



## **Policy and Legal Analysis of the Ethiopia PBS Request for Inspection**

1. Inclusive Development International (IDI) is an independent, non-profit association working to make the international development paradigm more just and inclusive. IDI has prepared this policy and legal analysis at the request of the Requesters.
2. The Requesters are Anuak, an Indigenous People with a unique language and culture, whose livelihood and identity is intimately tied to the land and rivers of Gambella. The Anuak consist of two clans: the “Lul” clan, who are upland forest dwellers and the “Openo” clan, who live along the region’s main rivers. The upland Anuak practice a pattern of shifting cultivation, whereby one parcel of land is worked for several years before moving on to another area. Two or three cycles of this are carried out before returning to the first plot in 7 to 10 years. Maize and sorghum are the most common crops, and their livelihoods are augmented through access to fish and forest products (roots, leaves, nuts and fruits). The riverside Anuak practice more sedentary agriculture, in addition to fruit tree cultivation and fishing.
3. The Requesters assert that they and their Anuak community have been severely harmed by the World Bank-administered Ethiopian Protection of Basic Services (PBS) Project as explained below.

### **The PBS Project**

4. The PBS project commenced in 2006 and was renewed through a second phase (PBS II) in 2009. Additional financing was approved in 2011, which extended the PBS II operation by one year from December 31, 2011 until January 7, 2013.<sup>1</sup> The International Development Association (IDA) has contributed 1.4 billion USD in grants and loans to the Government of Ethiopia (GoE) through PBS Phase I and II.<sup>2</sup> A third phase of the project, PBS III (renamed Promoting Better Services), is being submitted to the Board for approval on September 25, 2012.
5. The PBS project phases I and II, as well as the proposed phase III, constitute a single continuous program with minor modifications in design at each phase. The PBS program is supported through a partnership between the GoE, IDA, and eleven other development partners (DPs). In addition to its financial contributions, IDA coordinates development partner contributions to the PBS program, managing several Multi-Donor Trust Funds on behalf of DPs. The PBS program is the largest donor funded program in Ethiopia in terms of both financial contribution and sectoral spread. References below to “the PBS program” refer to the ongoing multi-donor and GoE partnership encompassing all phases beginning in 2006. References to particular phases of PBS are clearly indicated.

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<sup>1</sup> Project Paper on a Proposed Additional Grant and Credit for the PBS Phase II Project, January 2011, para 2.

<sup>2</sup> Project Information Document Concept Stage Ethiopia PBS Program Phase III Project, April 2012, page 4.



6. The harms suffered by the Requesters described in the paragraphs below have occurred during the period of implementation of PBS II, including its extension through additional financing. The objectives, design and operation of PBS II and the way in which PBS II has contributed to the harms suffered by the Requesters are thus described below.
7. PBS II is a Sector Investment and Maintenance Loan. The objective of PBS II is to contribute to expanding access and improving the quality of basic services in education, health, agriculture, water supply and sanitation, and rural roads delivered through sub-national governments, while continuing to deepen transparency and local accountability in service delivery.<sup>3</sup> Subprogram A supports the decentralized delivery of basic services by sub-national governments in the above five sectors through (i) financing of federal block grants for recurrent expenditures (salaries, operations and maintenance); and (ii) the implementation, on a pilot-basis, of a multi-sector Specific Purpose Grant for capital investments in the same five sectors (referred to as a Local Investment Grant (LIG) Pilot).<sup>4</sup> Other sub-programs support Ethiopia's health sector strategy through flexible funding for priority activities; strengthening of transparency and accountability activities in the areas of procurement and public financial management as well as social accountability; and strengthening of existing national and sectoral monitoring and evaluation systems and assessments.<sup>5</sup>
8. According to the PAD for PBS II, "PBS is the major aid instrument supporting improved and more accountable decentralized basic services."<sup>6</sup> Funds from IDA and other DPs are disbursed through PBS to the Federal GoE, which then disburses "block grants" to sub-national governments for salaries of public servants and operations and maintenance in the five basic service sectors.<sup>7</sup> These transfers or block grants are distributed to all regions, and from each region to its districts (*woredas*), "**constituting the major source of funding for woredas.**"<sup>8</sup> In addition, through the LIG Pilot, PBS Phase II funds are allocated to capital expenditures of basic services in the same sectors in all regions. (Gambella, for example was set to receive resources through the LIG component of PBS II for two fiscal years (2009/10 to 2010/11)).<sup>9</sup> According to the PAD, the LIG is scaled so that the funds transferred to each local government represent **30% of their total budget.**<sup>10</sup>
9. According to the PAD, funds are transferred using country financial systems and are pooled with other Treasury funds and then sent down to regions and *woredas* using existing intergovernmental transfer systems. The PAD states: "There are no separate

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<sup>3</sup> Project Appraisal Document (PAD), PBS Phase II Project, 2009; and Project Paper on a Proposed Additional Grant and Credit for the PBS Phase II Project, January 2011.

<sup>4</sup> Ibid.

<sup>5</sup> Project Appraisal Document (PAD), PBS Phase II Project, 2009 [hereafter PAD Phase II].

<sup>6</sup> Ibid, at para 12.

<sup>7</sup> Ibid, page 20.

<sup>8</sup> Ibid, page 3.

<sup>9</sup> Ibid, at para 227.

<sup>10</sup> Ibid, at para 228.



bank accounts beyond the initial entry point into the Treasury and no separate disbursement or accounting procedures.<sup>11</sup>

10. According to the PAD, the achievement of PBS II objectives were to be monitored through nine key indicators: the primary school net enrollment rate and associated Gender Parity Index; (ii) the proportion of children vaccinated against DPT3+HepB3+Hib3 and Measles; (iii) the proportion of births attended by skilled health personnel; (iv) lab-confirmed new malaria cases; (v) the proportion of rural and urban population with access to potable water; (vi) the cumulative number of farmers (in millions) trained in the agricultural minimum package; (vii) the percentage of *kebele* (community) centers connected by all-weather roads; (viii) the proportion of citizens who report knowledge about the *woreda* budget; and (ix) the proportion of citizens who report that *woreda* officials have actively sought the views of people in their *kebele* on quality of basic services.<sup>12</sup>
11. The PBS program aims to increase decentralized delivery of basic services. It is therefore designed to provide discretionary funds to sub-national governments.<sup>13</sup> The responsibility for designing, planning and implementing the service delivery programs for their populations rests with regional and *woreda* governments. In particular, at the regional level, Bureaus of Finance and Economic Development are responsible for coordinating project implementation, and at the local level the *woreda* Finance and Economic Development Offices and Urban Administration Offices of Finance are responsible for managing and coordinating day-to-day implementation of activities.<sup>14</sup> Councils at regional, *woreda* and *kebele* levels are responsible for reviewing and approving annual development plans and budgets and reviewing progress.

