

SENGWER FOREST INDIGENOUS PEOPLES OF KENYA

**'SECURING OUR RIGHTS TO LIVE, GOVERN, MANAGE
AND OWN OUR ANCESTRAL LANDS IN EMBOBUT
FOREST IS A SOLUTION TO CLIMATE CHANGE - NOT
EVICTIONS'**

INDIGENOUS PEOPLES PAVILION
10TH December 2015, COP21 Paris, France
2.15 - 3.30pm

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Introduction

- Sengwer (nicknamed as Dorobo or Cherangany) is an ethnic minority forest indigenous peoples whose traditional lifestyle is characterised by hunting, gathering, bee keeping, blacksmith, handcraft, etc.
- Under customary law we own land in the forests and plains, in and out of Cherangany Hills – conserving the fauna and flora, sustainably and peacefully. (GoK does not recognise our tenure rights).
- We have a scattered population of slightly above 33,000 (2009 Population and Housing census report)

tional Park

Map

Satellite

Boma National Park

Arba Minch አርባ ማንቅ

Traffic is OFF

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Mundri West

Juba

Finchawa

Yambio

Kakuma

Mandera

Cherangany Hills ✕

1°15'0" N, 35°27'0" E

Arua

Gulu

Lira

Marsabit

Uganda

Kenya

Beni

Kampala

Dadaab

Entebbe

Kisumu

Nakuru

Jam

Migori

Olenguruone

Nairobi

Kitui

Goma

Rwanda

Mwanza

Butare

Bukavu

Burundi

Arusha

Malindi

Usangi

Mombasa

Google



Root cause of our problems

Kenya became a British colony in 1895 leading to forceful evictions and displacements of members of our community from the:-

- plains to settle white farmers
- forests to implement discriminatory forest preservation policy

Further, we were forced to be assimilated; to surrender our identity, customs, traditional lifestyles and economies. Lastly, they didn't give us our land – we had no place to call home

Kenya today -

- Forest Act 2005 does not recognize the rights of hunter-gatherers forest indigenous peoples to live and own lands and territories in the forests and protected areas
- KFS failure to respect and protect the rule of law, by disregarding injunctive conservatory orders issued by Eldoret High Court in March 2013 – as evidenced by continued forceful evictions, arrests, threats, etc
- Has failed to respect and protect the spirit and letter of the Constitution of Kenya 2010 that recognize

Forceful Evictions and Arrests of Sengwer Indigenous People of Embobut Forest

- Kenya government has labelled us Sengwer people as squatters and or Internally Displaced Persons (IDPs) in our own ancestral lands
- We are indigenous people, the aborigines of Embobut forests and entire Cherangany Hills. We are neither SQUATTERS nor IDPs to be evicted from our ancestral lands in the forest

Forceful Evictions and Arrests of Sengwer Indigenous People of Embobut Forest, contd.

- Forceful evictions, arrests and threats of members of Sengwer community in Embobut became worse during and after implementation of NRM project funded by World Bank. Today, we are forced to live in the cold, under trees and caves in our own homes, our com
- Sengwer representatives filed a complaint with World Bank inspection panel. The final report by inspection panel found that there was a failure by the bank during implementation

Forceful Evictions and Arrests of Sengwer Indigenous Peoples of Embobut Forest have violated

Constitution of Kenya in:

The Preamble

- PROUD of our ethnic, cultural and religious diversity, and determined to live in peace and unity as one indivisible sovereign nation:
- COMMITTED to nurturing and protecting the well-being of the individual, the family, communities and the nation:
- RECOGNISING the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law:

Forceful Evictions and Arrests of Sengwer Indigenous Peoples of Embobut Forest violate, contd.

Art. 11 Culture

- (1) This Constitution recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation.
- (2) The State shall— (a) promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage; (b) recognise the role of science and indigenous technologies in the development of the nation; and (c) promote the intellectual property rights of the people of Kenya.

Forceful Evictions and Arrests of Sengwer Indigenous Peoples of Embobut Forest violate, contd.

Bill of Rights – Article 19, 21, 27

Art.19. Rights and fundamental freedoms.(2) The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.

Art. 21. Implementation of rights and fundamental freedoms.(1) It is a fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights. (2) The State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realisation of the rights guaranteed under Article 43. (3) All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities. (4) The State shall enact and implement legislation to fulfil its international obligations in respect of human rights and fundamental freedoms.

Forceful Evictions and Arrests of Sengwer Indigenous Peoples of Embobut Forest violate, contd.

Art. 27. Equality and freedom from discrimination (6)

To give full effect to the realisation of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.

Art. 56. Minorities and Marginalized Groups The State

shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups — (a) participate and are represented in governance and other spheres of life; (b) are provided special opportunities in educational and economic fields; (c) are provided special opportunities for access to employment; (d) develop their cultural values, languages and practices; and (e) have reasonable access to water, health services and infrastructure.

