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Fuelling Evictions Community Cost of EU Biofuels Boom

Dakatcha Woodlands, Kenya May 2011

“We don’t want this jatropha.
What good is it to us if we can’t
farm to feed our families? Why
should we pay this high price to
meet Europe’s energy needs?”

**Joshua Kahindi Pekeshe, Village
Elder from Mulunguni in the
Dakatcha Woodlands**

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Fuelling Evictions – Community Cost of EU Biofuel Boom

ActionAid and its partners are concerned that plans for a biofuels plantation in the Dakatcha Woodlands, Kenya, will violate the human rights of an indigenous community of over 20,000 people.

Under plans submitted by Nuove Iniziative Industriali, an Italian-owned biofuels company, the community faces having its land and food rights seriously infringed upon for the production of biofuels. These so-called green fuels – much of which is destined for EU countries – have questionable environmental credentials.

The potential destruction of large areas of endangered woodland and the potential eviction of the indigenous communities living in the woodland represent the failure of the Kenyan local and national authorities to respect the country's constitution and international human rights obligations. The case also shows the alarming impacts of irresponsible European energy policies that promote the use and production of biofuels without any consideration for the impact on people outside of Europe.

The Dakatcha case illustrates a wider problem which is unfolding across Africa and in other parts of the developing world, where food and land rights are already a sensitive issue. This is ultimately incoherent with the EU's development objectives.

ActionAid calls on the Kenyan authorities to respect their own constitution by halting the biofuels plantation and giving the community full control over the land that they face eviction from.

We also call on the European Union to respect its legal obligations to ensure policy coherence for development under the Lisbon Treaty and scrap current policies, including targets and financial incentives, which promote unsustainable biofuels at the expense of land and food rights in communities such as the Dakatcha Woodlands.

Background - Land and food rights under threat

The Dakatcha Woodlands is located in Kenya's coast region. The land is currently held in trust by the Malindi County Council on behalf of the communities living on the land. In 2008 the Italian-owned company Kenya Jatropha Energy Ltd (KJE) applied to Malindi County Council for permission to lease 50,000 hectares of land.

The community alleges that Malindi County Council leased the land without following due process, allowing KJE to start clearing land to grow jatropha for biofuels. The company said that most of the jatropha will be destined for local use and only 30% for export, but local sources have since informed ActionAid that most of the biofuel will be destined for Europe.

In July 2010, following civil society protests, the Kenyan National Environmental Management Authority (NEMA) declared that KJE would have to undertake a pilot project to prove the environmental sustainability of the project, before a licence could be approved for the full 50,000 hectare plantation. The company has since re-submitted plans to start a pilot project using 10,000 hectares of land, which is pending final confirmation from NEMA.

Members of the local community of over 20,000 people from the Watha and Giriama tribes, claim they have not been adequately consulted (in line with ILO convention 169) on the planned use of their land. Only a small number of people in the region were consulted, in what local chiefs allege to be a seriously flawed consultation.

If the plantation goes ahead the community will effectively be evicted from the land where they have lived for generations in small villages, or clusters of huts. They grow food crops such as cassava, maize and pineapples on small fields outside of the woodland area to feed their families and sell at the local market, using the money to send their children to school.

The community depends on the woodland for bee-keeping, herbal medicine and some eco-tourism, making it key to their livelihoods. They also source drinking water, poles for construction and firewood from the forest and many community members have family members buried within the area, as the tribes have occupied this land for hundreds of years.

In addition to what this land means to people in terms of sustaining their lives, the Dakatcha Woodlands store water, protect the soil, shelter unique animals and plants including globally endangered birds. The Dakatcha Woodland has also been identified as a Key Biodiversity Area (KBA) and a Global Biodiversity Hotspot critical for globally threatened plants and animals found only in a few East African coastal forests. Allowing the biofuels plantation to go ahead would ensure the destruction of this unique ecosystem.

The community members allege not to have been offered financial compensation or alternative land by Malindi County Council or KJE. They do not have the resources to bring individual legal cases against the company or the Council, but have lodged a joint complaint against the Malindi County Council.