### **Implementation of PBS by the regional government of Gambella**

12. In Gambella, the regional government's program for improving access to basic services is the "Villagization Program Action Plan", which commenced in mid to late 2010 during phase II of PBS.<sup>15</sup> According to the Action Plan, "villagization" is to occur in all *woredas* in Gambella with the goal of creating "access to basic socioeconomic infrastructures of those people who are settled scattered and along the riverside...and those who practiced cut & burn shifting cultivation...[sic]"<sup>16</sup> Under the three-year plan, 45,000 households were to be resettled in new villages in which schools, water schemes, health posts, roads and other infrastructure would be erected in order to facilitate better access to basic services, improve food security, and "bring socioeconomic and cultural transformation of the people."<sup>17</sup>

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<sup>11</sup> Ibid, at para 36.

<sup>12</sup> Ibid, at para 62.

<sup>13</sup> Ibid, at para 36.

<sup>14</sup> Ibid, at para 106.

<sup>15</sup> Note that the Ethiopian calendar is 7.5 years behind the Gregorian calendar. References to years in the Ethiopian calendar will be indicated as "EC" or "EFY".

<sup>16</sup> Gambella Peoples' National Regional State, Villagization Program Action Plan (2003 EFY), August 2002, page 1. This document is available in the Human Rights Watch Report, Waiting Here for Death, 2012 in Appendix I.

<sup>17</sup> Ibid.



13. The services and facilities supported through PBS are precisely the services and facilities that are supposed to be provided at new settlement sites under the Villagization Program. This was confirmed by the Ethiopian Minister of Federal Affairs Shiferaw Teklemariam in a letter to Human Rights Watch (HRW) in December 2011. The Minister states that the Villagization Program “targets are to provide efficiency and effective economic and social services (safe drinking water, optimum Health care, Education, improved agronomy practices, market access etc.), create an access to infrastructure (road, power, telecommunications etc.)...”<sup>18</sup> It is therefore apparent that villagization is the regional governments’ principle strategy for achieving the PBS objectives in Gambella.
14. Moreover, PBS is providing the means to make villagization possible. There is no publically available information that shows the precise source of financing for the villagization budget. However, as previously stated, PBS funds “constitute the major source of funding for woredas.”<sup>19</sup> PBS funds cover or significantly contribute to the salaries of regional and *woreda* government officials involved in the delivery of basic services.<sup>20</sup> As the 2011 Study on Strengthening Grievance Redress Mechanisms for PBS, commissioned by the GoE and its Development Partners, explains: “In effect one can argue that PBS pays a portion of the compensation of all regional government and local government employees (not just salaries and benefits in the five sectors enumerated above) because PBS funds are commingled with funds from other sources that regional state and local governments use to pay employee compensation.”<sup>21</sup>
15. In a meeting with IDI on 14 September 2012, Bank Management insisted that PBS funds do not contribute directly to the Villagization Program in Gambella or elsewhere. Bank representatives stated that they were able to track how PBS funds are spent down to the *woreda* level, and emphasized that PBS funds were used to pay the salaries of public servants such as schoolteachers, health professionals and agricultural extension workers. However, former teachers and agricultural workers from Gambella region, who are among the Requesters, have testified to IDI and Human Rights Watch that they and other civil servants were ordered to implement the Villagization Program in Gambella.
16. One man who worked for the Bureau of Agriculture as a development agent told Human Rights Watch:

“Villagization was under our mandate. I was to go the village to mobilize people...I went to the villages by myself, although sometimes with other regional government officials...I went to many villages - Pinkao, Abol, Nikwoa, Akedi, Ilea, Itang, along Openo, Akuna, Perbongo, Pokedi, Gog-Depache, Jingjor, Chyaba - mainly the 4 districts of Itang, Gambella, Abobo and Gog. This was from Dec until Apr 2011... This all has started at the federal level. I never saw a document or plan about any of this; it was only shared with those at the top. There was a fear that it would get around. Federal officials are in the

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<sup>18</sup> This letter is reprinted in full in Human Rights Watch, “Waiting Here for Death” 2012, Appendix

<sup>19</sup> PAD Phase II, page 3.

<sup>20</sup> Ibid, page 20.

<sup>21</sup> Robert C Randoplh and Buli Edjeta, “Study on Strengthening Grievance Redress Mechanisms for the Protection of the Basic Services (PBS) Program in Ethiopia,” 30 September 2011, page 9.



*woredas*...Basically they are pushing and encouraging the *woreda* officials to implement these plans.”<sup>22</sup>

17. The former head of a zone education department in Gambella explained to IDI how he was appointed, along with the health, agriculture and water-sanitation department heads, to implement the villagization program in their zone by informing farmers in different *kebeles* that they would have to move. He said that when he reported back to the regional government that the farmers did not accept, he was beaten severely by Ethiopian Defense Forces and forced to return with them to the *kebeles* to force the communities to move.<sup>23</sup>
18. One teacher told IDI:

“What we were told, everybody and anybody on the payroll of the government, they have to do their part. And not only the teachers, all the administration, everybody has to participate and do the work. And people who are opposing it, they will be detained. They will be jailed, or taken to the military camp....”<sup>24</sup>
19. The same teacher explained that he was told that the budget from the federal government for implementation of the Villagization Program ran out, so *woreda*-level civil servants, including teachers, agriculture and health workers, had 5% of their salaries deducted from their payroll in order to cover the shortfall. These funds were used to pay the overtime of the officials tasked with mobilizing the people to move to the new villages.<sup>25</sup> Several other former civil servants interviewed by IDI between September 8 and 18, 2012 corroborated this information.
20. It is therefore apparent that Bank funds through PBS are substantially contributing to the implementation of the Villagization Action Plan. It does not appear from publicly available information, or the explanation provided by the Bank to IDI, that Bank financial tracking and accountability systems for PBS would detect the diversion of funds towards the implementation of villagization in the manner described by the Requesters.
21. It should be noted that while the Requesters are from Gambella region, villagization is occurring or has occurred in other regions in Ethiopia, including Benishangul-Gumuz, Somali, Afar, and the Southern Nations, Nationalities, and People’s Region (SNNPR).<sup>26</sup> Human Rights Watch cites published reports that suggest that villagization in the five regions involves the resettlement of approximately 1.5 million people.<sup>27</sup>

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<sup>22</sup> HRW interview conducted at Ifo refugee camp, Kenya, June 18, 2011.

