

## **The Invasion of Nyae Nyae: A case study in on-going aggression against indigenous hunter-gatherers in Namibia**

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Initially we had invited Kxao Moses, a Jul'hoansi man from Nyae Nyae, Namibia, to give a presentation about the recent invasion of the Nyae Nyae Conservancy by neighboring pastoralists. He was unable to come at the last minute, however, so I will discuss the issue instead. I have spent a great deal of time in southern Africa, including a year of fieldwork in the Nyae Nyae Conservancy—the area discussed here. I was also in the country in May, and visited Nyae Nyae as these events were happening. Although this presentation is informed by my own experience in southern Africa, I have quoted extensively from the involved organizations and affected individuals and representatives and it is their words that best describe the situation. I will begin with a quote from a letter written by the Nyae Nyae Conservancy management to several government ministers, on the 13<sup>th</sup> of May 2009:

...The initial violation of the veterinary fence began on the evening of Wednesday 29 April 2009 when a group of families cut the southern veterinary fence and illegally moved a number of cattle, goats, donkeys and sheep into the Nyae Nyae Conservancy area and settled at Gum Pan (a game water point)...- *Nyae Nyae Conservancy Letter to Ministers, 13 May 2009*

Shortly before a long weekend at the beginning of May, 2009, a group of Herero pastoralists are alleged to have cut the veterinary cordon fence separating their grazing lands from the Nyae Nyae Conservancy in northeast Namibia. The Conservancy is managed by the Jul'hoansi, a group of hunter-gatherers who still rely in large part upon their traditional skills for survival. The Conservancy authorities requested the herders to leave with their cattle, but the herders refused. The next day, several more families came in with their livestock; because of the holiday it took several days for a coordinated response from local government officials. Meanwhile, pastoralists continued to move in, and the numbers of cattle grew to over one thousand, along with horses, goats, sheep and donkeys. Because they had crossed a line separating the disease-free zone to the south from the Conservancy, which was not certified as disease-free, the cattle could not simply be driven back south.

In the months since the incident, the Namibian government, the Nyae Nyae Conservancy management, involved non-government organizations (NGOs), and legal advisors have grappled with the immediate questions this case raises: What to do with the cattle? What impact will this invasion have on the current Nyae Nyae residents, and how can they be compensated? What action should be taken against the illegal entrants? What should be done about those herders who are still in the Nyae Nyae area and who are requesting the right to remain there? What are the practical, economic, and legal issues involved? And what response will encourage constructive, long-term solutions?

Before describing the situation further, I would like to note that this situation seems, at first glance, to be much less dramatic than others that we are hearing about during this conference. It is much smaller scale, and no one was killed. However, I would like to point out that this event occurred against a background of extreme violence historically—both the San and the Herero have been victims of genocide. It is important to keep this in mind, as well as the potential for greater violence that is underlying this incident.

### **Background: The Nyae Nyae Conservancy**

*Conservancies* in Namibia are community-controlled land, based on the principal of Community Based Natural Resource Management (CBNRM). In these areas the community is responsible for monitoring the game and plant resources. One of the purposes of this arrangement is to preserve the wildlife and natural resources of the area. Assisting communities with resource management, ensuring community control over their resources, and promoting sustainable development are also goals of the conservancy programme.

Nyae Nyae Conservancy was the first conservancy in Namibia, established in 1998; it is also one of the largest conservancies. It is *also* the ancestral land of the Jul'hoansi, a group of indigenous hunters and gatherers. In the Nyae Nyae area they still rely to a large extent on the natural resources found in the area. The traditional land-use strategies of the Jul'hoansi have been credited for the existing biodiversity of the Nyae Nyae area including populations of some of Namibia's most important wildlife species such as wild dog, roan and sable antelopes, brown hyena, elephant and lion. In other areas where people rely primarily on cattle herding, a much larger percentage of the natural resources have disappeared.

### **Background: Jul'hoansi and Herero**

The Jul'hoansi are one of several San groups, former hunters and gatherers considered to be descended from the first inhabitants of southern Africa. Today they live mostly in Namibia and Botswana and they are among the most marginalized—the San in general are categorized as the most marginalized groups in southern Africa. However, the Nyae Nyae Conservancy is one of the only places in southern Africa where San people have access to sufficient resources to be able to practice their hunting and gathering subsistence strategy and where they have some degree of autonomy.

The Herero are quite different from the Jul'hoansi and other San. They are a pastoralist group who migrated into Namibia around the mid-16<sup>th</sup> century, and today they live mostly in Botswana and Namibia, in the same areas where the Jul'hoansi live, and they often live in close proximity to each other. In comparison to the Jul'hoansi, the Herero are much wealthier (they have cattle) and they are considered to be more aggressive, patriarchal, and hierarchical. By contrast, the Jul'hoansi are generally egalitarian and have far greater gender equality. Although these things are starting to change now, these stereotypes have been and remain relevant. Everywhere that the two groups live near each other the Herero are dominant. However, the Herero also feel marginalized, and do

not have access to enough land; they were also the victims genocide. I will come back to these points.

