



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I write to inform you that in the course of its 83rd session, the Committee on the Elimination of Racial Discrimination, under its early warning and urgent action procedure, considered, on a preliminary basis, the information submitted by non-governmental organisations alleging the forced eviction by the Kenya Forest Services (KFS) of the Sengwer and Ogiek indigenous peoples from their traditional homeland. The Committee also considered, on a preliminary basis, claims that a draft Wildlife Conservation and Management Bill (WCMB, or 'the Wildlife Bill') and its associated National Conservation and Management Policy (NCMP, or 'the Conservation Policy') were discriminatory.

It is alleged that since the 1970s and throughout the past decade and to date, the KFS have repeatedly made attempts to evict the Sengwer people using force, including by burning their houses, possessions and food. These actions have negatively affected the health, livelihood and culture of the Sengwer people as well as their children's education. It is also alleged that Sengwer peoples in Embobut Forest have been significantly affected as a result of their displacement from lands following the burning of their homes by the KFS in May 2013. The alleged actions of the KFS have reportedly also affected the Ogiek peoples in and around Mt. Elgon National Park, Chepkitale National Reserve and Kiptugot Forest Reserve.

In addition, it is alleged that the Forest Act of 2005 has criminalized certain activities traditionally carried out by the Sengwer people such as occupying forest reserves, cultivating, grazing, cutting or taking wood and hunting. According to information received, solutions for resettlement in light of the legislation have been sought without meaningful consultation and consent of the Sengwer people of Embobut Forest.

His Excellency
Mr. John Otachi Kakonge
Ambassador Extraordinary and Plenipotentiary
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The Committee also received allegations that certain provisions of the draft Wildlife Bill (WCMB) and the Conservation Policy (NCMP) were discriminatory due to their failure adequately to take into account the rights of indigenous peoples to their lands, territories and natural resources as well as their rights to be adequately consulted on issues related to wildlife conservation and management structures.

The Committee is concerned about these allegations which, if verified, could hinder the full enjoyment of rights under the Convention. In this regard, the Committee refers to its General Recommendation 23 on the rights of indigenous peoples in which the Committee calls upon the State parties "to recognise and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and natural resources and, where they have been deprived of their lands and territories traditionally occupied otherwise inhabited or used without their prior, free and informed consent, to take steps to return those lands and territories".

The Committee also recalls the recommendation made in paragraph 17 of the Committee's concluding observations of 2011 relating to the State party (See CERD/C/KEN/CO/1-4, para. 17) where the Committee requested the State party to respond to the decisions of the African Commission of Human and People's Rights regarding the forced evictions of the Ogiek and Endoris indigenous peoples and ensure that marginalised peoples receive appropriate redress.

In accordance with Article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee would be grateful to receive urgently information on the situation of the Senwger and Ogiek indigenous peoples, in particular, on those from the Embobut Forest, as well as on measures taken to avoid that the Wildlife Bill and its Conservation Policy, if adopted, negatively affects the rights of indigenous peoples in Kenya. The Committee would be grateful to receive information on all of the issues and concerns as outlined above, before **31 January 2014**.

Allow me, Excellency, to express the wish of the Committee to continue to engage in a constructive dialogue with the Government of Kenya, with a view to provide it with assistance in the effective implementation of the Convention.

Yours sincerely,

Alexei Avtonomov
Chair

Committee on the Elimination of Racial Discrimination