

MINORITY RIGHTS GROUP INTERNATIONAL (MRG)

**A SOLUTION TO THE FORCED DISPLACEMENT OF THE ENDOROIS IN KENYA:
WORKING TOWARDS THE IMPLEMENTATION OF THE AFRICAN COMMISSION
ON HUMAN RIGHTS' DECISION (NOVEMBER 2008 – OCTOBER 2011)**

REPORT OF FINAL EVALUATION

By

Michael Ochieng Odhiambo

Nakuru, February 2012

Table of Contents

Acronyms	3
1. Introduction.....	4
1.1. Background and Context	4
1.2. A brief on the project: pushing for implementation of Decision	7
2. The evaluation: overview of the terms of reference	9
2.1. Methodology, challenges and limitations.....	11
3. Main findings of the evaluation.....	13
3.1. EWC capacity building support.....	13
3.2. Process, progress and prospects of negotiations with GoK.....	16
3.3. Impact of the project at community level.....	21
3.4. International advocacy.....	23
3.5. Management of the partnership between MRG, CEMIRIDE and EWC .	24
4. Conclusions and recommendations	26
Annex 1: List of documents reviewed	31
Annex 2: List of persons met	32

Acronyms

ACHPR	African Commission on Human and Peoples' Rights
AU	African Union
CEMIRIDE	Centre for Minority Rights Development
CSO	Civil Society Organization
EWC	Endorois Welfare Council
GoK	Government of Kenya
KANU	Kenya African National Union
KLA	Kenya Land Alliance
KNCHR	Kenya National Commission on Human Rights
MP	Member of Parliament
MRG	Minority Rights Group International
NARC	National Rainbow Coalition
UNPFII	United Nations Permanent Forum on Indigenous Issues

1. Introduction

Minority Rights Group International (MRG) has worked with the Endorois community since 2002, supporting them in the pursuit of their claims against the Government of Kenya (GoK) in connection with their forceful eviction from their ancestral land around Lake Bogoria in the 1970s. A key event in the partnership between MRG and the Endorois community was the filing of a complaint on behalf of the community by MRG and the Centre for Minority Rights Development (CEMIRIDE) before the African Commission on Human and Peoples' Rights (ACHPR) in Banjul, the Gambia in 2003¹.

In order to support the prosecution of the claim at the African Commission, and to push for implementation of the decision of the Commission once delivered, MRG, CEMIRIDE and Endorois Welfare Council (EWC) implemented a project entitled 'A Solution to the Forced Displacement of the Endorois in Kenya: Working Towards the Implementation of the African Commission on Human and Peoples' Rights' Judgement'' with funding support from the Baring Foundation. The three-year project was implemented between November 2008 and October 2011.

This is a report of an external evaluation of the project conducted between December 2011 and February 2012 to assess its implementation, achievements, challenges and lessons learned, and make recommendations for improving negotiations with the GoK regarding implementation of the recommendations of the African Commission. The report is divided into four sections.

This first section introduces the report and gives a brief background to the Endorois case and its evolution to the point where the African Commission pronounced its decision. It also provides details of the project and how it was to be implemented. Section 2 summarizes the key tasks outlined in the terms of reference and explains the methodology used in the evaluation, highlighting the key challenges and limitations thereof. Section 3 presents the key findings of the evaluation organized by reference to the issues identified in Section 2. Finally, section 4 presents the conclusions and makes recommendations for the way forward.

1.1. Background and Context

The Endorois are a minority community of agro-pastoralists who have lived for centuries around Lake Bogoria in Baringo County in Kenya, although today some of them are found in Nakuru and Laikipia counties, largely as a result of movements associated with their eviction

¹ Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya, ACHPR Comm, No. 276/2003

from their ancestral land. With a population estimated at approximately 60,000, the Endorois have over the years struggled to keep their distinct identity in the face of official attempts to classify them as a sub-tribe of the Tugen who are the predominant group in Baringo County. It was only in 2009 that they were first classified as a distinct group for purposes of the national census.

Together with their claim for identity as a distinct group, the Endorois have for the past 30 years pursued a claim against the GoK for dispossession of their ancestral land and forceful eviction therefrom following the establishment of Lake Bogoria Game Reserve in 1978. Their claim has been grounded largely on the fact that they were never consulted and their consent was never obtained for the conversion of their ancestral land into a protected area, that no compensation or alternative land was offered to the community, and that they have not shared in any benefits arising from the income generated from the game reserve. Over time, additional claims have arisen relative to the extraction of high value natural resources from the land. The claim has been pursued through different strategies including political mobilization and filing of cases in local courts, but no lasting solution acceptable to the community has been forthcoming.

In 2002, MRG and CEMIRIDE started to interact with the Endorois community regarding their claim and to explore ways and means of supporting the community to pursue

the claim. The establishment of the Legal Cases Programme at MRG brought into being an appropriate framework for structured and long-term support to this kind of claim. The strong partnership between MRG and CEMIRIDE saw to the filing of a complaint on behalf of the Endorois community with the ACHPR in August 2003 (see Box).

Specifically, the Endorois community alleged that the GoK had by the impugned actions violated Articles 8 (guaranteeing the freedom of conscience, the profession and free practise of religion), 14 (guaranteeing the right to property), 17 (securing the right to education and free participation in the cultural life of a community and enjoining the state to promote and protect morals and traditions recognized by the community), 21 (securing the right of peoples to freely dispose of their wealth and natural resources in their exclusive interest) and 22

The Complainants allege violations resulting from the displacement of the Endorois community from their ancestral lands, the failure to adequately compensate them for the loss of their property, the disruption of the community's pastoral enterprise and violations of the right to practise their religion and culture, as well as the overall process of development of the Endorois people. (adapted from the Decision of ACHPR)

(securing the right to development) of the African Charter on Human and Peoples Rights. They sought restitution of their land, compensation for losses they have suffered as a result, and freedom to practice their religion and culture.

The communication by the Endorois community to the African Commission took six years to process, much of the delay arising from the inept manner in which the GoK handled the matter before the Commission. Many times the matter was postponed because the Government had failed to appear, and when its representatives appeared they were unprepared. The ineptitude of the GoK in its handling of the matter is best demonstrated by the fact that the admissibility of the Communication was decided without any submissions being made on behalf of the Government, the Commission noting that “the Respondent State had failed to cooperate with the African Commission on the Admissibility procedure despite numerous letters and reminders of its obligations under the Charter”².

