

The Politics of International Constructions of Indigenous Rights:

Twa Representations and Contestations

Jenny Herman

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Department of Politics and International Relations
Goldsmiths, University of London

The work presented in this thesis is the candidate's own.

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Abstract

This project focuses on the discursive construction and contestation of notions of indigenous rights. It combines an analysis of international discourses of indigenous rights, with a case study of how a marginalised ethnic group, the Twa, are represented in or excluded from these discourses. It also considers how members of the Twa, based in Uganda and Rwanda, Burundi, and the DRC, project their own concepts of indigeneity into the international domain and how these intersect with or diverge from the dominant international discourses. It contributes to debates about the politics of indigenous rights, which are predominantly shaped by perspectives and experiences from outside of Africa, including Latin America, with a distinctive focus on whether and how African groups 'become indigenous.'

Abbreviations

ACHPR – African Commission on Human and Peoples Rights
BIEO – Batwa Indigenous Empowerment Organisation
CERD – Committee on the Elimination of Racial Discrimination
D.R.C/DRC – the Democratic Republic of Congo
ILO – International Labour Organisation
IR – International Relations
IRC – International Resource Committee
IWGIA – International Work Group on Indigenous Affairs
MEM – Minority Ethnic Marginalised
MRG – Minority Rights Group
NGO – Non-Governmental Organisation
OHCHR – Office of the High Commissioner for Human Rights
UDHR – Universal Declaration of Human Rights
UN – United Nations
UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples – 6
UNPO – Unrepresented Nations and Peoples Organisation
UOBDU – United Organisation for Batwa Development
WGIP – Working Group on Indigenous Peoples
WHO – the Worldwide Health Organisation
WWF – Worldwide Fund for Nature

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Chapter 1: Introduction

In 2007 the United Nations passed a key non-binding resolution, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), that specifically outlined a distinctive category of human rights protection on an international scale, explicitly designed for indigenous peoples around the world (Allen & Xanthaki, 2011). Separate to the Universal Declaration of Human Rights (UDHR), the UNDRIP would serve as a platform and instrument to secure rights that were principally important and singular to indigenous peoples of the world; rights focused on the preservation of culture, language, ancestral land and resources, and self-governance (Feyissa & Zeleke, 2015). Extensive work was conducted leading up to the creation of the UNDRIP, determining what was the definition of indigeneity, who the definitions of indigenous protection applied to, and how indigenous groups could then work with governments to protect their indigenous rights as outlined in the declaration (Engle, 2011). At the end of a decades long debate, the wording that made it into the final document failed to come to a complete consensus on the definition of indigeneity, and was left open in the text, effectively treating indigenous peoples either as ethnic minorities within nation-states and/or 'citizens with a cultural identity' (Champagne, 2013: 11). However, even with the removal of a precise definitional article from the text (Champagne, 2013: 17;11), the concept of indigeneity at the UN level was still heavily contested primarily by a block of African nations. They argued that the lack of a definition of indigeneity might endanger the "territorial integrity" of the state, (Saito, 2023) and that the concept of self-determination would be detrimental to the protection of national identity and state cohesion (Feyissa & Zeleke, 2015; Champagne, 2013; Hodgson, 2009).

However, the issue of indigenous human rights at a global level has been in the arena of international legislation long before the UNDRIP was agreed, and the fight for this resolution and other related rights mechanisms has been going on behind the scenes and on the ground for decades before that (Engle, 2011). Indigenous actors and activists from around the world had lobbied and actively fought in the international arena for these indigenous rights to be globally protected, and while the UNDRIP was a win towards this protection, many questions have risen since on the capability of the UN to defend indigenous human rights. One such critique comes from Karen Tucker, who addresses the coloniality of global governance institutions (Tucker, 2018). Tucker brings attention to the inherent colonial structure of the international arena and the colonial history of the international governance institutions (Tucker, 2018).

There were other international documents that preceded this declaration as well, such as the International Labour Organisation's (ILO) Convention #107 passed in 1957, which highlighted the discrepancy and necessity of specifically indigenous human rights protection, however the UNDRIP was the primary document that member states agreed to under international governance (Allen &

Xanthaki, 2011). Documents such as the ILO conventions and the UNDRIP, along with governing bodies at the international level such as the Committee on the Elimination of Racial Discrimination (CERD) aim to reach a basic level of protection for human rights that are specific to indigenous communities who are not protected under the UN Declaration of Human Rights (Assembly, General, 2007).

While these legislative efforts show that there is a level of commitment to actualise indigenous human rights protection at the international state level, many indigenous communities are still actively fighting court cases and petitioning for human rights justice around the world (Xanthaki, 2007). This raises the question again of how effective the international system can be at protecting indigenous rights and indigenous peoples through the primary objective of international governance serves of protecting the sovereignty and borders of nation-states (Engle, 2011). The field and scope of indigenous rights is far-reaching, however there are set areas of the world in which the fight for indigenous rights is more accentuated and accelerated than others, such as Latin America and Oceania. Largely missing from this debate, however, is the situation of indigenous groups in sub-Saharan Africa, whose exclusion has limited the scope of indigenous rights within which it is inadequate at articulating and protecting indigenous rights appropriately at the international level (Engle, 2011).

The regional framework in sub-Saharan Africa varies to other areas of the world and is problematised in and of itself (Ndahinda, 2011). The scope of colonialism in the region as well as overlapping and contested concepts of ethnic identity, of what it means to be indigenous and who can claim that indigeneity leaves a messy context through which defending indigenous rights in sub-Saharan Africa can become complicated. There are clear political actor tensions that occur with debating indigeneity in Africa and questions of how indigeneity differs in the African context (ACHPR, 2006). The African Commission on Human and Peoples Rights (ACHPR) published a report on indigenes in Africa and reported, "The question of aboriginality or of 'who came first' is not a significant characteristic by which to identify indigenous peoples in itself. Limiting the term 'indigenous peoples' to those local peoples still subject to the political domination of the decedents of colonial settlers makes it very difficult to meaningfully employ the concept in Africa" (ACHPR, 2006). Furthermore, indigenous groups in the sub-Saharan African region are subject to a complex and intersecting set of regimes, starting at the international state actor level, as well as regional, national, and local state actors and nonstate actors. All of these levels of systems overlap and create a complex matrix for indigenous peoples in sub-Saharan Africa to navigate to gain access to international protection of indigenous human rights. The literature has, over the last few decades, developed a more direct approach, beginning to address indigenous human rights issues in the region. However, a main criticism that still pervades the debate of indigenous rights in Africa is that the original internationally understood definitions of "first peoples", the concept that was articulated predominantly during the Latin and North American indigenous rights efforts, was unapplicable to Africa (Feyissa & Zeleke, 2015). Supporters

of this argument argue that “all Africans are indigenous” and that if the definition were to be broken down further, divisions in society would be detrimental to state and national unity (Feyissa & Zeleke, 2015). Despite this discourse however, many ethnically marginalised groups in the sub-Saharan African region have begun participating in international indigenous forums and rights claims (Hodgson, 2009). Other ethnically marginalised groups in sub-Saharan Africa have joined the fight for indigenous rights at the regional and international level following the UNDRIP, such as the Endorois, the San, and the Maasai, arguing that they were indigenous based on the ideas set forth by the UNDRIP, and that for the continuation of their culture and their people, they needed protection under indigenous rights as well (Hodgson, 2009).

While there is an ongoing debate on the matter, with many state actors and leaders clearly arguing that there is no such thing as indigeneity in Africa, more and more groups have joined the fight for indigenous rights in the region, one such group being the Twa (also referred to as Batwa) (Hodgson, 2009; Mukasa, 2012). The Twa are a forest-dwelling semi-nomadic hunter-gatherer ethnic group located in the Sub-Saharan African regions of the Democratic Republic of Congo (D.R.C), Burundi, Rwanda, and Uganda (Ampumuza et al., 2020). They are an ethnic minority in all four of the nation-states they inhabit and have faced a multitude of marginalisation and discrimination in the wider societies of the countries they live in and have been facing land rights access barriers and forced migration from their ancestral homes over the last three decades (Ampumuza et al., 2020; Mukasa 2012).

One of the reasons why studying the Twa specifically is of interest is that they are an ethnic group spread across four nation states, with colonially imposed borders. While most ethnic groups in the region have been affected by colonial nation-state borders, the Twa face a significant threat to the continuation of their people, and the existence of their ancestral territory, however they are a less researched case study in the region that has not received the same level of academic scrutiny as other cases such as that of the Endorois (Lynch, 2011) and the Maasai (Hodgson, 2009).

Existing research focuses at the national level, for example in Rwanda on discrimination and violence against the Twa (Thomson 2009); racial injustices and the lack of redress (Sentama 2024); and Twa enactments of national unity and reconciliation (Laws et al 2019). Or in Uganda, on the dispossession of land from the Twa and the socioeconomic repercussions of this for Twa groups in Uganda (Ampumuza et al., 2020). There is considerably less research engaging with if or how the Twa are engaging with indigenous rights at the international level.

The Twa in Uganda have faced mass evictions from their ancestral forest lands in the name of environmental conservation by state actors (Ampumuza et al., 2018). In Rwanda, the Twa are unable to engage directly in petitioning for any indigenous rights as post-genocide policy in the nation has

made the adoption of any other characteristic than one national Rwandese identity and are being kept from claiming indigeneity at all (Hartley, 2015). On both sides of the Rwanda-Uganda nation state border the Twa are encountering restriction to indigenous rights and indigeneity; they serve as a strong case in the area to understand the interaction between the international concepts of indigeneity and local sub-Saharan African indigenous people's participation in those constructs at the international level.

As is shown by the researcher Dorothy Hodgson, since the 1990s there have been a rising number of ethnic minorities in sub-Saharan Africa that have been participating in the indigenous rights movement that is happening at the international level, specifically active in the fight for the United Nations Declaration for the Rights of Indigenous Peoples (UNDRIP) (Hodgson, 2009). While there are varied reasons for ethnically marginalised peoples in sub-Saharan Africa to engage with the international indigenous rights movement, one of the primary reasons Hodgson points to is the similarity of the struggle for land, land rights access, and control. The movement has been spreading in the region since before the construction of the UNDRIP, and many groups have both come in and out the movement (Hodgson, 2009), and a group that has been steadily emerging in the indigenous rights space at the international level is the Twa (Mukasa, 2012; Hodgson, 2009). My project will seek to understand how international institutions, laws and norms construct the meaning of indigenous rights and how the Twa interact with and contribute to these international constructions of indigeneity and indigenous rights.

Through the course of my research, I look at discourses, specifically how the international norms of indigenous rights and indigeneity contribute to constructing the meaning of indigenous rights; and how in turn the Twa contribute to making and shaping meanings in the international sphere, in ways that are sometimes contentious, and sometimes consistent with the dominant discourse. Doctrines such as the UNDRIP have been formed by international actors but have also been constructed through dialogue by those actors, who have fought, petitioned, and lobbied the international state and non-state actors to effect change in their lives (Engle, 2011). While the Twa are a relatively new actor in the discussion, the research to date has been less than inclusive of their experiences and interactions in the space and I hope to fill this gap, introducing the Twa's participation and communication with the international indigenous rights debate.

I will begin by mapping the international governmental area, highlighting the major players that are constructing indigenous rights at an international level, and understanding the main international mechanisms that conceptualise indigenous rights at this level. I will then perform analysis of these mechanisms, bodies, and texts, looking primarily at the four categories of indigenous construction, definitions of indigeneity, land rights, cultural rights, and governance. I will recreate this method again at the international non-governmental level, looking at major international actors, mechanisms, and

texts at this level that elaborate from the governmental construction, analysing how further constructions at this level affect the international understanding of indigeneity. Lastly, I will use this model against Twa understandings of indigeneity, how the Twa view the conceptualisation coming from the international level and most importantly, how they engage with this idea as it relates to their own identity. In order to most effectively accomplish this, I will look at major works and actors that will have had the capacity to enter into the international debate from all the above levels. My research will focus on the interaction of discourse on indigeneity emerging from multiple levels simultaneously and focus specifically on the discourse that reaches into the international level.

While the Twa are just one case in the region, and the debate on indigenous rights in sub-Saharan Africa is ongoing and contentious as is shown above, the focus on this highly marginalised group is revealing. It demonstrates how international norms may serve as a platform for such groups; it also indicates their political agency and capacity to project their own concepts of indigeneity into the international arena. By analysing these tensions, I believe my research will show that even though the texts and legislation outlining indigenous communities around the world have been constructed excluding the region of Africa, sub-Saharan African indigenous groups have begun engaging with these concepts and texts, and the interactions between international legislators and indigenous communities in sub-Saharan Africa are in turn shaping the wider system of indigenous rights on an international level overall.

Chapter 2: Literature review - Modern Constructions of Indigenous Rights

Introduction

This chapter surveys the existing literature concerned with the social construction of indigeneity. It firstly examines the academic and scholarly perspectives on how the international arena has constructed and conceptualised indigenous rights and indigeneity. This will allow me to gain background insight into how the international system has set up the construction of indigeneity and how other scholars have reviewed this construction. This will give me insight into tensions and problems surrounding the construction as well as areas needing further research. Next, I will look at how groups are engaging with indigeneity and why an indigenous identity could be desirable for rights seeking or identity construction, in other words why a group might want to 'become indigenous' (Hodgson, 2009). I will then look at how groups around the world have begun to claim indigeneity as is outlined in the international arena, and what the action of 'becoming indigenous' looks like through examples of case studies in other international regions. Next, I will look at how this process might differ in the African context, what concepts are different regionally here, and what concepts might differ/create tension from the international level. Following this, I will look more specifically at the Twa and why they are of import to research within this debate. Lastly, I will outline what additional gaps are present in the literature and what questions are still requiring further investigation.

Others have attempted to answer the question in other areas of indigenous studies and indigenous rights cases in sub-Saharan Africa, however none of them have been able to successfully answer my question, and very few of them have been able to identify the Twa as main players in the debate.

Scholarly Perspectives on the Laws, Norms, and Mechanisms Outlining Indigenous Rights at the International Level

Scholars have shown how efforts to specify and protect indigenous rights have expanded around the world, beyond the places where these rights were originally introduced such as Latin America and Oceania (Hodgson, 2009). The literature reveals the steady rise since the draft of the UNDRIP of other ethnic minority groups and peoples claiming indigeneity in the international stage, including African peoples. As a result of the rising shifts in focus of indigenous rights at an international level, more and more interactions from sub-Saharan African actors are taking place with the efforts to enshrine and defend meaningful indigenous rights at an international sphere. With a rise in the scope of international indigenous efforts, the first step in answering my question comes from understanding what the construction of indigeneity and indigenous rights is as it stands at the international level.

With the increase in institutional control and protection of indigenous rights at the international level through mechanisms such as the UNDRIP and the ILO conventions on indigenous rights, there are growing numbers of indigenous groups seeking visibility and integration with the global indigenous rights movement around the world. There are actors in areas such as the North American and Caribbean spaces as is shown in the study of how some Haitians have participated in the international indigenous movement by Amanda Perry (Perry, 2017), but there are also rising levels of indigenous groups in the African continent that are joining the international indigenous movement to the same ends (Hodgson, 2009). This is important to note as the field is still expanding, and what we understood as indigenous rights in the late 1990s has continued to shift as groups throw their hat in the ring to claim indigeneity. With a lack of a clear definition in the leading institutional doctrine on indigenous rights, the UNDRIP has left the field murky for who can and cannot define themselves as indigenous. The idea of becoming indigenous refers to the concept of groups entering into or adopting the identity of 'indigenous' in order to gain access to indigenous rights at the international level, but also because they might view their identity in relation to the construction of indigenous as the international level, and are entering that space due to a similar narrative and identity of indigeneity (Tucker, 2011). Other actors in the African region have already spoken on other groups who have engaged in this phenomenon such as the Endorois in Kenya (Tucker, 2011) and the Maasai (Hodgson, 2009).

As a result of this, the discourse on what it means to be indigenous and who can be indigenous is still shifting as well. As Benjamin Gregg posits, the lack of a definition of indigeneity within the international legislation defending indigenous rights, is a barrier in and of itself to further access to rights for indigenous groups (Gregg, 2019). Gregg helps to answer a particular facet of my question related to how indigeneity is claimed, and the political implications of claiming indigeneity (Gregg, 2019). This is an inherently important contribution as it answers why a group could try and claim indigeneity that had not done so before, and how this could happen, and adds to our understanding of the motives behind claiming indigeneity at the international level. Gregg examines the ideas held at the international level on indigeneity, how it is accessed, and why, and goes on to articulate the interaction of indigenous rights in international and regional forms of governance (Gregg, 2019). However, Gregg introduces the level of the national which adds additional actors and interests to the equation, which might act further in contrast to the overall goals of indigenous rights protection (Gregg, 2019). Gregg argues that in leaving the determination of indigeneity to the national state level, the UNDRIP has made it possible for states to continue denying access to indigenous rights without contradicting international human rights norms and expectations (Gregg, 2019). However, this is multi-faceted as he also posits that there is increased potential, given the particular nation state, to better protect indigenous rights at the state level opposed to internationally (Gregg, 2019).

Gregg puts forward the concept of the “indigenous” claim as a political metric for indigenous peoples to seek indigenous rights protection at varying levels of state governance and argues for a self-determined construct of indigeneity and an international acceptance of “self-identified” indigeneity (Gregg, 2019). Gregg cohesively shows the benefits for claiming indigeneity at the international level and outlines the ways the international system contributes to indigenous rights around the world. However, he does not explore specifically how indigenous groups then contribute back into that international level of indigenous rights. Moreover, Gregg solely looks to indigenous rights in the context of state systems, which many indigenous groups, such as the Twa, fall between or outside of, and does not speak to the interaction that these indigenous groups have directly with the international levels as their own actors at the local level (Gregg, 2019), I will try to bridge this gap in my research and examine specifically how the Twa interact with the international. While Gregg has looked at the national state systems, I will bypass these borders, looking at the Twa as an actor in the international arena and limiting my scope to the international level alone. Research on how state systems operate within the international sphere of indigenous rights has flourished, as Gregg has shown, but my research will take this one step further and look comprehensively at how indigenous actors engage with international actors directly, and how this continues to shape the international understanding of indigeneity and indigenous rights.

While Gregg’s argument gives weight to the possibility of self-determination to adequately protect indigenous rights, in contrast to the current system of vague non-definitions, other scholars like Karen Engle argue that any definition is limiting and could serve to deepen systems of inequality within indigenous spaces (Engle, 2010). Engle offers the idea that self-determination of indigeneity, especially on a global level, has allowed misinterpretation and political posturing within indigenous rights so that the concept of using indigeneity has become a political end game, and is in fact allowing for further marginalisation of communities in need of rights protection (Engle, 2010).

It is important to note here, that the concept of self-identification, or self-determination, in the context of indigeneity differs from the ideas behind self-determination in a national sense or the political definition in international relations (IR). According to Hodgson (2009), indigenous groups claiming self-determination do not seek independent statehood, rather they seek the ability to control the resources in their areas, and to be able to govern their peoples according to cultural and ancestral norms (Hodgson, 2009). In the field of international relations and other political studies, self-determination might resonate directly with statehood, however in my research I will adopt this definition of self-determination, showing that the self-determination of a society that is claiming indigeneity is concerned with resource and governance independence, and not necessarily with state boundaries. The number of international relations research texts that look to this dimension are few and most adhere to more state centric traditional theories of international relations. As a result, while I do draw upon IR theorists and researchers in part, a majority of textual evidence into my question and

project have come from other spheres of knowledge such as anthropology, ethnography, and indigenous studies. One clear example of this is the text “Becoming Indigenous”, by Chadler and Reid, which engages directly with the problematisation of anthropological studies on international indigeneity, and the colonising impact of these studies (Chandler & Reid, 2020).

Engle engages directly with sources from both indigenous and anthropological fields of study in her analysis, bringing in the aforementioned other spheres of knowledge (Engle, 2010). Engle goes further to argue that an unchanging interpretation of indigeneity leaves the door open to allow increasingly larger cases of marginalisation to occur, and the field of indigenous rights to become even smaller and more exclusive (Engle, 2010). Engle poses an answer to the part of my question that shows what the possible side effects of claiming indigeneity at the international level might be, and if there are indigenous groups joining the international debate who have not previously engaged with international ideals of indigenous rights, why this might prove detrimental for them in the long run (Engle, 2010). Engle shows the possible downsides to internationalising indigenous rights and shows a more nuanced view of the local level in contrast to Gregg (Engle, 2010). However, Engle’s research does not directly address the part of my question related to changing scope of indigenous rights as more of these groups join the discussion, and since the time of writing, the landscape of international indigenous rights has changed and continues to shift, meaning that new answers to my question can be sought (Engle, 2010).

Here are two of the most prominent arguments in the field of indigenous rights at an international level, to allow for the power of self-determination of indigeneity of a group to rest in the hands of the group in question (Gregg, 2019), or to reconsider the spaces in which we govern indigenous rights, and if those rights are outlined in response to the necessity of lived indigenous experiences (Engle, 2010). This differentiation serves not only to add depth to the definitions of the indigenous at an international level, but also to show the tensions that are emerging in the field. The increasing amount of voices and actors in the debate of international indigenous rights leads to differing and contested ideas about who is and who can claim indigeneity. This is incredibly important when looking at actors who are attempting to join or who have joined comparatively recently the international arena of indigenous rights protection and creates a complex landscape to understanding indigenous rights at an international level. The authors are helping to answer who can be indigenous and what does it mean to be so but are also creating discourses that continue to shape the landscape they are discussing.

While these authors come to separate final conclusions, they also share the view that indigenous groups leaning into the cause on an international level face barriers at all levels of access, right from the beginning, with one of the biggest barriers being the right to claim indigeneity at all. Without the direct and impactful input from indigenous communities, the ways in which we view indigeneity at the

international level and the legal methods taken have stunted the ability for indigenous rights to progress at a legislative level uniformly around the world. Both scholars however also show that the concept of being indigenous and indigeneity at the international legislative level is being politicised and used as a tool to garner rights and protection (Gregg, 2019; Engle, 2010). It is important here to investigate the reasons *why* a group not previously thought to be located in the indigenous context would claim the space as an indigenous people, what the benefits for a group might be, and what the overall drawbacks to joining the indigenous fight for rights at an international level are.

Authors in the field of indigenous rights and international relations have attempted to understand, more comprehensively than Gregg has answered above, why a group might strive to adopt an indigenous identity in the international arena and what the outcomes of this could be. One such author entering the field, Duane Champagne, poses the question of if the UNDRIP is successful in and of itself at protecting indigenous rights, if those rights are possible to be actualised at the international level (Champagne, 2013). Champagne looks to answer an aspect of my research understanding the benefit of indigenous claims at the international level, and if a group were to theoretically adopt indigeneity in international spaces, what the outcomes could be. Whilst some theorists like Benjamin Gregg and Karen Engle have shown that indigeneity can be politicised in order to gain access to indigenous rights internationally, other scholars such as Champagne go on to argue that the efforts of the UNDRIP were far below the level of protections that indigenous communities and leaders were originally arguing for; a first step in the direction of international indigenous human rights, not the finish line (Champagne, 2013).

From this perspective, the understanding of indigenous rights at the international level is an incomplete one and missing key tenets that indigenous actors fought to include in the legislation. Furthermore, Champagne points out in his work that indigenous communities do not align with the boundaries of the nation-states they sit within, and this creates even further barriers of conflict in accessing indigeneity and indigenous rights at the international level (Champagne, 2013). Champagne suggests that the lack of clarity at the international level to determine a definition of indigeneity leaves too much control to the nation state and can allow for further amounts of indigenous peoples within less tolerant states to be denied the rights that are deemed specifically necessary to indigenous communities (Champagne, 2013). This also goes to show that the conceptualisations of indigenous rights within indigenous communities are not one cohesive ideal; indigenous people's perceptions shift and change due to region and time just as any other culture. The spaces and discourses I and other researchers are examining are fluid and change with new information and research. Champagne's conclusion of the lack of inclusion of indigenous concepts in the overarching international legislation governing indigenous rights points out that one universal idea of indigenous rights is unable to cohesively defend the specific indigenous rights varying by region and state. Champagne begins to answer this question, why could/should MEM groups become

indigenous at the international level, and what barriers or trials might they face. However, other researchers, such as Dorothy Hodgson, have looked more closely at the expansion of internationally determined indigenous rights and identities at the regional levels, specifically in sub-Saharan Africa (Hodgson, 2009).

Why and How Do Groups 'Become Indigenous'?

With more and more marginalised groups joining the indigenous debate at the international level, it is critical to examine what the ideas behind the construction of international indigeneity are and what that label offers those groups seeking it. This section looks from the bottom up to explore scholarly insights into the ways that diverse groups have taken up and engaged with the norms and mechanisms of indigeneity developed at the international level, developing their own discourses of indigeneity and 'becoming indigenous' (Hodgson, 2009). Dorothy Hodgson in her text "Becoming Indigenous in Africa" expands the investigation into what it means to claim indigeneity for an African ethnic minority group, how they can do this, why they might want to, and what the implications for those groups might be (Hodgson, 2009). Most prominently, alongside her case study of the Maasai and prominent East-African indigenous activist Moringe ole Parkipuny, Hodgson examines how the international level has then received rising African claims of indigeneity, and how the debate has shifted since the integration of African marginalised groups into the international indigenous space (Hodgson, 2009).

Hodgson examines how the UNDRIP and international discourse on indigenous rights protection and indigeneity affects those groups from the African continent trying to enter these spaces and breaks down the benefits and drawbacks of constructing indigeneity in the African context (Hodgson, 2009). Most of her text focuses on the UNDRIP and the work both leading up to and following the resolution, showing that resistance to defining indigeneity and how it can pertain to groups in nation states came from some African Nations, with a strong push back in fear of losing control over territory, resources, or citizens (Hodgson, 2009). While this is a common theme that can be found in most discourse relating to the African state's positions on indigenous peoples, like the commentary from Champagne, Hodgson goes further to understand *why* there are large numbers of African marginalised groups continuing to utilise the international indigenous space to fight for specific land, resources, and governing rights, in spite of the institutional pushback from African nation states and from African leaders who claim, "everyone is indigenous here" (Hodgson, 2009). This helps to answer a specific component of my question, why study international indigenous rights from the perspective of sub-Saharan Africa? One of the main reasons for African marginalised ethnic minorities joining this space, is the way that groups in Africa saw themselves and the problems they faced in the narratives coming from the international level, and in the international mechanisms that were being constructed;

moreover, there was a connection that began to form for some indigenous actors such as Parkipuny, between seeing the lack of rights that they deemed necessary for themselves and the protections put forth for indigenous groups in the international mechanisms such as the UNDRIP (Hodgson, 2009). Even more prominent than this however, African marginalised ethnic minorities continue to claim indigenous space at the international level in search of international recognition of the issues facing their communities and are using the already established institutional processes for indigenous rights that exist at the international level to this end (Hodgson, 2009). This is in line with my research and helps to set the stage for the study of other groups joining the sphere of international indigenous rights; laying the groundwork for researching other interactions in the region, and how those make their own paths to international levels of indigenous rights.

