

How the World Bank is implicated in today's Embobut Evictions

(This is background information on the role of the World Bank in creating the current situation at Embobut in which communities are threatened with forceful eviction from their ancestral homes, today 6th January 2014, and also background information on the UN's recent response to the situation)

Summary:

The World Bank-funded Natural Resource Management Project (NRMP) with the Government of Kenya (GoK) not only failed to do what was intended (regularise community tenure) but also, as a result of this failure and through a programme of forced evictions, the World Bank and the borrower (GoK) are in flagrant violation of the World Bank's operational policies (safeguard policies) on Indigenous Peoples, Forests and Involuntary Resettlement. As such the borrower – the Government of Kenya - is in violation of the loan covenant under which the project was agreed. This means that not only should the loan to the Government of Kenya be suspended but also all payments already made to the Government of Kenya should be returned to the Bank.

World Bank project under scrutiny:

The Cherangany Hills are the focus of a full investigation by the World Bank's Inspection Panel - the body responsible for overseeing grievances filed against World Bank-funded projects.

This investigation, whose final report is expected shortly, was in response to a complaint lodged by members of the Sengwer indigenous people in January 2013, alleging violations of World Bank's own policies and procedures on indigenous peoples and involuntary displacement. The Sengwer complaint raised issues of failures by the World Bank in partnership with the Kenyan Government (in particular the Kenya Forest Service – KFS) which led to human rights abuses including the further marginalisation and discrimination of the Sengwer as a direct result of the World Bank-funded natural resource management project (NRMP). One example of the harm caused by the project was that it changed the border of the Cherangany forest reserves such that Sengwer families, without any consultation or notice, found themselves on the inside of the forest reserve and therefore automatically subject to eviction by the KFS, evictions effectively funded by the World Bank. These evictions were customarily executed by burning homes and food stores in 2007, 2008, 2009, 2010, 2011 and 2013.

The World Bank project initially set out to address the land claims of indigenous communities as part of the process of ensuring the fair and effective management of the Cherangany Hills forest. This was welcomed by the Sengwer communities at Embobut who hoped that this would lead to the recognition of their rights to their lands. However, the project quickly dropped this element, citing it as being too hard a task. However, by not addressing this fundamental issue, the NRMP increased the marginalisation and insecurity of the traditional inhabitants of Embobut Forest, most obviously by further funding and entrenching an approach to conservation which seeks to exclude those who have traditionally cared for their forest and instead offer (poorly implemented) livelihood projects outside the forest as if this could compensate the Sengwer who stand to lose everything through this approach to conservation that is based on eviction from their ancestral forest lands.

UN recent intervention on behalf of the Sengwer of Embobut:

The situation of the Sengwer was one aspect of a July 2013 complaint made to the UN Committee responsible for implementing the UN Convention on the Elimination of all forms of Racial Discrimination (UN CERD), to which Kenya is a party. Other aspects complained of were the discriminatory draft new legislation on Wildlife Conservation, which if brought into law, would consolidate existing forest and wildlife legislation which criminalise indigenous peoples' occupation of protected areas, regardless of their ancestral claims and their sustainable ways of life.

The complaint, made using the UN CERD Committee's Urgent Action/Early Warning Procedure, resulted in a strongly worded letter being sent by the Committee to the Kenyan Government on 30 August 2013. Citing concern over the burning of Sengwer homes in the Embobut forest area of the Cherangany Hills by the KFS as recently as April 2013, the UN CERD Committee asked for information on the situation of the Sengwer (particularly those at Embobut) and reiterated the Committee's previous calls for state parties (including Kenya):

"to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories"