

# THE INDIGENOUS PEOPLES' MOVEMENT IN KENYA



*Joseph Ole Simel and Philip Purkei from MPIDO  
Photo: Jenneke Arens*

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## Introduction

Indigenous communities in Kenya are mostly dependent upon land given that the majority of them are pastoralists, with a small percentage being hunters and gatherers. The plight of these communities has been a sorry one as their way of life has not been considered a part of the mainstream economy by the government. These communities have hence been neglected, with poor infrastructural developments in their regions and a lack of favorable policies to safeguard their interests and protect their rights. The challenges facing these communities are twofold: those in the north are often faced with insecurity as a result of the proliferation of small arms from neighboring warring countries and the scramble for limited resources, while those in the south face a lack of secure land tenure due to the government's failure to recognise their form of land ownership. These, and



*A procession of peaceful demonstrators from the Maasai community, proceeding to present their memorandum to the British High Commissioner in Kenya, before they were dispersed by police. Photo: MPIDO*

many more challenges, have been the driving forces behind indigenous peoples' organizations in Kenya.

Indigenous peoples' organizations in Kenya have a short history spanning only twenty years or so, and this period has seen success stories as well as many challenges. Many organizations have been in existence for less than ten years.

The indigenous movement in Kenya gained momentum in 1993 during the preparations for the Vienna Conference on Human Rights and during the period immediately after. Many indigenous individuals began participating in the UN processes, and their meetings and exchanges with more experienced indigenous peoples from other regions became the driving force behind the current level of organization. The democratic space in Kenya in the 1990s contributed as well, as people were experiencing more freedom than before. The UN Conference was an eye opener for indigenous peoples.

In the 1990s, with the support of development partners, the pastoralists started one of the first umbrella organizations, the Kenyan Pastoralist Forum. Their agenda was strong but their institutional structure weak and so the forum was not able to withstand pressure from the politicians and government officials who started attacking them, claiming that they were a threat to national security.

It was clear that the government feared solidarity among the pastoralist communities, especially at a time when momentum for political multi-party democracy was beginning to gather pace. The government was worried that such solidarity might expose the neglect and marginalisation that the pastoralists had suffered for years.

The leadership of Kenya's indigenous peoples' organizations has been accused by both government officials and politicians of being incapable of running their institutions properly. However, despite some initial struggles, the indigenous leadership today is strong and has been able to support the indigenous communi-

ties in their struggle for their rights. The organizations are still few and far between, however, dealing with many difficulties and challenges, and with very limited resources to carry out and implement their pro-peoples programs and activities.

The aim of the indigenous peoples' movement is to reverse the critical and worsening economic, social and political conditions that were created for indigenous peoples during the colonial period and during the early years of development in postcolonial Kenya.

Since the beginning, indigenous peoples' organizations have been working with indigenous communities on issues

of social justice, human rights, poverty alleviation and institutionalizing popular indigenous peoples' participation in good governance issues at all levels: community, national and regional, e.g. the African Commission process and the United Nations mechanisms.

The influence of these indigenous organizations and movements has increased commensurately as they have developed new national, regional and global networks, engaged in advocacy for human rights, environmental rehabilitation and become vital participants in decision-making processes around policy and legal reforms in Kenya.



The networking relationship with non-indigenous organizations is encouraging the emergence and continuation of indigenous organizations and the move towards a more promising trend in terms of institutionalized participation.

The establishment of indigenous organizations is currently laying the foundations for the institution building that is necessary to create the socio-economic, environmental and political structures that are urgently needed to address the root causes of inequalities, human rights violations and social injustices. Many of these indigenous organizations have had demonstrable impact and results, both at local and national level here in Kenya.

