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7<sup>th</sup> December 2011

Dear Ms Habtom,

**Request for Consideration of the Threats facing the Samburu communities of Eland Downs, Laikipia, Kenya under the Early Warning and Urgent Action Procedure**

**Urgent Situation**

This is a request to the Committee to consider under its early warning and urgent action procedure the grave situation that now confronts the Samburu of the area known as ‘Eland Downs’ in Laikipia, Kenya, which the government intends to gazette as the Laikipia National Park.

This request is submitted by Survival International, an NGO which has worked for indigenous rights for over 40 years. We have consultative status at the UN’s ECOSOC, and 250,000 supporters in almost 100 countries.

3,000 Samburu families were brutally evicted from Eland Downs between 2008 and 2010 by state police.<sup>1</sup> The Samburu made it clear that they did not want to leave the land and resisted eviction.

The harassment of the community by the police is ongoing. Incidents have been reported to us on the 23<sup>rd</sup> and 25<sup>th</sup> of November 2011.<sup>2</sup> In one incident, a Samburu elder was shot dead by paramilitaries. The displaced community has nothing but their livestock, thousands of which were impounded – with no reason given – on the 25<sup>th</sup> November 2011. This is an urgent and serious violation of the rights of this community, which has been left squatting beside its land with no amenities. They have very little shelter and, despite the heavy rains and flooding in the area, the

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<sup>1</sup> <http://www.culturalsurvival.org/news/kenya/samburu-evicted-conservation-kenya> and <http://www.culturalsurvival.org/news/kenya/campaign-update-kenya-court-blocks-national-park-police-attack-samburu-community> . See also <http://www.the-star.co.ke/local/central/51486-stop-harassing-us-samburu-residents-tell-state>

<sup>2</sup> These events have been reported directly to us by individuals who wish, for their own safety, to remain anonymous. A report on the situation by a Samburu women’s organization is annexed to this letter.

women and children are sleeping in the bush for fear of police attacks.<sup>3</sup> Red Cross personnel who tried to visit the displaced community were denied access.

### **Background and Court Case**

The contested land has been the seasonal home of the Samburu since the 17<sup>th</sup> Century. In the 1980s they settled permanently there as their previously nomadic existence became increasingly impossible due to the fencing of ranches. The Samburu had lived on the land, using it for grazing and access to water, for 20 years when the first notice for eviction was served.

The land in question was acquired by former President Daniel arap Moi, without consideration of whether it was inhabited by anyone. Negotiations then began in 2007 for the sale of the land to the African Wildlife Foundation (AWF).

From this point on, the Samburu report an increase in pressure on them to leave the area. They sought the protection first of the local courts then of the Nyeri High Court – in a case that is still pending. In 2008 the communities were given 14 days notice to vacate the area by police and an agent the community believes was acting for AWF, to which they responded that this was their land, they had nowhere else to go and that, therefore, they would not be leaving.

Attempts to forcibly evict them from the land then began, culminating in the final eviction on 23<sup>rd</sup> November 2010, which involved a formidable police presence and grossly excessive force. The Samburu's homes and grain stores were set alight, their livestock were confiscated and their possessions were destroyed or taken. The police chose a market day for the eviction, when many of the men were away, and many women, children and elders suffered violent attacks. Police and paramilitaries then remained stationed in the area until this month.

The High Court case (No. 154 of 2009), in which the Samburu are demanding the right to their land, is still underway. The defendants are AWF and former President Moi.

On 24<sup>th</sup> November 2010 the Court issued an order requiring the parties to maintain the status quo and demanding that no further attempts at eviction or harassment of the Samburu should occur while the case is underway. But the harassment continued.

On 11<sup>th</sup> November 2011 AWF issued a statement<sup>4</sup> declaring that they had 'gifted' the contested land to the Kenyan government so that the Kenyan Wildlife Service (KWS) could run the area as a new National Park. KWS is a state body. No mention was made by the KWS or the AWF of the Samburu, who were not informed about this change to land that they consider their traditional territory.

In November 2011 the KWS was joined as a defendant to the case. The next hearing is on the 14<sup>th</sup> December 2011.

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<sup>3</sup> Please see attached report from the 'Samburu Women for Education & Environment Development Organization'.

<sup>4</sup> <http://www.awf.org/content/headline/detail/4556>

### **Request to the Committee**

The Committee has warned state parties<sup>5</sup> that they risk a breach of Article 5(c) of this Convention if they fail to

“ recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories.”

I believe that the Kenyan state is in breach of Article 5(c) in this case.

13. The Committee is therefore respectfully requested to consider this situation under its early warning and urgent action procedures at its next session and to urge the State Party to:

(a) immediately halt the violence and harassment that state security personnel are inflicting on the displaced communities.

(b) allow the Red Cross and any other agencies access to the communities and provide assistance to them to improve the appalling conditions in which the Samburu of Eland Downs are currently forced to live.

(c) ensure that KWS does not deal with the land in any way until the court case is resolved or do anything else that might prejudice the rights of the Samburu.

(d) ensure that no decisions are made regarding this land without the free, prior informed consent of the Samburu communities to whom the land is home.

Yours sincerely,

Stephen Corry  
Director

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<sup>5</sup> General Recommendation XXIII (5) of 1997