

Land is not property: Notes from a country where title deeds replaced ancestors

When I was about ten years old, I remember herding sheep across the open grasslands near the forest. One afternoon, as an elder was passing by, he asked: “What do you hear?” We answered: “Birds singing.” He smiled and shook his head. “Listen again. Those birds are telling you it will rain soon.”

At the time, I did not fully understand what he meant. But as I grew older, I came to realise that the forest was always communicating. It spoke through sound, smell, movement, and silence. This was our daily life as we grew up. We herded livestock communally, fished and swam in the river. We built our homes together out of mud, bamboo and grass, carefully harvested from the forest by ensuring only trees that could regrow were pruned. Cutting a flowering tree was taboo—it was likened to cutting the womb of a mother. Land itself was held in common and accessed freely; the idea of private land ownership was not only unfamiliar, but difficult for us to imagine.

The [Cherangany Hills](#) held our dead, fed our bodies, and carried our prayers. It was where our knowledge lived; in the paths we walked, in the plants we gathered, in the stories passed between generations. To belong to the land was to be accountable to it: to care for it, to listen to it, and to live within its limits. It was not an object of possession, but a living presence that shaped who we were and how we understood our place in the world.

One day, before I was even born, that reality was violently shattered. Our community in [Embobut Forest](#) woke up to evictions and burning homes. It was only then that our elders first heard that Embobut was now “National Property”. The state had “gazetted”¹ it. We did not come to understand land as “property” through books; we learned it through eviction.

What happened in Embobut is not just a memory; it marks a clash between two legal systems and ways of understanding the world. One is the colonial law, written in gazette notices and title deeds in which we were told that we no longer belonged. The other is Indigenous law, written on the land itself: in the stories carried across generations from our ancestors. When land is reduced to “property,” it becomes something that can be taken.

Today, this logic extends into conservation and climate policy. Forests like Embobut are reframed from living ecosystems and community land to carbon sinks. Carbon markets

¹ This is the formal legal process where a government officially declares a specific area of land as a public forest or protected forest reserve

monetise ecosystems even as Indigenous communities are displaced. Conservation without community is enclosure, once more.

In this essay, I argue that property is not neutral. It is a colonial technology that reorganised race, wealth, and power in Kenya. Under colonial rule, fertile land was enclosed and redistributed, while Indigenous landholding systems were rendered informal or inferior. Through registration, relationships to land were translated into paper ownership, embedding a system of racial capitalism that independence did not dismantle. Title deeds became tied to legitimacy, and land became collateral, capital, and power.

I am a member of the Sengwer Indigenous Peoples of the Cherang'any Hills in Kenya. I was not trained to think about land as property; I was raised to live with land as a relationship. Our lives have been tied to the forest. It feeds us, heals us, and holds our memory. We have lived through hunting, gathering, beekeeping, and the knowledge passed between generations, adapting where we must, but never apart from the land that sustains us.

Before property arrived, we lived by listening. But listening could not prepare us for what came next.

How Property Changed the Forest

One morning in the 1970s, before sunrise, when mist still lay quietly on the hills, armed officers entered the forest. Houses were burnt, one after another. Children cried as cooking pots, blankets, and school books were swallowed by flames. Elders stood watching as homes built over generations turned into ash.

We were told we no longer belonged on land that had always held us. To be told you do not belong on the land that has shaped your language, your food, your rituals, and your ancestors is to experience dislocation in the body itself, a form of grief without a clear beginning or end, a feeling as though the ground beneath your feet has shifted.

Luka Kiraton remembers the first post-independence eviction in 1978 as follows:

The first eviction I remember was 1978. They didn't tell me why they were burning our houses. During that time they came and built [guard] houses, after a month they came back and burnt again. They were burning in a humane style, allowing you to take your property out. In the 1980s they started burning everything, taking everything including our cows to Iten,² and then we got them back. KFS [Kenya Forest Service]³ said they marked this forest in 1968 and said it was theirs and they didn't want anyone living in it. It is the Sengwer's forest, and we Sengwer own it together. KFS say the wild animals and forest are disappearing, but the forest has

² Iten is a local administrative town outside the forest. It is where forest guards used to be based.