## The development of an indigenous movement

Over the past 15 – 20 years, indigenous peoples' organizations in Kenya have played a major role at local, national and international levels:

- 1) Local level, or community level, where a great deal of empowerment has taken place through training and awareness creation. A small number of development projects for water supply and poverty eradication, land security, education etc. have been initiated and implemented at this level.
- 2) National level: serious engagement with national processes e.g. in the development of the Poverty Reduction Strategy Paper, with the final country paper capturing pastoralist issues, concerns and key recommendations. Other processes include: the constitutional review process (2003-2005), development of the National Land Policy (2003-2007) and engagement with political parties. During the 2007 general elections, intensive lobbying resulted in key issues concerning pastoralists being included on some political parties' agendas, especially that of the Orange Democratic Movement. This was later considered to have been the basis for the creation of a new Ministry for the Development of Northern Kenya and Other Arid Lands.
- 3) International level: at regional level a sound engagement with the African Commission on Humans and Peoples' Rights has taken place. Indigenous peoples from Kenya have also been involved in various UN processes, especially regarding the UN Declaration on the Rights of Indigenous Peoples, during the official visit of the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to Kenya, as well as active participation in the programmes of the UN Permanent Forum on Indigenous Issues and the UN Working Group on Indigenous Populations.



*Young girls and boys perform in a cultural festival organised by SIMOO – Photo: SIMOO*

The many years of misrule, first by the British and then continued by the African independent government, have succeeded in destroying the political and civil rights and liberties of indigenous peoples in many parts of East Africa. To correct this wrong, i.e. to restore these rights and liberties, has been a key agenda issue and objective of indigenous peoples' organizations in East Africa, particularly in Kenya. Although the last four years have witnessed key socio-economic and human rights milestones in the country, the vision for which indigenous peoples have struggled, been arrested, tortured and died, is still a mirage.

On 13- 14 August 2004, hundreds of people turned out in Nairobi and, on a smaller scale, in towns inhabited by the Maasai community, to mark the 100 years since the signing of the 1904 and 1911 treaties with the British. The Maasai stood up to demand their land back, irrespective of the current occupier, by holding peaceful demonstrations.

The Kenyan government made efforts to stop the unrest but was faced with an undeterrable community that was tired of the never-ending years of high-handedness on the part of government officials who fraudulently allocated themselves and their ilk the land and natural resources of the Maasai. As a result of the police's brutal response to the demonstrations, over 10 people were killed, hundred more injured and 278 arrested. The brutal crackdown and arrest of civil society leaders, accused of incitement, failed however to put an end to the demands of the Maasai people: the return of their land and natural resources. Instead, they rallied forces against both the current and the previous regimes (NARC and KANU respectively).

As stated above, progress has been made. But this has occurred without achieving a paradigm shift in the management of public affairs, particularly indigenous peoples' territorial and land rights, largely due to the fact that, in some cases, indigenous peoples' organizations have remained divided, and easily outmanoeuvred by both government and senior politicians. Our socio-economic and legal/political policies are rife with countless responsibilities that confer excessive administrative powers on government officials and these are being used to abuse and violate the rights of indigenous peoples. Government officials are never accountable to the people and often act according to the needs and interests of those who appoint them. It is these same people, along with their political friends, who are extremely influential and commit innumerable crimes that cause a great deal of frustration and suffering among indigenous peoples. This becomes even more visible in the corridors of justice, where a hugely expensive criminal justice system hurts the poor and the marginalized the

hardest, and denies them an opportunity of accessing justice. This has continued to allow a culture of impunity, which has continued to threaten the land and natural resource rights of indigenous peoples.

Most indigenous peoples' organizations in Kenya have in many ways succeeded in addressing issues critical to the survival of indigenous peoples and their communities. These issues include, but are not limited to: development programs and paradigms that address the lack of sound policies recognizing and supporting their livelihoods; high poverty levels; human rights violations and abuses; security of land and natural resource tenure.

Indigenous peoples' organizations have played a critical role in delivering information to the grassroots, some of which has led to the rejection of a number of "development" projects, policies and decisions that had been made without indigenous participation or consultation. Such decisions, programs and policies have continued to have a very serious negative impact on the livelihoods of indigenous peoples, their land and environment, and the organization and institutions of indigenous peoples in other regions.

Indigenous peoples' organizations have used different approaches and strategies to push their concerns. These include capacity building through awareness raising, campaigns, lobbying, information sharing, networking and partnerships. Some have borrowed experiences, ideas and skills from organizations and institutions in Asia, North America, the Pacific, Europe and Latin America.