One of the strongest take aways from this text, however, lies in the conclusion that though African marginalised peoples and groups have joined the fight for indigenous rights leading up to the 2007 UNDRIP, a large number of these groups have since moved away from the international indigenous spaces, with little to no change in rights, rights access, or impact to lived experiences (Hodgson, 2009; 20-21). Hodgson's main argument ends insofar as while there has been clear benefits for groups like the Maasai to join the indigenous rights movement at the international level to raise awareness of their issues and their struggles, little has been accomplished in the way of legislation or institutional change and as a result, many groups have then since left the international indigenous space, disenchanted with the promise that becoming indigenous once held at the global stage (Hodgson, 2009). Hodgson points to specific ways in which some African marginalised ethnic minorities have joined the international level of indigenous rights, claiming indigeneity for political ends, and seeking international protection under that banner.

However, Hodgson's main case study focuses specifically on one group's experience and the scope of their research does not look beyond the infrastructure of the UN where other international state and non-state actors are also participating in shaping the landscape and access to indigenous rights. She also does not look at how these rights are articulated at regional or local levels, or at varying international actors besides within the UN. As well as this criticism, Hodgson's text does not look at how the interactions between these local indigenous actors and the international setting have shaped international constructions of indigeneity, and without this input, indigenous actors are represented as entering a static international setting that has run its course in outlining and championing indigenous human rights at an international level. My research will bridge this gap by showing how the Twa narrate their indigeneity through different mediums and forums, and how they use these forums to interact with internationally constructed ideas of indigeneity and indigenous rights. Her overall premise still holds though, pointing to many ways in which groups not located in the original spotlight of indigenous rights activism at the international level continue to occupy that space and adopt the methods of rights activism to protect their cultural and natural heritage (Hodgson, 2009).

While authors like Hodgson and Champagne point to the rising numbers of indigenous groups seeking rights justification at the international level, critics such as Karen Engle raise the concern over if the fight for indigenous justice is even able to be held at the international level to begin with. This raises significant questions over where the debates of indigeneity are being held, and how that affects the groups that are seeking access to those spaces. This research helps create background of the places that these debates are being held, and aids in problematising the concept of actors involved in debating indigenous rights at the international level and the tensions between them. One of the biggest critiques of housing the debate on indigenous rights at the international level is that the laws created under international state actors such as ACHPR and the UN are not legally binding decisions, and enforcement is difficult to follow through with at best (Engle, 2011). Engle pushes forward the notion that there is not enough of a consensus at the international level over the definition of indigeneity and thus the international sphere has limited potential to protect indigenous rights when access to indigeneity is so limited and convoluted. Engle offers the idea that the international system holds the capacity for adaptation to a comprehensive protection scheme for indigenous human rights at the global level, but that the efforts would fall short of the true protection needed and indigenous communities might be left behind in the scope of indigenous human rights world-wide (Engle, 2011). This feedback, coupled with the conclusions found in Hodgson, could form a clear deterrent to African marginalised ethnic minorities trying to join these spaces and take up indigeneity in the search for rights and recognition (Engle, 2011; Hodgson, 2009). While Engle brings the discussion of indigenous rights back to the international level and addresses the question, why fight for indigenous rights at the international level in the first place – she does not address how groups like the Twa who are situated across regional state actors and exist in an inherently problematised region for indigenous discussions might be able to follow the path to indigenous rights and protection like other groups around the world (Engle, 2011). The authors above have posited clear and pressing reasons why such groups might theoretically aim to claim indigeneity as a means of rights protection and enter the global debate on being indigenous.

Becoming Indigenous in Action Around the World

While the point has been proven that the constructs of indigeneity in the UNDRIP and previous international legislative efforts have been unsuccessful at entirely protecting the real and actual needs of indigenous groups around the world, they are key and instrumental in how indigenous groups are interacting with the international actors governing them in their fight for protection of their own indigenous rights. What it means to be indigenous, and what indigenous human rights are varies by region as well, and the scope of indigenous human rights research has previously shied away even more from a comprehensive definition of indigeneity at the African level. While a growing number of

parties are researching the area of indigenous rights in Africa, the history of the indigenous rights movement has been spearheaded by other indigenous regions in the world such as Latin America (Correia, 2018). Much of the focus of indigenous rights research and constructs of indigenous rights at a regional/international state level cites the Inter-American Court of Human Rights as a prominent actor in developing constructs and precedent in indigenous human rights cases (Xanthaki, 2007). This focus and emphasis on other global areas has led to an inherent research gap in debates about indigenous rights in sub-Saharan Africa, and this is missing from the wider focus on an international level as well. Before exploring the specific needs and understandings of indigenous human rights in the sub-Saharan African region however, it is important to note the levels and fields of research being conducted on indigenous rights in other areas of the world in order to understand how those studies and concepts apply – or do not apply – to the regional scope of indigenous rights in sub-Saharan Africa.

When entering the field of research on indigenous rights themselves and rights access on the ground, there exists a wide literature of research in the international sphere, and the search is permeated with case studies in the Americas and Oceania, such as the case study of territory and indigeneity among the indigenous peoples in North America (Gagnon, 2013). Researcher Blaire Gagnon argues that the indigenous right most at risk for indigenous groups in North America specifically, is the right to land and territory (Gagnon, 2013). Gagnon argues that the power and ability to govern their own spaces, enterprise, and territory are vital to the indigenous peoples and that without indigenous claims to be able to control their own territory, indigenous spaces are unable to continue to exist and thrive alongside other spaces in the nation-state (Gagnon, 2013). Gagnon follows the more similar case study with ethnographic and anthropological methods, utilising a comparison of culture, norms, and perceptions (Gagnon, 2013). As such, Gagnon's research is heavily focused on one group in one region, within one national border. This is the case with most other research methods in indigenous rights study and focuses on one side of the perceptions of indigeneity, that of the indigenous group, and not on the levels of actors that affect the group in question and how those levels interact when it comes to concepts of indigenous rights. While an ethnographic or anthropological case study allows the researcher to examine one specific group in the framework that group exists under, this does not allow for a comparison with other frameworks and takes a limited view of indigenous rights in an increasingly globalised and connected world. Without the input from the actors that directly affect indigenous rights access at a higher level, Gagnon has eliminated a key piece of my puzzle, and is unable to compare how international concepts of indigenous rights affect conceptualisations at a local level, and how in turn those conceptualisations from the indigenous actors then proceed to shape and influence the international level.

Another case study based on anthropological field work of indigenous peoples in New Zealand by Anne Salmond examines the ways in which indigenous spaces co-exist with non-indigenous ones in

settled nations (Salmond, 2012). Salmond concludes that the ways in which indigenous constructs of the world differ fundamentally from those of the settling nation in New Zealand, and that the indigenous concepts grow at odds with non-indigenous ones (Salmond, 2012). Salmond touches on a number of examples for structural differences between these spaces but finds that the concepts of the state and of territory and land are principally divergent to those of the settler spaces (Salmond, 2012) and this case study goes on to show the divergence between the rights conceptualised by indigenous peoples and rights conceptualised by non-indigenous nation-states and state actors. This answers more closely the component of my problem by placing the conversations around conceptions of what it means to be indigenous against each other, showing the interaction between the indigenous and state actors. Salmond's research branches in another area than Gagnon's here, showing another level of actor involvement, the local/regional state actors, and how the concepts of non-indigenous communities interact with indigenous ones in the quest for indigenous rights in the region. However, Salmond's research here follows similar paths as Gagnon's, as does a majority of the research and case studies of indigenous rights efforts in North America, Latin America, and Oceania, and does not address the links between indigenous groups and the international state system that sits at the top of the human rights network. These case studies, along with many others, show the methods being used in the field to date, with the foremost structure being the focus of the research on ethnographic understandings and localised actor interactions. What we can learn from these previous cases, is the intricacy of interaction of systems of power in the search for indigenous rights, and the requirement for regional focus in indigenous rights, as no two indigenous peoples are the same. While this framework of research does not adhere to traditional IR theories, the cases add clear and present background for how to operate within the realm of indigenous studies at the international level. Hence, by including a mixed-approach analyses, my own IR based project will be able to gain a comprehensive view of the state of play as it stands in international indigenous rights.

While case studies view particular indigenous struggles, other authors like Belausteguigoitia-Rius focus on regional scopes of indigenous rights issues, as well as other cross-sections in indigenous rights study. Belausteguigoitia-Rius seeks to understand how the construction of indigenous rights at a local level in sub-Saharan Africa affects indigenous women specifically, doing so through input and interpretation from indigenous women (Belausteguigoitia-Rius, 2011). She seeks to place women at the forefront of the debate for indigenous human rights in sub-Saharan Africa arguing that first and foremost the interaction of human rights is varied even at the indigenous level, and that protection of rights for a marginalised group can still further marginalise minorities within that sub-section (Belausteguigoitia-Rius, 2011). Belausteguigoitia-Rius concludes that indigenous women communities on their own can collaborate and work together to achieve indigenous human rights, separate and removed from state actor efforts, and that through this collaboration indigenous rights access can be achieved at a local level, rather than a national or international one. However, this conclusion does not incorporate the levels of state actors and places all state actors on one plane. Belausteguigoitia-

Rius looks closely at one level of indigenous rights analysis and does not address the interaction of international state actors with each other and with indigenous communities. Belausteguigoitia-Rius has shown that within indigenous human rights there are still several different marginalisations and access barriers that need to be identified. While this problematisation is important to note, Belausteguigoitia-Rius focuses on the effective marginalisations in the region but does not look critically at the construction of indigeneity in the international arena first.

Becoming Indigenous at the Local Level and in Africa

While other researchers such as Champagne and Hodgson observe and analyse how the ground level of indigenous construction and identity play into the larger international ideas of indigeneity and indigenous rights, I seek to understand how these international concepts of indigenous rights and indigeneity affect indigenous groups in sub-Saharan Africa and how those groups in turn contribute to international discourses of indigenous rights. I seek to observe how the international shapes the local and how those who engage with international constructs of indigeneity and belonging then shape the very ideas they are interacting with. In the case of the Twa, I look to the ways that the Twa peoples on the ground in Rwanda and Uganda are engaging with the international ideas of indigeneity, as highly marginalised ethnic group in both regions, and if/how these interactions are further affecting the international discourse and discussions of what indigeneity means on a global scale.

Champagne also puts forward that the key issues behind integration of the UNDRIP and international indigenous human rights legislation is in the framing of the individual rights versus community rights, and that the onus on the nation-states themselves to grant indigenous rights was misplaced and inadequate in truly protecting indigenous human rights (Champagne, 2013). Like other authors such as Engle, Champagne posits that indigenous communities think the UNDRIP has been unsuccessful overall for the adoption of indigenous rights at the local level as nation-states are inconsistent in their engagement with indigenous rights within their borders (Champagne, 2013). Champagne and Engle have shown that while there is rich literature about the international protection of indigenous rights, the definitions, and concepts we ascribe to the field of indigenous rights may not sit with the views and concepts of those indigenous communities themselves.

The field of indigenous rights in the African region and specifically in sub-Saharan Africa is positioned in the middle of this ongoing debate, on whether there is a validity in researching indigenous rights in sub-Saharan Africa, what it means to be/who can claim to be indigenous in those spaces, and whether the international setting is the best framework through which to gain access to those indigenous rights in the region. However indigenous groups in sub-Saharan Africa display unique approaches to conceptualising indigenous human rights, which demands closer inspection to

understand how those groups are interacting with the international level of indigenous rights and what effect these tensions may have produced to both sides.

One reason for the lesser amount of indigenous research being focused on indigenous rights in Africa, lies in the difficulty to define indigeneity in African terms, and the problematic scope of broadly assigning indigeneity in the African context (Ndahinda, 2011). A proposed cause of the problematisation of indigeneity in Africa, is the colonial and imperial “other-ing” that is still fresh in the minds of many Africans (Ndahinda, 2011). Ndahinda points out that these causes are heavily constrained in colonialist connotations of the term “indigenous” after being used as a colonising tool by European invaders. However, many groups in Africa continue to self-identify as indigenous, as Ndahinda outlines, utilising the term to fight for justice and equality for their tribe on a global scale, as is shown above, through international indigenous rights avenues.

Ndahinda points out the controversy in the debate on whether to or whether not to self-identify as indigenous. However, since the publishing of this work, there have been further court cases and minority groups on the continent that have claimed indigenous rights in search of human rights not granted to them at the national or international level (Guodaar & Bardsley, 2021). Others in the field have further claimed that, as noted by Dorothy Hodgson, the rise of the discussion of indigeneity in Africa was pushed forth by the rising number of peoples who joined the groups of peoples around the world claiming indigenous rights and recognition (Hodgson, 2009). As well as a growing number of indigenous claims, the question is raised by scholars on why claiming indigeneity can protect certain minority groups in Africa, and possibly offer them a sense of security, community, and environmental freedom (Guodaar & Bardsley, 2021). While this can be an empowering force, there are also problems that accompany this, as Guodaar & Bardsley point out, a lack of a clear definition has provided ambiguity to the claims indigenous peoples are making in the area. As we have seen above, in other discussions, such as in Engle’s work, there has been a reluctance at the international level to narrow down or solidify one complete definition of indigeneity, with African regional actors claiming that a definition would be too confining and not accessible to groups most in need (Engle, 2011). However, the problem occurs as well on the reverse if too many groups claim indigeneity that overlap and contradict each other, sectarian violence and border contestation becomes messy at best (Guodaar & Bardsley, 2021).

Alongside Ndahinda’s work in the debate, a prominent voice speaking to indigeneity in the African context, and how this affects the legal sphere of human rights, Gabrielle Lynch speaks to the construction of how we interpret indigeneity in the African continent, and how these constructions come into play when discussing the human rights and legal protections of indigenous communities within the African Commission on Human and Peoples’ Rights (ACHPR) (Lynch, 2011). This is inherently important as it provides context on how the legal understandings and constructions of

indigenous human rights in the African context react in real time to legal challenges for indigenous human rights within existing governing bodies (Lynch, 2011). This study focuses on the Endorois case, which has created a precedent at the regional level that can provide context for how indigenous rights are envisioned at the local governmental level (Lynch, 2011). This increases the enticement for minority groups to claim indigeneity as the rights that are most applicable to their lived existence would be best protected under indigenous human rights (Lynch, 2011). Lynch provides one clear answer as to why minority groups are increasingly claiming indigeneity in the region and why this is a tool that can be used to gain access to rights that groups have previously been denied. Lynch's work provides new insights into how international norms and NGOs create political opportunities and animate struggles for rights at local levels.

We have seen experts in the field such as Engle question whether a definition of indigeneity can be achieved at an international level and if the debate is even one to be fought in the global sphere; there is Ndahinda who posits that there is no clear answer and the issue is problematised to begin with at the regional and national level in the wake of European colonialism in Africa; alongside Hodgson, Guodaar & Bardsley and Lynch who outline the advantages on the other side of why indigeneity is a tool that could advance human rights access for minority groups specifically in the sub-Saharan African region (Engle, 2011; Ndahinda, 2011; Guodaar & Bardsley, 2021; Lynch, 2011; Hodgson, 2009). Throughout my own research project, while there have been strong voices on either side outlining the problematisation of indigeneity in sub-Saharan Africa, as an external researcher in the region, I will defer to a minority groups self-determined claim to indigeneity as the way of defining indigenous groups.

While many researchers such as Hodgson, Lynch, Engle, and Ndahinda focus specifically on the sub-Saharan African region, little to no research exists on the position of the Twa as a group entering this space, the issues facing their interaction with other indigenous groups and themselves, and how they then affect the spaces they may or may not be trying to integrate into. I will fill this gap with my research looking at how the Twa have adopted or engaged with pre-existing definitions and spaces of indigeneity on an international level.

Becoming Indigenous as Twa

While there are many indigenous groups in the sub-Saharan African region, one group that has been neglected in the literature is the Twa. There is already academic and legal discourse surrounding the Twa, however much of the analysis fails to incorporate these levels of tension. The biggest research gap appears on the Twa in that they are discussed on one side of a national border or another, and not across or between, thus, I will focus my research specifically on the Twa across their 4 national

state borders. While these are pressing gaps, it is of note that the Twa are a diverse people just as other cultures and groups, and the Twa are currently divided along four different land borders of territorial nation states that were erected during the colonisation of the continent. As such, there is a variation to be expected in the portrayals of indigeneity and the indigenous rights left behind for the different groups of Twa in different and diverse regions.

Researchers Martha Kibukamusoke and Jimmy Alemiga put forward that in direct relation to their expulsion from their ancestral forest land by the Ugandan government, the Twa have faced marginalisation in society through restricted access to voting, employment, education, shelter, and health care (Kibukamusoke & Alemiga, 2018). They go on to show how the Batwa are categorically underrepresented politically in their primary regions in Uganda and thus have little connection or impact on the forces governing the Twa directly. Ultimately, these issues result in the same outcome for the Twa around Uganda, with little contribution to the political structure, the knock-on effects such as access to land, housing, education, and healthcare are exacerbated as future generations face the same barriers (Kibukamusoke & Alemiga, 2018). Kibukamusoke & Alemiga conclude that the government of Uganda is best positioned to answer these injustices and put forth policy positions that the Ugandan government should enact to better protect the Twa. However, Kibukamusoke & Alemiga look solely at legislative remedies at a state level and have little integration of why/how the Twa are seeking indigenous rights at the international level. While providing an important perspective into the realities faced by the Twa in Uganda and an appropriate picture of the state of Twa as a marginalised group, Kibukamusoke & Alemiga do not problematise what these indigenous rights mean to the Twa, why they have chosen to interact with these concepts, and how the international level is shaping the experiences of the Twa in their fight for indigenous rights.

Christine Ampumuza, Martijn Duineveld, and René van der Duim write specifically on the sociocultural conflicts surrounding the Twa in Uganda, and touch on the concerns of conservation as an active factor in the Twa's removal from their ancestral forest lands as the main form of indigenous human rights injustice (Ampumuza et al., 2020). The work centres heavily on the ways in which the Twa operate under marginalisation in Uganda, and the ways in which they are navigating the expulsion from their habitat using community knowledge and branching into the world of NGOs (Ampumuza et al., 2020). Ampumuza et al., go on to elaborate the ways in which the Twa are marginalised within their communities as well as nationally, the ways in which community actors on various levels have "victimised" the Twa in their spheres, and the position of the Twa on the border between society and the forest, placing them in an even more vulnerable position. Ampumuza et al.'s conclusion is that the marginalisation affecting the Twa is multi-faceted and caused by many different levels of agency. However, while Ampumuza et al.'s analysis looks to the Twa on a group level rather than just a national one, their focus does not integrate the international level of analysis and marginalisation, forming a conclusion on a local level alone. Like Kibukamusoke & Alemiga, Ampumuza et al. choose

not to look at the wider picture of tensions between the Twa and international actors, and do not address how the Twa interact with the internationally determined definitions of indigeneity, and how/where the Twa are joining the international debate on indigeneity and indigenous rights. It is important to note that the Twa fighting for indigenous rights on an international level are entering a debate already put in place and ongoing, and as a result of not including this level of analysis, we are gaining a marginal view of the Twa efforts towards indigenous rights and indigenous protection in Uganda following expulsion from their ancestral lands (Ampumuza et al., 2020).

Norman Mukasa gives an overview of the Twa's Forest dwelling implications post eviction in Uganda, focusing primarily on the eviction from ancestral land of the Twa by the Ugandan government as the main form of indigenous human rights injustice (Mukasa, 2012). Mukasa evaluates the Twa's indigenous needs for the land and their ties to their ancestral forest home, an aspect that has not been present in other literature in the Ugandan context of the Twa. Mukasa points to the problems that occur when indigenous forest communities are separated from their land, and how evictions from ancestral land can affect livelihood and prosperity of indigenous groups, in direct response to the clearings from ancestral forest land in the state of Uganda. Mukasa's conclusion is that the right to access land, as dictated on an international level, has been denied by the Ugandan government and his solution is the re-integration of the Twa into their ancestral homeland. However, Mukasa's work does not explore if/how the Twa are actively engaged in following up on their ancestral rights through other avenues in the international domain (Mukasa, 2012), nor does it interrogate the international conception of indigenous rights, and what constitutes an indigenous group, since it speaks specifically to national Uganda and the Ugandan Twa.

On the other side of the national border, Stef Vandeginste provides an examination of the Twa in Rwanda [and Burundi] in relation to their indigenous rights and indigenous classifications (Vandeginste, 2014). Vandeginste posits that the issue that springs to the forefront of the argument is ethnic categorisation and explores ethnicity as a construct of indigenous human rights access. Vandeginste looks to political tensions and representation in national/regional legislation, providing a more state actor focused argument, but again loses the international component. Vandeginste frames the Twa as indigenous actors utilising internationally constructed ideas of indigenous rights, however this work was not focused debate or to examine the tensions between the Twa and international actors when looking at how the Twa in Rwanda and Burundi take up these internationally constructed ideas. Vandeginste looks to identify the Twa exclusively as an ethnic minority group in relation to governmental actors in Rwanda and Burundi, as a leading cause for tensions in the Twa accessing internationally constructed indigenous identities. Vandeginste concludes that the emphasis on ethnicity as a contributing factor to indigenous human rights in Rwanda has created indigenous rights access issues for the Twa, and that the marginalisation of the group is a result of Rwanda being a post-genocide state with ongoing political repression (Vandeginste, 2014). Vandeginste posits that

the nation state level is the biggest barrier in access to internationally constructed ideas of indigenous human rights for the Twa and neglects the international component of the debate in favour of the inter-state national level between Rwanda and Burundi. While Vandeginste more closely addresses the global state positionality of the Twa across national borders, a large component that he does not include in this text is the lack of reference to indigeneity as it is constructed at the international level.

Like Vandeginste, Brett Hartley focuses on the concepts of indigenous identity rather than international legislative action in Rwanda for the Twa's access to claiming international indigenous human rights identities (Hartley, 2015). Hartley claims that the largest barrier in indigenous human rights access comes again from access to claiming indigeneity and focuses on the issues of ethnicity and claims to indigenous identity that the Twa face on the ground in the state of Rwanda. Hartley delves more deeply into the Twa's situation in relation to the national government/state actors, and other indigenous communities/ethnic groups in Rwanda and focuses on a national view of the Twa rather than a regional one. Hartley's conclusion lands on the onus of the Rwandan government again to allow the right of indigeneity to the Twa, or for the Twa to demand it themselves, and that the Twa cannot access their indigenous human rights if they cannot claim their indigeneity. However, Hartley does not explore that the ideas of indigeneity, he is advocating the Twa to claim, are internationally constructed and exist within an ongoing debate at the international level. He focuses his argument on a national-state level and chooses not to incorporate the tensions that occur between groups entering the international setting and taking up international constructions of what it means to be indigenous. While he makes an important point, Hartley's research here does not touch on the relation of indigenous groups to their counterparts across national borders, and while he focuses on regional and international state actors and legislation, he does not explore the specific ways in which indigeneity has been conceptualised at the international level itself and how the Twa are or are not able to interact with this concept directly. Lastly, Hartley does not combine the analysis of the Twa in Rwanda with the Twa in other states and views the Twa as a Rwandan case for his project, which again limits the level of analysis needed for an indigenous people interacting with internationally composed concepts of indigeneity in the international arena. More recent researchers such as Sentama and Laws et al., have continued to highlight tensions facing the Twa in Rwanda both in relation to racial injustice (Sentama, 2024) and how Twa members navigate the national unity as set forth in the reconciliation process following the Rwandan Genocide (Laws et al., 2019), showing the problems facing the Twa are still ongoing and present.

Wider Gaps Still Present in Literature

Besides the gap proven above, of the lack of research and international collaboration on indigenous rights in Africa, there is also the inherent gap in the chronology of the literature. There is a gap in the

timeline of research alone, and what research has been concluded in the last 2 decades is running close to out-of-date. The majority of research on indigenous rights in sub-Saharan Africa has been slow to take up and has been limited in moving contemporarily with the rest of the debates at an international level. However, despite this, some researchers have taken up the call to look further into indigenous rights in sub-Saharan Africa, and how this differs to other regions when discussing the trickle down of international norms into indigenous rights in the region. My research will examine how the Twa have interacted with these internationally constructed ideals of indigeneity, and how those interactions have further continued to shape the international level as well.

Conclusion

While the construction of the concept of indigenous rights began decades ago, the idea of what it means to be indigenous on the international level is still adapting and changing, and the more groups taking up the mantle at this level, the more the definition of indigeneity is shaped and changed. It becomes even more problematic to view indigenous rights in the sub-Saharan African region as the longstanding history of colonisation and territorial rule overshadows perceptions and identities of what it means to be indigenous. However, through all of this, there are sub-Saharan African groups joining the debate to claim indigenous rights, such as the Twa, and those interactions are continuing to shift what the international arena views as 'indigenous.' The Twa are positioned within national struggles for indigenous rights, which differ drastically across their national borders. There are many competing schools of thought outlining the international understanding of what it means to be indigenous, and the debate is far from being settled, as the research above proves the gaps still to be filled.

Through the above analysis I have clearly demonstrated these research gaps that my project will address. The Twa are well suited to observe how a group in the region of sub-Saharan Africa, crossing national boundaries is positioning themselves in an internationally held debate, how they are 'becoming indigenous', narrating this, and projecting this identity into the international domain.

Chapter 3: Theory and Methodology – A Critical Constructivist Approach to Analysing International Constructions of Indigenous Human Rights

Introduction

Having established the gaps in the literature to date, I will employ qualitative research, focusing on a blend of case-study research with discourse analysis, and employing a diverse range of sources to explore the question: **How are notions of indigeneity being constructed in international discourses and how these are either shaped or are contested by the Twa?**

I will look specifically at the structures, mechanisms, and discourses concerned with indigenous rights and indigeneity within international governmental organisations, international non-governmental organisations, and Twa activists and voices that reach into the international arena. The aim is to understand firstly how international organisations and actors construct the concepts of indigeneity, who can be indigenous, and what rights accompany being indigenous, and secondly how Twa individuals and groups have understood this rhetoric, and in what ways have they interacted with these concepts, and contributed further to the ongoing conceptualisation of what it means to be indigenous at the international level.

