Africa
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Ethiopian Constitution devolves considerable power to its different communities, including autonomous governance arrangements and the right to maintain their own language, culture and history.

In practice, however, many of the country’s minorities and indigenous populations remain vulnerable to human rights violations such as loss of land and lack of access to basic services. These abuses take place in a political context largely monopolized by the Ethiopian People’s Revolutionary Democratic Front (EPRDF), an alliance of nationally based parties that has governed the country since 1991 and has been widely criticized for its repressive practices. Nationwide elections in May resulted in the EPRDF and its allies securing every seat in parliament, a process condemned by opposition parties as unfair.

Among those marginalized by the current government are the Oromo community, which constitutes the largest ethnic community in the country, with some estimates suggesting they comprise between 25 and 40 per cent of the population. Though socially, economically and religiously diverse, Oromo are united by a shared language, also widely spoken in northern Kenya and parts of Somalia. Despite their large numbers, Oromo have suffered a long history of exclusion and forced assimilation by the Ethiopian government, leading to the decline of their pastoralist lifestyle. An ongoing source of anger is the government’s proposed expansion of the capital city of Addis Ababa into the politically autonomous Oromia Region, which could lead to the displacement of thousands of Oromo farmers and remove the annexed territory from Oromo control. Reminiscent of earlier displacements of Oromo communities by the government, as well as forced resettlement of other communities into Oromo territory, the plan has provoked a series of protests by Oromo demonstrators, culminating in a student protest in December 2015 in which 10 people were killed and several hundred injured. The government’s development policies, often designed to provide irrigation to a raft of state- and foreign-owned agricultural plantations developed in the area on appropriated land.

The government has repeatedly failed to ensure adequate contingency plans are in place for pastoralist and indigenous communities while they carry out their development projects, forcing communities off their ancestral land. This displacement in turn leads to conflict between resettled communities, loss of property such as livestock, restricted access to grazing land and erosion of culture. While the international debate continues over the dam’s ecological and domestic impact, the livelihoods of over 200,000 indigenous people, including Bodi, Kwegu, Mursi and Suri communities, risk being severely compromised. The Kwegu people, for example, who live in the south-west of the country along the Omo River, are facing a food crisis due to widespread irrigation for plantations in the area that has deprived them of essential water and fish supplies.

Similarly, other state-led developments have been largely implemented without consultation or accommodation of indigenous and pastoralist communities, causing them to lose large areas of ancestral land to foreign corporations to accommodate cane plantations and other investments. A recurring element in these projects is a process of forced relocation known as ‘villagization’, whereby pastoralist groups are resettled in makeshift villages, often far away from livelihood opportunities, natural resources or basic services. Many instances of these have been linked with development assistance programmes financed by international donors such as the World Bank. In January 2015, an internal report by its internal watchdog panel was leaked, reportedly identifying an ‘operational link’ between funding provided by the World Bank and the forced displacement of Anuak living in the Gambella region. Further evidence emerged during the year suggesting that these relocations, carried out by the Ethiopian military, had been accompanied by frequent human rights abuses, including violence and sexual assault.

The disturbing impact of such large-scale projects has caused several international donors to re-examine their approach towards support for such projects. Following on from national legislation passed in the United States in 2014, prohibiting development aid from being used for any project that would lead to displacement of communities without their consent or compensation, in February 2015 the United Kingdom (UK) confirmed that it was withdrawing development funding from Ethiopia’s Promotion of Basic Services programme and realigning its aid portfolio. Although officially not connected to longstanding criticisms of Ethiopia’s villagization programme, this change in policy came in the wake of a multi-donor report released by the European Union, highlighting significant problems with the Ethiopian government’s practices, as well as a lawsuit brought by an Anuak man alleging that UK development aid had funded human rights violations against him and his family in the Gambella region.

The damage caused by development-induced displacement to minority and indigenous cultures in the region has been substantial. Besides the impacts of evictions from traditional lands and loss of access to grazing areas that have supported pastoralists’ livelihoods for generations, it is estimated that there could be an influx of as many as half a million workers from other parts of Ethiopia into planned sugar plantations in the Lower Omo region, transforming the social context for established communities such as the Bodi and Mursi. The government has done little to alleviate these pressures. While its ecological and energy projects deprive indigenous peoples of their ancestral lands, preventing them from practicing their cultural and spiritual traditions, it has also marketed the unique practices of these communities to promote tourism in a situation that has frequently led to humiliating or exploitative practices. Mursi and Suri people, for example, increasingly unable to pursue their traditional livelihoods, now rely on performing ritualistic dances and posing for photos for the tourist industry.
The five-year anniversary of Kenya’s 2010 Constitution was commemorated at a festive event at the Gusii stadium in Kisii County in August 2015. Passed in the wake of the devastating inter-ethnic conflict that blighted the 2007 election, it was widely lauded at the time for its progressive provisions, designed to address the endemic problems of corruption, land grabbing and ethnic conflict within Kenyan politics. Since then, however, civil society organizations have repeatedly highlighted the failure to implement these reforms, resulting in continued human rights abuses.

Among those most affected by land rights violations are the country’s forest-dwelling indigenous communities, whose ancestral territories have been appropriated by the Kenyan government to accommodate conservation projects, logging and commercial plantations. One notable example is the Ogiek, who have resided for centuries as hunter-gatherers in the Mau Forest, a sanctuary that, besides providing food, shelter and medicine to the community, also serves as their spiritual and cultural homeland. The effects of deforestation and displacement have not only threatened their very identity, but also deprived them of established livelihoods. For instance, though renowned for their traditional honey-gathering techniques, many Ogiek have struggled to maintain these practices as they have lost their access to the forest. After taking their case to the African Court on Human and People’s Rights, a provisional measure was issued in 2013 requiring the Kenyan government to halt all land transfers and transactions in the Mau Forest. The case was heard at the end of 2014, and judgment is anticipated. In the meantime, the Ogiek and organizations supporting their cause continue to raise awareness of their difficult situation.

Similarly, the Endorois community, a semi-nomadic pastoralist community residing near Lake Bogoria National Reserve, has faced challenges that the Kenyan government, at the Kenyan government to accommodate conservation projects, logging and commercial plantations. In March 2015, a week before the colloquium, however, allegations emerged of a fresh wave of forced evictions from their ancestral land following its appropriation to create a game park for tourists. In 2010, the Endorois’ case before the African Commission on Human and People’s Rights was decided in their favour, and the Kenyan government was required to take numerous steps to address their claims. These included recognition of their ownership of their land, restitution of their land and compensation. In September 2014, the government established a Task Force to develop a plan for implementation of the Commission’s decision. However, the Task Force’s terms of reference limited its mandate purely to investigating whether implementation was possible, rather than how to implement the decision; the Endorois were not part of the Task Force and its terms of reference did not require consultation with the community. The Task Force made no meaningful progress during its 12 months of operation, and, to date, its mandate has not been extended.

Kenyan Forest Service guards have also been responsible for the forcible removal of another forest-dwelling people, the Sengwer community, from their land in the Cherangany Hills area of the Embobut Forest. The evictions occurred as part of a World Bank-funded conservation project. The Sengwer community have been engaged in legal proceedings and negotiations with intergovernmental institutions in relation to their land claims. A revealing report by the World Bank Inspection Panel and the European Investment Bank’s Complaint Mechanism in October 2014. In an unprecedented step, the accountability mechanisms of both organizations undertook a joint investigation into the negative impact of the energy project on Maasai livelihoods and way of life. In July 2015 the report was released, confirming that non-compliance with the project’s terms of reference limited its mandate to investigating whether implementation was possible, rather than how to implement the decision; the Endorois were not part of the Task Force and its terms of reference did not require consultation with the community. The Task Force made no meaningful progress during its 12 months of operation, and, to date, its mandate has not been extended.