Gertrude Kadzo's story

A local farmer living and farming on land earmarked for a biofuels plantation

Please note that this is Gertrude's story and that the company involved may not agree with her statements.



Gertrude Kadzo, a 37 year-old farmer, stands in a neglected former pineapple field. Beside her is a bag with the entire crop from 3 years growing jatropa - 3 kg of seeds. CREDIT: PIERS BENATAR/PANOS PICTURES/ACTIONAID

20 cows when I started growing the crop but I have had to sell them to pay for my children's education, since the farm no longer supports me. I am worried. I might not be able to educate my children fully.

I planted a jatropa farm when I was convinced by some people that this tree has a lot of benefits. But after three years I discovered that I could not make an income from it. We were told the bark produces kerosene while motor fuel could be extracted from the seeds, but that was a lie. I have only harvested 3kg of seeds since 2007.

Also it has destroyed the environment. Where I planted it nothing can grow again. When I was growing pineapples I used to make 150,000 Kenyan shillings, per acre. Since I've grown jatropa I've made nothing because even the small amount I made, there is no market for. It has made me poor. I had about

I want to tell the biofuels company and the Kenyan government that the Dakatcha Woodlands is not a good area to plant jatropa. I was much better off when I was growing pineapples. I've had financial problems since I've been growing jatropa.

If we are evicted to make way for the plantation, my community will have no place to go. This is the land where we grow pineapples, cassavas, and maize, so once we are displaced, life will be very bad for us. Our children will not be able to go to school. There will be no future for the community if we are removed from here.

Environmental merits of the biofuel production in Dakatcha

Biofuels are promoted as a green alternative to fossil fuels and are therefore said to be a good source of renewable energy. But in reality, once the emissions from the whole production procedure and the community impacts are taken into account, they often cause greater harm than the fuels they are designed to replace. This is true not only for the biofuels produced in the Dakatcha region, but for most biofuels made from food crops.

A study¹ produced by North Energy for Nature Kenya, RSPB, ActionAid, and BirdLife International assesses the total greenhouse gas emissions that would be produced by the proposed biofuels plantation in the Dakatcha Woodlands. Assuming typical conditions and yields, emissions were found to be up to 6 times higher than fossil fuel equivalents, principally as a result of the destruction of woodland and scrubland that will be required to plant the jatropha.

Under almost all scenarios it would not be possible to meet the European 'sustainability criteria' of delivering a 35% emission saving compared to fossil fuels, and under no scenarios could the 50% standard, which will be introduced in 2017, be met.

In other words, ActionAid and its partners have found that the production of biofuels in Dakatcha is not only threatening the community's land rights, but also will not reduce the harmful greenhouse gas emissions that cause climate change.

¹ See http://www.actionaid.org.uk/doc_lib/kenyan_jatropha_final_report.pdf

² DIRECTIVE 2009/28/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

³ Current sustainability criteria focus on environmental factors and have weak enforcement mechanisms

EU policies fuelling biofuels demand

The EU has taken a number of legislative and policy steps in favour of biofuels in recent years, as part of its attempts to reduce carbon emissions and diversify its energy supply. These policies include the Renewable Energy Directive² (RED) adopted in 2009, which states that 20% of energy consumption must come from renewable energy sources by 2020 and that 10% of transport fuel must come from renewable sources by 2020.

In reaction to the RED, EU member states have submitted Renewable Energy Action Plans which show that on average 9% of their transport fuels will come from biofuels in 2020 and that there will also be a significant increase in the use of bioliquids for heating and power supply.

While ActionAid supports the promotion of genuinely renewable energies, cases such as Dakatcha clearly show that current EU policies have dangerous side-effects which threaten land and food rights in some of the world's poorest countries. Many of the biofuels being used to meet the EU targets are proving to be no better for the environment than the fossil fuels they are replacing.