Ultimately, at its 46th Ordinary Session in Banjul, the Gambia in November 2009, the African Commission delivered its decision, which became official upon being adopted by the African Union (AU) Summit in February 2010. It agreed with the Complainants and found that the GoK was in violation of Articles 1, 8, 14, 17, 21 and 22 of the African Charter. It went ahead to make far reaching recommendations for remedies to the Endorois community (see Box)

Recommendations

1. In view of the above, the African Commission finds that the Respondent State is in violation of Articles 1, 8, 14, 17, 21 and 22 of the African Charter. The African Commission recommends that the Respondent State:
 - (a) Recognise rights of ownership to the Endorois and restitute Endorois ancestral land.
 - (b) Ensure that the Endorois community has unrestricted access to Lake Bogoria and surrounding sites for religious and cultural rites and for grazing their cattle.
 - (c) Pay adequate compensation to the community for all the loss suffered.
 - (d) Pay royalties to the Endorois from existing economic activities and ensure that they benefit from employment possibilities within the Reserve.
 - (e) Grant registration to the Endorois Welfare Committee.
 - (f) Engage in dialogue with the Complainants for the effective implementation of these recommendations.
 - (g) Report on the implementation of these recommendations within three months from the date of notification.
2. The African Commission avails its good offices to assist the parties in the implementation of these recommendations.

² Para 41 of the Decision

By the time of the Decision, the project the subject matter of this evaluation had been running for one year. It continued to run for another two years thereafter. As indicated at the outset, the project anticipated the decision in that it sought to prepare the Endorois community and its representative organ, EWC for the eventual role of pushing for the implementation of the recommendations of the African Commission, even though the project itself commenced before the African Commission made its decision. The activities and outcomes the evaluation of which is reported on here thus extend both before and after the decision of the African Commission.

1.2. A brief on the project: pushing for implementation of Decision

The project sought to build the capacity of the Endorois community and EWC to fully and effectively engage with the Kenyan government to negotiate a sustainable solution to their forced displacement in line with the recommendations of ACHPR. To this end, the project aimed to achieve three outcomes, namely:

1. EWC becomes a sustainable organization, equipped to effectively represent the interests of the Endorois community;
2. The wider Endorois community have a better understanding of the negotiation process with the government and feel more confident to participate to this process; and
3. The Kenyan government is better aware of the needs to engage with the Endorois community to find a solution to their forced displacement and willing to do so.

To achieve these outcomes project activities were implemented to build the knowledge and expertise of EWC on human rights and advocacy techniques, and develop its organizational effectiveness to ensure its sustainability. An organizational capacity grant supported the building of institutional capacity of EWC in terms of structures as well as infrastructure for it to function effectively. The Board and staff were trained, office space acquired, and office equipment and supplies purchased and installed. In the process, the profile of the organization was raised with key stakeholders including other civil society organizations (CSOs) as well as relevant government departments and governmental institutions.

Support was also provided to the community as such to empower its members by raising their awareness about the case at the African Commission and ultimately the decision, getting them to understand its implications and to own it so that they may become effective advocates for its implementation. Community outreach activities undertaken included the holding of Endorois Full Council meetings twice a year to review progress on the case and discuss

strategy, the holding a similar number of meetings for community members for the same purpose, and the holding of inter-community dialogues to gain the support of neighbouring communities to the claim and the decision.

The project supported members of the community to travel to Banjul to take part in or follow the proceedings. It also funded forums within the community to keep members informed of the processes surrounding the case. Once the decision was made, the project supported dissemination of information about the recommendations of the Commission and processes for keeping members of the community informed about the negotiation process. It also funded training for members of the community about the roles they could play in creating political pressure for the implementation of the decision. The project also supported the building of partnerships within Kenya with a view to mobilizing local stakeholders in support of the decision.

Key activities implemented included different forms of training for different categories of stakeholders and capacity building workshops to impart mobilization, negotiation and advocacy skills and promote inter-community dialogue. Legal support was also provided firstly for purposes of arguing the case before the African Commission and subsequently for interpreting the decision and providing guidance on how to interact with the government for purposes of getting the decision to be implemented.

Research and advocacy was also undertaken during the project period. A briefing note was published highlighting the implications of the decision and its impact. Advocacy was undertaken both within Kenya, and at the regional and global levels, using different forums to raise awareness about the decision and the need to put pressure on the GoK to implement its recommendations. Staff of EWC and members of the community were supported to attend and address different gatherings to drum up support for the implementation of the decision. In addition, the media was actively engaged at the national level and beyond, and a targeted online campaign was mounted to mobilize support for implementation of the decision.

The primary implementers of the project were MRG, CEMIRIDE and EWC, each playing a specific strategic role to further the objective of the project and achieve the outcomes. MRG provided support based on its expertise on international legal standards, mechanisms, advocacy channels, relevant networks and negotiation tools. CEMIRIDE was responsible for domestic law, identifying national and regional advocacy opportunities and channels, and developing relationships with national stakeholders and networks. The project benefited from the intimate understanding that CEMIRIDE has of the local policy context and its close

connections with major policy actors, especially Members of Parliament (MPs) representing pastoralists and other minorities. EWC served as the primary point of contact with the community, informing the other partners of the community's needs and disseminating information on the progress of the case, learning, and nurturing community unity.

2. The evaluation: overview of the terms of reference

The terms of reference indicate that MRG is keen to use the evaluation to generate lessons from the manner the project has been implemented so far that can be used to inform the design of the next phase of the work. They would further like to establish whether there have been any unforeseen negative consequences of the project and its activities to-date and how such can be avoided, minimized or mitigated in the future. An analysis of how well the project partners have mainstreamed gender in the project is also called for.

The terms of reference provide an indicative list of up to eight likely evaluation questions.

The same may be summarized as follows:

1. What impact has the project had on the capacity of EWC as an organization in terms of improving its capacity to deliver and strengthening its sustainability?
2. What progress has been made in pushing GoK to implement the decision and recommendations of the ACHPR, with a reflection on the process so far, the challenges that have been faced, lessons learned and prospects of making substantial headway?
3. How has the project been affected by the fact that CEMIRIDE has played a less active role than was intended at the beginning, and what lessons can be learned from this with regards to the management of the partnership?
4. How well have MRG and partners understood and reacted to the changing political context in Kenya and how well have they interpreted actions and by government regarding the decision by the ACHPR?
5. What benefits has the project brought into the community and how equitably have these been spread between different areas and gender categories within the Endorois community and between the community and its neighbours?
6. How well have MRG and EWC used the decision of the ACHPR to support international advocacy work including interactions with the media, and how well have community members been involved in such advocacy?

7. How has the new orientation of EWC following their improved capacity affected their delivery according to the expectations of the community and how relevant is this new orientation for the priorities of the community, having regard to the immediate needs of the people?
8. What new approaches should be employed in the push for full implementation of the decision of the ACHPR and what are the implications of those approaches for the partnership between MRG and EWC and any other new partnerships?

