

GENERAL INFORMATION ABOUT THE CASE	
Case URL	https://www.escr-net.org/sites/default/files/Endorois_Decision.pdf
Name of case:	Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya
Court name:	African Commission on Human and Peoples Rights
Type of court:	<input type="checkbox"/> Constitutional Court <input type="checkbox"/> Supreme Court of Appeal <input type="checkbox"/> High Court <input checked="" type="checkbox"/> Other
Issue:	AU remedies regarding the violation of land and natural resource rights; violation of indigenous rights; freedom of religious and cultural practices; right to development
Justice(s)/Judge(s)	Not listed
Reference No:	Not listed
Filing No:	276/2003
DESCRIPTION	
Facts:	<p>The Endorois are a community of approximately 60 000 people who for centuries had lived near Lake Bogoria (in Kenya), on land that is fertile, agriculturally important, and central to their religious and cultural practices. They had generally been accepted by all neighbouring groups as owners of the land.</p> <p>In 1973, their land was gazetted by the government to become a game reserve. In 1978, the game reserve was created. The Endorois had been denied access to their land since this date. Although the Kenyan Wildlife Service made certain promises to Endorois elders (including that families would be</p>

	<p>compensated with plots of fertile land and money for relocation; and that the community would receive a share of the tourism revenue), these promises were largely not met.</p> <p>The community subsequently met with the president and took the case to the High Court, without success.</p> <p>The community thus lives, divided, on semi-arid land on the outskirts of the reserve. They have no say in the land's management.</p> <p>They therefore sought the restoration of their land and compensation for their losses. They based their case on various alleged violations of their collective rights contained in the African Charter on Human and People's Rights.</p> <p>The African Commission on Human and People's Rights found that the above rights had indeed been violated as the Endorois had been evicted from land to which they were entitled without adequate compensation; denied access to religious and cultural sites and inadequately included in decision-making processes.</p> <p>The commission therefore recommended that Kenya recognise the Endorois' ownership rights and return the land; that the community be paid adequate compensation for the losses they had suffered; and that they receive royalties from existing economic activities. Kenya was also required to engage in dialogue with the Endorois on how to implement these recommendations, and to report back to the commission within three months.</p>
<p>DECISION/JUDGMENT</p>	
<p>Decision/Judgment:</p>	<p>The commission found violations of various African Charter rights.</p> <p>The Kenyan authorities' eviction of the Endorois, refusal to grant access to religious sites, and failure to provide fertile land with access to salt licks and other resources instrumental to the community's</p>

pastoralist way of life was found to unjustifiably violate the rights to freedom of religion (article 8) and culture (article 17).

Further, it was found that possession of land by indigenous people was equal in effect to a state-granted property title, and thus that community members who were forced to leave the land were entitled to either restitution or to equivalent land.

The failure to adequately involve the community in the decision-making process, and to provide adequate compensation and benefits, also amounted to a violation of the right to development (article 22).

In terms of remedies, the commission recommended that Kenya recognise the Endorois' ownership rights and return the land; that they be paid adequate compensation for the losses they had suffered; and that they receive royalties from existing economic activities. Kenya was also required to engage in dialogue with the Endorois on how to implement these recommendations, and to report back to the commission within three months.



REFERENCES	
Reference(s) to other court decision	- Alexkor Ltd and Another v Richtersveld Community and Others [2003] ZACC 18