

Dear President Uhuru Kenyatta, Deputy President William Ruto, Senator Kipchumba Murkomen, Legal Advisor Korir Sing'Oei and other Kenyan Government Authorities and Parliamentarians

Copied to: Concerned UN Agencies and national and international organisations

We understand from the communities in Embobut in Elgeyo Marakwet County, Western Kenya, that the forest guards have arrived in nearby Tangul in readiness to start evicting the indigenous Sengwer and Cherangany communities from their ancestral forestlands. Reports from Embobut are informing us about the chaotic situation today as people are threatened and are moving with their children and belongings to nowhere in particular.

Such forced eviction would severely violate the Kenyan Constitution as well as international law on human rights, and on biodiversity conservation and sustainable use, as demonstrated in our attached **International Appeal** from environmental and human rights organisations from all around the world to protect the rights of these indigenous communities threatened by eviction.

The Appeal shows how the Kenyan Constitution and international law demand that the State respects the life, culture, will and knowledge of Embobut's indigenous communities, whose life has been adapted through centuries to live from the regeneration of the Embobut forests and their biodiversity and who thus want to respect and protect these forests.

That the currently prepared measures of forced eviction would clearly violate the Kenyan Constitution, concerned international law, and the rights of the Embobut communities is shown also by the attached **Embobut communities' ground Testimony & Petition** and by the **Eldoret High Court's injunction** of March 26th 2013 which prohibits such evictions from Embobut forest. The injunction was renewed in November 2013 and is in force until it comes up for renewal in the High Court at Eldoret on 6th February 2014.

The Kenyan Constitution, in article 63, recognises the right of former hunter-gatherers to their ancestral forest lands and evicting them against their will would be a direct violation of both the Kenyan constitution and also of the many international treaties that Kenya is a party to (see Annex 1). Forced evictions are thus completely illegal - and even more so if threatened to be carried out by violence like burning of homes, including school uniforms, books and means of livelihood.

The government needs instead to sit down with the communities to find a way of protecting communities' rights to care for their forest lands in compliance with their traditional indigenous knowledge, innovations and practices and through that to protect the forest themselves.

This is crucial for enacting the 'New Conservation Paradigm' which supports ancestral communities to continue to protect their forests – and which is recognised by IUCN (and other international conservation alliances that KFS and KWS are signed up to) as the most scientific, efficient and just approach to forest protection. It has replaced the long since discredited Colonial 'Fortress Conservation' approach, an approach which enforces the exclusion of the very people who have protected their forests for centuries, while offering some meagre compensation that is most often captured by distant elites and not by the communities themselves.

Elgeyo Marakwet County Commissioner, Mr. Arthur Osiya, threatened on December 12th 2013 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” - even though clearly the area's indigenous inhabitants are the very opposite of squatters. The 'given' cash referred to the fact that on November 15th 2013, the Kenyan President, the 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. At no stage of the current process have the Embobut's indigenous residents been meaningfully consulted in relation to this resettlement, nor has their free, prior and informed consent been sought and obtained. When the Sengwer have been consulted in the past they have refused to move, and they have made clear (see e.g. attached Testimony & Petition) that they refuse to move.

There has thus been no legitimate consultation, compensation or legally valid approval agreed with the indigenous communities over their ancestral lands. The Government does not make even a distinction between IDPs who may have moved into the forest out of misfortune and who may well be willing to leave

by being given cash compensation, and those for whom this is their ancestral lands, a place they insist on continuing to care for and refuse to leave.

Cooperation with the authorised UN agencies and international community would help the government and Parliament to duly fulfil Kenya's constitutional and international obligations on indigenous communities' rights in conservation and sustainable use of the biodiversity of their ancestral lands (see our Appeal).

We, the affected communities and concerned Kenyan, African and other international environmental conservation and human rights organisations, call on President Uhuru Kenyatta, Deputy President William Ruto, Senator Kipchumba Murkomen, the Deputy President's Legal Advisor Korir Sing'Oei and all other Kenyan Government Authorities to call a halt to the threat of evictions and to do so publicly in a way that will reassure the communities - including the children, mothers and elders – who fear having their homes burnt and who fear being evicted from their lands.

Please find attached:

- **International Appeal re Embobut Forest eviction** - signed on 5th January 2014 by 47 environmental conservation and human rights organisations from diverse continents around the world
- ANNEX 1 - Kenya's Commitments. Appeal re Embobut Forest evictions
- ANNEX 2 - Proposal to solve the crisis. Appeal re Embobut Forest evictions
- **Testimony and Petition from the Community in Embobut against Eviction** – 3rd January 2014, gathered and transmitted from the community by Sengwer Indigenous Peoples Programme /Forest Peoples Programme, signed by leaders of many Embobut communities

Yours sincerely,

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