### **Timeline of events**

- 29 April:** The veterinary fence bordering the south of the Conservancy is cut and five Herero families with over 350 livestock move into Nyae Nyae
- 30 April:** Due to the public holiday there is little reaction to the situation until the 5<sup>th</sup> of May, but the police in Tsumkwe continue to report that more people and livestock are crossing into the area
- 8 May:** Several hundred cattle are confiscated by the police after Ju/'hoansi Traditional Authority Chief Tsamkao ≠Oma lays charges. State Veterinarian confirms that the risk of foot and mouth disease will affect livestock export from the Gam area
- 11 May:** 18 farmers are arrested for damage to public property, however a low bail of N\$1000 is set and the court date delayed until the 27th July
- 13 May:** Police in Tsumkwe confirm that 595 cattle have been impounded but at least 400 still are grazing within the Conservancy
- 16 May:** Police estimate that 1,200 cattle have been led into the Conservancy
- 18 May:** Herero families reach //Auru village, in the south east of the Conservancy and claim that they will settle there
- 20 May:** Conservancy announces intention to sue Gam herders for camping fees, potential loss of income, and infringement of rights
- 03 June:** Government mission recommends that cattle be destroyed
- 16 June:** Government begins confiscating the cattle of the Gam herders in order to auction or slaughter them; this is met with resistance.
- 17 June:** This action is called "illegal" by the Legal Assistance Center
- 28 July:** Some of the farmers fail to appear in court; case is rescheduled to the end of September, then rescheduled again for November.

At the time of this writing, several of the Herero farmers are still in the Conservancy, and the Legal Assistance Centre (LAC) is preparing a lawsuit against the Herero farmers, but with the hopes that this can be settled peacefully and without a court case. Although the LAC is supporting the Ju/'hoansi in this case, they took a strong stance on the confiscation of the Herero cattle, stating that it was illegal.

### **Impact on Nyae Nyae Conservancy**

...We are concerned that the Government has not yet made any official statement on what will be done about this grave situation, and are afraid the Government is not taking this situation seriously...." - *Nyae Nyae Conservancy Letter to Ministers, 13 May 2009*

Early on there was much concern that the government had not reacted quickly enough to this situation. Eventually, the government did act, but there was a lot of fear and concern

among the Ju/'haonsi about what would happen. They were not convinced that the government was going to step up and act on their behalf.

This is not the first time that the Nyae Nyae Conservancy has been subject to illegal grazing from farmers in the Gam area and it is certainly not unusual for San land rights in Namibia to be challenged by other groups, who often perceive the San as weak or disorganised. This situation also highlights the lack of understanding of how the San use the land. As the San are not large scale agriculturalists there is often the presumption that such land is “underutilised”. In fact the land is used for a wide range of food sources, medicines and income generation but in a non-intensive manner, which accounts for the lack of environmental damage in Nyae Nyae. The grazing of cattle on such a large scale and clearance of bush by the farmers damages these natural resources, so risking the financial and food security of the Ju/'hoansi.” -*Nyae Nyae Press Release 19 May 2009*

The threat that the cattle posed to the subsistence strategies of the Ju/'hoansi was well summarized by Kiewiet, the Conservancy Chairman:

You know that we are people who walk about on the land. We look for things like ca, chon, //xaru, (root bushfoods that grow in the sand) and kamaku; we live from these things. And if there are a lot of cattle here, we won't see those things again. We won't see them again. Their stalks will be pressed down and killed (by the cattle's hooves) and there will be nothing we can do about it.

...what has been sustaining us is our wildlife. We have hunters. And we also have people who make ostrich-eggshell beadwork, and sell it. And we have people who collect kamaku [Devil's Claw]; we have people who dig kamaku roots and sell them. It's a business of ours, and as I now see it, that business is going to die soon. If the Gam farmers still stay with us here, it will die.....” /'Angn!ao /'Un ("Kiewiet") Chairman of the NNC

- /'Angn!ao /'Un ("*Kiewiet*")*Chairman of the NNC*



“Photo of a woman digging for roots with her son”  
Photo by—Catherine Collett, Kalahari Peoples Fund

Devil's claw is a medicinal root that they have recently begun exporting to Asia, Europe, and the US; it has become an important part of their livelihood over the past few years. The making of ostrich eggshell jewellery, another important source of income, would not necessarily be threatened by cattle coming into the conservancy as the Devil's claw industry would. However, he was outlining their sources of income, and when one or two of them is threatened it really undermines the economic security of the area.

Trophy hunting is perhaps the biggest and most important source of income; hunters come from all over the world to hunt large game and the Nyae Nyae Ju|'hoansi work as guides for them. If Nyae Nyae was to become an area where there are a lot of cattle, it would seriously threaten the tourism potential of the area—as indicated, the unspoilt wildlife aspect is one of the main reasons people come to the Nyae Nyae area.

The Working Group of Indigenous Minorities of Southern Africa calculated the loss of income due to the presence of the cattle in the following areas, and are using those figures as the basis for the lawsuit:

- loss of income from Devils Claw harvesting as the cattle destroy the plants;
- loss of over 600,000 litres of water;
- loss of grazing sufficient to fill 1 million 50kg bags;

- increase in human-wildlife conflict as wildlife are driven out of the areas where there are cattle and towards other conservancy settlements, and as water becomes increasingly scarce due to increased competition between the community, wildlife and the illegal cattle and farmers;
- potential loss of Trophy Hunting fees as hunters will not wish to hunt game in areas where cattle are based;
- potential reduction in tourism, which is largely based on the unspoilt environment and wildlife
- infringement of the rights of the Nyae Nyae Conservancy community in managing their resources sustainably for the benefit of all conservancy members.

### **Reasons given by Herero for the invasion**

It is important also to look at the story from the perspective of the Herero. The farmers have given several reasons for invading the Nyae Nyae area:

- there are poisonous plants on their side of the fence, which were killing their cattle;
- their ancestors are buried in the Nyae Nyae area;
- they wanted to be closer to their regional councillor, Kxao Moses ≠Oma, who represents them;
- they do not have enough land on which to graze their cattle, and the Ju|'hoansi have so much land.

