

# Indigenous People's Plan

## Namibia Integrated Landscape Approach for Enhancing Livelihoods and Environmental Governance to Eradicate Poverty (NILALEG)

### 1. Overview of Marginalized people in Namibia

The calls to respect and uphold the rights of indigenous people are not new. International instruments and provisions on indigenous people restate, as way to emphasize, the very same rights protected under universal human rights instruments. Indigenous peoples' histories are marked by prejudice and marginalization that prevent them from enjoying equal rights. In most countries, indigenous people suffer de facto discrimination or exclusion, which lead them to lag behind national averages on levels of education, access to health, other public services and access to economic resources. Legal provisions on indigenous peoples' rights work therefore tries to correct these historical injustices and socioeconomic imbalances. They try to do this by first restating and centralizing the principle of equality as articulated in all universal human rights instruments, and secondly, by providing special measures with the view to closing socio-economic gaps and taking into account specificities of indigenous people (Dieckmann, Thiem, Dirkx & Hays, 2014).

Government of Namibia recognizes that the characteristics commonly attributed to indigenous people in international documents are not possessed by all Namibians who were born or whose forefathers were born in the country. As such, the Office of the Ombudsman in Namibia adopted the African Commission's conception of indigenous peoples in its *Baseline Study Report on Human Rights in Namibia* and distinguished indigenous peoples of Namibia from other non-indigenous marginalised communities (Office of the Ombudsman Namibia, 2013). The Working Group of Experts on Indigenous Populations/Communities of the African Commission on Human and Peoples' Rights defines "indigenous" as a relevant concept for Africa and summarizes the overall characteristics of groups which identify themselves as indigenous peoples as follows:

Their cultures and ways of life differ considerably from the dominant society and their cultures are under threat, in some cases to the extent of extinction. A key characteristic for most of them is that the survival of their particular way of life depends on access and rights to their traditional land and the natural resources thereon. They suffer from discrimination as they are being regarded as less developed and less advanced than other more dominant sectors of society. They often live in inaccessible regions, often geographically isolated and suffer from various forms of marginalisation, both politically and socially. They are subject to domination and exploitation within national political and economic structures that are commonly designed to reflect the interests and activities of the national majority. This discrimination, domination and marginalisation violate their human rights as peoples/communities, threaten the continuation of their cultures and ways of life and prevent them from being able to genuinely participate in deciding their own future and forms of development (Office of Ombudsman, 2012).

Although the terms indigenous and marginalized are often used interchangeably including in some government reports/writings, the Namibian Government commonly speak about “marginalized” rather than “indigenous” communities, because it implies that the vast majority of Namibians are in fact indigenous (Dieckmann, et al, 2014). According to the Namibian 2011 Population and Housing Census, marginalized people in Namibia make up about 8% of the total population and reside in various regions throughout the country, namely the Kavango East, Kavango West, Kunene, Ohangwena, Omaheke, Oshikoto, Otjozondjupa and Zambezi. Having been dispossessed of their traditional lands, many marginalized people of Namibia suffer from a lack of land rights and do not have access to lands that allow them to sustain their livelihood and traditional way of life (Dieckmann, et al, 2014).

## **2. Existing Legal Frameworks, Policies and Programmes**

### **2.1. International and Regional Treaties and Laws**

Namibia is party to a number of international conventions and treaties addressing human rights issues. Namibia’s international obligations are of particular importance because of Article 144 of

the Constitution, which renders all of Namibia's international and regional legal obligations, part of Namibia's domestic law.

**Article 144, Constitution of Namibia:** "Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under its Constitution shall form part of the law of Namibia (Republic of Namibia, 1990)

Such obligations are thus binding at an international level, as well as pursuant to the laws of Namibia. Below is a list of major international and regional human rights treaties that Namibia has signed or ratified that have key provisions to safeguard the rights of indigenous people and their communities.

