

# **MRG Evaluation of the Legal Cases programme**

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December 2007

## **INTRODUCTION**

I was commissioned by MRG to undertake a final evaluation for the Legal Cases Programme, a process required by the FCO who was the first major donor to support this programme, although I understand that the evaluation will also be shared with other major donors including the Ministry of Foreign Affairs of Norway. I had some prior knowledge of MRG's work in this area, having completed a feasibility study prior to any work beginning as well having conducted an interim evaluation after two years of programme implementation. It has been an enormous pleasure to witness the programme grow and develop from its inception and to view at close hand the difference that this programme has made to a number of minority and indigenous communities.

The method adopted for this evaluation is similar to that adopted for the mid term evaluation – with the key difference that I was able to travel to Kenya to meet with MRG partner CEMIRIDE (Centre for Minority Rights and Development) and members of the Endorois community, on whose behalf MRG lodged a petition with the African Commission on Human and Peoples' Rights<sup>1</sup>. A list of persons with whom I met and/or talked via email and telephone is appended to this report. The report will attempt to assess whether the targets of the programme have been met and will also comment on its strengths and weakness. It will offer some remarks for consideration in the hope that they may be useful in planning future work. While the intention of the final report was to evaluate the whole programme, it is suggested that since much of the early part of the work is analysed in the Interim Report, that the two reports should be read together.

The LCP has been running now for just over five years and has already had a significant impact on the lives of indigenous communities in Kenya and Botswana. As was mentioned in the Interim Report, international litigation is a lengthy process and accordingly, years may pass before judgments or other decisions in individual cases are handed down. However, in the Kenyan case to be examined in this report, it is good to be able to report that a number of positive results on the ground have been achieved throughout the duration of the proceedings before the African Commission. This has been beyond the expectations of the people concerned, and also those of MRG and its partner, CEMIRIDE. While there are a number of cases that MRG has successfully supported in a variety of ways, the Kenya case is one deserving of special mention and attention, since it serves as an excellent example as to how

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<sup>1</sup> Hereafter, the African Commission.

international human rights litigation has the potential and scope for bringing about positive and far reaching change for indigenous and minority peoples. It is hard to predict, in the light of the recent violence following the elections in Kenya, whether or not the gains made up to the date of my visit in December 2007, will be sustainable, or indeed whether it will be possible to make more gains in the foreseeable future. The nature of the violence has been truly horrific, and has almost certainly affected persons from the Endorois tribe, among many others. However, it is not the purpose of this report to discuss the violence and speculate upon its long term effects, but rather to evaluate the work done by MRG to further the rights of minority and indigenous peoples.

The LCP can be said to be a highly effective programme with some excellent results flowing from its activities. The quality of the work undertaken is generally of a very high standard. The team, comprising until recently of a Legal Cases Officer and an Head of Advocacy, (the latter has recently moved to another NGO) worked effectively together and received high praise from partner organisations both as to the quality of their work, and the sensitivity with which they conducted themselves. The LCP has built, and indeed continues to build, an international reputation for its expertise on litigating indigenous and minority rights.

The report will examine the work undertaken by the LCP in the following order:

- I Litigation
- II Work related to draft laws.
- III Mainstreaming of litigation in other MRG programmes
- IV General comments relating to all of the LCP legal work
- V The LCP web pages
- VI Summary of suggestions and recommendations

In respect of each section the quality of work will be assessed and where relevant and possible, the value to the community concerned will be assessed. In addition, the strengths and weaknesses of the programme will be highlighted and suggestions will be made for improvement in future programming activities. It is hoped that in this way, this report will serve the purpose of not only informing the funder of the progress made to date, but also indicate to the funder the issues that MRG might consider in shaping its future activities.

Comments and recommendations will be made throughout the report and will be summarised at the end for ease of reference.

## **I. LITIGATION**

From its inception, the LCP has been concerned to engage in strategic international litigation as a tool for advancing the rights of indigenous peoples

and minority groups. To this end, it drafts communications to international human rights tribunals, often in partnership with NGOs on the ground and in close discussion with the groups concerned, it offers advice to litigators who are themselves engaged in litigation either at the domestic or international level, and it drafts third party interventions for submission at either domestic or international level. It also drafts shadow reports for submission to UN treaty bodies. While other areas of work are beginning to emerge, strategic litigation remains at the centre of its programme of work.

During the course of this research, I had the opportunity to examine relevant documentation pertaining to most of the cases in which the LCP has had significant input. For the sake of clarity, this section will be sub-divided into one section examining cases in which the LCP has taken a lead role in submitting to an international tribunal, and a second section for cases in which the LCP has drafted third party interventions and cases in which the LCP has provided advice to other litigators.

Until approximately 18 months ago, litigation was not restricted to any particular aspects of minority and indigenous rights – and the same was true of third party interventions. This meant that the LCP litigated and submitted third party interventions in respect of a whole variety of issues. It was doubtless the right thing to do at the start of the LCP, since it enabled the team to build a broad based expertise at the same time as acquiring a feel for the most pressing issues facing minority and indigenous peoples. At a Council Meeting in April 2006, it was decided that litigation should begin to focus primarily, though not exclusively on two aspects, namely anti-discrimination and land rights.

### **I (i) *Evaluation of the quality of cases submitted to an international tribunal***

The cases to be examined in this section are, the ***Endorois*** (CEMIRIDE (on behalf of the Endorois Community) v Kenya) case before the African Commission on Human and Peoples' Rights, the case of ***Finci v Bosnia*** before the European Court of Human Rights, and the ***Weyeyi v Botswana*** case before the African Commission on Human and Peoples' Rights. While the LCP has undertaken work with respect to other cases, including the ***Kurdish Folk Singer case*** (against Syria) which was submitted to the UNESCO Office of International Standards and Legal Affairs, and has undertaken work on other cases in anticipation of bringing litigation (such as the ***Philippine Sea Nomads case***)<sup>2</sup>, the three cases selected for discussion are those in respect of which the LCP has undertaken a large amount of work.

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<sup>2</sup> This case was on the docket at the stage of the Interim Report. Due to circumstances beyond the LCP's control, and in the light of comments made relating to resources in the Interim Report, LCP involvement in the case has been put on hold.

### **I (i) (a) Endorois case**

This case has been on the LCP's docket now for some years, as a result of which it seems appropriate to make recommendations which may be applied more widely to the LCP's litigation work.

The rationale for selection of this case was commented upon in the Interim Report, but it is worth repeating and enlarging upon, given the importance of this case for the LCP. The choice of this case was clearly an excellent one in that there is a strong partner organisation which is able to work effectively with MRG in all stages of the litigation and indeed in respect of other aspects as well, such as media campaign work, and work relating to the practical advancement of the social and economic rights of the people concerned.<sup>3</sup> There is a strong, if small, body of members of the indigenous group on whose behalf the litigation was brought, who are able to mobilise their people in support of the case. These persons are the Chairman and the Secretary of the Endorois Welfare Council (EWC). There was a clear exhaustion of domestic remedies and a continuing series of violations of the rights of the group concerned with devastating effects on their livelihoods. The facts of the case presented an opportunity to produce results that would affect not just the Endorois, but possibly all indigenous groups in Kenya, and perhaps further afield on the African Continent. Finally, there was an opportunity to generate a useful precedent on the scope of group rights that could help shape international human rights jurisprudence in this area of law.

#### **Quality of the submission to the African Commission**

The arguments made in support of the Endorois was of a generally high quality. However, there were one or two places in which the submission could have been significantly improved; these will be discussed in the Comments and recommendations section below.

#### **Value added to the community and their representatives**

A field visit to meet key persons at CEMIRIDE and as well as a number of the Endorois community, provided a good opportunity to evaluate the work done by the LCP in this case.<sup>4</sup> The two lawyers in CEMIRIDE<sup>5</sup> and the two representatives of the EWC, representing the Endorois community,<sup>6</sup> attested to the excellent advice and support provided by the LCP and the sensitive way the case has been handled. The Endorois case was the first case that CEMIRIDE has litigated at the African Commission. All agreed that the collaboration between the three organisations has been a highly effective one, with significant capacity

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<sup>3</sup> CEMIRIDE is currently in discussion with the Endorois in an attempt to enhance their honey production – by means of putting them in contact organisations in a position to advise about marketing etc.

<sup>4</sup> The visit took place immediately prior to the elections of December 2007.

<sup>5</sup> Yobo Rutin and George Ogembo

<sup>6</sup> Wilson Kipkazi and Charles Kamuren, respectively the Secretary and Chairman of the Endorois Welfare Council.

building of the CEMIRIDE lawyers and the members of the EWC. CEMIRIDE claims that the process of litigating this case before the African Commission has helped generate a significant shift in the Kenyan political climate with respect to its minority and indigenous peoples.

CEMIRIDE and the representatives of the EWC have worked hard to ensure that members of the Endorois Community both understand and support the aims of the litigation. This has been achieved by a series of meetings across the sixteen major settlements of Endorois peoples. Information sharing has not been an easy task, owing to high levels of illiteracy and the lack of most modern amenities such as electricity, roads, and computer access.<sup>7</sup> It is clear that their efforts have been met with a large degree of success – for example evidence of support for the person of Wilson Kipkazi was very clear.<sup>8</sup> Everywhere we travelled over Endorois land, we were met with an enthusiastic welcome.