While these questions raise many issues, we have used them to define five main issues for the evaluation. These are:

1. **EWC capacity building support** – exploring the extent to which the institutional capacity of EWC has been enhanced over the project period (including a gender analysis thereof), what specific capacity building interventions have been implemented, impacts of these interventions on the organization, its staff and Board, both generally and with reference to negotiations with the Government of Kenya on implementation of the ACHPR, and how the changes brought about by these interventions have impacted on the relations between EWC and the community given its traditional role and immediate needs and priorities of the members of the community
2. **Process, progress and prospects of negotiations with GoK** – exploring the means that have been used to interact with the government on implementation of the decision, who has participated in the negotiations, how they have been conducted, the extent of involvement by members of the community, roles of major stakeholders (CEMIRIDE, Kenya National Commission on Human Rights (KNCHR), Kenya Land Alliance (KLA), what challenges have been encountered, what progress has been made so far, and what the prospects are for the full implementation of the decision.
3. **Impact of the project at community level** – exploring the impact of project activities generally and the decision of the ACHPR specifically on the Endorois community (and its members disaggregated by gender) in terms of perceptions and interactions among members of the community and between them and neighbouring communities.
4. **International advocacy** – exploring what international advocacy initiatives have been undertaken by MRG to push for implementation of the decision of the African Commission and the impact thereof, how and with what impact both local and international media has been engaged in such advocacy, and what impacts the decision

has had on advocacy for the rights of indigenous peoples generally and for their land rights in particular, in Kenya and beyond

5. **Management of the partnership between MRG, CEMIRIDE and EWC** – exploring the evolution of the partnership between MRG, CEMIRIDE and EWC and the impact on the organizations with regards to their work, challenges and opportunities associated with the partnership, lessons learnt and how these can be used to better manage the partnership into the future, what other partnerships have been established in the course of the project, and how useful these have been for the achievement of outcomes, and what new partnerships are needed to take the work forward

2.1. Methodology, challenges and limitations

The evaluation has been conducted through a three-pronged approach that involved review of relevant documentation, key informant interviews and focus group discussions. A range of documentation related to the Endorois claim before the ACHPR and the decision of the Commission were reviewed, as were project documents (proposal, activity reports, EWC constitutive documents and policies) and GoK policies that have a bearing on the Endorois claim and the push for implementation of the decision of the ACHPR. Ongoing reform processes in Kenya, especially those related to the new Constitution and the National Land Policy have opened up new opportunities for the pursuit of redress for historical grievances and injustices such as that of the Endorois. The reform processes and the policy documents embodying the reforms were reviewed for their relevance to the claim and the push for implementation. A full listing of documents reviewed during the evaluation is in Annex 1.

Key informant interviews were conducted in Nakuru, Loboï and Nairobi. Although members of the Endorois community are also found in other locations, including Laikipia, Muchongoi, Rumuruti, Radat and Olkokwe, interviews for purposes of this evaluation were confined to those based in Nakuru and Loboï, because of limitations of time. It was however agreed with EWC that community members from these other locations will be represented at the feedback and validation workshop so that they have an opportunity to interact with the evaluation process.

In Nakuru discussions were held with the staff and Board members of EWC as well as partners and stakeholders based in the town. In Loboï discussions were held with Board members of EWC as well as key opinion leaders, including elders (both male and female) and youth. In Nairobi discussions were held with CEMIRIDE and other national partners who

have supported the Endorois community in their push for the implementation of the decision of the ACHPR. Focus group discussions were conducted in Loboï with key stakeholder groups including members of the Endorois Council of Elders, women and youth. A list of persons interacted with in the course of the evaluation appears in Annex 2.

A major challenge in the conduct of the evaluation arose from its timing. The evaluation started in December very close to the Christmas festivities and continued in January following the reopening of offices after the New Year celebrations. Availability of key informants has been problematic as most people take their holidays around this period, and upon returning to the office many are busy with review and planning meetings and activities. Within government, there are a host of activities going on within the context of ongoing reforms, particularly as regards putting in place laws for implementation of the new Constitution. The impending elections, the first to be held under the new Constitution have further complicated issues, creating a sense of uncertainty as new structures of government are designed. The introduction of devolution under the new Constitution is cause for additional uncertainty as the full implications of these changes are yet to be determined. Many institutions are being restructured or their positions reviewed. In the circumstances, government policy is mostly in a state of flux and government officials are understandably reluctant to take any specific positions on difficult questions.

As a result, a number of key informants that were identified for purposes of the evaluation have yet to be met both in Nakuru and Nairobi. Several efforts have been made to procure appointments with them but without success. Although MRG were initially happy to extend the deadline for submission of the evaluation report to accommodate these issues, a sudden adjustment of the schedule by MRG requiring immediate delivery of this report has meant that it proved impossible for the evaluator to meet with a Commissioner of the KNCHR and an official at the Attorney General's Chambers. Several appointments with the Chairman of EWC have had to be cancelled during the past week because of the crisis of insecurity that has erupted between the Endorois and the Il Chamus community.

It is intended to hold a feedback and validation workshop with members of the community and key stakeholders once the draft report is ready. The insecurity crisis referred to above may affect the organization of the workshop as the key community leaders required for the workshop will be involved in efforts to resolve the conflict. MRG have also indicated a change of timing, with the final report required immediately. This will no doubt have implications for the rest of the interviews and for the validation workshop. However, the

latter can be held even after the report has been finalized, as its importance lies in providing an opportunity for community members and other stakeholders to reflect on lessons learned and plan the way forward for pushing the GoK to implement the decision of the ACHPR.

Notwithstanding these challenges, it is our considered view that adequate information has been generated to provide a sufficiently clear picture to facilitate a proper assessment of the implementation of the project, answer the questions for the evaluation and make appropriate recommendations for the way forward. The staff of EWC and CEMIRIDE have between themselves filled any information gaps arising from the fact that no interviews have been had with government officials and members of the KNCHR.

3. Main findings of the evaluation

In this section, we present the findings of the evaluation. The presentation is organized according to the itemization of issues in Section 2 above.

3.1. EWC capacity building support

Building the capacity of EWC to operate effectively and sustainably is central to the protection and promotion of the rights of the Endorois, as it is the framework through which the community has pursued its claim over the years. As such building the capacity of EWC is a contribution to the building of the capacity of the community as a whole. This will be particularly important in the advocacy work needed in Kenya to push for implementation of the decision of the ACHPR. Although the support of MRG and CEMIRIDE will continue to be important for the purpose, its political nature will require that there is sufficient ownership of the decision within the community, as well as capacity to mobilize and confront local and national political leaders and institutions.