My research project is rooted firmly in the IR/political science theoretical framework of social constructivism, looking to critical understandings from works by Risse, Ropp and Sikkink, as well as Finnemore and Sikkink, looking to norm construction and rights conceptualisation in the international arena (Risse et al., 1999; Finnemore & Sikkink, 2001). Finnemore and Sikkink specifically advise on critical methods of constructivism, “Critical constructivists believe that certain powerful groups play a privileged role in the process of social construction” (Finnemore & Sikkink, 2001). This will aid me in my research to understand diverse power relations between international and indigenous actors, and the think critically about the role of power within my research. One of the key points behind my question is how concepts are understood and taken up by actors on different levels. This brings into question the idea of power and conceptualisation and norms in the construction of what it means to be indigenous both at the international level and then at the local level by the Twa themselves. Given the context of the topics and communities in my research, and previous critiques of constructivism, I will also be expanding this research on social construction and constructivism by turning to decolonial understandings in this theoretical framework, influenced by work drawing on decolonial methodologies and work that “challenges the hegemony of Western knowledge and colonial ways of thinking” (Denscombe, 2024).

I will undertake a multilevel analysis to understand the various understandings of indigeneity and indigenous rights that circulate in the international sphere. This will involve documentary research and discourse analysis of the texts and other media forms that proliferate within international intergovernmental organisations, among informal non-governmental actors as well as those produced by the Twa. My engagement with critical decolonial approaches leads me to explore research from

across disciplinary divides, including from authors such as Hodgson and Lynch (Hodgson, 2009; Lynch, 2011) who use mainly anthropological understandings of culture and belonging, and draw upon extensive ethnographic research with indigenous communities. I will look to this literature as well as work on decolonial approaches to accurately and appropriately engage with the study of voices from a marginalised ethnic minority that I do not personally belong to.

My research will primarily rest on discourse analysis and textual analysis, combining this with a case study analysis of the Twa that subverts nationalist approaches. I draw upon anthropological and documentary sources relating to Twa groups situated in four countries, in the Great Lakes region, looking across national boundaries while alternative mediums of indigenous voices and discourse that enter into the international level.

I will utilise the discourse analysis to understand, through analysis of discourse surrounding the term “indigenous” and “indigenous rights” at the international level and again at the Twa level, to understand in context how these levels understand and construct the idea of the indigenous, and how those ideas interact with each other. I will use the discourse provided by each set of actors to understand how they view indigeneity, who can be indigenous, what indigenous rights mean, and who can claim these. By analysing the discourse at each level I will be able to understand, through the terms, language, structure, and format of the discourses, how each level interacts with these ideas, and the concepts that can be drawn from each level of understanding, finally ending with the ways that (elite) Twa actors have engaged with indigeneity in ways that reach back to the international level. This will aid me in understanding the ways the groups are beginning to take on certain ideas and what problems they are faced with, regarding indigenous rights issues.

I will begin by outlining the theoretical framework that my research is situated within and the main sources of theoretical framing that I will look to in my project. I will outline the inspiration for my model and the direction I am lending to IR social constructivism with decolonial theory and norm construction. Next, I will outline my research methodology, expanding on the methods behind my discourse analysis, case study, and textual/alternative medium analysis. Finally, I will outline my positionality, reflexivity, and ethics within my research project, specifically addressing my position in relation to my research and the role my research will aim to play in the field.

Theoretical Framework

My research pulls from constructivism and decolonial research, looking beyond IR theories concerned with order in a state centric system recognising the power of ideas and discourses and looking instead at the relations and interactions between the international and the “local” (Tucker, 2018; Denscombe, 2024) pushes off from a constructivist start point but incorporates voices from anthropology/ethnography (not necessarily utilising these theories but broadening the theoretical framework using an IR theory in a decolonial/anthropological conceptualisation of belonging and operating outside of a state-centric system by incorporating indigenous peoples in the international

discussion on indigeneity. Instead of looking at the enforceability or applicability of internationally constructed indigenous rights, I will seek in my research to understand how these indigenous rights first came to be conceptualised on the international stage and then how those conceptualisations have been understood and disseminated in the African context.

My research will seek to understand the constructions of indigeneity and the understandings of what it means to seek indigeneity/become indigenous and how the Twa interact with these notions.

Inherently the truth of what it means to be indigenous is a relative term as shown by the problematisation of indigeneity in a decolonial international context, and the conceptualisation of indigeneity is continuing to grow and shift. My research will adopt a social constructivist approach to seek to understand how norms are formed, how those norms shift and adapt upon expansion, and how the Twa are engaging with these norms, understanding them, conceptualising them further, and possibly how this continues to shape and shift international understandings of indigeneity and what it means to be indigenous, shown by Finnemore and Sikkink as the search for 'small-t contingent claims' and different ways of knowing truth (Finnemore & Sikkink, 2001).

My research is focused on understanding construction and conceptualization of indigeneity and indigenous rights on the international level. Thus, social constructivism will guide me in a theoretical framework understanding a non-material socially constructed idea of indigeneity and indigenous rights, while being able to understand the heterogenous structure of what it means to be indigenous on the international and local Twa levels (Finnemore & Sikkink, 2001). According to Finnemore and Sikkink, "It [constructivism] is a social theory that makes claims about the nature of social life and social change" (Finnemore & Sikkink, 2001). This aim of research theory fits most closely with my research aims of understanding conceptualizations and social understandings on multiple levels of analysis.

Finnemore and Sikkink outline the core tenets of constructivism research and focus - "They [constructivism's core assumptions] have shaped the kinds of questions constructivists tend to ask by opening up for inquiry issues that other approaches had failed to engage" (Finnemore & Sikkink, 2001). As shown in the previous chapter, there is an inherent research gap in this field that my research seeks to fill, understanding the ways in which indigeneity is problematised and understood on the international perspective between international actors who have constructed the original terms of indigenous rights and law and actors that were originally excluded from this discussion, adopting and expanding conceptualisations on an international level of what it means to be indigenous and the right associated.

While researchers such as Risse, Ropp, & Sikkink highlight the spread and socialisation of international norms and the stages through which they are adopted and integrated by states (Risse et al., 1999); My research will instead look to how these are constructed at the international level and the ways in which they are taken up and used by non-state actors including indigenous groups. I will look to examine if/how the construction of those norms at the highest international state level has affected

Twa claims of indigeneity at this level, and their interaction the internationally constructed ideas of indigenous; I will also observe and analyse how the Twa are then further interacting with indigeneity and contributing to additional conceptions and constructions of indigenous human rights at the international level. I argue that by doing this research I can help connect the circle started by Risse, Ropp, & Sikkink, showing that the ways in which we interact with the world around us influences the wider systems we are a part of (Risse et al., 1999).

Utilising discourse analysis within a constructivist framework allows for my research to span the discourses produced at different levels, showing the overarching themes and concepts in discourse at the international and local Twa level, showing how discourse presents and shapes conceptualisation of how indigeneity is understood and taken on by both levels and how they continue to interact with each other. According to researchers Jäger and Maier on discourse/[dispositive] analysis and the importance of discourse analysis being produced over textual analysis, “A single text has minimal effects that are hardly noticeable and almost impossible to prove. In contrast, a discourse, with its recurring contents symbols, and strategies, leads to the emergence and solidification of knowledge and therefore has sustained effects” (Jäger and Maier, 2016). By effect, so too does social constructivism play a part in understanding how the discourses analysed shape and form how concepts are taken up, interacted with, and continue to articulate how indigenous rights are approached by systems of power that dictate the rights afforded to indigenous groups such as the Twa.

The overarching reason for the research is to interrogate and problematise concepts of indigeneity that have significant effects upon the lived realities of indigenous groups such as the Twa; to consider how these rights are understood, interpreted, and engaged with; and to explore the agency of marginalized groups and their struggles to create a higher quality of life for indigenous peoples around the world. By critically examining discourse, rather than assuming that texts and works simply convey facts, I will uncover the multiple and competing meanings of the terms identifying how each group of actors, international governmental, international non-state, and Twa, has understood the concepts of indigeneity and indigenous rights, and how they view who can be indigenous, and what indigenous rights are accorded to those who are indigenous, something that without textual analysis, these texts would not give us. By critically looking at the language used in these texts and the understanding of the meaning behind them, I will be able to understand the issues facing constructing indigeneity at the international level and what the actors at each level have understood of these concepts themselves.

A final way that constructivist theory will guide my research, is by applying the concept of relative truth and norm construction within the Twa communities that has permeated the international level I will be able to view and critically analyse non-traditional mixed medium sources such as alternative resources of poetry, prose, local legislation, and oral narratives that are not commonly considered in

traditional IR theories (Baylis et al., 2014; 175; Jäger & Maier, 2016). This analysis will increase my ability to view how Twa actors use and interact with internationally constructed norms and concepts of indigeneity, by analysing texts in mediums more traditionally utilised and accessed by the Twa. This is a concept that has been noticeably missing in the literature to date, and my research will address this gap.

Research Methods

Discourse Analysis

To understand and critically analyse how **the notion of indigeneity is constructed in international discourses and how these** are interacted with and shaped by the Twa, I will conduct an analysis of international documents and discourses and of Twa discourses around indigenous rights and indigeneity. I will compare the analysis of the discourse at the international level with that of the Twa, and review how these conceptualisations interact with each other, and how the Twa situate themselves in this debate. The process of the discourse analysis, as defined by James Paul Gee, allows the researcher to derive “constructions” and meanings of the authors behind the texts, breaking down the structures of “realities” and “construction” by looking at what is being said and what is being portrayed in these texts at a deeper level (Gee, 2014). Gee explains that we construct our realities in our written work through linguistic rhetoric, and by examining the political structure behind that rhetoric we can gain insight into the realities constructed by the authors as well as what they think about the subject they write on (Gee, 2014).

By looking at the discourse, rather than the facts that texts and works convey, I will also be able to understand using discourse analysis how each level of actors, international state, international non-state, and Twa, has understood the concepts of indigeneity and indigenous rights, and how those levels view who can be indigenous, and what indigenous rights are accorded to those who are indigenous.. By critically looking at the language used in these texts and the understanding of the meaning behind them, I will be able to understand the issues facing constructing indigeneity at the international level and what the actors at each level have understood of these concepts themselves. I will use the term discourse to relate to any text that has been made accessible or is interacted with by the international and the Twa actors at the international level. For the international level I will look specifically at key texts outlining indigenous rights in its current construction, the documents leading up to the 2007 UNDRIP, and other positions by international state governance in the form of legislation at the international stage. In order to understand the constructions of indigenous rights as they stand, an analysis of the legislation and texts used at the highest international level can show me how the actors outlining these texts viewed indigenous rights, the ways in which they may have intended these discourses to be used, and what concepts underlined the construction of these discourses. In order to truly integrate the conceptions and constructions of indigenous rights at the international level, an analysis of the discourse proliferated by international actors on indigenous

rights can expose hidden subtext and clues to the concepts that these actors themselves hold, and how that may have affected the understanding of these works and words as they trickle down. I will also examine academic sources and NGO commentary on the Twa, and how the fight for indigenous rights does or does not apply for them. This level of analysis of discourse will be expanding on the above, looking to international actors speaking to the international construction and conceptualisation of indigenous rights. This analysis will be focusing on external (non-Twa) actors at the international level who have created commentary and discourse through reports, advice to governing bodies, activism, and texts analysing the state of indigenous rights as it stands in the international community. In addition to the governmental actors and institutional discourse above, this additional level will provide analysis on the non-governmental conversations actively participating in the construction of indigenous rights at the international level, and how external discourses have impacted the conceptualisation of international indigenous rights. Legislation on indigenous rights and concepts of indigeneity were influenced – and continue to be influenced – by non-governmental actors at the international level. Looking closely to these non-governmental and academic actor's conceptualisations of indigenous rights in the international arena will add to the understanding of how indigenous rights are and have been constructed, offering additional input on whose contributions have led the debate and have proved influential.

At the Twa level, I will look at texts produced by the Twa and by Twa activists that have reached the international level, to understand how the Twa are situating themselves within the debate on indigenous human rights at the international level. Examples of these texts will be responses to international legislation or actions, ongoing legal discourses around Twa indigenous rights, Twa activists participating at the international level, and non-traditional discourses i.e. multi-media texts such as documentaries and internationally proliferated poetry and conversations. Specifically for documentaries, I will analyse the text and language used as well as the participants and production actors to understand the context of the discourse in the wider international sphere. Poetry, conversations, and ongoing legal discourses will fall under the same analytical patterns as other texts and will be analysed using the same structures looking at speech and concepts of how international indigeneity is constructed and understood by the Twa.

I will look to the language surrounding the indigenous in both levels of context in order to understand the constructions of the indigenous in the international arena, how those perceptions of indigeneity pertain to and are downloaded by the Twa, and subsequently how the Twa then utilise and continue to shape the international concepts of indigeneity. The analysis of the terms used to discuss the Twa by external international forces such as NGOs and international government actors, and the ways that the Twa then discuss themselves, will lend an understanding of both sides' contextualisation and conceptualisation of the concepts of indigeneity and how these concepts relate to the Twa. While it would be impossible to go back in time and speak directly to those drafting the indigenous rights legislation at the international governance level, or to speak to the Twa as they are interacting with indigeneity in real time, a careful analysis of the texts published on both levels will grant me clear

insight into the ways that both levels view and construct indigeneity relating to the Twa. I will use the study of these discourses to gain understanding of the concepts of indigeneity and indigenous rights from a variety of actors at the international level, and study the language used to understand what indigenous means to the actors at play including and surrounding the Twa.

I will look to the ways in which words are used and the how those words are constructing ideas and concepts of rights in the indigenous context affect the interaction with those concepts, and the words and rhetoric of indigenous rights at the international level affect the downloading and adoption of these, i.e. for the Twa. The ways words are used portrays meaning, and the words, terminology, and context for the creation of the international “indigenous” affects the groups of people who are taking on these concepts in their fight for rights. This interaction is different in the case of sub-Saharan Africa, as many of the terms being taken up by sub-Saharan African indigenous actors are constructed in the international arena, given the contestation over the concept of being indigenous in Africa, and how that plays into ongoing political and identity constructions (Ndahinda, 2011).

I will be using a method of discourse analysis, influenced by methods of Critical Discourse Analysis, as defined by Teun van Dijk. While van Dijk specialises in socio-political and cognitive strands of discourse analysis, van Dijk’s emphasis on power structures and the ways in which dissemination of ideas and discourse is formed under power and injustice matrices will be invaluable when viewing a discourse analysis comparison of an international level of actors and that of a local level interacting with the international (van Dijk, 1993). Looking to understand how the Twa as a local marginalised ethnic minority group in the region interact with and create tension with internationally constructed concepts of indigeneity and indigenous rights, the power dynamics are at a steep curve with international actors, NGOs, and spaces wielding both direct and indirect power over the Twa in both Rwanda and Uganda. As such, utilising a method of discourse analysis heavily centred around the question of power and understandings of knowledge and truth in line with the theoretical backing of constructivism (Finnemore & Sikkink, 2001) when analysing discourse is essential to understanding the dynamics at play between the Twa and actors at the international.

I will analyse the selected texts from both levels of actors with particular attention paid to the defining characteristics of indigenous. I will look primarily to the definitions and constructions of what each level considers indigenous to be and how that indigeneity is presented by compiling a comprehensive yet succinct discourse analysis for each of my selected texts, looking at “access, patterns, setting, and participants” (van Dijk, 1993; 270) of each text, as shown by van Dijk. Once this is compiled and explained in my analysis, I will look to the ways in which indigeneity is described and what the specific linguistic explanations of the Twa are in these contexts by global actors. Specifically, this will look directly at the terms used to describe “indigeneity” and “marginalised groups” to show how these groups have been considered in the legislation regarding their international standing and rights. The analysis of these terms as they are used in legislation, by NGO and academic actors, and then by the

Twa themselves will be able to show me how these actors understand these concepts, and how those understandings trickle into legislation and discourse at the international level.

Following observations of the specifics of the language around the indigenous, I will look at “the properties of the ‘text’... itself” (van Dijk, 1993; 270) to understand “communitive acts and social meanings” (van Dijk, 1993; 271). This will be expanding on the linguistic analysis, looking to the syntactical structure of these discourses, and understanding how the placement of themes, terms, and ideas show a hierarchy of conceptualisation, and will allow me to analyse further intentions that led to the construction of the discourses. I will combine the analytical mapping of the discourses with the linguistic and syntactical structure of the discourses, to understand the main tensions in the construction of the international indigenous and how this is taken up by indigenous communities engaging at this level. Looking to these tensions, I will be able to understand the influence and interaction of these discourses on indigenous rights construction, and how indigenous communities like the Twa take up, understand, and interact with international constructs of indigeneity.

Case Study

While the traditional case study method has been used more empirically in international relations research, it has applicability in constructivist study as a part of a mixed method approach to look critically at a case that spans colonial borders and faces diverse issues around a similar issue, and can be used in conjunction with the discourse analysis component of my project, as it has for other similar studies in multi-disciplinary fields such as feminist studies (Gallant, 2008). The original structure of a case study, as defined by the pioneer in case study research as we understand it today, is ideally suited to answer “how and why” questions in political science research, and when looking to current events with little researcher control over a situation (Yin, 1994). While a case study relies heavily on quantifiable data and empirical research studies, my project will look specifically to levels of discourse on indigenous rights at the international level, and the analysis will be qualitative rather than quantitative. Case study method components of case selection and comparison will be able to offer an extra level of analysis into how and why the Twa are interacting with indigenous concepts as constructed at the international stage.

In a key text about the Twa by Ampumuza et al, (2020), researchers contribute to the field of discourse analysis conducting a detailed study into the lived experiences and analysis of those experiences of the Twa in Bwindi Impenetrable National Park in Uganda (Ampumuza et al., 2020). Using the Twa as a case study within the wider context nationally allowed Ampumuza et al., to incorporate discourse analysis methods to understand meaning and construction of identities on a micro level, looking at the case of the Twa in Bwindi Impenetrable National Park, narrowing focus of field and selection of materials to better offer in depth analysis in a wider debate (Ampumuza et al., 2020). Using the input from researchers before me such as Ampumuza et al., I will be able to look critically at the case of the Twa, focusing my discourse analysis on a sub-category in the field of indigenous human rights at the international level.

While the Twa are just one marginalised ethnic minority group in a region rich with varied identities and ethnic groups, I believe that through research into how the Twa are interacting with these internationally constructed ideas of indigeneity, I will be able to look to possible patterns of discourse and tension between international ideas of indigenous rights, and the ways in which indigenous rights differ in the sub-Saharan Africa region as opposed to other more documented and researched areas of indigeneity in the current international context.

As the Twa are positioned heavily divided between colonial nation state borders, a case study will also allow me to view the Twa across different borders and understand how the Twa as a larger group and not just a regional one interact with these ideas of indigeneity, and how the concepts of indigenous rights are understood across these borders, and boundary lines. The Twa's position on all sides of these borders, and their interaction with each other in the progression towards adopting international ideas of indigeneity is relatively unknown, however a case study will expertly situate me in the debate to view how/if national border break up affects the dissemination and interaction with the international constructs of indigeneity, or if the border separating the Twa renders them significantly as two separate groups and not one whole. As my literature review has shown, much if not most of the research to date addresses the Twa on a particular side of the land borders, and a key component of carrying out a case study as part of my analysis will allow me to look critically at an element previously all but forgotten in the debate.

There are many indigenous groups in sub-Saharan Africa that warrant a closer examination and have interlocking principles that would make an ideal case study, however for the sake of my research I have chosen to study the Twa, as they are uniquely positioned geographically and socially, but also are far more under-represented in cases of indigenous rights in sub-Saharan Africa than other groups that fit the same criteria.

One of the biggest cases to be made for looking at the Twa in the study of indigenous rights in sub-Saharan Africa is the ongoing issues that they face as a people in their eviction from their ancestral lands; and they are experiencing continuing marginalisation in all areas of life because of this (Bamuturaki, 2010). The Twa are split between four different postcolonial nation-state borders in sub-Saharan Africa and as such, the Twa are positioned in a more vulnerable place as one people, being separated and split along territorial borders. The Twa are a forest-based hunter-gatherer society that is semi-nomadic, and are based in the current African nations Burundi, the Democratic Republic of Congo, Rwanda, and Uganda (Bamuturaki, 2010). The Twa populations in these nations face ongoing marginalisation within national society, and are consistently placed in positions of disadvantage, primarily as a result of lack of access to land and indigenous rights (Bamuturaki, 2010). The interaction of the Twa with other members of their respective nation states are largely negative and they face ongoing issues of lack of education, lack of land rights access, lack of identity recognition as an indigenous group, lack of government funding and assistance, and lack of livelihoods, now that they have been evicted from the forests they originally inhabited (Bamuturaki, 2010).

Another reason why the case of the Twa is so important is that they face a myriad of issues on all sides of the four national borders they fall under, which often do not overlap and the issues affecting the Twa in one nation are very different than those facing the Twa neighbouring nations, while still belonging to the same indigenous population (Ampumuza et al., 2020; Hartley, 2015). On the Ugandan side, the Twa face mass evictions and marginalisation in society, being denied access to return to their ancestral home in the forest and continue to become more economically and socially vulnerable in other societies as they do not have the tools or pathways to integrate into more industrialised spaces without assistance (Bamuturaki, 2010). On the Rwandan side of the border, the Twa face similar issues in access to land and education, facing ongoing marginalisation as well, but here they also face identity marginalisation from the Rwandan government; the constitution of Rwanda has effectively barred any ethnic identity recognition as an effort to avoid sectarian violence as a result of the 1994 genocide (Bamuturaki, 2010). Twa in the DRC are facing ongoing battles for land rights and community survival post eviction (Survival International, 2014). Likewise in Burundi the debate centres around access to viable lands and also focuses on rights to land, and land ownership disputes (Ndayishimiye, 2010; Minority Rights Group, 2010; MRG, 2023).

The case of the Twa can later be used to look at the wider issues facing indigenous rights in sub-Saharan Africa and how the international system affects the Twa in the region, but also how the Twa perceptions, conceptions, and constructions continue to affect the international. No two indigenous groups are the same, but by using a case study I can narrow my field of research and look directly at one instance to then use this to expand what I have found through the Twa to other indigenous groups who might fall under similar levels of international articulations of indigeneity and indigenous rights.

Alternative/Indigenous Sources and Analysis

As explained in the literature review, the case of the Twa's interaction with the constructs of indigeneity from the international level is not well explored in the field of international relations, and under-researched in a border comparison context; however, one of the other biggest research gaps that I have found has been the difficulties of discerning the perspectives of Twa people outside of the ethnographic gaze. Research with the Twa in Uganda was taken by Berrang-Ford et al. in the journal article "Vulnerability of indigenous health to climate change: A case study of Uganda's Batwa Pygmies" using a unique first-hand perspective of the Twa by the Twa, employing the use of 'photo-voice' to allow the Twa participating in the study to catalogue and visually supplement the issues most pressing to them through interactive photography initiatives (Berrang-Ford et al., 2012). While this experiment recognised and incorporated the agency of the Twa participants, and used a rigorous methodology to achieve this, it is only one case in many that have not utilised non-western oral/visual storytelling to allow agency to indigenous populations that don't adhere to the same academic framework as non-indigenous communities do.

Using frameworks from A. Groh's text "Research Methods in indigenous Contexts" I will look to the stories that the Twa tell about themselves as well, through attention to non-traditional academic sources, catering both to the rigour of traditional academic research and resourcing, while also giving space to the indigenous perspectives of their own indigeneity (Groh, 2018). One of the primary ways this will be actioned will be through analysis of non-traditional discourse sources such as non-academic media of the Twa giving their own account of their perspective, including research found during the photo-voice documentation of Berrang-Ford et al. (Berrang-Ford et al., 2012), audio visual documentation of the Batwa in their indigenous regions (Tudur Evans, 2012), and narratives in literature and art by Twa indigenous tribes such as poetry from Twa author Etienne Ndayishimiye (Ndayishimiye, 2010).

In order to gain a more complete picture of the issues affecting the Twa in relation to indigeneity and indigenous rights, and to understand how the international construction of indigenous rights is either adopted or resisted by ethnically marginalised communities in sub-Saharan Africa, I will use this mixed-method qualitative approach to view the different perspectives and alongside each other, comparing how they interact. This is a distinctive approach which will enable my project to add inherent substance to the field of indigenous rights in sub-Saharan Africa, understanding how our ideas and norms from the international level trickle down, and how this is with concepts of indigeneity and indigenous rights emerging from sub-Saharan Africa. My cross-border case study along with the discourse analysis of legislative and non-legislative texts as well as incorporating indigenous research methods and sources will give me insights that has been untouched in the field to date. My research will bridge fundamental gaps in the literature on understanding how groups in sub-Saharan Africa such as the Twa interact with international constructs of indigenous rights, and how they articulate their own identities and conceptions of indigenous in the international domain.

Positionality, Reflexivity and Ethics

As my project is centred specifically on an ethnic minority group that faces multiple levels of injustice and marginalisation, the question of where I sit as the researcher, and the ethical implication of my research is of utmost importance. I have no claims to any identities shared with the researched groups in my project, and as a result have taken a critical decolonial approach to ensuring that I have considered my position of privilege in relation to my project to make sure that I study this in an academically rigorous way. As I am not situated in an area affected by or interacting with indigenous rights, my approach to this research is from an international level of analysis to explore what constructions of indigeneity and indigenous rights permeate the global sphere.

I am attentive to the principles in Roni Berger's text outlining the necessity of acknowledging and accommodating a researchers position in relation to their research, and how to use the strategy of reflexivity to bypass the constraints and challenges of my position in relation to my research (Berger, 2015). In the formation and construction of my research and research question, I have adapted and

reframed my question when presented with alternative schools of thought and have readjusted my research focus after consulting texts outlining different approaches to research of indigenous study such as “Research Methods in Indigenous Studies by A. Groh, 2018 – which helped to identify the overarching dynamics surrounding indigenous studies, and also provided key context for research positionality and integrating alternative ways of knowing to research methodology (Groh, 2018) -, and “Natural Connections: Perspectives in Community-based Conservation” by David Western et al., 1994 which provided indigenous perspectives and approaches to land and conservation (Western et al., 1994).

My identity definitely will have impacted the work, and I take ownership of the overarching ways in which I am situated in a position of international privilege studying an area of international marginalisation. My research is concerned with understanding the processes of marginalisation and claims for rights that have shaped the politics of indigeneity. I recognise that knowledge is situated, and I write from, a particular location in the west, and I am deeply informed by the important contributions made by indigenous scholars, e.g. Duane Champagne, as well as am attentive to the voices of Twa actors. As a result, I will be entering the debate on indigenous rights in Africa with preconceived notions from a global Western perspective, which will have obvious implications for my understanding of the region and my research. In order to combat this, I will be engaging heavily in decolonial construction work, as outlined by Martyn Descombe and David Blaney & Arlene Tickner. Denscombe discusses the necessity of using a decolonial framework in such areas of study due to the overarching colonial tensions surrounding the problematisation of indigeneity in Africa (Denscombe, 2024). This work operates in tandem with commentary from Karen Tucker as outlined in the previous chapter, about the inherently colonial nature of housing indigenous rights in the global north/west and the use of colonial structures to moderate decolonisation efforts and indigenous rights aims in colonised regions and for indigenous peoples (Tucker, 2018) and Ndahinda’s commentary of the colonial roots of the term “indigenous” (Ndahinda, 2011).

