



State of the World's Minorities and Indigenous Peoples 2015 - Kenya

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Land rights continued to be a major issue for minority and indigenous communities in Kenya during 2014. In January, thousands of Sengwer were forcibly removed from Embobut forest, in the western part of the country, and their houses torched by armed members of the Kenyan Forest Service. This was in direct violation of a 2013 High Court injunction prohibiting evictions of the community. The government justified its actions against members of the indigenous community, who have been labelled as 'squatters' despite their long-standing ancestral claims, as a necessary measure to protect local water supplies and biodiversity. The territory lies within the World Bank-funded National Resource Management Project (NRMP), a multi-year programme designed to strengthen environmental conservation in the Cherangany Hills. However, the NRMP has been accused of failing to address indigenous land rights issues, as well as moving the boundaries of the Cherangany forest reserves so that Sengwer homes were relocated without consultation. Following a complaint by the Sengwer community in 2013, the World Bank's Inspection Panel launched an investigation and concluded, in a report leaked to the media, that the NRMP had failed to follow basic safeguards and had neglected to involve the indigenous community. Nevertheless, the World Bank concluded that despite these issues the NRMP was not linked to the evictions. The displacement of Sengwer continued into early 2015, with ongoing evictions and house burning by Kenyan Forest Service guards.

The ongoing land rights case brought by the Ogiek hunter-gatherer community was heard before the African Court on Human and Peoples' Rights in November 2014. The case was referred to the Court in 2012 by the African Commission on Human and Peoples' Rights. MRG has represented the Ogiek community in their litigation at the regional level since the case began with a Communication at the African Commission on Human and Peoples' Rights in 2009. The Ogiek are trying to achieve a permanent resolution to their decades-long struggle for recognition of their rights to inhabit their traditional territory in the Mau forest. A judgment in the case is expected in 2015.

The Endorois community continued to advocate for implementation of a 2010 decision of the African Commission on Human and Peoples' Rights that ruled that the government must reconstitute their ancestral land, compensate them for the eviction and loss of access to their land, and pay royalties for developments which occurred on it. The government in 2014 established a Task Force to undertake implementation of the decision. The Task Force will be addressing restitution of the land to the Endorois, compensation for losses resulting from their eviction and benefit-

sharing of royalties derived from lucrative bioenzymes and rubies found on the land. The Task Force's mandate provides that it may 'solicit, receive and consider views from members of the public and other interest groups', but it does not require consultation with the Endorois community, nor is there any Endorois representative on the Task Force.

The multi-country Lamu Port, South Sudan, Ethiopia Transport (LAPSSET) Corridor continued to move ahead in 2014. The massive project is designed to bring investment, infrastructure and in some cases the creation of entire new cities along a corridor in northern Kenya that has historically been ignored from a development perspective. It has already led to increased land speculation along the entire corridor, which stretches through territories that have been inhabited by pastoralists and hunter-gatherer communities for centuries. The port component of the project is being built in Lamu, a UNESCO World Heritage Site and home to indigenous hunter-gatherer communities, fishing communities and several pastoralist groups. The first stages of construction began in 2014 amid substantial concerns over the environmental, health, and livelihood impacts of the massive changes, although the project continues to be challenged by litigation from multiple parties.

Though around three-quarters of the country's population still reside in rural areas, Kenya is one of the fastest urbanizing countries in the world. Nairobi, the capital, is projected to grow by almost 80 per cent between 2010 and 2025. It currently hosts more than 200 informal settlements, also known as urban slums, where living conditions are among the worst in Africa because population densities reach up to 26,000 people per square kilometre. High population density, poverty and lack of services have combined with a volatile political environment where neighbourhoods are strongly politicized along tribal lines. Certain Kenyan minority communities, including Asians, Nubians and Somalis, have significant urban populations and are particularly affected by this trend of rapid and largely unmanaged growth. Maasai indigenous to the area, in particular, have suffered displacement from their land over the last century as Nairobi has steadily expanded. Farmers and developers have seized large swathes of their grazing lands, leading to the erosion of traditional livelihoods as pastoralism has become increasingly untenable.