<sup>23</sup> IDI focus group discussion held at Gorom refugee camp, South Sudan, September 16, 2012.

<sup>24</sup> IDI interview conducted at Gorom refugee camp, South Sudan, September 17, 2012.

<sup>25</sup> Ibid.

<sup>26</sup> HRW, “Waiting Here for Death: Displacement and “Villagization” in Ethiopia’s Gambella Region”, 2012; and see for example, Walta Info, “Omo Kuraz Sugar Project ‘more beneficial’ to indigenous people,” 2 August 2011, available at [http://www.waltainfocenter.com/index.php?option=com\\_content&view=article&id=4536:omo-kuraz-sugar-project-more-beneficial-to-indigenous-people&catid=52:national-news&Itemid=291](http://www.waltainfocenter.com/index.php?option=com_content&view=article&id=4536:omo-kuraz-sugar-project-more-beneficial-to-indigenous-people&catid=52:national-news&Itemid=291)

<sup>27</sup> HRW, “Waiting Here for Death: Displacement and “Villagization” in Ethiopia’s Gambella Region”, 2012, pages 19 and 20.



## **Harms Suffered by the Requesters**

22. In the Gambella region, villagization has been carried out by force and accompanied by gross violations of human rights. Through the Villagization Program, the Anuak people, including the Requesters and their families and communities, have been victims of *inter alia* threats and harassment; arbitrary arrest and detention; beatings and assault in some cases leading to death; torture in custody; rape and other sexual violence; forced displacement from traditional lands, homes and livelihoods; destruction of property including housing and crops; and inhumane conditions at the new villages including a lack of access to food and livelihood opportunities, in some cases leading to starvation.

23. A male Requester detailed his experience in a letter to the World Bank Ethiopia Country Director:

“The relocation was not voluntary, I was not asked if I wanted to be relocated nor did I give my consent to being moved. My village was forced by the government to move to the new location against our will. I refused and was beaten and lost my two upper teeth. My brother was beaten to death by the soldiers for refusing to go to the new village. My second brother was detained and I don’t know where he was taken by the soldiers.”<sup>28</sup>

24. The Requesters assert that promised basic services and facilities at the new sites were either not provided or were not operational and there was little access to food or land suitable for farming at the time that they were forced to move. Human Rights Watch confirmed these circumstances in its report, “Waiting Here for Death”, which was based on 100 interviews with affected people. According to Human Rights Watch:

Instead of enjoying improved access to government services as promised in the plan, new villagers often go without them altogether. The first round of forced relocations occurred at the worst possible time of the year in October and November, just as villagers were preparing to harvest their maize crops. The land in the new villages is also often dry and of poor quality. Despite government pledges, the land near the new villages still needs to be cleared while food and agricultural assistance – seeds, fertilizers, tools and training – are not provided. As such, some of the relocated populations have faced hunger and even starvation.<sup>29</sup>

25. As one villager told Human Rights Watch:

The government is killing our people through starvation and hunger. It is better to attack us in one place than just waiting here together to die. If you attack us, some of

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<sup>28</sup> Letter from a male affected person to World Bank Ethiopia Country Director Guang Zhe Chen, transmitted on September 12, 2012.

<sup>29</sup> Ibid, p 2-3.



us could run, and some could survive. But this, we are dying here with our children. Government workers get this salary, but we are just waiting here for death.<sup>30</sup>

26. A female Requester wrote to the Ethiopia Country Director:

Services were not made available in the new village as promised by the government: no farmland was prepared, no food aid, and no health services. Because we had no access to food in the new village I went back to my old village with my daughter to bring food. One of my relatives was also there retrieving the maize he was forced to leave behind when we moved. Suddenly, soldiers came and accused us of feeding rebels and shot our relative dead. They beat me and my daughter and raped us both. My daughter's right knee was dislocated. She lost consciousness and we all suffer the trauma of these abuses.<sup>31</sup>

27. As a result of these abuses, thousands of Anuak have fled Ethiopia and sought asylum in neighboring Kenya and South Sudan.<sup>32</sup>

28. Requesters believe that the underlying reason for villagization is to dispossess the Anuak of their fertile lands so that they can be transferred to domestic and foreign investors. Indeed, many of the Requesters claim that their old land was leased out to investors soon after they were moved. Similarly, Human Rights Watch and the Oakland Institute have reported that the villagization program is taking place in areas where significant land investment is planned and/or occurring and there is evidence that the forced evictions are occurring from fertile lands leased for commercial agriculture.<sup>33</sup> According to Oakland Institute, 42% of the total land area of Gambella is either being marketed for lease to investors or has already been awarded to investors.<sup>34</sup> Finnmap reports that affected people that they interviewed (in Benishangul-Gumuz region) thought that “releasing land to investors was a hidden agenda in the [villagization program].”<sup>35</sup>

29. The Requesters also perceive villagization to be a part of the systematic discrimination and persecution that the Anuak have experienced under the current and previous Ethiopian regimes. There is a lengthy history of conflict and human rights violations against Gambella's indigenous populations going back to the early 20<sup>th</sup> century, due in part to its strategic location and abundant supplies of fertile land and water. More recently, the disastrous resettlement and villagization policies of the 1980s and 1990s have led to inter-ethnic conflicts and a widespread resentment amongst the indigenous populations towards the Ethiopian state and the country's highlanders that were resettled in Gambella. There are widespread perceptions amongst the Anuak community that this discrimination and marginalization continues today in relation to education

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<sup>30</sup> Human Rights Watch interview, Aboba *woreda*, May 25, 2011, reported in Human Rights Watch, “Waiting Here for Death: Displacement and “Villagization” in Ethiopia's Gambella Region”, 2012 p. 45.

<sup>31</sup> Letter from a female affected person to World Bank Ethiopia Country Director Guang Zhe Chen, transmitted on September 12, 2012.

