
Kenyan Indigenous Group Faces October 1 Court Date

On October 1, an indigenous group living in Kenya's Mau Forest is scheduled to have its case heard in the country's High Court. The hearing is the latest attempt by the Ogiek people's long effort to protect their forest homeland from destruction.

For decades, the Ogiek have fought first with the British colonial and then the Kenyan government to live peacefully in the Mau Forest, where they have lived for hundreds of years. The Ogiek's current lawsuit dates back to a 1997 case, when the group went to court to stop the Kenyan government from surveying and allocating Mau Forest land to others. Later that year, the High Court ordered that no Mau Forest land would be allocated to settlers until all issues related to it were resolved in court. But after years of threatening to evict the Ogiek from the Mau Forest, the government announced in 2001 it would degazette 147,000 acres of the forest. Degazetting the land would eliminate its environmentally protected status and allow settlers from other parts of Kenya to move in. The Ogiek then sued, charging the government was ignoring the 1997 High Court order since the Ogiek's earlier lawsuit had not yet been resolved.

Kenya's development plans threaten both the Ogiek and the Mau Forest, one of the largest water complexes in East Africa. Experts say that reducing Kenya's forestland would have dangerous environmental consequences. The Mau Forest is a vital water catchment area, absorbing water during the rainy season and gradually releasing it during the rest of the year. According to scientists, the forest provides about 40 percent of the nation's water supply. While the Ogiek's way of life is self-sustaining, the government has exempted three powerful companies from a logging ban and allowed them to continue harvesting wood in Mau Forest, destroying the Ogiek ecosystem in which the indigenous group gathers honey, selectively hunts animals, and grows vegetables.

Although they agree with the government that Kenya lacks sufficient agricultural land, Ogiek supporters argue that President Daniel arap Moi is more interested in rewarding its supporters than providing more food for its citizens and that most of the land has been given to Moi's close associates. Joseph Kamotho, the recently dismissed minister for environment who has fallen out with Moi, says the Ogiek land issue was used by "unscrupulous government officials to get more land for themselves."

As the gradual destruction of its forest continues, the community has faced no justice in court corridors. For over a year, the Ogiek's case has been repeatedly delayed in court due to procedural problems. In February, the case was postponed because the government lawyer handling the case was out of the country. In April, it was again rescheduled after government lawyers said that they had not had time to file their replying affidavits. In July, the judge scheduled to hear the case was absent, and a substitute judge set a hearing for October. Ogiek advocates hope that these frequent delays will end soon, but so far the government has given no indication that it wants to resolve the case quickly.

Many observers believe that changes in Kenyan politics in the next few months may help the Ogiek's legal case to move forward. Kenyan law prohibits Moi from running for office in the upcoming

presidential elections, currently scheduled for December. "The post-Moi Kenya will be different and the Ogiek cases may finally be heard after elections," said John Kamau of Rights Features Service, a Kenyan-based organization that has been monitoring the Ogiek's case. "At that time Moi will not be in power to protect his cronies, unless he does so by proxy."

In addition, draft proposals for a new Kenyan constitution should help the Ogiek. Kamau pointed out that the draft of the new constitution also calls for new laws on land and the protection of indigenous communities from discrimination. "If the Constitution is adopted, then the Ogiek can sigh with relief," Kamau said. "But a lot needs to be done to sensitize politicians on the issues at hand." The draft, which needs to be approved by parliament, would also create a new position of prime minister that would be elected by the national assembly. The president, who now has almost exclusive control over government policy, would be limited to carrying out "special responsibilities" in such areas as national unity. By reducing the president's powers, the draft would make it more difficult for Moi's successor to stop the Ogiek's case.

A number of Kenyan and international groups --including the Ogiek Welfare Council, Rights Features Service, Survival International, and the Digital Freedom Network-- have maintained an international campaign to protect the Mau Forest and the Ogiek's way of life. The campaign's Web site (<http://www.ogiek.org>) contains news and other information about the Ogiek.

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