- International Covenant on Civil and Political Rights (ICCPR) • Convention on the Rights of the Child (CRC) • Convention on the Rights of the Child (CRC) • Convention on the Elimination of all forms of Racial Discrimination (CERD) • International Covenant on Economic, Social, and Cultural Rights (ICESCR) • International Labour Organization Convention No. 111 - Discrimination (Employment and Occupation) • Convention on Biological Diversity (CBD) • United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

- African Charter on Human and Peoples' Rights (ACHPR) • Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa • African Charter on the Rights and Welfare of the Child • African Youth Charter • SADC Protocol on Culture, Information and Sport; • SADC Forestry Protocol • SADC Protocol on Mining; and the SADC Protocol on Training and Education.

## **2.2. National Laws, Policies, Frameworks, and Programmes**

### **Constitution of the Republic of Namibia**

The Constitution of the Republic of Namibia provides prohibits discrimination on the basis of attributes such as race, colour or ethnic origin, and it guarantees human dignity, equal access to

property, education, and justice. The provisions enshrined in the Constitutions are applicable to all Namibians.

### **Racial Discrimination Amendment Acts No. 26 of 1991 and No. 26 of 1998**

The Racial Discrimination Amendment Acts of 1991 and 1998 protects all Namibian citizens from discrimination on the basis of race, ethnicity, colour, nationality, or origin when accessing, amongst other things, goods, services, real property, education, healthcare or employment.

### **Indigenous peoples-related standards in Namibia**

Adoption of the San Development Programme on the basis of a Cabinet decision No: 25th/29.11.05/001: To integrate the San Communities into the mainstream of the Namibian society and economy in line with its Vision 2030 and national development policies. In addition, resettlement of landless Ovatie and Ovatjimba communities at Ohaihuua, Otjikojo and Otjomuru Villages were also done to protect the plight of indigenous people.

### **3. Indigenous people in different landscapes of the project**

The Namibian marginalized groups are the San, Ovatie, OvaHimba and OvaZemba. They are regarded to be marginalized because they are understood to live in extreme poverty and on the margins of society where their levels of life expectancy, health, and literacy are lower than the national averages and their source of livelihoods are mainly dependent on food aid programmes and levels of unemployment are higher than the national averages. Moreover, they are found to be facing social stigmatization, from marginal society in the areas where they live. Consequently, they are found residing in the most inhospitable terrains in the country, mainly surviving on gathering veld-food such as roots and wild berries (Dieckmann, et al, 2014).

The San people makes up the majority of the marginalized peoples in Namibia, while smaller group of the Ovatie and Ovatjimba which are simultaneously categorized under OvaHimba have also emerged. These groups often found residing in the remote dry and mountainous areas of Kunene region previously known as Kaokoland. The OvaHimba still uphold their traditional

semi-nomadic lifestyle and culture, their lives are centered on herding livestock (goats and cattle) to new grazing areas and waterholes (Dieckmann, et al, 2014).

In this study the name ‘San’ and ‘OvaHimba’ is used overarching to refer to all the matters that are common or affecting all or most of the San or OvaHimba communities found living within the five Focal Landscapes of the study namely; Okongo, Nkulivere, Bukalo, Ruacana and Omaoipanga. Each of the different San groups in Namibia speaks its own language and has distinct customs, traditions and histories. They include the: Khwe, Hai||om, Ju|’hoansi, !Xun, Naro and !Xoo. In general, Namibian San groups prefer to be called by the name that they use in referring to themselves, which is usually also the name of their language group (Dieckmann, et al, 2014).

## **San people**

The San people are found in the Okongo and Nkulivere focal landscapes. The Okongo Focal Landscape is found in Okongo Constituency of the Ohangwena Region. The Okongo Community Forest and Conservancy (known locally as the “Omauni Community Forest” incorporates the main forestry office, hall and campsite (Dieckmann, et al, 2014). Within the vicinity of Okongo Community Forest, there are four San resettlement projects namely Onamatadiva, Eendobe, Oshanashiwa and Ekoka. The San community which is within close proximity to the Community forest is the Oshikoha village located about 10 km north of Omauni village within the Okongo Community Forest and Conservancy.