However, despite the fact that the capacities of the EWC representatives have been enhanced by their involvement in the litigation, and despite their efforts to inform their community, it appeared from discussions with two Endorois elders, (and accepted by the EWC), that members of the community were still largely ignorant of the rights contained in the African Charter on Human and Peoples' Rights. The elders also claimed that there was a real need to train people at the grass roots level – particularly since there is a division in the community between those who support the litigation, and those (allegedly in pay of the government) who are actively engaged in fighting against them. They claimed there was a need for an increased understanding in particular of their rights in relation to natural resources. They further claimed, and this was echoed by the EWC representatives, that there was an urgent need for the EWC to have a physical office from which to conduct all work relating to Endorois rights.

Despite these claims, the elders did accept that as a result of the relationship with the LCP and CEMIRIDE, members of the community have been able to take major steps to protect their interests. This has included meetings with government ministers. They accept that their views are taken seriously by such figures, as a direct result of their international connections (namely MRG). Furthermore, they have gained confidence that has enabled them to employ and instruct lawyers in domestic legal battles. This has included successfully petitioning the Attorney General to reduce charges against certain Endorois individuals who were accused of robbery against mining investors; the charges were reduced to malicious destruction of property.

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<sup>7</sup> Indeed, while I was touring Endorois land accompanied by the Secretary of the EWC, I was asked by some young Endorois men to give an informal talk to them about my role. I spoke to a group of approximately twenty of them for 10 minutes, describing my role as an evaluator, and also expressing my admiration for the gains they themselves had made as a result of their united approach to standing up for their rights.

<sup>8</sup> Although this can in part be explained by the fact that he was a candidate in the recent elections.

### **Media coverage**

The case has generated a large amount of media attention, particularly in the last 18 months or so. This has coincided with the run up to the parliamentary, presidential and local government elections, with the result that minority and indigenous issues have been debated and taken seriously by the candidates. Devolution of power has also become a matter of national political debate, with manifestos relating to regional perspectives including pastoralist areas.

### **Other actions taken by the community**

The litigation at the African Commission was also central to the ability of the Endorois in putting a stop to ruby mining on their current lands. Mining concessions were granted by the government to private companies who began mining without carrying out an environmental impact analysis. None of the profit from the mining accrued to the Endorois, and in addition mining activities polluted the water used by the community for drinking and cooking, causing serious illness. The Commission called for interim measures, requiring the mining to cease until the outcome of the case. At first the Kenyan government ignored these measures. However, the Endorois themselves took action, including peaceful demonstrations, and meetings with relevant governmental agencies. As a result of these actions, all mining activities ceased. My visit to the site in December 2007 revealed an abandoned mining enterprise, with equipment including several large JCB vehicles worth many thousands of pounds, left behind to deteriorate in the heat of the sun. This is a real, if temporary gain about which the Endorois are justly proud. The action taken by the Endorois was not without cost; many of them were arrested and charged with serious offences (as mentioned above).

### **Capacity building**

The Endorois litigation has generated interest in a community neighbouring the Endorois, namely the Ilchamos people. As a result, a number of the Endorois community met representatives from the Ilchamos to discuss the case, the LCP gave them some advice and CEMIRIDE assisted them in successful litigation before the Kenyan Constitutional Court. The central issue in that case was the discrimination suffered by the Ilchamos in the political sphere. The Constitutional Court delivered a judgment defining for the first time in Kenya, the meaning of a minority; this is a significant jurisprudential development. Further, the Court ordered the Kenyan Electoral Commission to create a constituency and an additional seat in Parliament, stating that the Commission had previously discriminated against the Ilchamos.<sup>9</sup> The Endorois in turn have relied on the result in the Ilchamos case to make representations to a government Minister, claiming their own constituency too. Clearly the Endorois case has generated a

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<sup>9</sup> This will require a constitutional amendment; during the last parliament, a proposal to amend the constitution was rejected. However, given the Constitutional Court's ruling, the next parliament will not be able to ignore the issue.

national debate on minority and indigenous rights. In a state with many such groups<sup>10</sup>, this is highly significant.

CEMIRIDE reports other direct results from the Endorois case. As a result of the media attention attending the case, other communities have approached CEMIRIDE for assistance. This in turn has led it to assist two communities, namely the Nubians and the Wagalla Somalis, in lodging cases with the African Commission on Human and Peoples' Rights.

Interestingly, CEMIRIDE's work in other areas beyond minority and indigenous rights has also been enhanced, also as a result of the Endorois litigation. The progress made in this case has caused CEMIRIDE to think about justice promotion more generally. To this end it is in the process of putting together a proposal to establish a disability legal aid clinic with some twenty other stakeholders. To date the proposal has received expressions of interest and encouragement from Human Rights Watch and the Dean of the Law Faculty of the University of Denver. The Kenyan Law Society has allocated space for an office to house the clinic. While this work is still at the planning stage, the fact that it is subject to real and serious discussion among stakeholders, is further testimony to the dynamic potential of strategic litigation.

### **Position of women**

Other significant results have flowed from the Endorois litigation. With regard to the Endorois themselves, increased free access<sup>11</sup> to the land for grazing round Lake Bogoria (from which they were evicted in 1973) was reported. In addition a sea change has occurred with respect to the position of women within their community. CEMIRIDE and the EWC attested to the fact that until recently, women did not have a voice within their community. However, as a result of MRG's Pastoralists Programme which has been working with the Endorois for a number of years, women had already begun to gain increased confidence. Building on this, women were actively encouraged by the EWC to attend a number of relevant meetings in order to create an awareness among them, of both the litigation, and wider issues affecting their lives as pastoralists. For example, in 2006, a workshop on women and leadership hosted by MRG was attended by a number of Endorois women.<sup>12</sup> The EWC states that it takes care to ensure that women as well as men feel ownership over the case and that women are heard and their opinions taken into account.

As result of these actions, women have begun to take a more active role in diversification of livelihoods. Women have taken the lead in moving away from a purely pastoralist way of life, to engaging in agriculture, for example growing

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<sup>10</sup> I was told that there were at least 42 tribal groups – but the figure could well be more. However, five dominant communities together represent approximately 70% of the Kenyan population.

<sup>11</sup> Some access had been granted before, on payment of fee.

<sup>12</sup> Although this meeting was not hosted by the LCP itself.

maize and tomatoes. They have also taken the lead in producing honey for sale at small stalls by roadsides to generate income. Endorois women have grouped themselves together and sought legal registration with the government, in order to encourage their own economic empowerment and find markets for their goods. Growing confidence among Endorois women has also led them to defend their cultural traditions, and many have recently formed dance groups to this end. In 2004, the Endorois held their first ever cultural festival to which the Minister of Culture was invited. The Minister sent an assistant, a woman, with whom the Endorois women were able to interact. Meetings such as these, where rural indigenous women encounter women in power, seem to have the effect of further increasing the confidence of the former.

Women further afield have also been empowered by the events surrounding the Endorois case. It was said that some 15 Kenyan pastoralist women stood for civic and parliamentary elections this year, (including one Endorois woman who was standing for the local election) something that was unheard of before.

### **Related government action**

During the course of the litigation, the African Commission indicated it wished to conduct a site visit (something which in the event it never did). It appears that as a direct result of this, the Kenyan government took action to improve amenities on Endorois land by building a number of schools and health centres; conversation with the EWC representatives revealed that these amenities were warmly welcomed and used by the community. This government action alone poses a serious challenge to arguments which abound in human rights circles, that litigation before the African Commission is a futile exercise owing to the unenforceability of its decisions. These are real and significant gains which will have long term benefits to the Community – albeit that they do not directly address the human rights violations alleged, themselves.

### **Comments and Recommendations**

It has only been possible, given the general task of this report, to give a snapshot of the gains of the Endorois litigation. The on-site visit was invaluable in providing insights that could not have been gained so easily otherwise. The very strong impression gained from reading the files and talking with the people involved in the litigation, is that the ***process of engaging in litigation*** has greatly empowered the community in ways that could not have been foreseen at the outset.

### **Submission on the Merits**

As stated above, this was of a generally high quality, with some areas that merit attention, if only for consideration in future litigation.



The first point is relevant to most of the LCP legal work output; each submission needs to state very clearly on whose behalf it is being made (ie submission on the merits by the applicant), and include the date of submission. The other points relate to a matters of substance. Nowhere in the submission is reference specifically made to fact that the allegations amounted to continuing violations of the rights protected by the Charter. This issue was raised at the admissibility stage of the proceedings, but it is vitally important that the argument is continued at the merits phase. The reasons for this are:- (i) to maintain consistency from admissibility to merits phase (ii) to prevent the respondent state from attempting to re-open admissibility arguments during the merits phase, (iii) to ensure the Commission itself does not conclude that since the argument has been dropped, it cannot rule on the substantive issues at stake. It must be noted that in this case, the only basis on which the Commission could find certain of the violations alleged, was on the basis of a finding of a continuing violation. The violations occurred at time before the entry into force of the African Charter – it is crucial that where this is the case, that legal arguments focus around the fact that the violations have continued and are continuing. Failure to do so can be fatal to the outcome of a case. Lastly, arguments relating to the right to development towards the end of the submission look like they were taken from another piece of work and do not seem to be quite tailor-made for the case. While it is of course good to build on expertise developed in other parts of the programme, it is suggested that in future particular care is given to ensure that all arguments are carefully crafted for the case in hand. This will assure a consistently high quality of output.