<sup>32</sup> *Ibid*, pages 25 to 30.

<sup>33</sup> HRW 2012, *Op cit.*, page 54 and Oakland Institute, “Understanding Land Investment Deals in Africa: Ethiopia”, 2011.

<sup>34</sup> Oakland Institute. Understanding Land Investment Deals in Africa. Country Report: Ethiopia. June 2011.

<sup>35</sup> Finnmap, “Socio-economic baseline study and assessment of the impact of villagisation”, (Ministry for Foreign Affairs of Finland), 2 May 2012, page 57.



opportunities, access to health care, and access to investment and economic opportunities.

### **Violations of International Law**

30. The harms described above constitute gross violations of several human rights treaties to which Ethiopia and many shareholders of the World Bank are party. The harms suffered by the Anuak during the villagization program breach *inter alia* the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on Elimination of All Forms of Racial Discrimination, the Indigenous and Tribal Peoples Convention (ILO 169), the African Charter on Human and Peoples' Rights and the prohibition of torture and other cruel, inhuman or degrading treatment under customary international law.
31. We note that as a specialized agency of the United Nations, the World Bank is bound to observe the provisions of the UN Charter, and specifically article 55 which requires “[u]niversal respect for, and observance of, human rights and fundamental freedoms for all...”<sup>36</sup>
32. The forcible and violent nature of the Gambella Villagization Program is also indicative of crimes against humanity. The Rome Statute provides the most recent, authoritative definition of crimes against humanity under international law.<sup>37</sup> According to the Rome Statute, “deportation or forcible transfer of population” is one of the acts that constitutes crimes against humanity when it is carried out as part of “a widespread or systematic attack directed against a civilian population.”<sup>38</sup> Deportation or forcible transfer of population is defined as “forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.”<sup>39</sup> The Rome Statute identifies four elements of crimes against humanity. First, the act must be of an inhumane character, which intentionally causes great suffering, or serious injury to body or to mental or physical health.<sup>40</sup> Second, the attack must be either widespread or systematic (fulfilling both is unnecessary).<sup>41</sup> Systematic is generally understood to mean an organized attack carried out according to a pattern.<sup>42</sup> Third, the act must form part of an attack directed against a civilian population, which means a course of conduct involving the multiple commission

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<sup>36</sup> *Charter of the United Nations*, art 55. For a discussion of this argument see Mac Darrow *Between Light and Shadow* (Hart Publishing, Oxford, 2003) 124-129, and Sigrun Skogly, above n 31, 99-106, 116-120. See also Willem van Genugten (main ed), ‘Tilburg Guiding Principles on World Bank, IMF and Human Rights,’ [6] in Willem van Genugten, Paul Hunt and Susan Mathews (eds), *World Bank, IMF and Human Rights* (Wolf Legal Publishers, Nijmegen, 2003). (The Guiding Principles, discussed further in chapter 5, were drafted by a group of experts, meeting at Tilburg University, The Netherlands, in October 2001 and April 2002.)

<sup>37</sup> While Ethiopia has not signed the Rome Statute, the prohibition of crimes against humanity has been recognized as customary international since the International Military Tribunal in Nuremberg.

<sup>38</sup> Rome Statute of the International Criminal Court, U.N. Doc. 2187 UNTS 90, art. 7, entered into force July 1, 2002 [hereafter Rome Statute].

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> Prosecutor v. Akayesu, Case No. ICTR-96-4-T, Judgment, para 620, September 2, 1998.



of prohibited acts against any civilian population.<sup>43</sup> Finally, the acts must be committed with knowledge of the attack, which means pursuant to or in furtherance of a State or organizational policy to commit such attack.<sup>44</sup>

33. The Gambella Villagization Program appears to have fulfilled each of these elements. First, the Anuak people are being subjected to inhumane treatment, including forced displacement from the lands in which they are lawfully present by expulsion and coercive measures. Second, a pattern indicative of a systematic attack has emerged in the implementation of the Villagization Program, whereby villagers are ordered by *woreda* officials to relocate and when they object they face beatings, arrest, torture, killing and other abuses at the hands of Ethiopian Defense Forces. Third, the Villagization Program is directed at 45,000 civilian households in Gambella. Finally, the forced population transfer is being carried out in furtherance of a State policy, namely the Gambella regional government's Villagization Action Plan. While the plan asserts that the villagization process is voluntary, the evidence points to a process that is far from voluntary and which is being carried out systematically by local officials, together with the Ethiopian military, with orders from the federal government.

### **Non-compliance with Operational Policies**

#### *Project Appraisal and Risk Analysis (OMS 2.20 and OP/BP 10.04)*

34. IDI wishes to draw the Panel's attention to the circumstances that led to the establishment of the PBS program in 2006 since it is directly relevant to the question of compliance with OMS 2.20 and OP/BP 10.04.
35. Throughout the 1990s and early 2000s the World Bank and other donors supported the GoE by providing direct budget support through a series of Structural Adjustment Credits and Poverty Reduction Support Operations, in addition to a number of specific-purpose grants and loans. This financing relationship changed in 2005. In the aftermath of the national election that year, State security forces reacted to protests with excessive force, killing 200 and arresting over 30,000 people.<sup>45</sup> These State-perpetrated abuses led to a suspension of direct budget support by the World Bank and other members of the Development Assistance Group (DAG), a consortium of 26 donors to Ethiopia.
36. Noting the risks of continuing direct budget support in this political environment, the introductory paragraph of the 2006 Project Information Document (PID) for PBS phase I stated:
- ...Heightened risks on the governance front have become apparent, with concerns that the political tensions have the potential to adversely impact economic governance and the larger development agenda. Ethiopia's development partners have suspended direct budget support which had been providing significant levels of support for increasing pro-poor spending at local levels, and also served as a platform for broad-reaching dialogue around

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<sup>43</sup> Rome Statute, art 7.

<sup>44</sup> Ibid.

