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African Court on Human Rights rules against Kenya

The African Court on Human and People's Rights (AfCHPR) has found Kenya guilty of undermining the African Charter by violating the rights of marginalised indigenous people who live in the Mau Forest Complex in the northern part of Kenya.

In a landmark judgment delivered, the Court granted an application by the African Commission on Human and People's Rights, for the Ogiek, an indigenous people who were forcefully evicted from their ancestral land in the forest.

"The Court unanimously orders the Respondent to take all appropriate measures within a reasonable time frame to remedy all the violations established and to inform the Court of measures taken within six months from the date of this judgment" declared former Tanzania Chief Justice Augustino Ramadhani while delivering the 69 page judgment on behalf of eight other justices.

Among the infringed rights relate to the right to property, enjoyment of rights and freedom, freedom of conscience, the right to education and cultural life. Others are promotion and protection of morals, free disposal of wealth and natural resources, the right to economic, social and cultural developments.

The Kenyan Government had maintained that the eviction measures were in the public interest of preserving the natural environment, notably the eco-system of the Mau Forest Complex, the largest remaining indigenous forest located about 170 Kilometres north west of Nairobi. The Court however held that by expelling the Ogiek from their ancestral lands against their will, without prior consultation and respecting expulsion conditions in the interest of public need, Kenya violated their rights to land as guaranteed by Article 14 of the Charter and International Conventions.

"The Court is of the view that the continued denial of access to and eviction from the Mau Forest of the Ogiek population cannot be necessary or proportionate to achieve the purported justification of preserving the natural eco-system of the Mau Forest" the justices ruled.

The Court found further that by failing to recognise the Ogieks' status as a distinct tribe like other similar groups and thereby denying them the rights available to other tribes in the country, Kenya violated Article 2 of the African Charter on Human and People's Rights.

The Court held, "the Respondent has violated the right to culture of the Ogiek population contrary to Article 17(2) and (3) of the charter by evicting them from the Mau Forest, thereby restricting them from exercising their cultural activities and practice."

Around the World

Taiwan Court rules in favour of same sex marriage

Taiwan's constitutional Court, the Judicial Yuan, declared that same-sex marriages will be legally recognised. The Court has given two years for the legislature to make amendments allowing same-sex marriage, and a draft of the bill is currently being considered. Under the new legislation, same-sex couples will have the same rights as opposite-sex couples. The ruling is a first in Asia, a mostly socially conservative area, but Taiwan has a reputation of being on the progressive forefront for the region.

Gambia Court orders seizure of former president's assets

A Gambian Court issued an order to freeze former president Yahya Jammeh's remaining assets. Justice Minister Abubacarr Tambadou said that the order was "necessitated after the discovery of unlawful withdrawals" between 2006 and 2016 that possibly totaled USD 50M. The order affects 131 properties, 88 bank accounts, 14 companies associated with the former president as well as a number of his livestock. Three of Jammeh's cousins were arrested after selling his cattle.

France announces law to eliminate prison terms for marijuana usage

The Government of France, under its newly elected president Emmanuel Macron, announced its intention to introduce a law ending prison terms for marijuana usage by the end of the year, although marijuana consumption will remain a criminal offense. Macron had promised during his campaign to reform cannabis laws upon becoming president. Under current law, offenders face up to a year in jail and fines of up to EURO 3,750 (USD 4,200). In 2016 alone, 180,000 French citizens were found to be in violation of drug laws.

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State urged to intervene in procurement laws

Local contractors have raised concern over some authorities' failure to comply with procurement laws, and in turn denies them chance to win tenders in various projects. The concern was raised by the chairperson of the Contractors Registration Board (CRB), while reading resolutions reached by the board on their annual consultative meeting.

She said that contractors have unanimously agreed that institutions advertising tenders should observe procurement regulations as stipulated in the laws of the country, in order to create a fair ground for competition, adding "the state should closely watch and ensure that such laws are highly observed."

Other resolution include directing institutions advertising works to ensure they have adequate funds before floating such tenders. She said the resolutions will be presented to the Government soon for immediate action.

Further, the Permanent Secretary in the Ministry of Works, Transport and Communication called upon the contractors to reveal names of executive officers who are demanding bribes from them. He said there was an urgent and collective need to fight corruption that is creating a loophole for shoddy works and delay in implementing projects within agreed timeframes.