Most commonly, the indigenous organizations at community level first build consensus and collaboration among themselves and identify key critical issues, prioritizing them accordingly. Such processes have built the capacity of local communities and other key stakeholders, including key traditional governance institutions, and have made dialogue between non-indigenous and indigenous people or their organizations more fruitful. Lobbying, advocacy work and campaigning have been used successfully in some areas to advocate indigenous peoples' viewpoints on issues relating to the national agenda, specifically legal and policy reforms. Information and experience sharing has been a very critical aspect for some indigenous civil society organizations in terms of moving forward their issues. These organizations include the Kenya Pastoralist Forum, Kenya Pastoralist Development Network (KPDNK), Ogiek Welfare Council, Pastoralist Hunter-Gatherers, Ethnic Minority Network and others.



*African Commission on Human and Peoples Rights, Accra. Representatives of indigenous organisations in Kenya with the Kenyan Minister for Justice and Constitutional Affairs. Photo: MPIDO*

### **The emergence of umbrella organizations and their initial problems**

The Kenya Pastoralists Forum (KPF) was described by the Kenyan Government in the 1990s as the Kenya Peoples Front. The implication of this description meant that the peoples and their indigenous community support were scared of the organization and its activities, as it was seen as an anti-government organization, planning to topple the regime of the day. Some politicians from the pastoralist communities sang from the same hymn sheet as the government, and that was the beginning of the organization's problems. Issues related to good governance, particularly accountability and transparency, although these are common problems in young pastoralists' organizations, caused by low or non-existent capacity among the IP organizations.

There have been a large number of initiatives, including the formation of national umbrella organizations, e.g. the Ereto Women Association, Maa Pastoralist Council, Pastoralist, Hunters and Gatherers and Ethnic Minority Network (PHGEMN), Maa Civil Society Forum, Kenya Pastoralist Development and Network (KPDN). Some of these organizations have been formed as a coalition of like-minded individuals and organizations with a specific objective. As an example, PHGEMN was formed specifically to engage in the constitutional reform process. PHGEMN had a great deal of success during that process but became less active after the Constitutional Referendum of 2005, mainly due to its inability to mobilize resources for activities.

Many of these national organizations have had difficulties in remaining visible after a period of time. In

fact, the local organizations have been seen to be more effective and efficient in project implementation and responding to issues of concern to the IPs. Some of the reasons that have been seen to deter the progress of national/umbrella indigenous organisations are:

- The problems faced by indigenous peoples in northern Kenya have more to do with conflicts between different pastoralist communities as a result of poverty and institutional neglect, while in the southern part of the country, land dispossession by the government is the most pressing concern<sup>1</sup>.
- Most organizations had no clear structures or strategies and were not able to develop into sustainable institutions. When they failed to perform, most of the members left to form new organizations that competed with the old ones. This has undermined the solidarity and partnership among indigenous peoples. As a consequence, their ability to influence policy making has been limited.
- Lack of access to financial resources is another reason for the state of affairs among pastoralists' organizations. Most development organizations, except for a small number of European organizations, are not interested in pastoralists' issues and allocate little resources to them.
- Lack of capacity is one of the main challenges for umbrella organizations and is directly related to all of the above points. Lack of capacity is also under-



The SIMOO drama group performs a play on the dangers of land selling in Maasai Land – Photo: Marianne Jensen

mining the credibility of umbrella organizations and people are starting to lose faith in them.

- Networks of several indigenous organizations sometimes compete with their member organizations, which has further undermined the spirit of working together.

### **Milestones achieved by the indigenous communities in Kenya**

Despite the above mentioned problems, success stories do exist around specific issues, and these have been achieved due to the existence of the national organizations.

The indigenous peoples' movement has been very successful in raising issues of human rights abuses that are affecting indigenous peoples' communities. This relates to the social, economic, environmental and political rights that were being violated without anybody raising a finger until the indigenous organizations took up the matter:

Key achievements include:

- Influencing national policy formulation processes. In order to strongly influence these processes, the indigenous peoples' organizations have come together to seek recognition of indigenous peoples and their way of life with the support of like-minded individuals and lawyers. This began during the constitutional review process when a taskforce was formed to offer technical support to the delegates of the National Constitutional Conference to devise lobbying strategies, draft and present motions and lobby for support among the delegates. This was a key achievement as the draft that emanated from this forum, *the Bomas Draft* of the proposed constitution, gave special recognition to the identity and rights of indigenous peoples and their rights to collective ownership of natural resources.
- The findings and recommendations of two land commission<sup>2</sup> reports were full of recommendations made by pastoralist hunter-gatherers and ethnic minority communities. These recommendations were a result of increased awareness among community members, through indigenous peoples' organizations. One example is the case of the Mosiro



Staff members of MPIDO – Photo: Marianne Jensen

and Loodariak land adjudication sections, which were cited as major cases of land grabbing.