<sup>45</sup> Human Rights Watch, "Development Without Freedom," October 2010, p. 6.



the key issues of growth, governance, vulnerability, service delivery, and the macroeconomic picture. Partners based this decision on their perception of increased risks relating to governance, particularly the risk that unconstrained budget support could be vulnerable to political capture or diversion from the core priority of basic service delivery. Furthermore, donor support for scaling-up appears unlikely without some clear improvements on the governance front.<sup>46</sup>

37. The Bank decided that despite the suspension of direct budget support, it should not “abandon its critical support for the delivery of services.”<sup>47</sup> PBS was designed to replace direct budget support with a new financing instrument to ensure that resources for basic service delivery were not cut as a result of the suspension “but rather continue to grow steadily.”<sup>48</sup> As noted above, PBS is a sector investment lending instrument, which through block grants, leaves almost complete discretion for the manner and means by which the project will be implemented to national and sub-national governments. The modality and design chosen for PBS closely resembles direct budget support. As noted previously, “[t]here are no separate bank accounts beyond the initial entry point into the Treasury and no separate disbursement or accounting procedures.”<sup>49</sup> PBS utilizes Government public financial management systems and service delivery structures and has “no direct mechanism to influence choices made at the local government level.”<sup>50</sup>
38. Acknowledging the obvious parallels between direct budget support and the PBS modality the PID states:

*What sets the approach of the PBS apart from the previous modality of direct budget support, is the way in which the PBS operation will involve more timely and detailed reporting on the use of resources, explicit monitoring and oversight of the fairness of the transfers, monitoring of service delivery results at the Regional/sub-national levels rather than national levels, and the introduction of measures to encourage local accountability to support Government’s commitment to distribute resources for basic service delivery equitably.<sup>51</sup> [Emphasis in original.]*

39. Despite these assurances, project documents do not contain a description of robust measures or mechanisms to ensure genuine social accountability, including protection from harm of project-affected people. The social accountability pilots, according to the Phase II PAD, involve funding of Ethiopian civil society organizations (CSOs) to implement tools of reporting (eg. citizens’ report cards, community score cards) and citizen monitoring of services.<sup>52</sup> The effectiveness of these tools of social accountability are particularly dubious in light of the passage of the Charities and Societies Proclamation in January 2009 and widespread reports that any critical CSO advocacy is met with retaliation, including criminal sanctions, by the GoE. We note that Human Rights Watch found that in reality “there is no mechanism for communities to express their views or have a constructive dialogue.”<sup>53</sup> This finding is supported by information gathered by Finnmap, as reported its 2012 study on villagization in Benishangul-Gumuz,

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<sup>46</sup> Project Information Document (PID), PBS Project, 2006 [hereafter PID], page 1.

<sup>47</sup> Ibid, page 3.

<sup>48</sup> Ibid, page 3.

<sup>49</sup> PAD Phase II, at para 36.

<sup>50</sup> PID, page 3.

<sup>51</sup> Ibid, page iv.

<sup>52</sup> PAD Phase II, at para 49.

<sup>53</sup> HRW 2012, Op cit., page 32.



on the futility of submitting formal complaints about villagization.<sup>54</sup> Requesters confirmed to IDI that no meaningful social accountability exists in relation to basic service delivery in Gambella.

40. The choice of lending instrument and design for PBS, which closely resembles direct budget support, was and remains exceedingly inappropriate in the high-risk environment of Ethiopia. IDI believes that the decision by the Bank to utilize this instrument and design and the omission to rigorously consider, and indeed select, a more appropriate alternative to suit the discernible risks, amounts to non-compliance with OP/BP 10.04.
41. The PAD for PBS Phase II rates the overall risks as substantial. Several of the risks identified relate to governance issues. It notes, for instance, “strong concerns from some partners/stakeholders on democratic governance” and also identifies the risk of deterioration in the political governance environment “resulting in calls for suspension of PBS instrument.”<sup>55</sup> A lack of commitment to social accountability principles and objectives at sub-national levels is also identified as a risk.<sup>56</sup> However, the mitigation measures set out in the PAD are not adequate to address the substantial risks identified, and which are evidently being realized.<sup>57</sup> Measures outlined include “a common development partner position on governance” and a joint communication strategy as well as regular consultations with, inter alia, CSO representatives.<sup>58</sup>
42. The PAD does not refer anywhere to villagization as a potential means for service delivery by national or sub-national governments or the potential for forced relocations as a risk factor. This omission is striking because of the well-publicized fact that villagization, often coercive in nature, has been used historically in Ethiopia as a means of “development” of certain populations in general and in particular to deliver basic services.<sup>59</sup> Given the sheer scale and magnitude of the Ethiopian Government’s current villagization program, which was launched soon after PBS Phase II commenced, it is curious that the Bank did not have any prior knowledge of these plans at the time of appraisal as professed by the Bank at the 14 September meeting with IDI. If it, indeed, did not have prior knowledge, then this calls into question the rigor with which the Bank undertook due diligence in assessing the social and environmental risk of the program. By the time documentation for additional funding for the PBS Phase II project was being prepared in late 2010 and early 2011, the villagization programs in both Gambella and Benishangul-Gumuz were both well underway; yet no reference is made in the documentation to the programs or associated risks of PBS funds being used to implement villagization and forced relocations.<sup>60</sup>

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<sup>54</sup> Finnmap, “Socio-economic baseline study and assessment of the impact of villagisation”, (Ministry for Foreign Affairs of Finland), 2 May 2012, page 56.

<sup>55</sup> PAD Phase II, risk matrix, page 33 and 34.

<sup>56</sup> Ibid, page 33 and 34.

<sup>57</sup> Ibid, risk matrix, page 33 and 34.

<sup>58</sup> Ibid, risk matrix, page 33 and 34.

<sup>59</sup> See for example, Wubne Mulatu, "Resettlement and villagization. A Country Study: Ethiopia (Thomas P. Ofcansky and LaVerle Berry, editors); Hammond, Laura, Strategies of Invisibilization: How Ethiopia's Resettlement Programme Hides the Poorest of the Poor, Oxford University Press Journal of Refugee Studies Vol. 21, No. 4, 2008; and Christy Cannon Lorgen, “The Experience of Villagisation: Lessons from Ethiopia, Mozambique, and Tanzania,” Oxfam GB, 1999, which refers to a number of other publications on villagization, available at [http://www.mokoro.co.uk/files/13/file/lria/villagisation\\_experiences\\_eth\\_moz\\_tanz.pdf](http://www.mokoro.co.uk/files/13/file/lria/villagisation_experiences_eth_moz_tanz.pdf)

<sup>60</sup> Project Paper on a Proposed Additional Grant for PBS Phase II Project, 2011.