According to Descombe, “A key strand of the decolonisation critique concerns the way that western research acts as a conservative force geared to preserving the status quo...The purpose of decolonial research is not just to understand the world, but to use this understanding as a vehicle for social change” (Denscombe, 2024). This lens will guide the way I approach indigenous or marginalised people’s understandings of what it means to be indigenous, how this interacts with a preconceived and constructed notion of international indigenous human rights on the global stage. By looking past what exists already, as Tucker has done in her work, my research will not only engage in what exists on the international level to construct indigeneity as it has been understood but also will look beyond this at groups who exist in realms of knowledge outside the global state centric norm (Tucker, 2018).

I will engage critically in notions and ideas put forth by Twa actors into the global arena to contribute to the ongoing understanding of what it means to be indigenous and what rights that entails, expanded into the region of sub-Saharan Africa. My work will turn to other fields of study from works

produced by anthropologists, ethnographers, and decolonial studies such as vernacularisation and discourse study to interact with discourses produced by the Twa engaging with indigenous rights in a way that incorporates as much agency and understanding to the discourses coming from the Twa into the international level. Utilising discourse analysis specifically to look at alternative methods of discourse that are often excluded from Western academia such as poetry, prose, and documentary sources, will give me a much stronger and authentic understanding of Twa discourses and ideas proliferating the global stage.

The ethical impact of my research is minimal as I will not be directly in contact with vulnerable groups or people, the voices I am analysing are coming from elite members of the groups in question, and all discourses that I am interested in exploring are from sources that already exist within the highest level of international conversation and engagement. However, my research proposal has also been examined and approved by the research ethics committee (11 May 2022).

While I do not belong to the identity of the group I am studying, by situating my discourse within the international arena, I am entering the debate on a level of discourse that I am already familiar with interact with as an IR researcher in the Global North. Utilising a combination of approaches from decolonial studies and discourse analysis, as well as approaches from constructivism to adapt my view of truth to that of a subjective nature dependent on a variety of structures, I will be able to more accurately and ethically engage with the notions of indigeneity on the international level and the Twa interactions and understandings of international constructs of indigeneity and indigenous rights.

Conclusion

My research will employ a theoretical backing of social constructivism, analysing the different ways of truth and knowing to look specifically at international conceptualizations of indigeneity and indigenous rights, and how the Twa as a case study are engaging in international constructions of indigeneity. My research will pull heavily from constructivist and decolonial fields, also pulling from researchers in anthropology and ethnography as well as linguistics to be able to critically and accurately engage with the discourses from each level of actors.

My method will be a combination of discourse analysis utilising a wide range of discourses that have permeated into the global level, as well as a case study of the Twa across their four national borders of Burundi, the DRC, Uganda, and Rwanda.

This research will allow me to look at the ways the Twa are engaging with international constructions of indigeneity, and allow others in the field to go on to further examine and explore the wider implications of groups not originally situated in the scope of indigeneity and international indigenous rights engaging in “becoming indigenous” (Hodgson, 2009).

Chapter 4: International Governmental Constructions of Indigeneity

Introduction

To understand how Twa people interact with the international level of indigenous rights and wider claims of indigeneity, it is first vital to fully understand how the international system understands and has integrated concepts of indigenous rights. Currently, the UNDRIP is the most overarching document dictating indigenous rights at the international level, however it is not the only mechanism and is contested and not unilaterally accepted by all UN member states (Xanthaki, 2007). For example, Burundi, one of the countries in which Twa communities are living abstained from voting on the resolution (un.org, 2024). Intergovernmental organisations – such as the International Labour Organisation –, state representatives, or governmental actors and academic or internationally mechanisms - such as the UNs Working Group on Indigenous Peoples – have contributed to the debate at this level. All of these contributions, both through policy and debate, have formed the current understanding held at the international level of what constitutes indigeneity and who is indigenous. I also explore questions of who assigns indigenous rights, who has access to these rights, and if the international level is truly the appropriate level at which to outline and grant indigenous rights.

Firstly, I will look at the international mechanisms outlining indigenous human rights at the international level to establish dominant discourses about indigenous rights at the international level, which actors are participating in the construction of indigeneity on a global platform, and what has been put forth that determines what the international sphere determines as “indigenous”. This will help to illustrate where tensions occur between the indigenous and the international/state levels, which will lend insight into how indigeneity is understood by the parties in power (here the state/national systems) and where indigenous rights fits into the international system.

Next, drawing on key concepts and issues that emerged from my review of the scholarly literature on indigenous rights, I will analyse the international mechanisms on indigenous human rights in four categories. I will look first at how indigeneity is defined in the discourse. I will then consider representations of the meaning of land rights for indigenous peoples; indigenous cultural and spiritual rights; and governance of indigenous territories and peoples.

A major contribution to the construction of indigeneity at the international level is that of indigenous actors themselves. Since the 1920s indigenous actors have petitioned and addressed the international arena individually and in organisational capacity to argue for specific protections of indigenous rights from nation states and international governance (Xanthaki, 2012). This contribution

is critical to understand, as these are indigenous actors arguing for themselves and using their own agency to further their goals for recognition in international governance. As a result, indigenous actors at the international level are actively engaging in their own construction, and a use of discourse analysis will be able to place that contribution in the context of power and language, understanding more clearly who is in control of narratives at this level, whose voices are elevated most, and who constructs what it means to be indigenous, at a global stage. Discourse analysis revolves around power and language (van Dijk, 1993), and how this power is used to construct a narrative that translates into legislation and articulation of mechanisms, in the context of my project, who constructs the narratives of indigeneity at the international level. Perhaps the most straight-forward of these criteria, the definition of indigeneity will provide an introductory understanding of how indigenous peoples are determined at the international level and in relation to non-indigenous and state actors at this level. Looking at how the different mechanisms at the international level define and describe who is indigenous and who can claim indigenous land rights is the primary course to determine how the international level defines indigeneity.

As provided in a UN press conference a decade on from the 2007 UNDRIP, Chief Littlechild provided context of how spiritual rights were introduced to the international level for the first time, as an inherently indigenous construct in human rights construction and conceptualisation (UN Press Conference, 2007). As an indigenous concept, the international construction of these rights adds depth and context to understanding how international constructions of indigeneity interact with real demands from indigenous communities. Furthermore, in analysing how these rights are portrayed in the different iterations of indigenous human rights mechanisms at the international level, I will gain insight into the way in which power is portrayed between these actors, and the tensions that might occur in adopting indigenous concepts at the international level, placing indigenous constructs in opposition with international and state understandings of indigenous rights.

As referenced by Jérémie Gilbert, the right to land is intrinsically related to indigenous rights and provides a context to land rights that can differ from the international norm in place (Gilbert, 2013). Through this analysis I will be able to look at the tension between state ideas of land and ownership, and indigenous constructs of land, and how this comes to be understood at the international level, in the international construction of indigenous rights. The rights to land are well situated to identify these tensions and provide intrinsic context into how indigeneity is constructed at the international level.

Lastly, analysing the different ways in which governance of indigenous peoples and areas is understood, will provide insight into the ways that state actors identify and conceptualise governance within their territories, and the possible inconsistencies this may have with the ideas of self-determination and self-governance that come from the demands of indigenous actors. While the right to self-determination and governance are outlined in almost all major mechanisms at the international

level outlining indigenous rights, however the real-life application of these rights poses an inherent threat to state sovereignty and state governance. As such, looking closely at the ways the international system constructs the indigenous right to governance and self-determination will help to show where indigenous people are placed in the international system, and how that system understands their indigenous human rights and their indigeneity.

Mechanisms, Bodies, and Organisations at the International Level Discussing Indigenous Rights

To determine who is and who is not indigenous at the international level, it is first necessary to determine who is the international level, who constructs the discourse at this level in regard to indigenous rights, and how these mechanisms are formed and who contributes to them. The process for developing any kind of mutual understanding of indigeneity and then translating those concepts into formal protections and legislation for indigenous communities at the international level has been long and complicated, beginning as far back as the 1920s (Berger, Allen & Xanthaki, 2011). However, it is of utmost importance here to stress that even though the fight has been held mostly at the institutional level of international governance, almost all of the push and input into the international legislation protecting indigenous peoples has come from indigenous actors themselves, working directly with the international arena to actualise legal recognition of indigenous specific human rights protections (Berger, Allen & Xanthaki, 2011). The idea of housing indigenous rights at this global level was pushed forwards by indigenous actors however this has now shifted to many indigenous actors questioning whether this level of governance will ever actually be able to afford indigenous peoples the basic human rights that are most important to them (Berger, Allen & Xanthaki, 2011 Tucker, 2018).

When looking at the main tensions in constructing an international idea of indigenous rights, the power becomes more apparent, who has more power in the international system, and how this power affects the lived experiences of indigenous peoples around the world. As the above tension between state sovereignty and indigenous protection shows that the power still remains almost completely with the states within the international system and as such, the indigenous actors, though participatory and vocal at this level, though pushing firmly for their rights for over a century, are almost always placed under the power of the state, with very little tangible power of their own at a national level. However, while most of the power does in fact remain with nation-states, the fact that continued push and advocacy by indigenous actors at this level has taken some of that power and placed it with the indigenous actors, so that they have more power and capacity at the international level when interactive with states than they do at the national or regional. Though, whatever power they have managed to obtain at this level is constantly shadowed by the fact that the international system is still almost completely comprised of state actors, and indigenous actors are still petitioning state actors for

these indigenous rights, placing the state as the giver of rights, and the indigenous as the requesting of those rights.

The issues affecting indigenous communities in different regions is inherently going to differ on what those communities need most, and what the restrictions to actualising their indigenous human rights are. For example, the Twa in Uganda face concrete daily issues in their inability to access their ancestral land as a forest dwelling people once their forests were converted into national parks by the Ugandan government; however, in Rwanda the Twa are unable to claim land rights as an indigenous group due to post-genocide Rwandese legislation that prohibits differing identities to “Rwandese” including claims to indigeneity (Ampumuza, 2012; (Hartley, 2015). This brings to the frontlines the questions on housing indigeneity at the international level, is this the most effective space to debate/enact indigenous human rights, what are the implications of constructing indigenous rights in an inherently nation-state-centric arena such as the international human rights regime and can states effectively enact internationally constructed indigenous rights in real ways that are meaningful to the indigenous communities within their borders. It would stand to reason that indigenous actors would be the most knowledgeable on what rights they require and what they are missing at this level, and the input of indigenous actors was noted at almost every stage leading up to the UNDRIP (OHCHR, 2013). However, when looking at the back and forth between the Working Group on Indigenous Populations and the revision process leading to the UNDRIP becoming adopted in 2007 (Allen & Xanthaki, 2011) it is clear that many points vital to indigenous communities appeared in direct opposition to the wishes of the UN’s state actors. One of the most contentious topics was that of the inclusion of self-determination and the role of the national state in interacting with the indigenous populations within their borders (Allen & Xanthaki, 2011). This tension remains today and colours much of the indigenous debate at this level and thus cannot be ignored when setting up the field of the international levels’ construction of indigeneity and indigenous rights.

One of the biggest questions posed to the international adaptations of indigenous rights is whether these rights can be actualised in the lived experiences of indigenous communities around the world, and what the efficacy/enforceability of international law can offer indigenous communities. In some instances, the international community has seen indigenous peoples bring charges against their nation state in violation of their internationally adopted indigenous rights, such as the court case in Uganda where the Twa are taking legal action for their displacement from their land (ULII, 2021). This shows another level of tension that exists in the international construction of indigeneity, that while member states have agreed to the stipulations and constructions of indigenous rights in the UNDRIP and have received visits from the Special Rapporteur specifically on these concepts, national and regional application is still relatively un-enforceable given the position of international governance and the sovereignty of the state. This tension primarily then exists between the international and the national, and again complicates the idea of indigeneity and state sovereignty as being almost

inherently opposed principles. The debate around who can be indigenous and what indigenous rights are internationally protected has come up against the problem of curtailing state rights versus enhancing access to indigenous rights, and often the conclusion becomes that they cannot co-exist. There are clear instances in which this is not the case, as seen in the special rapporteurs' comments in the press release, *Special Representative, Rapporteurs on Human Rights in the Democratic Republic of Congo, Burundi, Myanmar, and Rwanda Introduce Reports*. In their examination of member states around the world that engaged critically with indigenous rights, we can see there are clear examples of states that are able to make efforts towards indigenous rights at the national level, demonstrating how state governance may in some cases contribute to bypassing this tension (UN, 1999). Though in the same text, we find many more instances in which state actors disregarded and showed stark disagreement, sometimes even repealing efforts to actualise indigenous rights. This shows that, with some exceptions, there are consistent tensions between the state actors and indigenous peoples concerning the meaning and scope of their rights, and many examples of direct violations of the rights specified in the UNDRIP. This proves that no matter what is occurring at the international level in constructing indigenous rights, the concept of state sovereignty prevails overall, and indigenous interests will almost always fall by the wayside in the face of this sovereignty.

When looking at the international level of mechanisms and discourse surrounding indigeneity and indigenous rights, there are different levels of discourse being produced by states, international actors, and NGOs. These levels of discourse take the form of speeches and press conferences by international bodies such as the UN, statements and comments by special rapporteurs to UN bodies, expert panels of the UN, ILO conventions, recommendations from UN working groups, and statements put forth by other international governance bodies such as the WHO and the World Bank. The main overarching mechanisms that determine the scope and meaning of indigenous rights at the international level are

- The UNDRIP
- The ILO Conventions 107/169
- The Expert Mechanism on the Rights of Indigenous Peoples
- The Special Rapporteur on the Rights of Indigenous Peoples
- The Inter-American Commission on Human Rights/Inter-American Court of Human Rights
- The African Commission on Human and Peoples Rights
- The Human Rights Council
- The Permanent Forum on Indigenous Issues

There are also existing mechanisms at the international level that speak to the issues faced by indigenous peoples such as the Committee on the Elimination of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights and the Committee on Economic,

Social and Cultural Rights, and the Universal Periodic Review which can give insight into how the rights outlined at this level for indigenous peoples are being implemented, understood, and engaged with. Finally, as an effect of the changing climate, various international organisations and mechanisms outlining climate change and its environmental effects outline positions of consideration that specifically affect indigenous peoples, and these discourses can offer insight into the ways that current events and climate issues also help to construct and outline indigeneity at the international level, its construction and its understanding, as it relates to the Twa. The UN holds press conferences at its major events that addresses the ongoing discussions around their indigenous rights efforts as an institution and adds context and perspective further on their written and legal implements on indigenous rights legislation at this level. Beyond the institutional capacity of the United Nations there are also comprehensive levels of discourse by international actors defining and constructing indigeneity as it's understood at the international level, such as NGO bodies and actors who comment on and grow the discourse produced by international state actors/bodies. Though not all of these discourses may address specifically the international understanding of what it means to be and who is considered indigenous, the language and rhetoric used, and subsequently analysed, can help to shed light on how this sphere understands and constructs indigeneity to mean. However, it is worth noting here that almost all of these mechanisms at the international level are made up of nation-state actors and as such, and inclusion of non-state actors does not compare to the power concentration of state actors, and most indigenous protections and construction at this level is given out by states and requested or fought for by non-state and indigenous actors; this further cements the power in the control of nation-states and state actors, placing state interests in primary position, and indigenous interests second.

A final component that is important to note, is that as mentioned above, indigenous peoples are participating at an international level which is predominantly made up of nation states. Before discussions about the specific international legislations on indigenous peoples and their rights and their construction of indigeneity can take place, it is first vitally important to discuss the international level itself, who are the actors at this level, and who can participate in the international arena, as well as where indigenous peoples sit inherently within this sphere. At the international level, the most powerful and dominant actors are states themselves, with the United Nations being comprised solely of sovereign state actors. The UNDRIP is written from the point of view of nation-state leaders and politicians reacting to indigenous peoples within their borders and under their jurisdiction, and that this document has even been constructed to appear as a limit on states' rights and their state sovereignty (Saito, 2023). The concept of self-determination, from the state perspective, could allow for institutional control over a section of their population (indigenous communities) to be redistributed away from state control over to the indigenous; this could mean that the sovereign border of a nation state could be interrupted by a self-governing indigenous population within their borders, and wrest institutional capacity away from a central state government (Saito, 2023) This disruption in governance

could also result in removing state control from land, resources, and economic mechanisms within their sovereign state, all of which would remove power from a nation that considers itself the primary source of governance and power within a 'sovereign' nation state (Saito, 2023). Considering the structure of the international level itself, indigenous actors are forced to enter the negotiations with the very states that may have taken their land and their civil liberties being granted in this document, for those very same lands and rights (Saito, 2023). This is important because it outlines the ways in which the indigenous debate at the international level is being discussed, and the position of states in an inherently powerful place over indigenous actors who do not have the protections of sovereignty or territorial control that is afforded these nation-state actors.

The realm of international governance is almost entirely composed of state systems with an inherent and present demand first and foremost for state sovereignty. For indigenous actors participating in this level of governance, there is an immediate lack of equality of footing and voice, and places indigenous peoples engaging in this international discourse in a position of vulnerability. States, particularly state systems in the African continent have national borders that separate and contravene indigenous lands, and indigenous peoples are beholden primarily to the national borders that their lands fall under. This concept places the context of indigenous rights in the international sphere in a precarious and unprecedented position, and again shows through the tensions between state and indigenous interests, a concentration of power again to the state, being placed in a position to give or deny rights to indigenous peoples within their territories, and a removal of advocacy and power from the indigenous communities arguing at the international level for their own specific and protected indigenous human rights. Thus, when looking at the international level it becomes necessary to keep in mind that the overarching control of narrative, power, and action rests again almost completely with the state.

This raises the question of who, at this international level, is in charge of narratives, who controls the access and language used on rights, and how those rights and narratives are disseminated. If indigenous communities and peoples are separated or placed under control of state actors, but also require control over their own governance and land, the international system faces a dilemma on what power is overwhelmingly important and what power yields to another. The power of the sovereign state so far, on an international governance level, reigns supreme. The sanctity and sovereignty of national borders is the most important tenant of international state cooperation, and the international governance arena is unilaterally composed of state actors and representatives. Through contextual analysis of the discourse put forward at this level, we can begin to understand how this international sphere of indigenous rights is constructed, and how indigenous actors fit within this system of construction and international governance.

International Constructions of Indigeneity

Defining Indigeneity

While the construction of language and discourse can offer a more analytical input into the understandings of what it means to be indigenous at the international level, where the tensions in this construction are found, and what that says to the system of power and where that power is found in, I will first look simply at what each document/mechanism outlining indigenous rights classifies as indigeneity. The most prominent and well-known document is of course the 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP). While the UN has many different mechanisms within itself to monitor, address, and protect indigenous issues at the international level, the compilation of the text of the UNDRIP is the first concentrated declaration from the UN, that was agreed to by 144 member states, that determines indigenous rights as specifically in need of protection, in addition to the protections of every human under the Universal Declaration of Human Rights (un.org, 2024).

The UNDRIP notably does not contain a criteria list or definition of who is and is not indigenous, as Champagne has pointed out previously, establishing that the drafters of the UNDRIP removed the article defining indigeneity (Champagne, 2013). Part of the reason behind this was, according to Allen and Xanthaki (2011), the inability of the international community to agree on a concrete definition in the debates on the WGIP's recommendations and the original drafts of the document, and because of concerns that this might animate struggles for self-determination (Allen & Xanthaki, 2011; Saito, 2023). Nevertheless, analysing the sections of the text that relate directly to claiming indigeneity and who can be indigenous, can provide insight into what the intended indigenous populations might be. In the preamble to the declaration, on pages 5 and 6, as well as in Articles 3 & 4, the main classification used at the UN level to determine who is indigenous and who has access to the rights outlined below, relies solely on the concept of self-determination.

“Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social, and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law” – (Pg. 5-6, UNDRIP, 2007)

“Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.” (Pg. 8, Articles 3 & 4, UNDRIP, 2007)

This creates, for some researchers, a sense of uncertainty in the text and makes it confusing to determine who is or is not indigenous, which can lead to a myriad of other problems in either accessing rights, or gatekeeping indigenous spaces (Saito, 2023). For others however, the prospect of self-determination is crucial in understanding who can be indigenous, leaving each group of people to consider if/how they identify within these rights (Saito, 2023). The biggest criticism to self-determination came from state actors who feared the extrapolation of indigenous self-determination to national/civil secession and what that could mean for the remainder of their national population (Saito, 2023).

As has been discussed in previous chapters, this wording was problematic for many nation states during the debate leading up to and post ratification of the Declaration, however, it is important to note that no other direct parameters or definition in the document outline any other classification for who can be indigenous and who can claim these rights. Thus, looking to the specific rights being granted poses a possibility for understanding, without a clear definition, who the UNDRIP classifies as indigenous.

The first article after the preamble to the declaration places the context of indigenous rights into the overarching framework of human rights for all citizens of the world,

“Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognised in the Charter of the United Nations, the Universal Declaration of Human Rights, and international human rights law” (UNDRIP, 2007).

This ‘right’ coming first places the indigenous populations in question into the larger debate of all humans around the world and includes a sense of basic humanity and encompassing human condition

suffered by all. This contextualises indigenous rights as secondary to those being assigned under international law, and by placing these two contexts together in the preliminary article of the declaration, the UNDRIP has outlined that indigeneity, from an international legal perspective, falls secondary to innate humaneness, and the rights specified for indigenous communities come second to the rights of all humans as well. This places the international system again in a position of innate power over indigenous communities insofar as even though these rights are considered necessary for further protection on top of the basic rights given to all peoples, it is shown that indigenous peoples are still under-represented and under-protected at this level, and in order to achieve this protection they must appeal to the international level for further rights protection; this proves an inherent lack of protection existing for indigenous communities. One of the major reasons for this lack of protection rests in the lack of indigenous access to their resources, land, and governance, usually as a direct result of colonisation of indigenous territories, by states that now make up the international system indigenous communities are petitioning for their indigenous human rights, which brings up the question again, what makes the international arena appropriate for determination and granting of indigenous rights. Also, this positioning works as an afterthought to human rights, proving the overall lack of inclusion of indigenous communities in the constructing of the world around us and the lack of indigenous voices in the construction of international governance and human rights issues. This pushes indigeneity as a secondary concept of existence, and places indigenous communities inherently in a position underneath the power of the nation state and national citizens again.

The UN has given supplementary information detailing their legislative efforts on providing indigenous mechanisms at the international level, and summarising their contributions, roles, and effects of these mechanisms, and this provides another resource for researchers to better understand the coherence of the UN's defining concepts of who is indigenous and what it means to be indigenous at the international level. While these summaries are not by any means an official construction of the UN, nor are they agreed on in wording by bodies, but are made up of context behind these institutional decisions and are proliferated by the relevant UN bodies participatory in their construction and thus can offer an alternative view of the official UN discourse. One of these documents, "Indigenous Peoples and the United Nations Human Rights System" is a fact sheet (OHCHR, 2013) provided by the UN Office of the High Commissioner [for Human Rights] (OHCHR). In this fact sheet, there is a clarification further elucidating the controversial non-definition of indigeneity as self-determined, in which the OHCHR draws attention to Article 9 of the UNDRIP which states:

Article 9

"Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right" (UNDRIP, 2007).

This rhetoric confirms the UN position of self-determination and increases the parameters for which a person can identify their indigeneity under. However, although their opening statement draws attention to the fact that the UNDRIP allows any person or group to identify as indigenous, this fact sheet provides potential markers of classification that could also identify an indigenous group or peoples, superficially more than their right simply to determine their belonging. These categories include, “historical continuity with pre-invasion and/or pre-colonial societies that developed on their territories; Distinctiveness; Non-dominance; and A determination to preserve, develop and transmit to future generations their ancestral territories and identity as peoples in accordance with their own cultural patterns, social institutions and legal system” (OHCHR, 2013). These categories give more concrete evidence of what is and what can be considered to be indigenous definitions and go further than the UNDRIP in definitional capacity at least. In this text, there is a clear exposition of indigenous communities as separate communities to a national society, and this is mirrored the differentiation of indigeneity besides the inherent self-determination given in UNDRIP, as well as classification of indigenous communities as minorities (OHCHR, 2013). While this is important classification in understanding the UN’s position through a different mechanism outside the UNDRIP and the general assembly, this fact sheet participates in placing indigenous communities and peoples outside of the national-state norm, which further elucidates the necessity to have a separate doctrine outlining indigenous rights as supplementary to the human rights afforded to all citizens around the world. While this has proved essential, as voiced by so many indigenous actors and the ensuing international legislations to come out of this, the distinction becomes apparent in showing that indigenous actors are participating in international human rights and state mechanisms, as a non-state actor, and thus are filling an unprecedented position as neither belonging nor excluded by the overarching international state system as equal actors.

Another main mechanism outlining indigenous rights in the international arena is ILO Convention 107, originally signed in 1957. This Convention was later rewritten into ILO Convention 169, yet as both texts display the arc of international perceptions of indigeneity and indigenous rights, both are relevant in determining didactical parameters of international indigeneity. In the preamble to convention 107, indigenous peoples are addressed as both “indigenous and other tribal and semi-tribal populations in independent countries” (ILO, 1957). This is a broader definition than is found in the UNDRIP and already creates a stronger parameter between who is and who is not indigenous. Here there is also a clear emphasis on statehood and state sovereignty as the indigenous peoples in question are defined as belonging not to their own indigeneity, or separate indigenous identity, but to the “independent” country that they are housed within. This places less impact on their indigeneity considering especially that most indigenous communities around the world have had little input onto the state boundaries that their peoples fall within, and many country borders intersect pre-existing territories of indigenous peoples. Using the parameters of statehood to define indigeneity inherently correlates the idea of indigeneity as being an identity within a state, and not separate to it. Finally, the term “independent” to

preface the country implies an emphasis on state sovereignty, on the inability of other states to interfere. For indigenous communities, this can pose inherent barriers to indigenous sovereignty over land and territories if they fall outside of the jurisdiction of the state they exist in, and problematizes the issues facing indigenous peoples who may fall under a state that is not beholden to or congruent with international legislation articulating and protecting indigenous rights.

A clear indication of the Convention #107's construction of indigeneity is the positioning in its explanation in the preamble, is the juxtaposition of the indigenous communities in question and "the national community" expressed within a state. The convention states,

"Considering that there exist in various independent countries indigenous and other tribal and semi-tribal populations which are not yet integrated into the national community, and whose social, economic, or cultural situation hinders them from benefiting fully from the rights and advantages enjoyed by other elements of the population" (ILO, 1957).

