3,000

Location in the Country: Samburu District, Lake Baringo south and east shores; Rift Valley Province (Chamus), Baringo District

Livelihood: Gabra are pastoralists who keep and depend on cattle, sheep, goats, donkey, and camels. They solely rely on access to water and pastures for the survival of their livestock. Typical Gabra household keeps 5-10 cattle; 20-25 goats; 15-20 sheep; and 0-5 camels. Cattle provide the majority of income from livestock production followed by goats, sheep, and camels. Majority of the grain consumed by Gabra household in this zone is purchased. This includes maize, rice, and sugar. Households also rely on the wild food including fruits and berries, honey, roots, and tubes. Climate change has had an impact on new weather patterns and prolonged drought pushing the Gabra community to frequent water shortages. As a result leading to mass migration their migration in search of pastures and water for their animals. They

have a conglomerate of peoples living north of the Tana River in Kenya, the area around Lake Turkana and the highlands of southern Ethiopia.

For the Gabra, to live in balance with a trying environment is to protect land, animal, and fellow Gabra. Thus, they practice certain food and plant taboos; preserve full-grown trees called "korma" (bulls), and revere pregnant women and pregnant animals. As resource managers, they migrate to the highlands during the rainy season to allow the dry season pasture to replenish its water resources. Perhaps most symbolic of the Gabra's identity is the proverb: ***"a poor man shames us all."*** Since mutual support is imperative for their survival as nomads, no Gabra may be allowed to go hungry, go without animals, or be refused hospitality or assistance. A person who refuses to help others is labeled "al baku," a stigma that stays affixed to the family for generations. The practice of camel lending exemplifies this support system.

The Gabra have a mixed-livestock economy consisting of camels, cattle, sheep, and goats. It is almost entirely based on reciprocity. Most central to the way of life and economy is the camel. When a Gabra comes into possession of a camel, it's named to ensure the Gabra's right of ownership. The camel will be loaned or given to other Gabra in need, and a future act of reciprocity will be expected. In this sense, camels provide great security; they also provide most of the meat and the dry season's supply of milk. The also transport goods and water from foraging areas to surrounding villages. Selling camels and their by-products to outsiders is taboo. Villages and camps are outside foraging grounds for several reasons: camels are unpredictable, don't forage near their own dung, and destroy the vegetation within nine miles.
The Gabra split their camps into two sites. The settlement - i"ola" - ranges from three to twenty-five huts. Satellite camps - "fora" - are smaller and far from the settlement. In fora, young men watch over part of the clan's herds to prevent pastures from being consumed too quickly. Splitting the herd also protects it from thieves, disease, or other disaster.

Cultural Profile: Since many young Gabra men are separated from the main camp for long periods of time, marriages are often postponed. In fact, 50 percent of Gabra women are unmarried until well into their thirties. This, along with the Gabra's postpartum sex taboo, controls the population. Living in the fora also excludes young men from the political and social activities of the main camp. Young men of herding age (19-33) qualify as "pre-adults" in men's five-stage life cycle. The stages are (1) children; (2) men aged 19-33; (3) male political elders, a status achieved when a man marries; (4) spiritual elders; and (5) retired elders. These stages, ideally separated by eight years, are usually initiated with a long pilgrimage to the shrines of mythical founders. Gabra life is labor-intensive, so everyone has specific tasks. Although the men decide when to migrate, women pack and unpack the camp site before and after migration. In fact, women "own" the huts and have complete authority over them. From age 7, children work six to seven hours a day, mainly tending the animals, while grandmothers largely rear and educate the young. Men are active in three levels of political and judicial administration. The camp is run by its headman.

The district is comprised of a number of camps, whose council of men decides on stock, organization, raids, defense, disputes, and assistance for victims of stock epidemics and raids. The five phratries, the largest regional group, have assemblies that serve as a mobile judicial, administrative, and spiritual hubs. Women's political contributions are subtle. Although they refer to themselves as children in regard to the political process, and although men demean the contributions women make, men often defer to women in certain matters.