43. IDI believes that the above amounts to non-compliance with OMS 2.20 on Project Appraisal and OP/BP 10.04 on Economic Evaluation of Investment Operations. IDI notes in particular the striking lack of critical analysis of the political-economy environment in the PAD and the failure of Management to identify obvious risks and set out meaningful mitigation measures, despite the government-perpetrated human rights abuses that led to the decision to suspend direct budget support just months earlier. These omissions are at the root of the inadequacy of safeguards and accountability mechanisms for PBS, which has allowed PBS funds to be diverted to underwrite human rights abuses resulting in severe harm to the Requesters.
44. In addition to other possible areas on non-compliance with OMS 2.20, the Bank did not ensure that, given the fungibility of resources, the Project was “part of a sound sectoral development program, including an appropriate set of sectoral policies.”<sup>61</sup> The Bank should have ensured that sectoral development programs and policies for service delivery were socially and culturally appropriate to beneficiary groups in each region, and based on consultations with intended beneficiaries in each region, including the Anuak in Gambella.
45. The Bank did not consider the Project’s possible effects on the well-being of people, and in particular marginalized and vulnerable groups, including the Anuak, who have faced systematic discrimination and abuse, including most blatantly the massacre of several hundred Anuak by the Ethiopian military in 2003.<sup>62</sup> The Project did not adapt appropriate standards of protection or ensure that the Project plan was consistent with applicable international agreements, as required by OMS 2.20,<sup>63</sup> including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and People’s Rights, all of which Ethiopia has ratified. All of these international agreements have been violated in the course of the implementation of villagization in Gambella.
46. The Bank did not consider in its appraisal the social, historical, legal and other country-specific features that would influence institutional performance at the regional and *woreda* levels, as required by OMS 2.20.<sup>64</sup> While the Bank aimed to promote decentralized provision of service delivery in order to better meet the needs of beneficiary populations, it did not, for instance, meaningfully assess the way in which this objective would be affected by the lack of separation in practice between the State and ruling party, a factor that pervades decision-making in government institutions at all levels. It also did not assess the existent ethnic rivalries and the dominance of certain ethnic groups over others and how these factors might affect institutional decision-making in relation to the achievement of PBS objectives for certain groups.

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<sup>61</sup> OMS 2.20, at para 11.

<sup>62</sup> For a full account of the events of the December 13, 2003 Anuak massacre please see Human Rights Watch’s March 23, 2005 report “Targeting the Anuak: Human Rights Violations and Crimes against Humanity in Ethiopia’s Gambella Region” available at: <http://www.hrw.org/en/node/11812/section/1> or Genocide Watch’s 2004 report “Today is the Day of Killing Anuaks” available at

<http://www.genocidewatch.org/Today%20is%20the%20Day%20of%20Killing%20Anuaks.htm>

<sup>63</sup> OMS 2.20, at para 24.

<sup>64</sup> OMS 2.20, at para 32.



47. The Bank did not consider in its appraisal the sociological aspects of the Project, including “the social organization, tradition and values bearing upon the feasibility, implementation and operation” of the Project.<sup>65</sup> OMS 2.20 notes that these aspects are particularly important for projects “whose success depends upon participation by the beneficiaries (e.g., rural development, urban, education, population, and health projects).”<sup>66</sup> In particular the Bank did not appraise “the cultural acceptability of the project and its compatibility with the behavior and perceived needs of the intended beneficiaries” or “the social strategy for project implementation and operation needed to elicit and sustain beneficiaries’ participation.”<sup>67</sup> This component of appraisal was especially important given the complex sociological setting in Ethiopia and the architecture of the PBS program, which disbursed large amounts of discretionary funds to federal and regional governments. The repercussion of these omissions are evident with respect to the way in which PBS was implemented in Gambella through villagization and the harms suffered by the Anuak people. The omissions are likely to have had adverse repercussions upon other ethnic groups that face marginalization and discrimination in Ethiopia.

#### *Social safeguard policy application*

48. As previously noted, the Bank selected a Sector Investment and Maintenance Loan instrument for PBS II. The PAD notes that this lending instrument and its associated fiduciary safeguards is critical to supporting capacity building at the sub-national government level particularly on public financial management and transparency/accountability aspects.<sup>68</sup> Yet, the Bank decided that given that Subprogram A, the main component of PBS, only supports recurrent expenditures, social and environmental safeguard policies, including OP 4.10 and OP 4.12, are not triggered.<sup>69</sup> The same argument is made by the Bank in the PID for PBS III, which involves only recurrent expenditures and for which Management states safeguard policies will not be triggered for any component.<sup>70</sup>

49. It is unclear why only recurrent and not capital expenditures are eligible for financing from PBS funds (other than through the LIG pilot in PBS II, which appears to have been dropped in the proposed PBS III). The PAD for PBS II states: “Although there is concurrent Government financing for capital development in the basic services sectors that will enhance the development outcomes of Sub-Program A Part A1, this is not necessary to achieve the objectives of PBS II.”<sup>71</sup> This assertion is questionable since it is apparent that capital expenditures for the construction of inter alia schools, health posts, farmer training centers, roads, and water infrastructure is required in order to improve access to these services in many underdeveloped parts of Ethiopia. Indeed, this need is

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<sup>65</sup> OMS 2.20, at para 55.

<sup>66</sup> OMS 2.20, at para 55.

<sup>67</sup> OMS 2.20, at para 55.

<sup>68</sup> PAD Phase II, at para 99.

<sup>69</sup> Ibid, page 9.

<sup>70</sup> Integrated Safeguards Data Sheet Appraisal Stage, PBS Phase III Project, July 2012.

<sup>71</sup> PAD Phase II, page 9.



recognized by the Management in the same PAD a few paragraphs later, which highlights the importance of the “dual focus on *infrastructure*... to enhance access in underserved remote rural areas...and on ensuring adequate *staffing*” as a noteworthy feature of decentralized service delivery.<sup>72</sup> Both infrastructure (capital expenditure) and staffing (recurrent expenditure) are regarded as essential to achieving the objectives of improving access to basic services. The PAD also states that the GoE will report on both recurrent and capital expenditures as part of Joint Budget and Aid Reviews (JBARs).<sup>73</sup> It appears to IDI that the rationale for the restriction of PBS funds to recurrent expenditures may have been to avoid the application of Bank safeguard policies.