The issue of poisonous plants is a serious concern for the Herero pastoralists. Although there are some of these plants (*Dichapetalum cymosum*, commonly known as “poison leaf,”) on the Nyae Nyae side of the border, they are far less of a threat than in the Gam area, where the pastoralists reside. However, the Nyae Nyae area, though it can appear lush, has a thin soil layer and would not be a sustainable grazing area—the cattle would quickly wipe out vegetation.

The issue of ancestral land is important, but we know from historical and archaeological records that the Nyae Nyae area was utilized by the Ju|'hoansi for far longer and more consistently than the Herero. As for being closer to the regional councillor, Kxao Moses, who represents both the Ju|'hoansi and the Herero of the Gam area—carried to its logical conclusion this approach would have everyone living only in the towns of their regional councillors. This has never been, and cannot be a legitimate reason for invading territory owned by others. Ultimately, the underlying conflict is land, as these kinds of conflicts between hunter-gatherers and pastoralists almost always are. The Herero farmers are looking for more and better grazing land than they have in Gam.

It is important to keep in mind that the Herero themselves were victims of severe genocide at the hands of the Germans, in the early part of the 20<sup>th</sup> century. When the Herero migrated into present-day Namibia, probably in the mid 16th century, they came into conflict with the existing pastoralist residents, the Nama (Khoi, also considered indigenous to Namibia). When the Germans gained control of Namibia in 1884, they originally sided with the Herero—and then manipulated them into ceding land and mineral rights. When the Herero resisted in 1903, along with the Nama, the Germans

launched a genocidal campaign, killing thousands, poisoning their water supply and driving them—men, women, and children—into the desert. Some escaped into Botswana; others were placed in concentration camps. It is estimated that 65,000 Herero (out of an estimated total population of 80,000) died during this struggle.

Even though it was over 100 years ago, the Herero still feel that this history affects them. They feel that they have never recovered their land rights; they feel politically marginalized; they feel that they were not allocated land during the resettlement process, and that they have been ignored by the government, and they see the Ju|'hoansi as being privileged because they have their own land.

“...our citizens in Gam have been eking out a peripheral existence...the basic infrastructures such as schools, clinics, roads and agricultural extension services are non-existent, or inadequate...Most Gam residents are sons and daughters of the victims of Von Trothas extermination order [who] have been dumped in that part of our country without the necessary support.” “Veii Defends Nyae Nyae Stance” *The Namibian* 29.05.09

Although there is, in fact, a clinic and a school in Gam now—the infrastructure is not really less than the Ju|'hoansi of Nyae Nyae—it is not adequate.

### **Is this invasion violence against the Ju|'hoansi, an indigenous people?**

As some of the above quotes indicate, this is not the first time that Herero have entered into the Nyae Nyae area. The Herero farmers often use manipulation, intimidation, threats, and sometimes direct force to gain access to grazing land in the Nyae Nyae Conservancy. I have heard many stories from Ju|'hoansi about Herero manipulating or tricking people into giving them permission to bring cattle into the area. In the case described here, the Herero came in on horseback with guns. Hand grenades were also reported; although this was not confirmed, this rumor serves to illustrate the level of threat that the Nyae Nyae Ju|'hoansi felt. “There was nothing we could do” and “...they came with weapons and we could not stop them” (and similar phrases) were repeated frequently when I was in Nyae Nyae in May, shortly after the invasion.

The on-going pressure by neighboring groups with different land-use strategies, and who see the Nyae Nyae conservancy as “un-” or “under-utilized” land—because it is not used for livestock grazing—threatens the economic security and livelihood of the Ju|'hoansi. And, as such, it amounts to ongoing, low-level violence.

### **Legal issues**

It is important to note that the Ju|'hoansi legally control the Nyae Nyae area, and that it is designated as a wildlife area. This means that they can take legal action, and that they have the support of the government. The local police and government, while slow to react, have ultimately been fairly supportive of the Ju|'hoansi claims (not least because of the implications of the Herero actions for the Namibian beef industry). There are several Namibian NGOs that are strong advocates for Nyae Nyae, including the Nyae Nyae Development Foundation of Namibia (NNDNFN); the Working Group of Indigenous

Minorities in Southern Africa (WIMSA); and the Legal Assistance Centre (LAC). It should be noted that the LAC in general supports marginalized groups, and has and will also support the Herero; in this case they have taken on the Nyae Nyae case but remain very conscious of the dispossession of the Herero as well, and are thus in a good position to assist mediation.

The Herero have more representation than the Ju|'hoansi in government, but are still not very strong politically, and they do not have the same kind of NGO support that the Ju|'hoansi do. There are, thus, a lot of factors in favor of the Ju|'hoansi in this case. However, the political marginalization of the Herero is also an important part of the underlying problem, and part of the reason they are a threat to the Ju|'hoansi. So, advantages of the Ju|'hoansi can also work against them, by creating resentment on the part of the Hereros against the Ju|'hoansi. The former see the latter as privileged, and as being the "pets" of westerners, in particular, development workers and anthropologists. In general, far more attention in both of these fields is given to the Ju|'hoansi than the Herero; this is part of the reason the latter feel justified in using this kind of force.

