

IN THE WAY: PERPETUATING LAND DISPOSSESSION OF THE INDIGENOUS HAI//OM AND THE COLLECTIVE ACTION LAWSUIT FOR ETOSHA NATIONAL PARK AND MANGETTI WEST, NAMIBIA

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Abstract

As former mobile foraging peoples, the indigenous Hai//om San of Namibia lost most of their land – including Etosha National Park and Mangetti West – to other groups and the state in the nineteenth and twentieth centuries. After independence (1990), the government redistributed some of this land to various expropriated groups. In the following overview, we delve into this complex history to argue that the recent decision by the Hai//om (2015) to file a collective action lawsuit against the government of Namibia over Etosha and Mangetti West must be seen in a context of ongoing, often subtle, processes of land dispossession simultaneously taking place as a result of marginalisation and structural disempowerment.

KEYWORDS: Hai//om San, Namibia, Land, Etosha, Indigenous peoples

Introduction

In this paper, we analyse different land situations of the indigenous Hai//om San (Bushmen).¹ The Hai//om are the largest San population in Namibia, numbering between 11,000 and 18,000. Today, they are also the most widely distributed of the San peoples (Dieckmann 2007, 2014), residing primarily in rural areas but also in cities and towns in the north-central and central regions of Namibia (see Figure 1). In southern Africa, the Hai//om are not the only indigenous peoples engaged in land struggles; most groups have, all in their own way, struggled or continue to struggle for land. The most famous cases are those of the G//ui and G//ana in the Central Kalahari Game Reserve in Botswana (Sapignoli 2018), and the #Khomani of the Kgalagadi Transfrontier Park in South Africa (Puckett 2018). In both cases, legal battles were won by

1 We are aware of the contentious character of the term 'indigenous', but it goes beyond the scope of this paper to elaborate on this in detail. See Dahl (2012) and Sapignoli (2018) for discussions of the debates about this term.

the respective San groups. Nevertheless, despite the high hopes raised by these legal victories, political interests and failed development initiatives have so far prevented any improvement in their marginalised living conditions (Hitchcock 2006; Dikgang and Muchapondwa 2013; Sapignoli 2018; Koot and Büscher forthcoming). It remains a question, of course, as to whether these situations would have been any better had the San groups *not* won their legal battles; arguably, their circumstances would have been even worse.

To the Hai//om, the famous Etosha National Park in north-central Namibia is the most outstanding historical anchor point. Yet there are other places in north-central Namibia where they have close historical connections, including, for example, Mangetti West to the east of Etosha. This paper considers the history and contemporary status of the Hai//om San in Namibia, focusing in particular on the transformations over time in land use and land tenure that have led to their ongoing dispossession. We aim to present the historical and contemporary complexities of expropriation and land loss for the Hai//om, despite several attempts by the post-independence government to redistribute land, which have so far resulted in only one ‘successful’ case of redistribution – namely, as later discussed, that of ‘Little Etosha’. With these attempts, many intra- and inter-group conflicts have occurred. Recently, based on their strong dissatisfaction about their land situation since independence, the Hai//om filed a collective action lawsuit against the government of Namibia and other agencies and institutions operating in the Etosha and Mangetti West areas. As a result of increasing pressures for land and income, this decision was made formally by the Hai//om San in 2015. The total land area for the Etosha claim is 23,150 km² and, for Mangetti West,² 0.433 km²; the total cash compensation sought for the two areas is over N\$3.9 billion (High Court of Namibia 2015). The lawsuit is aimed at ensuring the Hai//om receive benefits from both Etosha and Mangetti West. We argue that this lawsuit should be seen in a context of ongoing, often subtle, processes of land dispossession that are likely to be perpetuated in years to come owing to the Hai//om’s persistent marginalisation and structural disempowerment.

Our findings are based on long-term engagement with the San in southern Africa. The first author has been working with the Hai//om as a researcher since 1999, and as a development fieldworker at the Tsintsabis resettlement farm from 2002 to 2007. The second has been working with San in southern

2 The reason this relatively small area is included in the lawsuit is because Mangetti West can be considered ‘crown land’ – that is, land that has never been appropriated by settlers. Moreover, there is evidence of historical, even pre-colonial settlement by the Hai//om, of whom a sizeable group continues to live in and around Mangetti West, making this an important area for them. The distance between Mangetti and Etosha shows that this lawsuit is really a joint Hai//om claim, in which economic and social connections (e.g. through marriage) are pivotal (Widlok 2018, personal communication, 24 Oct.).

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Africa since 1975, and with Hai//om since 1986. In what follows, we provide an overview of the historical complexities of the Hai//om's land loss to other groups and the state in northern Namibia. We then go on to describe more recent and contemporary issues: first, we explain how the Hai//om are represented by a variety of institutions, including the government-appointed Traditional Authority (TA), an institution led by a Chief and comprising several other representatives called councillors; second, we provide details of the complex situation in and around Etosha; and, third, we do the same for the region in and around Mangetti West. In the conclusion, we revisit our main argument about the perpetuation of land dispossession in Namibia.

Historical background

The history of Hai//om dispossession and impoverishment has been described in detail by Thomas Widlok (1999), Ute Dieckmann (2001, 2003, 2007), James Suzman (2004) and Robert Hitchcock (2015). For our purposes, there are some important points to be made about Hai//om land use and management in the past, and the ways in which the Hai//om were either forced or encouraged to leave many of the places they had occupied for centuries. The complex Namibia land tenure system has been subdivided into various categories by colonial and postcolonial governments, which has led to the following current division: (1) freehold or commercial land (48 per cent); (2) communal lands (35 per cent); and, (3) state land, including monuments and protected areas (17 per cent) (Namibia Statistics Agency 2018).