Forceful Evictions and Arrests of Sengwer Indigenous Peoples of Embobut Forest violate, contd.

Art. 63. Community Land

- (1) Community land shall vest in and be held by communities identified on the basis of ethnicity, culture or similar community of interest.
- (2) Community land consists of... (d) land that is—
 - i. lawfully held, managed or used by specific communities as community forests, grazing areas or shrines;
 - ii. ancestral lands and lands traditionally occupied by hunter-gatherer communities;

Art. 67. National Land Commission

- (1) (e) to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress;



Further, the arrests and evictions violate-

- African Charter on Human and Peoples Rights
- United Nations Declarations on the Rights of Indigenous Peoples
- ILO Convention No. 169
- Among other international human rights instruments

Impact of the evictions

- School drop outs
- Child labour and early marriages
- Break out of diseases for example pneumonia, coughing
- Loss of our culture, language and traditions
- Cultural ethnocide and extinction
- women are arrested, harassed and assaulted by KFS
- Abject poverty
- Continued destruction of the forest
- Forced families to live in the cold in caves, in the thick forest or make temporary structures in the evening

KFS FOREST GUARDS STARTING OPERATIONS TO EVICT SENGWER PEOPLES FROM THEIR ANCESTRAL HOMES IN EMBOBUT FOREST































Murkomen Kipyatich on 9th June 2014 at Iten Court – Charged for being in the forest illegally



Over 91 years old arrested on 6th June 2014 in Koropkwen glade – locked in Kapsowar Police Cells for 3 days. Taken to Iten court on 9th June 2014

Important: Cherangany Hills Forest blocks

Some of the forest blocks that constitute Cherangany Hills forests are: Kapkanyar (5,764ha), Kapolet (1,625ha), Kiptaberr (12,801ha), Lelan (14,516ha), Embobut (21,689ha), Kerrer, Kaisungurr, Toropket, Chemurgoi, Sogotio (3,555ha)

Important to note:

1. The above forest blocks are within Sengwer ancestral lands and territories (gazetted as forest reserves and or protected areas without our consent)
2. Sengwer indigenous peoples want to secure rights:-
 - i. to live, govern, manage and own Kapolet and Embobut forests with close working relationship with KFS, County, forest adjacent communities and other partners
 - ii. to govern, manage and own the other forest blocks with close working relationship with KFS, County, forest adjacent communities and other partners

Call upon Indigenous Peoples and IPs Organizations; partners and friends of indigenous peoples to petition

- Kenya Forest Services (KFS) to stop evictions, arrests and harassments of Sengwer families in Embobut forest
- Government of Kenya (GOK) to enact policies and laws that recognize, respect and protect the rights of forest indigenous peoples to govern, manage and own their ancestral lands in the forests and protected areas sustainably
- KFS to respect the rule of law by abiding by the conservatory injunctive court order issue in March 2013 by Eldoret High Court by allowing Sengwer of Embobut to rebuild their lives, their homes, traditions, their cultures, their economies and lifestyles sustainably
- GOK to effectively facilitate National Land Commission to execute its constitutional mandate as stipulated in the constitution

Further, we call upon the Office of the High Commissioner on Human Rights to

- Investigate and interrogate the role, ***directly or indirectly***, of UNDP, IUCN, Finnish Government, EU, World Bank and other donor agencies in the on-going evictions, arrests and harassment of Sengwer families in Embobut forest. ***For example How has the 5 years (2010-2015) UNDP funded project on ‘Strengthening the Protected Area Network within the Eastern Montane Forest Hotspot of Kenya contributed to the evictions of Sengwer forest indigenous peoples from their ancestral in Embobut forest or the role of World Bank NRM project (2007-2013)?, etc***

Finally, we call upon UNDP, IUCN, Finnish Government, EU, World Bank and other donor agencies to:-

- i. Urge Government of Kenya to stop the arrests, harassment and evictions of Sengwer people of Embobut forest and instead allow Sengwer forest indigenous people of Embobut to rebuild their homes, their cultures, their economies and lifestyles in their ancestral lands within the glades of Embobut forest peacefully and sustainably
- ii. Suspend funding to Nature Kenya, Kenya Forest Service, Kenya Water Towers Agency and other agencies working in Cherangany Hills if KFS continues with arrests and evictions of Sengwer in Embobut forest