### **Empowerment of women**

The empowerment of women was particularly striking, although this is set against the background of years of work already undertaken by the Pastoralists Programme. Nevertheless, the litigation has served to highlight that great strides have indeed been made with regard to the advancement of the rights of women in this tribe. Efforts have been and continue to be made to include women in discussions and information sharing relating to the litigation; it seems that this may have strengthened a trend that had already begun to develop, namely for women to become more active in the lives of their community at both an economic and cultural level, but also, to a limited extent at a political level. The empowerment of women looks likely to have an impact on the overall wealth of the community in years to come. In this regard, CEMIRIDE has facilitated discussions between Endorois women and the London-based Gatsby Charitable Foundation in an effort to secure a market for their honey. Meetings with other stakeholders, such as marketing consultants have also been facilitated. It is suggested that lessons learned in respect of the Endorois litigation be implemented in other litigation so as to ensure the maximum impact for women as well as men, across the board. The litigation arose from MRG's Pastoralists Programme; in the context of the empowerment of women in particular, litigation in this case has served to demonstrate the great potential for strengthening and building upon gains already made by an existing programme.

### **Capacity building**

The litigation process has certainly resulted in capacity building. The two representatives of the EWC stated that they had gained an enormous amount of knowledge in respect of the workings of the African Commission, human rights in general and indigenous and minority rights in particular. However, they are educated persons who have moved away from the land and live in towns far distant. There is still some way to go, in building the capacity of other members of the Endorois community. There is also some suspicion among some quarters, that the EWC is simply an income generating enterprise, with the Chairman and Secretary profiting. It is felt by these two men that a physical office, staffed with a permanent employee, would go some way to allay these suspicions and would help with capacity building and information sharing. An office would be able to house all relevant printed and audio visual material, to which members of the community could have access. This will be discussed below under a separate sub-heading.

One concern that was expressed to me was the apparent reluctance of the LCP and CEMIRIDE to facilitate the attendance of elders at the Commission's hearings. Lengthy discussion of this matter as well as the fact that no Endorois women attended any of the hearings, were held with the EWC and CEMIRIDE. It is evident that severe financial constraints limit the number of persons able to participate. However, given the amount of capacity building that accompanies attendance of such hearings (including informal meetings in the corridors), it is suggested that consideration be given to fundraising for the specific purpose of enabling women, elders and other key members of communities, to attend hearings in relevant international legal proceedings. This is particularly important in instances like the Endorois case, where the official representatives of the community in question no longer live among their people.

The lawyers in CEMIRIDE who had hitherto only engaged in domestic litigation, stated that they had gained important experience in litigating before the African Commission on Human and Peoples' Rights. This fact is borne out by the fact that CEMIRIDE has now lodged two further petitions to the African Commission.

### **Permanent office for EWC**

There appear to be other good reasons for the establishment of an office for the EWC (as discussed above). The implementation of the Commission's ruling (assuming a favourable ruling) will become a pressing issue in the coming months, which would no doubt be greatly facilitated by a staffed office. While supporting the establishment of an office is clearly not a priority of litigation, it is recommended that MRG consider ways it might assist to this end. Perhaps MRG

would be able to furnish CEMIRIDE with contacts with relevant donors, for example. Moneys might then be able to be sent directly to the office.

### **Financial aspects of the case**

Closely allied with the above, is the financial aspects of the case; the one issue over which there was real concern in the conduct of this case concerned finances. There was concern over both the amount of money available from the LCP, and also the speed with which money was transferred. In relation to the former problem, it was noted that the funds available were very limited. In relation to the latter problem, concern was expressed that funds were disbursed very slowly, causing difficulties for CEMIRIDE in particular. The EWC further noted that by the time the money had gone through MRG and CEMIRIDE, a certain amount had been lost in the administration costs of both those organisations.

It is suggested that it might be possible to circumvent these difficulties, if a properly staffed (ie with accounting skills in-house) office were to be formed for the EWC.

### **Media strategy**

There were complaints at the stage of the Interim Report, that the LCP and MRG more generally had not been sufficiently active in harnessing media attention for the case. It is fair however to say that the LCP was and continues to be constrained by the Commission's own rules that insist on confidentiality of legal proceedings. This meant that the LCP in particular, and MRG more generally, had to consider alternative methods for creating media interest in this issues. To this end, MRG launched the Trouble in Paradise Campaign at the World Social Forum touching on all relevant issues in the case, without specifically discussing the case pending before the Commission. Thus, during the last two years or so, CEMIRIDE feels that a more attention has been paid to the development of a planned approach to the media. Indeed, it was apparent that discussions were ongoing relating to the development of a media strategy to accompany the final ruling of the African Commission (expected in April 2008). That strategy adopted is effective is attested to by the fact that minority and indigenous rights have become a matter of national public debate. Notwithstanding the improvements made with respect to the media, CEMIRIDE feels that MRG could do more work to ensure a consistent media campaign, particularly as CEMIRIDE itself is relatively inexperienced in this regard. It is suggested that the LCP and MRG consider whether there is more work that can be done to improve their media campaign in respect of this case, and with regard to litigation more generally. Media campaigns need to be considered for the entire duration of the litigation.

### **I (i) (b) Botswana Weyei case**

The choice of this case was commented upon in the Interim Report. This case has also been on the LCP's docket now for several years, though unlike the **Endorois** case, the LCP's engagement with it has involved several human rights fora. The LCP works with Reteng<sup>13</sup> which is a coalition of minority communities in Botswana, and Kamanakao which represents the Weyei community. The case concerns the discriminatory nature of the Chieftain Act which limits access to the House of Chiefs to Tswana speaking tribes. As a result of this Act, only eight of the forty tribes in Botswana are represented in the House of Chiefs. The Weyeyi tribe challenged the law successfully in the domestic courts, but the Botswana legislature has failed to make the necessary changes to eliminate the discrimination.

The LCP worked together with its partners to submit a petition to the African Commission; the LCP undertook the vast bulk of the work in drafting the process, with the partners having many opportunities to provide comment and critiques. The Commission became seized of the matter in November 2006 but so far there have been no decisions in the case. A hearing had been anticipated in November 2007, but a request for a postponement was made and granted. This was effected owing to the fact that the partner organisations were invited by the President of Botswana to discuss the issues raised in the case. This is of considerable significance as this marks the first time that the Weyeyei have been asked to engaged in such a discussion in the course of their decade long struggle. The quality of legal arguments contained in the submission on admissibility to the African Commission is generally good.

In addition to submitting a petition to the African Commission, the LCP worked with its Botswana partners to submit a shadow report<sup>14</sup> in 2006 to the UN Committee on the Elimination of all forms of Racial Discrimination (CERD). The quality of legal arguments contained in the Shadow Report to CERD varies. It was generally well researched, well argued, appropriate and to the point. However, some parts of it are of a lesser quality; in particular, some parts were clumsily expressed and a number of conclusions drawn in the report seemed to emerge from nowhere.

Reteng has also, with LCP support, made a submission to the UN Working Group on Minorities in 2004 and submitted a shadow report to the UN Human Rights Committee in May 2007. The latter report was drafted by Reteng with the LCP commenting on it, marking an encouraging shift in responsibilities; it is evidence of an increase in capacity on the part of the local partner. Botswana's state report is due for consideration in March 2008, at which time it is hoped the Human Rights Committee will address the matters raised in the shadow report.

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<sup>13</sup> Reteng is a coalition of thirteen minority communities in Botswana

<sup>14</sup> Shadow reports are reports usually drafted by NGOs and submitted to UN treaty bodies, to supplement and challenge the information received by those bodies from governments fulfilling their reporting obligations.

The UN Working Group on Minorities report of March 2004<sup>15</sup> makes specific reference to the subject matter contained in the submission made to it concerning non Tswana tribes, namely the discriminatory nature of the Chieftain Act, the fact that non Tswana groups are denied language rights on a par with Tswana speaking groups, and the allegation that the Weyeyi chief died in suspicious circumstances. As a result of the representations made, the Working Group called upon the Government to enter into “meaningful dialogue” with the non-Tswana-speaking Groups. It further called the Government to ratify the International Covenant on Civil and Political Rights, to provide for immediate use of minority languages in the state media and in education, to provide for state recognition of non-Tswana chiefs chosen according to their customs, and to appoint a coroner to conduct an inquest into the death of the Weyeyi chief.

Prior to the partnership with the LCP, Kamanakao had submitted a shadow report to CERD, which the LCP subsequently pursued by requesting CERD to implement its follow-up mechanism. As a result of this request the follow-up mechanism was invoked in this case, and marked the first occasion CERD has ever done so; this was discussed in the Interim Report.

Most of the work on the ground is undertaken or organised by the Kamanakao representative, Ms Lydia Ramahobo; she undertakes work in the name of both Kamanakao and Reteng. Ms Ramahobo is not a lawyer, with the result that all the legal work needed to be done on the ground in support of this case, must be undertaken by a private lawyer. Several have been employed during the course of this case; their fees have been paid for by the LCP and are reported to be high.

Ms Ramahobo reported that the relationship with the LCP was very profitable. She has a high regard for the quality of the advice she has received and for the sensitive and professional way in which all aspects of the case were handled. In particular, she cited the way in which the LCP listened to what the community wanted, having meetings with twelve representatives from twelve villages; she compared this with the fact that a previous Botswanan lawyer acting on their behalf had never once even met the Weyeyi people.

A number of positive results for the Weyeyi community are reported to have flowed from the LCP’s partnership with Reteng. They are as follows:

- (i) The Botswana government has officially accepted the existence in Botswana of tribal groups other than Tswana groups as evidenced by a presidential speech on 25 November 2006
- (ii) The Weyeyi were able successfully to oppose the government’s attempt to evict them from the Okavango Delta in 2005
- (iii) The Botswana government is willing to engage in negotiations with the Weyeyi to have their chief recognised

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<sup>15</sup> E/CN.4/Sub.2/2004/29, 8 June 2004

- (iv) The Botswana government have indicated their willingness to allow teaching to be conducted in local languages (including the language of the Weyei); financial resources are now the only constraint.
- (v) The Minister of Communications Science and Technology engaged in a consultation on a bill to establish local radio stations to broadcast in local languages and promote local culture.

