

Timeline of events relating to the forced eviction of Sengwer communities from the Embobut Forest area of the Cherangany Hills, Kenya

Background

- The Sengwer indigenous people are a traditionally hunter-gatherer people, whose ancestral lands are located in the Rift Valley province in western Kenya, in and around the forests of the Cherangany Hills. Keeping bees and gathering wild forest honey has traditionally been an important part of their way of life. Sengwer livelihoods now also include some pastoralism and cultivation, which they were compelled to take up by the British colonial administration.ⁱ The last census (in 2009) registered a total population of 33,187 Sengwer.
- Dispossession and encroachment onto the traditional lands of the Sengwer (in and around the region of the Cherangany Hills) took place under British colonial rule, and have continued post-independence, including with the arrival of internal migrants and internally displaced people.
- As a result of the gazettement of much of the Cherangany Hills as a forest reserve in 1964, Sengwer occupation of their traditional forests and their way of life is now outlawed on environmental conservation law and policy grounds, as the hills are considered an important watershed. Conservation law has been enforced on the Sengwer despite the sustainable traditional livelihoods which have preserved the forest ecosystem there for generations.
- While their dispossession and other external pressures have impacted on all Sengwer lands, resources and territory, the most egregious rights violations at present are taking place in the part of the Cherangany Hills known as Embobut Forest, where an estimated 2,500 Sengwer households live in the forest glades (around 13,500 individuals). The timeline of events since 1964 is as follows:

1964	Cherangany Hills forest highland areas (in Elgeyo-Marakwet County) gazetted by the Government of Kenya as a national forest reserve in 1964, having been previously held by the County Council as Trust Lands, on behalf of local communities. Enforcement of the Wildlife (Conservation and Management) Act 1976 and associated 1975 Wildlife Policy, and the Forests Act 2005, renders unlawful the occupation and entire way of life of the Sengwer and other indigenous peoples and other communities living in protected forest and wildlife areas, regardless of those peoples' ancestral claim to that land and forest and the environmental sustainability of their traditional livelihoods, cultures and indigenous knowledge.
2007	World Bank-funded Natural Resources Management (NRM) Project commences in the Cherangany Hills, with a project closing date in June 2013.
2007, 2008, 2009, 2010, 2011, 2013	The Kenya Forest Service (KFS) repeatedly attempted to forcibly evict Sengwer communities living in Embobut, including by regularly burning their houses, food and other possessions (e.g. in 2007, 2008, 2009, 2010, 2011, 2013) causing inestimable trauma (including to the children present), increased risk of health problems from exposure to rain and cold plus loss of food, and increased overall poverty and reduced access to education resulting from burnt school uniforms and textbooks and loss of income to pay school fees. In recent years the Government of Kenya, variously through Inter-Ministerial Taskforces, the Ministry of State for Special Programmes (MSSP), KFS, and in cooperation with, have been seeking the resettlement of Embobut Sengwer on alternative lands including in Rongai, Kipkapus and Moiben.
2010	Kenya's new 2010 Constitution establishes community ownership of ancestral lands and lands traditionally occupied by hunter-gatherer communities such as the Sengwer at Embobut have firm rights to their ancestral lands (Article 63). Sengwer communities should not therefore be described and treated as 'Evictees' or 'Squatters', since their land claim to Embobut forest and other areas of the Cherangany Hills has a constitutional basis.

14 January 2013	Members of the Sengwer community complain to the World Bank inspection panel, submitting that violations of World Bank's own operational policies on indigenous peoples and involuntary displacement caused harm and suffering to Sengwer communities. The World Bank Inspection Panel visited Kenya from May 9-14 2014 to assess the eligibility of the complaint, and reported that "Members of Sengwer communities described to the Panel how they have lost access to much of their ancestral lands, and they continue to face severe pressures not only on their land but on their culture and identity as a people. They also highlighted to the Panel their belief that the recognition of their customary rights should be seen as an important means to support the conservation objectives of the Project, as they traditionally as a people have helped to protect and take care of the forests on which they depend." In May 2013 the Inspection Panel found the complaint admissible and recommended a full investigation, which visited the Cherangany Hills 13-17 September 2014. The outcome of which the investigation is pending. ⁱⁱ
26 March 2013 (in force to present)	High Court interim injunction secured at Eldoret on 26 th March 2013 prohibiting burnings of Sengwer homes in Embobut Forest and prohibiting eviction of Sengwer from their ancestral lands here. This injunction was in response to statements made by the Marakwet East District Commissioner (DC) at a public meeting held on 15 March 2013 in Tangul on the edge of Embobut forest, where the community had yet again refused to be moved, and the DC had said that the community decision [to refuse the proposals] would be told to the government; that this decision would be their problem; and that " <i>I will see you in the forest</i> ". The latter was interpreted as meaning that the KFS would come and burn community homes. The injunction was reaffirmed and extended at a follow up hearing on 21 st November 2013 at the High Court in Eldoret. It is now in force until 6 th of February 2014 when the case will come for mention at Eldoret Land and Environmental Court.
April - May 2013	Attempts to evict people including burning Sengwer homes and possessions in Embobut forest area take place (including e.g. on 15 th April), despite the interim injunction secured in the High Court against any such action.
5 August 2013	<p>FPP proposal to solve the crisis at Embobut (outlined in ANNEX 2, page 7) passed to Senator Kipchumba Murkomen and Korir SingOei (Deputy President's legal advisor) to discuss with the Deputy President on 5 August 2013. It is based on the need to protect the forests and respect human rights. In brief it proposes:</p> <ol style="list-style-type: none"> 1. Distinguishing between (a) Recent incomers (whether Internally displaced people or those with land elsewhere who have moved in to cultivate), and (b) the Sengwer themselves who are unable to stop others taking their land because their rights to their ancestral lands are not recognised. 2. Right to Remain: Subsequently: (a) recognise the right to remain of those willing to continue living in a way which protects the forests and glades and (b) resettle those who do not want to live in this way. 3. In Practice (a) Those willing to abide by the Sengwer sustainability bylaws (bylaws which the Sengwer community are in the process of finalising) would have the right to remain; and (b) Those who choose not to abide by these bylaws would be supported to be resettled elsewhere.
30 August 2013	<p>The UN Committee on the Elimination of Racial Discrimination (UN CERD) write to the Permanent Representative of Kenya to the UNⁱⁱⁱ, 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, and asking information on the situation of the Sengwer (particularly those at Embobut) and reiterating the Committee's previous calls for state parties (including Kenya):</p> <p>"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</p>