It is generally agreed that the Hai//om historically dwelt in and around today's Etosha National Park and areas to the north and south of this region (Barnard 1992; Dieckmann 2007; Friederich 2014; Hitchcock 2015). Both oral history and (ethno-)archaeological evidence suggest that the Hai//om were the first people to reside within and around the Etosha Pan (Vogelsang 2005). When explorers such as Charles John Andersson and Francis Galton arrived at what is now Namutoni in 1851, for instance, they saw game and large herds of cattle being herded by both Ovambo and Hai//om Bushmen (Andersson 1856; Galton 1889; Berry 1997; Dieckmann 2007).

In the past, the Hai//om lived as mobile foragers, moving eight to ten times per year or more. Their mobility was geared in part towards the distribution of water (e.g. from rainfall); historically significant places (e.g. ancestor graves, sacred sites); locations of other groups (with whom they often shared waterholes); and access to natural resources (including plants, animals, stone, grasses, shrubs and trees). The number of wild plants used for food and medicines reveals that there were over 120 species that were part of the Hai//om

agroecological system (Widlök 2015; K. Khomob 2012, pers. comm., 27 August; U. Dieckmann 2017, pers. comm., 22 August; J. Tsumib 2012, 2018, pers. comms., 5 Sept and 25 June, respectively). The Hai//om were hunter-gatherers and part-time agro-pastoralists who were also involved in exchanges of a variety of goods and services (Gordon and Douglas 2000). They travelled from Ovamboland in the north to Windhoek and Lüderitz in the south (and beyond), in some cases working for others as livestock herders, field hands, guides, trackers, hunters and traders (Dieckmann 2007).

The Hai//om shared their land and resources with neighbouring groups. This was beneficial to both parties, demonstrating that sharing land – with parallel use rights by different groups – was a viable option that some colonisers seriously considered and even practiced from time to time. Dividing the land, on the other hand, was closely connected to the ideology of apartheid and the Namibian government has continued to follow this line of thought, to some extent, since the country's independence (Widlök 2003). Hai//om granted access to their land to !Xun, Ovambo, Herero and Europeans. However, since they were semi-nomadic, and therefore supposedly lacking in legal land tenure concepts, other groups took advantage of their mobile lifestyles to justify taking over their land and resources. For example, in Etosha, Ovambo claimed rights over land even though their occupancy was much later than the Hai//om, and their members were much more dispersed. Ovambo were, in fact, heavily dependent on Hai//om knowledge of the environment to better understand hunting, gathering and livestock management; indeed, numerous Ovambo said in interviews that the Hai//om knowledge of Etosha was key to their being able to live in this area. There were often mutual benefits: the Hai//om gained employment, income and payments in kind (e.g. in the form of maize meal and milk) and were able to stay with friends and relatives, share food and other resources. They also received a certain level of protection from the Ovambo kings (Widlök 2002b). Nonetheless, under colonialism, the pressure on land increased: new settlers hunted game and erected fences; the new livestock ate the Hai//om's bushfood; and there were now people telling the Hai//om whether they could or could not be on 'their' land (Dieckmann 2007).

While some of the Hai//om paid homage to Ovambo and other chiefs, the community had their own headman and headwomen in the nineteenth century. During the German colonial period (1884–1915), the German commander Theodor Leutwein followed a well-worn colonial strategy of signing treaties with local leaders,³ including at least one Hai//om headman, known as 'Captain Fritz Aribeb' (Dieckmann 2007, 65–69). In the mid-late 1890s, Aribeb signed over the rights to the area stretching from Outjo to Grootfontein in exchange

3 Sent by Germany to ensure 'colonialism without bloodshed' (Dierks 1999), Theodor Leutwein was commander and then governor of South West Africa from 1894 until 1904.

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for German ‘security’ and ‘protection’. The Hai//om did not see Aribeb as a formal leader, however, but rather as an influential individual who had worked out arrangements that had the benefit of defining their area, at least to some extent, and served to prevent the expansion of Ovambo cattle owners into the region (Friederich 2014).

Several places in and near Etosha had been settled by Afrikaners from South Africa since 1876 (Trümpelmann 1948). Many Hai//om were not pleased with their presence, and there were cattle raids and occasional attacks on both German and Afrikaner farm families, which led to rising hostilities. The Germans established military forts (which later became police stations) at Namutoni (1899) and Okaukuejo (1900–1901). A veterinary cordon fence (later known as the ‘red line’) was erected on the northern boundary of Etosha in 1897 in order to prevent the spread of *rinderpest*.⁴ This resulted in a decline of wagon-trading parties moving south, thus cutting off a crucial source of income for Hai//om, Ovambo and others in northern Namibia (Miescher 2012). The German colonial government, for its part, was relatively well-disposed to the Hai//om and allowed them to remain in what was to become the largest protected area in the country, set aside in 1907, known as ‘Game Reserve No. 2’. In 1958, part of what had been Game Reserve No. 2 (which covered 99,526 km² in total) became the Etosha Game Park and, in 1967, this was granted the status of a National Park by the Republic of South Africa (Berry 1997).