Part of the conflict over land in many of Kenya's informal settlements, as well as in rural areas inhabited by Kenya's indigenous communities, is the lack of an effective legislative regime controlling land tenure and the manner in which evictions are to be carried out when people occupy land informally. The Community Land Bill and the Evictions and Resettlement Bill were introduced in parliament in 2014, but remain stalled because of their controversial nature and lack of effective public participation. Forced evictions and the proliferation of informal settlements remain significant issues in Kenya's other major cities, such as Mombasa and Kisumu. Kenya's indigenous coastal communities, broadly known as the Mijikenda, often can only access land as squatters or through the informal market as tenants because of the historical and legal complexities of land titling at the coast, as well as continual land grabbing. This situation leads to ongoing evictions as land values along Kenya's Indian Ocean coast continue to increase.

In Nairobi, one of the most well-known informal settlements is Kibera. Though historically it was Maasai grazing land, the area was ceded to the British colonial government in the 1904 Maasai Agreements and later designated as a settlement for the Nubian community, who are descendants of Sudanese members of the King's African Rifles who served in Uganda and Kenya. Previously an agricultural and residential settlement for the Nubians, Kibera has been reduced to one of the world's most notorious slums through successive invasions and land grabbing. After Kenya's independence, the Nubian community also effectively became stateless because the government refused to recognize them as citizens, although most had been born in Kenya and any ties with Sudan had been severed decades earlier. After decades of struggle to receive recognition of their claim to Kenyan citizenship as well as title to their land in Kibera, conflict over land titles erupted again in 2014. The Nubians claim that the land allotted to them in Kibera during colonial rule was

originally more than 4,000 acres. A proposal by the current government to issue titles to the Nubian community led to riots and the title handover was cancelled at the last minute.

Another area with a large minority population is Eastleigh, where a large proportion of Nairobi's Somali population resides. The district has repeatedly been a target in the wake of security incidents associated with the militant group al-Shabaab, including two attacks in Mombasa and Nairobi in March 2014. Following these incidents, the Kenyan government initiated 'Operation Usalama Watch', which led to the round-up and detention of more than 4,000 Somalis in a stadium on the outskirts of Nairobi. Reports of extortion, inhumane detention conditions, sexual assaults, arbitrary arrest, as well as the summary deportation of Somalis found without identity papers, were widespread during the operation.

As with previous security crackdowns, the focus was concentrated primarily in Eastleigh, with the interior minister announcing on 5 April 2014 that 6,000 police were to be deployed in the area to round up foreign nationals. Even before the second attack took place in a busy area of Eastleigh on 31 March, killing six people, the government had already announced plans to relocate urban refugees to camps outside Nairobi, such as Dabaab. This encampment policy has been promoted by the government for a number of years, particularly in the wake of violent incidents, despite a 2013 court ruling that condemned it as illegal. Previous anti-terror operations, such as the 2011 security crackdown, have specifically targeted Eastleigh and its Somali residents. Buildings in the area, particularly those near the airport, have been demolished as potential security threats.

Kenya also has a significant Asian minority, primarily Hindus, Sikhs and Muslims of Indian origin, who are largely based in the country's major urban centres. Though they have long played an important role in the country's economy, the perceived wealth of the community has also been a source of resentment among other groups. These tensions were brought into focus during the year in Kisumu, Kenya's third largest city, when the minority Sikh community erected a statue to celebrate 100 years of settlement in the city. However, angry responses from some prominent local Christian preachers led to violence, hate speech and the vandalization of the statue. Ultimately, the Sikh community decided to remove the statue after attempts to negotiate on the matter failed to resolve the conflict, though restoration work was subsequently undertaken on the statue. The next month, the Sikh community was nevertheless able to celebrate its centenary without serious incident, with local leaders celebrating its contribution to the city's history.

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