A 2003 Report by National Planning commission of Namibia, asserted that the San people are undeniably the first inhabitants of the Ohangwena Region (Dieckmann, et al, (2014) . The size of the San population, varies across sources, for instance the 2001 Population and Housing Census found a total of 289 households including 1 535 individuals speaking a San language at home, which makes up 0.8% of the regional population. In 2002 it was reported that there were 20 villages in the Okongo Community Forest, with a total population of 1 300 and a San population of approximately 150. In 2003, the Ohangwena Regional Poverty Profile reported 518 households across four constituencies, totaling 1 841 people reportedly speaking a San language, but also indicated that other, smaller groups of San could be found in other constituencies. The latest census finding was that 0.2% of all Ohangwena households spoke a San language. Dieckmann, et al, (2014) argued that these censuses may lack accuracy since the survey only captures those San who speaks a San language at home, which imply that there might be more San living in the region.

According to Dieckmann, et al (2014) the San (!Xun and Hai||om) of Ohangwena Region, lack a traditional leadership structure of their own, therefore the land tenure and other customary rights on the land they are living are dominantly governed by Oukwanyama Traditional Authority. Even in cases where some San groups have leaders they are not recognized to titles such as ‘village headman’, as a result they have limited powers in major decision making at village level. In the three local leadership structures that exists in Okongo namely the Village Development Committee, the Okongo Community Forest Management Committee (CFMC) and the Water

Point Committee (WPC), San group !Xun, were only represented on the CFMC and excluded on the other leadership structures, despite them attending community meetings and participating in election of community members. Consequently, the public participation of San in decision making is weak at both local and regional level (Dieckmann, et al, 2014). The affiliations between the Ovakwanyama and the San people (!Xun and Hai||om) is grounded on an unequal distribution of power. The !Xun in Okongo Community Forest and Conservancy, feel that life is good due to community forest, as they have access to many natural resources, although there are some restrictive laws which prohibits them from hunting. Most San households are regarded to be in absolute poverty whereby they lack shelter, adequate food provisions, as their livelihood strategies are highly dependent on Government initiatives such as food programs, government grants and gathering of veld-food. A few are involved in economic activities such as piecework, sales of crafts and crafts, and a slight number engage in gardening activities (Dieckmann, et al, 2014).

Nkulivere landscape is found in Kavango-West Region within the Mpungu Constituency. The !Xun are the main San group in Kavango Region, and live mainly in the south-west of the region around the Mpunguveld. The San community within close proximity to the Nkulivere Focal Landscape is Wiwi village which lies about 30 km south-west of Mpungu in the Kwangali traditional area. According to the 2001 Population and Housing Census the Kavango Region had a population of 2 277 which (2, 1%) speaking a San language at home in, of which 2,9% was from Mpungu Constituency. Remarkably, in 2011 the San-speaking households in Kavango were reported to have decreased to 0.4% (Dieckmann, et al, 2014). Over the years, the San people have moved away from their localities to government-supported San project areas. Old-age pension grants are an important means to survive, and the pensions provide a regular cash income as a source of household income.

Unable to rely on hunting and gathering, or to engage in the crop production and livestock farming activities that sustain other rural communities in Namibia, for decades most San have resorted to casual work and piecework as a principal means of earning a living, supplemented by the food aid, pensions and grants provided by government. Their lack of education, circumscribed capacity to assert their human rights, the prevailing stereotyping of San,

internalised discrimination and their lack of a strong political voice are other crucial factors contributing to their current situation. Threats to food security as a result of irregular delivery of government food aid; a lack of cash to purchase food; drought, which reduces harvests of rain-fed crops and garden produce as well as veld-food; enclosure of land by individuals (especially small-scale commercial farmers) make the San people's lives precarious. Further, the San people have limited access to veld food; wildfires that destroy veld food; and wild animals eating crops and garden produce exacerbate the problem of precariousness. The San people in Kavango Region were only partially integrated into existing decision-making processes and structures. Also, unequal social relations exist between the San people and other groups in Kavango (Dieckmann, et al, 2014).