These results are significant not only for the Weyei people, but also for all non Tswana tribes in Botswana.

There has been a large element of capacity building in the course of the LCP's involvement in this case. Ms Ramahobo states that there is a good level of understanding among her community of the African Commission and the African Charter, including issues relating to admissibility, and the same applies for her organisation and RETENG. She reports that the knowledge about minority rights acquired during the partnership with LCP has contributed to a much greater understanding of such rights within the two organisations. She believes that both organisations are better equipped to undertake similar work unaided, or with less assistance in the future. However, she alone has been able to travel to Geneva to attend relevant meetings. She feels it would be useful for other members of Reteng to be able to do so in future in order to improve the capacity of that organisation.

There is still room for more capacity building, on a more formal basis. Ms Ramahobo noted that when the Legal Cases Officer visits Botswana, she is very pressed for time. She expressed the desire for the Legal Cases Officer to build in time to undertake some training for the leaders of Reteng. Further, she expressed the need for some "how to" tools, in order to mobilise the community. By this she means small pamphlets discussing various approaches to communicate with government officials.

As part of capacity building, meetings are held in the villages to share information about the case. Such meetings tend to be combined with cultural activities, in order to ensure maximum attendance.

Publicity for the issue of minority rights in Botswana is reported to have improved over time, especially at the international level, as a result of the LCP support for the Weyei case. The LCP distributes relevant information to various outlets and organisations including the SADC Secretariat.<sup>16</sup> In 2005, for example, SADEC published an article on the internet relating to minority rights in Botswana, helping to disseminate information across southern and eastern Africa. Prior to LCP involvement, Botswanan authorities had exerted pressure over the media, preventing fair coverage of the case. Since the LCP became involved, it appears that domestic media coverage has improved.

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<sup>16</sup> SADC is the Southern African Development Community

## Comments and recommendations

### Multi-prong approach

The LCP's involvement in this case illustrates the benefits that can be had from a multi-prong approach. During the initial stage of involvement, when legal research was required to determine whether domestic remedies had been exhausted<sup>17</sup> the LPC was nevertheless able to take other action on the international level; the submission of letters to CERD and the submission of a shadow report, as well as the submission to the UN Working Group on Minorities were thus able to maintain pressure on the government, and at the same time to generate media attention on the matter. As a result, some changes in official attitudes were achieved. Even where litigation at the African Commission had begun, further action was able to be taken, in the shape of a shadow report to the UN Human Rights Committee.

During the initial phase of involvement reported on in the Interim Report, the LCP was able to prompt CERD to invoke its never before used follow-up procedure. To this end, CERD entered into a dialogue with Botswana over its treatment of non Tswana tribes and its obligations under the Convention on the Elimination of all forms of Racial Discrimination. It urged the Botswana government to implement changes to remove the discrimination in respect of the House of Chiefs. While CERD's actions did not prompt immediate change in favour of the Weyei, it can be argued that the publicity attached to this action was one of the factors that has led to a change of official approach to discrimination against non Tswana peoples.

The LCP's involvement in drafting a shadow report for CERD relating to Botswana's treaty obligations was beneficial to Kamanakao and Reteng; it not only improved the quality of the submission (over a previous shadow report), but also enabled some transfer of skills to the Botswanan organisations – as is borne out by the subsequent shadow report prepared by Renteng and submitted to the UN Human Rights Committee (mentioned above). The shadow report submitted to CERD served to ensure that CERD maintained pressure on the Botswanan government during the consideration of its state report in March 2006. In its Concluding Comments, CERD stated that it:

“reiterates its concern about the discriminatory character of the Chieftainship Act, as recognized by the High Court of Botswana in the case of *Kamanakao and others versus Attorney General of Botswana*, of 23 November 2001. It notes with concern that the State party has not yet amended the Chieftainship Act and other laws where necessary, as ordered by the High Court.”<sup>18</sup>

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<sup>17</sup> before deciding to implement proceedings at the African Commission

<sup>18</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination, March 2006, CERD/C/BWA/CO/16

Ms Ramahobo testifies to the fact that the LCP's comments on her draft the shadow report for the UN Human Rights Committee were useful and constructive. It is not possible to comment on the effectiveness of this report, since it has yet to be considered by the Human Rights Committee.

The decision to initiate proceedings before the African Commission was taken in close consultation with the Weyei people. It is very early to make an assessment of the impact of these proceedings, since there hasn't yet been a hearing on admissibility.

The multi-prong approach in this case is to be commended; it represents a real attempt to maximise the potential of all available avenues for redress and has also served to maximise pressure on the government. There is evidence to suggest that such an approach is effective in encouraging dialogue with governments and in acting as a catalyst for a change in government policy. Ms Ramahobo states that there have been a number of significant changes in the government's response to minority issues resulting from the partnership with the LCP. While the changes have not yet remedied the discrimination against non Tswana tribes, there is at least a willingness to address some relevant issues. It appears that international media attention on the case of the Weyei has been instrumental in effecting such a change in official attitude. It is recommended that such an approach be replicated wherever possible and practicable in other cases.

### **Capacity Building**

There is evidence that there has been some capacity building in the conduct of this case, as already noted above. There is real value in considering the inclusion of other members of Reteng in trips to Geneva, as suggested by Ms Ramahobo; since Reteng is a coalition of other minority communities, it would make sense to send representatives to relevant meetings, so as to ensure a greater spread of capacity building. It is suggested that consideration be given to this matter. There is clearly a desire for capacity building to be more formalised, via training and distribution of pamphlets. It is suggested that consideration could be given to building in training time into visits – perhaps involving a half day workshop to inform community members on the basics relating to their human rights. The workshops could also be attended by Reteng members, so as to ensure a wider spreading of knowledge to other tribes. Suggestions will be made below relating to the drafting of briefing papers on various aspects of indigenous and minority rights; it is proposed that briefing papers should serve both the internal purposes of MRG, and also the purposes of MRG partners in the field. They could form the basis for training workshops.



**I (i) (c) Bosnia case**

The LCP worked directly with the victim-litigant in this case, himself a lawyer, there being no partner willing and able to collaborate with it. This is a real pity, since there is only a very limited amount of capacity building that can take place in these circumstances. According to both the LCP and the litigant, there are few Bosnian NGOs with the relevant expertise to undertake litigation at the regional or international level. Despite this difficulty, the choice of this case nevertheless appears to have been a good one, since it challenges a key aspect of the Dayton Accords, and the Bosnian Constitutional framework. This is not to suggest that the case is designed to undermine the peace; rather it is designed to challenge the perhaps unwitting result of the Dayton Accords, that is, that they prevent persons who do not self identify as Serb, Bosniak or Croat (Constituent Peoples), from running for Presidential elections or for elections to the House of Peoples. This means that Jews, Roma or any person from another minority group are prevented from running for Presidential or parliamentary elections. The applicant in this case is a prominent public figure who is a Jewish Bosnian. The LCP worked closely together with the Director of the Human Rights and Genocide Clinic of the Benjamin Cardozo Law School to prepare the application to the European Court of Human Rights. Mr Finci was also closely involved in formulating the arguments in the case, having in particular, attended a week long meeting in New York with both organisations. His case was submitted to the European Court of Human Rights in January 2006; a decision on admissibility is awaited.

Mr Finci himself has, as result of his involvement in the litigation, acquired knowledge pertaining to the process of lodging a case involving minority rights before the European Court of Human Rights. In this regard, he states that he would be ready and very willing to participate in training workshops designed to strengthen the capacity of local lawyers and NGOs.

Mr Finci and the LCP held discussions together on how best to ensure maximum publicity for this case as a result of which a meeting was planned to take place in during the autumn. It was hoped that I would be able to attend such a meeting as part of this evaluation. In the event, the meeting did not take place owing to the planned size of the anticipated meeting relative to the money available from the LCP. Mr Finci and the LCP are currently engaged in fundraising within Bosnia in an attempt to secure sufficient money to stage a meeting in March. He anticipates inviting legal experts, politicians from across the political spectrum and foreign human rights NGOs operating in Bosnia Herzegovina; the media will also be invited.

Mr Finci discussed issues relating to media attention for his case with the LCP, but reports that he has essentially conducted his own media campaign; he states that he is very happy with this relationship to date. His campaign has tended to consist of interviews with print media, including an interview with the Jerusalem Post, causing discussion of the issues in his case in Israel. However, MRG's media team were instrumental in securing this interview, having previously contacted the Jerusalem Post about the case. At home, in his 2008 New Year's speech, the Bosniak President spoke in favourable terms about Mr Finci's case, mentioning it by name, thereby ensuring a high public profile for the issue of minority political representation.

In addition to the legal proceedings before the European Court of Human Rights, the LCP submitted shadow reports jointly with the Benjamin Cardozo School of Law, Human Rights and Genocide Clinic, to the UN Human Rights Committee and the UN Committee for the Elimination of Racial Discrimination. The applicant was not involved in the drafting of these submissions; he reported that he had absolute confidence in the ability of both NGOs to draft relevant arguments. The Concluding Observations of both these Committees expressed concern over the relevant constitutional provisions, calling for the State party to engage in constitutional and legal reform.