While the Endorois case was pending before the ACHPR, much of the effort required to ensure its successful conclusion was of the technical type, involving research, writing appropriate briefs and statements for the Commission and presenting arguments before it. Although the community and EWC were critical to that process as the owners of the case and the ones in possession of the historical knowledge and information needed as evidence in support of the case, the bulk of the technical work was done by MRG and CEMIRIDE. Once the decision was made however, the bulk of the work will involve political mobilization, and this will require that EWC takes the lead, albeit with the technical support of MRG and CEMIRIDE.

Activities that had a direct bearing on capacity development were workshops for EWC staff on human rights and advocacy techniques needed to demand implementation of rights and to interact with the GoK, and provision of funding to EWC to support staff training, purchase and installation of equipment and supplies, and the setting up of operational systems and policies for the organization.

The indicators for capacity building included a fully equipped and staffed office for EWC, with at least one woman staff member, staff acquisition of skills related to organizational capacity, staff acquisition of greater knowledge and awareness of their rights and negotiation skills and participation in negotiations and training, recognition of EWC by government and other actors as the main body representing the Endorois community, and awareness within the community about the role of EWC and confidence among community members to deal with it in pursuit of their rights.

The Table below summarizes findings of the evaluation against the key indicators for this intervention.

Outcome 1: <i>EWC is a sustainable organization, equipped to effectively represent the interests of the Endorois community</i>	
Measurable Indicator	Findings
EWC has a fully equipped and staffed office, with at least one woman member of staff	EWC has a spacious office on Nakuru-Kabarnet Road; equipped with 2 desktop and 1 laptop computers, 1 printer and 1 photocopier. There are 4 staff members (Programme Coordinator, Programme Officer, Accountant, Office Assistant), 2 of them women.
Staff identify organizational capacity training needs and are trained, gaining skills for more effectiveness	Staff have been trained on human rights advocacy, campaigning and negotiations, programme design, project development, fundraising, donor reporting and financial accountability, Board members trained on governance
Staff trained on human rights advocacy report greater knowledge and awareness of their rights and how to push for their implementation and effectively participate in negotiation and train others	EWC staff members confirm greater awareness about their rights and how to campaign for their implementation. However, other than the Programme Coordinator who is actively involved with stakeholders pushing for negotiations with government, there is no evidence of other staff being involved in the negotiations.
EWC is publicly recognized by GoK and other actors as the main body representing the Endorois	There is clear recognition of EWC as the main body representing the Endorois by government and other key stakeholders, particularly with regards to the decision of the ACHPR
The whole Endorois community is aware of the	There is evidence of widespread awareness within

work of EWC and confident in approaching its staff to raise issues and demand information on the negotiation process	the Endorois community about the work of EWC. It is celebrated as the organization that won the case against the GoK, and is the community members' source of information on the negotiation process.
--	---

It is quite evident that one of the greatest achievements of this project has been the improvement made to the capacity of EWC as an organization. According to the Programme Coordinator, ‘the project took us from the village and the streets to this office’³. Thanks to the project, EWC now runs a functional office with basic office infrastructure and staff. The Board of EWC is in place and is reported to be meeting regularly, providing leadership to the Secretariat and acting as an effective link between it and the community.

A Strategic Plan has been developed as well as a Management and Operation Manual, while a Media Strategy is at an advanced stage of development. Although it is not evident to what extent these operational policies are being actually being used, the participatory process through which the strategic plan was developed, involving key partners and stakeholders, was empowering and capacity enhancing in and of itself. Obviously, capacity building has to be seen as a process rather than an event, and only so much can be achieved within a period of three years. However, the foundations for a sustainable EWC have been established.

There are however, two major outstanding issues with regards to capacity building for EWC as an organization. The first one has to do with inadequate clarity about the relationship between EWC as an entity, the Endorois as a community, and the management team at the EWC offices. Part of this lack of clarity is attributable to the way EWC evolved from the outset. At the moment, EWC is registered as a society under the Societies Act⁴. Its constitution declares that it is a membership organization which one joins upon payment of a membership fee. This is not something that many members of the Endorois community understand. Many of the people spoken to in the course of this evaluation assumed that they are automatically members of EWC by reason of being Endorois. In fact, EWC is seen as a framework that facilitates the collective interests of the community.

There is need for further reflection on the legal character of EWC and how it relates with the community. This will become particularly important as the organization acquires greater capacity and resources. Relations between EWC and other frameworks within the community such as the Endorois Council of Elders can only be effectively managed with such clarity.

³ Personal communication to the writer at EWC offices on 11th January 2012

⁴ Cap 108 of the Laws of Kenya

The second outstanding issue has to do with technical capacity required for EWC to effectively spearhead the process of negotiating with the GoK for implementation of the decision of the ACHPR. Although the organization is now up and running, it is still lacking the capacity to play this role effectively. In effect only the Programme Coordinator and the Programme Officer have technical capacity for programme implementation. Yet even they do not have the specific technical capacities needed to pursue the recommendations of Commission. These include at a minimum legal capacity to interpret the decision and identify opportunities within the domestic law of Kenya for its implementation; land management (land use, survey) capacity to advise on the demarcation, socio-economic capacity to advise on benefit sharing, and media and communications capacity to spearhead information management and dissemination as well as interactions with the media.

Ideally these capacities need to be within EWC. While it is possible to outsource them, it is clear that delay and confusion that has characterized the negotiations with GoK to-date is attributable at least in part to the fact that EWC has no in-house capacity for the purpose and is entirely dependent on MRG and other in-country partners. As a result, the role of EWC in the push for negotiations has been reduced to one of convening meetings. This has serious implications for the ownership of the process and has the potential of creating frustration on the part of the community.

3.2. Process, progress and prospects of negotiations with GoK

It can be rightly asserted that once the ACHPR delivered their decision on the Endorois claim, then negotiations with the government to push for implementation of the recommendations made in the decision became the most important concern of this project. Thus the bulk of the work within the project in 2010 and 2011 was focused on the negotiation process. However, one can easily tell that the project was designed before the decision was made by the lack of specificity regarding activities in support of this process.

Both outcome 2 and Outcome 3 speak of the negotiations, but in this discussion we shall focus on output 3 as it is the one that targets the government. It is expressed in very general terms as “the government is better aware of the needs to engage with the Endorois to find a solution to their forced displacement and willing to do so”. Clearly, had the project been designed after the decision there would have been a direct reference to it and to the need to implement its recommendations.

The determination of the case in November 2009 and its formal adoption by the African Unions Summit in February 2010 marked an important threshold for the Endorois as a community. That the decision was in their favour served to vindicate their long struggle. A huge celebration was held in March 2010 attended by more than 10,000 people including members of the community, political leaders, other Indigenous Peoples from across Kenya and other African countries, members of the diplomatic corps and representatives of human rights advocacy groups. The Minister for Lands who was the Guest of Honour at the celebrations declared that the decision of the African Commission would be implemented and promised to prepare a Cabinet Memorandum for the purpose. However, his actions after this public declaration have been less than encouraging, as he, for instance, insisted that he needed a sealed copy of the decision of the African Commission before he could prepare the Cabinet Memorandum⁵.

