1. Treatment and rights of informal occupants and approach to forced evictions in situations “unrelated to land acquisitions”- Narasha Community call for the bank to strengthen the protection of the rights of the informal settlers. In Kenya for example, most community land has no legal documents hence the community is prone to human rights violations.

2. Concept of resettlement as a “development opportunity” in different project circumstances: the bank should clarify the application of the safeguards so that they will not leave room for manipulation. The bank should not allow the borrower room for failing to apply the policies as required. The policy of “waiver” should be removed from the safeguards for the borrower might try to seek a way out of not applying the safeguards strictly. In the case of Olkaria resettlement program 2009-12, the Kenya government had no good will in the process and the Inspection panel revealed a lot of anomalies in the process. The WB should ensure there are water tight ESSs which will not allow the borrowers to avoid meeting the requirement of the projects regarding health and safety. The role of the bank such as; “development and implementation of projects be at the discretion of the WB” should be maintained in the safeguards. In Kenya, even though the legislation EMCA 1999 (Reviewed 2015) was available for addressing environmental and social concerns of projects, the Olkaria IV project failed to meet the required safeguard standards.

3. Assessment and Management of Environmental and Social Risks and Impacts: Although the some countries have legislation on environmental assessment, it is the duty of the WB to ensure that the safeguards will not allow the borrower to evade the protection of the environment, people, plants and animals in the area projects will be developed. This means we should not solely accept the borrower to decide on what to protect or issues to address but the bank should have policies that ensure sustainability in development. The local community and indigenous peoples must be able to participate in the environmental assessment. Although the Kenya constitution included some of the safeguard principles, it did not explicitly and clearly address the way these issues will be addressed and it can leave room for human rights and indigenous peoples’ rights violation as we have seen in the Olkaria IV projects where the borrower failed to apply the indigenous peoples policy and also allowed discrimination of the vulnerable people such as the poor, disabled, widows and orphan children. The World Bank as a global institution should focus its attention on supporting development through recognition to the LGBT group. These are the eye of the local community and help in capacity building to avoid oppression of the local people. The gender mainstreaming and prevention of sexual abuse and exploitation of local community should be taken care of.
4. Land acquisition and involuntary resettlement The restriction on the borrower from commencing any project activities which cause physical or economic displacement until plans are finalized and approved by the Bank needs to be maintained in the policy. Projects should not be allowed to commence pending approval (e.g. beginning of construction of an electrical transmission line should have to wait until all the land has been acquired for the entire length of the line). Where the national legislation fails to give solution or address the rights of the displaced people, the ESF should give the best solution. The ESF should be more superior to national legislation. The bank should ensure the ESF are applied accordingly. When it comes to determining the most suitable type of compensation for a community or an individual land-based compensation should be preferred rather than monetary. Livelihoods must be restored. The affected community should be involved in this and other decisions that affect them. They should determine the compensation method and the process for compensation or the nature of compensation. In Kenya the issues of historical land injustices plays a very important role in the land narrative and continues to be the source of conflict. The ESF should provide guidance on how to deal with such historical injustices. Kenya has a discriminatory approach to resettling internally displaced persons by focusing on the victims of the political violence of 2007/8 and neglecting others displaced due to conflict and takeovers of their lands.

5. Indigenous Peoples Policy. The cultural, religious, economic and land rights of indigenous peoples should be respected and protected. This includes recognition of the rights of indigenous peoples who are pastoralists. Free, prior, informed consent should be required as part of the policy so that the affected community can understand the impacts of the projects and participate in the addressing of these impacts. There is often bad faith in negotiations between the project proponents and citizens and they continue acting without passing the information to the displaced or affected people. This is a great cause of conflict for people will resist any attempt to be displaced without their consent. For instance, on 26th July 2013, 247 homes were burnt by electricity generating company in Kenya which had intention to put up more power plants and attempted to evict over 2000 people at Narasha area. The community resisted completely. Therefore, to address such problem it requires consultation consent on the issues and protection of community and decision making on the mitigations of the problems caused by the projects.

On the use of the term “indigenous peoples”, the following are noteworthy; The constitution of Kenya does not use the term “indigenous peoples” but recognizes marginalized groups and Under Article 260, of the Constitution of Kenya, defines marginalized communities as including indigenous communities. Marginalized communities are defined as: a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole; (a) a traditional community that, out of a need or desire to preserve its unique culture and identity from assimilation, has remained outside the integrated social and economic life of Kenya as a whole; (b) an indigenous community that has retained and maintained a
traditional lifestyle and livelihood based on a hunter or gatherer economy; or (c) pastoral
persons and communities, whether they are— (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 as a whole.

Kenya has also a representative in the UN Permanent Forum on Indigenous Issues. If at that
level government accepts to be represented, it means the government recognizes the
existence of such group of people. The state has consistently reported on progress in the
recognition of indigenous peoples citing the Kenya constitution which classifies them as
“marginalized and minorities” yet it has not hesitated to use the term indigenous peoples
while seeking funds from donor institutions such as the World Bank. The Bank should
maintain the requirement for free, prior and informed consent. This is also alluded to in the
Kenyan constitution when dealing with indigenous peoples on matters relating to
development, extractives and land exploitation of land and natural resources in their
territories.

6. **Information Disclosure and Stakeholder Engagement.** The use of expertise in
information disclosure is necessary especially where the local community contain a high
number of illiterate people. In Kenya, the constitution does not address this since the
parliament has failed to legislate on laws on public participation. Most African countries
have no laws to ensure community participation. Moreover, most people have no
knowledge on how to engage borrower, therefore it requires some people with good
understanding of the local laws and international protocols.

7. **Cross Cutting Development Issues. Human Rights.** Based on consultations it appears
the Bank is of the view that it should refrain from proposing that borrower human rights
compliance be a standard requirement within ESF. We look forward to see ESFs which
will articulate human rights. It is not okay if the project will impact on people and the
bank stays silent on them. The ESFs are the bases for any development projects and
should not allow the borrower to violate human rights at all.

8. **User of Borrowers Frameworks.** The borrower frameworks should not be depended on
for addressing the project issues. The banks ESF should be used in addressing the project
impact on the environment and the community. We propose that the projects should meet
the Banks safeguards.

**Conclusion**

Narasha community wish to thank the bank for coming up with this review and we hope that
our concerns will help to strengthen the ESFs to prevent environment degradation, social or
human rights violation and enhance sustainable development.