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".

- 15 Nov 2013** The **Kenyan President, Deputy President and Senator Kipchumba Murkomen**, visited Embobut, and the President promised 400,000 Kenyan shillings per family to what he called the 'Evictees' to move out of the forest^{iv}. At no stage have the Sengwer been meaningfully consulted in relation to resettlement, nor has their free, prior and informed consent been sought and obtained. Furthermore, government has on occasions, informed Sengwer community residents that they can accept the money and stay where they are living, as the money is to compensate them for past sufferings.
- 12 December 2013** **Elgeyo Marakwet County Commissioner**, Mr. Arthur Osiya, states 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".^v
- 3 January 2014** **Sengwer community members and leaders in Embobut sign petition** calling on Kenyan Government to halt the evictions. They note that tents for forest guards have been brought to Tangul. They see this as an indication that the government is mobilizing its officers in readiness to start the eviction.
- 5 January 2014** At least **150 KFS forest guards and police mobilised** for first stage of the eviction, operating from three points/stations: Tangul, Kipsitono and Maron, to commence the eviction operation.
- 6 January 2014** **FPP informs World Bank of imminent evictions** and asks them to act to avert them
- 10 – 12 January** Sometime between these dates **KFS begins burning Sengwer homes in Embobut**
- 13 January** The **UN Special Rapporteur** on Rights of Indigenous Peoples urges Kenyan Government to stop the forced eviction of the indigenous Sengwer communities in Embobut forest area.
- 15-16 January** FPP visits communities, sometimes minutes after **KFS has torched homes**, interviewing families left homeless. Walking through Embobut FPP estimate that at least 100 homes are being burnt each day.
- 18 January** **High Court at Eldoret reaffirms injunction** and orders are served on County Police Commandant and County Administration Police Commandant to enforce injunction
- 21 January** **World Bank write to FPP denying any role** in creating conditions for the evictions
- 21 January** **In defiance of specific court orders served on them, the Administrative Police move in to evict people, journalists are told not to enter area.** A Sengwer representative reports that: "A combined force of KFS Forest guards and APs burnt houses in Koropkwen and Sinen. Today the KFS/forest guards and APs continue to violate Court Orders issued by Environment and Land Court in Eldoret at Eldoret High Court. Sengwer living in Kipsitono, Kapkok and parts of upper side of Kaptirpai glades in Embobut forest have had their houses burnt and property destroyed by KFS forest guards and APs. It is a disaster. The government of Kenya is forcing Sengwer community into extinction."
- 22 January 2014** News reports (e.g. Daily Nation, p18) that **KFS are not only ignoring court orders relating to Embobut, but are also moving to evict Sengwer living elsewhere** in Cherangany Hills: Kapolet forest (Trans Nzoia County); and Sengwer and Pokot living in Lelan/Kamolokon forests in West Pokot County. The burnings continue.

ⁱ Report by the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen: Mission to Kenya <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/110/43/PDF/G0711043.pdf?OpenElement>

(UN Doc. A/HRC/4/32/Add.3, 26 February 2007), for example, at para. 39.

ⁱⁱ For information on the World Bank project and associated Inspection Panel request, see:

<http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,contentMDK:23350855~pagePK:64129751~piPK:64128378~theSitePK:380794,00.html>

ⁱⁱⁱ See the 30 August 2013 letter of UN CERD at:

http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/KEN/INT_CERD_ALE_KEN_7099_E.pdf or by following links from the following page: <http://www.ohchr.org/EN/HRBodies/cerd/pages/EarlyWarningProcedure.aspx>

^{iv} 'How Embobut Evictees agreed to leave the Forest' page 40, Sunday Nation, November 17 2013.

^v Saturday Nation, December 14, 2013 (page 22).