While Kenya’s indigenous peoples have been especially vulnerable to abuses relating to expropriation of land, some ethnic minorities also face other forms of discrimination. In particular, the Somali community continues to face intense scrutiny following a series of
deadly attacks linked to the Somalia-based armed extremist group, al-Shabaab. While not the only attack to take place during the year, by far the deadliest incident occurred at Garissa University College on 2 April 2015 when 147 students were killed by armed Somali militants, who targeted campus dormitories in a pre-dawn raid. The government, similar to its actions following previous violent incidents, responded with a range of security measures aimed at its ethnic Somali population, which include an estimated 2.5 million Kenyan citizens as well as around 444,000 Somali refugees as of December 2015. In April, the government published a list of businesses it claimed were suspected of being associated with al-Shabaab, including many of the largest Somali-owned money transfer companies, followed by an order for them all to immediately suspend operations and an immediate freeze of their assets. On 11 April, this time aimed at the large Somali refugee populations, Deputy Prime Minister William Ruto announced that Dabaab refugee camp would be closed and that all refugees there had three months to return to Somalia before they were forcibly repatriated. Though the closure has so far not been implemented as of the end of 2015, the threats of forcible return greatly added to the sense of insecurity among the refugee population. In Nairobi, meanwhile, ethnic Somali neighbourhoods such as Eastleigh reportedly experienced heightened levels of harassment and intimidation by police following the Garissa attack.

The state’s response to the Garissa attack and other incidents has reinforced the stigmatization of ethnic Somalis, whom many Kenyans view as a threat to national security. Though it is not easy to challenge these prejudices, given the role that many public officials play in promoting them, some civil society organizations and Somali groups in Kenya have undertaken various initiatives to counter their misrepresentation. One example during the year was Somali Heritage Week, staged in November in Nairobi and incorporating seminars, art exhibitions, dance and musical performance. This event provided Somalis living in the capital and elsewhere with an opportunity to celebrate their culture together as a community, as well as a safe space to discuss concerns relating to security and exclusion. Crucially, too, it served as a platform for ethnic Somalis to share their traditions with other Kenyans – an important step in reframing popular stereotypes about the community.

South Sudan
Having achieved independence from Sudan in 2011, making it the world’s youngest nation, South Sudan has suffered bitter internal fighting since December 2013 between forces loyal to President Salva Kiir and then former Vice President Riek Machar, of Dinka and Nuer ethnicity respectively. Tens of thousands of civilians have been killed since the outbreak of the conflict, primarily by ethnic militiamen loyal to either side. Close to a million people are estimated to be in a ‘catastrophic’ situation according to the Integrated Food Security Phase Classification (IPC), its highest ranking of food insecurity, further exacerbated by the threat of economic collapse due to soaring inflation.

Indiscriminate and escalating violence has resulted in sweeping human rights violations such as sexual violence, abductions, widespread property theft and the recruitment of child soldiers by both the South Sudanese army and opposition forces. Politically motivated violence has also divided the country along ethnic lines between the primarily Dinka leadership of the government’s forces and the largely Nuer membership of Machar’s opposition forces, the two largest ethnic groups in the country. However, other smaller ethnic minorities have also been drawn into the conflict as victims of targeted violence. In April, for instance, reports emerged alleging that government forces had deliberately targeted members of the Shilluk community as punishment for their perceived support of opposition forces.

Though a peace deal was brokered in February 2015 between the factions, the Cabinet passed a resolution postponing general elections and extending the tenure of Kiir’s parliamentary term until July 2017, effectively annulling the provision within the agreement to jointly establish a transitional unity government with a 30-month term. Another peace agreement signed in August, after months of negotiations mediated by the regional Intergovernmental Authority on Development, appeared to have limited impact and failed to halt the country’s ongoing humanitarian crisis. It was also undermined by Kiir’s unilateral and unexpected announcement at the beginning of October that South Sudan’s internal borders would be redrawn to increase the total number of states in the country from 10 to 28, with the stated aim of encouraging communities to develop villages through local resources. Though more devolution of power to local states had been a key demand of Machar’s rebels, the move was condemned by the opposition for the lack of consultation preceding the decision.

The traditions of indigenous peoples, pastoralist communities and minority groups are in general strongly linked to the areas in which they have long resided. Cultural practices and traditional knowledge, linked closely to self-sufficiency and local livelihoods, are reinforced by social institutions such as the family, clan and tribe. Conflict related displacement in South Sudan has disrupted this fragile balance, particularly affecting the country’s large pastoralist population, who depend upon their herds for economic sustainability, basic nutrition and social interaction. While cattle are the basis of marriage contracts, conflict resolution and wealth generation, insecurity and violence – arising during the decades-long civil war that preceded South Sudan’s independence in 2011 as well as the current conflict – has placed this system under threat. As a result, the Food and Agriculture Organization estimated that South Sudan’s national herd, amounting to some 11 million cattle, was at significant risk of collapse due to displacement, destruction of traditional grazing lands and migration routes, as well as attendant disease outbreaks. Protracted insecurity has also pushed pastoralist herders into new and unfamiliar areas, at times leading to tensions between them and settled communities. The situation prompted Kiir in April 2015 to issue an order to cattle herders in Central and Western Equatoria to return to their home areas following complaints from sedentary farmers about the destruction of their crops. The herders, who had reportedly fled several years prior due to constant attacks by a primarily ethnic Murle faction of rebels known as Cobra, were

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**Case study by Amina Haleem**

**Tanzania’s Maasai and their loss of land, culture and heritage**

The culture of the pastoralist Maasai community residing in Mondorozi, Soirotamba and Sukukena villages of Loliondo district in northern Tanzania is rich in inherited traditions and social practices. Indigenous to the area, they have a strong sense of identity and spiritual attachment to their ancestral land. However, the establishment of wildlife conservation areas and tourist safaris has resulted in severe disruption to their way of life. Now, the community’s struggle to maintain a connection with their land continues amid legal battles, aggressive globalization and luxury tourism.

Pastoralism is part and parcel of their semi-nomadic way of life, but land alienation directly affects their ability to raise livestock and earn a precarious living. Cattle play a central role in Maasai customs as a measure of wealth and are frequently exchanged between friends, family and in marriage ceremonies. The land designated for conservation in their territory, from which they have been evicted and are no longer able to access, tends to be the most fertile areas for grazing livestock. They are also unable to access important water sources and plants to create traditional luxury tourism.

They have had ongoing land disputes with the Tanzanian government for over 30 years. In the 1980s, 10,000 acres of Maasai...
pastoral land was sold to Tanzania Breweries Limited (TBL) to cultivate wheat and barley. Although the Maasai villages were offered no compensation and were not consulted regarding the land transfer, they were not prohibited from accessing most of the land to graze and water their livestock as TBL only used around 700 acres for cultivation. For 19 years the arrangement continued and the Maasai community retained its customary ownership of the land. This situation ended in 2006, when TBL sold the entire acreage plus an additional 2,617 acres to Tanzania Conservation Limited (TCL), the Tanzanian subsidiary of US-based tourism company Thomson Safaris.

Since that time, the community has been denied access to over 12,000 acres of land on which they have historically grazed their cattle and sustained their traditional livelihood. With international support, the Maasai villages initiated legal proceedings in 2010 based on an adverse possession land claim in domestic courts against TBL and TCL. Not only did they seek to reclaim the land they once held, they also sought an injunction against land development for tourism pending the court's decision on the merits. Unfortunately the Maasai's application was dismissed on procedural grounds in 2013, but the community re-lodged their case the same year, requesting the court to revoke the tourism company's illegally granted land title and award damages for the suffering endured as a result of their land exclusion.