The Hai//om had residential and gathering rights in Game Reserve No. 2 from 1907 to 1954. In this period, they could visit each other’s camps and their ancestors’ graves and hold rituals inside the reserve; moreover, they were able to hunt, albeit not in areas patrolled by German game scouts and police. Hai//om hunting was thought by some government administrators to be relatively sustainable, and the offtake rates were seen as being low to moderate. Nevertheless, there were cases of Hai//om being jailed for contravening wildlife laws in the game reserve, particularly in the period following the Second World War. In fact, made up largely of Afrikaners after 1915, but especially after 1945, the South West Administration sought to exert greater control over the resident populations of the mandated territory, resulting in increased socioeconomic pressures being brought to bear on the Hai//om and other San groups. German and later Afrikaner settlement in the central and north-central areas of the country – including the Outjo and Grootfontein farms – also expanded considerably in the early to mid-twentieth century period. The Hai//om thus saw Etosha as a ‘last place of refuge’ from the pressure to join the commercial economy as farm labourers (Dieckmann 2007). Relatively few Hai//

4 *Rinderpest morbillivirus* (also known as cattle plague) is a viral disease that affects cattle, buffalo, wildebeest and other animals, and was responsible for huge losses of livestock and wild animals in 1896/1897.

om were employed in the game reserve in the early 1950s: roughly forty to fifty people worked as game scouts, road crew members (assisting the Department of Nature Conservation) and domestic workers in the tourist camps; others settled around the tourist centres to perform services for tourists (e.g. traditional dances, craft production) in exchange for payment.

From the late 1940s onwards, officials placed more restrictions on the Hai//om in Etosha, especially with regard to their livestock and hunting (Suzman 2004). A discussion that had started during the German colonial period, namely about creating a Bushman reserve – at first, in 1906, only for scientific purposes, though this never materialised – was raised again in 1936 and once again in 1949, when the South West Africa (SWA) administration appointed a ‘Commission for the Preservation of the Bushmen’ (Dieckmann 2003, 2007). This Commission interviewed 325 Hai//om in Etosha in September 1950, while subsequent visits to Hai//om areas in 1952 saw some 1,247 Hai//om and associated group members being interviewed (Schoeman 1953). The number of Etosha Hai//om was estimated at 500, which is low but, according to the Commission, reflected the tendency for Etosha Hai//om to be widely dispersed, mobile and somewhat less than willing to meet with outsiders. The Commission recommended the creation of a reserve to preserve the identity and race of the Hai//om San (Schoeman 1953; Hitchcock 2015), which was to be set up adjacent to Etosha where they would also be granted hunting rights. However, in the final report (1953), it was recommended that the Hai//om would *not* be given a reserve because they were not considered ‘pure’ Bushmen and were considered a threat to the game animals themselves. This decision was to have significant consequences for the well-being of the Hai//om later on (Schoeman 1953; Dieckmann 2007; Friederich 2014).

In 1954, the SWA Department of Nature Conservation mandated the removal of the Hai//om from Etosha, although some Hai//om still worked there as Nature Conservation personnel (Widlok 1999; Dieckmann 2007). Some of the Hai//om went to Ovamboland but most were moved to so-called ‘rest’ camps where they formed a labour pool for commercial farms. Others were permitted to stay in Etosha, but only under the tight control exercised at the rest camps of Okaukuejo and Namutoni and/or near the two respective entrance gates, Von Lindequist and Andersson. Later, some Hai//om also lived in Halali, a third tourist camp built in 1967, whereas others moved to peri-urban areas near towns such as Outjo or Otjiwarango (Dieckmann 2007). A number of Hai//om who had been relocated to the farms returned to Etosha later on to add to the growing labour force that was needed for tourism at the park. In retrospect, most people had not anticipated the complete, far-reaching consequences of these removals (Dieckmann 2001, 2003, 2007). The Hai//om’s expulsion from the park was a gradual process, and a minority of Hai//

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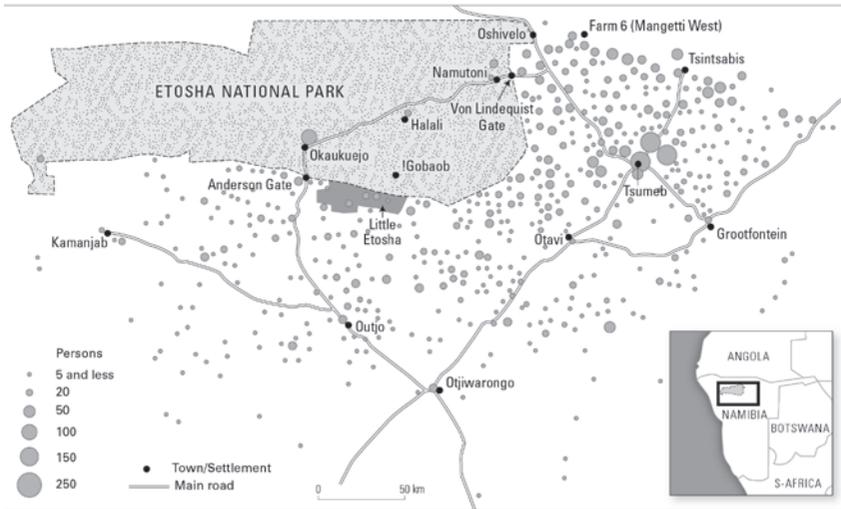


Figure 1. Map showing distribution of Hai//om in the early 1980s. Adapted by the authors from Marais (1983).

om are still living in the park to this day (Dieckmann 2007; Hitchcock 2015). Nevertheless, by 1982, most Hai//om had moved to farms south and east of Etosha, as shown in Figure 1. Based on the work of Francois Marais (1983), this map shows the distribution of Hai//om in the early 1980s.

