



State of the World's Minorities and Indigenous Peoples 2014 - Case study: Defending land rights in the face of hate speech

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In their efforts to secure their land rights, indigenous peoples regularly become the subject of hate speech and hate crimes. Like other human rights defenders and like many marginalized groups, when they speak out or take other action to defend their rights indigenous peoples find themselves charged with crimes such as incitement to violence, criminal trespass or hate speech. Recently, this issue has been a significant challenge for two of MRG's East African partners, the Ogiek People's Development Programme (OPDP) and the Pastoral Women's Council (PWC).

The Ogiek are a hunter-gatherer community whose traditional territory extends throughout the Mau Forest complex of the Rift Valley in Kenya. They have been dispossessed and displaced from their lands since the colonial era and today are fighting for their land rights at the African Court of Human and Peoples' Rights. For Ogiek families, many of whom have no paper title to the lands on which they reside, evictions and conflicts over access to land and the forest are a regular occurrence. Ogiek are regularly charged with criminal trespass when they attempt to access the forest or land on which they have built homes. In addition, OPDP staff members report that Kenyan officials, whether from the police or local government, often use derogatory language in their interactions with Ogiek communities. During a recent eviction in the Njoro District near the city of Nakuru, OPDP staff described how local police described the Ogiek as 'being used to squatting on other people's lands' and as being a 'poor' community. The latter comment is reminiscent of an earlier era in which the Ogiek were widely known as Ndorobo, a derogatory term meaning people who have no wealth in livestock. OPDP staff reported that when community leaders raised the issue of the case at the African Court, they were threatened with incitement and were told that any community member who tries to bring up the African Court case or describes the area as Ogiek land should be arrested.

The effect of this type of speech from government officials is very damaging. First, it undermines the protections that anti-incitement laws and anti-hate speech legislation were meant to provide, by using threats of arrest for incitement to intimidate those with legitimate human rights grievances. It also provides a type of official sanction for violence against a particular community, such as the Ogiek, suggesting that their defence of their rights and recourse to the courts should be met with violence.

PWC has faced similar challenges in its work defending the land rights of Maasai pastoralists in Tanzania, particularly Maasai women. PWC is a community-based organization working in northern Tanzania and implementing local projects in rural Ngorongoro and Longido districts. Ngorongoro is a leading area for

tourism in Tanzania; however, most tourism activities are dominated by private foreign companies with very limited benefit to the indigenous communities. According to PWC staff members, the organization works with both men and women and sees the impact of hate speech and discrimination across the community when Maasai attempt to advocate for their land rights. Derogatory speech about Maasai from government officials and other communities creates an enabling environment for arrests and harassment. PWC staff report that, during the course of a land rights case against a well-known safari company, community members were threatened with arrest for criminal trespass when they engaged in their traditional livelihood of grazing cattle. Ultimately five Maasai were indeed arrested, although they were found not guilty of trespass because ownership of the land where they were found was the subject of a legal dispute.

Maasai women in particular face double discrimination, because of their membership in an indigenous group and their status as women in a patriarchal society. This double discrimination makes them more vulnerable to hate speech and hate crimes – they may be targeted by men in their community as well as by those outside the community. Women human rights defenders in patriarchal cultures are regularly accused by members of their own community of 'inciting' women to reject their culture and may be subjected to physical and sexual violence in retaliation for their advocacy. As described by PWC, arrests of community members in the Ngorongoro region are often accompanied by police harassment, including physical violence, and can be particularly severe for women. In a recent incident near Sukenya Farm that was documented by PWC human rights monitors, a Maasai woman was detained along with several men. When she did not perform the physical humiliation that was ordered by the police, she was beaten in front of the entire group of men – a particularly degrading experience.

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