The case was pending until October 2015 when the Maasai community suffered a disappointing loss. Although the Arusha High Court acknowledged that 2,617 acres of the disputed land were indeed unlawfully acquired – it being added on to the 10,000 acres in the most recent land transaction without consent – the majority of the decision favoured the defendants. No actual damages were awarded to the Maasai, who remain prohibited from entering the land to use its resources. The villagers are appealing the decision and hope to resolve this dispute in their favour.

In the meantime, Maasai continue to suffer the effect of discriminatory state policies. Elsewhere in Loliondo, the community experienced further evictions, with dozens of homes burned to the ground and numerous Maasai injured by Tanzanian police during 2015. Alongside the loss of homes and livelihoods, the struggle to transmit the intangible aspects of cultural knowledge and sacred practices to younger generations remains a very real concern – not only in Loliondo, but right across Maasai territories in Kenya and Tanzania.

And while the Maasai people's identity is under increasing threat, companies have been profiting from Maasai imagery by associating their products with the indigenous community to promote sales. From Land Rover to Louis Vuitton, an estimated 80 companies are currently using the Maasai name and/or imagery. Maasai receive no benefit from the millions of dollars in revenue earned from this exploitation; the vast majority live below the poverty line. Furthermore, the unique visual artistry and heritage of Maasai is often misused in its commercialization; for example, Maasai are sensitive about the portrayal of their bodies and jewellery because beads and colours have distinct meanings, which, if portrayed inaccurately, can be deeply offensive. Over the last few years, Maasai activists have made efforts to form a general assembly of elders to represent them in formal negotiations with such companies in order to safeguard their culture through intellectual property protections – an important step in the community's efforts to regain control of their lives.

Left: Maasai women in Mondorosi village, Tanzania. Carla Clarke/MRG.
Pierre Nkurunziza won elections that many claimed violated the terms of the Arusha Peace Agreement, setting off a spiral of violence. In Rwanda, voters backed efforts to amend the Constitution to ensure that President Paul Kagame can remain in office after 2017, and in the Republic of Congo a constitutional referendum, reportedly preceded by a campaign of intimidation of the opposition, approved measures to abolish term limits and upper age restrictions, paving the way for the incumbent President Denis Sassou Nguesso to remain in power.

Ongoing conflicts involving minority groups continued in the CAR and in parts of eastern Democratic Republic of the Congo (DRC). Conflict spread southwards from northern Mali, towards its borders with Burkina Faso, Mauritania and Côte d’Ivoire and even over the border into Burkina Faso. Conflict also displaced 2.5 million people in the Lake Chad Basin as Boko Haram expanded its areas of operation from Nigeria further into Chad and Cameroon, at times impacting on relations between ethnic and religious groups in the affected regions.

Central Africa

Burundi
In Burundi, following years of civil war that began in 1993, the Arusha Accords, which were signed in 2000, have provided a platform for peaceful power-sharing between Burundi’s ethnic Hutu majority and its long-dominant Tutsi minority, who comprise 14 per cent of the population. The extreme marginalization of the indigenous Batwa, representing less than 1 per cent of the population, remained largely unaffected by the settlement.

In April 2015, Hutu President Pierre Nkurunziza announced his controversial decision to stand for re-election for a third term, which many saw as a violation of the provisions of the Arusha Accords. Nkurunziza had led the largest, primarily Hutu rebel movement, subsequently restructured as the National Council for the Defense of Democracy-Forces for the Defense of Democracy (CNDD-FDD) party, before winning elections in 2005 and 2010. After the announcement of his re-election bid, both Hutus and Tutsis took to the streets in protest. Tensions increased further after a failed May coup attempt by some members of the army, which had historically been dominated by the Tutsi minority but since Arusha had undergone extensive ethnic integration. Security forces, state officials and members of the militia, the youth league of the predominantly majority Hutu CNDD-FDD, launched an aggressive crackdown on media, civil society, protesters and members of the opposition, both Hutu and Tutsi. Nkurunziza went on to win national elections held in July, widely condemned by international observers as neither free nor fair.

In the run-up to and after the elections, experts expressed concern at inflammatory rhetoric on both sides. UN Special Adviser on the prevention of genocide Adama Dieng noted that some was ‘very similar to language used before and during the genocide of the Tutsis in Rwanda’. He expressed concern that both government officials and key figures in the mixed-ethnicity opposition appeared to be trying to exacerbate ethnic tensions in order to set Hutus and Tutsis against each other once again. At his August inauguration Nkurunziza announced an amendment to the law on religious groups and non-governmental organizations to limit their involvement in public and political matters, undermining post-Arusha gains in building a cross-community culture and civil society. Unlawful killings, torture and repressive measures against civil society escalated following the election, as did attacks by armed opposition forces. The United Nations (UN) reported in mid-December that at least 540 people, including both Hutu and Tutsi, had been killed in politically motivated violence. Scores were killed in early December following a series of armed attacks on military installations in Bujumbura: while authorities described them as ‘enemies’, intimating they had all been combatants, a significant number of the casualties were reported to be unarmed civilians from primarily opposition-supporting Tutsi neighbourhoods killed after being taken into custody during house-to-house searches by security forces in the aftermath of the attacks. By the beginning of 2016, at least two new armed opposition groups had reportedly formed with the stated aim of ousting Nkurunziza.

On 18 December, based on the findings of an assessment mission sent to Burundi with the president’s approval, the African Union’s (AU) Peace and Security Council invoked for the first time provisions allowing it to intervene in a country without permission given grave circumstances. It authorized deployment of a 5,000-strong military mission to protect civilians and preserve the gains made by the Arusha Accords. However, the government refused to allow the AU troops into Burundi, prompting the AU to cancel deployment and instead focus on supporting regional mediation efforts. By the end of the year, UN High Commissioner for Refugees (UNHCR) reported that nearly 233,000 Burundians had fled to neighbouring countries since April.

Building on the Arusha framework, before the April unrest UNESCO and others had worked to facilitate non-violent conflict resolution among young people of different ethnicities and had promoted training on democracy, human rights and the ‘promotion and protection of the diversity of cultural expressions’. In 2014 UNESCO inscribed Burundi’s ritual dance of the royal drum on its Representative List of the Intangible Cultural Heritage of Humanity. This centuries-old cultural practice, used to mark seasonal changes and commemorate key events, pre-dates the colonial era and the divisive ethnic distinctions imposed on Hutus and Tutsis as the basis of Belgian rule: as such, it offers a symbol of a more peaceful collective past.

Central African Republic
Since 2013, CAR has been consumed by violence between primarily Christian and Muslim militias, resulting in an increasingly sectarian environment where civilians have been targeted on the basis of their religious identity. The conflict began with the formation of an alliance (Seleka) of largely Muslim fighters in the north who, angered by what they perceived as the government’s marginalization of their region, moved south towards the capital of Bangui and ousted then President François Bozizé in March 2013. Widespread human rights abuses, mostly targeted
at Christian civilians, were committed during the Séléka campaign and continued even after their leader, Michel Djotodia, took power as the country's new president. In response, a group of armed animist and Christian militias, known as ‘anti-balaka’ (‘anti-machete’), were formed and by the end of 2013 had engaged a series of reprisal attacks against Muslim civilians in Bangui. Following Djotodia’s resignation in January 2014, anti-balaka extended their attacks to other Muslim communities, resulting in numerous deaths and large-scale displacement. Though the Muslim population has borne the brunt of the violence since then, groups of ex-Séléka have also been responsible for numerous atrocities against Christian civilians. Territorially, the CAR is now roughly partitioned between areas under the control of the Christian/animist anti-balaka militia groups largely responsible for the displacement of the Muslim population and areas under the control of Muslim ex-Séléka.