50. Nonetheless, in our view neither the instrument utilized for PBS nor the decision to fund only recurrent expenditures negate the Bank’s obligation to trigger and comply with relevant safeguard policies. Indeed, the high-level of discretion vested in the national and local governments, requires especially strong measures and oversight by the Bank to ensure that its funds are not used in ways that adversely affect vulnerable groups in breach of operational policies and human rights. This is particularly the case given Ethiopia’s well-known history of forced villagization as a “development” tool and to facilitate the delivery of services,<sup>74</sup> and the increasingly repressive political climate in the country as demonstrated during the violent aftermath of the 2005 election.

*Indigenous Peoples Policy (OP/BP 4.10)*

51. Amongst other tribes and native ethnic groups in Ethiopia, the Anuak fall squarely into any definition of “indigenous peoples” and possess the precise characteristics described in OP 4.10 on Indigenous Peoples: the Anuak are a distinct cultural, social and linguistic group with a collective attachment to their ancestral territory and the natural resources that they depend upon in Gambella. Due to its design, and the many and diverse tribes in Ethiopia, including the Anuak, it was impossible for PBS not to affect Indigenous Peoples. Yet not a single reference is made to Indigenous Peoples in project appraisal documentation. It appears from publically available information that the Bank did not conduct a robust screening to identify whether Indigenous Peoples are present in, or have collective attachment to, the project area, which in the case of PBS is every region in the country.<sup>75</sup> Instead, the Bank decided not to trigger OP 4.10 for any phases or any component of PBS. As a result none of the crucial safeguards for Indigenous Peoples, including free, prior and informed consultation to ascertain broad community support, were afforded to the Requesters by the PBS project in Gambella.
52. No social assessment was conducted to evaluate potential adverse effects on Indigenous Peoples, and particularly on vulnerable and marginalized indigenous communities, including the Anuak. No measures were taken, including through project design modification, to address potential adverse effects and to ensure Indigenous Peoples would receive culturally appropriate project benefits from PBS. It is well established that

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<sup>72</sup> Ibid, para 8.

<sup>73</sup> PAD Phase II, at para 68.

<sup>74</sup> See above.

<sup>75</sup> OP. 4.10, at para 6 and 8.



measures to ensure that basic services are delivered in a manner that is culturally appropriate and acceptable to Indigenous Peoples are necessary for project sustainability as well as to safeguard against exclusions and other harms.<sup>76</sup> Villagization as a means for delivering basic services is patently not culturally sensitive given the deep connection of the Anuak with their ancestral lands, and the irrecoverable dislocation that forced villagization causes to their traditional way of life. Indeed, the Gambella regional state villagization plan explicitly aims at “socioeconomic and cultural transformation of the people.”<sup>77</sup>

53. Had OP 4.10 been triggered and meaningfully applied, PBS funds could not have been used to implement any aspects of villagization as a means to improve access to basic services that required Indigenous People, including the Anuak, to move away from their ancestral lands. OP 4.10 recognizes that physical relocation of Indigenous Peoples is particularly complex and is only permitted in exceptional circumstances and where there is broad community support.<sup>78</sup> PBS and the use of its funds to implement forced villagization of Anuak exemplifies the necessity of triggering and applying the Indigenous Peoples’ Policy to safeguard against harms, especially to indigenous communities that face marginalization and discrimination. The failure of the Bank to do so in this case has resulted in irrecoverable and grave harms to a marginalized Indigenous People.
54. In the case of sector investment operations, such as PBS, in which Indigenous Peoples are likely to be present in the project area, OP 4.10 requires the borrower to prepare an Indigenous Peoples Planning Framework (IPPF).<sup>79</sup> The Framework provides for the screening and review of sub-projects or programs in a manner consistent with the policy. An IPPF should have been prepared for PBS (both phase I and II) and regional governments should have been required to prepare an Indigenous People’s Plan as a part of their preparation and planning for the decentralized delivery of services in their region under PBS.<sup>80</sup> The Bank’s omission to ensure that the above steps were taken is contrary to the spirit and letter of OP 4.10. As a result sub-national governments were and continue to spend their basic services budgets on moving indigenous peoples away from their ancestral lands and livelihoods, causing immeasurable suffering and in some cases irrevocably disrupting their way of life.
55. We wish to draw the Panel’s attention to a World Bank Learning Review published in August 2011 that assesses the implementation of OP 4.10.<sup>81</sup> The Review found that the percentage of Bank projects between 2006 and 2008 that triggered the policy was lowest in the African region and there was evidence that selected projects should have triggered the policy but did not.<sup>82</sup> Similarly, an IEG study on OD 4.20 published in 2003 found that found that the policy was applied in only 62 percent of the projects that affected

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<sup>76</sup> See for example, “Implementation of the World Bank’s Indigenous People’s Policy: A Learning Review (FY 2006-2008),” OPCS Working Paper, August 2011, page 23 and 25

<sup>77</sup> Gambella Peoples’ National Regional State, Villagization Program Action Plan (2003 EFY), August 2002, page 1.

<sup>78</sup> OP 4.10, at para 20.

<sup>79</sup> OP 4.10, at para 13.

<sup>80</sup> OP 4.10, at para 14.

<sup>81</sup> Implementation of the World Bank’s Indigenous People’s Policy: A Learning Review (FY 2006-2008), OPCS Working Paper, August 2011.

<sup>82</sup> Ibid, page 40.



