



## STATEMENT FROM AICA On the Current Eviction of Mau Ogiek from their Ancestral Territory in Kenya

As a network of representatives of customary communities across Africa we join hands to convey our alarm at the eviction of Mau Ogiek from their ancestral lands in Kenya. We humbly urge the Government of Kenya to step back and consider the issues at stake.

These include –

1. **Needless human rights abuses:** burning of homes, displacement, and the inevitable dispersal and pauperization which results of an already marginalized society; forest peoples have more vested interest and need to protect their ancestral forests than any other party. **Government should empower them as the owner-conservators** (such as other governments have been doing for some time and seek to expand, see point 5 below).

Note that although the majority being evicted are Mau Ogiek from their ancestral lands, some pastoral Masai who settled on Ogiek lands over many decades, including many granted such lands by government, are also being harshly evicted. All evictees are in urgent need of humanitarian aid.

2. **Illegality:** the Government of Kenya appears to be wilfully breaking many laws including when and how evictions may be conducted, and necessity for agreement as to reparation, principles as to human rights and procedures under binding under international law, most immediately the African Charter of Human and Peoples' Rights (1986). In addition, these are indications of gross abuse human, land and other rights as embedded under Kenya's own Constitution (2010) and other laws.

In addition, the Government of Kenya is failing to apply the **Orders the African Court of Human and Peoples' Rights** in 2017 and 2022 to recognize Ogiek ownership of the Mau Forest Complex through issue of community land titles to the (ten) concerned ancestral owning communities, one of which is the Sasimwani community already evicted, and another of which is Nkareta threatened within upcoming eviction.

Further, the Government of Kenya is abusing the Constitution and Community Land Act by failing to acknowledge that the ancestral home of these two communities is not within the gazetted public forests of Mau but ungazetted forest land with status as **former trust land and now community land**.

3. **Breach of faith of commitments in the Global Biodiversity Framework** (December 2022), for which the Kenyan Government was a State Party along with 187 other State Parties: this commits that *nothing in this framework may be construed as diminishing or extinguishing the rights that indigenous peoples* (Section C. 7.a), and that *the rights of indigenous peoples and local communities, including their cultures and rights over lands, territories, resources, and traditional knowledge must be protected* (Target 22).
4. **Fuelling already festering anxiety and potential conflict between Government and its rural communities:** as to suspected intentions that Government is relaunching fortress conservation rather than implementing Court Rulings mainly to ensure these lands are not lost to public land from which it aims to earn lucrative carbon and biodiversity credits.

5. **Of particular concern to AICA, evidence of an unexpectedly outdated approach to forest conservation by the Kenyan Government.** This includes –

- a. By surprisingly **revitalizing colonial strategies of conservation in adopting dispossession as the basis of conservation**, globally proven to be unjust and conflict-inducing over time and un-lasting, as awareness of the history of Mau Forest Complex alone should inform the Government of Kenya;
- b. By failing to grasp the fact that community owned and managed forest reserves are already widespread in Africa and **an obvious focus for substantial investment for multiplication in Kenya to meet the commitments to recover and expand biodiversity conservation**; not least because in Kenya as elsewhere in Africa, biodiversity principally exists within its customary community land sector. By burning out Mau Ogiek the Government of Kenya is losing a clear and present opportunity to pilot precisely this approach;
- c. **By failing to engage directly with the Mau Ogiek** (as directed by the African Court) to understand and negotiate how they will ensure permanent conservation of the lands returned to them.

The above may be reason why the Government of Kenya appears unaware of the lengths to which the Mau Ogiek have gone to meet concerns that restitution does not result in already very poor Ogiek selling of the returned lands in times of acute need, or for returned lands, to be steadily cleared and farmed by growing population of Ogiek over generations. Instead the Mau Ogiek have repeatedly laid out their willingness to –

- a. Secure Community Land Titles **without the right to alienate these lands, titles to be held in perpetuity by successive generations of the particular sub-group of Mau Ogiek**;
- b. To maximize protection and recovery of the little intact forest left in the Mau Complex after so many decades of state mismanagement, wrongful excisions for private purposes and allocation of vast areas of the Complex to the Nyayo Tea Zone Authority to clear and plant tea, by immediately **declaring and managing intact forest and recoverable forest lands as Community Protected Forests on community lands, as provided for in the forest law of 2016**;
- c. **Limit habitation areas to as they are today**, each mapped and agreed with the Forest and Wildlife Services as not expandable at any time in the future.

Again, we humbly urge the Government of Kenya to pause its actions and meet with the Mau Ogiek and other forest peoples in a similar situation (Elgon Ogiek, Sengwer, Yaaku, Awer/Boni) to jointly find a just and workable way forward to save these ancestral lands and their much-damaged biodiversity.

*AICA is a new and expanding network of representatives of communities across Africa who principally seek to secure and multiply community conserved areas over their customary rangelands, forests and swamplands, as essential for present and future livelihood, way of life, culture and identity. In light of our numbers in all African states, our continuing grounded presence within our customary domains, and our sustained need and commitment to keep our natural resources intact, we expect to become a significant contributor to ending resource degradation, for which we seek support from our governments.*

**AICA may be contacted at:**