Legal protection is *absolutely critical* to the survival of the wildlife and the cultural autonomy of the Ju|'hoansi, and must be supported—not undermined. However, without attention to the Herero complaints, it is also something that could backfire and make the Ju|'hoansi more vulnerable. The Herero are not going to just go away, and they are not going to stop trying to gain access to the land in Nyae Nyae as long as they feel that the land they have is not adequate. Careful negotiation is going to be required in order to avoid such clashes from recurring, and potentially in a more violent manner.

It should also be pointed out that in some cases Ju|'hoansi and Herero do live side by side, and there is intermarriage and other examples of peaceful coexistence – there are not a lot of examples, but there are some. This is important because it illustrates that there is a possibility for mutual understanding and peace. Currently, much more attention needs to be given to reconciliation efforts, and to the needs of the neighbouring pastoral groups. This is much easier said than done, but there is not another solution in sight. Without such efforts, the threat to the Ju|'hoansi and their land is not going to stop.

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# **“Genocide and Indigenous Peoples” or “The reasons for the escalation of violent conflicts between hunter-gatherers in Southern and Eastern Africa”**

Robert Hitchcock, Michigan State University and Kalahari Peoples Fund

## **Violent and Non-violent Conflicts Between Hunter-Gatherers and Pastoralists in Eastern and Southern Africa**

### **Introduction**

Human rights issues have been the focus of attention of virtually all of the countries in eastern and southern Africa. With the end of *apartheid* in South Africa, the resolution of long-running conflicts in Angola and Mozambique, the decision of the government of Cameroon to pass national legislation on indigenous peoples' rights, and efforts of indigenous peoples to obtain rights through the courts of southern African states, spaces have been opened for greater recognition of the rights of African indigenous peoples.

Indigenous peoples in Africa today face a number of human rights related problems, ranging from a lack of physical and economic security to the stress of living in post-conflict situations where political uncertainty and exposure to harsh living conditions persist. Substantial numbers of indigenous peoples in Africa lack access to development opportunities, land, education, clean water, and health services.

In many ways, African indigenous peoples are invisible in the countries in which they reside. Most of them do not have a voice in public policy, and they play little or no role in development-related decision-making. Large numbers of indigenous people are excluded from government programs in Africa. There are many causes of this exclusion; these include discrimination, poverty, limited government or private sector capacity, and conflict.

This paper explores some of the issues facing indigenous peoples in eastern and southern Africa, with particular reference to hunter-gatherers and pastoralists in conflict and post-conflict situations. I begin with an examination of the issue of “indigenesness” in Africa. I then discuss human rights issues involving indigenous peoples, including genocide (the physical destruction of people on the bases of who they are), ethnocide (the destruction of a people's culture), and ethnic cleansing (the forced removals of people from their territories). Cases of conflicts, both violent and non-violent, between hunter-gatherers and pastoralists are considered after that. I conclude with a discussion of some of the strategies that are being implemented by African states, the African Union, and non-government organizations to reduce conflict, protect human rights, and meet the needs of indigenous African hunter-gatherer and pastoral peoples

### **Indigenous Peoples in Africa**

Indigenous groups across Africa maintain that they share common experiences, including include discrimination, impoverishment, dispossession of land and natural resources, forced conscription, and human rights abuses (Veber *et al* 1993; Motshabi and Saugestad 2003; African Commission on Human/Peoples' Rights 2005). Representatives of African

indigenous groups have come together to discuss issues of concern, and spokespersons for African indigenous groups have appeared before United Nations organizations, including the Human Rights Council and the United Nations Permanent Forum on Indigenous Issues (UNFPII). Indigenous and minority support organizations such as the International Work Group for Indigenous Affairs, Survival International, Cultural Survival, and the Minority Rights Group have issued reports on the rights of African indigenous and minority peoples (see, for example, Veber *et al* 1993; Minority Rights Group International 1997, 2004, 2007, 2008). Although some African indigenous peoples have given up their customs and traditions and have been assimilated into the dominant societies of the countries in which they live willingly, there are those indigenous groups who have sought to continue to maintain their languages, cultures, and identity, and who hold tightly to their beliefs, values, and practices.

The human rights of indigenous peoples in Africa have been the focus of much deliberation and debate in Africa (Saugestad 1999, 2001; Barnard and Kenrick 2001; Hitchcock and Vinding 2004a, b; African Commission on Human/Peoples Rights 2005; Viljoen 2007:277-287; Kaunga 2008). Some African countries such as Burundi, Cameroon, and South Africa have taken important steps toward recognizing the rights of indigenous peoples. At the same time, there are situations in Africa where indigenous peoples have been subjected to massive human rights abuses at the hands of the state and other groups.

African indigenous peoples have called for greater attention to be paid to their rights. Indigenous representatives serve on the African Commission's Working Group of Experts on Indigenous Populations/Communities of the African Union. In addition, non-government organizations and regional associations have been established in Africa that are aimed at promoting the rights of African indigenous peoples, including IPACC (the Indigenous Peoples of Africa Coordinating Committee), the Hunter-Gatherer Forum of East Africa (HUGAFO), and the Working Group of Indigenous Minorities in Southern Africa (WIMSA).

There is not a single, agreed-upon definition of the term 'indigenous peoples' in Africa. The Independent Commission on International Humanitarian Issues (1987:6) argues that 4 elements are included in the definition of indigenous peoples: (1) pre-existence, (2) non-dominance, (3) cultural difference, and (4) self-identification as indigenous. Often, the term indigenous refers to those individuals and groups who are descendants of the original populations (that is, the 'first nations') residing in a country. An important criterion for "indigenesness" is the identification by people themselves of their distinct cultural identity. Most indigenous people prefer to reserve for themselves the right to determine who is and is not a member of their group.

