OGIEK BIO-CULTURAL COMMUNITY PROTOCOL (BCP)

2nd Edition #2015

SAFEGUARDING RIGHTS AND MANAGING RESOURCES TO IMPROVE LIVELIHOODS

OGIEK BIO-CULTURAL COMMUNITY PROTOCOL (BCP)

LIST OF ABBREVIATIONS

ABS	Access & Benefit Sharing
ACHPR	African Court for Human and Peoples Rights
BCP	Bio-Cultural Protocol
CBD	Convention Biological Diversity
CEDAW	Convention on Elimination of all forms of Discrimination Against Women
CITES	Convention for International Trade on Endangered Species
CoE	Council of Elders
DDC	District Development Committee
ERS	Economic Recovery Strategy
FPIC	Free Prior Informed Consent
GFP	Global Forest Principles
GoK	Government of Kenya
HCCA	High Court Civil Application
ICS	Interim Coordinating Secretariat
ILO	International Labor Organization
IR	Indigenous Resources
OPDP	Ogiek Peoples' Development Program
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCED	United Nations Convention on Environment & Development
UNDRIPs	United Nations Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational, Scientific & Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
WIPO	World Intellectual Property Organization

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PREFACE

Bio-cultural Community Protocols (BCPs) articulates community-determined values, procedures and priorities, and sets out community's rights and responsibilities under customary, state and international law. It is developed after a community undertakes a consultative process to outline their core ecological, cultural and spiritual values and customary laws relating to their TK and resources, based on which they provide clear terms and conditions to regulate access to their knowledge and resources.

The Bio-Cultural Community Protocol of the Ogiek provides an insight into important social and cultural values of our people. It highlights and documents our traditional knowledge, way of life, customary laws. It also identifies current challenges we face and their impact on our way of life. It documents and showcases our role in protecting and conserving Mau forest Complex, and states clear terms and conditions regulating access to our knowledge and resources.

By developing the BCP, the Ogiek call on the Kenyan Government and other stakeholders to recognize and appreciate our vital role as guardians and conservators of biological diversity in Mau Forest Complex, and recognize our customary and legal rights over our land, territories and natural resources.

Mr. Daniel M. Kobei
Executive Director
Ogiek Peoples' Development Program (OPDP)

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Our deep and sincere appreciation goes to all members of the Ogiek community, OPDP staff, our leaders and the team of BCP drafters for their cooperation and support during the entire development process of the Ogiek Bio-Cultural Community Protocol.

INTRODUCTION

We, the Ogiek are hunter-gatherers of the Mau Forest Complex in Kenya. We believe that since Mau Forest Complex is our home, we have the right to live in the Mau and practice our way of life. We also have a collective responsibility to protect and conserve it. We therefore call on the Kenyan government and other stakeholders to recognize, respect and affirm this inherent right.

In this protocol, we clearly state who we are; where we live; our relationship with the Mau Forest Complex and our land, and associated traditional knowledge; rights over natural resources in the Mau and our responsibility to protect and conserve the Mau forest.

This BCP is a tool to safeguard our community's rights as well as traditional knowledge and resources by providing clear terms and conditions to regulate access to our assets as well as sharing benefits that accrue from any development of these assets.

The development of the BCP was undertaken through a participatory process that involved community consultations in different parts of the Mau Forest Complex, with the technical assistance of the Ogiek Peoples' Development Program (OPDP). Twelve (12) data collectors, all members of the Ogiek community, were also dispatched to various parts of the Mau Forest Complex to document information on the various aspects of Ogiek culture and practices. This ensures that the BCP reflects the true position of all members of the Ogiek community in the Mau Forest Complex.

WHO WE ARE

We, the Ogiek, are an indigenous minority ethnic group, traditionally practicing hunting and gathering comprising approximately 35,000 members across Kenya. We live in and around the Mau Forest Complex[1] in Rift Valley, and in the forests around Mount Elgon in Western Kenya.

Approximately 30,000 members of our community live within the Mau Forest Complex, concentrated mainly, but not solely, in the following areas: Marioshoni location (Eastern Mau), Nessuit location (Eastern Mau), Sururu (Eastern Mau) Sogoo (Maasai Mau), Nkaroni (Maasai Mau), Kiptungah (Molo), Tertit (Eastern Mau), Tinet area and Saino (South Western Mau), Sasimwani (Maasai Mau), Olopirik (Maasai Mau), Nkareta (Maasai Mau), Olmekenyu (Maasai Mau), Koibatek (Maji Mazuri), Londiani(Sorget), Uasin-Gishu (Northern Tinderet), Kipkurere (Northern Tinderet), Ndungulu (Northern Tinderet), Seregonik (Northern Tinderet) and Tindiret Forest. The rest of us live in the forested areas of Mount Elgon, at Chepkitale.

We are believed to be the first people to have settled in Eastern Africa and were found inhabiting all Kenyan forests before 1800 AD. However as a result of arrival and migration of other dominant communities we lost our hegemony and we were gradually assimilated, a fact which was evident in the beginning of mid-1900s where we were slowly becoming extinct.

We, the Ogiek, identify ourselves as hunter gatherers, and claim the Mau Forest Complex and Mount Elgon Forest as our cradle land over which we have occupied for thousands of years. We depend on the forest for food (honey), medicine, shelter and preservation of our culture. We speak the Ogiek language and practice a unique lifestyle common to the forest-dwelling communities.

We are among other small communities in Kenya that are known historically for wide dispersal in Kenya. This is can be attributed to factors such as famine, family feuds/conflicts, clanism, civil war, disease and past injustices which have made our people to separate and live in different parts of the Mau Complex. Today, the Ogiek are scattered in 14 Sub Counties within 5 major Counties (Nakuru, Narok, Uasin Gishu, Kericho and Baringo) that are covered under the Mau complex.

1 The Mau Forest Complex forms the largest closed-canopy forest ecosystem of Kenya, measures approximately 900 square kilometres, and is divided into 22 forest blocks.

OUR SPECIAL RELATIONSHIP WITH LAND AND FORESTS

We have a special relationship with our land and the natural resources in it. This relationship has special importance to our culture and spiritual values and ultimately for our continued existence as distinct peoples. The land that we have traditionally occupied has shaped our distinct identities, livelihood practices, and knowledge systems.