Here we can see the differentiation of indigenous communities from a national collective, and the language of othering places indigenous communities externally to the traditional composition of nations, states, and citizens. While this may have echoed perceptions of indigenous communities at the time, and while indigenous communities do exist at the margins of most national states, this suggests through use of differential language that indigenous people within a national territory are excluded inherently from that cultural society and that their rights are not being met. This does place the perception of indigeneity in the international arena, in the time period of declaration, in the periphery – external to the normal laws governing the typical international state system. Even the intentions declared of the reason to draft a separate convention for the rights of indigenous peoples specifically are explained as "Considering it desirable both for humanitarian reasons and in the interest of countries concerned to promote continued action to improve the living and working conditions of these populations by simultaneous action in respect of all the factors which have hitherto prevented them from sharing fully in the progress of the national community of which they form part..." (ILO, 1957).

It is important here to note that the ILO Convention 107 was the ILO's preliminary iteration of indigenous rights at the international level, and in 1989 this was revised under Convention 169, also titled "Indigenous and Tribal Peoples Convention" (ILO, 1989). As such, Convention 107 bears weight and has been instrumental in drafting and forming other international constructions of indigeneity and indigenous rights, however it is not the final iteration of indigenous protection within the ILO, and has adapted upon new information, new constructions, and new international norms.

In continuation to Convention 107, the first article of ILO Convention 169 adopted in 1989 begins its declaration with the article outlining clear and concrete classifications of who it considers indigenous, and who these internationally constructed ideas of indigenous rights pertain to:

“Article 1

1. This Convention applies to:
 - a) tribal peoples in independent counties whose social, cultural, and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations.
 - b) peoples in independent counties who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural, and political institutions.
2. Self-identification as indigenous or tribal shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Convention apply.
3. The use of the term **peoples** in this Convention shall not be construed as having any implications as regards to the rights which may attach to the term under international law” (ILO, 1989).

This includes the concept of self-determination such as can be found in the UNDRIP, but also sets aside clear criteria for inclusion to indigenous human rights protection at the international level. However, similarly to the UNDRIP, indigenous peoples are again referred to almost exclusively as belonging to and underneath the state they originate from. The ILO Convention 169, like the UNDRIP, places indigeneity as an outlying concept that falls under the umbrella of state sovereignty first and foremost; this implies that all further constructions of indigeneity and indigenous rights fall underneath the national realm of control, allocation, and assertion.

The ILO revision of Convention #107 and integration into the new Convention #169 shows the progression of international discourse regarding indigenous rights, and shows clear elements of improvement, and a strong desire to showcase the meaningful critiques of international mechanisms on indigenous rights that indigenous communities have produced in the discussion. The discourse of Convention #169 highlights the levels of government responsibility more clearly than that of UNDRIP, or even of other UN mechanisms, and implies a heavier focus on the interaction between states and indigenous actors (Convention 169, 1989). The rights explained in the Convention are similar in focus and depth as Convention #107, however the updated Convention #169 spells out more clearly, with less qualification and caveats, the specific rights to be afforded to indigenous peoples, with a much

heavier focus on observing the differences between Western/global northern concepts and possible differences in indigenous iterations, in areas such as “land” and “territories” (ILO Convention 169, 1989).

There are clear indications of the interactions that these mechanisms engage in as well, as ILO Convention #169 is referenced in the Fact Sheet No. 9/Rev. 2 as explaining further iterations of defining indigeneity outside of the self-determination category at the United Nations (OHCHR, 2013); also, Convention #169 draws attention to the United Nations, the Food and Agriculture Organisation of the United Nations, the United Nations Educational, Scientific and Cultural Organisation, and the World Health Organisation as contributing to the discourse on indigeneity and providing references to indigenous rights discussions and spaces at the international level, providing context to their own mechanisms and vice versa (ILO, 1989). This contributes to the overall discourse at this level as an ongoing conversation that pulls from many areas, though most areas of influence, although guided by indigenous voices on many occasions, are headed and ultimately decided by state bodies, of which indigenous actors exist on the periphery.

Though they are placed under national governance in the international scope, indigenous communities are also signalled to in relation to other citizens of the state and placed in a position next to the other nation state inhabitants. They are afforded self-determination of their status as indigenous peoples, but this can only exist as is allowed under specific guidance by state actors at the international level. Indigenous communities are described as separate to the rest of the state they exist in, and as such the need for external classifications of human rights as it applies to indigenous communities in the world becomes necessary – and this goes on to preface and explain the subsequent rights that follow.

Land Rights

One of the largest classifications for indigenous rights is the right to land. In the UNDRIP, lands are classified as either “ancestral homes” of indigenous peoples or as a resource that falls under indigenous jurisdiction, if it is the land of an indigenous peoples (UN, 2007). The classification of land in this capacity places land as a commodity, one that would be more commonly found in liberal ideals of property and land ownership. However, for many indigenous peoples, the land is a connection to themselves and their history, a source of refuge, protection, sustenance, provision, medicine, and shelter (Gilbert, 2013). In UNDRIP article 10 it states:

“Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior, and informed consent of the indigenous peoples

concerned and after agreement on just and fair compensation and, where possible, with the option of return” (UN, 2007).

This implies the international expectation of compensation to be a valuable transaction for both indigenous communities and nation states hoping to utilise indigenous lands. The concept of compensation implies the perspective that ownership can be transferred, that there are suitable alternatives available and agreement on transferring this ownership is comparable to existing on the land continuously. According to a report from Fauna & Flora however, when displaced from their lands have expressed that they received much more from the land in the forest than just property, deriving medicine, religion, and protection from their lands, not just monetary value (Fauna & Flora, 2013). Understanding the connection to the land is imperative for indigenous protection of lands, and the UNDRIP as it stands shows a lack of acceptance of this understanding and places the indigenous perspective within a liberal one. In article 10, the UNDRIP has placed a monetary value on dispossession of indigenous land, insinuating that should a nation wish to overtake indigenous land, they can do so for a price. This is directly incongruent with many indigenous understandings of land and ownership, and the working appears to serve state systems, actors, and integrity above honouring completely the rights of indigenous peoples as equal to those rights of a state (Gilbert, 2013).

Within in the UNDRIP, there is this ongoing recurring point that if the land of indigenous peoples is to be used, that it must be done both with the indigenous peoples “free and informed consent” and must include “just and fair compensation” for the use of the land/resources (UNDRIP/2007). This is dually important as it provides context on how the international level views the resources that are intrinsic to indigenous ways of life and sustenance (Gilbert, 2013). The concept of free and informed prior consent insinuates that there will be a direct back and forth communication between the state actors and the indigenous peoples, and that the indigenous group will be allowed to either give or reserve the right of consent for land usage to go ahead. This has also been addressed in the interim report from the Special Rapporteur for Indigenous Rights – A/65/264, 2010 – which engages in the ways that international non-state actors such as corporations are also required to adhere to these practices in the protection of indigenous land (A/65/264, 2010). However, as is evidenced by the stark example of the Twa in Uganda, removal from their ancestral land was neither informed nor consensual, and there has been very little effort by the Ugandan government to replace the land they were displaced from with a viable alternative, nor any effort for the rights to return to their ancestral indigenous lands (Ampumuza, 2021). This shows a lack of deliverance of the basic principles in the UNDRIP, and this poses an issue in faith of indigenous communities in the international level for being applicable to petition for the recognition of their indigenous human rights. Obviously, international mechanisms that govern indigenous rights such as the UNDIRP and the UN Special Rapporteur on the Rights of Indigenous Peoples are not enforceable across state boundaries as they are agreements signed up to and not forms of hard governance which can legally enact these mechanisms, however they are agreements that are partaken in good faith with

all parties, and this lack of adherence to land and ownership show a clear disparity between western liberal constructs of land and indigenous constructions of their ancestral territories

In continuation, the ILO Convention #169 also provides clear caveats for “free and informed consent” mirroring the UNDRIP provisions and speaks to adequate “compensation” for land occupied or land that indigenous communities are moved off of (ILO, 1989). This shows a complicity in land being taken away from indigenous communities as long as they are “compensated” for this, as well as an understanding again mirrored in the UNDRIP that any obtention of indigenous land would be with consent given in advance by knowledgeable consent. This is problematic as it implies again a transaction of land, and an inherent accordance with the wants and wishes of indigenous communities, which as shown by the reports from the Twa displacement from the Bwindi Impenetrable Forest does not always happen. Again, the ILO Convention #169, much like the UNDRIP and UN mechanisms is un-enforceable which proves that for many indigenous communities, protections that should be offered at the international level, that they fought for, is mostly performative and not concretely effective. This again draws the question forwards of, is the international level appropriate for action and protection of indigenous human rights.

This dichotomy is probably best illustrated in the ways that land is viewed as exchangeable by liberal western notions of indigeneity which can be found in the ILO convention #169, and the UNDRIP and UN mechanisms outlining indigenous rights. Where the UNDRIP and ILO Convention #169 have clarified that land can be taken if those displaced are provided with an alternative territory that is equal to the land that was claimed. This views land as a commodity to be traded and exchanged, a resource that can be replaced and bought, owned and sold, and treats the exchange of land and land resources as a transaction. However, in contrast, as shown by indigenous accounts of the twa in Uganda, their ancestral homeland of the forests of Bwindi Impenetrable Forest show that their land provides much more than just property, ownership, or even shelter; according to Twa accounts, the forest provides for all aspects of their needs, they rely on the plants and ecosystems of their ancestral land for medicine, food, shelter, home and traditions, and spiritual connection (Fauna & Flora, 2013). This shows that the basic constructions of land and “having” differ greatly between indigenous concepts and the state centric concepts that govern the international arena. This is important to note as the mechanisms constructing the indigenous at the international level follow a state-centric understanding of the lived experiences of indigenous peoples, and thus the international level is proving unable to construct indigeneity as it is understood by indigenous populations, and even under the conditions of indigenous involvement in this construction, needs are only being granted under the terms set forth by the international community and their commitment to national state systems, and are not able to engage critically with indigenous concepts of their own resources and ways of life. Here we can see that even though the international level has granted indigenous rights protections, it is still under the terms of

nation-states and international state and non-state actors and not, as perhaps it should be, under indigenous contexts and in response to real indigenous needs.

The constructions of land in the mechanisms above paint indigenous actors as participatory at an equal level of bargaining with nation-state actors, but the lack of applicability of these measures creates again a hierarchy of indigenous communities falling consistently below the nation-state. Indigenous communities are posed in land rights protection mechanisms as partners in equality, which as these mechanisms cannot be enforced is a false representation and again indigenous actors are petitioning states for rights that are granted to them from the central international state system, and not applied to by nation-state actors. This tension highlighting the power discrepancy of indigenous actors at the international level and draws the concept of “self-determination” that is granted at this level into questions of legitimacy and observance.

Cultural Rights

In a press conference on the 10th anniversary of the signing of the UN Declaration on the Rights of Indigenous Peoples, a panel of indigenous activists at the international level was convened by the UN to discuss the trajectory of indigenous rights at the international level and what to focus on next. One of the panellists, Chief Littlechild, brought to attention the concept of spiritual rights and the indigenous impact of integration of spiritual rights and protection in the sphere of international governance (UN Press Conference, 2007).

Both the UNDRIP and the ILO Convention 169 have classifications within their text to specific spiritual and cultural protections, in UNDRIP this can first be found in Article 12, and in Convention 169 this can be found in Article 5. The emphasis on spiritual rights over cultural ones however is missing in Convention 107. From this information it can be inferred that the interaction of the international arena with the indigenous actors at the international level has led to inclusion of rights that typically were not held in non-indigenous spaces, and that the international level has adapted an understanding of these rights and how they are important to indigenous peoples.

This shows the inclusion of indigenous communities in the formulation of international indigenous rights and proves that they have participated at the international level alongside nation states in this construction of what it means to be indigenous. However, this proves another tension at the international level in the inclusion of spiritual rights for indigenous peoples, but not as an overall protection for basic human rights for all, regardless of indigeneity. What this tells us at the international level, is that indigenous rights are viewed as supplementary, non-essential rights that pertain only to

indigenous peoples and increases the concept of a hierarchy of needs and division of indigenous and non-indigenous society. This also increases the idea that indigenous peoples are external in a sense to the international level, not quite belonging either to their own indigenous communities or to the nation-state they exist in, but also that indigenous peoples are distinctly different than other non-indigenous citizens and require a separate set of rights, some that non-indigenous communities do not share. As presented in the video press conference on the celebration of a decade past UNDRIP, Chief Little-child shows that this was not even a concern that had been shown prior to indigenous involvement and is not shared to non-indigenous peoples (UN Press Conference, 2007).

Lastly, this highlights again the hierarchy of power at the international stage, showing who is requesting rights from whom and given by whom. The indigenous actors at this level still actively have to petition, even once given the floor and space at the international level, for rights to be given by the international state system to the indigenous peoples, as if the rights are not inherently belonging to indigenous peoples, but are provided through debate and argument, and only after heavy discussion between nation-states and international state actors. This shows that the international system both views indigenous peoples as adherent to international laws, but also as separate to international human rights mechanisms in place, and if not separate, adjacent to. Indigenous peoples are allowed to petition states at this level for rights that they argue are necessary and inalienable to themselves but then must comply completely to the conceptions of state actors, and any rights that are petitioned for are granted at the whim and desire of the state actors. Again, this highlights the hierarchy of power and advocacy at the international level that indigenous peoples exist under.

Governance

Another component of indigenous rights that is important to draw attention to, is the integration of protections of self-governance and indigenous control. One of the main reasons why this is of import is the juxtaposition of control that is often granted to a state power, being given to the indigenous level. This creates a unique position of indigenous actors in the international state arena insofar as this is a clear example of state control being split between nation-state actors and indigenous actors that fall underneath that state. The concept of self-determination goes hand in hand with the concept of self-governance. If a group of people are self-determined, surely, they should then be able to control the governance of their own peoples and resources. As Champagne has pointed out, a large point of contestation for nation states in the deliberations leading up the UNDRIP, was the loss of territory, control, or populations if indigenous communities could fully claim self-determination and 'secede' from the nation-state (Champagne, 2013). However, as Champagne puts forth, not all acts of self-determination that are sought by indigenous actors involve secession from a state, and instead include a more nuanced approach to resource management and governance (Champagne, 2013).

In the UNDRIP, there are provisions offered for self-governance rights such as Article 11 outlining the control of indigenous communities for their own cultural and traditional rights and protections, Article 13 providing indigenous control of language, literature, and cultural infrastructure, Article 14 establishing indigenous control over indigenous education systems (so long as these are in accordance with national requirements), Article 16 outlining control of indigenous media sources by indigenous actors, Article 18 allowing indigenous actors to “participate in decision-making matters” that directly pertain to them, and Article 20 which states that “indigenous peoples have the right to maintain and develop their political, economic, and social systems” (UNDIRP, 2007). Here there are clear pathways for indigenous control over their own governance, however, all of these articles centre around indigenous communities that exist within and sometimes across state boundaries. This implies that no matter the level of protection for this self-governance, all of these procedures are granted by a state to indigenous peoples, and it is at the prerogative of the state to grant these rights.

The issue of indigenous self-governance highlights the hierarchy of power and rights that emerges at the international level, in which indigenous actors will always come at the bottom of in the international arena. First the provisions are granted underneath international governance placing this level at the top, which then reverts to regional governance such as the ACHPR and the Inter-American Court of Human Rights, next diverting to the national control in which nation-state actors are primarily accountable for enacting or refusing these rights to the indigenous populations within their borders. This hierarchy ends with indigenous actors, though participating at the international level, falling all the way at the bottom of control, and not able to access their internationally dictated indigenous rights without complicity and cooperation with their nation state they happen to be under. Another point that is interesting here is the correlation still, of any indigenous control directly being conducted in accordance with the national state system. No matter what governance is granted for indigenous peoples, there must be first and foremost an adherence to state parameters. This concept cements and highlights the overarching national/state control over the indigenous and outlines the hierarchy of the international system as it pertains to indigenous rights.

The Special Rapporteurs interim report in 2010, three years after the signing of UNDRIP at the UN level, shows that many of these areas are lacking accordance by state systems and proves the lack of enforceability of any rights granted at this level. When looking at how the international system conceptualises indigeneity here, it appears as if indigeneity is something that can be outlined and performatively presented, without ever having to be critically engaged in; and which is often ignored, as we can see in the 2010 report. This compiles the UNDRIP’s provisions for self-governance rights and shows the UN construction of indigeneity as non-binding and flexible.

The ILO Convention #169 outlines governance for indigenous communities as well, such as in Part VI which outlines education and communication – determining rights of indigenous communities to participate at the national level and become educated to the level of other national citizens and the rights of indigenous peoples to establish their own education institutions, again dictating that this must be in accordance with national standards, and Article 7 which outlines the rights of indigenous peoples to determine their own goals for “development” and “to exercise control, to the extent possible, over their own economic, social, and cultural development” (ILO, 1989). This again mirrors the UN mechanisms of self-governance, allowing provisions for indigenous control but caveating this provision, with the assumption of national standards and interests. This is evidenced most clearly by the statement “to the extent possible” (ILO, 1989) which shows that indigenous rights are to be protected up until the point that other rights such as that of the state become more important. This just continues to outline the overarching narrative of the international level, that states and state interests will always come before indigenous interests and peoples. This is to be expected as the international level is comprised almost entirely of nation-state systems, though brings the tension to the surface yet again of indigenous actors petitioning for rights at the international level.

While the language of the granting of these rights to indigenous communities is generous, the wording also draws attention however to the overarching control of the state as the final decider, and mitigator of these rights. In the UNDRIP for example, Champagne highlights the idea that while the UNDRIP is a cohesive set of parameters for states to uphold indigenous rights, there is still a lack of enforcement capability, and the decision to take action rests on each individual state (Champagne, 2013). This shows that even in areas where indigenous actors have seemingly been granted control from the state to their communities, the final decision still always rests with the state.

Indigenous Actors at the International Level

Another point that bears mention, is that the United Nations, though being the most centralised, overwhelmingly ascribed to, and potentially legitimate form of international governance, is only one body that operates at the international level, especially in coordination with the rights of indigenous peoples. While the UN is made of member states collaborating with each other, the highest form of autonomy is that of a nation state and indigenous communities exist within these states but often with very little to no legal recognition at the national level, let alone the international. Many other international instructions are also state-centric and nationally focused, however they may focus on other aspects of state sovereignty, such as the ILO which focuses more heavily on workers and people’s rights within states than rights of the state itself. Other bodies such as the WHO and the World Bank operate in other areas of governance as well, such as economics and health, and due to the widespread state control over the international arena, it is important to keep in mind that most

indigenous communities around the world do not have active representation at this level, especially when discussing agreements with other state actors and collaborative international bodies. This brings the question to the forefront, of how much indigenous participation is possible to hold at the international level when deciding who is indigenous and what their rights are, and how are these rights and identities being discussed if expression of the identities in question is already limited in the discussion. However, whether right or wrong, effective or ineffective, this is the system that we currently operate within at the international level and while we can discuss the ideas of indigeneity and rights derived at this level, it is important to periodically draw attention to the missing actors in the debate.

While the United Nations is not the be all end all body of international governance, it has a particular role in the making and supervision of international human rights law, and will have the biggest impact on human rights declarations, including indigenous human rights, as it relates to citizens and their states; currently, this still extends to indigenous communities under international law, as they exist as peoples within states and national borders. Indigenous actors are entering this space as neither belonging, nor not-belonging. They are able to petition international actors, engage in conversations and discussions with state actors, and as shown in the Special Rapporteur's report A/65/264, there appears to be a concept of equal footing with states and indigenous actors collaborating with each other. However, the tensions of what can be achieved by state actors and what can be achieved by indigenous actors is grossly apparent, and no matter what indigenous actors participate in, they are still placed in a position of power imbalance between nation states. Inherently there is a tension that emerges in whether indigenous rights can be fought for and integrated at this level, if the nation state prevails above all. Indigenous land and peoples have been carved through colonialist efforts of the last few centuries, indigenous land overtaken and sold, indigenous rights obscured in favour of a national citizen population, and any sense of self-determination or self-governance is overridden by the interests first and foremost of a sovereign nation state; this is almost always a nation-state that has superseded control and land from the indigenous peoples living there in the first place. Indigeneity is presented at the international level as an equal player, a partner in communication and collaboration, yet these indigenous actors are presented alongside the same actors that presented a need for specific indigenous rights, and then these indigenous groups must petition these states for rights that were taken from them in the first place. When looking at the hierarchy of power over indigenous actors at the international level, there are more mechanisms of power that come just from a citizen level or a state level but show that indigenous actors are given a platform and promises of interaction as self-determined actors but are given no concrete protections as self-determined peoples over their own basic human rights and governance needs. So, it bears remembering that indigenous actors have no real classification that encompasses their integration as an international actor and still must petition for rights to be granted to them by controlling forces and cannot engage with a proper seat at the international table.

Conclusion

While much has been laid out at the international level on concepts of indigeneity and ensuing indigenous rights, there are clear tensions both within the construction itself, and with the documents and mechanisms put forwards, as is shown in the chapter above. Indigenous actors have been privy to the discussions and participatory in certain settings, however it is clear that the international governmental construction of indigeneity and indigenous rights is almost solely state centric, and a lack of clarity has created additional barriers for groups claiming indigeneity at the international level. The primary issues affecting states in the international indigenous conceptualisation is the issue of self-determination and maintaining cohesion of state territory (Champagne, 2013). However, there have been claims from others at this level that there are not enough protections afforded indigenous communities, and there are clear demands from indigenous actors at the international level that have not been included in the final constructions (Engle, 2011). With such an emphasis of state control and executive decision making over indigenous rights, the international level appears varied, divided, and unclear on how exactly the Twa are able to position themselves within the indigenous debate at the international level, especially taking into account their national breakup and discrepancy along four national borders.

Another component here to show of the performative nature of the construction of indigeneity and indigenous rights at the international level, is that the UNDRIP and the ILO Convention #169 have over-promised and under-delivered indigenous rights. Much has been offered, following the very intense and divisive process of the WGIP and their recommendations and the ensuing UNDRIP, as well as the trajectory of framing from ILO Convention #107 to Convention #169; however, the Special Rapporteur report A/65/264 frames how many states have been non-compliant or uncooperative with the parameters placed forward, as it relates to the UNDRIP (Anaya, 2010). Yet another tension that emerges is the inability of the international level to enact control over protection of these rights, and the concept that the rights and interests of the state will always come first at the international level, at least as it has occurred so far. This tension ties directly back to the concept of whether the international arena is able, or even shows interest in, protecting indigenous rights.

The international governmental level is largely monopolised by the UN and the mechanisms coming from it, primarily by the UNDRIP as the primary construction of international indigenous rights. There are other bodies and documents outlining indigeneity at this level of course as this chapter has shown, however they all seem to focus first on the state, and indigenous rights are often framed through how the state is considered, for example in ILO Convention #169, article 7 which stipulates indigenous rights to be allowed by the state “to the extent possible” (ILO, 1989). There are differing definitions of what being indigenous means and who can lay claim to indigenous rights, however the

international state system, as constructed by states for states, appears to be consistently focused first on the state and indigenous rights are continuously framed through this lens.

Chapter 5: International Non-Governmental Actors Constructions of Indigeneity

Introduction

International governmental organisations and mechanisms provide resolutions and policies that establish the dominant definitions of what it means to be indigenous. However, the definitions of non-state actors and organisations are more varied and contested, especially in relation to Sub-Saharan Africa. By looking into the discourses and practices of civil society organisations will reveal another layer of the narratives about indigeneity and Twa identity that circulate in the international domain. While international state bodies are beholden to standards and regulations of legislation at the international level, NGOs and non-state actors are freer to express fully their position and take a much more specific stand in issues that would otherwise be mired in politics and context. As a result, most NGO and non-state actors at the international level take much clearer and more strongly stated positions that can help affect the narrative of who is indigenous in the international setting, and how the Twa might or might not factor into this narrative. An important facet of the inclusion of this level of non-governmental actors at the international level is the increase in both their presence and influence at the global stage. Increasingly, as we are seeing from groups like Survival International's response directly to the UN Special Rapporteur, Submission to the UN Special Rapporteur in response to the call for submissions "Protected Areas and Indigenous Peoples' Rights: the Obligations of States and International Organizations" (Survival International, 2022), these organisations are directly producing discourse with the governmental international system and are affecting the discourse coming down on indigenous rights and the constructions of indigeneity. As explained by Margaret E. Keck and Kathryn Sikkink, these transnational advocacy networks that are constructed by non-governmental actors in the international arena hold great power that can shape the discourse from international governmental actors and the global public (Keck & Sikkink, 1999). Furthermore, these transnational advocacy networks can elevate issues to a global consciousness, promote and amplify actions and agendas, put pressure on politicians and governments for action, and can engage in resource and information sharing on an international scale (Keck & Sikkink, 1999). Because of their prominent position at the international level and their ability to affect change, sway discourse, and pressure action, these non-governmental agencies are a key player in how international constructs of indigeneity are formed and conveyed down to indigenous groups on the ground (Keck & Sikkink, 1999). The discourse from this arena is then of paramount importance in understanding constructions of indigeneity from the international level and the tensions that can be found in this construction.

Another reason why this level of international non state actors can shed more light on the international construction of indigeneity and the representations and contributes of the Twa, is that these organisations have greater potential for integration of the indigenous position, directly from indigenous actors. The benefit of looking to non-state actors and organisations is that with no formal state centric

leadership criteria, there are fewer barriers stopping indigenous actors from participating directly at this level, and many organisations in this space are set up by indigenous actors themselves. This places agency back directly into the hands of the indigenous actors that they may not have been able to access at the international level, and gives a platform to the people speaking up on their own behalf, such as the text by Maria Sapignoli, detailing the direct involvement of the San at the United Nations originating in the 1980s, and the impact of their involvement in the UN debate on indigeneity (Sapignoli, 2018). Lastly, NGOs and international non-state actors are in the unique position of crossing national borders both digitally and physically, and as such may ascribe less to the agendas of state politicians and legislation, and in many cases may even work in direct opposition to these national positions. However, one vital concept to keep in mind is that these organisations gain substantial international legitimacy through their work directly with international state actors and bodies, most notably through the UN and their subsequent mechanisms; so while there is tension between these two international actor spaces, they do work together to an extent, especially in lobbying and legislating the rights on indigenous peoples on an international level.

While there are numerous sources of non-state actors that discuss and conceptualise indigenous rights at the international level, not all of them have contact with the Twa or influence on the international stage. While all of these sources will inevitably have even a minute effect on the construction of indigeneity and the Twa, I will only be focusing on the most accessible to the Twa and most engaged in by/with international state actors. These organisations will have the most effective conceptualisations and constructions of the Twa and international indigeneity, for me to analyse to understand how the Twa are conceptualised and fitted into these broader state actor discussions of what it means to be indigenous, and what that means for further access of indigenous rights at the international level. All of these actors collectively engage in how the international arena conceptualises and places the Twa within the wider network of international indigenous actors.