From the 1950s to independence (1990), the Hai//om were largely landless, poverty-stricken, marginalised and discriminated against by other non-San groups, settlers *and* the SWA administration. Yet, unlike some San peoples, the Hai//om generally did not join the South African Defence Force (SADF) or South West African Peoples Organisation (SWAPO) in large numbers during the struggle against minority rule in Namibia that lasted from 1965 to 1989 (Leys and Saul 1995; Suzman 2001) after the Odendaal Commission plan of 1964 had solidified racially based land divisions.⁵ Many Hai//om moved between farms – where they were employed primarily as field hands, herders or domestic workers – owing to changes in the farm economy, working conditions, farmers’ decisions or for family reasons. However, in the years 1970/1971 until 1990, the number of people employed on Namibian farms decreased by 36 per cent (from around 50,000 to 32,613), for various reasons, including an increase

5 These struggles saw Namibians fighting the oppressive South African apartheid regime in order to gain independence, which was finally achieved in 1990.

in guest and safari farms and new labour legislation (Suzman 2001). This instigated the rapid growth of resettlement camps as well as people seeking casual labour in communal areas and settlements such as Oshivelo, where begging, informal labour, prostitution and welfare conditions kept them dependent on other people, civil society groups or the state (Suzman 2004).

Communal resettlement farms are characterised by various deficiencies, such as inadequate infrastructure or a lack of capacity among new settlers, but also weak management by the Ministry of Lands and Resettlement (MLR) (Gargallo 2010). Implicitly, the resettlement policy in Namibia favours applicants who are better educated, better informed and better connected than most San have historically been (Werner and Odendaal 2010). Until recently, the government had made no farms available to landless Hai//om, apart from Tsintsabis (Suzman 2004). Moreover, the government had purchased several farms in traditional Hai//om territory since 2007, most of which were allocated to other groups, so that, ironically, the Hai//om had to *leave* their land because it had been sold to the state for redistribution. As numerous Hai//om noted in interviews between 1999 and 2017, those affected felt that they had been dispossessed by the state itself. Until recently, then, very few of the Hai//om had (*de facto*) land of their own, and they all lacked or were denied formal or legal (*de jure*) title to the land on and off which they lived.

Hai//om leadership and representation

The individual autonomy and egalitarian relations of hunter-gatherers mean that the institutionalisation of their cultures inevitably requires more hierarchical and formal modes of social organisation (Widlok 1999; Biesele and Hitchcock 2011). San life traditionally contained features that push against the formalisation of leadership structures in favour of a relatively egalitarian consensus politics, but the in-migration of both black and white people over the last 2000 years has encouraged the development of different forms of political organisation (Suzman 2001). Colonial governments in southern Africa established Traditional Authorities (TAs) to manipulate customary laws and practices for their own ends (Harring and Odendaal 2002). In 1995, TAs were granted an ‘advisory role’ in Namibian state affairs and, to this day, every ‘traditional community’ is entitled to have a TA (Suzman 2001). This system is rife with internal faction fighting, however, and there are often attempts to oust TAs who are thought to have abused their powers.

In 1996, the Hai//om chose a new Chief – Willem /Aib from Outjo – who was not recognised by the government (Dieckmann 2003, 2007). /Aib was serious about claiming back Etosha and its surroundings and, in 1997, led a

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demonstration at the park gates to this end (Dieckmann 2003; Suzman 2004). He and his fellow protesters were told that this demonstration ‘was not the way to register a claim with the government’, however, and that ‘forming a registered association’ would be a more appropriate strategy (Widlok 2001, 16). In response to the demonstration, the government offered the group resettlement plots on farms to the south of Etosha, but /Aib also wanted a share of Etosha’s profits. Nevertheless, the government felt they had responded adequately (Widlok 2003), and in 2004 they designated a Hai//om TA under the *Traditional Authorities Act* (Republic of Namibia 2000), with David //Khamuxab, a staunch SWAPO supporter, as Chief. //Khamuxab has not made any claims to Etosha (Longden 2004), and the Namibian government seems to have picked a small group to represent the Hai//om based on their own interests, without much support from or within the broader community. Interestingly, most Hai//om live now in the eastern parts of their ancestral lands, whereas most NGO and government activity (including that of the TA) has concentrated on the western parts, especially around Outjo, which is located at the edge of the least populated side of ‘Hai//om-territory’.