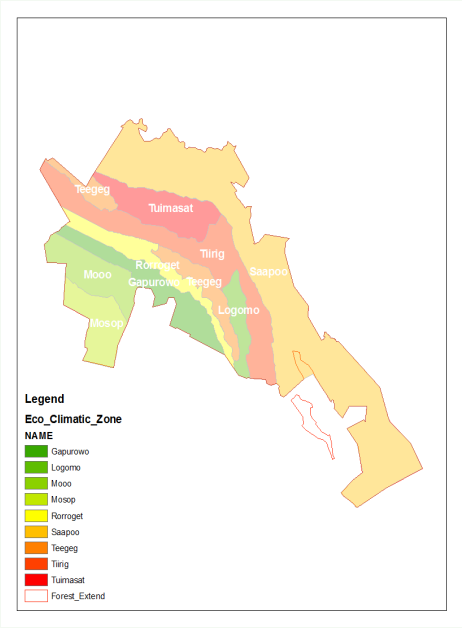
Our identity stems from the socio-cultural value we place on our land, territories and surrounding environment. Land is held as sacred, not only is it an economic resource but also a social, cultural and ontological resource.

The word ***Ogiek means*** 'caretaker of all' plants and animals, or scientifically the flora and fauna. We have always been among the most responsible stewards of forests owing to our historical links and attachment to it. Our relationship with the forest is essential to our way of life and ultimately our survival. We attach cultural values and beliefs in the protection, conservation and utilization of the resource.

Our Eco-climatic Zones

We, the Ogiek have such a long-standing and considered relationship with the Mau Complex, that we have categorized the Mau Complex and its adjoining areas of Lake Nakuru plains into distinct climatic and ecological based zones (eco-climatic zones). These zones are important for our survival since they dictate our daily activities and determine our food security. The 9 eco-climatic zones are:-

1. Sooywo
2. Saapo
3. Tiriig
4. Logomo
5. Tuimasat
6. Tegeeg
7. Rogroget
8. Gaporowo
9. Mou (Mau)



We have been able to distinguish different eco-climatic zones by observing the terrain, altitude (***Tororindo***), topographic features (rivers, hills, valleys, caves), climatic conditions temperature (***Goristo***), rainfall (***ropta***), soil type (***Ng'unyenyeg***), vegetation types and composition, quality and type of honey, and wild animals in each zone.

We have used an accumulated body of traditional ecological knowledge gained through observation of weather conditions and climatic patterns across the entire Mau Forest Complex and the adjoining Lake Nakuru plains to categorize, characterize, define and delineate the various ecological zones.

OUR TRADITIONAL KNOWLEDGE

We have rich traditional knowledge which is a result of our know-how, skills, innovations and practices embodied in the traditional lifestyle of our community. Our knowledge ranges from the conservation and sustainable use of forests as well as genetic resources (plant and animal species), animal tracking and hunting; ecological knowledge; traditional medicine; handicraft production and material culture among others.

For decades, we were able to apply our traditional knowledge systems in the conservation and sustainable use of forest bio-diversity. Nobody was allowed to cut down trees. Each clan was given their section or part to protect, conserve, preserve and utilize in a suitable and sustainable manner. Every clan named their section of the forest based on their own understanding of the environment. We use myths and taboos to conserve the forest. For example, cutting of various tree species was a taboo (***Giret***) and this helped in the protection of indigenous tree species.

> *"The Mau forest is the most crucial and wonderful resourceful zone. Mau forest like a scooped nutritionally balanced honey is a fertile land and was handed to us by god (**Tororet**). It is a blessing to us from **Tororet** since it has abundant food (meat, honey and wild fruits), pure water (**Peeg op Tegeldit**), medicinal herbs, sacred trees and spiritual sites."*
>
> Nabaru Emole Kobei, Ogiek Elder

Our utilization, conservation, and protection of the Mau Forest Complex was also based on a seasonal calendar that defined and described our practices within the forest. Our community follows the seasonal changes of the forest ecology which controls the climatic patterns and natural resource dynamics. ***(See Appendix 3 for Ogiek Eco-Calendar)***

Using our traditional climatic classification system, we have enumerated and ascribed several vegetation types, medicinal plants, wild animals and types of honey bees to specific eco-climatic zones.

The vegetation types include:

1. ***Ing'utngutioit*** – swampy with grass,
2. ***Sisieg/ketig*** – small/ bamboo trees,
3. ***Teegeg*** – bamboo,
4. ***Timdo ne gemngem*** – unfertile forest (with trees and shrubs),
5. ***Tirikwek*** – grassland, and ***Turgut*** – grassland with shrubs and small bushes etc.

The wild animals in our territories include but not limited to:

Eiririt, Ereguteit – antelope,	***Poinet*** – antelope,
Gipkonyiret – antelope,	***Puteito*** – warthog,
Kooteet – ant eater,	***Rogoyuet*** - Eland
Impolet - black bushbuck	***Sing'oito*** – Waterbuck
Inderit – hyrax,	***Tisiet*** – Monkey
Kipkamit – rhino,	***Goortitiet*** – Columbus Monkey ,
Mindet – Bongo	***Mogoitit***- Black Monkey
Olosirait – zebra,	***Toraet*** –wild pig, and
Pechenit – antelope,	***Tumda*** – great forest hog
Peliot – elephant,	***Aapiyet*** – Leopards
	Orkonoit - Hyena, etc.

We are familiar with five types of honey bees, each defined by body color, habitat, and quality of honey. These honey bees includes:-

1. Gaposwet (produces sweet honey which is used to cleanse the stomach),
2. ***Gosomeg*** -dark in color, harmless and stays underground,
3. ***Kipirgei or pusecheeg*** (***dark in color and relatively less aggressive***), produces sweet honey with less wax and has medicinal values,
4. ***Somosireg (brown in colour and very aggressive).*** They are associated with the Sooywo and Saapo zones, while the dark bees are associated with the upper eco-climatic zones.

The relevance of the categories of soil and plants in each particular zone for the Ogiek was related to predicting what type of game would likely inhabit the area. Salty soils, ***ng'eeinda*** or salt licks would attract certain antelopes. The dense indigenous forest, ***timdo /waonet***, was significant as it housed particular food resources, as well as buffalo and other animals.