The Gabra's ornamentation and physical culture is similar to many other Cushitic-speaking camel herders. The latter include the Rendille and Somali, all of whom the Gabra describe as warra dassee ("people of the mat"), in reference to the mat-covered, portable tents, which accompany their nomadic lifestyle. The

Borana, on the other hand, are described by the Gabbra as warrra buyyoo ("people of the grass"), in reference to the grass huts that characterize their sedentary lifestyle. Gabra homes, called mandasse, are light, dome-shaped tents made of acacia roots, and covered with sisal grass mats, textiles, and camel hides. Each mandasse is divided into four quarters; a public quadrant each for male visitors, female visitors, and a private quadrant each for parents and children. A mandasse can be completely disassembled and converted into a camel-carried palanquin in which children and the elderly travel. Gabra live in small villages, or ola made up of several mandasse. Ola move short distances as many as twelve times per year, in search of better grazing for the camels and other animals the Gabra rely on.

13.7.6 Ajuran

The Ajuran are ethnically Somalis. They were a kingdom that ruled Somalia before the advent of Europeans into Africa. When the rest of the Somalis got fed up with their rule they took up arms against them in war popularly known as Eji iyo Ajuran meaning the rest of Somalis vs. the Ajuran. The wars that ensued deposed the kingdom and drove some of the Ajuran as far as where they live today in the North Eastern Kenya and Eastern part of Ethiopia. Some of those who settled in present day Kenya eventually adopted the language and customs of their neighbors and hosts, the Borana. The Ajuran are best known in Somali history for establishing the Gareen dynasty based in Qalaafo (now part of Ethiopia). The Gareen dynasty ruled parts of East Africa from the 16th to the 20th century. Among the Kenyan Ajuran people, the majority speak the Borana language as their first language while others speak the Somali language as their first language especially those from Wajir North District in the areas of Wakhe and Garren. It is vital to note that since Somali is the language of wider communication in Northeastern Province, even the Ajuran who speak Borana as their first language learn the language. The link between the Garreh and Ajuran is their primary language, which is Borana and not Somali.Population: 59,000.

Location in the Country: Eastern Province, Marsabit, Isiolo and Moyale districts, Wajir North

Livelihood: The Ajurans, like the rest other Somali tribes of Northern Kenya have traditionally lived a nomadic life. This way of life is dictated by the climate, which is semi-arid with two seasonal rains. They follow water and pasture for the animals they keep such as cattle, camels, goats, sheep, donkeys and mules that provide them their livelihood. Where the land is good for farming there are settled populations growing corn, millet, sorghum and some fruits and vegetables. The Ajuran live in an area with relatively high rainfall and good pasture for their animals. However, this blessing has on many occasions become troublesome to them in terms of marauding neighbors in need of the same resources. The intrusion by others has periodically resulted in clashes. Today, the Ajuran allow others to live and pasture their animals in their communal land. Some of the main causes of their vulnerability include the following: erosion of assets due to armed conflict during intermittent inter/intra-clan conflict, resulting in poverty; protracted conflict and insecurity; Systematic marginalisation and discrimination based on ethnicity and caste; poor access to economic/employment opportunities. Ajuran population travel great distances in search of food, pasture and water especially during times of stress as a key coping mechanism. Notably, their right and ability of the transhumant pastoralists to eventually return to their homes characterizes this type of seasonal movement and gives rise to certain analyses. Of importance in the understanding of vulnerability are the changes in displacement trends.

Cultural Profile: The Ajuran clan is divided into seven (7) sub-clans, which are further divided into sections and sub-sections. Currently there are only two sub-clans the Walmega and Wakhle sub-clans that greatly live in Wajir County of North Eastern Region, Kenya. They also partly live in lower Jubbah in Somalia and Region five (5) of Ethiopia. Some of those who settled in present day Kenya eventually adopted the language and customs of their neighbours and hosts, the Borana. Among the Kenyan Ajuran people, the majority speak the Borana language as their first language while others speak the Somali

language as their first language especially those from Wajir North District in the areas of Wakhle and Garren sections. It is vital to note that since Somali is the language of wider communication in Northeastern Province, even the Ajuran who speak Borana as their first language learnt the language as they assimilated with Boranas during the great migration.

