

ACHPR/Res. 394 (LXII) 2018 - Resolution on the Activities Affecting the Human Rights of Indigenous Communities in Kenya

The African Commission on Human and Peoples' Rights (Commission), meeting at its 23rd Extraordinary Session held from 13 to 22 February 2018 in Banjul, Republic of The Gambia;

Recalling its mandate to promote and protect human and peoples' rights in Africa under the African Charter on Human and Peoples' Rights (African Charter);

Recalling further the relevant provisions of the African Charter, in particular Articles 21 and 22 which recognize the right of all peoples to their economic, social and cultural development, and the right to freely dispose of their wealth and natural resources, as well as the duty of States to ensure the exercise of these rights;

Bearing in mind its Resolutions, in particular Resolution ACHPR/Res.334 (EXT.OS/XIX) 16 on indigenous populations/communities in Africa calling on States to halt the forced eviction of indigenous communities from their ancestral lands;

Recalling Resolution ACHPR/Res.367 (LX) 17 on the Niamey Declaration on Ensuring the Upholding of the African Charter in the Extractive Industries Sector calling on States Parties to ensure that human rights, environmental and labour standards are duly respected and environmental and social impacts are mitigated;

Concerned about the events affecting the rights of the Sengwer community in the Embobut Forest, in western Kenya, particularly the repeated attacks and forced eviction from their traditional lands by agents of the Kenya Forest Service, in the context of implementation of the Water Towers Protection and Climate Change Mitigation and Adaptation Project, a European Union-funded water management project;

Deeply concerned by allegations of serious human rights violations that occurred during the recent eviction starting in December 2017, including gun wounds sustained by some community members, the burning of property and killing of their livestock;

Concerned also by the allegations that the project is being implemented without consultation with the Sengwer Community and without an environment and human rights impact assessment;

The Commission:

Condemns the human rights violations against the Sengwer community;

Urges the Government of the Republic of Kenya to:

- i. Recognise and respect the rights of the Sengwer community;
- ii. Put an immediate end to the forced eviction of the affected communities, particularly the Sengwer community;
- iii. Ensure that the affected communities are fully consulted and relevant environmental and human rights assessment are conducted prior to the implementation of projects;
- iv. Facilitate the mapping of Sengwer territories of their ancestral lands and territories, and take the necessary measures to guarantee safe and secure access to and use by the Sengwer community of their ancestral lands;
- v. Conduct an impartial and independent investigation into the human rights violations committed against the Sengwer community within their various territories and bring the perpetrators to justice;
- vi. Ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

Calls upon all actors including development partners supporting projects to ensure that projects are designed and implemented with due respect to the rights of the affected communities provided for under the African Charter and other relevant regional and international standards.

Done in Banjul, The Gambia, on 22 February 2018