We have in depth ecological knowledge of the Mau Escarpment and its various habitats. Our eco-climatic classification system clearly differentiates the major types of climate and eco-systems within the Mau Escarpment and Lake Nakuru plains, and shows the relationship between these eco-climatic zones.

Our Traditional Medical Knowledge emanates from our profound relation with the forest. Such is part of our cultural identity as a community. The knowledge ranges from that of providing immunity, protection, treatment of various illnesses and conditions and general health care. Traditional medicine not only involved the use of various plant species; animals species and honey which was the staple food of the Ogiek was combined with medicinal herbs to treat chest pains, aches on the body joints, allergies and coughs.

"Our culture is deeply enriched with Knowledge about medicinal plants which is a cultural heritage that is treasured and maintained in different age groups. We transmit this knowledge orally from one generation to another thus ensuring that traditional knowledge about medicinal plants is not lost. In our community, knowledge transmission was found to be gender specific in that older women train young women, while young men were taught by the older men to ensure intergenerational learning skills are not lost."

We call for:

a. Protection of our traditional knowledge against misappropriation, misuse and exploitation.

b. Sustainable utilization and preservation of our TK for us and our future generation and, for appreciation of cultural diversity.

OUR WAY OF LIFE

Economic activities

Our traditional economic system revolved around hunting and gathering wild fruit and honey. However, hunting has been outlawed while gathering has been restricted by preservationist forest laws, policies and management practices

Honey was our main medium of trade within the community and with neighbouring communities like the Maasai, Kalenjin Communities and Kikuyu. Honey production, which is our primary traditional occupation that has historically been the basis of a sustainable income, depends entirely on the resources available in the Mau Forest Complex. We still practice traditional bee keeping, however some us are adopting modern bee keeping techniques as a result of increased commercialization of bee keeping.

We have been forced to adopt 'more sustainable' economic livelihoods systems such as arable cultivation and livestock keeping.

Logoman Self Help Group are using this kind of Modern langstroth hives for bee keeping (Photo Credit OPDP Nakuru)

We have a wide-range of traditional knowledge on Bee keeping. We are able to identify the honey-making and brooding season for bees. We can tell the difference in honey (color and taste) depending on different seasons and the type of bee forage. We can identify "herbal honey" from medicinal plants, usually for treatment of different ailments and disorders.

Photograph of a traditional beehive (Photo credit, OPDP, Nakuru)

We can also easily identify bees and their roles in the hives. The Kooburiot or Drones are useful in reproduction and not honey production. The segemiat or worker bees are known to make sweet honey and are very aggressive as they can sting in protection of the hive (as opposed to the drone). When looking for wild honey[2], an experienced bee-keeper would seek assistance of the honey guide, a bird capable of sensing honey in the forest. The bird would lead

2 These are honey got from trees as opposed to the ones from hives. In this case, the bees live in a hollow tree and make honey.

the hunter to the direction where there is wild honey. The hunter would then harvest the honey and give some to the bird. This symbiotic relationship with this bird has been in existence for centuries, and it is our traditional way of honey harvesting.

An Ogiek man showing honey harvested from stingless bee nest (Photo Credit OPDP Nakuru)

Food

We ate different types of food such as honey, wild meat and wild fruits. However our staple food was honey and wild meat.

Wild fruits consumed by the Ogiek community, (Photo Credit OPDP Nakuru)

The use of honey in ceremonies was mandatory, and was part of our culture. Honey, honey-wine (Rotikap gomek) and honey-water (Lugumeg) had great symbolic value to us. Without honey, no ceremony would have taken place.

Since our traditional way of life has been disrupted, we have embraced agriculture but in small scale. Most of us plant maize, beans, and potatoes, and also keep livestock to supplement our traditional food and for livelihood sustenance.

A group of Ogiek Women in Tinet showing how they are practicing Farming as a mean of livelihood (Photo Credit OPDP)

Our System of Governance and Decision Making

We have both patriarchal and patrilineal lineage family systems. We have clearly structured traditional governance systems made up of several hierarchical structures composed of chiefs, social groups' leaders and a council of elders. Our traditional governance structure was such that we were headed by council of elders ***(Poisionik)*** chosen from each of the 12 clans. Meetings were organized by the elders and any matter that affected more than one clan was handled through joint meetings of the elders from those clans. Ogiek council of elders also settled disputes between community members and gave judgments or compensation as per traditionally agreed standards.

Each clan had an elder (***pooyon***) who represented the clan and acted as a mediator between the clan and the greater council of elders, where he presented issues pertaining to the particular clan.

Presently, we have a council of elders, whose members are drawn from each clan. The council of elders is recognized, and continues to address the issues facing the community to the government, and ensure the rights of the community are protected.

OUR CHALLENGES

Loss of our Home-Mau Forest Complex

We were the first inhabitants of the Mau Forest, and we were in occupation of these lands for decades. Extensive de-gazettement of forest land in Mau and elsewhere by the colonial government and throughout post-independence government regimes has created a series of generational problems for us. Once the forest was gazetted, we became squatters on 'government land'. We were evicted from our land without prior consultation. A few of us were resettled; those of us that were not continue to live as internally displaced persons.

Those of us who have been evicted from the forest are not allowed to access the forest. Our right to participate in the conservation and management of the Mau forest, which is our home, has been violated. We are unable to maintain our traditional hunter-gatherer lifestyle, and the Forest Department Officers force us to pay some fees to collect firewood or medicinal herbs against customary use of our natural resources.

Displacement from the lands we have inhabited for years continues to have a negative effect on our distinct way of life. Our traditional lifestyle has been disrupted, and our rights as Kenyans has been undermined and disregarded.

Destruction and Degradation of the Mau Forest

The expansive Mau Forest Complex has continued to face various threats arising from the demand for land for settlement. In this case, there are some sections of the forest which were excised purposely to settle landless people and us, but were later politically grabbed, thereby contributing to the further loss of more hectares than officially stated.

Other factors posing threat to the degradation of the Mau Forest include:-

a. Logging

After the opening up of the Mau forest, the timber sales companies and saw millers took advantage by clearing the forest. Logging still continues today despite forest laws and regulations. The multinational company TIMSALES and saw millers operating in Mau forest continue to clear exotic tree species.