Indigenous peoples in Africa are highly diverse. They range from small communities of foragers (hunters and gatherers) to pastoral peoples (those peoples who are largely dependent on domestic animals for their subsistence and income) to sedentary agropastoralists and urbanized wage laborers. The vast majority of African indigenous

peoples have diversified economic systems, combining small-scale agriculture and livestock production with natural resource procurement and business activities. Virtually all African indigenous peoples today are involved in the market economy.

Even if some African peoples claim to be indigenous, the countries where they live may not recognize them as being aboriginal. Some African countries, such as Botswana, use a bureaucratic definition to cover its indigenous peoples along with others who share similar characteristics of residing in remote areas and being marginal in a socioeconomic sense (Hitchcock and Holm 1993). Multiracial states like Botswana prefer not to differentiate specific populations, in part because they do not wish to be seen as practicing a kind of *apartheid* or separation on the basis of ethnic identification. Only one African country, Burundi, has a specific guarantee in its 2004 constitution for the members of a specific indigenous group, the Batwa.

Some indigenous groups in Africa live not just in individual countries but rather are found in several states, overlapping national borders. This is the case, for example, with Batwa (“Pygmy”) populations in Central Africa, who inhabit a band of tropical forest stretching from the Atlantic Coast of Cameroon and Gabon east to Lake Victoria in Uganda. The Batwa, who collectively number some 250,000 people, are found currently in 9 countries, including Angola, Burundi, Cameroon, Congo Republic, Cote D’Ivoire, the Democratic Republic of Congo, Gabon, Rwanda, and Uganda. It is also the case among the 100,000 San in southern Africa, a number of whom are found in more than one country of the 6 countries in which they reside currently (Cassidy *et al* 2001; Robins *et al* 2001; Saugestad 2001; Suzman 2001). The fact that some indigenous peoples in Africa reside in more than one country puts them in complex positions *vis-à-vis* nation-states, many of whom are concerned about their sovereignty and security and attempt to control movements of people and goods across their borders.

Characteristic features of African indigenous societies that are or were hunter-gatherers are as follows: they tend to be small-scale societies who are heavily dependent on natural resources. Some hunter-gatherers are mobile (e.g. those in the tropical forests of Central Africa) while others are sedentary (such as those living in settlements in remote parts of the Kalahari in Botswana and Namibia). African hunter-gatherers groups are linked through kinship, marriage, friendship, and other kinds of socioeconomic ties. Land is held in the name of the group, and land is seen as common property. Many local hunter-gatherer groups are tied into larger units of people who see themselves as ‘one people’ and who share a common history, language, culture, and identity.

Characteristic features of African indigenous societies that are or were pastoralists are as follows: they tend to be larger-scale societies that are dependent on domestic animals (e.g. cattle, camels, sheep, goats) and who utilize relatively wide areas for purposes of grazing their livestock. Some pastoralists are mobile (e.g. those in the savannas and deserts of east Africa such as the Somali, the Turkana, the Ariaal, and the Rendille) while others are sedentary (such as the Tswana and Herero of southern Africa) (Fratkin, Galvin and Roth 1994; Hodgson 2000). Like hunter-gatherers, pastoral communities are linked through kinship, marriage, friendship, and other kinds of socioeconomic ties. One difference

between foragers and pastoralists is that the latter have sodalities—non-kin associations such as age grades or age-regiments. Pastoral groups are also tied into larger units of people who see themselves as ‘one people’ and who had a common history, language, culture, and identity.

The desires of hunter-gatherers and pastoralists in eastern and southern Africa are relatively similar: They wish to have their human rights respected; they want ownership and control over their own land and natural resources; they want the right to participate in the political process at the nation-state, regional, and international levels; and they want to have their physical and social security protected in the face of conflicts and efforts by states, elites, or companies to dispossess them or deprive them of their rights to life, liberty, and livelihoods.

### **Conflicts and Conflict Management in Africa**

There have been a substantial number of wars, conflicts, and inter and intra-group struggles in Africa during the 20<sup>th</sup> century and into the new millennium which have had significant impacts on the populations of African countries. Hundreds of thousands of people, many of them civilians, a substantial portion of them women and children, have been killed and wounded in these conflicts. Large numbers of people were forced from their homes and fled to other places in their home countries, becoming internally displaced peoples, or they crossed international borders and became refugees, as was the case, for example, with Fur, Masalit, Zagawa, and other groups from Darfur in western Sudan who escaped fighting in Darfur and moved into neighboring Chad. Vast sums of money and resources have been expended in efforts to assist the victims of these conflicts.

According to representatives of African indigenous and minority groups speaking at international forums, those people defined as indigenous and ethnic minorities in Africa have experienced mass killings, arbitrary executions, torture, mental and physical mistreatment, arrests and detentions without trial, forced sterilization, involuntary relocation, destruction of their subsistence base, and the taking of children away from their families. Some of these actions have been described as genocidal; others as pre-genocidal or as situations that potentially could lead to genocide if allowed to continue without any attempts at intervention or alleviation of the harmful conditions.

African states have witnessed massive human rights violations that could be described as either physical or cultural genocide or both. A substantial proportion of the casualties of internal conflicts in Africa are civilian non-combatants, including women and children, some of them members of minority groups victimized by majorities. It should not come as a surprise, therefore, that a central concern of a substantial number of indigenous peoples in Africa is physical security.

