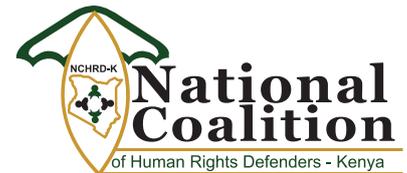


# RACE AGAINST EXTINCTION: THE PLIGHT OF SENGWER INDIGENOUS WOMEN AND HRDS IN EMBOBUT FOREST

## FACT SHEET



### BACKGROUND

The Sengwer are a minority and marginalized hunter-gatherer indigenous community who occupy present-day West Pokot, Trans-Nzoia, and Elgeyo Marakwet Counties. Over the years, the Kenyan government, through the Kenya Forest Service (KFS) and other security agencies has made attempts to evict the indigenous group from their land in Embobut forest under the guise of forest conservation. These forceful evictions intensified in Embobut forest in December 2017. The Sengwer homes were torched, crops and household items destroyed and their livestock disappeared. The Sengwer community, particularly women, cried for help that hardly came.

These forceful evictions are human rights violations of the Sengwer as well as an infringement of their rights to customary sustainable utilization of forest resources. In addition, the evictions deprive the community the means of subsistence, integral to their identity, cultural survival, and forest life. It is important to note that Article 63 of Kenya Constitution 2010 prescribes that an indigenous group cannot be evicted from their ancestral territory without their Free, Prior and Informed Consent (FPIC).

### INTRODUCTION

In November 2017, the women of the Sengwer indigenous community appealed for an end to forceful evictions from their dwellings in the Embobut forest by the Kenya Forest Service (KFS). They stated that these evictions were worsened by funds acquired by KFS from the World Bank, European Union (EU) and other conservation partners. The community called for withholding of the funds until the Kenya government “listens to and addresses the concerns of the Sengwer community.”<sup>1</sup>

Their appeal was only heeded after a community member, Robert Kiprotich, was reportedly shot and killed by KFS on January 16, 2018 and another community member injured in Embobut forest. The EU condemned the killing and suspended its support for the Water Towers Protection and Climate Change Mitigation and Adaptation (Water Towers) Programme. The EU also stressed that both indigenous people’s rights and Kenya’s water towers needed protection.<sup>2</sup>

This roused national and international interest leading to a High Level Fact-finding Mission (The Mission) to Embobut forest from 14 to 23 March 2018.

<sup>1</sup> Sengwer Women of Embobut Forest Call for Help (2017, November 29). Retrieved from <https://www.forestpeoples.org/en/environmentalgovernance/news-article/2017/sengwer-women-embobut-forest-call-help>

<sup>2</sup> European External Action Service (2018, January 17). EU suspends its support for Water Towers in view of reported human rights abuses. Retrieved from [https://eeas.europa.eu/delegations/kenya/38343/eu-suspends-its-support-water-towers-view-reported-human-rights-abuses\\_en](https://eeas.europa.eu/delegations/kenya/38343/eu-suspends-its-support-water-towers-view-reported-human-rights-abuses_en)

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## CSO INTERVENTION

The Sengwer community reached out to their friends, government, Civil Society Organizations and international partners to intervene but the evictions continued unabated. With time however, voices of solidarity started emerging. The National Coalition of Human Rights Defenders-Kenya (NCHRD-K), Amnesty International, Forest People Programme (FPP), Kenya National Commission on Human Rights (KNCHR) among others, publicly voiced their concerns regarding the escalating human rights violations.

The Mission, led by the statutory Kenya National Commission on Human Rights (KNCHR), and which NCHRD-K participated in, spun off nascent interest in the situation of Human Rights Defenders and a special focus on the Sengwer women Human Rights Defenders as a critical population. There was concern that Sengwer women faced heightened and continued violations of their rights.

Concerned that women continually faced serious human rights violations that were not voiced, the National Coalition of Human Rights Defenders-Kenya (NCHRD-K) set out for Embobut Forest in May 2018 to assess the situation. The fact-finding team conducted Focused Group Discussions (FGDs), one-on-one interviews, and carried out an in-depth analysis of extant literature on the subject matter.

The Mission therefore sought to assess the situation of Sengwer women and Women Human Rights Defenders (WHRDs) living in the Embobut forest, whose rights, as in all other areas, are protected under national, regional and international law. It further sought their perspectives on how to address the myriad challenges they face and ensuring their inclusion in local, national and international discourse.

Even though there was pre-existing awareness that the fact-finding team would encounter obstacles when conducting the research, the tension between the Sengwer and the KFS was palpable. Their fear of reprisals from the KFS on suspicion of giving out insider information about the evictions initially inhibited the respondents from speaking out. However, after much reassurance, they gained confidence and began to narrate their stories to the fact-finding team. Worse still, survivors of sexual violence feared repeat attacks or stigma from the community and complained of inadequate mechanisms for conclusively following up on reported cases at the local level.