Before the current conflict began, roughly 15 per cent of the national population were Muslim. Besides pastoral farmers and herders — including nomadic Muslim cattle-herding minorities such as Mbororo (also known also as Fulbe, Pouh, Fula or Fulani) living mainly in the north-east, at roughly 4 per cent of the national population — many other Muslims belonged to a more urban-based merchant class. Both groups have seen their lives and livelihoods disrupted or destroyed by the conflict. In Bangui the Muslim population had diminished from over 100,000 to under 1,000, less than 1 per cent of the original population, while in the country as a whole, the large majority Muslim, among them many nomadic pastoralists and their herds whose arrival among more sedentary, primarily Christian populations in neighbouring Cameroon and other countries of asylum has led to profound shifts in the character of some host communities. In addition, around 470,000 people were believed to be internally displaced within CAR by the end of the year. This included around 36,000 people, predominantly Muslim, trapped in enclaves across the country, surrounded by hostile militias.

Despite the continued deterioration in security since 2015, some positive efforts were made during the year to bring an end to the conflict. In May, local leaders from different regions, religions and ethnicities, including some from the diaspora and refugee populations, took part in the Bangui Forum on National Reconciliation and agreed a set of recommendations on governance, justice, stability and development, issued as the Republican Pact for Peace, National Reconciliation and Reconstruction. In June an innovative law laid the groundwork for a hybrid Special Criminal Court to address abuses committed during the conflict. Nevertheless, these measures failed to prevent an upsurge in violence later in the year, beginning with an attack around the Kilometre 5 (PK-5) Muslim enclave in Bangui in September and a series of other incidents in the capital that killed around 100 people and displaced another 50,000.

In November, Pope Francis visited the PK-5 district and other sites, and called for an end to sectarian violence, but conflict continued in various areas around the country. As a result, a constitutional referendum and elections initially slated for October 2015 were postponed until December. After some debate refugees were permitted to vote, though the registration process reportedly only reached around a quarter of those living in camps in neighbouring countries, leaving many of the largely Muslim refugee population unable to participate. The referendum, which included the imposition of a two-term limit for presidents, passed despite low voter turnout and other issues. Presidential elections were subsequently held on 30 December, although legislative elections the same day were deferred due to irregularities. Faustin-Archange Touadéra, prime minister under Séléka-ousted President François Bozizé, was declared winner of the February 2016 run-off election in a result endorsed by the constitutional court.

The CAR's indigenous forest hunter-gatherer Ba'Aka people, who make up less than 1 per cent of the national population, have historically faced discrimination and marginalization. With the onset of violence in late 2012 some members of this community were reportedly among those targeted for attack by combatants. The Dzanga-Sangha National Park, part of the World Heritage-listed Sangha Trinational forest located in the Ba’Aka people’s traditional home region of south-western CAR, suffered incursions by armed groups in 2013. Even before the start of the conflict, UNESCO called attention to the fact that the Ba’Aka people’s lifestyle and culture were under threat: ‘The scarcity of game resulting from deforestation, the rural exodus and the folklorization of their heritage for the tourist industry are the principal factors contributing to the gradual disappearance of many of their traditional customs, rituals and skills.’ The polyphonc singing of the Ba’Aka, with its accompanying music and dance, has been inscribed on UNESCO’s Representative List of Humanity’s Intangible Cultural Heritage.

Democratic Republic of the Congo

The DRC is extraordinarily multicultural, with as many as 250 ethnic groups and up to 700 distinct languages or dialects across its vast territory. As elsewhere, in the DRC regional and ethnic identities have frequently been mobilized for political ends. Consequently, while the presidential elections currently scheduled for November 2016 could provide an opportunity for the first peaceful democratic transfer in the DRC’s history, they could also pose significant risks for the country’s minorities and indigenous peoples. Incumbent Joseph Kabila is constitutionally barred from seeking a third consecutive term, but opposition parties have tried to retain power illegitimately, for instance by delaying the polls. Already, some Kabila opponents have reportedly been subjected to intimidation, arbitrary arrest and summary execution, while opposition protests have at times been met with disproportionate use of force by security forces as well as members of the youth league of Kabila’s party.

The continued proliferation of militias has created chaos in some areas of the country, uprooting entire communities. As of the end of 2015, there were approximately 1.5 million internally displaced people and another 500,000 stranded in neighbouring countries as refugees. Since the outbreak of conflict in the Great Lakes region in the aftermath of the 1994 Rwandan genocide, eastern DRC has been particularly unstable. Here, up to 70 armed groups — many of them reportedly recruiting along ethnic lines among the highly diverse population — fight for control of lucrative natural resources such as gold, tin, tungsten and tantalum, vital to the electronics industry.

DRC and UN military efforts to combat the largest armed groups remaining after the 2013 dismantling of the M23 group continue. Despite the arrest in April of the leader of the Allied Democratic Forces (ADF), the group has continued to carry out attacks and massacres around Beni, North Kivu. DRC military efforts are also ongoing against the predominantly Hutu Democratic Forces for the Liberation of Rwanda (FDLR), responsible for numerous human rights abuses against civilians, particularly those belonging to ethnic groups considered as rivals of Hutus.

Manono and Nyunzu territories in the eastern Katanga province saw continuing violence between ethnic Luba, a majority Bantu group, and members of the Batwa indigenous, traditionally hunter-gatherer people. Batwa were accused of attacking civilians. The conflict is rooted in social inequalities between the historically marginalized Batwa — their culture and way of life under increasing pressure due to deforestation and the expansion of agricultural lands — and the more privileged Bantu. The traditional forest homes of eastern DRC’s indigenous hunter-gatherers have in several cases been named World Heritage Sites; this is the case, for instance, for Bambuti / Mbuti peoples in and around the Okapi Wildlife Reserve and Batwa peoples in Virunga and Kahuzi-Biega National Parks. While indigenous peoples’ rights should be met along with the demands of environmental management, conservation programmes have often had a negative impact on communities in these areas. For Batwa in Kahuzi-Biega, since its designation as a national forest in the 1980s, the community has been evicted from much of their ancestral lands, bringing an end to traditional hunting practices and resulting in malnourishment, poor health and deep poverty. With the outbreak of conflict in 1994 their situation became even more precarious and they
were subjected to attack by armed groups in and outside their traditional forest homes. These pressures have only intensified with the continued deterioration in security in many areas and the depredations of armed poachers. Over the last two decades all five of the DRC’s World Heritage Site national parks – four of which are in eastern DRC – have been inscribed on the List of World Heritage in Danger, due in part to conflict-induced mass displacement of people into the park and their impact on wildlife. During 2015, the parks continued to face militia attacks on rangers and poaching by armed groups such as the Lord’s Resistance Army. The illegal trade in ivory and other animal parts has sustained considerable violence in forest areas, placing their indigenous inhabitants at risk not only from armed groups but also forest rangers. Groups concerned with indigenous peoples’ rights have continued to insist, however, that conservation and wildlife protection efforts must not in any way be used to suppress the legitimate hunting and other activities of indigenous peoples.

West Africa

Côte d’Ivoire

Côte d’Ivoire has over 60 ethnic groups, with diverse histories and identities. Past decades have also seen a significant inflow of immigrants from neighbouring countries, many of them Muslims, drawn by the country’s relative affluence. Today an estimated 35 per cent of the population are Muslim, based largely in the north of the country, while another 35 to 40 per cent are Christian and mostly reside in the south. The remainder of the population hold traditional beliefs. Ethnicity and religion have become increasingly intertwined in the country’s political discourse due to the emergence, beginning in the mid-1990s, of the xenophobic concept of ‘Ivoirité’ – an ideology that gives precedence to ‘native’ over perceived ‘foreign’ citizens. In practice, to its adherents ‘foreigners’ have come to include not only immigrants but anyone from the predominantly Muslim ethnic Northern Mandé or Senoufo minority groups. This discourse has contributed greatly in recent years to a damaging polarization of the country along geographic, religious and ethnic lines.