Genocides of indigenous peoples in Africa in the 19<sup>th</sup> and 20<sup>th</sup> centuries and into the new millennium have occurred in a number of different contexts. These contexts include ones in which there is competition over resources and land between groups, including hunter-gatherers, pastoralists, and farmers (as has occurred, for example, in the Maa Forest area in western Kenya where the Okiek have had to compete with other groups for land and

resources (Ohengo 2007) or in the Lake Eyasi region of northern Tanzania where the Hadza have competed with Barabaig, Sandawe, and other groups. There are also situations in Africa where indigenous and other peoples are involved in struggles for recognition in multiethnic societies with socioeconomic stratification and cleavages among the various groups. Table 1 presents a summary of some of the genocides of indigenous peoples in Africa from the early 20<sup>th</sup> century to the present.

Table 1. Cases of Genocide Involving Indigenous Peoples in Africa

Country	Population (July, 2008 estimate)	Conflict Period(s)	Number(s) of Victims	Population Below the Poverty Line	Indigenous Group(s)
Democratic Republic of Congo	66,514,504	1994-present	4,200,000 total	71.3%	Mbuti and other Batwa
Namibia	2,088,669	1904-1907	65,000	34.9%	Herero and Nama
Namibia	2,088,669	1912-1915, 1965-1990, 1999-2002	13,000 (San)	34.9%	San
Rwanda	10,186,063	1963-64, 1994	5,000-14,000 500-800,000	51.2%	Batwa
Somalia	9,558,666	1977-78, 1988-91, 1992-93 2000-present	100,000, 60,000, 500,000	81%*	Isaaq, Hawiye, Eyle (Gabooye)
Sudan (Southern)	40,218,456	1952-1972 1983-2005	100-500,000 30-50,000	40%*	Nuer, Dinka, Shilluk, Nuba, Maban
Sudan (Darfur)	40,218,456	2003-present (Darfur)	100-500,000 30-50,000, 2 million at risk	50%*	Fur, Masalit, Zagawa
Uganda	31,367,972	1971-79 1979-82, 1997- present	100-500,000 50-200,000 10-20,000	37.5%	Bakonjo, Twa (Pygmies), Acholi
Zimbabwe	11,350,111	1982-83, 2001-present	2,000-20,000, a few hundred	56.1%	Ndebele, Tyua San (Amasili)

Note: The data presented herein were obtained from the *World Factbook* (2008), the United Nations *Human Development Report* (2008), Uppsala / PRIO Armed Conflict Data Set version 4 – 2006; and the World Bank (2008). The population below the Poverty

Datum Line is calculated as the percentage of those people living below \$1.25 per person per day.

These genocides range from the killing and dispossession of Herero and Nama groups in Namibia by German forces (1904-1907) and the killings of San in the 1912-1915 period, also in Namibia (Gordon 2009) to the contemporary cases involving targeted destruction of Batwa in Rwanda in 1994 (Lewis and Knight 1995), of the Fur, Masalit, Zagawa, and other groups in Darfur in Sudan (2003-present), and the killings of Mbuti Batwa and other groups in eastern Congo in the recent past (Minority Rights Group 2004; Kiernan 2007:364-390).

The definitions of 'vulnerable groups' tend to focus on those who have unequal access to health and social services, those that lack the ability to sustain themselves without external inputs, and those who are considered low status subjects, taking into account such issues such as age, ethnicity, class, and gender. Vulnerable groups include those who are exposed to risk in various ways. These include people in poverty, ethnic minorities, the physically and mentally challenged, children, the elderly, those in chronic pain, those who have experienced some physical or psychosocial stress such as rape, torture, war, or going through a natural disaster. Categories of persons identified as especially vulnerable are orphans, people afflicted with diseases, including tuberculosis and HIV/AIDS, disabled people, and people who are destitute, with no visible means of support.

Violence is sometimes an outgrowth of the establishment of development projects and the relocation of people. Involuntary resettlement and loss of land access have had the effect of increasing internal social tensions, some of which are exhibited in high rates of social conflict, competition, and suicides among indigenous peoples. Indigenous African peoples have been forced out of areas that have been designated as protected areas, as occurred, for example, when 30,000 people were forced out of the Kibale Forest Reserve in Uganda in 1992 (Marcus Colchester, personal communication, 1994), some 1,700 San and Bakgalagadi were resettled outside of the Central Kalahari Game Reserve in Botswana (Hitchcock and Babchuk 2007, 2010a, b), and numerous Batwa were relocated because of protected areas and forestry projects in the Democratic Republic of the Congo Cameroon, and C'ote D'Ivoire (Mondo 2007; De Georges and Reilly 2008; Schmidt-Soltau 2009). Forced relocation out of conservation areas has all too often exacerbated problems of poverty, environmental degradation, social tensions, and domestic abuse.

In places outside of protected areas, population densities tend to be higher and competition for resources is greater. The result is that there is sometimes an out-migration from these places to the cities in search of work, or alternatively people go into protected areas such as national parks to exploit resources illegally. This exposes them to arrest and potential mistreatment. Such a situation was seen in the Rwenzoris National Park in Uganda in the 1990s, where women and children going into the park to exploit bamboo and honey were arrested and in some cases were raped, beaten, and put in jail. Local and international organizations campaigning for indigenous peoples' rights have argued that

there need to be substantial changes in the legal regimes of African states to protect indigenous peoples, migrants and internally displaced peoples.

In the course of state efforts to promote conservation, legal restrictions were placed on hunting, fishing, and plant-collecting through national legislation. Such legislation not only reduced the access of local people to natural resources, it also resulted in individuals and sometimes whole communities being arrested, jailed, and, in some cases, killed. Perhaps the best-known example of the social and economic stress brought about by the creation of a national park is that of Colin Turnbull in his book *The Mountain People*, which chronicles the cultural dissolution of the Ik, who were removed from Kidepo National Park in northern Uganda (Turnbull 1972).

