

**The Executive Secretary,
The Inspection Panel,
World Bank,
1818 H Street, NW,
Washington, DC 20433, USA**

1. We, [REDACTED] live and represent others who live in the area known as **Kapolet Forest (Trans Nzoia County), Talau and Kaipos (West Pokot County), Empoput Forest (Elgeiyo Marakwet County) in Cherangany Hills Project Operation area for Natural Resources Management Project (NRMP) a World Bank funded project.** Our addresses are attached.

2. We have suffered harm and we likely to suffer further harm as a result of the World Bank's failures or omissions in the **Natural Resources Management Project (NRMP)** located in West Pokot, Trans Nzoia and Elgeiyo Marakwet Counties in Cherangany Hills, Rift Valley Province in Kenya.

3. Harm Suffered:-

a) **Burning of Houses and Destruction Property of Sengwer ethnic minority forest Indigenous Peoples in Empoput Forest** - In 2007, 2008, 2009, 2010 and 2011 – Kenya Forest Service guards with support of administration police carried out forceful evictions of Sengwer Indigenous Peoples in Empoput forest. Over 500 houses were burnt, Property destroyed (food grains, house utensils, beddings, school books, etc). Further, the inhuman forceful violations led to cases of school drop outs; psychological torture; violations of spiritual and cultural believes, norms, taboos and values.

Empoput Forest (in Marakwet East District, Elgeyo Marakwet County) is part of ancestral homes of Sengwer an ethnic minority hunter-gatherer Indigenous Peoples. Colialist found their ancestors their and even gave them permits to live in the forests.

b) **Arrests of 41 members of Sengwer Indigenous Peoples and 4 local community members in Kapolet forest in 2009** – They were taken to police cells in Kitale Police Station and later appeared before Kitale Law Courtst were they were charged with an offence of illegal cultivation of forests without permit. It is important to note that Kapolet Forest is one of Sengwer ancestral homes that Sengwer families have been living since time immemorial till when Kenya became British Colonial Protectorate in 1895.

At first the Bristish government recognized Sengwer families living in this forest by creating an administrative unit called Kipsirat location and having the late Kipsangas Kapelio as the Chief. Later on through discriminatory forest preservation policies led to forceful eviction and displacement of Sengwer families from the forest and having the forest qazetted as government forest.

In 1997 the retired President of Kenya directed the provincial administration to settle members of Sengwer community on Kapolet forest – there are minutes from Provincial Commissioner and District Commissioner that supports the same. The government divided the settlement into two phases i.e. Phase I and II. 489 families were settled in phase I and no legal documents have been issued to date to support their settlement. Demarcation and Settlement of phase II was stopped up to now.

Further, in 2004 some hundreds of Sengwer families moved to settle in Kapolet forest i.e. Phase II. 97 members of the community were arrested and charged at Kapenguria law courts with intentions to encroach government forest. The case was later ruled in favour of Sengwer indigenous community.

It is important to note that the ruling of the case involving arrested community members is still pending at Kitale Law Courts since 2009. The arrested members, their families and entire Sengwer indigenous peoples have had their fundamental freedoms, human and indigenous rights violated. They have been subjected to torture, poverty, oppression and segregation as peoples within their ancestral lands and while an Indigenous Peoples Planning Framework for Natural Resources Management Project is still in force.

The Sengwer Indigenous Peoples have used hundreds of thousands in Kenya shillings to pay for legal fees, transport, meals and costs.

- c) Shooting of a woman in Kapolet forest – in 2009 when the forest guards entered Kapolet forest to arrest members of Sengwer families they used live bullets. During the shootings, Mrs. Beatrice Chepkorir a Sengwer indigenous woman was shot from the back and left for death until good Samaritans took her to Kitale District hospital where she was admitted and received treatment.**
- d) The use of Vulnerable and Marginalized Groups instead of Indigenous Peoples – The decision by Kenya Forest Services and Kenya Government to use Vulnerable and Marginalized Groups with reference to Indigenous Peoples without carrying out a free prior and informed consultations with indigenous peoples is a violation of the rights of indigenous peoples as stipulated in the United Declaration on the Rights of Indigenous Peoples, African Charter on Human and Peoples Rights, World Bank Operational Policy 4.10 on Indigenous Peoples, IPPF for Natural Resources Management Project, Social Assessment Report for Natural Resources Management Project.**

It is false for Kenya Forst Service to claim that the Kenya Constitution refers to Indigenous Peoples as Vulnerable and Marginalized Groups. The Kenyan constitution has got no definition of vulnerable groups or vulnerable and marginalized groups.

