

**Testimony
Of
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Before**

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The overall picture of the human rights situation of indigenous peoples in Africa is a serious cause for concern, and effective protection and promotion of their human rights is urgently required.

The African peoples who are applying the term 'indigenous' in their efforts to address their particular human rights situation cut across various economic systems and embrace hunter-gatherers, pastoralists as well as some small-scale traditional farmers. They practice different cultures, have different social institutions and observe different religious systems. The Pygmies of the Great Lakes Region, the San of southern Africa, the Hadzabe of Tanzania and the Ogiek, Sengwer and Yakuu of Kenya can all be mentioned as examples of hunter-gatherer communities who identify themselves as indigenous peoples. Similarly, pastoralist communities such as the Pokot of Kenya and Uganda, the Barabaig of Tanzania, the Maasai of Kenya and Tanzania, the Samburu, Turkana, Rendille, Endorois and Borana of Kenya, the Karamojong of Uganda, the Himba of Namibia and the Tuareg, Fulani and Toubou of Mali, Burkina Faso and Niger can all be mentioned as examples of pastoralists who identify as indigenous peoples. Additionally, the Amazigh of North Africa also identify as indigenous peoples.

The total population of Indigenous Peoples in Africa is estimated to be 21.9 million. (IWGIA 2008) Overall characteristics of Indigenous groups are that their cultures and ways of life differ considerably from the dominant society, and that their cultures are under threat, in some cases to the point 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 lands and the natural

resources thereon. They suffer from discrimination as they are 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 marginalization, both politically and socially. They are subjected to domination and exploitation within national political and economic structures that are commonly designed to reflect the interests and activities of the national majority.

Lack of legislative and constitutional recognition of their existence is a major concern for indigenous peoples. Very few African countries recognize the existence of indigenous peoples in their countries. Even fewer do so in their national constitutions or legislation. Indigenous Peoples representation in the legislative assemblies and other political structures of their respective states tends to be very weak; hence issues that concern them are not adequately addressed. This is a direct violation to the UN Declaration on the Rights of Indigenous Peoples, the ILO Convention 169 on Indigenous Peoples Rights and *Article 13(1)* of the African Charter on Human and Peoples Rights which guarantees all citizens the right to participate in the government of their own country.

It has been our experience that U.S. Embassies rarely address the human rights of indigenous peoples within their in-country human rights reports. **However, the human rights and rights of Indigenous Peoples of Africa intersect with vital U.S. national security interests.** Today's unstable situations in the many conflict zones across West Africa and the Sahara all have their origins in

policies that excluded Indigenous nomads from governance and policy-making.

Conflicts in West Africa will continue until reconciliation can be reached between the Indigenous Peoples of the region and their fellow citizens.

A rich variety of ethnic groups exists within basically all African states, and multiculturalism is a living reality. Conflicts do not arise because people demand their rights but because their rights are violated. Giving recognition to all groups, respecting their differences and allowing them all to flourish in a truly democratic spirit does not lead to conflict, it prevents conflict. In the long term, United States national security interests are best served through assisting the African states in the development of multicultural democracies based on respect for, and representation of all ethnic groups within this important continent..

I would like to highlight some positive developments that are taking place on matters such as; cultural rights, constitutional recognition , more favorable development policies and, in a few cases, even on land rights issues. USAID should look to countries such as South Africa, Algeria, Morocco, Mali, Republic of Congo, Burundi and Cameroon, and Kenya for Africa grown solutions and lessons they could support elsewhere.

We hoped our panel would have Mary Simat, a Maasai from Kenya to be here in person. However she has submitted of written testimony on an unprecedented success in democracy building. Passed by public referendum in 2010, Kenya's new Constitution provides the continent with the first African constitution that enshrines the rights of Indigenous Peoples. Good governance is good for

business. The in-country divisions of GM, General Electric and FedEx report “a sense that they (Kenya) are on the right track.” In the long term, their empowerment can lead to greater participation and prosperity, and therefore peace.

The San, Pygmies, Ogiek, Maasai, Barabaig, Tuareg, Hadzabe, etc., are of course seeking, individual human rights protection, just like other individuals the world over. However, it goes beyond this. These groups seek recognition as peoples, and protection of their cultures and particular ways of life. A major issue for these groups is the protection of collective rights and access to their traditional land and the natural resources upon which their way of life depends.

These basic collective rights are being violated because many pastoralists, hunter-gatherers and other Indigenous groups are being evicted from their land or denied access to the natural resources upon which their culture and survival as peoples depends. This dispossession is driven by two factors: large foreign investments for commercial development and the establishment of national parks and conservation areas.

Large scale commercial land grabs have become strikingly popular. Preliminary research by the International Land Coalition, estimated that over 47m hectares of African lands have been subject to some sort of negotiation with a foreign investor. *The Economist* reports that over a tenth of the farmland of South Sudan has been leased this year and proposals that would allow Saudi business groups to take control of 70% of the rice-growing area of Senegal are being tendered.

Because the African land market is so ill-developed and the governments are so weak, most these land deals contribute little or nothing to the public good. Even after the contract is signed, there is no guarantee the land deal will go accordingly. A World Bank survey showed that in the Amhara region of Ethiopia, only 16 of 46 projects were working as intended. In Mozambique only half the projects were working as planned. One project in Mozambique had promised 2,650 jobs only to create a mere 35-40 full time positions.