³ The Kenya Forest Service (KFS) is a state corporation responsible for conserving, protecting, and managing all public forests in Kenya.

degraded faster as KFS burnt our homes pushing us deeper into the forest, and as they have allowed other people to come and degrade our forest. [Embobut, 8th March 2015]⁴

Ever since then, we have lived through recurring cycles of eviction. I have watched them become more frequent and more violent, particularly from 2007 onwards. What has changed over time is not the displacement itself, but the language used to justify it. In the 70s, my people were evicted for resisting commercial logging. In the 80s and 90s, the same removals were carried out in the name of biodiversity conservation. Today, they are increasingly framed as necessary for carbon sequestration⁵ and participation in global climate markets.

That morning did not only burn our homes. It also consumed the paths our grandmothers had walked to gather medicine, the places where we spoke to our ancestors, and the memory of which tree flowers first. In its place came papers, title deeds that had effectively replaced our ancestors, marked by boundaries we had never seen, governed by rules we had never agreed to, and written in a language that told us we no longer belonged on our own land.

From Relationship to Commodity: How Property Reordered the Land

Property is often described as a neutral way of managing land and resources, but from my experience it is not neutral. It is a system of power—one that reorganises relationships between people, territory, and wealth. It shapes who belongs, who decides, and who benefits. For Indigenous communities like mine, the transformation of land into property has not simply altered patterns of ownership; it has reconfigured governance systems, displaced ecological knowledge, and enabled new forms of accumulation.

Our experiences in the Cherangany Hills are not isolated conservation conflicts. They are part of a longer history that we continue to live through—a process by which land has been commodified, enclosed, and drawn into global economic systems, often at our expense.

Colonial Displacement and the Legal Reclassification of Land

I did not live through the earliest evictions, but I grew up with their consequences. I heard them in the stories told by our elders, passed down the generation around the evening fire. In the late 1890s, we were forcefully evicted from the fertile plains of our territories by the British colonial administration, which converted these lands into white settler farms.

This displacement was later entrenched when ten forest blocks, including Embobut and Kapolet, were gazetted as government forest reserves during both the colonial and post-independence

⁴ Luka Kiraton is a 67 year old member of the Sengwer community. He lives in Embobut forest. This testimony was collected by Justin Kenrick in 2015

⁵ The natural or engineered process of capturing atmospheric carbon dioxide and storing it in solid or liquid form to mitigate climate change.

periods, without our consent.⁶ In effect, our ancestral lands were legally reclassified as protected areas, and our continued presence within them came to be treated as unlawful.

Post-Independence Continuities of Extractive Governance

Independence did not dismantle colonial land regimes; it reorganized them, and I have lived with the consequences of that reorganization. Much of our former territory was redistributed through settlement schemes to dominant and more politically influential communities, to former workers on settler farms⁷, or converted into state-owned farms under the Agricultural Development Corporation (ADC).

The Forest Department⁸, established in 1902, was never really about protecting the forest as we understood it. It was about extraction and control. Its model of forest governance prioritised revenue generation, introducing fast-growing exotic species such as eucalyptus, cypress, and pine to replace Indigenous forests that had long been sustained through customary stewardship. I learned it by walking through forests that felt unfamiliar, even when they stood where our forests once were.

In our land, large sections of Indigenous forest blocks were leased to sawmill companies to harvest valuable trees like Red Cedar and Podo. I see the consequences of this destruction everyday. Across the country, large areas of natural forest were cleared, converted into timber plantations, or de-gazetted and redistributed as private land to those with access to power.

And yet, some forests like ours partially survived. The ones that remained were often within Indigenous territories — places like the Mau Forest Complex⁹ and Mount Elgon¹⁰ — where communities like mine refused to let them disappear. I have come to know that this resistance—this refusal to allow our forests to be destroyed—is what led to our first post-independence eviction.