A Multinational Company tractor hauling felled logs from the Mau Forest (Photo Credit OPDP Nakuru)

b. Charcoal burning

Indiscriminate felling of trees for charcoal has left land bare leading to deforestation, soil erosion, loss of biodiversity, and reduced land productivity. Destruction of Mau forest continues unabated primarily through charcoal burning.

c. Soil erosion

In recent years as a result of soil erosion, which is a result of some sections of the Mau forest being opened up for farming, siltation in our major rivers and lakes has increased. This has further led to changes in the water quality thereby threatening the survival of thousands of aquatic species living in these important water sources.

d. Encroachments

The remaining gazetted forest is facing a lot of threats, in that the people who are living in the buffer zone encroach the forest, some igniting fires which destroy the habitat of the wild animals and reduce the number of rare species of plants. There is also pollution of the water resources around Mau forest complex. Whilst in the past, water was taken without any effect, today there has been prevalence of water-borne diseases like typhoid posing great threat to us and other communities living around the area.

Destruction of Mau forest by wild fires (Photo credit, OPDP Nakuru)

Discrimination and Marginalization of our people

We are among the most disadvantaged groups in present day Kenya, a situation attributed to prolonged marginalization by successive governments. Owing to our status as a minority community, we continue to face exclusion in national policy formulation processes and in all sectors of development i.e. political, socio-cultural and economic.

Various baseline and field reports carried out by different researchers and OPDP indicate that more than 80% of our people live in abject poverty. Illiteracy levels are also high with the majority of our adults being unable to read or write. Most of the areas where we live are characterized by poor access to social amenities. Roads in our territories are impassable during rainy seasons. Our children are unable to access quality education, with many schools in our area lacking facilities and personnel. We are also unable to access health facilities and in areas where dispensaries and health clinics are available, we still have to grapple with the challenge of lack of medical supplies, equipments and understaffing.

This situation has affected the development of our people, further affecting our contribution to the development of our nation.

Cultural Erosion

We have a unique language which is part of our rich culture. However over the years as a result of migration, assimilation, intermarriage, and interaction some people have changed the way of speaking (both colloquial and dialect) and have adopted other cultural practices in relation to attitudes, values and social structures. It is estimated that less than 10,000 Ogiek speak their language in its original form, which is almost half of the total population. According to UNESCO, our language is among the five most endangered languages in Kenya that are said to be on the verge of extinction.

It is also worth noting that some sections of our people in other parts of the country including central and northern parts of Kenya have been totally assimilated and are therefore extinct. For instance the ***Digirr and Suiei*** (from Northern and Central Kenya) totally disappeared in the mid 20th century. Similarly, our people in South Western Mau and Northern parts of Mau (Koibatek, Uasin Gishu and Nandi) have finally succumbed to assimilation by the Kipsigis, Nandi and Tugen tribes. In the southern parts of Mau, the ***Omootik*** have been assimilated by their neighbors, the Maasai. This situation is not only devastating to national heritage and cultural diversity but it also leads to the destruction of our people.

COMMUNITY AGREEMENT;

Generally Agreed Upon Procedures, Practices & Principles

We, the Ogiek people, identify the following principles and rights based on the Kenyan constitution, other national and international legal instruments.

We intend to explore opportunities arising from the implementation of this BCP through affirmative action as well as protecting our intellectual property rights. This shall also help us strengthen our local governance structures.

Decisions that affect the community socially, culturally, spiritually or economically are made through consultation with the community leaders (who also have the discretion of involving government officials) and then disseminated to the community members.

1. Access & Benefit Sharing Agreement:-

We have the right to access; share fairly and equitably in any benefits arising from the utilization of our traditional knowledge and resources found in our lands.

We have the right to negotiate access and benefit sharing arrangements including but not limited to the following non-state and state agencies:-

1.1. Ministry of Mining for concession in case of any mineral or any other valuable material found in our lands.

1.2. Ministry of Environment and Natural Resources for revenue generated from the utilization of Mau forest resources.

1.3. Construction Companies mainly sourcing road construction materials in our forests.

1.4. Timber & other non timber companies for the proceeds accrued from the use of natural resources in our lands and territories.

1.5. Tour Companies, Hotels and Lodges for the proceeds arising from tourist activities in our lands.

1.6. Academic institution on research undertaken in our land and territories.

Box 1: National and International legal instruments supporting Principle 1

1. **Constitution of Kenya 2010 (Article 69 a)**
   Provides that the state shall ensure sustainable exploitation, utilization, management, protection and conservation of the environment and natural resources, and ensure equitable sharing of the accruing benefits
2. **The Environmental Management and Coordination Act (EMCA) of 1999** recognizes the importance of indigenous knowledge in national development. Section 43, Section 50 (f) and Section 51 (f) of the Act calls for the Integration of traditional knowledge in the conservation of biological diversity, involvement of local communities, and promotion of the equitable sharing of benefits accruing from research with local communities.
3. **The Forest Act of 2005** promotes conservation and sustainable use of forest resources where most of the Traditional Medicine is obtained. Most importantly, the Act promotes participatory forest management. Under Section 22, communities are entitled to use, subject to such conditions as may be prescribed, such forest produce as it has been the custom of that community to take from such forest otherwise than for the purpose of sale.
4. **UNDRIPs**
   Article 2 of UNDRIPs provides that Indigenous people should have access and direct benefits of resources found in their lands.
5. **Nagoya Protocol and CBD**
   The Nagoya Protocol draws on certain bio-cultural elements of the CBD and codifies them in legally binding obligations that States must enact. The Protocol establishes the following four pivotal bio-cultural rights that significantly affirm the self-determination of Indigenous peoples and local communities:
   - The right over their genetic resources;
   - The right over their traditional knowledge;
   - The right to self-governance through respect for their customary laws and community protocols; and
   - The right to benefit from the utilization of their traditional knowledge and genetic resources by third parties.
6. **ILO 169**
   According to ILO Convention No. 169, indigenous and tribal peoples have the right to participate in the benefits of exploration and exploitation as well as the right to be compensated

2. Free Prior and Informed Consent (FPIC) Agreement

We have the right to be consulted prior to any development project being undertaken on our land and territories.