### **Comments and recommendations**

The case poses a serious challenge to a constitutional framework that was viewed as necessary to put an end to the war during the mid 1990s, but whose justification no longer appears tenable after more than twelve years of peace. The LCP and the Benjamin Cardozo Law School were presented with the opportunity to litigate on this important issue, but there being no local partner able and willing to collaborate, have had to litigate without one. As mentioned above, this has presented shortcomings from the point of view of capacity building. While it is accepted that local NGOs may not currently have the capacity to act as a partner in this case, this clearly does not mean that there is no scope for building local capacity. It is suggested that consideration should be given as to how best to maximise the potential of this case by for example, engaging in training activities with local NGOs relating to the facts of the case, and the various actions taken with regard to it, drawing on the goodwill of Mr Finci himself. This could have the dual effect of building local capacity and also generating publicity and momentum towards reform. It may be that the LCP cannot engage in such activities alone, or at all; but other departments of MRG or indeed other international NGOs may be in a position to undertake such work. It would be a pity to lose out on an opportunity to effect real and lasting change in a young democracy.

Like the Botswana case, the LCP has used more than one avenue to pursue change favouring minority groups in Bosnia, namely the CERD and UN Human

Rights Committee. Again, this approach served to ensure and maintain maximum international pressure is brought to bear on the government concerned.

### ***I (ii) Evaluation of third party interventions and other litigation support***

The LCP has submitted third party interventions in a number of cases before a variety of fora, namely the European Court of Human Rights, the Inter-American Court of Human Rights, the UN Human Rights Committee, a Turkish domestic court and a Cameroon domestic court. Third party interventions are a very useful way for an NGO to get involved in and influence litigation, without the burden of conducting the litigation itself. NGO input can be crucial in assisting a court or tribunal in developing its jurisprudence. It is clear from the files, that a number of the third party interventions prepared by the LCP have been influential on the court or tribunal in question.

Cases in which the LCP has provided litigation support to lawyers already engaged in litigation are also covered in this section. Such support includes the provision of advice on indigenous and minority right for incorporation into domestic legal arguments, the provision of witness testimony, and the provision of materials to support international litigation.

Due to the relatively large number of third party interventions and pieces of litigation support, a representative selection of such pieces of work will be referred to and discussed in this section; they are illustrative of the success that has been achieved in this part of the programme. In addition, some general comments will be made in the hope that they will be useful for the development of future efforts to support other NGOs in their litigation efforts.

The LCP submitted a third party intervention to the Grand Chamber of the European Court of Human Rights in the case of ***D H and others v Czech Republic***, concerning the automatic placement of Roma children in schools for children with special needs. The Chamber of the European Court of Human Rights had held by 6 votes to 1 that there had been no discrimination in the enjoyment of the right to education of Roma children. Upon a referral to the Grand Chamber of the Court, the decision was reversed, with 13 votes to 4 that there had been such a violation. While MRG was not alone in submitting a third party intervention, the Grand Chamber did refer to the LCP submissions in the oral hearing and in its judgment.

The case of ***Tasmanian Aboriginal Centre v Natural History Museum*** provides a good example of litigation support offered by the LCP. In this case the LCP was asked by the lawyers for the plaintiffs to submit witness statements

to the High Court in London on behalf of the TAC who were seeking to prevent tests being carried out on the bones of Tasmanian Aboriginal remains held by the Natural History Museum in London. The reason for this was that there were no other domestic lawyers with sufficient expertise on indigenous rights. It appears that at the outset of the litigation, the Natural History Museum took a rather hard line and aggressive approach, determined to press ahead with their tests. However, the witness statements provided by the LCP testified to international law pertaining to indigenous peoples and were crucial in encouraging the respondents to go to arbitration. The material contained in the witness statements was based on the LCP's accumulated knowledge in the field. The statements were reportedly discussed at length during these arbitration proceedings. One of the barristers for the plaintiffs asserted that the LCP involvement was "an authoritative voice in the proceedings" which added "real weight ... their submissions were faultless and of the highest quality". The result of arbitration proceedings was favourable to the plaintiffs; the remains were returned to them, after only a strictly limited number of tests that were specifically agreed upon by the parties.

Another case in which the LCP has had a significant input by means of litigation support and where this has had an impact is the case of *Yumak and Sadak v Turkey*. This is a case litigated by a Turkish lawyer which relates to the 10% national electoral threshold required by Turkish law; candidates of political parties which attain less than 10% of the national votes cast cannot be elected to parliament even where they attain far in excess of such a threshold at a regional level. The applicants are Kurds who were leading candidates for a Kurdish party; they stood for election in South East Turkey, and despite attaining nearly 46% of the vote, the applicants were not able to secure a seat in parliament. They claimed that the 10% threshold constituted an interference with the free expression of the opinion of the people in the choice of the legislature contrary to Article 3 of Protocol No. 1 of the European Convention on Human Rights. The Chamber of the European Court of Human Rights found by five votes to two, that there had been no violation of the Convention. The litigator requested the assistance of the LCP, as a result of which the LCP drafted a request for referral of the case to the Grand Chamber of the Court; permission was granted. This is an achievement worthy of noting, even if it does not mark an end in itself. Permission for a referral is not axiomatic. A request must successfully argue that the case raises a serious question affecting the interpretation or application of the Convention (or its protocols), or a serious issue of general importance. The LCP's involvement in the case did not stop here; as a result of further discussion with the Turkish lawyer, the LCP submitted a third party intervention in the case before the Grand Chamber. It also assisted the lawyer in drafting the applicants' submissions to the Grand Chamber.

It is too early to comment on the impact of the intervention or other input in the case before the Grand Chamber, since judgement in the case is still awaited. However, it can be said that the quality of the LCP's input was high; the third

party intervention was well argued. It can also be said that the LCP's involvement in this case was certainly appropriate and worthwhile, since it was presented with the opportunity of challenging an electoral threshold that is higher than anywhere else in Europe, and effectively discriminates against Kurdish parties. If successful, this case would mean that Turkey would be obliged to amend its laws to remove this discrimination, thereby allowing representation of Kurdish parties in the Turkish national parliament. It would be a remarkable achievement.

Another case involving Turkey in which the LCP has had a significant role is the ***Kurdish Names*** case. Turkish law bans the use of letters Q X and W; approximately 25% of Kurdish names use these letters, but the ban operates to refuse Kurds permission to spell their names with them. The LCP worked over a long period of time with the Turkish NGO litigating this case, TOHAV. TOHAV has a long and established reputation for litigation before the European Court of Human Rights, but mainly in respect of cases involving issues such as torture and killing. The LCP assisted TOHAV in drafting the application to the European Court of Human Rights which was submitted in 2005; the case has not yet been communicated to the Turkish Government, owing to a backlog in cases involving Turkey.

The quality of the arguments in the application submission varies, but it does succeed in covering all the main points. It must be pointed out that much of the work done in this case was done at an early stage of the LCP's life; it was reported on in the Interim Report.

TOHAV reports that the relationship between it and the LCP has been a very effective one, with the LCP assisting not only in drafting the submission to the European Court of Human Rights, but also in determining the strategy to be adopted in the case. The applicants are also reported to be happy with the LCP assistance. TOHAV testifies to a large element of capacity building with regard to litigating on minority rights cases. It states that it has learned much from the case law pertaining to Article 14 (non discrimination) and Art 8 (right to private and family life) of the European Convention on Human Rights and is better able to lodge cases in relation to these two rights. Other activities that TOHAV has engaged in as a result of its engagement with the LCP, include workshops on discrimination.

In addition to the cases cited above, the LCP has also provided litigation support in the form of advice to NGOs, and the preparation of briefs including third party interventions on specific aspects of minority or indigenous rights for submission in domestic courts, in a number of cases. Taken together, the LCP has provided support across a wide spectrum of minority and indigenous rights.

## **Comments and recommendations**

The LCP has engaged in a wide variety of issues through its third party interventions and litigation support. As can be seen from the cases selected for comment, many of the cases in which support has been given have led to some positive outcomes. This is testament both to the wise choice of cases for LCP involvement, and also of the quality of the output. While, as mentioned above in relation to litigation, in the early days of the programme it was probably a sensible choice to engage in cases across the spectrum of minority and indigenous rights. It is suggested that the decision to narrow the LCP's primary focus to two issues will prove to be a sensible and profitable approach in view of the LCP's limited financial and staff resources.

In general, the quality of the third party interventions and the advice given to NGOs has been good or excellent. However, almost inevitably, there were some pieces of lesser quality, for example the intervention in the *Triunfo de la Cruz* case. In this instance, due to the fact that the facts of the case were not set out in the beginning paragraphs, it was difficult to follow. In particular, the following issues stand out: (i) it was hard to understand precisely how the right to development was connected to the issues at hand; (ii) the intervention failed to draw out important facts from the relevant case law, such as which treaty provisions had been violated (iii) it asserts that the Commission should find a violation of two provision that were not in the applicant's claim (Articles 11 and 26). Overall, it suffered from a lack of a clear appreciation of the role of a third party intervention.

There are a number of areas in which improvements can be made to ensure greater consistency in the quality of output and indeed to ensure a larger output. In addition, there is work that can be done to ensure that the reach of each of these pieces of work can be widened. It is suggested that efforts to streamline or standardise work output will serve to increase the efficiency of the LCP, freeing up time to enable it to engage in more cases, or to engage in training activities. Suggestions on how to achieve standardisation will be made in **Section IV** below.