Conservation as Territorial Control

One of the deepest injustices of the climate crisis, as I have come to understand through our shared struggles narrated in our community Assemblies¹¹, is that those of us who have

⁶ Listed in the 3rd Schedule (77a) of the 2016 Forest and Conservation Management Act as gazetted in 1941: Kapolet, Kaisungurr, Toropket, Chemurokoi, Kipkunurr, Cheboit, Sogotio, Kapchemutwa; in 1954: Embobut, Kerrer; in 1958: Lelan; and in 1967: Kapkanyar, Kipta

⁷The Sengwer resisted working on white settler farms, forcing settlers to bring in labour from other communities.

⁸ Renamed to Kenya Forest Service in 2005 through the Forest Act of 2005.

⁹ The Mau Forest Complex is the largest indigenous montane forest in Kenya and one of East Africa's most critical water catchment areas. Spanning several counties in the Rift Valley, it sustains major rivers and ecosystems vital for biodiversity, agriculture, and hydroelectric power generation.

¹⁰ Mount Elgon is an extinct shield volcano on the Kenya–Uganda border and one of the region's key ecological and water catchment areas. Its forested slopes are home to Indigenous communities, including the Koony Ogiek and the Mosopisyek, whose lives—like ours—are closely tied to the forest through livelihood, culture, and memory.

¹¹ We are one of the 11 Indigenous member communities of the East Africa Indigenous Women Led Assembly where we hold annual physical assemblies in our ancestral lands to share land rights struggles and success stories

contributed least to the problem are now carrying the heaviest burden of its solutions. We have lived in ways that protect forests, sustain biodiversity, and maintain ecological balance. Yet I have watched my community being displaced, criminalised, and pushed into poverty in the name of fixing a crisis we did not create.

Climate breakdown driven largely by oil companies, airline industries, and other corporate polluters, particularly in Europe and North America has become a justification for interventions in our territories that treat our forests as carbon reservoirs. I see this as an emerging frontier of racial capitalism, one that converts Indigenous territories into ecological infrastructure for sustaining industrial economies elsewhere.

International development institutions have played a significant role in consolidating this system. From what I have seen and lived through, programmes funded by actors such as the [World Bank](#)¹² through the Natural Resource Management Project (NRMP) and the [European Union](#) through Water Towers Protection and Climate Change Mitigation and Adaptation Programme (WaTER) has strengthened state conservation agencies capacity to carry out forceful evictions.

When a Sengwer community member, Robert Kiroich¹³ was shot dead by a Kenya Forest Service guard in Embobut in January 2018, the violence underpinning this model of “conservation” became difficult to ignore. I remember how that moment was felt in our community—not as an isolated incident, but as something that could happen to any of us. Funding was [suspended](#), but the underlying approach remained largely unchanged.

The Making of a Climate Frontier: Carbon Credits Trading

Today, I am seeing a new wave of interventions unfolding across specific forest blocks and administrative wards where we live.¹⁴ Through the Italian Agency for Development Cooperation, the [Italian government](#) is funding projects worth about four million euros and what strikes me is how they are framed as restoration, resilience, or livelihood improvement, yet on the ground we experience them differently through constant forceful evictions.

I have watched how carbon landscape restoration initiatives targets tens of thousands of hectares of our land while at the same time, state programmes such as the Plantation Establishment and Livelihood Improvement Scheme (PELIS)¹⁵ continue to reshape how land is used inside forest zones. Individually, these projects are often presented as well-meaning

¹² In the Cherangany Hills, for example, the Natural Resource Management Project (NRMP), implemented between 2007 and 2013, expanded enforcement capacity without securing Indigenous land tenure.

¹³ Robert was a member of the Sengwer community who was shot and killed by a Kenya Forest Service (KFS) guard on 18th January 2018 while herding livestock near his home at Kapkok glade in Embobut Forest. An inquest found KFS responsible for his death.

¹⁴ Currently active projects are in Lelan, Siyoi, Weiwei, Sekerr, Kapolet, Chepalungu, Kipsitono, and other glades within Embobut.

¹⁵ Also known locally as the *Shamba* system the Plantation Establishment and Livelihood Improvement Scheme (PELIS) is a Kenyan forestry program where the Kenya Forest Service (KFS) allows forest-adjacent communities to cultivate crops alongside tree seedlings for 3–4 years until the tree canopy closes. The programme has been cited as a big driver to [depletion](#) of indigenous forest cover.

climate action. Taken together, however, they point toward a deeper transformation: the leasing of so-called “government forest”¹⁶ blocks to private companies to be managed as carbon sinks for global carbon trading. In this sense, they signal a shift from timber concessions to carbon colonialism.