### **The Ovahimba and Ovazemba people**

The OvaHimba are believed to have migrated from the Great Lakes region to the arid savannahs of northwestern Namibia in the mid-16th century. According to 2001 National Population and Housing Census, the Kunene region is home to more than 68 000 inhabitants. The Ovahimba and Ovazemba marginalised live in the remote, dry and mountainous areas of Namibia, which resulted in them not having frequent contact with the outside world. As a result of their isolation, they maintained their cultural practices such as ritual and dances, their beliefs, their ornaments, and the female attire also remained intact. However, with the changing modern world, the world's communication and technological developments have also reached these indigenous people, which are evident in the fact that the external global cultural forces have also started to influence the way of life of the OvaHimba and OvaZemba. As a result of a growing tourism industry in the Kunene region (formerly known as Kaokoveld), the OvaHimba and OvaZemba lifestyle and culture have become increasingly endangered. Historically, the OvaHimba and OvaZemba groups have a great deal in common in terms of traditions and cultural practices, and both continue to maintain their traditional beliefs (Dieckmann et al, 2014).

The traditional chiefs are extremely influential, therefore most state agencies and NGOs try to involve them in different capacity development initiatives such as water infrastructure initiatives, to enable them to fully participate in decision making. These communities are cattle herders in constant search of quality grazing for their cattle, goats and sheep. And to ensure that their



livestock is secure from environmental dangers, every member of the community must avail themselves to perform these critical tasks of herding and protecting cattle. Majority if not all project beneficiaries of the Omaoipanga Focal Landscape are the OvaHimba people (Dieckmann, et al, 2014).

#### **4. Challenges and Opportunities**

The following matrix shows that challenges facing the indigenous people in Namibia and opportunities for safeguarding their rights and livelihoods.

<b>Challenges/problems/risks</b>	<b>Opportunities</b>
Likelihoods of marginalization and discrimination	Laws in place for the protection of marginalized. A Deputy Minister in Office of the Prime Minister coordination affairs of the marginalized people
Failed attempts to be integrated into mainstream agricultural and other initiatives	Opportunity to engage in farming and different agricultural activities
High levels of poverty and hunger	Several programs exist to assist the marginalized people to improve standard of living and increase livelihoods
Lack of strong traditional leadership  Unequal power relations - Does not form part of dominant traditional leadership – decision are made on behalf of them	Government recognition of traditional leadership of marginalized groups. Forums for traditional leaders to discuss issues affect their people at different levels
Land tenure insecurity – no access to farm land  Evictions	Inclusive national land reform program, improving land tenure through registration of land rights
Livelihood highly dependent on natural resources – vulnerable as resources are depleting, distances are increasing to access	Existence of natural resources management local-based institutions – inclusivity is encouraged and facilitate access

resources, access unaffordable, restrictions to access resources	Protected forest reserve in the area
Agricultural livelihoods – affected by various factors such as low rainfall and land degradation,	Several programs in the country to support farms affected by drought and educational programs to deal with land degradation and climate change
Eroding cultural practices, especially the hunting-gathering practices and language among the San	Eager to preserve the cultural practices and passing it on to their children
Limited capacity and support to sustain initiatives, low education background, limited job opportunities	Opportunities to earn income for sales of nature-based enterprises  Access to government provided services such medical care, education, water etc
Excessive use of alcohol	Educational programs at different platforms including radio for all people
Low participation in community development initiatives both in leadership and general participation – could lead to exclusion of their interests	Opportunities to participation in different community development initiatives
Conflicts over land, resources and leadership among different groups	Forums for traditional leaders to discuss issues affecting their people at different levels