13.7.7 Maasai

Kenya's most well-known ethnic tribe, the Maasai (or Masai) are semi-nomadic people located primarily in Kenya and northern Tanzania. They are considered to be part of the Nilotic family of African tribal groups, just as the Scilluk from Sudan and the Acholi from Uganda. The Maasai probably migrated from the Nile valley in Ethiopia and Sudan to Maasailand (central and south-western Kenya and northern Tanzania) sometime around 1600 AD, along the route of lakes Chew Bahir and Turkana (ex Rudolph), bringing their domesticated cattle with them. Once considered fierce warriors, feared by all tribes in the zone, the Maasai lost most of their power during the late XIX century, as a consequence of a string of natural and historic calamities. They were hit by drought, smallpox, and cattle pest, and contemporarily had to mourn the departure of Laibon Mbatiani, their respected and much admired leader, direct descendant of the mythical OlMasinta, founder of the tribe. The Maasai speak the Maasai language, an Eastern Nilotic language closely related to Samburu (or Sampur), the language of the Samburu people of central Kenya, and to Camus spoken south and southeast of Lake Baringo. Population: 684,000

Location in the Country: Rift Valley Province, Kajiado and Narok districts

Livelihood:

The Maasai are cattle and goat herders, their economy almost exclusively based on their animal stock, from which they take most of their food: meat, milk, and even blood, as certain sacred rituals involve the drinking of cow blood. Moreover, the huts of the Maasai are built from dried cattle dung.

Cultural Profile: In spite of their reputation as fierce warriors, Maasai culture revolves around their cattle. One of their spiritual beliefs is that their rain god Ngai gave all cattle to the Maasai people, and therefore anyone else who possesses cattle must have stolen them from the Maasai. This has led to some fatal altercations with other tribes of the regions over the centuries when they attempt to reclaim their "property". Despite the growth of modern civilization, the Maasai have largely managed to maintain their traditional ways, although this becomes more challenging each year. Circumcision is performed on both sexes, with the elder men circumcising the teenage boys (who are not permitted to make a noise during the ceremony), and the elder women circumcising the teenage girls (for whom crying is permitted). Attempts by the Kenyan government to stamp out female circumcision have failed, primarily due to the fact that it is the Maasai women who defend the practice, not the men.

Natural Environment: The ability to graze their cattle over large territories, for example, has diminished considerably in recent years, due to increased urbanisation and the declaration of the Maasai Mara and Serengeti game reserves, which was all formerly Maasai grazing land.

13.7.8 Illchamus

They are originally a pastoralist people who used to live on the mainland but due to clashes they have been forced to migrate to an island in Lake Baringo. It is a very traditional and culturally bound society, hierarchical and male-dominated. They live from fishing in small boats made of balsam tree that dates back maybe a thousand years. They also do some souvenirs and they have some livestock. Many are uneducated and illiterate. They are eager to learn new things, participating and seemingly eager to create a better life. They communicate mainly in their local language. Population: 34,000

Location in the Country: Southeast and south shore of Lake Baringo, and southwest shore as far north as Kampi ya Samaki.

Livelihood: The majority of the Ilchamus practice both livestock rearing and agriculture, but on the islands in Lake Baringo there are about 800 Ilchamus who live nearly entirely from fishing. The mainland Ilchamus are semi-pastoralists with a long history of small scale agriculture. The main types of livestock owned by the Ilchamus are cattle (zebus), sheep (red maasai and dopper cross) and goats (small east African), but their herds are significantly smaller than those of their neighbours. The key problems here are the insufficient security against aggressions from their neighbours, access to water and pressure of other people on their land due to the non-existence of land titles. The nearest markets are at Marigat and Kiserian.