The current fear in my community is that carbon markets risk becoming a turning point. Their long-term contractual nature—often extending for 30 years or more, and frequently renewable—raises the possibility of a sustained loss of control over our land, effectively amounting to a form of “green” land grabs. Under these arrangements, the risk is not only temporary displacement, but the potential for long-term, even permanent, loss of access to our ancestral territories.

Within the broader dynamics of racial capitalism, crises often generate new opportunities for accumulation. Climate breakdown is now giving rise to expanding markets in carbon storage. In this process, our Indigenous territories are increasingly treated as financial assets, our territories as offset zones, and our displacement as a largely unacknowledged cost of green transition narratives.

Extractive patriarchy also operates in this context. Carbon projects enforcement tends to affect Indigenous women most directly—particularly those responsible for gathering food, medicinal plants, firewood, and water. When access to the forest is restricted, it is often women who must walk further, eat less, and carry the increased burden of sustaining households under conditions of ecological enclosure.

From where I stand, what can be done begins with naming this honestly. We cannot continue to accept displacement as a climate solution. I have seen too much to believe that you can repair one place by harming another. Real climate action must begin by reducing emissions at their source, not by turning our lands into offset zones. Nature cannot be negotiated with or compensated; no amount of language — “net zero” or “carbon offsets” — can justify or cancel out harm done elsewhere.

I have also come to believe that the conservation approach itself must change because communities like mine are not passive in this story. We have always cared for these forests. What is needed is not to replace us, but to recognise us as rights-holders, as custodians, as people with knowledge that has sustained these ecosystems. [Scientific research](#) has increasingly confirmed that our ways of living are among the most effective forms of conservation.. Any intervention must begin with our consent, our governance, and our continued presence on the land.

Quiet Dispossession: How Law and Conservation Reconfigure Indigenous Land

Despite the 2010 Constitution of Kenya opening what appears, on paper, to be a pathway for the recognition of Indigenous territories¹⁷, my lived reality tells a different story. I have grown up

¹⁶ Most of the forests are Indigenous territories gazetted without consent of the communities

¹⁷ Under Article 63 (2, d, ii), Ancestral lands and lands traditionally occupied by hunter-gatherer communities are recognised as community lands

hearing about these promises, and I have seen them cited in meetings, reports, and policy discussions. Yet in the landscapes where we live, they rarely take form. The promise of community land recognition exists largely as a constitutional gesture invoked in speeches, cited in reports, but seldom realised where we, as Indigenous peoples, continue to struggle for survival.

Rather than enabling communities to register and govern their ancestral lands according to their own systems, I have seen how the state has, in many cases, steered pastoralist and forest peoples who have tenure to their lands into group ranch and [conservancy](#). While these arrangements are presented as participatory, in practice, however, I have come to understand them as mechanisms of quiet dispossession.

Through them, control over vast Indigenous territories has shifted into the hands of corporate actors and conservation intermediaries that are rarely visible to us. Communities that once governed their lands collectively increasingly find themselves reduced to nominal stakeholders—watching as decisions about grazing, water, wildlife, and even their continued presence are made elsewhere.

At the same time, I have come to see that law and government policy have not merely failed to protect collective tenure—they have actively engineered its fragmentation. Even in moments where land has ostensibly been returned to communities, the form in which it is restored reproduces the same logic of dispossession. I remember when Sengwer families were allocated land adjacent to Kapolet Forest¹⁸ in 1997, it was not recognised as community land held collectively but subdivided into individual plots of approximately 2.5 acres each. What followed was predictable. Under conditions of poverty and limited support, many were compelled to sell their land, becoming landless once again. Where land was not immediately sold, I have seen how it was gradually fragmented through inheritance, divided and redivided across generations until it could no longer sustain life.