October saw the first polls since 2010, when the refusal of then-incumbent president Laurent Gbagbo – a southern proponent of ‘Ivoirité’ – to recognize northern Muslim Alasane Ouattara’s victory led to five months of political violence, at times waged along ethnic and religious lines. Gbagbo was eventually forced out, and January 2016 saw the opening of his trial, with that of his associate Charles Blé Goudé, before the International Criminal Court on charges of crimes against humanity.

The run-up to the October elections saw some clashes between government and opposition supporters, many of whom are marginalized by the naming of northerners to many key posts and the failure of judicial prosecutions for crimes committed during the 2010–11 conflict to extend to supporters of the government as well as its opponents. The elections, largely peaceful and declared free and fair by observers, were nevertheless won in the first round by incumbent Ouattara.

In western Côte d’Ivoire, inter-communal tensions over land between ‘native’ landowners and those they perceive to be migrants or immigrants continued during the year. Up to 300,000 people still remained internally displaced in 2015, following the violence of 2010–11; some of them, mainly Gbagbo supporters of Guéré ethnicity, have found themselves dispossessed upon their return, as their land has been occupied by Ouattara supporters. The UN has worked with local leaders to support traditional dispute resolution mechanisms. In addition to customary law, there is a statutory law applicable to rural land disputes, but observers have expressed concerns that it is complex and difficult to implement. In July 2015, the government issued a draft land policy meant to simplify application of the law and announced plans for public consultation on this important topic. In recent years some localized access rights have been agreed for indigenous peoples in ‘community forests’ in a few protected forest areas, but the overarching framework has not changed: the state still does not recognize, guarantee or protect indigenous peoples’ ownership rights over their forests and the resources they contain. Furthermore, indigenous and other local communities from the forest are damaged at every level. Their nutrition levels fall as they are unable to hunt and gather as before; their health suffers as, excluded from mainstream health services by poverty and lack of identity documents, they are denied access to forest remedies for their illnesses and injuries. They are also prevented from passing on their skills and knowledge of forest life to their children, resulting in a devastating loss of traditional knowledge and culture; their language and religion, both intimately linked to the forest, are thereby weakened. Finally, the rupture resulting from these factors contributes to high levels of alcoholism and other social ills.

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Case study

A way of life under threat for Cameroon’s indigenous peoples

Cameroon is an immensely diverse country, with over 250 ethnic groups and almost as many languages. Indigenous forest-dwelling hunter-gatherer communities like the Ba’Aka, Baguey, Bakola and Bedzam – who together comprise less than 1 per cent of the population – are believed to have been the first to populate the southern tropical forests. Though Cameroon’s Constitution specifically mentions the state’s obligation to protect indigenous peoples’ rights, there is a lack of understanding about what specifically these rights are. Due to poverty and lack of resources, many indigenous people do not have birth certificates or identity documents, effectively excluding them from basic services such as health and education. The legal and administrative framework in Cameroon does not recognize hunter-gathering as a basis for official land ownership, and land that is not privately owned is considered state property. There is no legal recognition of indigenous peoples’ customary land rights.

To make matters worse, over recent decades Cameroon’s tropical forests have been much reduced, with the authorities all too often allocating forest land to private and public interests without meaningful consultation with residents. The 1994 Forest Law (recently revised to provide a measure of indigenous consultation and some recognition of traditional practices such as hunting) and the 2001 Mining Law encouraged the opening of Cameroon’s land to commercial concerns, including foreign companies, in the name of economic development, with companies exploiting its natural resources on a large scale under government-approved concessions. Commercial logging reportedly claims an estimated 2,000 square kilometres of forest each year, with close to one-fifth of Cameroon’s total forest cover lost between 1990 and 2010 to logging, commercial agriculture and the Chad–Cameroon oil pipeline.

The state has forcibly removed indigenous peoples from forest areas to make room for these and other projects, commonly ‘resettling’ them in unfamiliar environments where they are vulnerable to poverty, discrimination and exploitation. Displaced into camps and villages on the outskirts of the forest, these communities are unable to practise their traditional livelihoods, or access essential food sources or forest products. Furthermore, they are habitually denied any form of compensation, as they do not officially own the land from which they have been evicted. The estrangement of indigenous communities from the forest is damaging at every level. Their nutrition levels fall as they are unable to hunt and gather as before; their health suffers as, excluded from mainstream health services by poverty and lack of identity documents, they are denied access to forest remedies for their illnesses and injuries. They are also prevented from passing on their skills and knowledge of forest life to their children, resulting in a devastating loss of traditional knowledge and culture; their language and religion, both intimately linked to the forest, are thereby weakened. Finally, the rupture resulting from these factors contributes to high levels of alcoholism and other social ills.

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under ‘Ivoirité’—has received particular attention, figuring in both of Côte d’Ivoire’s entries on the Representative List of the Intangible Cultural Heritage of Humanity. One important minority cultural element is the cultural practices and expressions linked to the balafon, a musical instrument of Senoufo communities in Côte d’Ivoire along with neighbouring Burkina Faso and Mali. The other is the Glofe performance, using traditional horns, of the Tagbana community, a southerly branch of the Senoufo tribe. The irreplaceable heritage of the world’s minorities rests in the cultural practices and expressions that are unique and unrepeatable. These need to be protected and preserved.

### Mali

While 90 per cent of Mali’s population is Muslim, with the remainder subscribing to Christianity (4 per cent) and traditional religions (6 per cent), it also includes considerable ethnic diversity. The two largest minority groups are Peuhl (also known as Fula or Fulani), amounting to 14 per cent of the population, and Tuareg and Maure who make up another 10 per cent. In recent years, these differences have been the source of violent conflict in the country. Some Tuaregs, spurred by political marginalization and poverty in the north, their home region, and aspiring to a separate Tuareg state, Azawad, had been in low-level conflict with the government since the 1990s. A Tuareg offensive in early 2012 was joined, and came to be dominated by, largely foreign Islamist extremist groups. It eventually gained two-thirds of Mali’s territory, and all sides committed grave human rights abuses. Islamist groups at times imposed harsh law on the areas under their control and destroyed key cultural monuments in places such as Timbuktu.

In January 2013, Mali’s interim President Dioncounda Traoré requested that France intervene, and the joint counter-offensive was broadly successful in dislodging the jihadist groups, reclaiming territory and imposing state control. However, Mali’s Tuaregs and Arabs, perceived due to their ethnicity as having been likely supporters of the rebels, were at times targeted by both sects and forces, including, to date, eight elements listed by UNESCO and drawn from a cross-section of Mali’s numerous ethnic groups, including the Tuareg, Peuhl and other minorities. Timbuktu-based efforts to preserve additional ancient manuscripts smuggled out of Timbuktu by the local population in 2012 to prevent their destruction. Former Ansar Dine leader Ahmad al Faqi Al Mahdi appeared before the International Criminal Court (ICC) in September on charges of ‘war crimes of intentionally directing attacks against historic monuments and buildings dedicated to religion, including nine mausoleums and one mosque’—the first time in the ICC’s history that war crimes against cultural heritage have been the primary focus of an international criminal proceeding.