It is suggested that serious consideration be given to the issue of value added in cases in which several NGOs are already lined up to submit third party interventions. If there is likely to be no or only limited value added, it is suggested that either the LCP declines to get involved, or alternatively, attempts to add its name to a submission prepared in the main by another NGO. This way, the MRG's profile is retained, without having to expend large amounts of energy and time on the case. In one instance the LCP submitted an intervention in a case in which some nine other NGOs also submitted interventions; two other NGOs and several American universities represented the litigants. There may have been good reason to go ahead and submit an intervention in this case – but it must be

admitted that this was not immediately clear; the intervention was made on an issue that was not before the Court in question.<sup>19</sup>

In one case, an NGO asked the LCP for assistance in a case it wished to litigate before the African Commission. The complaints in the case appeared to be similar to those made by the LCP in the Endorois case. The LCP responded by sending an amended version of a submission it had made previously to the African Commission in the Endorois case. The LCP clearly spent some time attempting to amend the submission to reflect as far as possible the facts in the new case. It is suggested that a more efficient response to this NGO would be simply to send the Endorois submission without any amendments, but excising the confidential material. A covering letter could be sent with it explaining any relevant information that the NGO would need to include, and offering, if relevant, to provide further support in future. Indeed, it is suggested, as will be mentioned again below, that all submissions to international tribunals, as well as all third party interventions, should be made available on the website. This will have the effect of extending the reach of the LCP's work beyond the cases on which it works.

In view of the fact that the LCP is now primarily focusing on two themes, it might be considered beneficial actively to seek opportunities to submit third party interventions in cases involving these themes – both at the international and domestic levels. With a greater focus on fewer aspects of minority and indigenous rights, the drafting of third party interventions should become a relatively swift and efficient process. At the domestic level, seeking such opportunities could be effected initially within MRG by engaging in discussion with other departments. Small meetings with colleagues to describe the process and advantages of third party interventions in domestic litigation may help to assist MRG staff in identifying such opportunities in their work with partner NGOs. At the international level, opportunities for third party interventions might be found by engaging in closer relationships with other international NGOs, such as Interights and Article 19 in London, or regional NGOs such as CEJIL in Latin America for example.<sup>20</sup>

## **II WORK RELATED TO DRAFT LAWS AND/OR DESIGNING MODEL LAWS**

The LCP and the lawyer attached to MRG's Turkey programme provided comments on a law of Georgia on the Protection of Rights and Freedoms of Persons Belonging to National Minorities. This marks the first time that the LCP

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<sup>19</sup> Yilca Yean and Violeta Boscio v Dominican Republic, before the Inter-American Court of Human Rights

<sup>20</sup> Clearly, there is a large number of NGOs with whom the LCP could engage, including a number of NGOs that MRG already works in partnership with in other areas of its work

has been engaged in work of this kind. The lawyer in the Turkey Programme is currently engaged in drafting, with partners, an anti discrimination law for Turkey.

Given that the LCP has now acquired expertise in the area of minority and indigenous rights, it is suggested that the LCP might actively begin seeking opportunities to expand this kind of work. Commenting on draft laws is a proactive method for the promotion and protection of rights. Likewise, designing model laws based on international standards and jurisprudence is also a proactive method for promotion of minority and indigenous rights. Furthermore, this type of work can be very efficient, with each piece of work being able to draw on previous work of a similar nature. All such pieces of work could be made available on the LCP web pages. An alternative to this sort of work could also be considered, namely, the drafting of general recommendations or guidelines for international or regional tribunals.<sup>21</sup> General recommendations and guidelines could be drafted, perhaps with the assistance of other NGOs and the involvement of partners, on various aspects of minority and indigenous rights for circulation to all MRG partners, and posted on the LCP web pages, listed according to category (eg political participation, language etc). Discussion with the London based NGO Article 19, would be useful in this regard, since it has engaged in all three of these types of work.

### **III MAINSTREAMING THE LCP IN OTHER MRG PROGRAMMES**

It was difficult to obtain a clear picture as to whether or not the work of the LCP is beginning to be mainstreamed into the rest of MRG's work. There was some disagreement among staff as to whether or not they felt properly informed of the LCP's work. This is bound to happen in any workplace, and should not be felt to be a criticism of the LCP's work. Indeed, it is a real testimony to the teamwork in the LCP to date, that so much work has been done and so many real gains achieved. Mainstreaming will take time and commitment not only on the part of the LCP, but also on the part of MRG more generally.

Having said this, there is indeed evidence that legal work is gradually becoming accepted as one of a number of tools that can be marshalled to protect minority and indigenous peoples. The Turkey Project is involved in three domestic legal cases giving advice and support to domestic lawyers. Further, the Turkey Project is, together with local partners, engaged in drafting an anti-discrimination law for eventual submission to Turkish decision makers. Funding is being sought in respect of an Afro-Descendants programme for Central and South America and a Middle East programme, both of which are set to include a number of legal cases. Funding is also being sought for the Balkans (Bosnia, Kosovo and

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<sup>21</sup> See the example of the role of Interights in drafting the *Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa*, adopted in 2001 by the African Commission on Human and Peoples Rights.



Croatia) which envisages eight legal cases<sup>22</sup>, and the drafting of an anti-discrimination law for Croatia. The Batwa programme has two legal cases running, one of which is being handled by the LCP, and one of which is being handled by the Executive Director.

There are some real gains to be made by thinking strategically about how further to mainstream the work of the LCP. One way to mainstream the LCP is for MRG to adopt a policy that requires all MRG documents containing references to international human rights instruments or case law to be referred to the LCP for reading. The documents would return to the person responsible for drafting, with the necessary corrections made – this would serve several purposes, namely ensuring that all references made are correct, ensuring institutional coherence, and also providing correct and up to date information to the drafter. This latter could result in strengthening of the capacity of MRG staff members.

Another way to encourage mainstreaming would be to draft legal briefing papers. These will be discussed in Section IV.

One question that was raised in discussions I had within MRG, related to how to find more litigation opportunities in other MRG programmes. This is not an easy question to address, since it is not always easy for non lawyers to recognise the potential for litigation within their programmes. Perhaps a better question to pose would be phrased thus: in what different ways could the LCP support the work of other departments? If the focus were taken away from litigation, and instead the complete array of forms of legal work that can be performed by the LCP was drawn to the attention of the other programmes, it would become more apparent how to further mainstream the work of the LCP. For example, let us assume that the LCP decided to adopt the following work strategy for the next three years:

- (i) engage in a series of workshops on litigation before the African Commission,
- (ii) draft a series of briefing papers
- (iii) draft general recommendations
- (iv) continue international and regional litigation
- (v) continue third party interventions in domestic courts and international tribunals

The LCP and the Africa team (for example) would then discuss the potential for each of these aspects of the LCP work, to advance the work of the Africa team. Litigation may or may not arise from such discussions, but certainly one or more forms of other LCP work would be of interest to the Africa team and collaborative work could begin from there; litigation may indeed result from the collaboration.

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<sup>22</sup> The eight cases envisaged includes further funding for the existing case against Bosnia.

Mainstreaming legal cases in all areas of MRG's work will create not only opportunities, but also challenges for MRG as an organisation. It will become increasingly urgent to attend to the issue of how to co-ordinate and supervise all the legal work. A single legal cases officer will not have the capacity, or indeed the seniority to carry out such a function. It is suggested that MRG give close consideration to hiring a qualified lawyer with several years of human rights litigation experience to manage all the legal work carried out by the organisation.<sup>23</sup> As I will mention below, legal work needs supervision by appropriately qualified personnel.

Another key issue that merits attention in relation to mainstreaming, is how to build more effective media campaigns around cases. Clearly the LCP has over time gained considerable insights into how to generate media campaigns. However, with the relatively recent appointment of a Head of Policy and Communications, herself a former BBC journalist, it would be timely to give consideration to building in media strategies into each and every case in which the LCP is engaged. Such strategies might, in addition to developing an overarching approach, involve regular updating meetings in order to keep the relevant personnel abreast of developments, large or small and of any relevant changes on the ground.<sup>24</sup> There is the potential for a multitude of avenues for media exposure of developments to be exploited. For example, a successful case before the African Commission is newsworthy not just in African news media, but also in news media that focus on minority and indigenous issues in the Americas. The reason for this is that like the African Commission, the Inter-American Commission and Court of Human Rights are actively engaged in cases involving indigenous and minority rights. Exposure of cases successfully litigated on at the African Commission may have the potential for influencing the shape of jurisprudence at the Inter-American level. Of course, the reverse is also true, and indeed the relevance of a gain in one tribunal is significant for all human rights tribunals, whether regional or international. Strategies would therefore need to consider how to achieve maximum and effective exposure in any given case; strategies would of course need to take into account the views and wishes of the communities themselves.

#### **IV GENERAL COMMENTS AND RECOMMENDATIONS RELATING TO ALL LCP LEGAL WORK**

In order to offer assistance for consideration for the future direction of the LCP, this section will provide comments relating to all the work engaged in by the LCP.

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<sup>23</sup> By legal work, I refer to litigation, legal advice, third party interventions, draft laws, drafting model laws or general recommendations etc.

<sup>24</sup> For example, where there appear to be new or renewed risks for the communities concerned as a result of political or other changes.

This section will also offer suggestions relating to possible future activities of the LCP.

### **Choice of cases**

Overall, the cases chosen for litigation or litigation support were well chosen and each has the potential for effecting lasting changes for the groups concerned. In addition, there is some evidence emerging that the cases chosen also have the potential for effecting change for other communities. Careful attention has been given by the LCP to each case in order to maximise the chances for success, exploiting all relevant avenues as appropriate. The strategy adopted, namely, to use whatever means possible to advance the case, has been an effective one. It is strongly recommended that the LCP continue with this strategy. Since the adoption of a policy of focusing primarily on anti-discrimination and land rights, it is likely that the case docket of the LCP will change over time to reflect this change. As mentioned earlier, this will allow the LCP to build upon its expertise in an efficient manner. This will have the advantage of developing the potential for increasing output and perhaps open up opportunities for drafting standards (ie via general recommendations or model laws, as suggested above). It may also or alternatively free up time and resources to enable the LCP to engage in training activities – should it be decided to adopt such an approach.