In this way, I have come to understand that dispossession does not always occur through forceful eviction alone. It also unfolds quietly, through systems that break land into smaller and smaller units until what remains can no longer hold a people. I have seen how it is reproduced through conservation policies, carbon markets, land registration systems, climate finance, and security operations. It is justified through shifting narratives. From timber extraction to biodiversity protection to climate action. Each presenting displacement as temporary, necessary, or inevitable.

Custodianship and the Future of Belonging

Is a non-capitalistic, non-extractive society possible? This is a question that many of my friends ask whenever we have these conversations.

¹⁸ Kapolet Forest is a 1,551.6-hectare indigenous forest reserve in Trans-Nzoia County, Kenya, serving as a critical water tower in the Cherangani Hills ecosystem. It is part of the Forest blocks forming the ancestral land of the Sengwer People

My answer is always simple. My people have lived in such a society for generations.

We live as part of the ecosystem, not as masters of it. We understand that we are only a small part of a much larger universe, and that life depends on balance, not domination. For us, survival was never about accumulation, but about sufficiency.

I have come to see that colonialism and private ownership are not only drivers of social injustice, but also of ecological breakdown. When Indigenous peoples were dispossessed, what was disrupted were systems of care that had sustained ecosystems for generations. The removal of people from land did not protect nature—it fractured the relationship that allowed it to endure. This is why, for me, decolonisation is not only a political demand; it is an ecological necessity. We cannot restore the Earth without restoring justice to those who have been protecting it.

One of the clearest starting points is the return of land that was taken through colonialism not as an act of goodwill, but as a matter of justice. In Kenya, a legal framework towards achieving this is already in place. The Constitution of Kenya 2010 established the National Land Commission (NLC) with a mandate to register community lands, investigate historical land injustices and provide restitution. Although this process has been slowed—underfunded, constrained, and left incomplete, it remains a critical pathway. I believe this must be fully realised if land is to return to communities in a meaningful way.

In the same way, Indigenous territories that were unilaterally gazetted and nationalised like the Cherangany Hills should be given back to community control. Courts have already established this pathway. In the [African Commission on Human and Peoples' Rights v Kenya \(Ogiek case\)](#), the Court held that Kenya violated the Ogiek's rights by evicting them from the Mau Forest. It recognised the Ogiek as an Indigenous people, affirmed their deep cultural and spiritual connection to the forest, and rejected the claim that eviction was necessary for conservation, noting that their way of life supports sustainable forest management. Similarly, the [Centre for Minority Rights Development \(Kenya\) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya](#) recognised the Endorois' rights to return to their land and sustain their way of life.

Together, these decisions outline a clear solution: land restitution grounded in community governance, not limited access or state-controlled conservation.

However, the central challenge lies in implementation. Despite these rulings, communities like the Ogiek and Endorois continue to face restricted access, ongoing threats of eviction, and delayed restitution. The law has recognised their rights, but the state has failed to act. The result is a persistent gap between legal justice and lived reality where rights exist on paper, but restoration remains unrealised.

At the same time, I have come to understand that the problem is not only historical—it is ongoing. Private ownership continues to fragment land into smaller and smaller parcels that cannot sustain life. This fragmentation disconnects people from land and weakens both

ecological and social systems. For me, the way forward is not further subdivision, but consolidation. I imagine communities voluntarily bringing land back together not as a loss, but as a reclaiming. A portion can remain for homes, but the larger part can be restored for shared use: grazing, food production, and ecological regeneration. In this way, land begins to function again as a whole.

I also recognise that communities can reclaim land through collective effort. I have seen examples elsewhere that show this is possible. In Scotland, the people of the [Island of Eigg](#) managed to buy back their land and place it under community control, and in [Portobello](#), communities have reclaimed properties including a police station for shared use. These examples stay with me because they show that even within systems built on private ownership, people are finding ways to reorganise land around collective stewardship.

At the same time, I know that restoring land cannot be separated from restoring how we live from it. I have grown up knowing that our food systems were never extractive. They were regenerative. We farm using animal manure. We keep bees that pollinate our crops and give us honey. We preserved meat, made butter and ghee, stored seeds, and relied on herbal medicine from the forest. When I think about this, I do not see something outdated but knowledge that allows us to live with dignity and independence. What we are doing now is not learning something new; we are relearning what was always ours.