While there are many classifications of who can be an international non-state actor, it is important to focus on who interacts with whom and where the most influence that can affect indigenous communities can be found. As a result I have limited my analysis to NGO organisations that are in communication either with the Batwa or indigenous rights mechanisms at the international level; this will allow me to look specifically at how these organisations have participated in defining indigeneity at the international stage, or how the Twa do or do not fit within this framework. While these actors operate in the same space, there are many areas of tension that have erupted between themselves either directly or indirectly over their interpretations and positions on indigenous rights.

In this chapter I will focus on the discourses of five international NGOs, the International Rescue Committee (IRC), Minority Rights Group (MRG), Survival International, the World Wide Foundation for Nature (WWF) and the Unrepresented Nations and Peoples Organisation (UNPO). These five were

selected due to their prevalence in discourse on the debate (i.e. interacted consistently with issues of indigeneity, indigenous rights, and the international governmental level) as well as their permeation from the local to the international level (such as Survival International's petition for action to the UN Special Rapporteur [survival international, 2022] or WWF's interviews with indigenous groups to include in their survey of indigenous conservation of the land). All five of these organisations have concrete ties to the international level of discourse on indigeneity and indigenous rights and have a strong history of debate between indigenous groups/on their behalf to the international level. While there are many other organisations besides these five that would fit the criteria of engaging in this debate, the issues represented by these five groups overlap directly with the issues faced by indigenous groups and indigenous rights as well as having the global capacity to engage directly at governmental levels as well; either their mandate is specifically focused on indigenous rights, or they are major influential NGOs whose work routinely affects indigenous groups*.

Preliminarily I will conduct a search on all five sites for the terms 'indigenous' and 'twa' to determine the spread of information relating to these ideas and the prevalence of the Twa in both spaces. This will give me an impression of the importance of indigenous construction on all sites and will give me insight into how, contextually, indigeneity is addressed for each organisation. I identify the main documents from each organisation that either outline key policy statements from the organisations, engage directly in current discourse either from governmental institutions or indigenous actors, or engage most directly with arguments on indigeneity and indigenous rights that have been produced at the international governmental level; I will then perform a close analysis on these documents using a discourse analysis approach as outlined in my methodology chapter. I will do this looking at the same parameters of understanding indigeneity from the previous chapter, definitions of indigeneity, land rights, cultural rights, and governance. I argue that there is a shift from the governmental international level by these actors to look more closely at what indigenous rights mean on the ground for indigenous groups and what the lack of these rights might mean. While the international governmental actor level focused primarily on outlining who has access to indigenous rights and who can claim these rights, I argue that the non-governmental sector sets up new conversations without needing to identify *who* is indigenous, but rather *what* that indigeneity means to them and what protections are needed due to that indigeneity. Primarily I argue that these actors position indigeneity as a clear identity marker and position indigeneity more in relation to non-indigenous society and conservation efforts than found in the previous section.

Non-governmental Actor International Constructions of Indigeneity

There are many actors in different sectors that interact with indigenous communities on the international level, ranging from environmental advocates to indigenous activists, to medical and

humanitarian agencies that engage either with indigenous rights at the international level or the Twa specifically. Some of these actors claim indigeneity inherently for the Twa while others address them as a marginalised or vulnerable group, however it is important to note that in most cases the Twa were talked about or for, and not always directly to. In the previous chapter I have shown that the Twa are missing in many areas at the international governance level due to lack of statehood or political bargaining that comes with true self-governance. However, in the international arena of non-state actors, the Twa might be found missing for many other reasons. One of the biggest is the access and availability of these organisations. In scale, so much research and organising is occurring on behalf of the indigenous groups around the world and the Twa may or may not have heard of an organisation, come into contact with them and what they do, or may fall under research projects that do not engage the Twa directly. Thus, for lack of space, connection, and facilities to do so, the Twa are left out of a large portion of conversations happening about them or groups like them at the international level, in both the state and non-state sectors.

I have searched the websites of my five actors at this level, and there is a pattern of a lack of inclusion of the Twa in both the wider discussion on indigeneity, as well as of Twa voices in the discussions they are mentioned in. UNPO has done a better job than the other four groups, with many of their articles citing direct quotations and input from Twa actors (UNPO.org, 2024). In the first page of sources searching the term “Batwa” on their website, nine articles appeared directly related to the Twa and one return for a news update page; of these sources, seven directly quote a Twa member speaking to them. However, to note here is that of these articles, only one was produced by UNPO, and the rest were sourced from other sites/publications (UNPO.org, 2024). However, for the most part, the conversations coming from these NGOs was relating the realities of the Twa and not generated content by the Twa, attempting to elevate their voice to an international setting; even the inclusion of UNPO of the quotations it is important to note that these are pulled from context and positioned for an article and are also not reliable representation in any case. When searching on all five websites for the topic ‘indigenous’ the Twa were also under-represented; on the MRG website, in the first ten search results, the Twa were only mentioned once; on the IRC website only five results came back, of these the Twa were not mentioned once; of the first ten UNPO websites results only one sources cited the Twa; neither WWF or Survival International returned any searches in the first ten results mentioning the Twa. Another component to keep in mind is that while the international setting is a more stable arena, the non-state space of international indigenous rights is fluctuating and shifting daily – new research emerges, new organisations are set up, and others fall or dissolve, which means that it can be a struggle to even find all of these organisations, let alone to communicate with them actively.

Defining Indigeneity

Whereas the state section of the international arena focused clearly on the narrative of what it means to be indigenous, non-state actors provide an alternative focus. These actors are not required to produce legal constructs outlining who is indigenous and who is not, rather they have entered the discussion following what the state sector has produced. In this, there is less onus placed primarily on what indigeneity didactically can mean and who the moniker can apply to, but rather most non-state actors at this level balance what is happening in real time with what has already been produced by these state actors. As a result, there is more nuance and implication involved in defining indigeneity at this level, and more to be understood from language than legislation and state sources.

For an instance where language at this level has more impact and connotational meaning, we can look to the 2010 report by Minority Rights Group International, Enhancing Batwa Pygmies Leadership in Burundi, Democratic Republic of Congo, Rwanda, and Uganda (Minority Rights Group, 2010). This text immediately engages with constructions of indigenous peoples, specifically the Twa, and without context in the title refer to the Batwa as 'pygmies' as their main identification. This becomes inherently problematic as there is no other identifier for the Batwa group in this title besides the term 'pygmy.' According to Twa parliamentarian Etienne Ndayishimiye in his text outlining Twa-ness and their relation to poetry as a people, Dust and Stones, he addresses the term and what it means to himself and the Twa that he speaks for - "Commonly called pygmies, a term we now reject as derogatory, we share ancestry with other indigenous populations of Africa.." (Ndayishimiye, 2010). While this text was published not long after the Minority Rights Group's publication, as it was published in the same year shows that this narrative of Twa rejection of the term 'pygmy' was already established and had reached an international level of discourse. The fact that this discourse was apparent at the same time shows that the Minority Rights Group must have had some notion of the conceptualisations of the term 'pygmy' and its problematisation in context, and still felt it was acceptable to use this term in their official report published in 2010. As the rebuttal of the term was made by a parliamentarian serving in official representational capacity, Ndayishimiye criticism of the term can be construed as an official position of a representative for the Twa in the region of the Democratic Republic of Congo (DRC).

This highlights an underlying issue of speaking on behalf of people and not to them, in that Minority Rights Group, in an attempt to address inequalities faced by the Twa, fell into the trap of reducing their identity to the very term they now "reject as derogatory" (Ndayishimiye, 2010) and frame their report under this context, of the Twa as 'pygmies' first and only. The report from Minority Rights Group inherently places the Twa as a 'pygmy' population and any information that is following in the report is tinted by this conceptualisation that is not solely created by the Minority Rights Group, but rather a

notion that has existed that their interaction with legitimises, and reduces the capacity of the Twa to speak for themselves. In the work Inventing the “Pygmy”: Representing the “Other”, Presenting the “Self” by Christopher Kidd, the concept of the pygmy classification is addressed as a term set upon indigenous groups by external observers who viewed the indigenous communities as being less advanced than their own (Kidd, 2009). The classification then of the Twa as a ‘pygmy’ group by MRG demotes the Twa to a static lesser developed state to be defended rather than a diverse and ongoing cultural group to be engaged with. In his text, Kidd posits “...the dominant “Western” imagination has sought to place Forest Peoples at the centre of its ideology of physical evolution through their representations as the ‘Exotic Other’” (Kidd, 2009). By engaging in this discourse of the ‘pygmy; other’ MRG is failing to adequately represent the group they are speaking on behalf of while perpetuating damaging stereotypes of a colonial past that still persists today. While this is specific to the Twa and not an international understanding of indigeneity by Minority Rights Group, this shows the ability of the organisation to speak over the identity that indigenous groups aim to create for themselves (i.e. the Twa wishing to not be identified as ‘pygmies’) and place indigenous peoples within a larger context that they are creating at the international non-state actor level.

One of the more important take aways is that the term indigenous is only ever used in conjunction with other possible terms to identify the Twa such as “Autochthone,” “Pygmy, and “Minority” which can all be used, the report claims, to identify Batwa peoples and claims that while “pygmy” can be construed to be derogatory, they insist it is most accurate to use for engaging in Twa discussions in the case of the DRC as it is “ordinarily” used in this capacity (Minority Rights Group, 2010). In contrast again with the text by Ndayishimiye in the same year, Ndayishimiye refers to the Twa in the collective ‘we’ as both “original inhabitants” and places them on the same field as “other indigenous populations” in Africa (Ndayishimiye, 2010). This shows that the ideas of indigeneity were already being used by Twa groups to refer to themselves. Whereas in the international state sector the concept of self-determination is intended to be the base criteria for a group claiming indigeneity, Minority Rights Group bypasses this international concept of indigenous claiming and reverts to speaking on behalf of the indigenous group they are representing, and don’t allow space for the self-determination of indigenous status that Ndayishimiye’s work shows us is already happening.

In contrast, organisations such as the Unrepresented Nations and Peoples Organisation (UNPO) have directly engaged with the terms set out in the UNDRIP and other state actor mechanisms in the international arena. In their report on Sept 21, 2017, UNPO outlines the rights that belong to all indigenous peoples to self-determine their own indigenous identity (UNPO, 2017). UNPO engages directly with the state of indigenous rights as put forward by international law and cites the United Nations mechanisms and other international legal constructs as the main identification of who can or cannot claim to be indigenous themselves (UNPO, 2017). The crossover here from state to nonstate actors in the indigenous construction at the international level focuses the main issues again on

indigenous human rights. The idea of indigeneity is intrinsically linked to a legal identification system that supposes the very fight for indigeneity is also a fight for human rights protections. This can be inferred one step further to assume that to be indigenous is to be without certain rights to begin with, which places the idea of indigeneity as one of inequality and an inherent tension between indigenous and non-indigenous society and human rights constructs.

One common theme that is apparent in almost all cases or groups is the emphasis given to the correlation between indigeneity and climate issues. In almost every instance of an organisation speaking to indigenous rights specifically at the international level, either the organisations mandate or reporting within the organisation speaks on issues of climate change, sustainability, resource extraction, environmental protections, or sustainable development (WWF, 2024; UNPO, 2024; Survival International, 2024, web; Minority Rights Group, 2010). These examples prove the correlation, at least constructed at the non-state level, of indigenous rights and land rights, further highlighting the correlation between land ownership and indigenous prosperity.

Another level of construction of the indigenous concept that is given by the UNPO report is the idea of choice and diversity in opinions of indigenous peoples (UNPO, 2017). This shows the diversity of being indigenous on par with the diversity that comes from being non-indigenous, without drawing reference to borders, and shows that there are many different ways to 'be indigenous.' This diversity creates a broader understanding of what it can mean at the international level to be indigenous or claim indigeneity and expands the constructs of who can or cannot be indigenous. Here the UNPO report takes the provisions of international law on indigenous rights and goes further to explore in detail what self-determination could mean for one group to another, and that self-determination is the inherent starting point for rights possibilities for indigenous communities (UNPO, 2017).

Moving on from the open-ended possibilities of self-determination by the UNPO, other constructions of indigeneity on the international stage focus more on disparity of livelihood and wealth, either material or rights based. One of the predominant areas of defining indigeneity that comes from this space is the "victimisation" of indigenous communities, and much of the rhetoric places indigenous people on a status of needing rescue or assistance, being talked for and not to. A clear example of this comes from Survival International, in their discussion of indigenous peoples and the impacts of development on indigenous cultures. One such publication by Survival International "Progress Can Kill: How Imposed Development Destroys the Health of Tribal Peoples" offers a further insight into how the sector discusses and treats international indigenous communities.

From initial observation of the text, the definition of the term "indigenous" becomes murky and is used interchangeably with the term "tribal" (Survival International, 2007). While both terms have a place in the discussion, there is no context given between the two terms, no differentiation of usage, and no

identification of what differences may occur. As discussed in the previous chapters, there is a large amount of contest between who can or cannot be indigenous and the use of tribal as a classification of an ethnically marginalised group might be appropriate, the use of both terms without justification or elaboration equates indigenism with tribalism and reduces the efficacy of either term.

In the opening of the text the problem portrayed is that of indigenous people suffering ill health and side effects at the hands of the western world and 'development' (Survival International, 2007). The first sentence, "Across the world, from the poorest to the richest countries, indigenous peoples today experience chronic ill health" (Survival International, 2007) portrays the idea that indigenous peoples exist as peripheral to the mainstream society, showing clear distinction in life and health between the populace of a nation and that of the indigenous peoples regardless of their national boundary. While not incorrect, this framing creates an inherent dichotomy between indigenous and non-indigenous peoples.

The International Rescue Committee (IRC) discusses indigeneity as well, interacting with indigeneity, much like other targeted NGO international actors, within the parameters of their organisations focus. According to the international web page, the IRC works directly with "people affected by humanitarian crises – including the climate crisis – to survive, recover, and rebuild their lives," (IRC, 2024). However, they also have documented instances of speaking to the international community on indigenous rights and issues, either in recognition of indigenous land ownership and/or acknowledgement of indigenous presence, or in relation to ongoing humanitarian issues such as their announcement of The Road to Justice in Humanitarian Work (IRC, 2021). They also touch outwardly with indigenous peoples in certain regions or crises, and while not being overtly focused on indigenous issues the IRC touches on and around the issue of indigeneity that can be easily documented and tracked in the international level. One important thing to note here, as was evidenced in my literature review, the discussion around who can be or what it means to be indigenous can be framed indirectly through the regions around the world where indigenous rights are discussed.

In an introductory search on the IRC webpage for the term "indigenous" it showcased a heavy influence of the Americas, with out of the first ten results, there were six finds which contained a central focus on the US and the America's; One of these discussed humanitarian conflict in Eritrea, and the other two were more generic in background, discussing IRC's global mission and a case study in Lebanon on public infrastructure and humanitarian efforts (IRC, 2024). This shows an emphasis yet again more heavily placed on the America's, which can possibly be partly explained by the geographic headquarters being in New York City, USA, however, also can help to understand their framing and context of indigeneity on a global scale. By focusing more heavily on one region than another, the IRC is not *directly* implying a concrete conclusion, but they are more indirectly alluding to

who they view as 'more indigenous' than others. By placing an emphasis geographically on the Americas, the IRC is contributing to the perception of indigeneity that originated in the Americas (and in greater literature Oceania). This can create an inherent limit on who the IRC considers to be indigenous and perpetuates a geographically exclusionary perception of indigeneity that the UNDRIP appeared to address. This neither gives a definition or withholds such definition of indigeneity but creates a context that all discussion of indigeneity and indigenous rights by their organisation will sit within.

WWF also addresses the concept of indigenous communities in its discussion of natural landscapes and indigenous land. When searching for indigenous as a construct alone on their main search page, one of the top matches is an article titled "Amazon Under Attack: THE FUTURE OF THE AMAZON RAINFOREST, PLUS THE PEOPLE AND NATURE WHO CALL IT HOME, HANGS IN THE BALANCE AND ITS FATE RESTS IN THE HANDS OF EACH AND EVERY ONE OF US" (WWF, 2023). This text looks less at who is or is not considered indigenous, and places indigeneity within the wider context of conservation and eco-activism in the Amazon rainforest. First to note is the change from report styled titles from Survival International and the UNPO and brings the rhetoric immediately to a more emphatic and emotional tone. The use of the capitalised letters, the pressing sense of doom and destruction, the concept of time running out and an eventual end to an entire system creates a heightened sense of urgency. However, it's important to note that even though this text looks at indigeneity and indigenous rights in the context of land conservation efforts, and places indigenous peoples on an equal footing with the land itself. This creates a narrative that places indigeneity as being inherently tied to the land that they belong to, and also adds an element of pressing pressure and a need for further action. There have been clear retorts to the WWFs approaches and position on indigenous rights, and there have been documented reproaches of the WWFs research by indigenous actors and external academicians. One example is the text Conservation and violence in Africa by Ramutsindela et al. which directly addresses the violence that has been taken against African groups by conservation efforts and actors, and cites a clear example of the Baka accusing the WWF of "abuse" by their sponsored employees in the Messok Dja area, and their government (Republic of Congo) for "complicity" (Ramutsindela et al., 2022). This creates a strong tension against a targeted actor and creates a narrative for the discourse that is produced by the WWF on indigenous peoples. In their written publications they have shown a lack of engagement with indigenous peoples and a projection of indigeneity as being intrinsically equal to natural habitats, as well as in practise been complicit in clear acts of aggression against indigenous peoples, at the expense of the natural wildlife and conservation (Ramutsindela et al., 2022).

Along with the above, in the same article by the WWF, we also see that the term "Indigenous People" has been capitalised as well (WWF, 2023). This creates a concept that the indigenous populations being discussed are one entity, one singular concept that is placed as a proper noun as if belonging to

a nation or a state, which ignores the diversity of 'indigenous peoples'. This also creates an 'othering' effect where indigenous peoples are placed outside of the context of a group with diverse ideas and cultures, and rather as one homogenous proper noun, a singular item identified by where it comes from, tied to place rather than land or culture. This creates a problematisation around how indigenous peoples are discussed at this level and ultimately serves to create a division between indigenous and non-indigenous peoples, with little input from indigenous peoples being discussed directly. WWF's conceptualisation of indigenous peoples adds to the international understanding of indigeneity from non-state actors as it builds upon the ideas expressed in other areas too, of a static and homogenous approach to indigenous groups rather than as a colourful and unique set of groups that have their own rich and diverse history with the ability to change and adapt; WWF's report positions indigenous groups as external to the non-indigenous experience of life, and diminishes the capacity and tapestry of indigenous cultures and diversity, exploring indigeneity only as it is perceived in relation to the land they exist on. This is further exacerbated by the placement of indigenous cultures in the discussion, as, barring the first instance mentioned in the introduction, indigenous cultures are placed much lower in the article than the forests they reside in, placing the importance of ecology and environment as higher than that of indigenous interaction with that environment, rather than the two concepts working together.

When discussing indigenous peoples directly, the WWF article poses a conception of indigeneity and the relationship between indigenous peoples and their lands, "with their longstanding, deep-rooted traditions and invaluable knowledge of their forest home, Indigenous Peoples hold the key to safeguarding the Amazon and its nature for future generations" (WWF, 2023). This call to further action is made on behalf of indigenous peoples and not by them, the context and analysis provided comes purely from WWF research, with very little input from indigenous communities residing within the Amazon (WWF, 2023).

There have been many other texts by the WWF outlining indigeneity and conservation, however they follow a similar trajectory, of importance first and foremost of the natural conservation, and then indigeneity as a precursor for inclusion in environmental conservation. The titles of their articles on their web page, when searching for the term 'indigenous' pull up results of varying degree on this topic; the first three texts following the cited work above are titled: We're Working With Communities Around the World – this is summarised as "Indigenous peoples and local communities are vital partners in the restoration of nature."; Meet the Protectors of the Amazon which is summarised as "Through a series of new artworks, British artist Nick Gentry puts the spotlight on the amazing connection Indigenous Peoples have with the Amazon forest.; and Networks of Support in the Amazon which is described as "WWF-Brazil has established relationships with local institutions to support Indigenous Peoples and local communities in protecting their forest homes"(WWF, 2024). These texts range from 2021 to present and show a lack of progression of their position, and a

continued view of indigeneity as a cure for conservation and a lack of integration with the indigenous communities they are speaking on behalf of.

Land rights

Whereas the intergovernmental organisations of the international stage seem to focus most heavily on understanding what it might mean to be indigenous and how this interacts with the non-indigenous world, the non-state sector seems to worry much less on who is indigenous, but rather what the effects of such indigeneity might mean. This is often portrayed in how these organisations engage with the issues they claim are pressing to indigenous peoples and how these tensions are explained/how indigenous peoples interact with and are placed inside these tensions.

For example, the portrayal of indigeneity and indigenous rights as given by Survival International's project "Guardians of the World's Rainforest", focuses most on how the indigenous groups around the world interact with their natural landscapes, and places an implicit onus on the connection of the land and the people. This work places indigenous peoples in direct relation to the natural environments they inhabit, and portrays the impact that the environment, or that environment's destruction, has upon the indigenous communities in them (Survival International, 2024). This puts a much heavier emphasis on the connection between indigenous communities and their ancestral lands, which in turn highlights more strongly a symbiotic relationship deeply ingrained in indigenous identities, that of being of the land they call home.

At the top of the project's homepage, Survival International provides a quote by an indigenous person as well as context for the project "*It breathes, though you don't notice it,*" says Davi Kopenawa of his Amazon home. Tribal peoples have lived in balance with their rainforests for millennia; they are the original guardians" (Survival International, 2024). This first and foremost frames indigenous peoples as the primary owners of the rainforests (and other spaces they inhabit), using the possessive "their" to describe whose rainforests they are, and creates a dominant narrative of indigenous/tribal groups belonging to the land. This quote also works to homogenise indigenous groups, inadvertently, and without placing context on which indigenous group Kopenawa belongs to as well as which area of the Amazon rainforest he is in, the text groups all indigenous communities and all indigenous rainforests/the Amazon as one group with one identity – 'original guardians.' While this may or may not be correct it serves to emotionalise the connection between indigenous groups and their ancestral lands, placing them in a position of stewardship of their natural habitats.

The main body of the work does more to bridge this theoretical gap, naming indigenous groups and providing context on their region and possible national origin, and goes on to explain the integral connected nature of indigenous peoples and their land. This puts indigenous communities and their land under one context, providing the analysis that they are inseparable (or should be) and highlights the severe impact upon these communities that loss of their land can have. Again, the ability of NGOs and non-state actors to engage in advocacy, gives an additional emotional impact of their interpretation of indigeneity. This work by Survival International utilises this ability and conceptualises indigeneity with their environment, inherently linking the two, providing analysis that seems to conclude that neither can live without each other. This both seems to empower international ideas of the indigenous, but also is able to victimise indigenous communities as well. When indigenous groups are shown to have such a lack of agency regarding their ancestral lands it is important to note that there is a line to walk between correctly portraying the situation of lived experiences of indigenous groups and showcasing the direct negative impact on them by the non-indigenous world, but also not portraying indigenous groups as helpless victims who are forced to suffer at the hands of the non-indigenous. Besides the direct quotes placed in the work, Survival International does little to account for how indigenous/Tribal groups participated in this work, provided insight for this work, and were instrumental in the collaboration of this work.

However, this is just one text, and there are others which shed more light on the connection between indigenous peoples and their ancestral lands, such as Survival International's piece, [The Jungle is Only Here Because of Us](#), which discusses the correlation of indigenous land rights and effective conservation efforts; This article speaks to the evictions of indigenous peoples from their lands due to conservation efforts, and the impact both upon the peoples and the environments as a result (Survival International, 2014). Of note in this text are two things, first the definition of indigeneity is not portrayed, and even the term "indigenous" is used sparingly, mostly by other indigenous speakers, who are quoted with discussion of indigenous peoples and lands, or in the presentation of the international mechanisms in place to protect indigenous lands/peoples; however for the most part the term most utilised to speak about indigenous peoples with is "tribal" and not primarily "indigenous" (Survival International, 2014). Moreover, there is no definition or explanation for the differentiation between 'indigenous' and 'tribal' and in the bulk of the text not made of quotations from external actors, indigenous is used most in conjunction with the land and territories and not with the peoples themselves. Out of 18 recorded instances of the term 'indigenous' in this text, 5 of these instances were from quotations from external actors, 5 were in relation to international indigenous rights or the rights of indigenous peoples, and 7 were related to the territories being indigenous themselves (Survival International, 2014). In comparison, the term 'tribal' was used in total 66 times, only 4 of those instances directly referenced just the land related to tribal peoples, and all other instances are followed by a human grouping (such as "tribal peoples" "tribal communities" or "tribal families") (Survival International, 2014). This is not incredibly significant on its own, however when coupled with

the fact that there is no stated differentiation between the two terms it becomes an issue of definition and makes the terms used seem more arbitrary and less impactful. It also shows the ways in which non-indigenous actors speak on indigenous issues, rather than how indigenous actors speak about themselves.

However, despite this issue of terminology, the text goes on to expand on the impacts of forced evictions of indigenous peoples, the impact upon the communities themselves and the natural landscapes they are evicted from, and the relationships between indigenous communities and their ancestral indigenous lands (Survival International, 2014). This text speaks clearly on the close nature of land and indigenous existence, and the need for access to indigenous land rights which keep indigenous peoples on their ancestral lands. This is important as it plays directly off of the constructs of land rights for indigenous peoples that was evidenced in the previous chapter at the state level, and the text shows direct links where these rights are not being enacted or are actively being violated. One such explanation from the article is sub-titled “So Why do Parks need People? Tribal peoples are the best conservationists” (Survival International, 2014). The section touches on the ways in which indigenous and non-indigenous peoples could or do interact with the land, and states “Clearly, those who rely on their land to survive are more motivated to protect their environment than poorly paid park guards, posted far from their families, who are often unable, or unwilling, to apprehend major offenders and therefore focus their energies on the easier targets: local people” (Survival International, 2014). This explanation of the section outlines clearly that indigenous peoples have higher stake in protecting their lands, better ability to do so, and a higher track record of co-existing harmoniously with their territories, however the title of the piece states something different, and adds strongly to how the international level understands and conceptualises indigeneity. This title places indigenous peoples on another level to non-indigenous, creates vague generalisations with little context, and places indigenous and non-indigenous society in homogenous spaces, creating an archetype for all peoples of each group to respond in the same way, with the same experiences; it also doesn't provide geographical or sociological backing to the argument, simply claiming that indigenous peoples around the world operate in much the same way, and likewise with non-indigenous peoples. This homogeneity can be harmful in that it provides little context for variation in indigenous culture and practices around the world. This is not to say that indigenous peoples cultivate a strong relationship with their land and historically are ideal caretakers of their indigenous lands, but by framing their argument so dichotomously, Survival International's work generalises and skews the conception of indigeneity to be one of higher power than non-indigenous society, with the ability alone to save the forests and lands they live in.