Questions have been raised about the selection of Chief //Khamuxab: significant numbers of Hai//om maintain that they did not vote for him and, at several points, he has called for the arrests of people from NGOs who came into Outjo without his permission. When the Founding Affidavit of Jan Tsumib and seven others in favour of the Hai//om was tabled in 2015 (High Court of Namibia 2015), //Khamuxab said that he saw this as an attempt to usurp his authority and that he would prefer to remain neutral regarding the legal case. The government’s response to the Founding Affidavit was simply that the Hai//om people had a variety of different positions on the issues of reclaiming land and seeking compensation (High Court of Namibia 2016). Admittedly, the Hai//om were and remain divided in various ways about issues such as land claims and development. This can be seen in the responses of various Hai//om groups to the idea proposed by the government and Millennium Challenge Account-Namibia (MCA-N) – a joint US-Namibia donor agency whose efforts ended in September 2014 – that Hai//om living and working in Etosha should be given a set of commercial farms to the south of the park. Chief //Khamuxab already had a home on one of these commercial farms, Seringkop, and he encouraged other Hai//om to leave Etosha and come to a set of farms that were to be purchased by the San Development Office (SDO), which later became the Marginalised Communities Division in the Office of the Prime Minister. Many Hai//om were resentful of the idea that a TA could claim the right to allocate land – something that was clearly not in keeping with the *Traditional Authorities Act* or the *Communal Land Reform Act* (Republic of Namibia 2002) – and felt aggrieved by what they saw as the Chief pushing for

development projects that would benefit him, his family and his supporters, rather than the wider community.

Representative institutions for all Hai//om groups have generally led to both inter- and intra-community frustrations and conflict. In addition to the TA, various community-based organisations (CBOs) have been set up over the years to represent segments of the Hai//om community. These are gazetted as associations or trusts, some of which are ethnically based (see Table 1).

Most of these organisations have had difficulties, especially in terms of finance and management. Today, only legal bodies or associations such as co-operatives can hold a relation to the state and make use of its potential benefits; many of these legal bodies follow patterns from the colonial period and are run by foreigners or externally trained elites (Widlok 2001). It is therefore in the interest of citizens to join community-based organisations, if they wish to have any kind of political voice. NGOs often work with the state to create CBOs that require leadership, chairpersons and delegates. These are based (theoretically, at least) on the backbone of a local community, unrealistically suggesting that there is a natural or communal entity leading to an organisation (Widlok 2002a).

The inherent problems of the CBO model can be seen in a number of attempts to establish communal bodies to represent the Hai//om. In 2001, for example, the NGO Working Group of Indigenous Minorities in Southern Africa (WIMSA) and the Centre for Applied Social Sciences (CASS) of the University of Namibia (UNAM) established the //Naisa !Nanis San Development Trust. This trust was intended to help facilitate communication and transportation between various Hai//om settlements, and yet the biggest obstacle to founding the organisation was exactly this lack of transportation and communication (Widlok 2003). In the end, //Naisa !Nanis was unable to get off the ground owing to leadership disputes (WIMSA 2004). In another example, it was agreed in October 2008 that an umbrella body (later named //Nasoneb) should be established to coordinate development and engage in lobbying (WIMSA 2009). //Nasoneb has since gone defunct, and there are few Hai//om, if any, who claim any knowledge of its existence today. Lawry, Begbie-Clench and Hitchcock (2012) found that at least eight other Hai//om support organisations have been set up over the past two decades, excluding //Naisa !Nanis and //Nasoneb (see also Dieckmann 2007). One organisation established in 2012 – the !Gobaob Community Association – is still in existence today, though it, too, has had its ups and downs.

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Table 1. Hai//om Trusts and Support Organisations in Namibia.

Organisation	Founding	Background Information
Hai//om Development Trust	1998	There were at least two of these formed in Outjo
Hai//om San Development Community Trust	2007	TA Trust on behalf of all Hai//om San
Xoms /Omis Trust	2009	Legal Assistance Centre (LAC), on behalf of Etosha Hai//om
Ombili Foundation	1989	Oldest Hai//om related organisation at Fisa (/Ao/aib)
Namutoni Hai//om Trust	2007	Onguma Game Ranch, Farm Onduru
Tsintsabis Trust	2004	Entitled to manage the Treesleeper Camp tourism project in Tsintsabis
!Gobaob Association	2012	Established 2012, some internal issues, no concessionaire as of November 2018
//Naisa !Nanis San Development Trust	2001	To help facilitate communication and transportation, never got off the ground
//Nasoneb	2009	A Hai//om umbrella body set up for development and lobbying, gone defunct
//Ana-Jeh San Trust	2013	San Youth Network (SyNet)

Data obtained from: Dieckmann (2007), Jones (2007), Jones and Diez (2010, 2011), Hüncke (2010), Lawry, Begbie-Clench and Hitchcock (2012), Koot (2013), Hitchcock (2015); Begbie-Clench and Hitchcock (2018).

Etosha National Park

Today, the Etosha National Park covers 22,912 km² (Berry 1997), providing an important source of revenue for the country. The Hai//om employed in Etosha

live with their families and a handful of Hai//om retirees who have retained residential and resource-use rights in exchange for their long service. Since independence, the Hai//om population in the park properties has grown, but few members of working age have a job. This has created tensions with ‘outsiders’, prompting some Hai//om to complain about other ethnic groups entering the labour market in and around Etosha. Youngsters, especially, have difficulties finding employment but feel that they should be offered work before others. In April 2002, for instance, a group of young Hai//om marched to the administrative centre in Okaukuejo to protest against the employment of former Liberation Army fighters instead of the local youth population (Suzman 2004).