- e) Threats and Intimidation – In Kapolet Fotest when Sengwer families objected to planting of trees, the then district commissioner of Trans Nzoia threatened the**

Sengwer families that you rely on an IPPF which is just a mere Memorandum of Understanding. The DC said all these before Mr. Muchemi from the World Bank Office – Nairobi.

Further, when Sengwer leaders and elders pushed effective and efficient implementation of the letter and spirit of IPPF for Natural Resources Management Project – The World Bank Team Leader – said that we should be grateful to have NRMP in Cherangany Hills, because it was not supposed to be carried out Cherangany Hills. He further, said that it is the consultant who was hired to prepare an IPPF who covered Cherangany Hills. He concluded by saying that the NRMP is therefore in Cherangany Hills by default.

- f) Resettlement Plans – The Kenya government through Kenya Forest Service/Natural Resources Management Project and Ministry Special Programmes made plans to resettle Sengwer families living in Empoput Forest without carrying effective and efficient free prior and informed consultations. There were plans to purchase land in Kipkapus and Rongai. Also at one point the community members were asked to look for land as individuals. The resettlement plans go against World Bank Operational Policy 4.12 on involuntary resettlement.**

4. World Bank’s Operational Policies that we believe have not been observed are:-

- a) Operational Policy 4.10 – Indigenous Peoples Policy**
- b) Operational Policy 4.12 - Involuntary Resettlement**

We have complained to World Bank staff on the following occasions **see attached letters** by writing letters, we have had meetings with NRMP WB Team Leader and Country Director. We have not be satisfied by explannations given by the KFS, Kenya Government and World Bank Country Office. Further, we feel that World Bank officers failed to carry out their supervisory role instead they protected their client even when there was clear facts and indications that the rights of Sengwer indigenous peoples were being violeted.

We recommend that –

- a) Kenya Government through the Ministry of Forestry and Wildlife; Ministry of Lands recognizes, respects and protects the rights of Sengwer forest indigenous peoples to live within their ancestral homes in Kapolet and Empoput Forests as part of the ecosystem while carrying out livelihood activities that promote sustainable conservation and protection of natural resources.**
- b) Kenya Government reviews all discriminatory policies, acts and laws that are against recognition and promotion of the rights of forest indigenous peoples to live harmoniously within their ancestral homes in the forest.**
- c) Kenya Government through the Ministry of Forestry and Wildlife (Kenya Forest Service/Natural Resources Management Project) compensates Sengwer Indigenous Peoples families whose houses and property were burnt in Empoput**

Forest since the Indigenous Peoples Planning Framework for Natural Resources Management Project was adopted by Kenya Government and World Bank in 2007.

- d) Kenya Government through the Ministry of Forestry and Wildlife (Kenya Forest Service/Natural Resources Management Project) compensates members of Sengwer Indigenous Peoples who were arrested in Kapolet Forest and the case is still pending at Kitale Law Courts**
- e) Kenya Government through the Ministry of Forestry and Wildlife (Kenya Forest Service/Natural Resources Management Project) compensates the Sengwer woman who was shot by a forest guard in Kapolet forest in 2009.**
- f) Kenya Government recognizes and promotes the use of Indigenous Peoples as it did while preparing Indigenous Peoples Planning Framework and Social Assessment Report for Natural Resources Management Project and with respected to international human rights instruments e.g. United Nations Declaration on the Rights of Indigenous Peoples, African Charter on Human and Peoples Rights and ILO Convention No. 169.**
- g) Kenya Government transfers with immediate effect the current Zonal Manager for Trans Nzoia County Mr. Wahome for he has been the main person who directed the arrests of members of Sengwer community and shooting of a woman in Kapolet forest in 2009.**
- h) World Bank suspends any funding towards REDD + untill the said violations, injustices, concerns and fears are addressed**

We request the Inspection Panel recommend to the World Bank's Executive Directors that an investigation of these matters be carried out.

Signatures:

[Redacted signature block containing three sets of blacked-out text]

Keep our names and contacts as confidential

[REDACTED]

Date: 13.1.2013

Contact address, telephone number, fax number and email address:

[REDACTED]

We do not authorize you to disclose our identities. Please, keep our identities and contacts confidential.