### Mauritania

Despite being legally abolished for decades, slavery persists in Mauritania to this day, primarily perpetrated by members of Mauritania’s White Moor ethnic group against their Haratines. In 2014 the UN Special Rapporteur on contemporary forms of racism, Mutuma Ruteere, indicated that an estimated 50 per cent of Haratines live in conditions of slavery. The system is largely hereditary: those born into slavery are under direct control of their ‘masters’, receive no pay for their work, are not permitted to leave and are vulnerable to abuses, including denial of access to basic services, forcible separation from family, ill-treatment and sexual assault. Due largely to failures in enforcement by police, judicial officials and others in authority, a 2007 law criminalizing slavery and slavery-like practices resulted in only one conviction. In that case the sentence handed down fell below the minimum specified by law and the appeal against its leniency is still pending four years later, while the convicted slave owner has been freed on bail. In September a new law was approved, broadening the definition of slavery to include practices such as indentured servitude and created the opportunity for human rights organizations to return the Festival au Désert music and arts festival to Timbuktu, have involved a range of community actors and are helping to heal rifts and restore social cohesion. In 2015, Timbuktu’s mud masons completed restoration of all 14 of the destroyed mausoleums, and work on the other damaged sites is continuing. Meanwhile, UNESCO is supporting efforts to preserve the representative List of the Intangible Cultural Heritage of Humanity. One important minority cultural element is the cultural practices and expressions linked to the balafon, a musical instrument of Senoufo communities in Côte d’Ivoire along with neighbouring Burkina Faso and Mali. The other is the Glofe performance, using traditional horns, of the Tagbana community, a southerly branch of the Senoufo group. Some Islamist groups continued to operate and carry out attacks. The June 2013 Ouagadougou peace agreement and subsequently attempted accords were not fully implemented, particularly in contested areas of the north, and suicide attacks and ambushes against UN troops and civilians continued throughout the country. By the end of 2015 many civilians were still uprooted as a result of insecurity within Mali, with more than 139,000 Malian refugees in Burkina Faso, Mauritania and Niger and almost 62,000 others displaced internally.

In June 2015 the Coordination of Movements for Azawad (CMA), an alliance of Tuareg and Arab-led rebels, signed a peace deal with the Malian government. However, insecurity, including attacks by the CMA and pro-government militias, has continued in the north, culminating in August with a significant breakdown in the ceasefire as the two forces battled over the town of Anfési, Gao region. In October the two sides endorsed a joint road map including an agreement for cessation of hostilities and joint initiatives towards reconciliation.

However, violence, including attacks on humanitarian staff, state officials and UN personnel, has spread from the north into central Mali and further south. Some of it has been attributed to extremist groups present before the French-led intervention, as well as to a newly emerged Islamist armed group, Macina Liberation Movement. Following an extremist attack in November in which 20 people, many of them foreigners, were killed in a luxury hotel in the capital Bamako, Macina imposed a state of emergency at the end of the year was extended to March 2016.

The deliberate destruction by Ansar Dine extremists, themselves followers of the Salafi school of Islam, of mosques, mausoleums, shrines, ancient manuscripts and other objects associated with Sufi Islam after they took control of World Heritage Site Timbuktu in 2012 has drawn global attention. Mali’s intangible cultural heritage is largely hereditary: those born into slavery are under direct control of their ‘masters’, receive no pay for their work, are not permitted to leave and are vulnerable to abuses, including denial of access to basic services, forcible separation from family, ill-treatment and sexual assault. Due largely to failures in enforcement by police, judicial officials and others in authority, a 2007 law criminalizing slavery and slavery-like practices resulted in only one conviction. In that case the sentence handed down fell below the minimum specified by law and the appeal against its leniency is still pending four years later, while the convicted slave owner has been freed on bail. In September a new law was approved, broadening the definition of slavery to include practices such as indentured servitude and created the opportunity for human rights organizations to return the Festival au Désert music and arts festival to Timbuktu, have involved a range of community actors and are helping to heal rifts and restore social cohesion. In 2015, Timbuktu’s mud masons completed restoration of all 14 of the destroyed mausoleums, and work on the other damaged sites is continuing. Meanwhile, UNESCO is supporting efforts to preserve additional ancient manuscripts smuggled out of Timbuktu by the local population in 2012 to prevent their destruction. Former Ansar Dine leader Ahmad al Faqi Al Mahdi appeared before the International Criminal Court (ICC) in September on charges of ‘war crimes of intentionally directing attacks against historic monuments and buildings dedicated to religion, including nine mausoleums and one mosque’—the first time in the ICC’s history that war crimes against cultural heritage have been the primary focus of an international criminal proceeding.
meeting certain criteria to bring cases on behalf of victims. However, there is still no mechanism for victims to bring a civil suit against perpetrators or for the level of support and compensation to victims recommended in 2010 by Gulnara Shahinian, then Special Rapporteur on contemporary forms of slavery. The new law’s success will, like the old, depend on the extent to which it is enforced.

Those who fight to raise awareness of slavery and other forms of marginalization affecting Haratin continue to come under official pressure. Among those targeted is anti-slavery activist Biram Ould Dah Ould Abeid, convicted with two others in January 2015 and sentenced to two years’ imprisonment on various charges, including taking part in an unauthorized rally and belonging to an illegal organization. All three were arrested in November 2014 for attending a peaceful protest to raise awareness of land rights for former slaves and other Haratin. The decision provoked protests in Nouakchott, the Mauritanian capital, prompting police to use tear gas to disperse supporters who condemned the ruling.

On the occasion of Mauritania’s independence day, at the end of November, President Mohamed Ould Abdel Aziz publicly denied that slavery persisted in the country and accused rights groups of ‘sowing hatred and division’ between ethnic groups for addressing events around the expulsion and exclusion of tens of thousands of black Mauritanians in the late 1980s.

Nigeria
Nigeria is an exceedingly diverse country, with some 250 ethnic-linguistic groups distributed across 36 federal states. At state level, original ‘native’ groups are given preferential treatment over other groups considered to be ‘immigrants’ or ‘settlers’, at times leading to tension, competition and inequalities. Broadly, Nigeria’s south is wealthier and possesses more resources than the poorer and predominantly Muslim north. In the area between the two, the Plateau and Kaduna states of Nigeria’s Middle Belt, ‘native’ ethnic groups are predominantly Christian while Muslim Hausa-Fulani groups – even those who have lived in the area for generations – are considered ‘settlers’. Many ‘natives’ are sedentary farmers who have come into increasing conflict with Fulani Muslim nomadic pastoralists driven south by climate change-induced desertification in search of grazing for their herds. As a result, this region is particularly prone to inter-communal clashes, with 2015 being no exception: in April, for example, at least 23 people were killed by suspected armed Fulani herdsmen as a result of a protracted feud between herders and local farmers. As they are not considered ‘native’, despite many having been in the area for decades, Fulani receive inferior treatment under local legislation.

Before the 2015 elections, the presidency had been retained for 16 years by southerner Goodluck Jonathan’s party, leading to some northern claims of exclusion. Initially scheduled for February, the polls were postponed until March due to security concerns. After what observers termed a generally peaceful and transparent contest, President Jonathan, from the country’s southern Niger Delta region, conceded defeat to Muslim northerner Muhammadu Buhari of the All Progressives Congress. This was the first time a Nigerian opposition leader had won an election.