## **5. Project potential impacts and maximization or minimization of impacts**

<b>Impacts</b>	<b>Maximization or minimization of impacts</b>
Impacts related to the demonstration site for land restoration	A positive impact is achieved through the use of land within the existing management regime that does not risk land rights of the people. Project strengthening existing resources management efforts of the community.
Impacts associated with Regional Forest	Negative impact if associated with re-location or

Reserve	limiting access of people from the forest reserve. The mitigation measures will be to allow sustainable use of resources from the reserve.
Impact associated with establishment of new Community Forests	Positive impact as it contributes to sustainable resources utilization and management practices with management plans in place. Negative impact without mitigation because resistance or negative effects on some traditional livelihoods could be encountered in the process. The management plans should consider the needs and interest of the indigenous people.
New management structures	Positive impact for local-based management institutions, however, mitigations measures will be required to ensure inclusion of marginalized people in these leadership structures.
Development Nature-based enterprises	A positive impact will be achieved with some mitigation associated with talent search and capability enhancement for the indigenous people as well as business incubation facilities for the indigenous people.
Impacts associated with sustainable finance mechanisms	This will involve credit schemes to enhance business development. A positive impact will be attained through mitigation measures such as finance and proposal development related trainings.
Project impact on Traditional livelihoods and identity	The maintenance of traditional livelihoods and identity of the indigenous people through this project will be necessary. A positive impact with some mitigation measures that will ensure limited disruption of the local livelihoods and erosion of their cultural practices.

Project benefits and capacity enhancement	A positive impact that require mitigation to ensure project activities reaching the indigenous people and actively forming part of all project benefits. A negative impact may arise when project benefits start creating dependency attitudes among the people.
---	--

## **6. Project potential impacts and maximization or minimization of impacts**

<b>Item</b>		<b>Efforts to avoid or minimize effects</b>
1.	Land	Work closely with regional and local leadership structures during identification of land for project activities to avoid any future land related conflicts or touching on the land rights of indigenous people.
2.	Access to Natural Resources	Promote sustainable use of diverse natural resources and benefits from the forest reserve. Address access restrictions such as permits from hindering poor and marginalized community to fully access resources.
3.	Economic development and Benefit distribution.	Promote of equity in the distribution of benefits and involvement in business of opportunities. Continuous mentorship and training should be provided to indigenous people to develop sustain the business appropriate investments from the benefits.
4.	Indigenous socio – political structures	Capacity building community structures and enabling them to effectively participate in management of the community going forward will be a cornerstone of the trust. The social impact assessment of the EIA and the stakeholders Engagement has at all times endeavored to respect the rights and traditions of the indigenous and to work within their traditions.

5.	Cultural identities and livelihoods.	Promotion and protection of indigenous history, resources their livelihoods depend would then help perpetuate the indigenous identity and maintenance of their traditional livelihoods. At all times since to conception of the proposed development efforts have been made to respect indigenous cultural resources. Social activities, provision of information materials in local languages should allow them to actively participate.
----	--------------------------------------	---

**7. Proposed Plan of Action for the Project**

1. Recognition and strengthening of indigenous leadership structure – The project will involve identification and enhancement of existing traditional leadership structures, which will assist in the management and/or implementation of the project to maximize benefits on indigenous existing cultural and natural resources. These leadership structures will be the intermediaries, through which the project will be communicated on the local level. These leadership structures will communicate the project implementations, benefits, impacts and implications to communities, in their local language in a step by step process to ensure understanding of the project.
  
2. Active participation for all – The project will be inclusive of all indigenous groups; youth, elderly, women and men, along with their identified and/or existing traditional leaders. Active participation will be promoted to avoid disregarding interest of any age group.
  
