



HUMAN RIGHTS VIOLATIONS IN THE NAME OF ENVIRONMENTAL PROTECTION: REFLECTIONS ON THE REPARATIONS OWED TO THE Ogiek INDIGENOUS PEOPLE OF KENYA

The recent ruling on reparations of the African Court on Human and Peoples' Rights regarding the Republic of Kenya established the territorial rights of the Ogiek Indigenous peoples over the Mau Forest Complex. The Ogiek people had been continuously evicted from their ancestral land since the creation of the Protected Area in the 1930s. The article explores how Protected Areas (PAs) are based upon a colonial idea of uncontaminated nature that should be void of any human presence in order to realize environmental protection and biodiversity conservation. It delves into the case of the Ogiek people by analysing the status of their right to property over the Mau Forest. It also analyses the doctrine of eminent domain in Kenya in relation to land acquisition for the creation of PAs, highlighting why it could not be applied to the land taken from the Ogiek. Then, the article illustrates the main features of the African Court decisions relating to monetary and non-monetary reparations owed to the Ogiek people and to the right to consultation and to Free, Prior and Informed Consent. Finally, the article prescribes some general recommendations on possible ways to manage environmental conservation with due respect to human rights, suggesting practical examples of Indigenous involvement on the management of PAs.