

14 February 2017

To World Bank Directors,

The World Bank Board is scheduled to review on February 16 a proposed Management Action Plan for the Kenya Electricity Expansion Project (KEEP), a geothermal development project involving the resettlement of four Maasai villages in Kenya's Rift Valley. The project is co-financed by the European Investment Bank (EIB), the French Development Agency (Agence Française de Développement – AFD), the Japan International Cooperation Agency (JICA), and the Development Bank of Germany (Kreditanstalt für Wiederaufbau – KfW).

The Inspection Panel's Investigation into complaints by community members found serious harm to the communities and lack of compliance with World Bank policies, many of which stem from the failure to trigger the Indigenous Peoples Policy. Throughout project implementation, Bank protections for indigenous peoples, including free, prior and informed consultation, respect for customary land rights, and benefit-sharing for commercialization of indigenous peoples' natural resources, have continued to be ignored. The project also violated the Involuntary Resettlement Policy as resettlement was not culturally appropriate, did not rely on reliable socioeconomic census data, did not provide adequate replacement land, and failed to restore livelihoods.

Following the Panel's investigation, a mediation process took place, led by the EIB's Compliance Mechanism and supported by the World Bank's Grievance Redress Service. That process had significant flaws, including a rushed timeline, failure to consult with the community at large as initially planned, and a significant power imbalance between the communities and the State geothermal company, KenGen. As a result, implementation of the Mediation Agreement alone will not adequately address the communities' concerns or correct all of the instances of non-compliance with World Bank policy identified by the Inspection Panel. Moreover, KenGen has not made any progress on the vast majority of its commitments in the agreement.

Today, the social, cultural and economic wellbeing of the resettled Maasai villages has been significantly undermined. Two and a half years after resettlement, the villages impacted by KEEP still lack title and ownership of their lands and there are significant concerns and irregularities regarding the titles the communities are being asked to accept: temporary leaseholds that would leave them in a state of insecurity. Moreover, the project and resettlement process have caused a host of other problems. The Maasai, who are a pastoral people, were moved from 4200 acres to an area of 1700 acres lined with steep ravines, which cannot support their pastoralist livelihoods. The Cultural Centre, a traditional village and tourism destination, is no longer viable since it is now in the midst of geothermal wells, eliminating a critical income stream and compromising the community's ability to practice their culture and traditions. The

resettlement site lacks adequate water and roads are in disrepair, creating hazardous conditions and isolating households. Complaints regarding inadequate assessment of project affected people and inadequate compensation have not yet been resolved.

The Indigenous Peoples Policy notes that because resettlement of indigenous peoples poses significant adverse impacts on identity, culture, and customary livelihoods, such resettlement is to be avoided except in exceptional circumstances, and then, only with the free, prior and informed consultation of those peoples. Where there is commercialization of indigenous peoples' natural resources, such as in this case, Bank policy requires arrangements to enable indigenous peoples to share equitably in project benefits, and at a minimum to receive, in a culturally appropriate manner, benefits, compensation, and rights to due process at least equivalent to what any landowner with full legal title to the land would be entitled in the case of commercial development on their land. This has not happened.

The project history of KEEP reveals a lack of will on the part of KenGen to adhere to these policies, but more importantly a lack of will and adequate supervision on the part of the World Bank. The Bank has known about these problems for over three years and yet they have not been addressed. Unfortunately the Bank elected to provide additional financing for the project in May 2016, despite this lack of compliance. Securing compliance now will require the Bank to take strong corrective measures, including the use of remedies such as loan repayment and withholding of future financing. The Bank has several other projects with KenGen in the Olkaria region. It would be a grave mistake to continue to send the message that both the Bank's policies and the rights of indigenous peoples are disposable.

We urge you to ensure that any approved Management Action Plan includes concrete time-bound commitments and use of all available Bank remedies to bring the project into compliance with the Involuntary Resettlement and Indigenous Peoples policies. In particular, the Action Plan should include the following elements:

- Require KenGen to provide additional grazing land sufficient to meet the communities' economic and cultural needs and restore their livelihoods.
- Ensure that legal title is awarded as community land as a freehold title, not a leasehold title, in accordance with the Community Land Act.
- Require repayment of project funds to ensure financing of roads and water main construction.
- Ensure that a livelihood assessment is completed and disclosed, and set concrete time-bound measures to restore conditions for pastoralism and tourism, as well as new employment. Until livelihoods are restored, economic assistance should be provided sufficient to ensure a standard of living at least equal to pre-resettlement.
- Provide for negotiation of a benefit-sharing agreement wherein the communities directly share in the profits and benefits from the geothermal development on their lands and have a sustainable means of supporting their development.
- Include a participatory process to monitor resolution of housing/compensation complaints and measures for vulnerable project affected people.

- Ensure that all the elements of an Indigenous Peoples Plan are reflected in the Action Plan.
- Require monthly progress reports from Management, and engage an Independent Expert Panel, as well as community-based monitoring, to advise and report on ongoing implementation.

Signed,

Narasha Community Development Group, Kenya
 Mainyoito Pastoralists Integrated Development Organization (MPIDO), Kenya
 Indigenous Peoples National Committee on Climate Change (IPNCCC), Kenya
 Maa Civil Society Forum, Kenya
 Jamaa Resource Initiatives, Kenya
 Natural Resources Alliance, Kenya
 Indigenous Concerns Resources Center, International
 Japan Center for a Sustainable Environment and Society (JACSES), Japan
 Mazingira Network (MANET), Tanzania
 Lumiere Synergie pour le Developpement (LSD), Senegal
 Ikh Baga Bayansharga, Mongolia
 The Sustainable Holistic Development Foundation, Tanzania
 CEE Bankwatch, Regional
 Steps Without Borders, Mongolia
 Public Interest Law Center (PILC), Chad
 Gobi Soil, Mongolia
 Both Ends, Netherlands
 Community Policing Partners for Justice, Security and Democratic Reforms, Nigeria
 The Oakland Institute, USA
 11.11.11- Coalition of the Flemish North-South movement, Belgium
 Undsen urtrag -Global Meridian, Mongolia
 Buliisa Initiative for Rural Development Organisation (BIRUDO), Uganda
 Aksi! For Gender, Social and Ecological Justice, Indonesia
 Forest Peoples Programme, United Kingdom
 International Accountability Project, International
 Friends of the Earth, USA
 Urgewald, Germany
 Accountability Counsel, USA
 Center for International Environmental Law (CIEL), USA
 American Jewish World Service, USA
 Inclusive Development International, International
 Maryknoll Office for Global Concerns, USA
 Bretton Woods Project, United Kingdom
 OT Watch, Mongolia