One of Buhari’s first major steps after being sworn in was to move the military command centre for the fight against Islamist insurgency Boko Haram from the capital Abuja to the group’s birthplace in Maiduguri, Borno State. As of the 2015 armed group has extended its operations into neighbouring Cameroon, Chad and Niger, in response Nigeria has intensified efforts with these countries, as well as Benin, to establish a previously agreed AU-backed Multinational Joint Task Force to fight Boko Haram across national borders. Nevertheless, Boko Haram fighters remained active throughout the year, beginning in January with a determined assault on Maiduguri and a massacre in Baga town, in the northern Borno State, that according to Human Rights Watch estimates may have killed as many as 2,000 civilians. Following a joint offensive by Nigeria and Chad to regain control of border areas in the north under Boko Haram’s general, Boko Haram reportedly carried out reprisal attacks against members of the Shuwa Arab minority in the north, accusing them of supporting the Chadian military. It also declared allegiance to Islamic State (IS). Despite losing territory, Boko Haram continued to launch regular attacks, particularly on soft civilian targets, including two days of violence in early July in Borno State that killed nearly 200 people in mosques and civilian homes, with similar attacks continuing until the year’s end. A growing number of Boko Haram suicide bombings targeting areas such as markets, mosques and bus stations were carried out by women and children. The violence resulted in an estimated 800,000 newly displaced between June and the end of August, bringing the total of internally displaced in Nigeria to over 2.1 million. UNHCR recorded in 2015 an additional 170,000 Nigerian refugees in neighbouring countries.

Boko Haram has also had a devastating impact on the cultural heritage of minority communities, such as the Sukur people in Adamawa state and their Sukur Cultural Landscape, which was inscribed as a UNESCO World Heritage Site in 1999. The Sukur Cultural Landscape comprises the Palace of the Hidi (or chief), dry stone terraces and paved walkways dating back centuries. Most importantly, the complex was the setting for regular festivals and ceremonies – a living cultural and spiritual heritage. Boko Haram attacked the area at the end of 2014, killing men, and abducting women and children. They destroyed crops and then sabotaged buildings by burning the thatched roofs and damaging granary covers – thereby threatening any remaining food reserves of the community. Centuries-old patterns of land use had already been made vulnerable with the arrival of thousands of displaced to the area.

Another ongoing source of division within Nigeria, at times fuelling inter-ethnic conflict, is the inequitable allocation of oil revenue and the environmental damage associated with its extraction. Ogoni and other minorities based in the Niger Delta, in particular, have seen their lands devastated and their culture weakened by the impacts of soil and water contamination, making traditional farming and fishing impossible. Local communities have struggled for years to receive denied compensation, clean-up, their share of oil profits and a say in decision-making. A tentative sign of progress during the year, however, was the announcement by Buhari’s government in August of the creation of a trust fund for...
affected communities to provide the estimated US$1 billion required to decontaminate the area, though concerns remained about the willingness of Shell and partner companies to contribute their necessary share.

Southern Africa

Amina Haleem and Keikantse E. Phele

Southern Africa’s minority and indigenous communities still struggle with the legacy of the region’s colonial past and the concentration of power among particular political elites. This has often been manifested in a range of rights violations – from lack of access to education and non-recognition of languages to control of ancestral lands and traditional livelihoods – that have undermined the rich cultural traditions of many communities. While in many countries significant strides have been made towards more equitable development, certain groups – such as San hunter-gatherer communities indigenous to much of Southern Africa – remain highly marginalized. In this context, the preservation of cultural practices and traditions remains an important part of a broader struggle for recognition and emancipation.

Namibia

In March 2015, Namibia celebrated 25 years of independence. Besides Ovambo, who make up around half of the population, its diverse communities include around 10 language groups and a range of peoples with different lifestyles, including nomadic pastoralists, hunter-gatherers and others. Yet much of the country’s resources remain concentrated in the hands of its white population and a small political elite, while other communities, such as indigenous San, live in abject poverty. This is in part due to the country’s traumatic past during the colonial era, first under German and then South African rule. Between 1904 and 1908, German authorities undertook a systematic campaign against Nama and Herero tribespeople that saw more than 65,000 people killed. While Germany apologized formally in 2004, it has yet to acknowledge its actions as genocide or provide compensation, though progress in ongoing negotiations for formal reparations to the descendants of the victims was made during the year when Norbert Lammert, President of Germany’s parliament, acknowledged that the massacres would today be classified as genocide.

Another area where colonial abuses continue to affect communities today is ancestral land rights. Hai//om San, for example, were forcibly removed from Etosha National Park six decades ago and have not benefited economically from the tourist activities now taking place there. In 2015, the community launched a legal claim to access the park and control operations within it, as well as to receive a share of its revenue; eight members applied to the High Court to have their class action suit heard. Land rights remain a contested issue for the country’s indigenous communities today in the face of development programmes, such as the construction of a controversial hydroelectric power station and a dam in the Kunene River. Ovahimba pastoralists in the region have condemned the lack of prior consultation over the development and claim it will lead to the loss of irreplaceable cultural heritage as ancestral graves will have to be exhumed to make way for the scheme. It will also deny them and their livestock access to important grazing land vital to the continuation of their traditional livelihoods.

Though political representation of indigenous communities remains limited, some positive steps have nevertheless been taken, including efforts to establish a national organization as an advocacy platform. The ///Ana-Jeh San Trust, set up in 2014 by San tertiary students with the aim of campaigning for self-determination and greater recognition of their traditional leaders, has been active at an informal level since 2004 and is made up of different San communities with the shared aim of supporting San social and economic development. These community organizations have an important role to play in addressing the specific issues of discrimination facing particular communities today in the face of development programmes.

Botswana’s Wayeyi, based in and around the Okavango Delta and Ngamiland areas, are believed to have first settled there during the eighteenth century. Despite their long-standing presence in the country, however, they still lack full recognition within Botswana. National legislation, influenced by British law, only recognizes eight major Tswana groups, while other minorities, including Wayeyi, are overlooked. Only English and Setswana are officially recognized and used in Botswana. Historically, the Wayeyi tribe was enslaved by Batawana, one of the eight major groups, and were then subjected to forced assimilation. Yet now Wayeyi are campaigning for self-determination and greater recognition of their traditional leaders. In recent years, this battle has been fought through the law courts as Wayeyi have sought to address their legal discrimination. In 2001, community members made an application to the High Court of Botswana, in Kamanakao and others vs. Attorney General and Others, challenging specific provisions of the Constitution of Botswana and the 1987 Chiefdomship Act that supported the creation of the House of Chiefs (Ntlo ya Dikgosi). With only the eight groups officially recognized and used in Botswana.

Case study by Keikantse E. Phele

The long struggle of Botswana’s Wayeyi for recognition

Botswana’s Wayeyi, based in and around the Okavango Delta and Ngamiland areas, are believed to have first settled there during the eighteenth century. Despite their long-standing presence in the country, however, they still lack full recognition within Botswana. National legislation, influenced by British law, only recognizes eight major Tswana groups, while other minorities, including Wayeyi, are overlooked. Only English and Setswana are officially recognized and used in Botswana. Historically, the Wayeyi tribe was enslaved by Batawana, one of the eight major groups, and were then subjected to forced assimilation. Yet now Wayeyi are campaigning for self-determination and greater recognition of their traditional leaders. In recent years, this battle has been fought through the law courts as Wayeyi have sought to address their legal discrimination. In 2001, community members made an application to the High Court of Botswana, in Kamanakao and others vs. Attorney General and Others, challenging specific provisions of the Constitution of Botswana and the 1987 Chiefdomship Act that supported the creation of the House of Chiefs (Ntlo ya Dikgosi). With only the eight groups officially recognized and used in Botswana.