While this point can detract from the variety of indigeneity, one thing that the text makes very clear is the dependence of both systems – natural and indigenous – to thrive together, most importantly that removal from and denial to ancestral lands of indigenous peoples disrupts and harms the indigenous

communities moving forward (Survival International, 2014). This shows that in the construction of how non-state actors such as Survival International view indigeneity, land is one of the most (if not the most) important factors for indigenous quality of life, and that the indigenous experience is inherently and directly related to the land they call home. This plays directly into the state conception again as well, showing that just having the land rights shown in legislation is not enough, and that the right to land is not protected, but that it desperately needs to be in order for indigenous communities to be able to thrive.

One of the more impactful effects from the Survival International work, and that of non-state actors at this international level is the ability to stray from political discourse and provide more sided/persuasive analysis in the form of media input (such as pictures and film clips) as well as integral direct quotes from indigenous communities. This provides these sources an emotional undertone that can be used to persuade and incentivise more readily than that of international legislation or policy advice.

The issue of indigeneity being intrinsically linked to that of the land becomes much more heavily centred in the discourse from non-state actors at the international level. For example, WWF addresses indigeneity from the perspective of how it impacts or can be impacted by the natural and animal worlds (WWF, 2023). Part of the context that is needed here is that of course there is more scope within a non-state actor to focus on individual issues and more freedom to express themselves and their organisations values through the specific lens of the issues the organisations are championing. In the example of WWF, it is obvious that they would focus on the issues that are intrinsically linked to the charter of their NGO. According to the official WWF UK website, this issue is presented as “We’re WWF, the leading global environmental charity, and we’re bringing our world back to life. With nature in free fall, we’re urgently tackling the underlying causes that are driving the decline, and we’re finding solutions so future generations have a world with thriving habitats and wildlife” (WWF, 2024). This mandate shows the organisations keen focus on the natural environment and wildlife however the WWF has engaged directly with indigenous rights at the international level as evidenced above and, in their work, online. Thus, WWF and other international non state actors have more flexibility to frame indigenous rights in the contexts of their own specific agendas, however these efforts continue to shape indigeneity and the conceptualisations that are held about indigenous rights at the international level, even going on to influence policy makers on legal constructions of indigeneity in the state sector.

In the instance of WWF, the majority of conversations being held on indigeneity and indigenous rights are centred around the impact either made on the land by indigenous peoples, or the impact of the land on those peoples as well. One of the main concerns here becomes indigenous people being used as tokens in a wider debate, and ultimately placing their intrinsic value to the same level as the animals and environment they exist around and in. Placing indigeneity in this context, places

indigenous peoples in a category that is separate to non-indigenous society. The indigenous groups discussed in WWF's literature on "Amazon Under Attack" are shown either as stewards of the land, or protectors of it, which ultimately places indigenous peoples on a separate plane from non-indigenous society and creates a homogenous identity of 'indigenous' which is non-correlative with the reality that indigenous peoples exist within and removes indigenous identities from the common lived experience of other non-indigenous life on this planet. Ultimately, this piece from WWF supposes that the indigenous actors living on the lands they are trying to protect are not like other actors in the world, not like non-indigenous peoples, and are uniquely placed to best protect and eventually save their ancestral lands (WWF, 2023). This assumes that there is a hierarchy of belonging to the land, of being from that land, and of the inhabitants on that land. While this might mirror the impressions of indigenous connections to land as found in Gilbert's work, Land Rights as Human Rights: The Case for a Specific Right to Land which highlights the clear connections that indigenous peoples have to the land, Gilbert's takeaway focuses on the need of indigenous peoples to have their lands protected, and not WWF's conceptualisation of the lands need for indigenous peoples protection (Gilbert, 2013; WWF, 2023). The article highlights that the indigenous communities within the Amazon are not the ones responsible for the destruction of their lands but are still incumbently responsible for saving it (WWF, 2023). This supposes that there is a trait belonging to indigenous communities that does not belong to non-indigenous ones and as such the indigenous peoples are the sole caretakers worthy of the land they are on, not because they belong to it or it has ancestral value for themselves and their people, but because they are the best suited to care for it. The WWF article "AMAZON UNDER ATTACK" article continues, as discussed in the section above, to place the land on equal footing with the indigenous peoples residing on it and frames indigeneity inherently as a solution to the climate crisis and nothing else.

While the text by WWF can be limiting in how indigenous actors are viewed in conjunction with the conservation of their ancestral lands, the text from Minority Rights Group, Enhancing Batwa Pygmies Leadership in Burundi, Democratic Republic of Congo, and Uganda showcases the other aspect, how ancestral lands and their conservation can affect indigenous peoples (Minority Rights Group, 2010). This text outlines, much in the same vein as the texts from Survival International, the ways in which indigenous communities rely intrinsically on access to their ancestral lands, and the implications to quality of life and prosperity when they are separated from this land (Minority Rights Group, 2010). More so than other texts, the MRG text touches most on the impact specifically to the indigenous peoples, rather than looking both to the impact on the peoples and the natural landscape both (Minority Rights Group, 2010). This conceptualises indigenous rights as being tied to the land and not the land tied exclusively or primarily to indigenous rights and adds to the construction of indigeneity at the non-state international level by applying direct humanity and human interaction to the concept of what it means to be indigenous.

Cultural Rights/Governance

There is less of a breakup between the different rights belonging to indigenous peoples than there exists at the state level, however many NGOs and non-state actors at the international level also interact with what cultural rights might specifically be of import to indigenous peoples around the world and what those cultural rights may mean. However, given this integration of multiple aspects of indigenous society into one area of discussion has meant an exclusion in these texts of governance as a specific right or area to be discussed. As such, oppositionally to the structure of the last chapter, the sections for cultural rights and governance have been combined here to be discussed together given their lack of inclusion in the bodies of the texts.

In UNPO's profile of the Batwa, the cultural rights that are outlined by state actors at the international level, there is an interaction inherently between cultural and land rights, and both are placed in conjunction with each other (UNPO, 2018). This creates a more nuanced and interactive view of indigeneity and indigenous rights than was granted at the intergovernmental level, creating more of an overlap and collaboration between rights such as land and culture, mixing them together. The key factors pointed to cultural rights for the Batwa from the UNPO highlight what the organisation appears to conceive of cultural rights, as well as land rights, and how that might be experienced by the Twa in real time. The UNPO profile shows that there is a strong link between social marginalisation and land loss, and also the ability for the Twa to define themselves in Rwanda, or claim their own cultural identity (UNPO, 2018). This shows another aspect to indigeneity that is mentioned above and in the previous chapter, the concept of a groups identity and their ability to define themselves. The UNPO shows that as a result of landlessness the cultural identity of the Twa has been compromised and without this protection of their indigenous cultural rights, they are unable to prosper and have been made marginalised in many other areas as a result (UNPO, 2018). The report also focuses on how indigenous groups face marginalisation in other areas as well, across different lines oppression such as gender and disability justice areas, as a result of their indigenous marginalisation, or even within these indigenous spaces (UNPO, 2018). This context helps to conceptualise indigeneity in a more varied light, showing that cultural rights of indigenous groups are complex as much as non-indigenous ones and creates a depth of indigeneity that the state actor level seemed to miss.

While in the state actor level of international indigenous construction we saw more input from indigenous actors, such as Chief Littlechild, at the state negotiations and discussions, actively contributing what they felt was important to their own indigenous community. However, my previous chapter also showed that this state level was at least marginally exclusive of the indigenous actors being able to participate at the same negotiating power as a state actor and were included more in a consultation or panel perspective, not as bargaining actors. At the non-state level indigenous actors

are also not included in a full capacity, and even are sometimes more absent from the collaboration than at the state level. This results in the rights and conversations being discussed for indigenous peoples are made without these indigenous actors' input, and the issues that appear most pressing in publications by international non-state actors are not directed always by the indigenous groups but rather by these NGOs themselves. In Survival International's text Submission to the UN Rapporteur in response to the call for submissions "Protected Areas and Indigenous Peoples' Rights: the Obligations of States and International Organisations", these cultural rights of concern are addressed between a state and a non-state actor at the international level and provide more context for what these levels can consider to be indigenous cultural rights (Survival International, 2022). One area of great import here is the conversations that are happening at this level, who the actors in these conversations are, and where is this debate being held. In Survival International's piece, we see the discussion between other non-state and state actors, but not directly with indigenous groups (Survival International, 2022).

On the issues of cultural rights again the issue of land comes into play, and the non-state sector at the international level is less divided than the state conception when it comes to indigenous cultural rights, such as can be found in the 2010 text referenced above by Minority Rights Group International, Enhancing Batwa Pygmies Leadership in Burundi, Democratic Republic of Congo, and Uganda. Here, the cultural dimension of indigeneity touches less on the cultural rights as a legal construct but does interact with the ways in which denial of other indigenous rights, such as the right to land, can create instances where indigenous cultural rights now also become unachievable (Minority Rights Group, 2010). The cultural rights themselves are not touched on as meaningfully as perhaps the state sector, however it is explained that "assimilation is not desirable and that integration whilst bringing access to rights as equal citizens should not be obtained at the expense of ethnic identity (as manifest by particular customs, beliefs and traditional practices habitually observed by the Twa)" (Minority Rights Group, 2010). The question of indigenous cultural rights is not expanded to explicitly state what those rights are, and the term "traditional" can be used in the text to describe what these rights would probably fall under. The text groups the rights to education, to land, and the effects of marginalisation together, showing more of a cause-and-effect conceptualisation of these rights, rather than the state sector where these rights were sectioned and organised separately (Minority Rights Group, 2010). This is important as the conceptualisation of what it means to be indigenous and what the rights of indigenous peoples are at this non-state level is more interconnected and explanatory of how one violation is likely to cause another. This shows the layers of indigeneity as being intersectional and a comprehensive whole rather than specific aspects of society. Viewing indigenous peoples in this way creates a more powerful group that is suffering at the hands of systemic intersectional denial of rights, rather than as actors without agency to whom a concurrent onslaught of tragedies happens to aimlessly. While this is much more explicit and connected than the international space, the ability of a non-state actor to be less impartial and more precise in their discourse allows for texts like this one to

view indigeneity more holistically and comprehensively than UN mechanisms such as the UNDRIP. Non-governmental actors are able to engage past definitions of who is indigenous and what those indigenous actors rights are, something that the UNDRIP was primary to determining at that level, the clear parameters of indigeneity; whereas non-governmental actors such as the NGOs referenced above are able to engage more with what indigenous actors might experience, their lived experiences, and what measures from the governmental international sector have or have not been of use. The UNDRIP was attempting to express a global concept of indigeneity without clear markers towards one group or another; in other words it attempted to create the perfect balance of what it might mean to be indigenous for all groups abstractly claiming indigeneity; in contrast the NGOs referenced above are able to engage either in specific regions or specific aspects of indigenous debate per the mandates of their organisations and the scope of their interest, which creates a more nuanced view of what indigeneity might look like in practise, and the different issues that might be faced in indigenous rights struggles around the world, post production of international mechanisms such as the UNDRIP.

Another aspect of cultural rights and access to these rights for indigenous peoples from the Minority Rights Group, was the right to education; this is not often referenced or discussed in the other texts identifying indigeneity at this level, and addresses again the human impact of indigenous rights, not solely related to the indigenous impact on other concepts, but other concepts impact on indigenous peoples (Minority Rights Group, 2010). However, of note here is that the education being referenced applies to national or international standards of education and literacy and does not touch heavily on the rights expressed in the previous chapter of indigenous rights to education of their culture and in their language (Minority Rights Group, 2010). This is important as education is viewed from a formal standardised perspective and actively works to engage Batwa indigenous children into the formal education system for full functionality and ability to prosper in the non-indigenous society of their national borders. While this is a clear right that has been expressed at the state international level, of indigenous peoples to be able to engage fully, should they so wish, in the national society of their local areas, however it could also be seen as a way in which indigenous children and peoples might be further excluded from their indigenous societies, as these societies might/do dwindle in response to barriers in protecting indigenous rights and access. The diminishment of indigenous rights, which can/does lead to a diminishment of indigenous presence and access to these rights and to indigenous culture/society means that there are less options for indigenous peoples to exercise their rights to indigenous culture, and it becomes a cyclical effect which ends with indigenous erasure. That is not to say the article by MRG leads to indigenous erasure, however it is important to note that the construction of the indigenous in this sense, by MRG, is related directly to non-indigenous society and inclusion, and this paints indigeneity and non-indigenous society to be possible incongruent to each other.

MRG's text touches on governance directly, as opposed to the other constructions by non-state actors that we have discussed, and again, as with education, discusses the integration efforts of indigenous communities into non-indigenous constructs such as governance (Minority Rights Group, 2010). The right to self-governance, as in self-determination, which was decided by the international state sector is not touched on with real severity in this context, and the text pursues how to integrate indigenous actors within non-indigenous governmental structures already in place (Minority Rights Group, 2010). This shows, as is evidenced above with education and cultural rights, a lack of emphasis on creating strong indigenous institutional spaces in which indigenous societies can exercise their internationally mandated indigenous rights in their own spaces and ancestral lands. The same effect as above comes back into play, that the main work being done at this level is not to enact or construct clear options for indigenous actors to build their own indigenous spaces, but rather how to include indigenous actors in inherently non-indigenous spaces. Overall, the effect is the same, the indigenous communities are spoken for and about with little inclusion of their voices in the conversation, with non-state actors, like state actors in the international arena voicing the majority of concerns and possible solutions for indigenous actors and not on their behalf exclusively.

Conclusion

While the international state and non-state sectors do intersect with each other, there is a clear delineation between the two, with the state actor level setting the tone for what rights to look to and how to explain these rights, and then with the non-state actor setting to expand in real time on how those rights are being utilised nationally or locally around the world, and how these rights or lack thereof affect the lived experiences of indigenous peoples. The overarching theme that comes to the front of the discourse is that of indigenous peoples and their strong connection with land. This has been shown in both looking at how indigenous peoples are able to thrive within their ancestral lands and in how these ancestral lands are able to thrive with indigenous interaction and inclusion. This discourse paints indigenous actors more in the light of what they can offer to the natural landscape or to their respective national territories and views indigenous actors as less autonomous, more as variables in a problem than as active actors in a debate. This can be damaging for a number of reasons, but primarily it excludes indigenous voices from directly impacting and influencing the debate on what it means to be indigenous and how indigenous rights are conceptualised. In both the state and non-state sector indigenous actors are primarily talked for or excluded from discussions about themselves. In my next chapter I will look instead on how the Twa as an indigenous group contribute to this discussion, but most importantly, how they view themselves in the indigenous debate as it has been determined the international level

Chapter 6: How Do the Twa Fit Themselves into the International Conceptualisation of Indigeneity

Introduction

Having now established the international conceptualisations of indigeneity, both at the state and non-state actor levels, the next step is to examine how the Twa understand indigeneity how this select group of activists projects their concepts of their own identity and its relation to concepts of indigeneity in the international domain? While there are international institutions, mechanisms, and reports that define what it might mean to be indigenous, as discussed in previous chapters, they were shaped by notions of indigeneity with their origins in struggles and articulations emerging from the Americas and Oceania. The international construction of what it means to be indigenous has created a space for African groups claiming indigeneity to situate themselves within. This has been evidenced in the previous sections and in the literature, where African groups have entered the international space in order to actualise indigenous rights efforts and projecting their identity within the international indigenous movement.

Previous scholars have already explored the ways that different communities in Africa have taken up the concept of indigenous rights and asserted these in international and domestic forums. Sapignoli, in her book *The San in the United Nations* (2018) focuses on the experiences and actions of the San community from Botswana. She reveals their ability to make claims in the international arena on indigenous rights and capitalise on what she terms: “local ‘rights from below’ advocacy, a process of ‘talking back’ of small, cumulative influences on the structures and conceptualisations of UN agencies and, ultimately, perhaps even the context and direction of international law and policy” (Sapignoli, 2018). Dorothy Hodgson has also explored how other African groups, notably the Maasai, have participated in the global discussion of indigeneity; seeing themselves in the international construction of indigenous and needing access to specific indigenous rights, in effect “becoming indigenous” on an international level in order to access these rights (Hodgson, 2009). In another example of African groups taking on the mantle of indigeneity in order to find similarities in their struggles in a global community and specific rights seeking under the banner of indigenous rights, Gabrielle Lynch also contributes the case of the Endorois in Kenya, who she argues undergo the process of “becoming indigenous” for access to indigenous rights, and who also saw the struggles they faced in the international construction of indigeneity (Lynch, 2011).

In relation to African groups, there is a further level of identity construction that takes place in the process of making claims about indigeneity, given how colonial borders divided ethnic groups.

As shown in previous chapters, many other groups in the region have begun engaging with international constructions of indigeneity, such as the San (Sapignoli, 2018), the Maasai (Hodgson, 2009), and the Endorois (Lynch, 2011). While this is not a new point, I will incorporate this into my study of the Twa. The Twa community refers to four nationally situated groups, the Twa of Burundi, the Democratic Republic of the Congo (DRC), Rwanda, and Uganda. In all of these respective countries, besides being separated by national borders, the Twa face different and diverse issues as an ethnically marginalised group interacting with international and domestic constructions of indigeneity in each of these separate national states. In looking at the Twa and their own interactions with international concepts of indigeneity, I will therefore also consider how international notions of indigeneity might vary depending on location and national identity in the region. For instance, we already know that the Twa in Rwanda face issues in even accessing the identity of indigenous due to the implementation of a national Rwandan identity following the Rwandan genocide (Hartley, 2015). Instead of being able to claim indigeneity, Hartley shows how the Twa in Rwanda are classified as a 'historically marginalised population' in Rwanda, but inevitably denied the title of 'indigenous' to avoid further ethnic conflict in the country (Hartley, 2015). In contrast, Twa in Uganda have begun engaging in rights seeking under the umbrella of internationally constructed indigeneity such as the court case in 2021 between the United Organisation for Batwa Development UOBDU and the Ugandan Attorney General (Forest Peoples Programme, 2021; ULII, 2021). Meanwhile in Burundi Twa have also taken to court systems to achieve land rights such as the ruling of land ownership for a family in 2016 (MRG, 2023).

My work will look further to understand how Twa people narrate indigeneity, how they interact with international institutions and norms defining indigenous rights, and how this varies within the group and depending on their country of origin.

Looking to the understanding of what it means to be indigenous for the Twa is more complex than understanding what it means to be indigenous at the international level. One of the predominant reasons for this is that the international system is comprised almost entirely of national state systems and is heavily standardised and regulated for maximum engagement. The UN functions with only certain official languages and methods of data collection, analysis, and political action. As a result, the documentation is clear and accessible, the information cohesive and collected in databases and e-resources, and the academic engagement at and with this level is collected in peer-reviewed journals and housed in academic or state institutions. In contrast, indigenous communities, like the Twa, lack access to these methods of data collection and narrative discourse for a variety of reasons. Most prominently among these are the lack of education afforded to many members of the Twa (Mukasa, 2012), a lack of academic rigour – that while heralded in the West implicitly requires an elevated range of discourse and academic engagement – and inclusion in academic spaces, a lack of language standardisation – this can make it next to impossible for dissemination of information and

standardised spheres of knowing – all of which create implicit and automatic barriers to the data inclusion from many indigenous actors in the international arena. However, it is vitally important to make note that the Twa voices that are reaching the international level of indigenous debate are those actors that are educated and skilled enough in multiple languages to be able to be heard at this level. Thus, even in direct analysis with Twa voices, those voices are an elite group of Twa identity and there will be other voices that have not been able to reach the international sphere of discourse that might express differing accounts. It is still of note however to analyse and engage with these voices, as these actors are positioning themselves as speakers for their groups in the international space of indigenous debate and rights.

I will first understand the ways that the Twa might communicate with the international level that might differ from the institutional evidence from actors in the previous sections. While the Twa have engaged directly with international state mechanisms such as the UNDRIP and national legal avenues as well as by interaction with or setting up non-state actor organisations, they have also engaged in alternative sources that might be more readily available at the local level but not necessarily integrated in what is considered at the international state level. It is well evidenced both through multimedia efforts such as the previously mentioned “photo voice” (Lardeau et al., 2011), documentary and film sources, oral history and collective memory, or through forms such as poetry, legal instruments and proceedings, and addresses to wider national, or international communities by Twa members, that the Twa are actively engaging with the concept of what it means to be indigenous, and how this might pertain to them. As a result, my analysis of the Twa understanding both of themselves as a group and as an indigenous actor at the international level will be varied along these mediums.

The Twa are making clear strides to ‘becoming indigenous’ and viewing themselves as indigenous actors in the wider network. As a result, the Twa are taking on characteristics of the internationally imagined indigenous and correlating their experiences with the concepts put forth from the international arena of what it means to be indigenous and the rights that go alongside the identity. Furthermore, I argue that the Twa are engaging with these discourses in mediums that might escape the wider academic sphere of international indigenous construction and are yet still participating in and shaping global discourses about indigenous rights. As a result of their interaction in this area, I argue that the concept of being indigenous and accessing indigenous rights is expanding, and that the concept of self-determination, as set forth by the UNDRIP and other international actors, is being used in real time by the Twa to claim their indigenesness without being constrained by definitions that may or may not apply directly to them.

One of the characteristics that make the Twa case particularly interesting in the conversation around indigenous human rights in the African context, is the border breakup of the Twa into their four

respective nations. As a result, the Twa are divided from one group into four separate national identities. I will next determine Twa identities in different regional/national settings and look at the Twa within their different regions. When discussing the indigenous identity of the Twa, it becomes necessary to understand how the Twa view themselves in relation to one another. Is there one homogenous Twa identity? Or are there national sub-sections of the Twa that identify separately to their neighbouring counterparts? I will then look at the structure of the Twa both within and without these state borders, and the specific issues that are faced by each group in relation to claiming indigeneity or accessing indigenous rights.

From there I will revisit my four categories for understanding indigeneity as utilised in my two previous chapters, the definitions of what it means to be indigenous, and the explicit rights to land, governance, and cultural rights that have been identified as being separate and specific to indigenous rights at the international level. As I have used these categories in previous chapters, this structure will allow me to categorically look to how the Twa understand indigeneity and their own identity, in comparison to how the international system has understood it as well. I will look at these categories and analyse the Twa data from my multimedia sources to understand how they view their own indigenous identity in each of these categories and compare with the international level from my previous texts. As mentioned above, these sources will help to understand Twa perceptions in mediums which will be able to permeate the international arena while speaking specifically to Twa constructions of indigeneity, as mentioned above. I will then conclude and determine how, based on this analysis, the Twa situate themselves within the international constructions of indigeneity and how they are both being impacted by and impacting this conceptualisation at an international level, as a group.

Through this method of analysis, I will be able to understand how the international space has been constructed by indigenous actors that were not inherently included in the initial construction of what it is understood as indigenous at the international level. I will be able to understand how the Twa view themselves in relation to this debate, what it has meant for them to become indigenous and attempt to gain access to these internationally understood indigenous rights, and what the impact from their integration into this space could be.

Alternative Sources of Data Leading to Construction

As mentioned in my methodology and theory chapter, the sources available to observe Twa conceptualisations in the international indigenous context are less academically available than of the international state and nonstate actor level. However, this is not to say that it is not present, the Twa have interacted with the international level on the issues of indigeneity and indigenous rights through a variety of mediums; there have been court cases, nonstate sector organisation, multimedia sources

of film, art, or poetry, addresses by individual or groups of Twa actors to the international community, and other mediums that fall outside of the traditional academic sources such as Photovoice (Berrang-Ford et al., 2012). I will look at the various ways that the Twa articulate themselves as indigenous in efforts to claim rights, and how they view their own construction of identity, both as a group in varied regions.

When understanding how the Twa sit themselves in this debate, it is important to look at these non-traditional sources to meet the Twa where they are entering the international debate, and this way it is possible to better understand how they Twa view international indigenous constructs, and how they situate themselves within this debate. By looking to their sources rather than peer-reviewed journals, we can see directly how the Twa are entering the international debate, in the methods they are using, and what this means for their own interpretations of themselves as indigenous (or not) actors.

What Does it Mean to be Twa

Locations

As mentioned in my previous chapters, the Twa are a semi-nomadic hunter-gatherer group situated in Central East Africa in Burundi, the DRC, Rwanda and Uganda. Due to significant pressures in all four national regions, the Twa have been facing eviction from their ancestral lands and a host of socio-economic issues associated with this shift.

As shown in the Minority Rights Group International's (MRG) report on the Batwa, The Batwa Pygmies of the Great Lakes Region, there is a clear distinction in the field of indigenous rights for Twa based in the DRC, and the Twa based in the remaining 3 nations, Burundi, Rwanda, and Uganda (Lewis, 2000). As a semi-nomadic hunter-gatherer society, the Twa are reliant upon their ancestral lands and forest homes to be able to roam and practise their traditional livelihoods and cultural practises, however reduction of the land they have access to and the forced assimilation into non-Twa societies after losing their ancestral roaming lands has marginalised the Twa in these countries and places them under severe socio-economic disadvantages (Lewis, 2000). In the DRC, there are still groups of the Twa that are able to practise their ancestral nomadic lifestyle to an extent, however all four nations have seen reductions in their ability to practise their traditional lifestyles, and while this is less significant in the DRC, all four regions of Twa have faced forced sedentary lifestyle adjustments and ensuing discrimination following this transition from their indigenous nomadic practises (Lewis, 2000).

Variations

The Twa face issues of discrimination and socio-economic pressures in all 4 countries as well as continued ethnic marginalisation and exclusion from non-Twa societies (Ampumuza et al., 2012); (Hartley, 2015); (Lewis, 2000); (Vandeginste, 2014). Also, there are continued pressures felt by the Twa in these regions on their struggles in adopting or obtaining their indigenous rights as dictated in the international state community. However, due to the regional breakup of national borders post colonisation from foreign Western powers, the Twa in each national boundary face separate distinct issues in their attempts to access these rights, or in their efforts against ethnic marginalisation. In a text by Survival International, Parks Need Peoples, various indigenous actors speak to the organisation about their own experiences fighting for their indigenous land rights, and there is commentary shared from a Batwa actor from the Democratic Republic of Congo (Survival International, 2014). The Batwa actor explains in reference to eviction from Kahuzi-Biega National Park, "Since we were expelled from our land, death is following us. We bury people nearly every day. The Village is becoming empty. We are heading towards extinction." (Survival International, 2014). This is evidence of the Batwa in the DRC facing a similar plight as the other Batwa in neighbouring national borders. While it is still to be determined on if there is an overarching Twa identity, the narrative pervades in all 4 national Twa groups, the removal from their ancestral land, and the significant socio-economic struggles that follow such evictions. This Twa actor sheds light on the context in which the Twa in the DRC view their eviction. The term "eviction" proves that they hold the land as an integral right of their people, their home and their land, and that their forced removal from this land is an act of taking them out of their homes and refusing their right to exist on the lands they have always held.