In recent years, an area called ‘Little Etosha’ has emerged to the south of the park.⁶ This development has its roots in the years immediately following independence, when there was a plan to grant the Hai//om a concession to operate a potentially lucrative tourist camp at the !Gobaob waterhole inside Etosha.⁷ Initially, Hai//om from Etosha and those from Oshivelo (to the east of Etosha) were identified as the main beneficiaries of these resettlement initiatives, which would focus on wildlife, tourism and the creation of conservancies (Dieckmann 2011).⁸ However, the Etosha Hai//om did not want to leave their homes and still had ambitions to build a lodge outside of the park. Some of the group therefore requested that the government purchase a set of farms south of Etosha, which the SDO began doing in 2007. This was a complex undertaking, but by 2014 the government was in the process of purchasing a total of nine farms, two of which would be designated as tourism concessions for Hai//om to start a joint venture lodge with exclusive traversing rights to bring tourists to !Gobaob (Hitchcock 2015).⁹

Another continuing issue for the SDO is the participation of Etosha Hai//om in the !Gobaob Community Association. The Hai//om with connections to Etosha have considerable knowledge of both the park and tourism management, and, given their long-term relation with !Gobaob, a number of them want membership to the Association. Nevertheless, the MET decided in 2012 that only those Hai//om from the resettlement farms should receive such benefits,

6 The name ‘Little Etosha’ was first mentioned by a journalist for the *Namibian Sun*, in an article titled: ‘San Get “Little Etosha”’ (Graig 2011, 28 Mar.), but there remains little agreement about this term.

7 This was discussed informally between the Minister of Environment and Tourism (MET) and Hai//om elders at the time (Suzman 2004).

8 Conservancies are ‘self-governing, democratic entities, run by their members, with fixed boundaries that are agreed with adjacent conservancies, communities or land owners’ (NACSO 2018). The emphasis is on development through community-based nature conservation, with a strong focus on income-generating projects in tourism, sustainable harvesting and trophy hunting.

9 As of April 2018, the number of farms that had been purchased for resettlement remained at seven, since two of the farm owners opted not to sell their farms (Begbie-Clench and Hitchcock 2018).

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at once catalysing social and political divisions and instigating an important push for ‘voluntary’ resettlement out of the park. In addition, the Association’s constitution was prepared exclusively by lawyers in Windhoek who lacked understanding of realities on the ground, resulting in a constitution that was neither understood by residents nor participated in by potential members. The concessionaire was supposedly ‘the Hai//om community’, while in fact only people from ‘Little Etosha’ were targeted. As it has turned out, the !Gobaob tourism concession is still in limbo (Kahiurika 2017), and most development support for Hai//om today is channelled through the TA (Dieckmann 2014). Indeed, the acquired farms have all been handed over to Chief //Khamuxab, despite there being no legal provisions for this transferral.

Significant tensions remain between //Khamuxab and the broader Hai//om community, including some of those who moved to the farms (Dieckmann 2011). A number of Hai//om had urged the government and MCA-N not to buy the commercial farms because they did not believe the TA would use the farms for the benefit of the wider Hai//om community, or because they felt that the government did not have an adequate development plan nor sufficient funds. Moreover, the Oshivelo Hai//om did not want to move to these new farms at all. The MCA-N and the MET, on the other hand, believed that the Hai//om living in Etosha and Oshivelo would be better off if they were resettled on the newly acquired farmlands:

Although involuntary resettlement is not anticipated to result from this activity, an important social issue at ENP [Etosha National Park] is the ongoing negotiations between the GRN [government] and the San Ethnic group regarding the voluntary relocation of the San from their ancestral land within the National Park to government-purchased farms outside the National Park. MCA Namibia will support these negotiations ... and establish minimum standards for land improvement on these new farms. (MCA-N 2009, 21; emphases added)

So while the MCA-N and the Namibian government claimed to be ‘supporting’ the Etosha Hai//om to acquire land, they were simultaneously encouraging them to leave their homes in the park, making their agenda notably double-sided. People living in Etosha today are worried about not being able to stay in the park if they no longer work for MET – or the parastatal Namibia Wildlife Resorts (NWR) – as only these workers and their immediate families might be allowed to stay while others would be encouraged to move to resettlement farms or elsewhere (Lawry, Begbie-Clench and Hitchcock 2012). In 2007, it was estimated that 110 Hai//om were living at Halali and 150 at Okaukuejo,¹⁰

10 These numbers continually change due to family members moving in and out of home, which depends in turn on factors such as schooling times, payments of pensions, job opportunities, salaries and environmental changes.

of which 64 were working for MET or NWR. This estimate led to the MET arguing that ‘the rest are retired or unemployed and are essentially *illegally* staying with relatives’ (MET 2007; emphasis added); in 2012, moreover, the Ministry ‘announced that those Hai//om who are not employed in the park or who are directly related to a current employee would have to move out of Etosha’ (Hitchcock 2015, 274).

The Hai//om have thus become illegal on their own ancestral lands. Today, they are seen as ‘in the way’, or, what Saugestad (2001) has termed ‘inconvenient indigenous’ people who would be ‘better off’ on a resettlement farm, according to the MET and the MCA-N personnel who support their ‘voluntary’ resettlement. To this end, the government and MCA-N have created pull factors such as housing materials (e.g. corrugated iron sheets, windows, doors and other building materials) to attract more Hai//om to the farms (Lawry, Begbie-Clench and Hitchcock 2012; B. Begbie-Clench, R. Collinson and J. Tsumib, 2017, pers. comms.). Several Hai//om have raised the issue of what would happen to other, non-Hai//om, employees in Etosha: would they, too, have to move or would they be allowed to remain in the park? Thus far, it appears that only the Hai//om are being targeted.