Below: Annual cultural festival celebrated by Wayeyi in Botswana. MRG.
represented, to the exclusion of Wayeyi and others, the applicants argued that the provisions were in contravention of key sections of the Constitution that provided for fundamental rights and the right to non-discrimination. However, though they asked to be granted the right to nominate and install their own leader (Shikati), establish communal boundaries and for Shiye, their native language, to be included in the Botswana education curricula, this request was refused. In its judgment the Court, stating that it could not declare provisions of the Constitution null and void, only agreed that part of the Chieftainship Act was discriminatory and would need to be amended accordingly. As a result, the Constitution still does not recognize all ethnic groups in Botswana equally. Nevertheless, a presidential commission of enquiry, the Balopi Commission, was established to investigate the consequences of the contested constitutional provisions on ethnic inequalities and discrimination in Botswana. Their findings informed the subsequent amendment of the Bogosi Act to fully recognize other tribes not included among the eight main tribes. The Chieftainship Act was repealed and the Bogosi Act was enacted in 2008 as a result of the Kamanakao case.

But while, thanks to the amendment of the Constitution, the Wayeyi sat at Kgotla and prior to publication, the Botswana Local Government has promised and to install their own leader as an kgotla president, his term was not extended as there was no legal disposition to allow it. The Wayeyi have strived and to install their own leader as an ex officio member of the House of Chiefs. After years of protracted legal negotiations, the Minister of Local Government has promised Wayeyi in a kgotla (public gathering place) meeting that their application would go before the Cabinet and receive a response in March 2016. Amid their legal adversity, Wayeyi have strived to maintain their cultural heritage as a way of preserving their identity in the face of these setbacks. The Kamanakao Association was formed in March 1995 to promote and celebrate the community’s language and heritage. Among other activities it runs a cultural centre in Gumare, with an annual festival each year that brings together young and old alike to share song, dance, poetry readings, food and other traditional practices with each other. Unlike the largely patriarchal Twana tribes, the Wayeyi community is matrilineal and women play a crucial role in the continued vitality of cultural practices such as basket making.

Nevertheless, the state’s failure to legally recognize the Wayeyi community has undoubtedly undermined a key element of their identity – the ability to maintain and practise Shiye. In the context of the government’s refusal to accommodate teaching of indigenous languages in schools, the Kamanakao Association has established a working group to train and develop capacity within communities to teach, write and translate into Shiye, with publications for primary schools, adult learners and religious use. It is hoped that these resources will enable the next generation to maintain their native language and, by extension, their unique tribal identity in the face of official discrimination.

Update: Since this case study was written and just prior to publication, the Botswana government announced its decision to officially recognize the Wayeyi.

Communities. While the creation of a new Ministry of Poverty Eradication and Social Welfare in 2015 is promising, it is important that its initiatives are appropriately designed to also reach the most marginalized communities, such as San, who face exploitation, hunger and poverty due to their physical isolation and persistent discrimination against them. Women and children are especially vulnerable due to sexual abuse and lack of access to essential services such as health or schooling; those engaged in domestic work and farm labour are particularly at risk. It is hoped that the Child Care and Protection Act, passed in 2015, will strengthen educational access for indigenous children, many of whom are unable to attend schools due to their remote locations.

**South Africa**

In January 2015, South Africa became the 163rd State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) following its ratification of the human rights document. Though the government had signed the instrument 20 years previously, the ratification is a historic and welcome milestone for the country. Nevertheless, South Africa continues to struggle with the legacy of apartheid and profound inequalities in wealth, land ownership and access to public services. Amid stagnant unemployment and poor living conditions for millions of citizens in makeshift housing, levels of violence and gender-based crime have remained high.

South Africa’s migrant population, most of whom originate from neighbouring countries such as Lesotho, Mozambique and Zimbabwe, have regularly been targeted in xenophobic attacks. April saw the outbreak of the worst violence since 2008 when a series of killings in Alexandra township, Johannesburg, left seven dead and many others injured. While economic frustrations and poverty contributed to the violence, South Africa’s migrants have regularly been scapegoated for the country’s problems. A speech the previous month by King Goodwill Zwelithini of the Zulu nation, South Africa’s largest ethnic group, in which he allegedly called for foreigners to ‘pack their belongings and go back to their countries’, was widely blamed in the media for triggering the attacks, though he claimed to have been misquoted. Popular hostility towards migrants has been mirrored by increasingly severe official policies, reflected in Operation Fiela (sweep the dirt in Soweto), a series of crackdowns carried out in urban communities across South Africa during 2015. While the stated purpose was reportedly to tackle the high crime rate, by September at least 15,000 migrants without documentation – making up the majority of those targeted by police – had been deported. The same month, the deportation of an estimated 2,000 refugees, most of them Angolan, was announced, after their status was revoked, despite many individuals having resided in South Africa for over a decade. Refugees who were granted two-year temporary residence permits now face difficult choices as their permits expire in 2016.

Land rights, long a source of discrimination under colonial and apartheid rule, remain a contested issue for the country’s indigenous peoples. During the year, community activists continued to advocate for greater recognition, with almost 100 Khoisan demonstrators protesting before parliament in December to demand that lawmakers reconsider the Traditional Leaders and Khoisan Bill. While the bill was drafted to recognize Khoisan communities and strengthen traditional leadership, it has been condemned by critics as violating customary law and reinforcing restrictive apartheid-era classifications. Khoisan peoples were dispossessed of much of their ancestral lands during colonial rule, particularly as a result of the 1913 Natives Land Act, which allocated only 7 per cent of arable land to the indigenous populations while prohibiting land sales between geographical divisions of blacks and whites. While the post-apartheid government passed the Restitution of Land Rights Amendment Act to allow descendants of Khoisan communities that were forcibly dispossessed to claim back their lands, the 1913 Natives Land Act was used as the cut-off date for valid claims – yet community members argued that a large portion of their land was forcibly taken before then. Furthermore, the claims period initially closed on 31 December 1998, when many Khoisan communities were still unaware of the...
process or the deadline to lodge their claims. The claims process was then reopened in 2014 for an additional five years to allow for compensation of claims that were not filed before the 1998 deadline. Claimants now have until 2019 to seek compensation, but many of the claims lodged thus far have been settled monetarily rather than by land restitution. For the Khoisan peoples, of course, financial compensation alone would not address the drastic erosion of their cultures caused by dispossession, given that their cultural and spiritual practices and knowledge are so interconnected with their lands.

In August, Khoi and San leaders within the National Khoisan Council formed their own chamber of commerce and industry to address their socio-economic marginalization and lodge land claims, as they believe they are more likely to be successful if claims are lodged collectively rather than by individuals. Leaders from the council and other minority groups met with ruling African National Congress representatives in Johannesburg in August 2015 to discuss access to education, housing and economic opportunities for their communities, among other issues. Following their meeting, representatives also called for their status as the country’s first indigenous community to be reflected in an amended Constitution.

While there has been increasing recognition in recent years of indigenous traditions and customs, the campaign to legalize Muslim marriages still continues. While their status appeared to gain recognition with the publication and circulation of the 2010 Muslim Marriages Bill and the accreditation in 2014 of 100 imams as marriage officers, the bill has yet to be formally passed as law. As a result, Muslim women’s land rights after divorce or the death of their spouses remain uncertain. Litigation is still ongoing in the Western Cape High Court to decide whether the failure of South African law to recognize Muslim marriages discriminates against women. Organizations like the Women’s Legal Centre (WLC), Lajnatun Nisaa-Il Musulmaat (the Association of Muslim Women of South Africa), and the United Ulama Council of South Africa (UCSA) are interested parties in the case. While the case was originally set to be heard in December 2015, division within the Muslim community caused delays. Notably, UCSA opposes the bill’s passing as it believes that any formal state regulation of religious marriages would be unconstitutional. In the meantime, Muslim women remain socially vulnerable and disadvantaged as the common law definition of marriages in South Africa is not extended to include religious Muslim marriages. Muslim couples are considered single and unmarried unless they formally register with a South African court.