An examination of the interactions between foragers and pastoralists in eastern and southern Africa reveals that while there are some cases of violence perpetrated by pastoralists against hunter-gatherers (as seen, for example, in cases in Somalia where Somali pastoralists attacked Eyle communities in the Bay Region), by and large the interactions between pastoralists and hunter-gatherers are non-violent. This is not to say that there are no elements of coercion involved in the interactions between these groups. In the case of the Okiek of Kenya, for example, farmers and pastoralists have moved into their lands and pressured the Okiek to give up their land or serve as herders or farm laborers. In the early part of 2009, a group of Herero moved without permission into the Nyae Nyae region of Namibia, bringing with them hundreds of cattle. Local Ju/'hoansi, who had formed a conservancy, an area over which they had rights to wildlife and natural resources under Namibian government conservation legislation, attempted to get the Herero to leave. They sought help from Namibian central government officials, the police, and local government personnel, but as of late 2009, little effort had been made by officials to get the Herero to return to the places from which they came.

There is a relatively sizable number of hunter-gatherer and former foraging groups in Africa (see Table 2). In some cases, these groups are living in the same areas as pastoralists, agropastoralists and farmers.

Table 2. Population Sizes and Distributions of Indigenous African Peoples Who Are or Were Hunter-Gatherers (Foragers)

<b>Name of Group</b>	<b>Location</b>	<b>Population Size</b>
San (!Xun, Kwadi, Kxoe)	Angola	3,500
Basarwa (San)	Botswana	48,000
Batwa (Pygmies)	Central Africa (9 countries)	250,000
Haddad (Kreda)	Chad	3,000
Boni (Aweer)	Kenya	2,000
Dahalo	Kenya	1,000
Okiek (Ogiek, Dorobo)	Kenya, Tanzania	42,000
Waata	Kenya	2,000
Mikea	Madagascar	1,000
San (Bushmen)	Namibia	38,000
Eyle	Somalia	450
Kilii	Somalia	1,500
San (Bushmen)	South Africa	7,500
Hadza (Hadzabe)	Tanzania	1,000
San (Kxoe)	Zambia	1,300
Tyua (Amasili)	Zimbabwe	2,500
VaDema (Doma, Tavara)	Zimbabwe	800
<b>TOTAL</b>	<b>20 countries</b>	<b>405,550</b>

Note: Data obtained from government reports and censuses, work of researchers, development agencies, non-government organizations, indigenous rights' groups, national archives, and reports

Admittedly, there are cases of competition among these groups, some of which have led to outright violent clashes. Both hunter-gatherer and pastoral groups have been victimized in situations where there was election-related violence, as occurred, for example, in Kenya in 2007-2008. The militarization of indigenous peoples has also been a major issue, with members of some indigenous groups, some of them children, being conscripted as soldiers, as has occurred, for example, the Democratic Republic of Congo, Sudan, and Uganda. Batwa have been victimized by guerilla groups in eastern Congo (Minority Rights Group International 2004), while former foraging groups in Angola, Ethiopia, Somalia, and Tanzania have been pushed off their land by farmers, pastoralists, or the state.

Given the severity of the current drought in east Africa, which is considered the worst since 2000 and possibly 1991, poor people, including farmers, pastoralists, and foragers, have been hard hit. Humanitarian relief programs are badly needed in Somalia, where nearly three and half million people, half of the country's residents, are facing the possibility of famine. Areas in Ethiopia, Eritrea, Kenya, Sudan, Tanzania, and Uganda have also been badly affected by shortfalls in food production. One outgrowth of this complex situation is that there is more inter-group conflict over land and resources.

Climate change, drought, and floods have resulted in sizable numbers of indigenous and other peoples in eastern Africa having to leave their homes and move elsewhere, a process that has exposed them to substantial risks. Some of them have taken refuge in camps set up to accommodate the needs of refugees and internally displaced people. In addition, globalization and the international economic downturn have had negative impacts on local people, with some of them having to depend on handouts from international aid agencies and the state. There have been raids on convoys carrying food, medical supplies, and other goods in a number of east African countries, including Somalia, Sudan, and Uganda. The widespread losses of livestock in the pastoral areas of Kenya, Somalia, and Ethiopia have exacerbated the pressures. It is not unlikely that local conflicts will intensify, something that could play into the hands of groups such as the Islamist Shahaab movement in Somalia or secessionists in the Horn of Africa, a trend that worries both African governments and the international community.

While African governments have not openly espoused extermination policies or sought to destroy their opponents physically, they have sometimes engaged in actions which have led to cultural destruction. Forced relocation, destruction of the subsistence economies of indigenous groups, education of indigenous and minority children in non-indigenous languages and cultural traditions, and imposition of new forms of political organization have all been attempted by African governments (as well as, it should be stressed, western governments such as the United States, Canada, Australia, and New Zealand). Some of these efforts have been undertaken in the name of 'nation-building' or "integration."

Throughout Africa and other parts the world, indigenous peoples have been coerced or cajoled into giving up their cultural traditions. Sometimes this is done in the name of "reconciliation" after decolonization or the end of long-standing conflicts. Even countries with generally positive human rights records, such as Botswana, have implemented programs that are aimed at getting national education systems in place that do not allow for the instruction of students of indigenous groups in their own customs and languages (Biesele and Hitchcock 2000; Hays 2006). Batwa in the Great Lakes region have argued vociferously for 'the right to learn' for Batwa children (Warrilow 2008), something that San in southern Africa have also echoed (WIMSA 2004; Hays 2006). The right to education in one's mother tongue language is considered a human right by many indigenous people, who today make up some 4% of the world's population and at least 10% of Africa's population.