Under the East Africa Indigenous Women-Led Assembly this revival is already happening. Communities are establishing Indigenous Seed banks, Agroecology farms are taking shape and communities are learning together through Farmer Field Schools. At the same time, there is a process of unlearning. We are rejecting what we were taught that our knowledge is backward, that our medicine is not good enough, and we are reclaiming it as valid and necessary.

But I also know that survival today requires more than revival and requires building collective economic strength. Too often, I have seen how what we produce like honey is sold cheaply, while others capture the value through packaging, branding, and market access. This is where learning about cooperatives becomes important. When communities organise, process, and sell together, they begin to retain value. One example is the [Ogiek Honey Slow Food Presidium](#) which is managed through Mariashoni Community Development cooperative (Macodev), bringing together Ogiek beekeeper groups around honey, culture, and forest protection. I am also inspired by examples beyond our context, such as in Rojava, where [women-led cooperatives](#) are building economies based on collective need rather than profit. These examples remind me that alternative economies are not theoretical—they are already being practised.

At the same time, I cannot ignore how conservation has been used against us. What is called protection has often meant our removal. I have lived this reality. Conservation, as it is practised today, still carries a colonial logic. But for me, the reality is clear: you cannot offset destruction in one place by enclosing land in another. The real solution is to stop pollution at its source, not to displace communities in the name of saving the planet.

It is at this point that the question: how would capital flow if all life was valued equally? becomes unavoidable. For me, this is not abstract. I have been answering it throughout this reflection.

From my lived experience, capital would not flow toward extraction, speculation, or enclosure. It would flow toward care, toward restoring ecosystems instead of turning them into commodities, and toward communities that have cared for land across generations, not institutions that remove them in the name of efficiency. Land would not be treated as an asset to be bought and sold, but as a living relationship that requires responsibility.

In such a system, wealth would not be measured by accumulation, but by continuity — whether land can continue to sustain life, and whether communities can remain rooted within it. What I am describing is not a fantasy; it is a return; to custodianship, to shared care, and to ways of living where value is defined not by ownership, but by the ability to sustain life.

In the end, I have come to realise that this struggle is not only about land, food, or governance. It is also about something deeper—a spiritual disconnection between humans and the Earth. Healing the Earth, therefore, requires healing this relationship. We have been taught to see ourselves as separate from nature, yet that is not how we have always lived. We are part of it.

Among my people, this understanding was not abstract—it was lived. The universe was understood to include everything: humans, animals, plants, trees, birds, and insects. All were part of a creation, and each had a place within it. Human beings were not masters of this system, but custodians responsible for maintaining harmony. This responsibility meant living carefully, without disrupting the balance that sustains life.

This is why nature was treated with deep reverence. Trees, for instance, were not seen as mere resources, but as the abode of spirits. They were not to be harmed carelessly. When a tree had to be cut for cultural or religious purposes, it was done with prayer and intention. This was not superstition but a system of conservation rooted in respect. By recognising the sacredness of nature, the community ensured that it was not exploited recklessly.

This is why I believe that what is needed is not only structural change, but a cultural and spiritual transformation. We must return to ways of living grounded in interdependence and reciprocity. We must raise our consciousness to understand that we are part of one system. And this cannot happen only through formal education—it must be lived, experienced, and rooted in the land.

For me, what emerges across all these reflections is not a set of separate solutions, but a single direction. Justice and ecology are inseparable. Land and life are inseparable. Healing the Earth and healing ourselves are inseparable.

These alternatives are already here. The question that remains is whether we will defend them—and build from them.



Name	Kipchumba Rotich
Geography	Sengwer Nation, Kenya
Title	Land Is Not Property
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Biography	Kipchumba Rotich is a member of the Sengwer Nation in Kenya, whose people have been repeatedly evicted from the Embobut Forest in the name of "conservation." His contribution challenges the legal fiction of land as property — a colonial technology designed to enable extraction. For the Sengwer, land is not owned. It is lived with, cared for, belonged to. He writes from inside the contradiction of being called "encroacher" on one's own ancestral home.