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Authorities must investigate violent attack by forest guards on Sengwer activist

The Kenyan authorities must immediately investigate Sunday's violent attack, carried out by Kenya Forest Service (KFS) guards, on Elias Kimaiyo, a Sengwer community leader, in Embobut forest in the North Rift Valley. Kimaiyo is currently in a hospital in Eldoret with a broken arm and kneecap.

Kimaiyo, speaking to Amnesty International from his hospital bed on Monday, said, "I was taking pictures of Kenya Forest Service Guards who were burning houses of the Sengwer in Embobut forest. I counted 29 burnt houses."

He added, "The guards started shooting at me. I ran, but tripped and fell, breaking my kneecap, and they caught up with me. They hit me with the butt of a rifle, and broke my arm. They took two cameras and an iPad from me." Human rights defenders, like everyone else, have the right to pursue their non-violent activities without harassment or intimidation, including the collecting of video and other documentary evidence.

The Sengwer are an Indigenous People, a large number of whom have been evicted from the Embobut forest as a result of a flawed consultation and compensation process in 2014. The decision to evict was based on an assessment that the forest constitutes a crucial source of water for the country and was critically degraded; the Sengwer maintain that they live in harmony with the forest ecosystem, and that other temporarily relocated communities and loggers were responsible for its degradation. The European Union, World Bank and Finnish government are funding, or are proposing to fund projects focused on environmental protection in the forest, usually through institutional support to the KFS.

Amnesty International has documented numerous human rights violations associated with the consultation and resettlement process. As the Sengwer are an Indigenous People, the Kenyan government was obliged to obtain their free, prior and informed consent before evicting them from the forest; however the decision to evict was unilaterally imposed by the government; the consultation only addressed the form compensation would take.

Many Sengwer did not receive cash compensation despite their families having lived in the forest for generations. Sengwer women suffered multiple discrimination in the process; although the parameters of the process required all qualifying adults to benefit, in many cases only one male in the family received compensation. In the cases where money was paid out, it was not sufficient to make up for the land and livelihoods lost; many of those interviewed by Amnesty International are living in poverty in surrounding villages, in some cases large families are hosted in one room of a relative's house.

Others have returned to the forest, and live in temporary huts. Amnesty International has collected evidence of regular arrests of Sengwer and burning of their constructions in the forest by KFS guards, in disregard of the injunction of Eldoret High Court of 26 March 2013, which requires government agencies not to interfere "with the petitioners' occupation, control and quiet enjoyment of the land".

Amnesty International urges the Kenyan authorities to:

- Urgently investigate the attack on Kimaiyo leading to his hospitalisation, and ensure that any persons responsible are brought to justice in proceedings which meet international standards of fairness;
- Cease all house burnings in Embobut, and arrests of Sengwer for being in the forest, in compliance with the High Court injunction;
- Enter into genuine negotiations with the Sengwer with regard to the fulfilment of their right to land in the Embobut Forest, as guaranteed by the Constitution and international human rights standards;

Amnesty International urges the European Union, World Bank and government of Finland to:

- Ensure the free, prior and informed consent of the Sengwer is obtained with regard to any programmes funded by them in Embobut Forest.

Public Document

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