In the run up to the celebrations, a coalition of human rights and environmental advocacy groups came together to support EWC in organizing the celebrations. The organizations raised funds to support the celebrations and were actively involved in the entire process. Subsequently, members of the coalition constituted themselves into a Civil Society Stakeholders Forum under the chairmanship of KLA to work with EWC in the push for implementation of the decision.

KNCHR took up the role of coordinating negotiations with the government and initiated discussions with the Attorney General and the Ministry of Justice. Although contacts have been made with the relevant authorities, there is no evidence of any formal negotiation going on between EWC and the GoK on implementation of the decision. Although no direct discussions have been held with KNCHR in the course of the evaluation as at the time of writing this draft report, it is clear from the key informants spoken to so far, some of whom are actively participating in the Stakeholders Forum, that there has been no formal communication from the government articulating an official position regarding the decision and the implementation of its recommendations. Other than a meeting with the Minister for Lands soon after the decision was made, no other meeting of significance has been reported despite efforts to have audience with senior government officials including the Attorney General and the Minister for Justice. Only recently has an appointment been secured with the

⁵ Notes of Endorois Meeting with KNCHR, 13th April 2011. See also the Minister's reply to a question in Parliament by Mr. Ethuro (National Assembly Official Report, Tuesday 18th January 2011)

new Attorney General for a meeting on 15th February, which it is hoped will jumpstart the negotiations process with the government.

The failure to make progress on the negotiations is in spite of significant effort on the part of EWC, its partners and other stakeholders to push the government to take an official position and start a structured process of negotiation on the implementation of the decision in line with the recommendations of the African Commission. A Briefing Pack was prepared setting out the framework for negotiations with the government⁶. The same has been circulated to relevant government offices. Strategy meetings have been held involving MRG, CEMIRIDE, EWC and other major stakeholders. The latest such meeting was held on 28th November 2011⁷. A common feature in all these meetings is the frustration arising from the failure to record any significant progress as regards negotiations with the government.

The MP for Turkana Central Hon Ekwe Ethuro raised a question in Parliament in January 2011 about the implementation of the decision of the African Commission, taking the Minister for Lands to task for failing to follow through the commitment he made at the celebrations to prepare a Cabinet Memorandum to initiate the process of implementation. The Minister, while reaffirming his commitment to act on the matter, insisted that he could not do anything before he received a certified copy of the decision⁸. Although the Minister has since received the certified copy of the decision, there is as yet no evidence that he has taken any action.

Below is a summary of the findings of the evaluation vis-à-vis the indicators for Outcome 3

Outcome 3: <i>The Kenyan government is better aware of the needs to engage with the Endorois to find a solution to their forced displacement and willing to do so</i>	
Measurable Indicator	Findings
The Kenyan government makes regular positive public statements on the state of the negotiations with the Endorois	Other than statement of the Minister for Lands at the celebrations in March 2010 and in Parliament in January 2011, no evidence of any positive statements from the government on state of negotiations
Local government representatives from areas where the Endorois communities are established meet at least twice a year with these communities (from Y2) to find solutions to the issues faced by each community	Local government representatives (Councilors) have attended meetings of the community and the Council, actively participated and identified with the community in demands for implementation of the decision

⁶ Centre for Minority Rights Development (Kenya) and Minority Rights Group International on Behalf of Endorois Welfare Council v. Kenya: Briefing Pack for Negotiations with Government of Kenya, undated.

⁷ Minutes - Endorois Implementation Strategy/ Baring Wrap-up Meeting 28 November 2011

⁸ National Assembly Official Report, supra, note 5

The Kenyan Parliament pays specific attention to the issues specific to the Endorois, as seen in questions raised by MPs in Parliament on behalf of communities	Question raised in Parliament in January 2011, when government responded that it was awaiting a certified copy of decision. Plans under way for follow up question to be raised in early 2012
The government consults with the Endorois as part of the Land Reform process.	No evidence of such consultations, although ongoing land reforms have the potential to benefit the Endorois and other minorities and marginalized groups

Although the lack of progress on negotiations with the GoK on implementation of the decision of the African Commission is understandably frustrating to the Endorois community, EWC, its partners and stakeholders, there is a sense in which it was to be expected. The conduct of the GoK in the prosecution of the case before the African Commission did not demonstrate a commitment to the process or indicate any respect to the country's obligations under the African Charter on Human and Peoples' Rights.

This was all the more surprising because the filing of the matter before the African Commission coincided with political changes in the country that were seen to herald a whole new official attitude to human rights. The Communication was filed in the Commission the same year that the National Rainbow Coalition (NARC) replaced the Kenya African National Union (KANU) as the country's governing party following a dramatic defeat in the polls held at the end of 2002. The new government quickly distinguished itself in its embrace of human rights and democratic principles evidenced by the introduction of a raft of institutional reforms and the opening up of democratic space.

The ineptitude demonstrated by the GoK in the processing of the claim before the African Commission may well have been a function of inadequate capacity within the State Law Offices, which in any case remained under the stewardship and control of the same characters that had been in charge during the days of KANU. Nevertheless, by the time of the decision a lot had changed on the ground. The decision came two years after the infamous disputed elections of 2007 that provoked the post-election violence that rocked the country at the beginning of 2008. The coalition government that came into existence upon signature of the national accord in February 2008 was a marriage of convenience that brought together political rivals. Although the coalition government has survived and successfully steered the adoption of a new Constitution, a National Land Policy, and other significant reforms, it has nevertheless exhibited a singular lack of cohesion and unity of purpose.

It is important to keep this context in mind in seeking to understand the lack of progress on the implementation of the decision of the African Commission. Although the Minister for

Lands officiated at the celebration of the decision in March 2010 in his official capacity as the Minister within whose portfolio the Endorois claims lay, it was not lost on keen observers that he was accompanied to the celebrations mainly by allies of his side of the coalition government. As a reputable lawyer, it is not surprising that his statements about the decision were taken quite seriously by those in attendance. Yet the question may well be asked whether he was the appropriate member of the Cabinet to speak to the implementation of the decision of the African Commission. In a context where different (and opposing) coalition partners hold the other portfolios of government relevant for purposes of implementing the decision (Attorney General, Ministry of Justice, Ministry of Finance, Ministry of Environment and Natural Resources, etc.) it is conceivable that his enthusiastic public declaration of support and promise of action could in itself serve to trigger opposition and resistance from the other ministries.