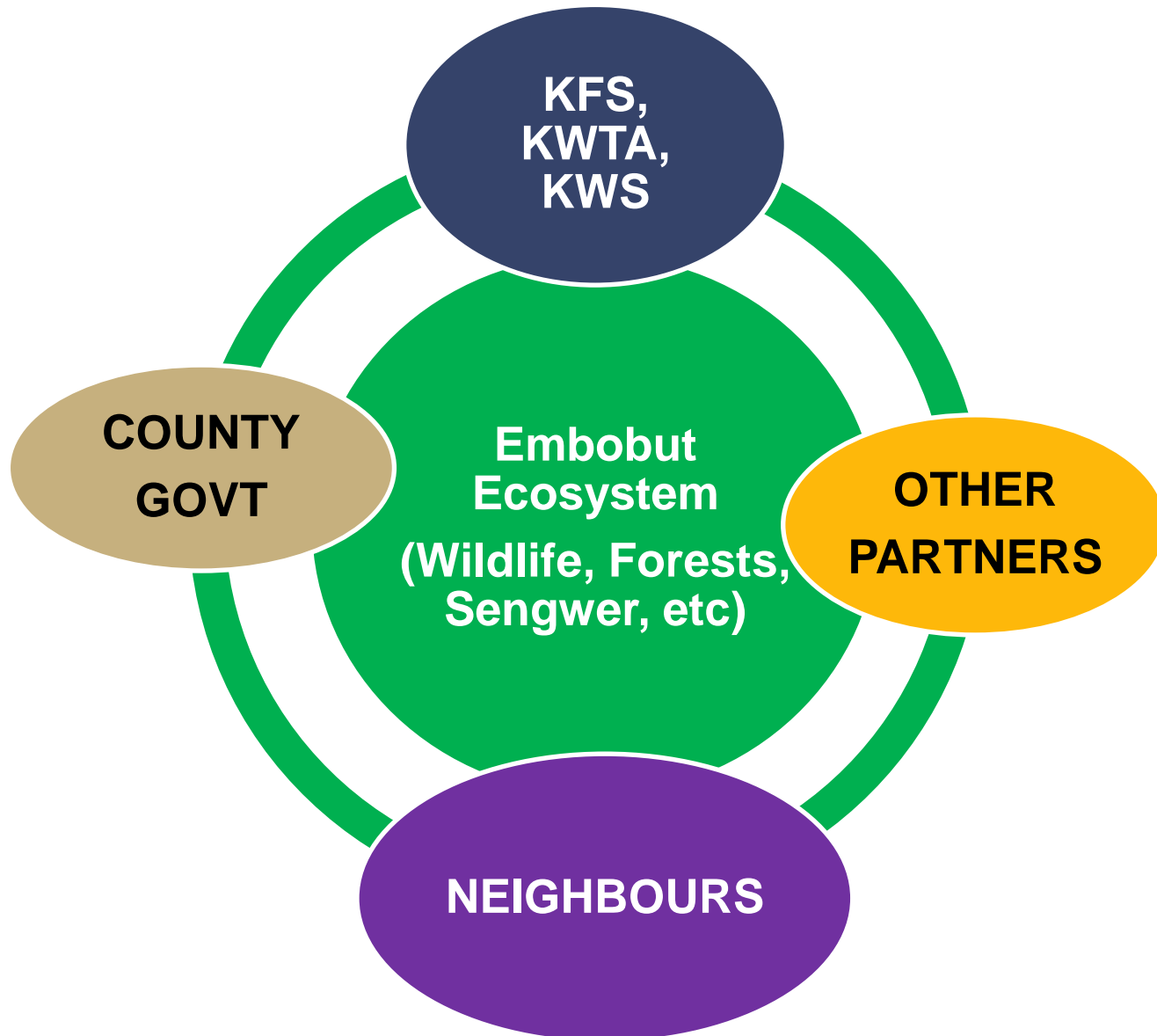
Finally, we call upon UNDP, IUCN, Finnish Government, EU, World Bank and other donor agencies to:- contd.

- iii. Support Government of Kenya to enact and implement land and forest policies and laws that recognize and protect forest indigenous peoples to live, govern, manage and own their lands in the forest reserves and protected areas, sustainably
- iv. Stop funding projects that lead to evictions, arrests and harassment of Sengwer forest indigenous people in Embobut forest from their ancestral lands and territories in Cherangany Hills
- v. Carry out a Whakatane assessment approach that lead to new conservation paradigm where there's no conflict between rights and conservation

Finally, we call upon UNDP, IUCN, Finnish Government, EU, World Bank and other donor agencies to:- contd.

- vi. Any forest and climate policies, including the UN REDD program and any conservation projects must ensure robust protections for our rights, including our customary rights to land and forest
- vii. The forestry and community land bills must recognise and protect our customary rights to own, control and manage our land in forest and protected areas
- viii. Finally, urge Government of Kenya to respect the United Nations Declaration on the Rights of Indigenous Peoples, African Charter on Human and Peoples, Constitution of Kenya

EMBOBUT ECOSYSTEM RIGHTS = CONSERVATION





Thank You all

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