ActionAid finds the current EU policies misguided and calls on the EU and its member states to:

- scrap biofuels targets
- scrap financial incentives for industrial biofuels
- upgrade its current sustainability criteria for all renewable energy sources to ensure more stringent criteria, including impacts on people, land and food, and apply strict monitoring and enforcement on the ground to guarantee that these criteria are being met³
- monitor, in co-operation with partner countries, the activities of European companies to ensure that human rights abuses such as those in Dakatcha do not happen again

Henzanani Merakini's story

She lives less than 100 metres from where jatropha is already being farmed and is at risk of eviction.

Please note that this is Henzanani's story and that the company involved may not agree with her statements.



Henzanani Merakini, 26, has two young children. Her house is 100 metres from where jatropha is already being grown and she feels under constant threat of eviction.

CREDIT: CHRIS COXON/ACTIONAID

I can feel no peace here because if the pilot project for the plantation is approved by the government, I will lose my plot and I am going to be evicted, so I am not happy. The jatropha company has not offered me any alternative land or accommodation and I have not yet been given any notice to vacate. The day they approve it is the day that we will be evicted.

The current jatropha plantation is just 100 metres away from my home. It makes me very unhappy. I have no peace just living nearby because I know what is going on there. I feel like it is always disturbing my mind. Since the jatropha started being grown, my family's children and animals

have been kept off the land. We have been told that children and animals cannot go there.

My family has lived in the area for about 200 years. My father, grandfather and ancestors are all buried here. We are so poor that we cannot fight a big company like this, so it is my wish that people assist us so we can be left in peace.

We have made a living here. In this forest, there are things that benefit us, and now our forest is being destroyed. From the forest, we get money to educate our children. But as of now, we no longer have mandate over the forest, we have to leave.

I am very worried, because I have built houses here and if they are demolished, it would be very hard for me to start over again. In fact, we do not have anywhere else to go to.

The European Union's legal obligations

The European Union also has a number of international legal obligations in relation to Dakatcha.

Article 208 of the Lisbon Treaty states that:

'Union development co-operation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development co-operation in the policies that it implements which are likely to affect developing countries⁴.'

This means that the European Union's policies must do no harm, and where possible, reinforce development efforts. EU policies, both external and internal, must be coherent with development objectives. In short, the EU must respect the commitment to Policy Coherence for Development (PCD).

The key inter-institutional agreement on development co-operation of the European Commission, European Council and European Parliament is known as the "European Consensus on Development".

It states that:

'The EU is fully committed to taking action to advance Policy Coherence for Development in a number of areas. It is important that non-development policies assist developing countries' efforts in achieving the MDGs⁵.'

Despite elaborate policies to ensure PCD⁶, this has not been the case in reality⁷.

Whereas there seems to be a recognition that biofuels will impact on developing countries,⁸ the EU has clearly failed to safeguard against harmful impacts.

Policies that encourage practices such as land grabs in Dakatcha that threaten to violate land rights, food rights and the dignity of local communities are incompatible with the EU's legal obligations. This would include the RED and member state biofuels targets as currently formulated.

Impacts of European biofuels policies

Biofuels are conservatively estimated to have been responsible for at least 30% of the global food price spike in 2008. It has been estimated that this food crisis pushed a further 100 million people into poverty and drove about 30 million more people into hunger.

Industrial biofuels are having disastrous local impacts on food security and land rights in many of the communities where they are grown. The scale of the current land grab is astonishing. In just five African countries, 1.1 million hectares had been given over to industrial biofuels by 2010. Virtually all of the biofuel produced on this land is for export.

EU companies have already acquired or requested at least five million hectares of land for industrial biofuels in developing countries – an area greater than the size of Denmark.

The local impacts range from the displacement of people, rising local food prices and food scarcity, broken promises by the companies about job opportunities and lack of consultation and compensation. ActionAid's 'Meals per Gallon' (2010) report goes into more detail on these issues.

