

URGENT ACTION

FORCED EVICTION KILLS CHILD; 3'500 LEFT HOMELESS

On 5 February, 3,500 residents of Kibos, Kisumu County, Kenya, were brutally evicted by the Kenya Railways Corporation. Armed police used tear gas to force residents out of their homes. As a bulldozer brought down their homes, one child was trapped under debris and killed. The residents, belonging to the Nubian community, claim that no written eviction notice was issued. This unlawful act was done in violation of the Presidential moratorium on evictions during the COVID-19 pandemic issued on 11 May 2020.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Ministry of Interior & Coordination of National Security
Cabinet Secretary of the Ministry of Interior
P.O Box 30510- 00100, Nairobi
Email: ps@interior.go.ke
Twitter: @CSMatiangi

Dear Honourable Cabinet Secretary Fred Matiang'i

I am deeply concerned by the brutal evictions carried out by Kenya Railways Corporation on 5 February in Kibos, a Nubian settlement in Kisumu. The forced eviction led to the death of a child and has rendered more than 3,500 persons homeless. At 10:30 pm, armed police violently forced families from their homes and fired tear gas causing utter confusion and panic. As the authorities proceeded to demolish buildings, a child was crushed to death. Those displaced are now camping in inhumane conditions on a swampy field with tents as their only form of shelter in heavy rains. This forced eviction not only compromises their health due to possible exposure to COVID-19 and other illnesses, it also destroyed their livelihoods and constitutes a violation of human rights including the right to adequate housing. No written notice was issued before the eviction. The demolition of homes and places of worship was carried out with utter disregard for the presidential moratorium on evictions during the COVID-19 pandemic issued on 11 May 2020. Kenya Railways and Kisumu County Commissioner of Police also disregarded interim orders issued to them on 5 February by the Environment and Land Court of Kisumu to refrain from conducting evictions until the matter is heard in court.

The Nubian community in Kenya has been struggling with the recognition of land ownership for decades. Since their resettlement in Kibos in 1938, there has been no attempt by the state to guarantee them security of tenure. The Nubians have built their places of worship, schools and called Kibos home for 83 years.

In light of the above, I call on you to:

- Carry out an impartial and independent investigation and hold to account all those responsible, including those with command responsibility, for the forced evictions, death of the child, excessive use of force, and for disregarding court orders as well as the Presidential moratorium on evictions.*
- Take urgent and concrete steps to ensure that all those affected by the forced eviction in Kibos have access to effective remedy including adequate alternative housing, compensation, restitution and guarantees of non-repetition.*
- Suspend any planned evictions by Kenya Railways until new eviction and resettlement guidelines in line with international human right standards are in place for State Agencies mandated to deliver infrastructure upgrading that may displace communities; and to reiterate publicly that National and County Governments must uphold the COVID-19 moratorium on mass evictions until adequate legal and procedural safeguards are in place.*

Deeply concerned. Yours sincerely,

ADDITIONAL INFORMATION

The Nubian Community has experienced historical injustices linked to statelessness and land ownership. They were first settled by the British colonial government near Kisumu airport but later, after the expansion of the airport, they resettled in Kibos in 1938 and have been living there ever since. The ownership of Kibos has been challenged repeatedly, with Kenya Railways claiming ownership of the land and threatening to evict the community. The community successfully filed a petition under a Certificate of Urgency to seek a conservatory order preventing Kenya Railways from evicting them until ownership is ascertained in Environment and Land Court (ELC). The Conservatory Order was served to the Kenya Railways and County Commissioner (who tore it up) on 5 February, at 4:15 pm. At 5pm, the County Commissioner started marking Kibos homes with Xs. At 9pm the Kenya Power and Lightening Company cut off the main power to the whole settlement. By 10.30pm, police officers descended on the community, firing teargas into the homes of over 3,500 and a 83 year-old mosque. Excavators and other heavy equipment were used to bring down homes, the mosque and two nursery schools. As the authorities proceeded to demolish buildings, a child was crushed to her death while her mother cried for time to remove her from the house.

The County Commissioner oversaw the demolition of all buildings. Barely five days later, on 10 February, the Environment and Land Court of Kisumu summoned the Kenya Railways Corporation to show cause why they should not be held in contempt of court for ignoring the conservatory orders and for failing to appear in court. In a hearing held on 11 February, the Court upheld the status quo of the conservatory orders and granted the community reentry orders.

The forced evictions in Kibos were conducted less than a month after the Supreme Court of Kenya, on 11 January, made a definitive judgment¹ on the right to housing. The landmark judgement states, under section 153, that, "*The right to housing in its base form (shelter) need not be predicated upon "title to land". Indeed, it is the inability of many citizens to acquire private title to land, that condemns them to the indignity of "informal settlements". Where the Government fails to provide accessible and adequate housing to all the people, the very least it must do, is to protect the rights and dignity of those in the informal settlements. The Courts are there to ensure that such protection is realized, otherwise these citizens, must forever, wander the corners of their country, in the grim reality of "the wretched of the earth".*

PREFERRED LANGUAGE TO ADDRESS TARGET: [English]

You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 8 APRIL 2021

Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PRONOUN: People of the Kibos Settlement (they/their)

¹ MITU-BELL WELFARE SOCIETY VS THE KENYA AIRPORTS AUTHORITY AND 3 OTHERS (petition NO3 of 2018)