The Ilchamus fishing communities, on four of the seven islands of Lake Baringo, has a total population of around 800 people, are even more disfavoured. Due to the absence of significant rains and irrigation systems, they don't cultivate anything and the grazing areas on the island sustain only very limited numbers of livestock. The only source of income is fishing and for about ten people on the main island (Ol Kokwai), jobs in the Baringo island camp. Income from fishing (Tilapia, Catfish and Mudfish) has reduced significantly over the last years as industrial fishing carried out in 70s and 80s from the mainland and by migrants from other areas have significantly reduced the stocks. As they are unable to stop fishing to allow the stock to recover, even their very limited fishing reduces the stocks further. The ever reducing stocks are associated by the villagers to environmental degrading (sedimentation from erosion along the contributors) and overexploitation in the 70s and early 80s, and on the other hand to the increasing population of crocodiles, which are totally protected and are said to affect not only the fish stocks, but also cause significant losses of livestock and even human lives.

The fishing itself is carried out by the men, while the women smoke and market the fish on the mainland. Revenues are small and hardly able to provide enough cash to buy maize etc. to feed the islanders. Famine seems to be a common problem and is mostly covered by subsidies from the owner of the Lake Baringo island camp and other white families, who have houses on the islands. While this secures the survival of the Ilchamus during famines, it also increases their dependency and marginalisation. Agriculture is carried out at very small scale and nearly entirely for subsistence due to limited rainfalls in the area and due to the fact that the Ilchamus have been displaced from their former land in which they had established small scale irrigation schemes. Two modern irrigation schemes (with small dams) at the Perkerra and Molo Rivers have enhanced the situation and enable the families involved to produce enough to even commerce parts of it. The main products cultivated are maize, beans and millet.

Cultural Profile: Traditionally the Ilchamus don't seem to have any central authority, but are ruled by the elders of the patrilineages. The Ilchamus claim that structures above the level of the clan were first introduced in the 60s in preparation of independence. The first sub-chief was elected around 1970. Presently, Ilchamus chiefs and councillors have been elected in all six locations where they constitute the majority, but in none where they are in the minority. Because of their being considered as a Maasai subgroup and due to that as nomadic herders, their relation to and dependence on land for their small scale agriculture have not been considered when "developing" the area. The Ilchamus have been moved around by all kinds of people and for all kinds of activities and interests. The last major displacement took place in the 40s and 50s, when significant Ilchamus populations were moved away for the Perkerra Irrigation scheme near Marigat.

13.7.9 Aweer

The Aweer are a remnant hunter-gatherer group living along the Kenyan coast in Lamu District on the mainland. In the last 30 years, the Aweer have faced very difficult times. In 1967, their homeland became

a battle field in the war between Kenya and Somalia. In Kenya today, they are a vulnerable group, struggling to survive, in search of a new identity. Traditionally they depend on their elders for leadership and do not normally meet for village discussion. There are some men who have more than one wife, and each wife has her own house in which she lives with her children. The husband does not have his own home but lives with each wife periodically. Population: 8,000

Location in the Country: Coast Province, behind Lamu, and Tana River districts in forests; North-Eastern Province, Garissa District.

Livelihood: Hunters and Gatherers. They are indigenous hunter/gatherers famous for their longbows and poison arrows. The Aweer are often referred to - and even sometimes refer to themselves - as the "Boni". Considered by some as pejorative, Boni is based on the swahili word "kubuni" which means 'to move', in reference to their proclivity, historically, to move around in pursuit of their livelihoods, rather than settle in one place. The lives of the Aweer were drastically changed when the Kenyan government curtailed their traditional way of life as a response to the insecurity of the region after the Shifta War (1963–1967), forcing them to settle in villages along the Hindi-Kiunga Road on Government Land between the Boni National Reserve and the Dodori National Reserve while adopting slash and burn agriculture.