4 Article 208, Treaty of Lisbon, see http://europa.eu/lisbon_treaty/full_text/index_en.htm

5 http://ec.europa.eu/development/icenter/repository/european_consensus_2005_en.pdf, p. 6

6 See the Impact Assessment Guidelines from 2009 http://ec.europa.eu/governance/impact/commission_guidelines/docs/iag_2009_en.pdf

7 See Spotlight report by CONCORD 2009, http://www.bond.org.uk/data/files/CONCORD_pcdspotlightreport_light.pdf

8 See Presidency Conclusions June 2008 http://www.eu2008.si/en/News_and_Documents/Council_Conclusions/June/0619_EC-CON.pdf, and "EU progress report on PCD" COM (2007) 545 final http://ec.europa.eu/development/icenter/repository/CONS_COMM_PDF_COM_2007_0545_F_ACTE_en.pdf, and "An EU strategy for biofuels" COM (2006) 34 final http://ec.europa.eu/development/icenter/repository/biofuels_2006_02_08_comm_eu_strategy_en.pdf

Kenya Jatropha Energy Ltd's parent company Nuove Iniziative Industriali

Founded in 1999, Nuove Iniziative Industriali (NII) focuses on gas, biogas, hydroelectric plants and more recently energy from food crops and vegetable oil. Its bioenergy, including jatropha from Dakatcha, is mainly destined for Italian and other European companies.

NII intends to develop jatropha production in four African countries, where it has already secured vast areas of land Senegal (50,000ha), Kenya (50,000ha), Ethiopia (40,000ha) and Guinea (700,000ha). The company foresees investments of around €370 million.

Recommendations

ActionAid calls on the EU and its member states to:

- respect their obligation to ensure Policy Coherence for Development, as encoded in Article 208 of the Lisbon Treaty by making the following adjustments to the RED
- scrap biofuels targets at national levels and stop all financial and policy incentives for industrial biofuels production and imports to the EU
- revise and upgrade sustainability criteria for renewable energy imports that would include adequate protection against human rights abuses in producing countries
- ensure that all – yes all – biofuels plantations producing for European consumption and/or by European companies are visited by an independent and impartial verifier of such upgraded sustainability criteria
- legislate for a high feedstock-specific ILUC factor in 2011 to ensure that only those biofuels which are genuinely cutting greenhouse gases are used in Europe
- ensure that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights are promoted in third countries and never compromised by EU legislation

Joshua Kahindi Pekeshe's story

A village elder living in the Dakatcha Woodlands who claims the community wasn't consulted about the project.

Please note that this is Joshua's story and that the company involved may not agree with her statements.



Joshua Kahindi Pekeshe, a village elder living in Mulunguni in the Dakatcha Woodlands. Pekeshe attended what he says was a flawed consultation on the project but refused to support the plantation as he says it will have no benefits for him or his people.

CREDIT: CHRIS COXON/ACTIONAID

Only a few of the elders were approached by the company. But they did not agree to it. The company took their introduction to us as consent to go ahead with the plantation. We never agreed to it. The community is not benefiting here because everything goes to the council.

I am sad because if the jatropha plantation goes ahead, I will be made a squatter. Where will my people and I go? We have lived here for generations with our neighbours, but if the plantation goes ahead we will lose our land, homes and the children's school. We will face food insecurity and we will lose our income.

The company has promised us jobs, dispensaries, roads and water, but it just makes me laugh. When somebody wants something from you, he knows he must give you promises. But it was all done verbally.

Nothing was written down. They are just saying what they think will please us. But actually all the benefits go to the County Council, not the community. We will benefit nothing from that company.

The community has lived here for about 150 years. We came here when Kenya gained its independence. I was born here. I am here by right because God made me be born here. Most of our families and sisters were married here. If we were to leave here, where would we go? Other land has owners.

The first thing that will happen if the plantation goes ahead is evictions. My people will have to migrate with their children. This is a direct violation of our rights, because we voted for the new constitution and the constitution says that the community owns the land directly.

If the government is going to approve the company to get the land, it is against the constitution we voted for. We want the new Kenya that we voted for – a Kenya that does not violate people's rights. So we pray to succeed and we hope.

ActionAid is a partnership between people in rich and poor countries, dedicated to ending poverty and injustice. We work with people all over the world to fight hunger and disease, seek justice and education for women, hold companies and governments accountable, and cope with emergencies in over 40 countries.

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