### **Adoption of a uniform house style**

In light of the comments made in **Section I**, and also for the purposes of improved filing, it is suggested that consideration be given to generating greater consistency in the advice notes prepared, and third party interventions and court submissions drafted. A similar recommendation was also suggested in the Interim Report. The key weakness of the litigation support, third party interventions and also the litigation, is the failure to adopt house style in which the relevant facts and legal arguments are outlined at the start of each piece of work. The result of the failure to do so, means that it is often difficult for the reader to ascertain precisely what is at stake in any given piece of work.

It is accordingly suggested that each intervention and each advice note, and indeed each court/tribunal submission, should commence by the inclusion of two or three paragraphs outlining the pertinent facts and related legal issues, before moving on to the main body of the document in which the legal arguments are set forth. In the context of third party interventions, two additional pieces of information are also required, namely details of the organisation(s)<sup>25</sup> intervening, and the precise reason for the intervention. At the end of each third party intervention, it is further suggested that the tribunal in question should always be specifically asked to rule on the relevant issues in accordance with the arguments made therein. In addition, it is suggested that the date of completion of each piece of work, or the date of submission of each application (where relevant) should be clearly visible. In court/tribunal submissions, the precise

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<sup>25</sup> Where MRG intervenes with another NGO, details should be given of the nature of each organizations work.

name of the case should also be clearly visible, together with the nature of the submission – for example, submission on the merits, or submission on admissibility etc.

The adoption of this method will serve to show all potential readers (ie other or future staff members, other NGOs, website visitors etc), and not just the tribunal or NGO to whom it is addressed, precisely what was at stake in the case in question. It is also suggested that the adoption of such a style will serve to help improve the quality of argumentation made.

### **Legal materials**

It was suggested in the Interim Report, that internal resources should be strengthened by establishing a legal library and a system of documentation for specific issues such as exhaustion of domestic remedies, as well as other issues that emerge from litigation. The LCP has developed a digital library of articles relevant to its work, as well as case law, best practices and normative standards. The Legal Cases Officer has also published a number of articles in academic journals. It is recommended that fresh consideration should be given to how to make more of this sort of information available on the LCP web pages. It will not be possible to post everything in their current forms, owing to copyright constraints. One suggestion is that briefing papers be drafted on particular issues, drawing upon the material mentioned, and posted on the web pages.

### **Briefing papers**

The idea of developing briefing papers has been mentioned a number of times in this report. It is recommended that the LCP, in consultation with partners, first decide a list of topic areas to be covered by briefing papers. Each paper should cover a single aspect of minority and/or indigenous rights, examining relevant international standards, analysing relevant case law, and commenting upon any gaps in the law or practice at international/regional level. In addition, it is suggested that a separate briefing paper should examine the often misunderstood question of exhaustion of domestic remedies. Although this issue is germane to human rights litigation generally, a briefing paper would nevertheless serve as a useful tool in minority rights litigation. The papers would be a valuable internal resource that could be circulated to all staff members, and posted on web pages. This could assist in the process of mainstreaming legal work into the work of other programmes. It is suggested that the briefing papers should be updated regularly, to reflect changes in case law, new international or regional instruments, or indeed to highlight any successes that the LCP (or other programmes) achieve. The briefing papers would provide a valuable resource for partner organisations, strengthening their understanding of indigenous and minority rights and enabling them to use them as lobbying tools. Briefing papers can form the basis of training materials for workshops. Finally, should also be made available on the LCP web pages.

### **Focus of work**

The adoption of a policy to focus primarily on two aspects of minority and indigenous rights appears to be a wise one. It is not clear whether this focus has actually resulted in any significant change of direction as of yet. The advantage of establishing a primary focus will be that the LCP will be able to maximise its resources and strengthen its expertise in particular areas. It is suggested however, that the question of what should constitute the primary focus of litigation should be kept under regular review, to ensure that it is consistent with the prevailing concerns of minority and indigenous peoples themselves, and also that the LCP is able to maximise on the opportunities for litigation that present themselves.

### **Staffing**

One issue that merits immediate attention, relates to the recent departure of the Head of International Advocacy, a solicitor with extensive experience in litigation and minority rights issues. Although his post included more than just legal work, his close involvement in the LCP from its inception, including hiring of the current Legal Cases Officer, meant that in practice he acted as head of the LCP. His departure not only means a depletion in the number of lawyers working on the LCP; it also means the loss of an experienced litigator with ability to supervise the work of the legal cases officer. While the posts of Head of Communications and Head of Policy have been (temporarily?) merged, as I understand the situation, the current post holder does not have litigation experience. The departure of the Head of International Advocacy also coincides with a time when consideration might usefully be given to expansion of the LCP, given its successes to date. Also, it has occurred at a time when MRG is seeking to mainstream litigation and other legal work as tools for advancing minority and indigenous rights throughout the organisation. Litigation, advice given with respect to litigation, legal opinions on draft laws, and similar work all needs to be given by qualified and experienced lawyers, whose work is supervised by qualified and experienced lawyers. Not only does the fate of marginalised groups hang on the quality of advice given, but also the reputation of the organisation, and perhaps more importantly, the legal liability of the organisation. If the work of the LCP is to continue and expand, it is suggested that consideration be given to an expansion in the number of legally qualified and experienced staff, to include someone who is specifically qualified to manage such staff. Consideration might usefully be given to appointing a full time head of law, particularly in light of comments made above relating to supervision and co-ordination of all legal work in the organisation.

### **Legal Committee**

MRG's Council has created a Legal Committee that has begun to meet separately to discuss legal aspects of MRG's work. This is to be welcomed, as it not only marks the importance accorded to this work by the Council, but may also serve better to assist the LCP and others in designing future work. However, at the moment, it seems that the Committee has a vaguely defined role. It is

suggested that the members of this Committee be asked to help define their role more precisely, with attention paid to the vexed issue of who should be responsible for reviewing the work of any senior lawyer in the LCP.

### **Training Activities**

Training partner organisations, mentioned above in relation to litigation, is an issue that merits attention at this stage of development of the LCP. There is a certain amount of training that takes place when partners are actively engaged in litigation with the LCP. However, given the fact that the LCP is fast becoming a resource centre in respect of litigating minority and indigenous rights, and given the fact that the LCP has highlighted several times that it is finding it hard to find even London based lawyers with relevant expertise,<sup>26</sup> the moment seems to be ripe to consider engaging in a series of workshops to enhance the capacity of other NGOs in this important area of law. It is suggested that should a decision be made to engage in training, this should take place alongside the provision of training materials. The preparation of training materials should not require a huge effort on the part of the LCP; rather these materials should build on existing documentation held in-house as well as briefing papers – if a decision were adopted to prepare such papers (discussed above).

## **V. LCP WEB PAGES**

This section will examine the current website and make proposals, in part drawing together comments made earlier relating to widening the reach of the LCP work. There is much information on the site that is useful for readers interested in case law and international instruments pertaining to minority and indigenous rights. It is recognised that the whole MRG web site has been reconstructed recently, and that some of the existing shortcomings of the Law web pages have already been recognised within MRG. It is hoped that the suggestions made in this section may be useful in seeking to strengthen and build on the existing material available.

### **V (i) Existing material**

#### **V (i)(a) Cases and instruments**

The existing web pages contain relevant provisions from international instruments concerning minority and indigenous rights, and also information on a selection of international case law on the subject. The international instruments are divided into two sections, namely international instruments and normative instruments. Many of the cases listed contain a summary drafted in-house and most are accompanied with a facility to download the full case. Some cases

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<sup>26</sup> In the context of discussions relating to how to obtain the pro bono services of lawyers to assist its work.

however have no in-house summary and the downloadable facility takes the reader to a summary provided by another institution.

**V(i) (b) LCP case load**

The web pages include a list of cases in which the LCP has had input. This will be discussed separately under Website classification of key cases and third party intervention, below.

**V(i) (c) Information about the LCP**

Information about the LCP is found under the rubric Key Legal Cases Undertaken since 2002.

**V (i) (d) Comments and recommendations**

It is not clear to the person browsing the site, what amounts to international instruments, and what amounts to normative instruments, or indeed why there is a need to separate out the two sets of instruments. It is suggested that consideration be given either to merging the two sections into a single section, or providing an explanation justifying this separate treatment, which the reader would be bound to see prior to selecting one or other section.

In respect of the jurisprudence, it is encouraging to see summaries of cases provided on the site. It is recommended that work continues in order to be able to provide in-house summaries in respect of all cases listed. Such work can be undertaken by suitably experienced interns. Consideration might also be usefully given to whether to provide links to the full case, rather than provide it as a downloadable facility on the site – for copyright reasons. It is also recommended that whatever decision is taken in this regard, that access to the full case always be provided (ie not the summary).

It is recommended that information about the Legal Cases Programme is moved to the first page of the LCP web pages (ie after clicking on Law). This will alert the reader instantly to the nature of the work undertaken by the LCP and also of the possibilities for litigators, NGOs, etc to work in partnership with the LCP on relevant cases. It is also recommended that the page describing the LCP is strengthened to give it maximum impact, perhaps by mentioning some of its successes.