Very little, if any, sustainable development is occurring and land rents are de minimus: \$5 per hectare in Liberia and \$2 per hectare per year in Ethiopia. But that is not stopping the land grab. So far, Ethiopia has investments from 36 countries, including India, Pakistan, China and Saudi Arabia, and 896 businesses including Karuturi – one of the world's top 25 agribusinesses. While making this land available for investors last year, Ethiopia resettled 15,000 people from their customary homelands. The majority of the land leases encompassed Indigenous territories. Many of the concessions include homelands upon which whole villages live; dispossessing them of their livelihood and denying them the power to contest or benefit from the land deals.

Throughout Africa the land of indigenous peoples is gradually shrinking; stripped of their natural resource assets they face certain destitution and possible extinction. To allow customary land systems to flounder in the realm of illegality deprives Indigenous Peoples of state sanction for and protection of their basic rights. It is a serious violation of the UN Declaration of the Rights of Indigenous Peoples (arts 13-19), ILO Convention 169 on the Right of Indigenous Peoples

and the African Human and Peoples Rights Charter (*Article 20, 21 and 22*), all which state clearly that peoples have the right to existence, the right to their natural resources and property, and the right to their economic, social and cultural development.

The goal is to create a stable investment environment in which communities can maintain their land claims, prosper and flourish alongside investment and national economic development. **Upholding indigenous land rights and preventing the human rights violations that these massive scale land grabs pose to the livelihood social and cultural well-being of Indigenous Peoples intersects with the economic future and U.S. national economic interests.** The U.S. Chamber of Commerce, reports that the long-term business strategy of American firms for Ethiopia is to seek “investments to employ Ethiopians to farm for local consumption and export where there is demand.” US interests are better promoted through a free market economy and to help African markets emerge the U.S. Government needs to support true tenure security that will come from: elevating customary land rights up into formal law, making customary land rights equal in weight to registered rights, and supporting the normative processes necessary to uphold and enforce such rule of law. Africa offers long-term growth opportunities and the US government needs to find more innovative ways to help companies invest in Africa. Otherwise the U.S. economy will incur the severe opportunity cost of conceding to its Chinese and Indian competitors.

Dispossession and land alienation whether by foreign investments or to create national parks and protected areas leads to an undermining of the knowledge systems through which Indigenous Peoples have sustained life over the centuries. From 1990 to 2000 conservation promoting the protected area strategies resulted in over 1 million Indigenous Peoples being evicted from their homelands, seriously threatening the continued existence of indigenous peoples and rapidly turning them into the most destitute and poverty stricken groups in Africa.

Conservation of our biodiversity is crucial and the 15,348 protected areas in Africa (Scholfield and Brockington 2008) should be supported but currently Indigenous Peoples live in and protect 86 percent of the world's standing forests. Testament to the efficacy of traditional knowledge is the fact that 80% of the world's remaining biodiversity resides within Indigenous territories. Globally, Indigenous lands encompass as much as 24 percent of Earth's surface. While the global network of protected areas encompasses 12 percent of earth's land. If recognition and support is given to Indigenous land tenure and management the amount of protected areas could more than double.

Multibillion-dollar schemes paid for by U.S. tax dollars are being implemented to reduce and mitigate carbon emissions through forestation projects and preventing deforestation. And billions of tax dollars are expended for conservation and biodiversity protection. Using traditional Indigenous knowledge and stewardship, it costs \$3.50 per hectare for Indigenous groups to conserve lands, forests and biodiversity on Indigenous territories. The administration and

management of national parks and protected areas by large conservation organizations costs \$3,500 per hectare.

Upholding Indigenous Peoples' land tenure and supporting their land management regimes serves U.S. interests in cost-effective conservation, mitigation of climate change, and global food security.

Currently a disproportionate share of biodiversity and conservation funding – well over 90 percent - goes to support conservation via the protected areas strategy. In the first analysis done of conservation NGOs in sub-Saharan Africa (Scholfield and Brockington 2008) it was estimated that the annual expenditure from between 2004 to 2006 was just under \$200 million. This represented the expenditures associated with 280 conservation NGOs covering 14% or 197 of Africa's protected areas. The report stated that a more adequate expenditure for meeting the needs of African protected areas conservation was \$2 billion a year.

Promoted by large US based organizations, there is a telling absence of African wildlife professionals and an emphasis on the role of Europeans at work saving African wildlife. In the USAID Congo Basin Forest Partnership, a conservation effort spanning over 700,000 square miles across six countries with 24 million people living in it the governing board and active players cited in this effort consist of 14 US and European based NGOs: Africa Wildlife Fund, Center for International Forestry Research, CIRAD Centre de coopération internationale en recherche agronomique, CI, Forest Stewardship Council, Forest Trends, Jane Goodall Institute, IUCN, Program for Endorsement of Forest Certification PEFC,

SVN Netherlands Development Organization, TRAFFIC the Wildlife Trade Monitoring Network, Wildlife Conservation Society WCS, WRI, and WWF

Not a single local African conservation group, community conservancy and Indigenous representative voice is found in the project. Yet in partnership with WWF a previous Congo Basin initiative to create a network of Protected Areas lead to the evictions of 45,000 pygmies from their traditional forest homelands (Schmidt) In addition Global climate change and associated food insecurity has reduced some African Indigenous communities to desperation as their cattle herds die off or their crops come in at the wrong time of a globally warmed growing season.

In order to save time today this part of our testimony is being submitted via videos that can show you some of the impact climate change is having in Indigenous communities. Indigenous Peoples as models for low carbon sustainable livelihoods are the most negatively impacted by the changes brought on through climate change. We asked communities from all over the world to submit videos of the effects of climate change and what they are doing about it. Congress can see the resilience and brilliance of Indigenous Peoples offer for solutions in mitigation and adaptation. Your support and protection of our rights would enable us to join you in finding solutions we all need while building a more fair just and sustainable future for all.