Mangetti West and surroundings

Further to the east of Etosha, in an area called Mangetti West (see Figure 1), there is a large block of government farms – once run by the now defunct Namibia Development Corporation (NDC) – where around 130 Hai//om live in an informal settlement (‘Farm 6’), with nowhere else to go. The NDC’s demise in the early 2000s made this land available for land reform purposes, and people residing there became concerned that they would once again be displaced because of their lack of political influence. Rumour had it that the farms would be allocated to wealthy farmers who have good connections with the ruling party, SWAPO. This is ironic when one realises that these Hai//om are living on state land that was formerly Hai//om traditional land, purchased and ‘redistributed’ by the government, only for them to be resettled exactly where they are now living (Harring and Odendaal 2006; Widlok 2002a). The state never considered the Hai//om living at Mangetti, however, presumably because of the government’s prejudices against their hunting-and-gathering lifestyle and bias towards supporting agriculture and pastoralism. Furthermore, there was no recognition of different social modes of organisation and land holding, meaning the Hai//om on Mangetti West lacked the formal organisation (e.g. a CBO) that is required by NGO and government advisors. Without a decent system of registration by some kind of legal organisation, the new rights

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of Namibian civilians since independence are often unavailable to troubled, marginalised and dispersed groups, who are thereby significantly disempowered. In the meantime, MLR officials faced with illegal fencing in the area that dispossesses the Hai//om generally do not show much concern: wealthy cattle owners routinely come into the area and occupy the land, while traditional Ovambo leaders from far away feel entitled to make decisions about the division of land (Widlok 2001, 2003).¹¹ Around 2008, 57 Ovambo cattle owners with 7630 head of cattle that had initially been illegally grazing elsewhere were ‘temporarily relocated’ to the area around Farm 6 (supported by the government who paid for a N\$3.5 million fence), without informing the Hai//om. This led to a reduction in water access and bushfood for Hai//om residents, and an increase in fear since some Hai//om feel threatened by the more powerful Ovambo farmers (Dieckmann 2014).

This ongoing land dispossession and disempowerment at Mangetti West does not stand alone. Indeed, there is even more pressure on land in the surrounding areas to the east of Etosha, where earlier attempts to redistribute land to the Hai//om had failed. For example, the government had attempted to purchase a block of farms close to Oshivelo for Hai//om resettlement in the mid-2000s, but this never materialised (Harring and Odendaal 2006). Following this, MET Minister Konjore stated that a tourist facility to benefit the Hai//om community would be developed at Oshivelo, and that two neighbouring farms would be purchased by the government and developed into conservancies with huge tourism potential for the Hai//om (Shigwedha 2007). This, too, never happened because the farms there had turned out to be too expensive. What *did* happen, however, was that Onguma Lodge started the Namutoni Trust in 2005 as a way of ‘giving back’ to the Hai//om community,¹² but set up with little or no consultation among the Hai//om in the area; meanwhile, the control of the Trust still lies with the founding lodge owners (MET 2007; Dieckmann 2011). This land should ultimately become part of a larger private game reserve from which the Hai//om are supposed to benefit, but until recently no farms had been purchased in this area; the formation of a conservancy has made little progress and the Hai//om of Oshivelo are becoming increasingly frustrated (Jones and Diez 2010). There might nevertheless be a glimpse of hope on the horizon for the Oshivelo Hai//om, since a farm named Ondera (about thirty kilometres east of Oshivelo) was purchased in 2013 for the purpose of resettlement (Dieckmann 2014).

Another example of failed redistribution in this region is the Tsintsabis

11 See Van der Wulp and Koot (forthcoming) for a similar story pertaining to the N#u Jaqna Conservancy to the East of Mangetti West.

12 This phrase was used by Onguma Lodge to describe the purpose of the Namutoni Hai//om Trust, see: <https://www.onguma.com/giving-back.html> (accessed 17 Dec. 2018).

resettlement farm (about sixty kilometres south of Mangetti West), which Harring and Odendaal (2006) argue ‘represents a failed model of rural settlement that is all too common in Namibia’ (18). Since 1991, Tsintsabis has been a communal resettlement farm of 3,000 hectares (Dieckmann 2014). Agricultural development is difficult here, meaning most inhabitants still depend on food aid for subsistence. This is largely because the carrying capacity of Tsintsabis has seriously exceeded its potential; agricultural assistance from the government is insufficient; and there is an ostensible lack of business skills amongst community members (Harring and Odendaal 2002). Since independence, other groups have also moved into Tsintsabis, resulting in an uncontrolled influx. Many government jobs are given to ‘outsiders’, which has created ethnic tensions, and Hai//om fear that they will either lose their land or be dominated by ‘stronger’ people (Hüncke 2010). The process of land allocation remains unclear among residents at the farm, and many do not know whether the MLR or the local councillor (who was blamed for allocating too much land to outsiders) is in charge (Dieckmann 2014).

With these in-migrations and land acquisitions, social problems have also arisen at Tsintsabis. For example, the number of *shebeens* where groceries, alcohol and soft drinks are sold grew rapidly between 1999 and 2010, run mostly by non-Bushmen (Hüncke 2010). In June 2010, the deputy prime minister had publicly announced that all *shebeens* needed to be shut down because of the trouble they caused. Nonetheless, in 2014, two young brothers in their early twenties entered one of these *shebeens* – ironically, the private *shebeen* of the Ministry of Land and Resettlement (MLR) administrator for Tsintsabis – where they were stabbed to death (Asino 2014). In response, community members organised a demonstration against the increase of *shebeens* in Tsintsabis. This was delayed by the police, however, apparently due to fears of tribal undertones and aggression directed against Ovambo-speaking people, including calls for them to move out of Tsintsabis.¹³ Subsequently, the Namibian police did not intervene with regard to the presence of Ovambo in Tsintsabis (Namibia Police 2018, pers. comm., 4 June).