In several places throughout this report, mention has been made of the desirability of posting third party interventions and other legal documents drafted by the LCP on the LCP web pages. It is suggested that these documents could be posted by means of a downloadable option next to the existing summary of the cases listed. Other organisations do this, for example Interights. This would allow readers to acquire information for their own litigation in an efficient manner, without the need to contact MRG offices in the first instance. There should be little difficulty in principle in posting third party interventions, shadow reports, or

expert statements etc, as there is little in the way of confidential material contained in such documents. In respect of litigation, subject to *sub judice* rules, it is suggested that so long as the views of the community involved have been sought and their agreement secured, there should be no problems in posting submissions to tribunals either. It would also perhaps be advisable to seek the opinion of the tribunals concerned. Indeed, agreement should also be secured in relation to any work undertaken in partnership with other NGOs and indigenous communities.

## **V (ii) Website classification of key cases and third party intervention**

### **V (ii) (a) Key Cases**

At the time of writing the Interim Report, a three tier system of legal work had been worked out<sup>27</sup>. The first tier consisted of lead cases, in which the LCP worked with partners to bring cases to international tribunals; the second tier consisted of case monitoring, involving monitoring cases as they progressed through domestic courts, and providing support in the form of legal advice and drafting third party interventions (known as amicus curiae briefs); finally, there was a third level known as one-off advice. One off advice tended to be given to individuals and organisations working on cases not falling squarely within the LCP's remit.

The rigid distinction between these three tiers appears to have been replaced by a more pragmatic approach. The term "lead cases" seems to have been replaced by the term "key cases" and into this category fits not only cases in which MRG and partners jointly draft applications to the various human rights tribunals, but also third party interventions both at domestic and international tribunals. Thus the website lists as key cases, not only those in which the LCP took a lead in drafting the legal documents for submission to the African Commission on Human and Peoples Rights and the European Court of Human Rights, but also cases in which it has written and submitted third party interventions to such tribunals, such as the case of ***DH and Others v the Czech Republic***. However, as will be noted below, the website also has a separate list entitled Amicus Curiae briefs, in which it lists a number of other third party interventions which clearly are not regarded as key cases.

At the time of writing the Interim Report, four lead cases had been adopted. Three remained on the docket as key cases while research was conducted for the present report, namely the ***Endorois case***, the ***Turkish names case***, and the ***Botswana Weyeyi case***. In addition to these three cases, the LCP has embarked on litigation on behalf of a litigant before the European Court of Human Rights, the ***Finci v Bosnia***. It has given assistance in the form of third party interventions in ***DH and Others v Czech Republic***, the ***Diego Garcia case***, involving forced deportation, the ***Sikh Turban case***, involving the French

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<sup>27</sup> See page 2 of the Interim Report



law prohibiting the wearing of turbans on photographs used in passports and drivers' licences, and the case of ***Yumak and Sudak v Turkey***. All of these cases are listed as Key Cases.

#### **V(ii) (b) Amicus curiae briefs**

In addition to the third party interventions mentioned above, the LCP has filed a number of other such briefs, listed separately on the website under the rubric, amicus curiae briefs. These include one in support of the case of ***Yilca Dean v Dominican Republic***, before the Inter-American Court of Human Rights, a Greek case before the European Court of Human Rights concerning hate speech, a case concerning genocide of Sikhs in the 1980s in India, and a case before the UN Human Rights Committee concerning the protection of minority names in Lithuania.

Interestingly, the website does not list the third party intervention that the LCP submitted to the Inter-American Commission on Human Rights in the case of ***Garifuna Community of Triunfo de la Cruz v Honduras***. Nor does it list the support given by the LCP in the ***TAC v Natural History Museum***. It is therefore unclear whether these cases were regarded as key cases, or otherwise.

#### **V(iii) (c) Comments and recommendations**

It is not entirely clear from the website, or other paperwork, what criteria are used in order to determine when one third party intervention qualifies to be listed as a key case, whereas another does not. It is furthermore unclear whether much hinges on the classification. From discussions at MRG, it seems that cases in respect of which there is long term support and where the partner organisation depends heavily on the LCP, are those that are counted as Key Cases. However, for the purposes of clarity on the web pages, it is suggested that some thought be given to explaining this, since currently the website is confusing in this regard. Alternatively, and perhaps preferably, the web pages should simply have two categories, for example, litigation and litigation support.

In addition, it is strange that cases in which the LCP has had significant input, and where significant results have flowed as a direct result (as in the case of ***TAC v Natural History Museum***) are not listed or even commented upon on the web pages. A website that is comprehensive and well maintained can do much to raise the profile of an organisation, and in this instance, can do much to promote the rights of many of the world's poorest peoples. Comments received from partners both at the stage of preparing of the Interim Report and the current report included requests for more information to be made available about the LCP's work with other cases and organisations. Some partners felt that this would enable them to establish broader networks, would provide information on other possible avenues of redress and would enhance their general

understanding of indigenous and minority rights. It would be worth considering making room on the web pages for highlighting developments in cases in which the LCP has been engaged including any gains that have been made on the ground. This would serve to encourage minority and indigenous communities and/or their representatives, to engage in international (or indeed domestic) litigation to advance their rights.

## **VI Summary of Suggestions and Recommendations**

As mentioned at the outset, the LCP is an excellent project and has been run efficiently on a very tight budget. The large number of suggestions and recommendations made in this report is offered as an aid to enhancing an already excellent project and increasing its efficiency.

### **1. Litigation**

- Each application submitted to a tribunal to be standardised to include the date of submission, the name of person(s) on whose behalf it is being made
- Each application submitted to a tribunal to be carefully crafted for the case in hand
- Each case to be considered in relation to the potential benefits for women and expressly to include women in all stages of preparation of the case
- Consideration to be given to expanding the number of persons from indigenous or minority groups attending important international or regional meetings/hearings to ensure maximum capacity building, to include elders and women
- In the cases of the Endorois, to consider assisting them to find funds to staff a permanent office
- Build in media strategies for each piece of litigation, tailor made for each case
- Continue to use the multi-prong approach in any case where it seems appropriate
- Consider including time for training workshops to enhance capacity building in trips to meet with partners
- Consider the preparation of training materials for use in workshops
- In the Bosnia case, consider conducting training workshops with the active participation of Mr Finci, the litigant

## **2. Third party interventions and other litigation support**

- Always consider the value added in cases in which several NGOs are lined up to submit third party interventions
- Increase efficiency in cases of a similar nature, by sending copies of existing court/tribunal submissions in answer to requests for assistance
- Seek opportunities for the submission of third party interventions in respect of the two primary focus areas, both at domestic and international level
- Consider expanding work on commenting on draft laws
- Consider embarking on drafting model laws
- Consider drafting general recommendations or guidelines in partnership with other organisations

## **3. Mainstreaming the LCP in other MRG Programmes**

- Consider drafting a series of briefing papers on various aspects of minority and indigenous rights
- Consider adopting a policy requiring all MRG documents containing references to international instruments and/or case law to be referred to the LCP for consistency
- Consider the whole array of methods that the LCP can use to support other programmes and projects within MRG and discuss, in accordance with LCP priorities, with all MRG programmes
- Consider how best to co-ordinate and supervise all legal work within MRG
- Consider building more and effective media campaigns for each case and hold regular updating meetings between LCP and Communications to take account of relevant changes on the ground.

## **4. General comments and recommendations relating to all LCP legal work**

- Maintain the existing means for choosing cases for LCP involvement
- Maintain the approach of using all relevant avenues where appropriate
- Maintain the new approach of having two areas for primary focus, while paying attention to the possible need to change focus in light of concerns of indigenous and minority peoples themselves
- Adopt a uniform house style for all pieces of work
- Consider ways to make more information held on the in-house digital library, available on website
- Consider expanding the number of legally qualified and experienced staff

- Consider the appointment of a full time head of law
- Consider defining the role of the Legal Committee of the Council more precisely
- Consider development of training programmes

## **5. Web pages**

- Clarify the distinction between the two sets of international instruments available on the web pages or merge them
- Continue drafting and providing summaries of cases listed
- Consider whether it would be better to provide links to cases, rather than provide for downloadable facility
- Provide access to the full case in every instance
- Consider moving information about the Legal Cases Programme to the first page of the LCP pages
- Consider posting all submissions to courts/tribunals, as well as all third party interventions, shadow reports etc on the web pages
- Consider improving clarity as to what constitutes a key case, or alternatively adopt two categories of case, namely litigation and litigation support
- Ensure that the website is kept up to date and include any gains made in cases in which the LCP has been involved.

## **ANNEX**

### **List of persons consulted**

#### **1. MRG Staff/ Council Members**

John Packer	Council Member
Mark Lattimer	Executive Director
Claire Thomas	Deputy Director
Clive Baldwin	Former Head of Advocacy
Ishbel Matheson	Head of Policy and Communications
Cynthia Morel	Legal Cases Officer
Tadesse Tafesse	Africa & the Middle East Programme Coordinator
Snjezana Bokulic	Europe & Central Asia Programme Coordinator
Samia Khan	Head of Programmes

#### **2. Partners**

Lydia Ramahobo -	Reteng and Kamanakao, Botswana
Charles Kamuren	Chairman of the Endorois Welfare Council, Kenya
Wilson Kipkazi	Treasurer of the Endorois Welfare Council, Kenya
Richard Yegon	Elder, Endorois, Kenya
Wilson Kapyegoi	Elder, Endorois, Kenya
Korir Singoei	Executive Director, CEMIRIDE, Kenya
Yobo Rutin	Deputy Executive Director, CEMIRIDE, Kenya
George Ogembo	Associate Programme Officer, CEMIRIDE, Kenya
Jakob Finci	Litigant, Bosnia
Tahir Elci	Lawyer, Turkey re Electoral threshold case (not yet been able to speak to him about the case, though made initial telephone contact)
Jonathan Cooper	Barrister in TAC v Natural History Museum
Ruhsen Dogan	TOHAV, Turkey