Government firm on passport formality

The Tanzania Government has reiterated that foreigners, including nationals of other East African Community (EAC) member states, must use passports to gain entry into the country. This was stated by Deputy Minister for Foreign Affairs and East African Cooperation Dr. Susan Kolimba, in response to concerns on the issue raised by some East African Legislative Assembly members on the matter.

Ms. Susan Nakawuki (from Uganda) had wondered why Tanzania didn't allow citizens of other members of the regional block to use identification cards at border crossing points. She urged Tanzania to follow in the footsteps of Kenya, Uganda and Rwanda which formalised the use of ID's thereby easing movement of people from one partner state to the other.

Dr. Kolimba pointed out that Tanzania wasn't part of the agreement that the three countries had struck and would therefore stick to the passport related formality. Further the Speaker of the EALA Mr. Dan Kidega said concerns were related less to legislators but more to ordinary people whose cross border movements should be made easier. He said the provision for free movement on people in the region should be fast tracked.

Government working on new environment policy

The Government is formulating a new policy on environment to replace the National Environmental Policy of 1997, a move expected to address the current environmental degradation bedeviling Tanzania. Minister of State in the President's Office (Union Affairs and Environment) January Makamba said that the environmental degradation in the country was alarming with an average of 2,500 trees being fallen everyday causing serious destruction of forests, leading to disappearance and drying of most water resources.

Around the World

South Korea former president denies all charges as trial opens

South Korea's impeached president denied all charges and pleaded not guilty in her first Court appearance at Seoul Central District Court. Former conservative party leader Park Guen-hye was indicted on 18 charges including accepting USD 52M in bribes from large corporations such as Samsung. The scandal has led to the indictments of former business leaders, former cabinet ministers and senior presidential aides. Park has been living in a solitary cell since her arrest on March 31. Two preliminary hearings were already held in front of a three-judge panel without Park's presence. Park faces up to 10 years in prison if convicted of bribery. Her liberal predecessor, Moon Jae-in, has the power to pardon her sentence.

UN appoints Indian rights lawyer to lead Rohingya investigation

The UN Human Rights Council appointed an Indian human rights lawyer and two fact-finding experts to investigate Myanmar security forces' alleged crimes against Rohingya Muslims. Indira Jaising, an advocate of the Supreme Court of India, will be the lead investigator. The other two members are Sri Lankan lawyer Radhika Coomaraswamy and Australian consultant Christopher Dominic. In February, the UN Office of the High Commissioner for Human Rights [official website] said that Myanmar security forces' treatment of the Rohingya Muslims likely constitutes crimes against humanity and possibly ethnic cleansing.

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The Policy has lost its sharpness, it can't address environmental challenges in the new approach after 20 years of use. Hopefully by end of this year the 1997 National Environmental Policy will be replaced by the new policy.

Real Estate Law coming

The Minister for Lands Housing and Human Settlements Development, Mr. William Lukuvi told the Parliament that his ministry was going to table a real estate bill later this year to check unscrupulous estate agents and land brokers in the country. Mr. Lukuvi said the Government had enough with creek brokers and the proposed law would regulate their activities.

"The brokers have reached a point of colluding with banks using Court orders to auction houses of lenders fraudulently. They declare auctions late on Friday or even at weekends knowing that their debtors will have nowhere to go to file a Court injunction to stop the auction," said Mr. Lukuvi. He added that people have been conned and the Government must put an end to it starting with the law that will be tabled in the Parliament this year.

Magufuli dissolves CDA

President John Magufuli has dissolved Dodoma's Capital Development Authority (CDA) and handed over its mandate to the new capital's municipal council. Magufuli signed a special presidential order to disband the authority and "bring an end to a clash of responsibilities between CDA and the Dodoma Municipality Council."

"(This is) upon realisation that under current circumstances, there is no justification for CDA's (continued) existence", the statement from the State House said. It added that the President also dissolves the CDA's board of directors and all other employees are to be absorbed by the municipal council and other Government bodies.

The order also revokes the 33 year land lease limit set by CDA for land in and around Dodoma to the 99 year standard applicable in other parts of the country.

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