- Through the support of the indigenous peoples' movement, the Ilchamus community was able to win a landmark case through the Constitutional Court. The court ordered the Electoral Commission of Kenya to grant the community a constituency of its own so that they could field their own political candidates.

Through intense lobbying and advocacy work, the Endorois community was able to present their case to the African Commission on Human and Peoples Rights, and successfully obtained a hearing that resulted in the Kenyan Government being ordered to take measures to stop further mining activity on the Endorois' land.

These are just some of the cases/rulings that would never have been achieved without the strategic thinking and direction of indigenous peoples' organizations.

- The group of parliamentarians from pastoralist regions has come together to jointly advocate for the enactment of policies that are favorable to pastoral-

ists and other minority groups. The presence and work of this group has made many government institutions sensitive to the issues affecting the pastoralists' indigenous communities. This may be one of the reasons why the new coalition government created the Ministry of State for the Development of Northern Kenya and other Arid Lands.

- The indigenous peoples' organizations have succeeded in restoring the dignity and human rights that were lost during the colonial period.
- The indigenous peoples' organizations have succeeded in building solidarity, partnership and in networking with indigenous peoples in other parts of the world.
- The indigenous peoples' organizations have played a critical role in gaining media attention for issues affecting pastoralists (indigenous peoples), thereby bringing these issues to the attention of government institutions, UN agencies and other interested parties.
- The contributions of pastoralist indigenous organizations were visible both in the African Commission

Resolution on the Rights of Indigenous Populations/Communities in Africa and also during the recent adoption of the UN Declaration on the Rights of Indigenous Peoples. The organizations played a critical role in lobbying, campaigning and seeking to build solidarity among themselves and other like-minded organizations and governments on the same issue.

- It has been possible to mobilize resources to enable indigenous peoples' participation in key processes, especially with regard to policy and legal reforms. These have included but have not been limited to the Constitution of Kenya Review process, presentation of views to the Presidential Land Commission, National Land Policy Formulation Process and the Poverty Reduction Strategy Paper. Currently, the organizations are actively involved in the Commission of Inquiry into the 2007 Post-Election Violence and the Commission on Historical Injustices.
- Many indigenous peoples' organizations have been identified by the government as key players in enhancing democracy in the country and have been called upon to mobilize the communities in their endeavors, e.g. during the 2007 gathering of views for the development of a Human Rights Policy by the Ministry of Justice and Constitutional Affairs.
- Indigenous peoples' organizations have also become key players at the United Nations Permanent Forum on Indigenous Issues (UNPFII) and a particular achievement was MPIDO's (Mainyoito Pastoralist Integrated Development Organisation) side event during the 2006 meeting, where they presented a paper on the UN Millennium Development Goals (MDGs) and raised issues of indicators. This led to IFAD's (International Fund for Agricultural Development) response in committing resources for the development of such indicators. The Arid Lands' Institute, based in Nairobi, carried out the process of developing these indicators.

These are some of the key areas in which indigenous peoples' organizations have managed to influence policy making and development process affecting them.

The role of indigenous organizations has made it possible to reach a large number of people and local communities. Many people have thus benefited from different programs, projects, initiative and activities, with local communities placing their trust in indigenous peoples' organizations.

The success of these organizations is related to the direct community involvement and free participation

in human rights, poverty alleviation and environmental protection programs, among others. Civil society has created room for indigenous people to participate on issues of governance that have been ignored for a very long time.

These organizations have had the privilege of being able to work with international organizations, regional bodies and United Nations agencies, and have obtained a great deal of support for capacity building in areas of information sharing, ideas, strategies, dialogue and negotiations with government.

Indigenous organizations have succeeded in transforming the issues, framing indigenous peoples within an integrated approach that focuses special attention on the most vulnerable members of their communities. Indigenous peoples' organizations have developed the necessary expertise and capacity and are now reliable and trustworthy partners for key stakeholders, especially in service provision and the implementation of specific activities.