There has sometimes been reluctance on the part of a number of governments in Africa to recognize cultural diversity and allow for self-determination. While African states value pluralism in theory, they do not always implement it at all levels. Some of the most difficult problems facing indigenous peoples, ethnic minorities, and communal groups without power in Africa have been the assimilation and resettlement policies of the governments of the states in which they reside.

In 1993, the Organization of African Unity (OAU) (now the African Union) established a Mechanism for the Prevention, Management, and Resolution of Conflict. The African Union and various regional African organizations such as the Southern African Development Community (SADC) became more assertive in the latter part of the 20<sup>th</sup> century and early part of the 21<sup>st</sup> century in their efforts to resolve internal conflicts within and between African states. This is being done in a variety of ways. Mediation is being carried out by African heads of state and former heads of state, as seen in the efforts of former South African President Nelson Mandela in Burundi and former Botswana President Sir Ketumile Masire's diplomatic activities in the Democratic Republic of Congo. Efforts were made by the African Union to carry out humanitarian intervention, as was seen, for example, in the Democratic Republic of Congo and western Sudan. Local non-government organizations have worked hard in post-conflict situations such as Rwanda after 1994 to address issues that contributed to the tensions that led to violence. The African Union realizes full well that more work must be done by the AU and regional organizations in Africa to build civil society and to help negotiate agreements among various states and militias involved in conflicts. Organizations have been established and training programs and capacity-building of NGOs and community-based organizations have been carried out in African countries where gender violence is common, as seen, for example, in the DRC, Uganda, and South Africa. There have been efforts to reduce the numbers of arms and land mines in African countries.

Efforts are being made by non-government organizations to bring hunter-gatherers and pastoralists together to collaborate more effectively on programs such as those involving natural resource management, education, and conflict resolution, as seen, for example, in the efforts of the African Commission on Human and Peoples' Rights of the African Union, the International Work Group for Indigenous Affairs, the Indigenous Peoples of Africa Coordinating Committee, and the Working Group of Indigenous Minorities in Southern Africa (see Lewis and Knight 1995; African Commission on Human and Peoples' Rights, African Union 2005; Hays 2006; Hodgson 2007; Crawhall and Sena 2007; Kaunga 2008).

A key strategy for improving the situations of indigenous and minority peoples as well as Africans in general is the promotion of good governance. The Mo Ibrahim Foundation, based in London, in a report released on October 5<sup>th</sup>, 2009, addressed the issues of governance, human rights, development, access to economic opportunities, the rule of law, and public safety in all 53 of Africa's countries. The countries that came out in the top 5 were Mauritius, Cape Verde, Seychelles, Botswana, and South Africa, while the ones ranked at the bottom of the list were Sudan, the Democratic Republic of Congo, Zimbabwe, Chad, and Somalia. Similar rankings were made by Harvard University's

Kennedy School of Government's 2009 Index of African Governance, although South Africa was a bit lower on the Kennedy School's list, in part because of the high crime rate in the country, which has impacts on physical security, and pre-trial detention rates, which are on the rise in South Africa, indicating some slippage in the effectiveness of the rule of law and the justice system. It is clear that a multi-pronged effort is necessary for indigenous, minority, and other peoples in Africa to be able to have greater chances for recognition and promotion of their human rights, physical security, participation, and sustainable development opportunities.

### **Conclusions**

The indigenous peoples of eastern and southern Africa are undergoing substantial social, economic, and cultural changes. Some indigenous peoples in Africa have argued that their socioeconomic statuses and well-being are deteriorating in the face of conflicts, government intransigence, globalization, economic decline, and environmental change. It is for these reasons, they say, that greater attention has to be paid by African nation-states to indigenous peoples' collective rights and issues of gender, class, age, and ethnicity. Human rights are peoples' rights, they say, but they are also rights that are inherent to individuals in societies that have varying traditions, values, customs, and beliefs.

One of the misunderstandings of African governments about indigenous peoples' rights is the idea that protecting the rights of indigenous peoples necessarily means a government would be giving special rights to one group over another. Indigenous peoples are quick to point out that they are seeking equitable treatment, not special treatment. They want the same rights as other groups: the right to be protected from arbitrary arrest and mistreatment, the right to organize and take part in the political process, the right to be consulted, and the right to benefit equally from development projects. They also want cultural rights, including the right to speak their own languages and learn about their own cultural traditions.

Indigenous peoples in Africa are making some progress in their efforts to promote human rights and social justice. They are encouraged by the fact that the African Union and a number of African governments are paying more attention to indigenous issues. They are also encouraged to note that indigenous groups and their supporters are more vocal about the discrimination that they are coping with. Indigenous peoples throughout Africa are greatly appreciative of the fact that all of the African governments either voted in favor of the Declaration on the Rights of Indigenous Peoples or abstained when the Declaration came up for a vote in the United Nations General Assembly on September 13<sup>th</sup>, 2007.

Virtually all African states have committed themselves, at least on paper, to the elimination of all forms of racial discrimination. While they still have a long way to go, the indigenous peoples of eastern and southern Africa are convinced that their rights will be recognized and that they will be able to enjoy the fruits of development, democracy, and social justice.

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