The Aweer are also best known for its unusual practice of using semi-domesticated birds to find honey, with whistling signals. Their remote territory is heavily wooded and the tribes are traditionally hunter-gathers, rather than the typical Kenyan cattle herders. They live off forest resources and farming in Lamu. They are the smallest of the four indigenous groups in the area. In recent times though, their livelihoods have been encroached and partially destroyed. They depend on the forest not only for the economic but for their spiritual, economic and political survival.

Cultural Profile: Although the majority of the Aweer settled in villages located in this corridor between the two reserves, some established themselves in nearby Bajuni villages. Today, the Aweer have adopted slash and burn agriculture as their main source of livelihoods, but they continue to engage in many of their traditional practices, utilizing the nearby forests for the collection of wild honey, plants for traditional medicine and building materials, and bush meat to supplement their diets. With laws banning the hunting of all wildlife in Kenya, the Aweer's traditional way of life is in danger. The Aweer are mostly Muslim, like other coastal tribes.

13.7.10 Pokot

They speak Pökoot, language of the Southern Nilotic language family which is close to the Marakwet, Nandi, Tuken and other members of the Kalanjen grouping. Kenya's 2009 census puts the total number of Pokot speakers at about 620,000 in Kenya.They have once considered part of the Kalenjin people who were highland Nilotic people who originated in southern Ethiopia and migrated southward into Kenya as early as 2,000 years ago. Though the Pokot consider themselves to be one people, they are basically divided into two sub-groups based on livelihood. About half of the homestead is the social center for the Pokot. Here a man lives with his wives, each having their own hut. All members of the family live here and the stock is corralled here at night. The man of the family rules the homestead, telling the others what duties they are to perform. Population: 662,000

Location in the Country: Rift Valley Province, Baringo and West Pokot districts

Livelihood: It is usually claimed that from the earliest time of the original Pokot, they were agriculturalist, they did not have many cattle, and the few they had were taken by wild animals abounding the area. They have been hunters and gatherer living in caves. Currently, Pokoot are semi-nomadic, semi-pastoralists

who live in the lowlands west and north of Kapenguria and throughout Kacheliba Division and Nginyang Division, Baringo District. These people herd cattle, sheep, and goats and live off the products of their stock. The other half of the Pokoot are agriculturalists who live anywhere conditions allow farming. Mixed farming is practiced in the areas of Kapenguria, Lelan and parts of Chepararia. These areas have recorded rainfall between 120mm to 160mm while pastoral areas include Kiwawa, Kasei, Alale and parts of Sigor receiving 80mm and 120mm.

The livelihood of Pokot has led to constant conflict between them and other pastoral communities – the Turkana, Matheniko and the Pokot of Uganda. This clash has been sustained by semi-arid savannah and wooded grassland terrain that cuts along the habitation area. Resources such as land, pasture, water points are communally owned and they are no specific individual rights.

Cultural Profile: The Pokot people are made up of two main groups: the "cattle people," who are herdsmen who live on the plains, and the "grain people," farmers who live on the mountainsides. The lives of the herdsmen are harsher than those of their farming neighbors, but they have more wealth, because cattle are considered to be valuable by both groups. In addition to cattle, both groups have some goats, sheep and a few donkeys or camels. The Pokot are proud of their culture. They are one of the last groups in Kenya that have refused to be influenced by modern ways. In Pokot cosmology, the universe has two realms, the above and the below. The above, remote and unknowable, is the abode of the most powerful deities—Tororot, Asis (sun), and llat (rain); the below is the abode of humans, animals, and plants. Men and women are considered responsible for the peace and prosperity of the realm that they inhabit, but they must rely upon divine vitality and knowledge to achieve and maintain these conditions.

