



State of the World's Minorities and Indigenous Peoples 2016 - Kenya

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Events of 2015

The five-year anniversary of Kenya's 2010 Constitution was commemorated at a festive event at the Gusii stadium in Kisii County in August 2015. Passed in the wake of the devastating inter-ethnic conflict that blighted the 2007 election, it was widely lauded at the time for its progressive provisions, designed to address the endemic problems of corruption, land grabbing and ethnic conflict within Kenyan politics. Since then, however, civil society organizations have repeatedly highlighted the failure to implement these reforms, resulting in continued human rights abuses.

Among those most affected by land rights violations are the country's forest-dwelling indigenous communities, whose ancestral territories have been appropriated by the Kenyan government to accommodate conservation projects, logging and commercial plantations. One notable example is the Ogiek, who have resided for centuries as hunter-gatherers in the Mau Forest, a sanctuary that, besides providing food, shelter and medicine to the community, also serves as their spiritual and cultural homeland. The effects of deforestation and displacement have not only threatened their very identity, but also deprived them of established livelihoods. For instance, though renowned for their traditional honey-gathering techniques, many Ogiek have struggled to maintain these practices as they have lost their access to the forest. After taking their case to the African Court on Human and People's Rights, a provisional measure was issued in 2013 requiring the Kenyan government to halt all land transfers and transactions in the Mau Forest. The case was heard at the end of 2014, and judgment is anticipated. In the meantime, the Ogiek and organizations supporting their cause continue to raise awareness of their difficult situation.

Similarly, the Endorois community, a semi-nomadic pastoralist community residing near Lake Bogoria National Reserve, has challenged the Kenyan government at domestic and international levels for forced evictions from their ancestral land following its appropriation to create a game park for tourists. In 2010, the Endorois' case before the African Commission on Human and Peoples' Rights was decided in their favour, and the Kenyan government was required to take numerous steps to address their claims. These included recognition of their ownership of their land, restitution of their land and compensation. In September 2014, the government established a Task Force to develop a plan for implementation of the Commission's decision. However, the Task Force's terms of reference limited its mandate purely to investigating whether implementation was possible, rather than how to implement the decision; the Endorois were not part of the Task Force and its terms of reference did not require consultation with the community. The Task Force made no meaningful progress during its 12 months of operation, and, to date, its mandate has not been extended.

Kenyan Forest Service guards have also been responsible for the forcible removal of another forest-dwelling people, the Sengwer community, from their land in the Cherangany Hills area of the Embobut Forest. The evictions occurred as part of a World Bank-funded conservation project. The Sengwer community have been engaged in legal proceedings and negotiations with intergovernmental institutions in relation to their land claims. A revealing report by the World Bank Inspection Panel in May 2014, while exonerating the Bank

from direct responsibility, concluded that it had failed to follow the 'spirit and letter' of its own policy by failing to safeguard the rights of the indigenous Sengwer or mitigate the risk of violations by the Kenya Forest Service in the implementation of the project. In light of the report, the World Bank scheduled a meeting with representatives of Kenya's Ministry of Environment, Water, and Natural Resources, the International Union for Conservation of Nature (IUCN) and the Sengwer community in March 2015. A week before the colloquium, however, allegations emerged of a fresh wave of house burnings by government authorities. The subsequent talks were condemned by Sengwer representatives as a cosmetic process that failed to improve the security of the community. The Sengwer also took their case to the Paris Climate Change Conference in December 2015, where they delivered a presentation highlighting the extensive damage state policies have inflicted on the social fabric of the community, including the erosion of their language and traditions that amounted to 'cultural ethnocide and extinction'.

Maasai communities in Kenya have also suffered devastating blows to their cultural practices due to large-scale land grabs by the government. Hell's Gate National Park, in the Rift Valley and near Lake Naivasha, is the traditional home of Maasai communities. The area has strong spiritual and cultural significance for the community; nearby Mt. Longonot is central to Maasai traditional religious practices. There has already been displacement of Maasai occurring in the area, but now the government's development of the US\$1.39 billion Kenya Electricity Expansion Project is expected to lead to the further resettlement of approximately 1,200 Maasai. This is according to World Bank projections; civil society organizations fear that more people may be affected.

The joint financing of the project by the World Bank, European Investment Bank and other donors, totalling US\$330 million in international development assistance, prompted Maasai representatives to lodge an inspection request to engage both the World Bank's Inspection Panel and the European Investment Bank's Complaint Mechanism in October 2014. In an unprecedented step, the accountability mechanisms of both organizations undertook a joint investigation into the negative impact of the energy project on Maasai livelihoods and way of life. In July 2015 the report was released, confirming that non-compliance with the World Bank's Indigenous Peoples' Policy due to involuntary resettlement and inadequate supervision by the World Bank had caused widespread harm. It also concluded that this damage could have been avoided had the project's implementers engaged in a 'culturally compatible consultation and decision-making mechanisms', further involved the community elders in planning and possessed a greater capacity to engage in the Maa language.

While Kenya's indigenous peoples have been especially vulnerable to abuses relating to expropriation of land, some ethnic minorities also face other forms of discrimination. In particular, the Somali community continues to face intense scrutiny following a series of deadly attacks linked to the Somalia-based armed extremist group, al-Shabaab. While not the only attack to take place during the year, by far the deadliest incident occurred at Garissa University College on 2 April 2015 when 147 students were killed by armed Somali militants, who targeted campus dormitories in a pre-dawn raid. The government, similar to its actions following previous violent incidents, responded with a range of security measures aimed at its ethnic Somali population, which include an estimated 2.5 million Kenyan citizens as well as around 444,000 Somali refugees as of December 2015. In April, the government published a list of businesses it claimed were suspected of being associated with al-Shabaab, including many of the largest Somali-owned money transfer companies, followed by an order for them all to immediately suspend operations and an immediate freeze of their assets. On 11 April, this time aimed at the large Somali refugee populations, Deputy Prime Minister William Ruto announced that Dabaab refugee camp would be closed and that all refugees there had three months to return to Somalia before they were forcibly repatriated. Though the closure has so far not been implemented as of the end of 2015, the threats of forcible return greatly added to the sense of insecurity among the refugee population. In Nairobi, meanwhile, ethnic Somali neighbourhoods such as Eastleigh reportedly experienced heightened levels of harassment and intimidation by police following the Garissa attack.

The state's response to the Garissa attack and other incidents has reinforced the stigmatization of ethnic Somalis, whom many Kenyans view as a threat to national security. Though it is not easy to challenge these prejudices, given the role that many public officials play in promoting them, some civil society organizations and Somali groups in Kenya have undertaken various initiatives to counter their misrepresentation. One example during the year was Somali Heritage Week, staged in November in Nairobi and incorporating seminars, art exhibitions, dance and musical performance. This event provided Somalis living in the capital

and elsewhere with an opportunity to celebrate their culture together as a community, as well as a safe space to discuss concerns relating to security and exclusion. Crucially, too, it served as a platform for ethnic Somalis to share their traditions with other Kenyans – an important step in reframing popular stereotypes about the community.

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