3. Hold regular meetings/consultation on specific issues regarding project –This will be done to allow sufficient time for the indigenous people to make internal decision making collectively, without any external influences. Moreover, the regular consultations will be platforms for the indigenous people to expression their view, discuss for and/or against any issue regarding the project, before implementation of any of the project activity is done.

4. Leadership structures should be trained and consulted –A full comprehension and success of the project is dependent on the complete ownership of the project by the indigenous people. Therefore, the leader of indigenous people will be offered capacity building, duly consulted and actively involved to ensure that the project is fully communicated to the communities and . This will allow the leaders to be engaged in management structures.
5. Non-Forest Product business to involve traditional livelihood- Identification of the non-forest product business development will be an iterative process, allowing the indigenous group themselves to indicate the programs to be development to improve and/or mainstreamed into their livelihoods.
6. Local employment – marginalized groups are characterized by low educational and skills background resulting in them having low employment opportunities. Local employment be made available through project employment to alleviate vulnerability among households of the indigenous people.

## **8. Grievance redress**

The Namibian government has set up legislation and regulations that aims at protecting the indigenous or marginalized people in Namibia. Adoption of the Traditional Authorities Act, Community Courts Act and Communal Land Reform Act were among the laws that working closely with traditional setting in Namibia, under which most indigenous people fall. These legislations, allow indigenous people to freely, without intimidation, to launch their complains or grievances to the traditional structures, Communal land boards or community courts for the issues to be dealt with openly and with fairness.

Enhanced protection and promotion of indigenous peoples' rights is an asset to national development for the following reasons (Office of the Ombudsman, 2012):

- It prevents or resolves social conflict.
- It promote good governance through participation of the beneficiaries and others stakeholders.
- It guarantees conflicts-free exploitation and conservation of natural resources given that in most cases indigenous peoples live on lands that are rich in natural resources. There is no long term

future in exploitation or conservation of natural resources based on social injustices, expulsions of local communities and conflicts.

- Indigenous peoples have knowledge that can benefit a country as a whole.

## References

- Dieckmann, U., Thiem., M., Dirx., E & Hays., J. (2014). *Scraping the Pot: San in Namibia two decades after independence*. Legal Assistance Centre and Desert Research Foundation of Namibia.
- Office of the Ombudsman. (2012). *United Nations Declaration on the rights of Indigenous Peoples (General Assembly Resolution 61/295, 2005). Guide to Indigenous Peoples' Rights in Namibia*.
- African Commission on Human and People's Rights. (2011). Resolution on the Protection of Indigenous Peoples' Rights in the Context of the World Heritage Convention and the Designation of Lake Bogoria as a World Heritage site. *World Heritage Convention and Designation*, (p. 197). Banjul.
- Division Marginalized communities*. (2018, 11 10). Retrieved from san development: <http://www.sandevlopment.gov.na/index.htm>
- International Labour Organization. (2007). *Eliminating discrimination against indigenous and tribal peoples in employment and occupation: A Guide to ILO Convention*.
- Office of the Ombudsman. (2012). *Guide to Indigenous Peoples' Rights in Namibia* . Windhoek.
- Office of the Ombudsman Namibia. (2013). *Baseline Study Report on Human Rights in Namibia (2013): 81*. Windhoek.
- OHCHR. (2013). *Report of the Special Rapporteur on the Rights of Indigenous Peoples in Namibia*. Geneva: OHCHR.
- United Nations International Day for Biological Diversity. (n.d.). *International Day for Biological Diversity*. Retrieved from <http://www.un.org/en/events/biodiversityday/convention.shtml>
- United Nations Office of the High Commissioner. (2013). *United Nations Human Rights Fact Sheet No. 9 Rev. 2, Indigenous Peoples and the United Nations Human Rights System*. New York: Office of the High Commissioner.
- World Health Organization. (2012). *Regional Office for the Eastern Mediterranean, Health and Human Rights: International Covenant on Economic, Social, and Cultural Rights*.