The Pokot communicate with their deities through prayer and sacrifice: Tororot is said to listen to his creatures below, Asis to witness their activities, and llat to serve as a messenger between the two realms. Deities, in turn, communicate with humans, warning and rebuking them about their misconduct. Christianity has reshaped Pokot cosmology, primarily by reducing the number of deities, while augmenting their attributes. The divine messenger llat has a human counterpart called a werkoyon (prophet), who foresees disaster and recommends expiation, usually animal sacrifice, to alleviate it. A werkoyon may be either male or female; his or her ability to foresee and to advise is considered a divinely given gift, to be used on behalf of all Pokot. The main ceremonies mark transitions in the social lives of individuals and communities. Especially notable among these are the cleansing of a couple expecting their first child; the cleansing of newborn infants and their mothers; the cleansing of twins and other children who are born under unusual circumstances; male and female initiation; marriage; sapana, a coming-of-age ceremony for men; and summer-solstice, harvest, and healing

13.7.11 Endorois

Endorois community is a minority community that was living adjacent to Lake Baringo. However, the Government of Kenya forcibly removed the Endorois from their ancestral lands around the Lake Bogoria area of the Baringo and Koibatek Administrative Districts, as well as in the Nakuru and Laikipia Administrative Districts within the Rift Valley Province in Kenya, without proper prior consultations, adequate and effective compensation. Endorois are a community of approximately 60,000 people who, for centuries, have lived in the Lake Bogoria area. They claim that prior to the dispossession of Endorois land through the creation of the Lake Hannington Game Reserve in 1973, and a subsequent re-gazetting of the Lake Bogoria Game Reserve in 1978 by the Government of Kenya, the Endorois had established, and, for centuries, practiced a sustainable way of life which was inextricably linked to their ancestral land.

However, since 1978 the Endorois have been denied access to their land, neighbouring tribes as bona fide owners of the land and that they continued to occupy and enjoy undisturbed use of the land under the

British colonial administration, although the British claimed title to the land in the name of the British Crown. At independence in 1963, the British Crown's claim to Endorois land was passed on to the respective County Councils. However, under Section 115 of the Kenyan Constitution, the Country Councils held this land in trust, on behalf of the Endorois community, who remained on the land and continued to hold, use and enjoy it. The Endorois' customary rights over the Lake Bogoria region were not challenged until the 1973 gazetting of the land by the Government of Kenya. The act of gazetting and, therefore, dispossession of the land is central to the present to their current predicament.

The area surrounding Lake Bogoria is fertile land, providing green pasture and medicinal salt licks, which help raise healthy cattle. Lake Bogoria is central to the Endorois religious and traditional practices. The community's historical prayer sites, places for circumcision rituals, and other cultural ceremonies are around Lake Bogoria. These sites were used on a weekly or monthly basis for smaller local ceremonies, and on an annual basis for cultural festivities involving Endorois from the whole region. The Complainants claim that the Endorois believe that the spirits of all Endorois, no matter where they are buried, live on in the Lake, with annual festivals taking place at the Lake. They believe that the Monchongoi forest is considered the birthplace of the Endorois and the settlement of the first Endorois community. Despite the lack of understanding of the Endorois community regarding what had been decided by the Kenyan Wildlife Service (hereinafter KWS) informed certain Endorois elders shortly after the creation of the Game Reserve that 400 Endorois families would be compensated with plots of "fertile land." The undertaking also specified, according to the Complainants, that the community would receive 25% of the tourist revenue from the Game Reserve and 85% of the employment generated, and that cattle dips and fresh water dams would be constructed by the State.

Although the High Court recognized that Lake Bogoria had been Trust Land for the Endorois, it stated that the Endorois had effectively lost any legal claim as a result of the designation of the land as a Game Reserve in 1973 and in 1974. It concluded that the money given in 1986 to 170 families for the cost of relocating represented the fulfillment of any duty owed by the authorities towards the Endorois for the loss of their ancestral land. Since then, Endorois have not owned until recently, when African Human Rights courts passed judgment to force Government to compensate them.