Conclusion

As a result of the increasing pressures on land and income experienced by many Hai//om, the decision was made formally in 2015 to file a class action legal suit against the government of Namibia and other agencies and institutions operating in the Etosha and Mangetti West areas (High Court of Namibia

13 Community members later explained that this was not, in fact, the case (Nawatisseb 2014).

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2015).¹⁴ The lawsuit seeks compensation for losses, both in cash and in kind, and is aimed at ensuring that the Hai//om receive benefits from both Etosha and Mangetti West. If the government were to lose the legal case, it may have to pay out over N\$3.1 billion in compensation to the Hai//om (Amakali 2017). Though the Namibian Constitution does not preclude the filing of such suits, the government has argued that there is no basis for a class action lawsuit in this case, and this is now up to a panel of High Court judges to decide. In November 2017, however, the three-judge panel in the High Court put off the decision about whether or not a collective lawsuit can be pursued by the Hai//om until May 2018; in May 2018, the decision was once again delayed, this time until 26–29 November 2018.¹⁵ At meetings held in Outjo among the legal case applicants and the Legal Assistance Centre (LAC) in July 2017, it was apparent that many of the Hai//om applicants were optimistic about their chances of winning the lawsuit, which can be seen as simultaneously stemming from and contributing to a revitalisation of their identity (Hitchcock 2015; Begbie-Clench and Hitchcock 2018).

As this article has sought to demonstrate, crucial structural issues pertaining to this ongoing case include: the importance of representation and representative elections, and the incorporation of indigenous peoples into a customary legal system; the ability to negotiate a lack of internal consensus (mostly visible in relation to the TA); and the significance of a relatively strong regional differentiation in comparison to other San groups in southern Africa. Since various NGOs and the Namibian government have both tried to represent what they see as ‘the’ Hai//om, this has proven to be a difficult task up to the present. At the same time, trust in the government-appointed TA Chief and his councillors (who have a lot of decision-making power) remains limited among the majority of Hai//om. The class action lawsuit on the part of the Hai//om has nevertheless served to enhance a sense of collective identity and belonging among Hai//om from various areas and backgrounds.

A large variety of interests dominate current land dynamics in Namibia and, ironically, some Hai//om are now being pushed out of Etosha by the government, particularly the MET. According to some, this displacement has been facilitated by the MCA-N, who have used the more socially accepted concept of a conservancy to ‘support’ the Etosha Hai//om in leaving the park themselves. Although increasingly subtle, the displacement of Hai//om – like other San in southern Africa – is still a reality today. This has been made easier

14 Interestingly, the Hai//om TA is one of the actors whom the Hai//om have sued personally in this class action.

15 On 29 November 2018, after three days of hearings, the three-judge panel opted to wait until 28 Aug. 2019 to make a formal decision on the collective action legal case (High Court of Namibia, 2018); for further discussion, see Menges (2018a, 2018b).

by their geographically wide dispersal, their varying livelihoods and their disempowered and marginalised circumstances. The Namibian government considers the Hai//om still living but not working in Etosha to be illegal and treats them as if they are ‘in the way’, just as those in Tsintsabis and Mangetti West are perceived as ‘in the way’ by more powerful outsiders trying to move into their lands. If the Namibian government manages to resettle all Hai//om outside Etosha, this could set the government free from persistent (and for them inconvenient) land claims to this very lucrative tourist and conservation gem. The class action lawsuit is therefore of substantial concern, not only to the government, but also to the Hai//om TA and the concession holders around Etosha. We maintain, however, that it is very likely that the Hai//om will lose more land in the future based on their marginalised and disempowered position, whatever the outcome of the collective lawsuit. The ongoing pressure on and dispossession of the Hai//om in Namibia is thus an urgent problem for this group – and for the San population in general – that now demands to be acknowledged.

If the resettlement policy continues to be implemented as it is currently, a rural slum like Tsintsabis or a small town like Oshivelo could function as an example of the type of socio-economic problems that are typical of marginalisation and could easily happen elsewhere (for example, in ‘Little Etosha’). What is interesting is that, although there is a lot of talk about land restitution to *undo* colonial practices, the loss of land subtly *continues* for the Hai//om San. This quiet, yet insidious process may occur for a number of reasons, including: wealthy farmers extending their territories (as in Mangetti West); in-migration placing increasing pressure on resettlement farms (such as Tsintsabis); or Hai//om being subtly pressured off their ancestral lands (most significantly, Etosha). Furthermore, recent and current land redistributions such as those taking place at ‘Little Etosha’ seem to be soaked in a variety of political interests – with a crucial role carved out for the TA – and generally do not consider the interests of the wider community, especially not the majority of Hai//om in the east. It remains to be seen how the collective action lawsuit will play out; the legal strategy that is being employed is admittedly risky. But at this stage, as one elderly Hai//om man said in June 2018: ‘What do we have to lose?’¹⁶

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16 Comment made by Jan Tsumib on 24 June 2018 at a meeting on cultural heritage held at Addo, South Africa.

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