We have the right to give prior informed consent on utilization of all resources in our territories through our established governance structure. (See section B on Governance structure). This structure is to dictate any negotiation and communication with outsiders. We therefore demand:-

1.1. That all state actors shall not be allowed to enter into any agreement with individuals/companies on behalf of the community without the knowledge and permission from the community leadership (see sample permit at the appendix).

1.2. That all non-state actors shall only be allowed to carry out any project on our ancestral lands and territories with approval of community leaders,

with clear MOU signed.

1.3. Non-Governmental Organizations formed outside the community shall be allowed to carry out programs provided they abide to rules and regulations to be provided for by community leadership.

1.4. Any benefits arising from the proceeds made from natural resources found in our ancestral lands shall be shared in accordance with agreed principles set out in a MoU signed between us and the government, investor(s) or researchers.

Box 2: legal instruments supporting principle 2 above

1. Constitution of Kenya 2010 (Article 69c)
   Provides that the state shall protect and enhance intellectual property in indigenous knowledge and biodiversity of genetic resources.
2. UNDRIPs (Article 10,12,20,27 & 30)
   These articles provides for the rights to determine and develop priorities and strategies for the development or use of indigenous people lands, territories and other resources. This includes thorough consultations with state and other non state actors in connection with development and utilization of surface and subsurface resources
3. CERD
   This spells out State obligations and indigenous peoples rights and calls upon States to "ensure that members of indigenous peoples have rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent.
4. ILO 169 (Article 6, 7 & 15)
   The convention aims at ensuring that every effort is made by the States to fully consult with IPs in the context of development, land and resources.
5. CBD (article 8J)
   Provides for states to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities and promote their wider application with the approval and involvement of the holders of such knowledge, innovation and practices".
6. UNCED (Agenda 21 Chapter 22)
   Provides that Indigenous peoples and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

3. Representation

We call on the government to recognize our traditional governance system as part of how we seek to be represented in the leadership and governance system of our country. We recognize our Council of Elders, and traditional leaders who represent us, and continue to address our issues at the local and national level.

Establishment of Ogiek Council of Elders (CoE)

1. There is an established Council of Elders (here referred as CoE) at every Sub-County/District Level in Mau Complex (14 Districts). Representatives from each of the CoE at the district/sub-county level will be selected to form a 12 member council that will unite leaders from all areas. This representative council will guide our community at the national level.

2. CoE shall be elected from all regions with at least one-third representation of any of the genders.
3. Caucuses involving women and youth shall be established in all regions inhabited by our community.
4. It is mutually agreed that all CoE members shall serve for a maximum period of 2 terms.
5. Election of CoE shall be done at the sub-county level and will be decided on majority votes. The elected chairman from each region will be a member of the national council.
6. CoE shall be mandated to update the Ogiek register every year.

Box 3: legal instruments supporting principle 3 above

1. UNDRIPs (Article 33,34& 35)
   These articles provides for the rights to for indigenous people to determine their leadership structure as well as responsibilities of their individual leaders.
2. CERD (Article 1)
   This spells out State obligations to undertake Special measures for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms.
3. Constitution of Kenya (Article 56 (a) and 100 (d & e))
   This provides that the Government shall set out affirmative action for minorities and marginalized groups to participate and be adequately represented in governance and other spheres of life.
4. Article 174 (c) of the constitution and County Government Act provides for participation of the people in the exercise of powers to the State and in making decisions affecting them. The laws also recognize the right of communities to manage their own affairs and to further their development.

4. Agreement under Administration of justice

1. It is communally agreed that the CoE shall handles all forms of disputes that may arise in :-
   a. Access to Land and other resources
   b. Inheritance of properties
   c. Family set up

2. It is communally agreed that if no resolution is found in 1(a), 1(b), and1 (c) above, then the CoE may authorize and refer the matters to law enforcement authorities or other formal legal mechanisms.

Box 4: legal instruments supporting principle 4 above

1. UNDRIPs (Article 32, 33,34& 35)
   These articles provides for the rights to for indigenous people to determine their priorities based on traditional use and leadership structures relevant for administration of justice.
2. CEDAW (Article 2, 8 & 17)
   This spells out State obligations to protect women who are vulnerable in some situations especially family disputes and inheritance.
3. Constitutional of Kenya 2010 (Article 27 and Article 64)
   Article 27 provides for equality and freedom from discrimination.

   Article 64 sets out the nature of communal land and general rules governing it.

5. Land Administration, Management & Place Names

We, the Ogiek agree that we shall hold land either communally or privately. We hereby agree for the purpose of land management that there will be:-

i) Establishment of Land Zones

The established CoE shall administer all classes of land as prescribed below in consultation with the community:-

Zone A. (Biodiversity Conservation, Cultural and Eco-Tourism Zone)
This area consists of most sensitive biodiversity hotspots, ecologically fragile areas including natural forests (bamboo), historical and religious sites. Such areas may have scenic features suitable for picnics, transect walk, birding etc. The areas can only be used for community purposes (religious, social or cultural), research studies, eco-tourism etc.

Zone B. (Protected/Forested Area and Rehabilitation zones)
CoE in consultation with the community will decide on the rules/laws for managing and conserving such areas, as well and utilizing resources in the areas.

Zone C (Settlement Area)
This shall be an area only designated as permanent residence of the Ogiek in each sub-county. The area shall serve as:-

i. Residence for the Ogiek
ii. Farming (Crop, livestock and bee-keeping) and Grazing land.

ii) Place Names & Territorial Maps

Our ancestral territories have been in the past occupied by other communities of different ethnic and cultural background. Following their occupancy and use of such

territories, they have changed names of places to assert ownership rights. This has resulted in our people losing some large tracts of lands that now bear totally different names as it was in the past.

As a result of this, the following measures shall hereby be taken:-

1. That all place names purported to have been changed shall be recorded and forwarded to County Government and Survey of Kenya.
2. That all original place names shall be reinstated as it were in the past with assistance from relevant authorities.
3. That maps of all territories shall be drawn with assistance from experts in collaboration with Survey of Kenya in each sub county and supervised by Council of Elders

iii) Land Administration & Management

All land shall be vested to CoE in each district or sub county level for management as follows:-

1. The CoE in respective sub-counties shall decide in consultation with the community the number of acreage for each individual owner in zone C above.
2. Land sale is restricted to the consent of the community and in case of sale; priority should be given to a member of the community.
3. No land shall be leased for a period of more than 5 years to a single individual without approval from CoE or unless in special circumstances.
4. Alteration of boundaries for the purpose of new settlement can only be done by CoE in collaboration with experts for a period not less than 50 years.
5. Updated register shall be used in respect of the above.
6. Shall set precedence on access and benefit sharing (ABS) of resources in Zone A and B.
7. Title deeds in zone C shall be registered in the names of both spouses. In case of polygamous family, all spouses should be registered.

