

PRESS INFORMATION FOR IMMEDIATE RELEASE – 6 January 2014

Forced eviction by Kenya threatens indigenous communities' human rights and ancestral forests

The Kenyan government has sent police troops to Embobut forest area (in Elgeyo Marakwet County, Western Kenya) to forcefully evict thousands of the indigenous inhabitants of the Sengwer and Cherangany communities from their ancestral forestlands. The eviction is expected to commence as early as today.

Reports from community members in Embobut tell of a chaotic situation today as people are threatened and are fleeing their homes with their children and belongings in fear of their safety. 150 police and forest guards including also 30 General Service Unit riot police are massing to carry out the evictions from the three locations of Tangel, Kipsitono and Maron near the forest. More troops may join.

Such a forced eviction would not only be a severe violation of the Kenyan Constitution and international law on human rights, and on biodiversity conservation and sustainable use, but would also be in contempt of an injunction secured at the High Court in Eldoret which forbids any such evictions until the issue of these communities rights to their land is resolved. Article 63 (d) of the Kenyan Constitution recognises the rights of communities to own ancestral lands traditionally occupied by hunter-gatherers.

An [International Appeal](#) from environmental and human rights organisations from Kenya, Africa and all around the world (see: <http://tinyurl.com/kmnnwf8>) highlights this violation of these communities' rights. The Appeal was sent a few hours ago to the Kenyan President and Government as well as to the United Nations authorities concerned with Human Rights and biodiversity, in order to protect the rights of the indigenous communities.

The forced eviction of these indigenous communities is illegal - and even more so if it is carried out through violent acts such as the burning of homes, school uniforms, books and means of livelihood. Such forced evictions have been carried out repeatedly (most recently in May 2013 despite the interim injunction), but this time the Government is serious about permanently removing communities (and this, despite not having undertaken any meaningful attempt to secure peoples free prior and informed consent to such a process).

Evicting these indigenous communities of Embobut against their will from their ancestral lands would be a severe human rights violation. One that the government has tried to justify through public misinformation:

- While the government says that all people to be evicted – including the indigenous inhabitants of the area - are 'squatters', the indigenous inhabitants of the area are the opposite of 'squatters'.
- While the government claims it is evicting the indigenous communities in order to protect the forest biodiversity, Kenya's official commitments (internationally recognised by the CBD, IUCN, etc.) require the state to secure the forest biodiversity by supporting – not destroying - practices adapted to its local regeneration, including the practices of indigenous communities which have sustained their ancestral forests for centuries. (1)
- The government says it has given compensation for the 'evictees', but it is recognised internationally and under the Kenyan Constitution that due compensation for evicting indigenous communities from their ancestral lands requires due procedures of consultation and the free prior and informed consent of the indigenous communities. Such consultation has not been undertaken, and such consent has not been given. Instead there has been conflicting advice from Government authorities with some saying (off the record) that the money is given as compensation for the harm caused by past evictions and burnings of homes; while others saying (on the record) that all inhabitants have to leave. If some indigenous inhabitants have accepted compensation for the past harms they suffered in the earlier violent and harsh displacements that certainly does not mean agreement to being forcibly evicted again. (2)

Instead of evicting indigenous communities from their ancestral lands without due consultation, consent and legally approved compensation the government needs to sit down with the communities to find a way of protecting their rights to care for their forest lands in compliance with their traditional indigenous knowledge, innovations and practices and through that to support them to protect their forest. This is required by Kenya's constitution, including in constitutional provisions that make Kenya's commitments under international law an integral part of the law of Kenya. This includes laws in the UN and African regional human rights systems, as well as relevant law on conservation of biodiversity and environment. The State is responsible for respecting

the life, culture, will and knowledge of Embobut's indigenous communities, whose life has been adapted through centuries to gain their livelihoods from the regeneration of the Embobut forests and from respecting and protecting these forests on which they depend.

The forced eviction in Embobut would violate not only the rights of the indigenous communities, but also the many human rights of other vulnerable inhabitants of the area. It is also wrong to treat as illegal 'squatters' those people who have moved into Embobut because they have lost their homes from the effect of landslides or due to past electoral violence, and who therefore have had no place to live. The government is responsible for securing the safety, homes, livelihoods and human rights of these already displaced vulnerable victims as well. This requires much more than giving them a small amount of money and blaming them for not surviving on it.

In conjunction with the authorised UN agencies and international community, but above all through dialogue with the communities themselves, the government and Parliament can duly fulfil Kenya's constitutional and international obligations on indigenous communities' rights, and on their continued conservation and sustainable use of the biodiversity of their ancestral forest lands (see the [Appeal](#)). The government needs to determine with all the inhabitants who is willing to leave (and on the basis of what financial or other support), and who is willing to stay (and what sustainability bylaws they wish to codify to ensure their continued use of their forest lands is sustainable for themselves and their future generations).

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Notes and references:

1. The approach to conservation that involves evicting indigenous and local communities rather than consulting and supporting them has long since been discredited as counterproductive, unjust and illegal.

Evicting communities who have protected their forests for centuries is part of the discredited 'Fortress Conservation' approach that has enabled outsiders to benefit from forest destruction. IUCN - the world's pre-eminent conservation body (to which the Kenyan Government belongs) – stresses the 'New Conservation Paradigm'. This scientifically proven, effective and just approach to conservation supports ancestral communities to continue protecting their forests and biodiversity.

2. On November 15th 2013 the President, Deputy President and County Senator (Senator Kipchumba) visited Embobut and the President promised 400,000 Kenyan shillings per family to what he called the 'Evictees' to move out of the forest¹. On December 12th 2013, the Elgeyo Marakwet County Commissioner, Mr. Arthur Osiya, said that "The Evictees were given the cash and have no reason to continue staying in the forest. By January 3rd 2014, we expect all squatters out of that forest" (Saturday Nation, December 14, 2013, page 22).

However, the 400,000 Kenyan shillings would buy the equivalent of 4 cows or one or two acres of land in Trans Nzoia District. It is therefore both completely inadequate for enabling families to secure their livelihoods and thus hotly disputed, but not just by those who say it is insufficient or given to the wrong people, but more importantly because people were not consulted and their consent has not been secured, instead they were given no choice but simply told they are to be evicted.

Even where a financial compensation may be an appropriate way of helping landslide victims and victims of electoral violence (who would not be in Embobut Forest if it wasn't for those events) to restart their lives (if that is what they choose), it is completely wrong to seek to move the indigenous Sengwer and Cherangany communities from their ancestral lands on which they depend for their cultural, social and physical existence.

3. Forest Peoples Programme: <http://www.forestpeoples.org/topics/rights-land-natural-resources/news/2013/12/urgent-appeal-against-forced-eviction-sengwerchera>

¹ 'How Embobut Evictees agreed to leave the Forest' page 40, Sunday Nation, November 17 2013.