Apart from the challenges inherent in the nature of the coalition government, the decision came at a time of tremendous pressure within the policy arena as a result of major ongoing reforms that included the push for adoption of a new Constitution and a National Land Policy. The National Land Policy was issued only a few months before the decision, while the new Constitution would not be adopted until nearly nine months after the decision. Both documents have a direct bearing on the recommendations of the decision and their implementation⁹. It was thus not surprising that government should be reluctant to commit itself about the decision pending the completion of these reform processes.

Although both the Constitution and the National Land Policy have been adopted and are now in force, the reform processes that they triggered are not yet complete. Enabling legislation for implementation of the National Land Policy and the land provisions of the Constitution are still under development. The new institutional framework for land administration that these reforms have introduced is not yet in place. Even more important now is the fact that the first elections under the new Constitution are due to be held within the next 12 months or so. The elections will bring into being a substantially different structure of government in view of the introduction of devolved government and the fundamental restructuring of the national government.

This means that the current government is for all practical purposes a transition government, presently focused on restructuring, and lacking the certainty and clarity needed for it to be

⁹ See the Briefing Pack, *supra* note 5 for the implications of the new Constitution and the National Land Policy to the implementation of the decision

able to implement the decision of the African Commission on the Endorois claim. This reality must inform the strategies employed in pushing for the implementation of the decision. It is unlikely that much progress can be achieved regarding the negotiations with the government between now and the impending elections. As such a multi-pronged approach to the advocacy for the implementation of the decision is recommended that will deal with both the political and legal dimensions of the issue simultaneously. On the one hand, every effort should be made to put the issue of the implementation on the electoral agenda of the county, Parliamentary, and Presidential elections. On the other hand, a structured process should be initiated for planning a legal approach that will be employed with the new government once it is in place after the elections. This will require serious reflection and the development of a comprehensive strategy and work plan.

3.3. Impact of the project at community level

Consideration of the impact of the project at the community level entails in part an assessment of Outcome 2, which reads “The wider Endorois community has a better understanding of the negotiation process with the government and feels more confident to participate in the process”. It focused on the creation of awareness within the community about the claim and its progress in the African Commission, and eventually the decision and its implications, in order to promote ownership of it by the community. In addition, it sought to create capacity on the part of the community for political mobilization to influence institutions responsible for implementation of the decision.

The main activities in this regard were training and capacity building workshops, community outreach meetings and intercommunity dialogues, as well as information dissemination to the community to inform them of the progress of the case and of the negotiations. Community members were also supported to travel to Sessions of the African Commission in Banjul, the Gambia.

The Table below presents the findings of the evaluation on the measurable indicators for this particular Outcome.

Outcome 2: <i>The wider Endorois community has a better understanding of the negotiation process with the government and feels more confident to participate in the process</i>	
Measurable Indicator	Findings
80% of trained community activists report greater knowledge and awareness of their rights and how to demand for their implementation and go on to train others over the following years	Although there is evidence of community activists having been trained on human rights and advocacy, there was no evidence that they were in turn training others, nor could the percentages be

	established
80% of the community members who participate in community meetings report increased interest/ support for the on-going work	Community members interacted with demonstrated great interest in negotiations, but it was not possible to establish the percentages
At least 60% of community members involved in inter-community dialogues feel confident about participating in them and see them as valuable and needed	Community members appreciated inter-community dialogues as important for ensuring good neighborliness, but it was not possible to establish the percentages
80% of the activists who participate in regular full Endorois Council Meetings acknowledge the importance of these meetings to follow up the negotiation process and raise any relevant issues.	Activists confirmed that regular full Council meetings were serving a useful purpose in keeping community updated on the negotiation process, but it was not possible to establish the percentages

Although it was not possible to establish the quantitative parameters of the Measurable Indicators (the percentages) it was evident that the project has had tremendous positive impacts at the community level. Community members that were interviewed both individually and in groups demonstrated a strong commitment to the pursuit of the claim. They communicated immense admiration for the work of the project in supporting the process at the Commission to conclusion. Through the decision, the community has been able to reclaim their identity and consolidate their unity.

There was evidence of strong support for the decision, which is seen as a landmark achievement for the community. Elders, youth and women spoken to were unanimous in their support and pride about the decision. They reported that since the decision was made, “the authorities are treating us with respect, we feel like owners of this land and not strangers as was previously the case”¹⁰. In particular, members of the community are happy that they are now able to access the reserve to graze their livestock, perform rituals and collect medicinal herbs, and that they have free access to the game reserve and can sign in their visitors. This has increased their sense of ownership and belonging. Although it was not possible to put any economic values on these benefits, there is no doubt that they constitute a significant accomplishment for a community that has previously felt hostage in its own land.

It did appear however, that the community had in some cases unrealistic expectations about the speed and nature of benefits that would accrue once the decision was delivered and following the celebrations held in March 2010. Partly as a result of this, there was now a growing sense of frustration among members of the community arising from a perception that

¹⁰ Focus group discussion with elders at Lobo on 13th January 2011. Significantly the meeting was held within the grounds of the Kenya Wildlife Service (KWS) compound at the entrance of the Game Reserve, which according to the elders the community had no access to in the past.

the benefits of the decision may never be realized. This feeling was exacerbated by a sense of helplessness as members of the community look more to ‘outsiders’ for pushing for implementation of the decision.

In order to better structure community engagement with the push for implementation of the decision, 3 working committees (Boundaries Committee, Compensation Committee, Lake Bogoria Management Committee) and 2 forums (Religious Leaders Forum, Women Leaders Forum) have been established. The committees are frameworks that will enable members of the community to engage directly with the negotiation process. Each of the 3 working committees supports specific aspects of the implementation of the Endorois decision. The Committees will however need technical support to be effective.

One unintended consequence on the community of the successful determination of the Endorois case by the African Commission is that it has exacerbated elite rivalries between those who are identified with the pursuit of the claim and those who have not been actively involved in it. There is a feeling among the latter group that the former are gloating and appropriating the decision for purposes of creating mileage with the community, especially for purposes of political competition. In this regard, it does not help that key players within EWC are said to be contemplating vying for political offices.

Even among ordinary members of the community, it is evident that the case and its processes have created subtle divisions. In the course of the focus group discussion held in Lobo, it was quite evident that some community members are seen and see themselves as more closely involved with the case and knowledgeable about the issue than others. For instance, only some community members have traveled to Sessions of the African Commission in Banjul, and to Nakuru to participate in functions organized by EWC. Such members tend to stand out and to speak with greater authority on the case. In the focus group discussion with women, it became quite evident that the one woman who had traveled to Banjul was considered by the other women in the group to be over-reaching herself. And in discussions with the youth, a couple of them complained that only a select group of people appear to benefit from such trips out of the community.