Box 5: legal instruments supporting principle 5 above

1. UNDRIPs (Article 10,12,20,27 & 30)

These articles provides for the rights to determine and develop priorities and strategies for the development or use of indigenous people lands, territories and other resources. This includes thorough consultations with state and other non state actors in connection with development and utilization of surface and subsurface resources

2. ILO 169 (Article 12, 13, 14 ,15, 16, 17, 18 & 19)

Provides that the governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

It also provides that the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities

3. UNCED (Agenda 21 Chapter 26)

Governments and international organizations should recognize and protect the rights of indigenous peoples, recognize their traditional knowledge and resource management practices and enroll them in full global partnership. Indigenous peoples and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development

4. Constitution of Kenya 2010 (Article 64)

Provides for the presence of communal lands to be managed and owned by communities identified on the basis of ethnicity, culture or similar community of interest.

6. Traditional related knowledge, practices and Innovations

We, the Ogiek, are custodians of our traditional knowledge, norms, practices and innovations.

Cultural Norms, Values & Practices

The Ogiek are traditional people who value their culture and belief systems In order to ensure the same is passed from generation to generation, it is hereby agreed that:-

a. Marriage

Our people recognize marriage as a union between a mature Man and a mature woman. However, a man may decide to have more than one wife (Polygamous). Polyandry is not accepted. The following types of marriages shall be recognized:

i. Traditional Marriages
ii. Religious Marriages
iii. Civil Marriages

The following values and norms shall govern all marriages:-

a) Marriage between under aged couple (below 18) is not allowed.
b) Marriage can only be between members of the opposite sex. Same sex marriage and any other form of marriage shall not be accepted.
c) Payment of dowry is only optional upon agreement between both parties.
d) No woman shall be married by more than one man at a given time ***(Except in case of a divorce).***
e) Incestuous marriage shall not be accepted. It is also taboo to marry from the same clan. If this happens, a ritual ceremony must be performed as per our traditions to allow the couple to form their own clan.

b. Death and Inheritance

a. Inheritance of property shall be done in accordance to family wishes.
b. Wife inheritance is not allowed. A widow will however be assigned a family member to take care of her.
c. In the event of the death of a polygamous man, the first wife shall be given priority in succession and inheritance of property left. The remaining wife/s shall share the remaining property equally.

c. Traditional Dressing codes

We still don our unique traditional regalia, although mostly reserved for important ceremonies. Since most of our traditional wear is made out of animal skin, which we are unable to easily obtain as a result of the government putting strict laws that prohibit hunting, we have designed our own traditional attire using materials that can be obtained easily.

The following rules shall be adhered to in regards to Ogiek traditional dressing Code:

a. The traditional dress for both men and women shall bear the colors similar to that of the Hyrax skin.
b. The decorative materials like beads shall bear the following colors: Brown (earth), White (Peace), Black (Africa) and Green (Environment).

Box 6: legal instruments supporting principle 6 above

1. UNDRIPs (Article 31,32,33 & 34)

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standard.

2. ILO 169 (Article 12, 13, 14 ,15, 16, 17, 18 & 19)

Provides that the governments shall respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship.

It also provides that the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized in addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities

3. UNCED (Agenda 21 Chapter 26)

Governments and international organizations should recognize and protect the rights of indigenous peoples, recognize their traditional knowledge and resource management practices and enroll them in full global partnership. Indigenous peoples and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development

4. Constitution of Kenya 2010 (Article 7 and 11)

Provides for the development and use of indigenous language as well as culture.

We, the Ogiek of Mau Forest call for:-

1. The recognition of our customary and legal rights as 'traditional forest dwellers' to live in the Mau forest which is our home, conserve it and sustainably use its resources for the development of our community and our nation.
2. The recognition of our indigenous knowledge as stipulated in our national laws and policies, and other international legal instruments that Kenya is party to. We are holders of this valuable knowledge which can make an important contribution to sustainable social and economic development.
3. Protection of our traditional knowledge from misappropriation and piracy. Our traditional knowledge should be preserved for us and our future generation.
4. Our access and benefit sharing rights to be upheld and respected in the utilization of resources found in our lands, as per section 22 of the Kenya Forest Act.
5. Consultation prior to undertaking any development project/initiative on our land, and our right to participate in any decision that affects our way of life, and our development as a community.

APPENDICES

APPENDIX 1: OGIEK BCP LINKS TO OTHER DEVELOPMENT & PLANNING PROCESSES

1. Sub-County/District Development Planning

The overall responsibility for district planning lies with the District Development Committee (DDC) which is comprised of all the Government Departments and state corporations, working in collaboration with communities.

The relevant departments and agencies are regularly involved in the District planning process, and therefore understand their roles in its implementation. The respective DDC's can establish development plans from the proposed management plan when it is approved. This BCP shall therefore inform the planning process and shall be an important working document for district planning.

2. Links to the Poverty Reduction Strategy Process

This BCP Document indirectly addresses poverty alleviation through a number of its components: FPIC, ABS and a number of set rules and regulations that targets livelihood improvement and sustainable development activities including beekeeping, commercial tree farming, grazing and tourism.

This BCP Document remains a reference point when planning any Poverty Reduction Strategy.

3. Kenya Vision 2030

This is an international development blue print covering the period 2008-2030. It aims at making Kenya a newly industrializing middle income country providing high quality life for all its citizens by the year 2030. The vision comes after a successful implementation of the Economic Recovery Strategy for Wealth and Employment Creation (ERS).

Again this BCP remains a guide for development practitioners both state and non-state actors involved in realization of Vision 2030.