Indigenous Peoples.<sup>83</sup>

*Involuntary Resettlement Policy (OP/BP 4.12)*

56. Under international human rights law, including the International Covenant on Economic, Social and Cultural Rights to which Ethiopia is party, it is never acceptable to forcibly relocate a group of people as a means to improve their access to services (as opposed to unavoidable involuntary resettlement to, for example, construct infrastructure that will improve general access to basic services currently lacking).<sup>84</sup> The principle that forced displacement should only occur where absolutely necessary, is reflected in the primary objective of OP 4.12: “involuntary resettlement should be avoided where feasible... exploring all viable alternative project designs.”<sup>85</sup> Thus the application of OP 4.12 to PBS would require safeguards to be put in place to avoid, and indeed preclude, the involuntary nature of resettlement under the villagization program. The Bank should have taken measures to ensure that relocations under villagization were at all times, and without exception, genuinely voluntary. Appropriate protections and processes in line with the measures required in OP 4.12 should have been established to ensure that any and all relocation under the project fully respected the human rights of affected people. These measures, including access to information, consultation, compensation and assistance to resettle, are equally as applicable to voluntary resettlement processes as they are to those of an involuntary nature. Indeed, those that consent to relocation to achieve project objectives should be “assisted in their efforts to improve livelihoods and standards of living or at least restore them, in real terms, to pre-displacement levels...”<sup>86</sup>
57. While PBS and villagization raise complexities with regard to involuntary resettlement that may not have been envisaged by the drafters of OP 4.12 or the Board upon their approval of the policy, in undertaking due diligence during project preparation and appraisal, it is incumbent upon the Bank to apply the policy where its protections are necessary to safeguard against relevant harms to project-affected people. In this case, the Bank should have triggered the policy upon identifying the risk that regional governments may use villagization as a means to achieve PBS objectives. OP 4.12 applies to activities resulting in involuntary resettlement that are “directly and significantly related to the Bank-assisted project”; that are necessary to achieve its objectives; and that are carried out contemporaneously with the project.<sup>87</sup> As described in detail above, the villagization program in Gambella is directly and significantly related to PBS, and is indeed the means by which the regional government officially aimed to achieve PBS objectives, using PBS funds.

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<sup>83</sup> Implementation of Operational Directive 4.20 on Indigenous Peoples: An Evaluation of Results, World Bank, Operations Evaluations Department, 2003, at para 4.

<sup>84</sup> See, for example, UN CESCR, General Comment 7: Forced evictions, and the right to adequate housing (1997); and the Basic Principles and Guidelines on Development-Based Evictions and Displacement, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari to the Human Rights Council, UN GA, Doc, A/HRC/4/18, February 2007 (para 21).

<sup>85</sup> OP 4.12, at para 2.

<sup>86</sup> OP 4.12 at para 2.

<sup>87</sup> OP 4.12, at para 4.



58. According to OP 4.12, for sector investment operations “that may involve involuntary resettlement, the Bank requires that the project implementing agency screen subprojects to be financed by the Bank to ensure their consistency with” the policy.<sup>88</sup> The borrower submits, prior to appraisal, a resettlement policy framework that “estimates, to the extent feasible, the total population to be displaced and the overall resettlement costs.”<sup>89</sup> Resettlement plans based on the principles, organizational arrangements, and design criteria established in the framework are later required for project components involving involuntary resettlement “after specific planning information becomes available.”<sup>90</sup> There is no apparent reason why this process could not have been applied with respect to PBS, with a Resettlement Policy Framework submitted at project appraisal stage and location-specific resettlement plans submitted for approval when regional or district villagization programs were selected as the means of implementation of PBS.
59. IDI believes that the Bank’s decision not to trigger OP 4.12, other than for the specific circumstances of compulsory acquisition of land for the construction of small-scale civil works under the LIG sub-component of PBS,<sup>91</sup> amounts to non-compliance with the policy and contributed to the severe harms suffered by the Requesters.

*Project Supervision (OP/BP 13.05)*

60. As described above, PBS was designed so that block grants could be used by regional governments in a discretionary manner to achieve PBS objectives. In 2010, the Gambellan regional government released its Villagization Program Action Plan, with key objectives of delivering basic services matching those of PBS. At the time this Action Plan became known to the Bank, it should have engaged in communications with the federal and regional government in relation to the means and processes by which villagization would be carried out, mechanisms in place to ensure the process would be voluntary, and the appropriateness of this plan to the Indigenous Peoples of the region. Upon becoming aware of the Gambellan government’s Action Plan the Bank should have assessed the risks of harm to the Anuak and other groups, and promptly and thoroughly engaged with the government to agree on mechanisms to avoid and mitigate those risks.
61. In January 2011 the Development Assistance Group (DAG), the collective of foreign donors agencies active in Ethiopia issued “Good Practice Guidelines and Principles Regarding Resettlement” with the aim of encouraging “good practice” with respect to villagization. While donor officials told Human Rights Watch that the Ethiopian government had promised to abide by these guidelines, they were not made a contractually binding requirement of donor support to PBS to safeguard against harm to the Anuak and other groups as a result of the implementation of villagization. It is evident from the testimonies of the Requesters as well as the research findings of Human Rights Watch that the Guidelines have not been applied to villagization in Gambella.

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<sup>88</sup> OP 4.12, at para 26.

<sup>89</sup> OP 4.12, at para 26. (See also para 28.)

<sup>90</sup> OP 4.12, Annex A – Involuntary Resettlement Instruments, at para 23.

<sup>91</sup> PAD Phase II, at para 476.



62. In February and March 2011, the World Bank undertook an assessment of villagization in Benishangul-Gumuz region. According to Human Rights Watch, the Bank stated that this assessment involved a high-level delegation of World Bank resettlement experts and the team found it unnecessary to trigger OP 4.12 determining that there was no evidence that relocation under villagization was involuntary and that Bank-funds did not directly contribute to villagization.<sup>92</sup>
63. In November 2011, Human Rights Watch brought the findings of its research on forced villagization in Gambella to the attention of the Bank. The Bank did not react with due concern and rigor to the overwhelming evidence of grave human rights violations reported by Human Rights Watch.
64. Human Rights Watch, IDI and Anuak representatives have repeatedly called on the Bank to interview Anuak refugees, who are able to speak more freely outside the repressive environment of Ethiopia, about villagization. These entreaties have so far not been acted upon by the Bank, beyond one meeting held in September 2012 at the request of IDI in which the Bank interviewed several affected people.
65. Despite evidence that Bank funds have been used to implement villagization and carry out the attendant human rights abuses, no efforts were made by the Bank to rectify the situation. Despite the opportunities for redesigning the Project when Management sought approval for additional financing for PBS II in late 2010 and early 2011 to respond to the changing circumstances and evidence of harmful practices, no appropriate modifications were recommended.
66. Despite the harrowing testimonies of Anuak directly affected by forced villagization in Gambella heard by four members of the World Bank Task Team and Management on 14 September 2012, Bank Management appears set to submit PBS phase III to the Board for approval without modifications on September 25, 2012.
67. IDI believes that the above amounts to non-compliance with OP 13.05 on Project Supervision.
68. The above may not be an exhaustive list of all World Bank Operational Policies and Bank Procedures being violated by PBS.

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<sup>92</sup> HRW 2012, Op cit., page 64.