## FINDINGS

### Legislative protection

Human rights are enshrined in several international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article 2 of the African Charter on Human and Peoples' Rights states that, "Every individual should be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind." They should do so safely and without any form of discrimination.<sup>3</sup>

The Constitution of Kenya 2010 on the other hand describes "marginalized community" as an "Indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter or gatherer economy."<sup>4</sup>

<sup>3</sup> African Commission on Human and Peoples' Rights (2015). Report of the Study on the Situation of Women Human Rights Defenders in Africa. Retrieved from <http://www.achpr.org>

<sup>4</sup> Article 260, The Constitution of Kenya 2010

## Violations against HRDs

A leading Sengwer HRD was shot at and badly beaten by KFS officers on 2nd April 2017 while taking pictures and documenting the burning and forceful evictions of the Sengwer. He sustained serious body injuries, which hamper his day-to-day life. Furthermore, on January 16, 2018, a Sengwer HRD, Robert Kiprotich, was shot dead and his friend injured, arrested and taken to Chesoi Police Station.

In response to the question that sought to identify the challenges faced by the Sengwer women and Women Human Rights Defenders (WHRDs) living in the Embobut forest in the course of their human rights work, there were varying responses from the respondents, which included;

1. Unemployment and low income. Most of the women were left out of the compensation by the government, denied their share by their husbands and opted to squat in other people's farms and work as casual laborers.
2. Women are often times assaulted and arrested during evictions and most of those who are sexually assaulted do not come out to seek justice. During the forced evictions in 2015, a woman was assaulted when she went to find out what was happening. "When I came out to find out what was happening, a man caught me and warned me not to scream. He covered my mouth and threw me to the ground; I remember being slapped several times and asked if I could go inside to get my belongings."
3. The harsh weather conditions after the evictions cause illnesses and sometimes death of individuals. "When KFS burned our house, we slept in the cold; we did not have anywhere else to go. Before the evictions, my sister was pregnant and gave birth to a child. After evictions, she developed pneumonia. She was hospitalized for some months then died. Now I look after her baby who was then nine months old," a victim of forced evictions.
4. Since the KFS started the forced evictions, the community members reported that their homes and personal belongings were burned; livestock lost and/or stolen or devoured by hyenas in the forest. Forced evictions from the forest have disrupted the Sengwer family unit and eroded their language and way of life. "We used to spend a lot of time bonding with each other as a family; children would spend a lot of time playing together in the forest while also taking care of the trees. If the KFS continues with the evictions and destruction of property, some of us will not be here, the language of the Sengwer people will become extinct because their children will be living with other people."
5. The Embobut forest has a huge cultural connection with the Sengwer community. The community has lived in the forest all their lives and it is the only place that they call home.
6. The Sengwer community did not cultivate before but survived on honey, milk, stinging nettles and wild meat. The Marakwet community and the government introduced them to growing maize and potatoes.
7. Lack of access to clean water for cooking and drinking which was available in the forest; women are forced to walk for long distances just to get clean water
8. The Sengwer community receives hostility from neighboring communities as they are deemed to have encroached into their land.
9. Denial of their conjugal rights; Some women have been abandoned by their husbands while others who reside outside the forest have to go back into the forest to be with their husbands but at great risk.

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10. The KFS have been shooting and injuring people, which resulted in the death of Robert Kiprotich Kibor on January 16, 2018.
11. The Sengwer do not have a woman in any political leadership positions. However, there is a female Assistant Chief in the region. Irene is the only female leader from the Sengwer community. She is an Assistant Chief in Embobut.
12. The Sengwer community organizes village “barazas” and women are allowed to attend and participate although they sit right at the back.

## Research validation meetings

On 6th August 2018, The NCHRD-K organized a meeting at Kerio View Hotel, Iten with the Sengwer women, duty bearers as well as other stakeholders with the aim of kick-starting solution-oriented conversations as well as well as share the findings of the report. The Sengwer women reviewed the report and made minor changes to the report. The duty bearers on the other hand acknowledged that forests have been depleted, evictions have taken place and they pledged to work with the women and community at large to find solutions to the problems that they face.

## Needs and aspirations

- Operating space for HRDs. The state must commit to respect the law, including implementation of the PBO Act and the National Human Rights Policy as well its international commitment with regard to the protection of HRDs.
- Remedy for WHRDs: The government must institute investigations with a view to vindicate WHRDs, hold perpetrators to account, undertake reparations and ensure access to justice for victims.
- Community dialogues and public participation. There is urgent need for sustained dialogue that includes various actors like the community, WHRDs, CSOs, KFS, and KNCHR. The role of WHRDs and community leaders in promoting the rights of the community and respect for human rights in policy formulation and implementation of projects must be considered as complimentary to the development agenda.
- Women-empowerment programs for WHRDs are necessary in promoting their well-being beyond human rights work. It would also go a long way in motivating women especially those who have been ostracized to the point of divorce and maligning.
- Litigation should be instituted for the gender-based violence meted on the Sengwer women and those at the forefront of fighting for community land rights.
- The State and its agencies should work with the community leadership and HRDs in promoting forest conservation.
- The government should enact laws and policies that recognize, protect and respect the rights of forest-dwelling people in governing, managing and owning their ancestral lands within the forests.
- Change the narrative: The government, CSOs, conservationists, KNCHR must endeavor to propagate the position that HRDs and CSOs are advocating for rights-based approaches in conservation.