3.4. International advocacy

International advocacy involved using regional and global forums to highlight the plight of the Endorois, as a means of mobilizing external support and exerting pressure on the GoK to find a lasting solution. MRG has played the major role in this regard, although it has also

involved facilitation of Endorois activists to attend and participate in such meetings and give direct testimony about their situation. EWC has attended international and regional fora, such as the United Nations Permanent Forum on Indigenous Issues (UNPFII) in New York and the ACHPR in Banjul, The Gambia. Such international advocacy has played an important role in publicizing the plight of the Endorois and earning them solidarity from other Indigenous Peoples at the global level.

Following the decision of the African Commission, MRG published a briefing paper on the significance of the decision for indigenous peoples in Africa and beyond. The document was widely distributed to partners at the global level and disseminated through the MRG website. A related activity was the visit to London by Korir Singoei in April 2010 during which he made presentations on the Endorois case and the role of the media in sensitizing the people of Kenya and putting pressure on the government to implement the recommendations of the African Commission.

Closely linked to international advocacy is engagement with the media both locally in Kenya and at the international level. Following the decision of the African Commission, tremendous interest was generated within the media. The celebration of the decision in March 2010 was widely covered by both national and international media, with three media houses covering the event live. Thereafter, many media outlets wrote stories about the case and the plight of the Endorois.

The decision has had significant impact in creating confidence among indigenous peoples in Kenya and beyond about the prospects for pursuing and realizing their rights. In this regard, it constitutes a major precedent for other indigenous communities that have faced similar challenges as the Endorois. EWC is thus being called upon to share its experience with such groups, and the experience has inspired other groups to pursue their claims. In July 2010 EWC was invited to Uganda to share their experience in pursuing their claim through the African Commission with the Batwa community. In Kenya, the Ogiek community has been inspired by the decision to lodge a complaint before the ACHPR regarding their own indigenous rights over ancestral land in the Mau Forest.

3.5. Management of the partnership between MRG, CEMIRIDE and EWC

The tripartite partnership between MRG, CEMIRIDE and EWC has functioned very effectively. The successful completion of the Endorois case before the African Commission is in a way proof of the effectiveness of the partnership. That the partnership survived for the

seven years it took to process the case through the Commission is testimony to its strength and efficacy.

The three organizations complemented each other well in the pursuit of the case. MRG brought its global reach and expertise in international law, CEMIRIDE its strong networks at the national level and a deep understanding of the domestic policy and legal context in Kenya, and EWC its rootedness in the community. Together, these capacities, skills and linkages helped steer the case to successful conclusion.

The partnership has not been without its challenges, quite understandably given the long period of its operation. Although it is organizations that were the partners, in reality it was the efforts and relationships of individual members of these organizations that drove the partnership. It was thus not surprising that staff changes within the partner organizations should adversely affect the functioning of the partnerships.

The highest turnover of staff working on the case has occurred within MRG. Indeed, the people who were in place in MRG at the time of the decision were totally different from those who had been involved in the filing of the claim in the African Commission. These changes had their impacts on the dynamics of the case as new relationships were nurtured and goodwill established. However, the institutional commitment to the case clearly prevailed through these changes, ensuring that the organizations remained focused on the case to the end.

It is these personnel changes that explain the perceived lack of enthusiasm on the part of CEMIRIDE during the course of the project. The departure of Korir Singoei from CEMIRIDE created a gap within the organization with regards to the Endorois case, not least because Korir had been the key player in the conceptualization of the case and the creation of the partnerships that would see to the filing of the case in the African Commission. Apart from the implications of his departure for the case itself, there were also capacity implications for CEMIRIDE especially with regards to legal analysis.

Although those who remained behind had knowledge of the case and were committed to its prosecution, it was Korir who had been the legal brains behind the case, and his departure created a gap in this regard. Although arrangements were subsequently made to ensure his continued involvement with the case, such engagement was now on terms and in circumstances that meant that the demands of the case were in competition with other demands on his time and energies. It is evident that competing demands have undermined the

capacity of Korir to deliver effectively on the push for implementation of the decision. While his connections, skills and experience remain invaluable for this stage, it is clear that he is best used as an adviser to backstop a full time legal staffer. In the absence of such legally qualified staff within EWC, Korir's support is bound to be inadequate to the task at hand.

The delivery of the decision of the African Commission marks an important turning point in the Endorois case that calls for a recasting of the existing partnership between MRG, CEMIRIDE and EWC, and the forging of new partnerships. In this connection, it is important to appreciate that the push for the implementation of the decision of the African Commission is as much a political process as it is a legal process. The former dimension will be determined by political dynamics that range from the local to the national level, and will require an intimate understanding of the imperatives and forces that shape those dynamics. The roles that MRG and CEMIRIDE can play in this regard will vary substantially from the roles that they played during the processing of the claim before the African Commission. It will be necessary for the community and EWC to take the lead, albeit with the technical support and guidance of MRG and CEMIRIDE.

4. Conclusions and recommendations

This report presents the findings of an evaluation that was conducted to establish the extent to which the outcomes of the project 'A Solution to the Forced Displacement of the Endorois in Kenya: Working Towards the Implementation of the African Commission on Human and Peoples' Rights' Judgement' have been achieved, and what the overall impact of the project has been for EWC and the community and for their interactions with the government regarding the pursuit of their rights generally and implementation of the decision of the African Commission specifically. On the whole the evaluation finds that significant achievements have been recorded on all the three outcomes, although it has not been possible to establish definite quantitative parameters especially with regards to the indicators for Outcome 2. It further finds that a lot of work remains to be done in order to translate the positive decision of the African Commission into actual benefits for the Endorois community, and that the work will involve a delicate balance of political mobilization and legal activism. The following are the conclusions reached and the recommendations made on the key issues of the evaluation:

- 1. EWC capacity building support** has resulted in the establishment of a functional office with staff and equipment, and led to the development of a Strategic Plan and a

Management and Operation Manual. While there is no evidence that the Strategic Plan and the Manual are being put to use in the running of the organization, these developments have nevertheless laid a foundation for the sustainability of EWC. More support is still required however to further clarify the institutional character of EWC and its relationship with the Endorois community and to put in place the technical capacity it needs to be able to provide effectively leadership in the push for implementation of the decision of the African Commission.

