

# Participation rights of indigenous peoples

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Over the past three decades, indigenous peoples' rights have become an important component of international law and policy. This is a result of a movement driven by indigenous peoples, civil society and other stakeholders. One of its main achievements is the United Nations General Assembly's 2007 adoption of the [UN Declaration on the Rights of Indigenous Peoples](#). By 2010, the vast majority of UN member states supported the declaration, and none opposed. It is the most comprehensive instrument detailing indigenous peoples' rights in international law and policy with minimum standards for recognizing, protecting and promoting these rights.

Namibia has signed most of the major international human rights instruments, including the specific commitment to the rights of indigenous peoples. However, several conditions hinder accessing these rights: the majority rule in Namibian politics, dependence on external funding, and Namibia's definition of indigenous peoples.

Since Namibia's independence, the ruling party South-West Africa People's Organisation (SWAPO) has consolidated its political gains by introducing a consensus-oriented governance system perceived to be suitable to local conditions. The system's design aimed to foster widespread participation, rather than majority rule, that would exclude large parts of the population. Theoretically, this seems to be a sound aim. Institutionally, however, the system is a double-edged sword for groups considered outsiders. At its worst, it is used to exclude certain groups from interacting with the Namibian government, like in the case of Ovaherero and Nama leaders. The direct descendants of victims of the German genocide are prevented from directly participating in negotiations between the Namibian and German governments around acknowledging and apologizing for the genocide and implementing steps toward restorative justice. Instead, the government of Namibia, in contravention to its own constitution and international law, created a technical committee to represent victim communities by individuals who are not in any manner recognized as leaders other than being members of the ruling party.

In Namibia, the [Traditional Authorities Act](#) regulates the observance of customary law and promotion of traditional practices, customs and cultural heritage. The [Namibian constitution](#), pursuant to Article 144, provides that international law and international agreements form part of Namibian law. These laws guarantee communities' rights, however their implementation is obscured by sovereignty and majority rule.

Traditional authorities, the governing structures of traditional communities in Namibia, do not have their own budgets. They depend on a monthly allowance

from the national government to pay senior councilors and chiefs. This situation severely limits their capacity to influence decision-making. Alternative options for funding are limited: civil society organizations (CSOs) could form partnerships with traditional authorities, but they also typically rely on foreign donor funding to sustain their operations. Most CSOs are demanding accountability from the government and it is highly unlikely that the government will support their activities. Corporate social operators are also inclined to stay aloof from potential conflict situations with government and rather concentrate their support on sports and arts activities.

Finally, the term “indigenous peoples” has limited application in Namibia because this status is only afforded to a few groups, such as the San, Ovahimba, Ovazemba, Ovatjimba and Ovatie peoples. They are understood to live in extreme poverty and on the margins of society. Life expectancy, health and literacy levels are considered to be much lower than the national average, while dependence on food aid and unemployment levels are higher than the national average. Remaining groups, which include most of the Ovaherero and Nama, are defined as local communities that are part of the larger Namibian population. The Namibian government is of the opinion that not all Namibians who were born, or whose parents were born, in this country possess the characteristics attributed to indigenous peoples in international documents. As such, Namibia has adopted the African Commission’s conception of indigenous peoples. Local communities are considered to be homogeneous, and therefore grouped together in one sovereign state, governed by majority rule. However, the government is not much concerned with citizen participation, open debate, socio-economic justice, fairness, civic understanding of duty, equality, or other values or notions that could encourage critical engagement with political leaders. Summing up, in practice, the described institutions and systems are configured to serve majority interests under the guise of sovereignty. Community participation is limited to political party representation and overshadowed by majority party rule.

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