4. International and Regional Agreements

The Government of Kenya (GoK) is a signatory to international/regional treaties and conventions on both Human Rights and conservation of threatened, endangered, endemic species and fragile ecosystems. This BCP document also lays foundation to which the GoK shall respect these treaties that are of concern to the indigenous Ogiek.

Some of these international legal instruments are:-

1. African charter for human and Peoples Rights (ACPHR)
2. Universal Declaration of Human Rights (UDHR)

3. East African Community Treaty
4. Convention on Biological Diversity (CBD)
5. Global Forest Principles (GFP)*,
6. Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),
7. Ramsar Convention,
8. United Nations Framework Convention on Climate Change (UNFCCC)
9. United Nations Declarations on the Rights of Indigenous Peoples (UNDRIP)
10. International Labor Organization (ILO169)
11. World Bank 4.10
12. World Intellectual Property Organization principles (WIPO)

Most of the above instruments are for the purpose of controlling, managing and conserving the Ogiek Biodiversity, Culture as well as protecting their human rights.

5. Sustainable Development Goals (SDGs)

The recognition of indigenous peoples as distinct groups under the new Sustainable Development Goals (SDGs) presents a unique opportunity to remedy historic injustices resulting from racism, discrimination and inequalities long suffered by indigenous peoples around the world. The specific targets, indicators and special measures under each goal also provide a mechanism of measuring the extent to which national and international development plans and processes take into account and/or are addressing the specific needs of indigenous peoples.

APPENDIX 2: OUR ECOLOGICAL ZONES

Ecological zone	Characteristics
Sooywo	Lies to the northern lowlands of Njoro and Lake Nakuru plains (***paipai*** or Flat) at an altitude of 1760 to about 2400 M.a.s.l. The main vegetation was savannah grassland ***(turgut)*** with warm temperatures, low average annual rainfall of about 700mm, and a mixture of white loamy, clay, and silt soils which severely dries up during dry seasons and wet during rainy season
Saapo	It is a transitional zone from the lowland plains of Lake Nakuru areas to the forested zone of Mau Escarpments. The zone runs along the lower parts of Mau escarpment spanning from an altitude of between 1800 – 2400 M a.s.l. It is moderately colder than Sooywo and experiences colder temperatures of around 16 -22 ^{0}C
Tiriig	This is a Bamboo (sisieg /ketig) zone found midway to the Mau escarpment. Located and spanning at an altitude of 2600 to 2840 m.a.s.l, is interrupted to the eastern side by Logomo zone and to western side by Tuimasat zone. The medium sloped zone has brown and wet soil (Ngarng'ar) and sparsely distributed Bamboo that are conspicuously short in height. The zone receives a high average annual rainfall of about 1200 mm, experience very cold weather (***kaitit)*** due to very cold temperatures like ice (***Kipoweyet)***. The zone had abundance of wild game and is inhabited by two types of dark bees which produces sweet honey: ***Gosomeg (small, dark underground bees)*** and ***Kipirigei*** (***dark but not very aggressive bees)***.
Logomo	This is a depression like zone resembling a crater or ***N'guony.*** It is located at an altitude of between 2540 to 3000 m.a.s.l. which is curved out of ***Tiriig*** zone. The zone receives heavy rainfall of about 1200 mm per annum, warmer than ***Tiriig***, contains brown volcanic impervious rocky surfaces (***aran***) and hence has numerous clearings (***tiriikweg***)
Tuimasat	***Tuimasat*** zone is located to the western part of Eastern Mau Forest and has an altitude ranging from 2460 to 2800m a.s.l. This zone is warm (purgei) and with less rainfall but intermitted showers and is sandwiched between two zones, ***Logomo*** and ***Teegeg***, which have heavy rainfall, cold temperature and windy conditions. The vegetation is composed of tree and shrubs hence considered infertile forest (***Timdo ne gemngem***).

Teegeg	***Tegeeg*** runs along the escarpment over length of about 30 kilometres from east (***Chorunoteet***) to west (***Ooyosieg***) and spans an altitude of 2800 to 3040 m.a.s.l. It is sandwiched by ***Tiriig*** and ***Logomo*** zones to the lower parts and ***Rogroget*** zone on the upper end. The zone experiences high and heavy rainfall of about 1300 mm per annum with misty and windy weather, has a mixture of volcanic shallow brown and brick-red soft soil (***pospos***), and covered by thick Bamboo forest
Rogroget	***Rogroget*** zone consist of steep rocky scarps with scattered short bamboo and tress (***sisieg/ketig***). It spans the lower western parts at an altitude of 2800 and to the eastern parts at 3060 m a.s.l to a length of about 30 kilometres. The zone has brown coloured infertile volcanic soils. In addition to other medicinal plants known and used by the Ogiek
Gaporowo	***Gaporowo*** zone forms the water-divide of Mau watershed. The zone engulfs a sub-zone called ***Inng'utngutiot*** which is a flat stretch across the ridge containing numerous swamps (***Isawanit***) that recharge the main rivers (***oinet***) flowing to the south to lake Natron, South/west to Lake Victoria and North to Lake Nakuru, Bogoria, and Baringo. The zone has thick indigenous forest (***timndo waonet***) cover which is above the Bamboo zone. ***Gaporowo*** stretches a length of about 30 kilometres from the western to the eastern parts of Mau Forest Complex spanning at an altitude of 2780 to 3060 m a.s.l. It has cold and misty weathers and receives appreciably high rainfall of about 1300 mm per annum. In addition to other medicinal herbs, the zone has three key crucial endemic medicinal plants: ***Chelubut, Masaita and Ngonoiyek***
Moou (or Mau)	Moou zone ***(a name that has been corruptibly pronounced as Mau)*** is between the two southerly facing zones that form the upper catchments river draining into Lake Natron and Lake Victoria. The zone runs at the topmost of Mau escarpment at 2700 to 2920 m.a.s.l. The zone is characterized by thick indigenous forest, heavy rainfall, cold weather, loamy soils (***Ng'arng'ar***) and white soils (***Ndurotoit***). Some the endemic medicinal herbs include Masaita (***prudus africana***) and ***Goisisito***. Mosop is a southerly facing ecological zone running along the upper part of the escarpment and spanning from an altitude 2660 to 2780 m.a.s.l. The zone is characterized by thick indigenous forest cover (timdo) and has cold temperatures (***kaitit***), receives a high rainfall (***nyigis***) of about 1300 mm per annum, and with volcanic red soil (Ng'eremug) and clay soil (***menet***). One of the key endemic medicinal plants is ***Goisisito*** whose roots are used as appetizer, treating constipation and cleansing the stomach.