Most of these organizations have managed to mobilize the indigenous peoples to struggle for freedom from all forms of injustice, poverty and discrimination and to show them the mechanism of justice and solidarity that is needed for their own survival.

### **Challenges faced by the IP organizations in Kenya**

- Issues of accountability have been raised and directed at those indigenous peoples' organizations that were unable to continue running. While some of the concerns are true, many of the development partners involved failed to assess the institutional capacity<sup>3</sup> of the organizations before allocating large sums of money to them. A number of indigenous peoples' organizations lack capacity in the field of reporting and the issue of accountability is really related to this low capacity, and an inability to attract and hire good, qualified and skilled staff.

This is due to the fact that these organizations may not be able to employ highly skilled human resources. Because of this they are unable to compete with national NGOs in the country. Most donors demand highly technical and complicated proposals and requirements, which many pastoralists' indigenous organizations cannot provide.

- Competition between indigenous organizations for resources is a major challenge, hence undermining collaboration and networking between the same organizations. Issues of learning and sharing lessons

have been a challenge and this can easily be seen during regional and international fora, where conflicts and mistrust often arise.

- Many organizations are not able to develop institutional structures and remain dependent on individuals, hence they are not able to become institutionally sustainable.
- Despite the need for these organizations to address issues of advocacy so that they can influence policies, most target communities have first-hand and more basic problems that they may consider a greater priority, e.g. water, health and sanitation, HIV/AIDS and/or education.
- Conflict among different pastoralists' communities has impacted negatively on the indigenous organizations' ability to have a common strategy and common preferences. These conflicts are due more to years of neglect and marginalization, and bad policies that have reduced the resources available for indigenous peoples' livelihoods.

## The future

Indigenous organizations have many more opportunities than before to assist in addressing the critical challenges and needs facing indigenous peoples' communities in Kenya. The environment in which these organizations operate is improving due to an enhanced democratic space that has enabled IP organizations to operate within a less intimidating and threatening environment. A level of awareness is starting to take root among a few development partners, who are starting to understand and appreciate the critical role of indigenous peoples' organizations and the challenges facing them in terms of resource mobilization, and the sustainability of the projects and programmes they have initiated and implemented. Some of the impending key issues that these organizations can assist their communities or Nations to focus on are:

1. The challenges, threats and opportunities, if any, resulting from climate change.<sup>4</sup>
2. The reforms in Kenya, both legal and policy, and how they can contribute constructively to peace and conflict resolution as a result of the post-election violence, which not only led to the destruction of lives and property but also created one of the

worst situations of internally displaced peoples in this country's history.

The adoption and implementation of the National Land Policy is a strategic agenda that indigenous peoples' organizations must engage in and push for full implementation of. The progressive human rights developments and human rights international law will remain a priority for indigenous peoples, especially full implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

3. The African Court of Human Rights will be a key focus of indigenous peoples not only in Kenya but also in the region. Capacity building, networking and collaboration within and outside the country will be a strategic option for indigenous peoples and their organizations. Indigenous peoples' organizations will try to create and lobby for more dialogue with government officials and key government institutions and, at the same time, lobby the UN agencies on the more visible issues and programs that will improve the livelihoods of indigenous peoples' communities. □

## Notes

- 1 The northern part of Kenya is remote, with little infrastructure and a very dry climate. The Kenyan government provides little financial resources to the region and basically leaves the people to fend for themselves. The difficult situation in the region, as well as historical roots, have led to conflicts between indigenous groups. In the southern part of Kenya, the pastoralists, living much closer to Nairobi, are affected by the spread of agricultural lands, resulting in dispossession from their traditional lands.
- 2 Presidential Commission of inquiry on land laws and system in Kenya chaired by the former Attorney General of Kenya, Mr. Charles Njonjo and often referred to as the *Njonjo Commission*, and the Presidential Commission of Inquiry On the Irregular and Fraudulent Acquisition of Title Deeds and/or Land in Kenya, commonly referred to as the *Ndung'u Commission*.
- 3 The capacity assessment would include an analysis of an organization's structures in terms of governance, representation, staffing and staff capabilities, structural facilities and commitment to the organization's objectives.
- 4 See also: **Joseph Ole Simel, 2008:** The Threat Posed by Climate Change to Pastoralists in Africa. *Indigenous Affairs*, 1-2. IWGIA, Copenhagen.

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