To date, the Endorois community has not received adequate compensation for this eviction, nor have they benefited from the proceeds of the reserve. Because they no longer have free access to the lake or land, their property rights have been violated and their spiritual, cultural and economic ties to the land severed. Once able to migrate with the seasons between Lake Bogoria and the Mochongoi forest, the Endorois are now forced to live on a strip of semi-arid land between their two traditional sites with no access to sustain their former cattle rearing and bee-keeping livelihood. The eviction of the Endorois people by the Kenyan government and the 'gazetting' (or public declaration of state ownership) of their land began in 1973 and continued until 1986. Population: 20,000

Location: Around the environs of Lake Baringo.

Livelihood: Dependant on land and fishing from Lake Bogoria. Critically, land for the Endorois is held in very high esteem, since tribal land, in addition to securing subsistence and livelihood, is seen as sacred, being inextricably linked to the cultural integrity of the community and its traditional way of life. Land, they claim, belongs to the community and not the individual and is essential to the preservation and survival as a traditional people. Endorois health, livelihood, religion and culture are all intimately connected with their traditional land, as grazing lands, sacred religious sites and plants used for traditional medicine are all situated around the shores of Lake Bogoria. At present the Endorois live in a number of locations on the periphery of the Reserve – which the Endorois are not only being forced from fertile

lands to semi-arid areas, but have also been divided as a community and displaced from their traditional and ancestral lands. Their access to the Lake Bogoria region, is a right for the community and the Government of Kenya continues to deny the community effective participation in decisions affecting their own land, in violation of their right to development. This has jeopardized the community's pastoral enterprise and imperiled its cultural integrity. They also claim that 30 years after the evictions began; the Endorois still do not have full and fair compensation for the loss of their land and their rights on to it. They further allege that the process of evicting them from their traditional land not only violates Endorois community property rights, but spiritual, cultural and economic ties to the land are severed.

13.7.12 Boni

The Boni people are known for their unique tradition of whistling to birds that guide them to honey. They are found in Northeastern Kenya's district of Ijara and Lamu district. Their population is about 4,000, compared to 25,000 half a century ago (Source: Organization for the Development of Lamu Communities (ODLC). They are nomadic hunter-gatherer tribe of mainly Cushitic origin with a unique characteristic. The community sources their subsistence from forest products such as honey, wild plants/fruits for consumption and medicinal purposes. The Boni are found in the North-Eastern part of Lamu district and Ijara District. They are concentrated mainly in Witu, Hindi and Kiunga divisions. The community is located in villages of Bargoni (Hindi Division), Milimani, Bodhei, Basuba, Mangai, Mararani, Kiangwe and Kiunga(Kiunga division), Pandanguo and Jima (Witu Division).

The Boni live in forested areas of the district i.e. within the Witu and Boni forests. They live deep into the forest and only come out to the periphery when there is hardship or hunger. They perceive the forest in the Boni inhabited areas as communally theirs. However, with the gazettement of all the forest by the government this has become a source of conflict.

13.7.13 Watha

The Watha people are mostly found in the rural arid and semi arid lands of the country. A minority of them live in thick forests scattered all over the country. The people are traditionallyhunters and gatherers. In Malindi district a Watha community is found in four divisions (i.e.Malindi, Langobaya, Marafa and Magarini). In Tana River district the Watha are found in Sombo and Laza divisions while in Mandera the Watha are found in Central division. The population of Watha community in the districts is estimated at approximately 30,000persons. This is only 2.7% of the entire Malindi, Mandera and Tana River district population.

The Watha people are traditionally hunters and gatherers. However since the government abolished unlicensed hunting of game and wild animals, the Watha people now live inpermanent settlements, some of them along the river and where there are forests, mainly in the mixed farming and livestock farming zones. The forests afford them an opportunity to practice bee keeping while those along the river practice crop production.

The land tenure system in the district is communal ownership. Most of the land in the three districts of Malindi, Mandera and Tana River are currently under trust land by the county councils. Few influential people in the district have however managed to acquire title deeds from the land offices in Nairobi. However, most of this trust lands are controlled by the majority tribes and becomes a point of conflict if the smaller tribes and outsiders get involved. This is what has pushed the small and marginalized tribes like Watha deep into the forests.