Recommendations:

- i. Further support is required to consolidate the gains made this far in establishing the foundations for sustainability of EWC. As yet EWC does not demonstrate capacity to generate resources on their own to sustain what has been put in place this far, and will thus require further support by MRG in the short to medium term*
 - ii. EWC needs technical competence in order to effectively lead the process of advocacy for implementation of the decision of the African Commission. At a minimum EWC needs to have a legal expert, a land management/administration expert, an economist or community development expert, and a Communications expert on board for a specific period, say two years.*
 - iii. Support is needed to clarify the relations between the Secretariat of EWC on the one hand and the Council and the community on the other hand in terms of responsibility, accountability and feedback mechanisms.*
2. **Negotiations with the government** have been initiated by a coalition of human rights organizations, and various approaches are being employed to engage the relevant agencies of government to push for implementation of the decision of the African Commission. However, there is no evidence of a structured approach to the negotiations, and so far there has been no official, binding communication from the government stating its position regarding the decision and its implementation. There are numerous challenges to the negotiations, arising from the character and dynamics of the ruling coalition government and the ongoing political transition following adoption of the new Constitution. It is unlikely that any significant progress shall be made regarding implementation of the decision before the next elections and constitution of the new government.

Recommendations

- i. *EWC should undertake a strategy and planning process for a structured approach to the advocacy for implementation of the decision of the African Commission. Such planning should be informed by a clear understanding of the political dynamics that underpin the push for implementation of the decision. The strategy should involve a multi-faceted approach that involved legal advocacy and political mobilization at local, national, regional and global levels, supported by appropriate partnerships at the different levels.*
 - ii. *Immediately, EWC should design a political strategy for placing implementation of the decision on the electoral agenda of political parties and aspirants to Presidential, Parliamentary and County positions by committing them to support and push for implementation of the decision.*
 - iii. *In addition, EWC should put in place a legal strategy for engaging the new government as soon as it is established, taking into account the fact that the next government will have two tiers – one at the county level and the other at the national level – and clarifying appropriate strategies for engaging with these different levels of government.*
 - iv. *The Endorois community should be supported to take ownership of the decision and to do more proactive and direct political mobilization at the county and national levels for its implementation.*
 - v. *EWC should commission an analysis of the opportunities for achieving the promises of the decision ‘indirectly’ by taking advantage of ongoing governance, land and natural resources reforms in Kenya, specifically those related to devolution, community land rights and participatory conservation, and strategies for interacting with the same.*
3. **Impact of the project at community level** has been positive both generally and with reference to the decision of the African Commission. The project has helped the community to reclaim their identity and consolidate their unity. There is tremendous support for the decision, which is seen as a landmark achievement for the community. Elders, youth and women are unanimous in their support and pride about the decision. There is however a growing sense of frustration among members of the community arising from a perception that the benefits of the decision may never be realized. This feeling is exacerbated by a sense of helplessness as members of the community look more to ‘outsiders’ for pushing for implementation of the decision.

Recommendations

- i. *More awareness creation is needed for members of the community to better understand the decision and its implications. Additional training should be conducted within the community for different groups about what roles they can play, especially in engaging politicians and political frameworks to push for implementation of the decision. It is noted that most training has been conducted in Nakuru away from the community, thereby limiting the number of people who can participate.*
 - ii. *A strategy should be developed for different community groups (women and youth associations, produce associations, teachers, etc.) to integrate the push for implementation of the decision in their advocacy work.*
4. **International advocacy** has been undertaken directly by MRG and also through the support it has given to community activists to attend regional and global forums to give testimony about their claim. There has been substantial media engagement with national and international print and electronic media, especially since the decision was made and following the ceremony to celebrate the decision. The decision has had significant impact in creating confidence among indigenous peoples in Kenya and beyond about the prospects for pursuing and realizing their rights.

Recommendations

- i. *The EWC Media Strategy currently under preparation should be completed and used to inform the design of a strategy for the Stakeholders Forum.*
 - ii. *EWC should recruit a qualified media person to oversee communications and engagement with the media*
5. **The partnership between MRG, CEMIRIDE and EWC** has functioned very effectively as evidenced by successful completion of the case before the African Commission. Challenges that have been experienced in the partnership have been associated largely with staff movements within MRG and to a small extent within CEMIRIDE. However, the commitment of the institutions to the pursuit of the case has ensured that these challenges are overcome. Following the decision, it is necessary to review the existing partnerships and create new ones.

Recommendations

- i. *MRG, CEMIRIDE and EWC should review their partnership in the light of new developments occasioned by delivery of the decision of the African Commission.*
- ii. *Emerging partnerships between EWC and other actors in Kenya should be strengthened, roles and responsibilities clarified, and links between the new partnerships and the existing partnership between MRG, CEMIRIDE and EWC better defined*
- iii. *The role of Korir in the push for implementation of the decision should be reviewed in the light of his other commitments, so that he is used as an Adviser to backstop a fulltime legal staff*

Annex 1: List of documents reviewed

1. Full Proposal (undated)
2. Logframe
3. ACHPR Communication 276/2003: Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya
4. Constitution and Rules of Endorois Welfare Council (undated)
5. EWC Strategic Plan 2011-2014, July 2011
6. EWC Staff and Community Activists Training Workshop Report, held 6-8 May at Royal Springs Hotel, Nakuru
7. Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya: Briefing Pack for Negotiations with Government of Kenya (undated)
8. Minutes of Endorois Implementation Strategy/ Baring Wrap-up Meeting 28 November 2011
9. The Constitution of Kenya 2010
10. Sessional Paper No. 3 of 2009 on National Land Policy (August 2009)

Annex 2: List of persons met

1. Lucy Claridge, Head of Law, MRG – by phone
2. Wilson Kipkazi, Programme Coordinator and Executive Secretary, Endorois Welfare Council (EWC)
3. Bernard Obara, Programme Officer, EWC
4. Odenda Lumumba, National Coordinator, Kenya Land Alliance (KLA)
5. Cornelius Oduor, Programs Manager, Centre for Enhancing Democracy and Good Governance (CEDGG)
6. Richard Kipyegon, Chairman, Endorois Council of Elders
7. John Yegon, Chairman, Endorois Sports Association
8. Elizabeth Kochei, Women’s Representative, EWC
9. Kipteroi Motoloi, Member, Endorois Council of Elders
10. Selina Chepsat, Community member, Endorois
11. Focus Group Discussion with Elders
 - a. Johana Karatu
 - b. Wilson Kapyekoi
 - c. Wilson Lokotos
 - d. Stanley Kapyekoi
12. Focus Group Discussion with Women
 - a. Grace Chepkurui
 - b. Rael Kiptek
 - c. Targog Kiparar
13. Focus Group Discussion with Youth (Male)
 - a. Solomon Khimollos
 - b. Kipchumba Kipteroi
 - c. Kipchumba Kipon
 - d. Amos Kipnyarkis
 - e. Jeremiah Kiparar
14. Yobo Rutin, Executive Director, Centre for Minority Rights and Development (CEMIRIDE)
15. Daniel Kobei, Executive Director, Ogiek Peoples’ Development Program (OPDP)
16. Abraham Korir Sing’oei, Conflict Management and Rule of Law Specialist, USAID Kenya