APPENDIX 3: DIFFERENT SEASONS, CHARACTERISTICS AND ECOLOGICAL CHANGES

SEASON	CHARACTERISTICS	ECOLOGICAL CHANGES
Gemeut Dry season (Jan-Feb)	• Prevalence of whirl winds. • Sky was generally clear. • Normally very hot during the day and cold at night. • Presence of moist air during the day. • The moon would emerge from the western direction while small in size and slowly increase in size before emerging as a full moon from the eastern direction. Its light was less bright.	• The sun rose from the south-eastern direction in oldonyoburu a bit late and delayed to set. Therefore nights were longer than days. • The ground cracked due to the extreme hot weather. • The community moved to the highlands where the conditions were cooler. The bamboos (teegeg) trees produced crackling sound. • White butterflies moved from north to south (moipagee to ildonyoit) • Swallow birds (simbororoch) hovered around. • Brown locusts moved from north-eastern to south-western direction from around slightly before mid morning. • Water levels in the streams receded. • Immigration of wild animals e.g. leopard (apiiyet), elephants and rhinos (kipkamit) • Some trees shed their leaves due to the strong winds e.g. silipwet, yemtit, and sopoitit. • Bees migrated to the southern direction because of flowering tree e.g. sereret, kwomoreriet, chorwet, siotiat, tiaplamet. • The community members fed on roots (noriek) and stinging nettle (tirigocho) • "Stars would fall on the ground from around 2 p.m. thus causing the place to be cold gipoweyet. These stars would also burn the grass when they land on them" Mzee Lesingo.

SEASON	CHARACTERISTICS	ECOLOGICAL CHANGES
Ewoot-got	• Rains normally begun to fall. • Rains had torrents. • Cold during the day and warm at night. • Absence of winds hence the place is calm. • Presence of thick clouds both during the day and night. • This season was quite moist.	• Sprouting of green vegetation • Regeneration of trees and grass (susueg) • Increase in water volume in rivers laden with debris and thus murky in appearance. • The ground would be generally muddy but latter drain by percolates of water into in the soil. • Cranes (aaoo) would migrate to the lowland because of the presence of water from streams and swamps e.g. napuyapui swamp but they would leave at night. • Some new animals would be seen in the forest known as ututomig forest e.g. suruguit and kipkonyiret. • Bees would migrate from teegeg to sapoo and sonywo because these areas are considered to be warm during the rainy season. • Emergence of various insects e.g. round worms (ganyituagig), beetle (injuta), aunts (meseseg), and animals like crabs (tagelig), toads (gipkatait), frogs (mororoget) • Community members would migrate from teegeg to sapoo and sooywo because these areas are considered to be warm during the rainy season
Ewoot	• Presence of heavier rains observed than in the previous season. • Migration of people to Soiywoo region (near Lake Nakuru) because of the extreme cold weather in the higher zones. • Heavy fog and mist covered the entire region. • Presence of dark and heavy clouds. • Presence of hailstones (ingongioriait) that broke leaves on trees. • The weather was chilly with no winds	• Migration of buffalos (sooenig) to Mau glades following the sunshine. • Nights were normally longer than the days. • More frogs and toads than the previous season. • Plenty of birds hovering and singing in the skies because food was plenty. • Bees stay indoors in their hives as others migrate to sapoo and soywoo which were warmer. Others would die of extreme cold weather. • Community members would feed on roots from norieg and gerejusiig plants. • Bees would die because of eating moss plant (kipkolomboit) • Small and large mushrooms (popeeg) would emerge

SEASON	CHARACTERISTICS	ECOLOGICAL CHANGES
Roptuet or Rainy season	• Heavy rains accompanied by hailstones especially in the afternoon and at night. • The weather was very cold and chilly • The weather was generally calm. • The sky was dominated by dark and gloomy clouds	• People opted to stay indoors because of the cold weather. • All animals migrate to the forest for shelter due to heavy rains. • The sun would disappear the whole day. • Days are longer than nights. • Rivers would flood while pools of water would appear everywhere. • The torrents would break and fell weak trees
Mugeyoot	• Very cold month than Roptuet • Presence of mist moving from Lake Nakuru to the Mau ranges accompanied by prolonged showers of rain. • Heavy clouds in the afternoon. • No stars visible in the sky due to the masking effect by thick clouds. • Plenty of fog and mist at night. • Calm weather.	• The sun would emerge at around 7:00 a.m. to 10:00 a.m. and later would be covered by clouds. • Bees stayed in the hives due to the cold weather and make it difficult to harvest honey. • Presence of termites that attract hedgehogs (uuteet) • The appearance of ground hornbill (muunduut) which would feed on the numerous insects. • The direction of the rising sun was from oldonyoburu direction (towards Naivasha) • Many flowering plants thus plenty of honey in the hives. • Wild animals e.g. buffalos wallow in the mud

APPENDIX 4: NUMERIC TABLE

Numerical	English	Ogiek
1	One	Agenge
2	Two	Oeng
3	Three	Somog
4	Four	Angwan
5	Five	Muut
6	Six	Lo
7	Seven	Tisap
8	Eight	Sisit
9	Nine	Sogol
10	Ten	Taman
20	Twenty	Tomonwogik Oeng
30	Thirty	Tomonwogik Somog
40	Fourty	Tomonowgik Angwan
50	Fifty	Tomonwogik Muut
60	Sixty	Tomonwogik Lo
70	Seventy	Tomonwogik Tisap
80	Eighty	Tomonwogik Sisit
90	Ninety	Tomonwogik Sogol
100	hundred	Tomonwogik Taman

Ogiek Peoples' Development Program (OPDP)

Biashara Street, Nyamakoroto House, 2nd Flr., Rm. 210

P.O. Box 424 - 20115 Egerton, Nakuru, Kenya

Tel: +254 51 2213803

Cellphone: +254 722 433757

Email: opdp@ogiekpeoples.org / opdp2001@yahoo.com

@ogiekpeoples

Ogiek Peoples' Development Program