In Rwanda, there are more restrictions and obstacles facing the Twa in order to access their indigenous rights rather than removals of those rights and lands as in other nations that the Twa are found. Following the 1994 genocide in Rwanda, there were clear parameters added to the new legal framework, ensuring that the only nationality that could be claimed by its citizens was that of 'Rwandese' and did not allow for other classifications of nationality, in order to stop another atrocity of the previous years (Hartley, 2015). It was believed that since the cause of the conflict was an ethnic conflict that was escalated to a national scale, in order to stop such violence again, there were no ethnicities other than the national Rwandese (Hartley, 2015). As a result from this ruling, the Batwa in Rwanda are unable to create an indigenous identity for themselves, and whereas in other nations with Twa populations, the Twa cannot even begin to petition for their internationally constructed indigenous rights as they are unable to claim their status as an indigenous people (Hartley, 2015). According to Hartley, the term "historically marginalised people" has been used by the Rwandan government to address the Twa, in lieu of an identification as indigenous (Hartley, 2015); in fact, according to a report

by the International Working Group for Indigenous Affairs (IWGIA) cites that the term was created specifically for the Batwa populations of Rwanda after a “constitutional review in 2003” with the goal of circumventing indigenous identification for the Batwa in their nation (IWGIA, 2010). This is important to note here as the contrasting terms to identify the Twa by external actors within the international arena, such as the state of Rwanda, place Twa identity into question and create more confusion about a group identity, specifically as it relates to the Twa and their interaction with indigeneity. As shown in the MRG report The Batwa Pygmies of the Great Lakes Region, some of the Twa in Rwanda have been more receptive to this legislation as it has contributed to lesser prejudice against the Twa for being ethnically marginalised as they can classify their ethnicity as Rwandan, however it is important to note that this hasn’t fully led to an end to discrimination against the Twa, and they still face many challenges at integrating into non-Twa society in the country (Lewis, 2000).

In the nation of Uganda, the Twa, unlike in Rwanda, are in fact able to claim an indigenous status along with all other listed Ugandan ethnic groups (Uganda, 1995), however the problems facing Ugandan Twa come in the form of access to land and indigenous self-determined society. In Uganda, one of the biggest obstacles to indigenous rights exercise is the lack of ability to reside in their ancestral lands, and to be able to operate in their traditional hunter-gatherer cultural society (Ampumuza et al., 2020). Due to conservation efforts and nationalisation of their forest homeland by the Ugandan government, the Twa in Uganda have been pushed out their ancestral lands and had to revert from their traditional social structure as a hunter-gatherer society to adapt to a new sedentary lifestyle outside of their forests (Ampumuza et al., 2020).

In a continuation of the article above by Survival International, Parks Need Peoples, anthropologist Jerome Lewis writes about the Twa in Uganda, “Farmers who had destroyed forestland to make farms [since Mgahinga National Park was gazetted] in the 1930s received recognition of their land rights and the vast majority of the available compensation. The Batwa, Who owned the forest and had lived there for generations without destroying it or its wildlife, only received compensation if they had acted like farmers, and destroyed part of the forest to make fields. This is a classic case of hunter gatherers’ land rights being ignored.” (Survival International, 2014). This furthers the narrative that is emerging for the Twa in the region, and in Uganda, that their forced eviction from their ancestral land continues to be one of the biggest issues they face in the fight for their indigenous rights. Here we can also see the Twa – a hunter gatherer group – positioned in direct conflict and opposition to the agricultural society that they border. There is a clear distinction drawn between the Twa and their neighbours, a line of both cultural and concrete differences in their approaches to the land and the way that they gain sustenance and autonomy. Most notably, the biggest difference between the Twa and non-Twa Ugandan societies is the separation from the source of their livelihood, which is dependent upon the access of their ancestral forest lands. Following the evictions from their forest homes, the Twa have proven to have been uncompensated for such eviction, and in addition to the lack of indigenous land rights granted them, a clear negative impact following the removal from their ancestral land.

However, the quote above also highlights another intersection of Twa society and the removal from their lands, which is the question of caretaking of the land itself and not just the Twa's ability to thrive on this land (Mukasa, 2012).

Regional and National Structures/Groupings

According to the MRG report The Batwa Pygmies of the Great Lakes Region, the largest distinction between the Twa regionally is between the Twa in Burundi, Rwanda, and Uganda, and the Twa in the DRC (Lewis, 2000). The reason given for this is that the Twa in the DRC have been able to adhere more to their traditional hunter-gatherer society than the Twa in the other regions (Lewis, 2000). This section will look at the different groups of Twa in each country and determine how the regional breakup of Twa differs in this context.

When discussed in various settings, such as in the introduction to the text "Dust and Stones" by Etienne Ndayishimiye in the Poetry Foundation's webpage, which reads "When the Batwa tribe in Central East Africa faces poverty and communal despair, it turns to poetry" (Poetry Foundation, 2010). Here the Twa are called in recognition of the region they inhabit and not necessarily by encompassing national borders. Moreover, the introduction above refers to the Twa collectively, one people and uses the singular pronoun, 'it' which signifies that the tribe might cross national boundaries and are identified by their Twa-ness first and foremost.

However, this is not necessarily an academic text and the blurb introducing the work is short and not terribly informative. What is also of note here is that again this is an organisation talking about the Twa and not a Twa person talking about themselves. However, I believe that this is important to look at as this is the precursor to the ways in which Twa Parliamentarian Ndayishimiye then goes on to speak about his experience and the experience of the Twa, he is a part of. In his first paragraph, he continues this narrative, "Most of my people, the Batwa..." which further gives the impression that his Twa-ness is identified before any other national classification, and then goes on and does not specify just the Twa in one nation (Ndayishimiye, 2010). The only personal ownership given here is his identification of the Twa as his 'people,' which while not signifying no engagement with regional and national differences, implies an overarching sense of belonging to the Batwa outside of national identification (Ndayishimiye, 2010). He further goes on to elaborate, "The Batwa are the original inhabitants of East Central Africa, first colonised by the agricultural Hutus at the turn of the first millennium, later by cattle herding Tutsis in the 1400s" (Ndayishimiye, 2010). Here again there are no classifications of national identifiers of the Twa, and they are only viewed as a tribe in relation to other tribes in the region, and not by their post-colonial borders from the European colonisation of the continent. Alongside this rhetoric, he speaks on a collective Twa identity, a sameness of the Twa

regardless of national classification, and together this gives the reader the impression that the Twa do view themselves regionally as belonging to East Central Africa, and not necessarily (at least not primarily) by the national borders they now exist under. When speaking on any other group, besides referencing the historical context of the Rwandan genocide and the understanding of regional tribes following this, he simply refers to their position in relation to the African continent and nothing else. He views the Batwa as one group, belonging to one region, and not inherently as a tribe split along four national boundaries, or as separate as a result of this split.

Constructions of Indigeneity

Defining Indigeneity

While the international sense of indigeneity was constructed without a definition, Twa actors also engage with the concepts laid down of indigenous rights without seeking to define their characteristics of indigeneity, simply by often just referring to themselves as 'indigenous.' This is done both by Twa actors themselves, and those organisations and groups that speak for them or introduce them in alternative media sources, or videos and resources from popular media sites. For example, one clip from the Under Told Stories exposé on the Twa introduces the group in the video as "The Batwa people, once known as pygmies, are one of the oldest surviving indigenous tribes in Africa" (Under-told Stories, 2021). While this is an NGO actor who has presented the story, it applies to this chapter, as the Twa are speaking in the interviews and with the organisations crew, and though the source itself is speaking as an international NGO actor, the Twa are given a position to speak here and their contribution is what I will look to. The nongovernmental organisation of Twa actors fighting for Twa rights labels itself clearly as The Batwa Indigenous Empowerment Organisation (BIEO), positioning the Twa inherently as indigenous actors. The Batwa are quoted by a Twa actor in the text by Survival International, The Jungle is Only Here Because of Us, which speaks solely on the issues of indigenous groups facing eviction and removal from their indigenous lands. In the profile on the Twa from the Under-represented Nations and Peoples Organisation (UNPO) states "The Batwa, also known as the Twa or the Pygmies of Central Africa, are an indigenous group and the oldest recorded inhabitants of the Great Lakes Region in Central Africa" (UNPO, 2018). By interacting so casually and directly with the very term indigenous, the Twa are inserting themselves in the conversation already, by utilising the term indigenous as synonymous with their identity, and while there is no definition clearly explained by these actors, as the UNDRIP also never resorted to utilising a definition, the picture already is starting to form of a group that clearly views themselves as directly in the indigenous fight at the regional and international level.

As mentioned in previous chapters, the concept of indigeneity at all in Africa is a contentious one filled with many overlapping rhetoric of who can or cannot be indigenous on the continent. From commentary on how the separate classification of the original inhabitants of the land and those who were colonising said land implies an inherent colonial overtone to the word at all (Ndahinda, 2011), to the idea that since all have come from Africa, none is on their own indigenous over another group, (ACHPR, 2007) there is much debate on if African's can claim indigeneity at all. As a result, it becomes more complicated than simply looking to usage of the word 'indigenous' itself, in determining how the Twa do or do not view their indigenous status.

In the information provided by the BIEO, there are markers that are used by the organisation to speak to the identity that the Twa find in indigeneity, and what the application of the term means to them, de facto providing how they define indigeneity and how they understand themselves to fit within it. The primary way they encounter this is by relating their connection to the land, the roots that they have with it, and ways in which they have 'always' been there. In time scales, the BIEO states that "The Batwa (called forest pygmies by European Settlers) have lived in Bwindi Impenetrable Forest for over 600 years" (BIEO, 2023). This provides the argument of 'firstness' that is so often referenced in international conceptualisations of what it means to be indigenous. Here the BIEO is providing evidence of indigeneity by right of belonging forever to the land they were removed from, of being indigenous to the forest and being 'from' there.

Besides clear expressions, there is the utilisation of coded markers which give the impression of indigeneity and indigenous belonging as well. The BIEO page uses words and phrases such as "unique and ancient society," "empowerment and preservation," "indigenous cures," and "the Batwa's homeland," (BIEO, 2023) a picture is conjured for the reader of how the Batwa consider themselves indigenous and what it means to them. These phrases evoke the idea of firstness, of culture, language, tradition, and connection to their indigenous identity of the Batwa and again reinforce the ways that the Twa have begun to describe themselves as indigenous.

In the text "Dust and Stones" Ndayishimiye talks about how the Twa have been repeatedly colonised by other tribes in the region throughout history (Ndayishimiye, 2010). This implies a sense of original claim to the area of land they inhabit. Alongside this there is the implication of belonging to the land that has mirrored much of the narrative shown in previous chapters that implies indigenous ownership and belonging to the land they inhabit. While in the first few paragraphs of his text Ndayishimiye does not explicitly use the term 'indigenous' he speaks on his tribes' sense of belonging and 'firstness' that so often accompanies other constructions of what it means and who is indigenous.

Another Twa member, John Rwubaka, chairman to the Batwa organisation, spoke to the Unrepresented Nations and Peoples Organisation (UNPO) on the condition of the Twa in the region

and to bring light to the struggles they face. He writes, “Batwa are law abiding citizens of this beloved nation but as a minority group we have faced too much discrimination and prejudice among the communities we live in, especially the local political and religious leader. I am an indigenous citizen of Uganda, born more than 50 years ago” (UNPO; Rwubaka, 2005). Here Rwubaka clearly states in the terms used at the international level that he is indigenous and outlines his position as a member of the Batwa in his opening sentence. This is a clearer example, of a member of the Twa community implicitly confirming his status as an indigenous member of the groups and the nation of Uganda.

The news organisation and outlet, The Guardian, also published a video outlining the issues faced by the Twa on YouTube, and continue the picture being painted of Twa actors proving their belonging to the definition of indigeneity, and what indigeneity means to them. In the opening of their video, Batwa: The Ugandan Pygmies Threatened by Gorilla Tourism, a voice over actor is translated as saying “The forest belonged to the Batwa. We were the forest people. We were safe there...All we were doing there was trying to raise our families. This was the best life we have known” (YouTube, 2015). While the speaker is not named directly, we are given a startlingly clear image from the beginning of a people who consider themselves indigenous to their forests, they consider themselves *from* there. This connection to the land is an important marker in the discussions on indigeneity, and greatly strengthen the Batwa’s claim to being indigenous in the context of the conceptualisation of indigeneity at the international level. Starkly, we are shown the issues that face the Twa again once removed from their land, and in this comparison, of the Twa before and after their removal from their ancestral forests, we are given another definition of indigenous as the Twa consider themselves, the before and after of eviction outlining the idea from the Twa that they belonged there, that the forest was their home and for them and once being forced to leave, they have never been able to revert to their traditions and their culture, they lost part of who they were when they lost their lands.

What is also of note here however is the overarching tension in the area of national borders and tribe identity. Rwubaka has confirmed, in the same section as that of his indigeneity, his identity as a Ugandan citizen as well and the dual allegiance to both his tribe and his nation. When looking above again at the ways in which the Twa view themselves across borders, national and international, this a tension in the ways in which Twa citizens might view themselves, and again points to the fluid and diverse expressions of the Twa as with any other group of people.

It often becomes difficult to separate the indigenous identity construction and the construction of indigenous land rights, as shown to us in Ndayishimiye’s work when he discusses the implications of forced eviction from his ancestral Batwa lands. He writes,

“During that time I clung to a particularly poetic song for refugees, often sung at churches in the original Kirundi:

Tamba Imana Yawe
 Tamba Imana Yawe
 Aho wabunda mu bisaka
 Ninde yahagukuye
 which in English goes:

Dance to your God
 Dance to your God
 Who else helps you
 when you languish in the bushes?" (Ndayishimiye, 2010).

While not showing any material issues related to the expulsion from his land, this text instead gives meaning to Ndayishimiye's understanding of his identity as Twa, and the implications on his life as a result.

While he is removed from his ancestral land, Ndayishimiye is interacting with the concept of existing in another nation-state that Twa come from, [he is from Burundi, but was forced to flee as a refugee to the DRC, both of which have Twa populations] and yet still being so far removed from his home (Ndayishimiye, 2010). This is interesting for two reasons, the first being that for Ndayishimiye, even though he is a country that also has Batwa, he is not in his home, and the national border plays little construction in where he views his origin, and where he belongs. This is a concept also evident in the narratives that erupted from the Twa who were removed from their ancestral Bwindi Impenetrable Forest (Ampumuza et al., 2020). From the Twa displaced from their forest homes in Uganda and forced into sedentary agriculture (Ampumuza et al., 2020), the concept of course is that the home for the Batwa is their forest, and once removed from this land, their home, and replaced in other areas in the same or neighbouring nations featuring Twa populations, this is no substitute. This implies a heavier implication for the Twa on the land they are ancestral to and not to national identity. Their understanding of their land has little to do with borders and much more to do with the land they have existed on for generations, and the land of the forest that they belong to more than anything else. The concept of 'firstness' as an indigenous trait becomes more obsolete in regard to the Twa as a result, however what does come to the foreground as an indigenous trait the Twa embody is the inherent belonging to their home environment, their land that they belong to, the forest homes they have lived in for so long, the land itself that they come from.

Land Rights

As with other groups as was shown in previous chapters, a large portion of indigenous identity is rooted in the connection with their ancestral lands (Gilbert, 2013). This is clear in the rhetoric from

Ndayishimiye again as he addresses the issues Twa members faced in Burundi in accessing tenable, fertile land.

“Recently, a Burundian president instructed a provincial governor to give a Batwa community a parcel of their own land—the first step toward our alleviation of poverty. In a shrewd act the governor complied to the letter, by allotting us a barren plot of land, useless for agricultural activity. As a form of protest, the Batwa community gathered at a large party with the president in attendance, singing:

Thank you, Mr. President
for giving us a plot
of dust and stones.

In response to the poetry of illiterates, our president addressed the situation and came to our aid, helping us acquire productive land” (Ndayishimiye, 2010).

Firstly, of note in this section, is the outlining and framing of the tensions faced by the Twa in accessing land for sustenance. Despite other sections outlining the clear need for access to their indigenous forest lands, this section by Ndayishimiye addresses what comes next, if they are still evicted from their ancestral homes. Ndayishimiye positions the acquisition, or even the promise of it, of land for sustenance for the Twa in Burundi as a cause for real hope and promise of a better life. This, as we see, is a false promise but the line, “...a parcel of their own land – the first step towards our alleviation of poverty” (Ndayishimiye, 2010) shows how much the land that they were to be given meant to the community and the Twa. Ndayishimiye shows us that this land showed a chance to be reliant upon the land, to have the functions that were previously shown to be given to the Twa by the forest – shelter, home, food, reliance – be accessible to them again. This follows the narrative put forth in the international spheres of construction, matching the indigenous reliance and sustainable interaction with their lands and centring the Twa expression of land and what it means to them.

Furthermore, we can see that outside the forests the Twa continue to place an incredibly high import on the land they belong to, and the ways in which they interact with the land. The land they were provided to farm and live on by the government was unsustainable for growth, and the Twa suffered as a result. While they’re connection here to the land was not ancestral in origin, the Twa still faced significant barriers to enjoyment of their lands and protection on them, and as a result, the right as outlined in the UNDRIP and other international constructions of what it means to be indigenous is still unmet. The Twa response is particularly of note here, as they are faced with, as Ndayishimiye has previously outlined, many severe barriers to education and literacy and as a result they were not well versed in methods of discourse that would be taken at an international level. Instead, Ndayishimiye

shows us how the Twa engaged in forms ancestral to the Twa of communication – dance, music, and oral stories – to address their issues directly with the national government of Burundi.

In a report conducted through the United Organisation for Batwa Development in Uganda and others, there is clear feedback given through interviews with Batwa members on their connection to the forest, and as Twa what the forest means for them. In previous sections outlining the international construction of what it means to be indigenous, land rights feature heavily and primarily, showing the strong connection to and reliance upon land that is a shared trait amongst the international indigenous communities. The report informs us that Jovanisi Nyinakayanje told them “... When they chased us from the forest, we started living here in Rushaga. We would go back to the forest to look for meat, honey, wild yams, firewood, weaving materials and medicinal plants. But later, we were told to stop going back to the forest. Many of our people died. We tried hard to survive in the challenging village conditions by begging for food from Bakiga” (Fauna & Flora International; Nyinakayanje, 2013). This is important to note the overarching narrative of the reliance of the Twa on land and their necessity of access to that land in order to survive. Nyinakayanje spoke of the abundance of materials that the Twa relied upon within the forest, and the direct impact had upon the group once the access to these materials was cut off. This shows similarly with the other narratives of the Twa expulsion from their forests and the impact that continued lack of access has had (Fauna & Flora International; Nyinakayanje, 2013). There is also the interaction here of the Twa post-eviction being further marginalised by the neighbouring non-Twa society as well, and Nyinakayanje points to the impoverished and marginalised position the Twa take when they are forced from their lands, and unable to sustain themselves without access to their indigenous ancestral resources. As with the information from the Twa on their interactions with land from Ndayishimiye, this focuses on a time when the Twa have already been removed from their ancestral lands, and shows the effects of that removal, rather than the removal itself.

In a video produced by Under Told Stories, there are many instances of the Twa directly engaging with external non-governmental actors such as the media company Under Told Stories, able to speak to the issues they face as a group, and the ways in which they understand their situation; all of which provides a valuable resource with which to view the thoughts and understandings of Twa members in the region, on platforms that have the opportunity to permeate global spaces, such as YouTube. In the video, there are a plethora of instances in which the Twa, both in their interviews and in the informational backing provided by the narrator, engage with the idea of land rights, and what the land means to them. As echoed in almost every other source above and in previous chapters, one of the largest struggles for the Twa is the access to their indigenous lands, an inability to return to the forests they have spent their history in, and the repercussions of being so separated from their ancestral homelands (Under-told Stories, 2021). Often sourced in the video is the idea of the Twa being unable to subsist on the substitute land they were given upon eviction from their forests, and the real time

barriers to food, employment and income, and health services, all of which they had previously sourced from their forests (Under-told Stories, 2021). The presenter of the video, Fred de Sam Lazaro outlines the issue stating

“Today an estimated 6,000 Ugandan Batwa live on the periphery of the forest, pushed higher and higher up the mountainside, or in slums in nearby towns. They are among the poorest inhabitants of one of the world’s poorest countries, labouring on nearby farms or performing for tourists when they can. Those who do receive a portion of the park entry fees. No tourists mean no pay. And, during the pandemic it’s often been that way. On this day, it was just me with my team. Cut off from the forest and traditional medicines, their numbers have declined. Four in 10 children don’t survive to age 5 and average life expectancy for the Batwa is 28 years, 28” (Under-told Stories, 2021).

This paints the picture that was shown in Ndayishimiye’s work as well, of the Twa being evicted from their ancestral lands, and then the consequent disparity between Twa and non-Twa societies as they are unable to continue to thrive outside of their forests. Using the concepts given at the international level from previous chapters of what constitutes indigeneity and what rights that indigeneity provides, the narrative carries over from these expressions of Twa issues, the Twa in being denied access to their indigenous lands have suffered continuously, primarily in the direct issues relating to the loss of their land. The rights of indigenous members as granted at the international level stress the relation that indigenous communities have to their ancestral lands, and the issues that can arise when separated from these lands. As previous studies on the Twa have shown, the forests they inhabited as a group provided them with everything they needed, food, security, medicine, culture, and beliefs/spirituality – and more importantly how there has not been a substitute for these things, that when separated from their forests that give them all of this, they are not able to reproduce them (Ampumuza et al., 2020). Using the case of the Twa in Uganda and the text above, we are shown that the Twa while also being removed from and denied access to their indigenous lands, are not compensated appropriately for this removal, and again by doing this they engage with the concepts of indigeneity at the international level again, placing their struggles in the same context and using these terms to speak to their struggles. The quote from Lazaro shows that the Twa are not given the compensation that is owed to them under international law, and that this is an injustice done to the Twa, both with forced removal from their lands, and then continued lack of compensation accordingly (Under-told Stories, 2021). This is also echoed above as mentioned by Ndayishimiye who speaks of the lack of cultivatable land once the removal as well from the Twa forests (Ndayishimiye, 2010).

However, these are not the only two sources to touch on the relationship of the Twa to their forests and indigenous lands, and others also lean in to speak to this tension. In a video produced by Crefft Media, [The Batwa: Ugandan People of the Forest](#), actors speak on the issues above faced by the

Twa, and what this means to them. George Byomuhumuza, cited to be from the Kabale District, states in an interview speaking on the Twa, “Because these are people who were living in the forests living happy life by hunting, gathering, and that’s the life they had known for a very long time. All of a sudden, the governments evicted them from those forests, and they didn’t know any other kind of life.... They don’t have an income, they’re income it is only to go in the forest to collect firewood and to get some honey in the forest. But now it is a problem about to go in the forest without paying money” (YouTube, 2012). We see a clear picture here of how directly the Twa are affected by the removal from their lands and how the lack of compensation or alternative has proved a real-time decline in quality of life experienced by the Twa. However, in this passage we are also able to see the interaction with the terms and concepts from the international level on what it means to be indigenous. There is a sense of long-time position in the forests, and a presence of the Twa in these forests for as long as living memory allows. Byomuhumuza speaks of the quality of life in the forest of the Twa, the ability to procure everything they might need, and the relationship between the land they inhabit and the Twa people. This speaks to indigenous ideas of the international arena of indigenous groups belonging to the land, having a presence on the land, and the necessity of indigenous groups to be able to remain on their ancestral lands for their own survival and ability to thrive. With their eviction, we can see the direct result of this, the aftereffects of not being granted the rights to their indigenous lands, and the clear differentiation between the Twa and other non-Twa actors in the same region. The Twa are not able to subsist at the same level and in the same ways as non-Twa; this is primarily due to the lack of knowledge and exclusion from non-Twa society (YouTube, 2012), which again speaks to the distinctness of the Twa and highlights concepts that stem from indigenous rights and rhetoric from previous chapters.

In the video published on YouTube by The Guardian, a Batwa actor from Rubuguri, Kafuzi Vallance, says “Our life is very difficult, because now we live out in the mud, where we just sleep and have nothing to do. When I lived in the forest, I would hunt and collect honey, but when the National Park was gazetted, they told us nobody could go in there anymore. The gorilla trackers now have their own paths which are kept from us” (YouTube, 2015). Here again we are told the narrative from the Twa of how their eviction and removal from their lands has created the largest shift away from prosperity as a people for the Twa; we are shown again that the Twa society and way of life was intrinsically linked to the forests they inhabited and that everything they needed to survive and thrive was given to them on their ancestral lands and that once removed, they lost a large part of who they were (YouTube, 2015). This is important as we are seeing a clear theme emerge when looking at how Twa actors speak about themselves and about the Twa, that they view themselves in relation to their land, and their culture and society is irrevocably linked to where they originated from and the traditions and lands they have always, as a people, known.

Cultural Rights

In his text Dust and Stones, Ndayishimiye provides clear context on how the Twa, from his perspective, interact with the concepts constructed at the international level of indigenous cultural rights and what these might mean. Specifically, he engages with the concepts of cultural significance, culture as it is embodied by the twa, and what that culture and the ability to practise it mean for the Batwa. “The Batwa are not a people without poetry—that is far from true—but we have been forced by the socioeconomic realities we face to articulate our poetry differently” (Ndayishimiye, 2010).

Present in Ndayishimiye’s text is the iteration of the lack of education among the Twa and the clear impacts that this has on daily life and perception of the Twa overall. One of the key points as shown above is that the cultural expression of the Twa is limited by the realities of the separation from their lands and the lack of opportunities post expulsion that has been offered to them. In this, Ndayishimiye draws a clear correlation to the lack of Batwa culture and the lack of Batwa rights, by not being able to conduct their practises and their culture in the ways that are ancestral to them, the Twa are forced into new pathways and to utilise new language, in order to draw attention to the injustices they are facing.

In the video from The Guardian, the idea of culture is linked almost completely with the ideas of lifestyle, of the Twa finding their culture in their ways of life related to the forest, and that once removed from these forests they were also removed from their culture as well (YouTube, 2015). In the quote that was just referenced above by Vallance, “Our life is very difficult, because now we live out in the mud, where we just sleep and have nothing to do. When I lived in the forest, I would hunt and collect honey, but when the National Park was gazetted, they told us nobody could go in there anymore. The gorilla trackers now have their own paths which are kept from us” (YouTube, 2015), we are shown that the ways in which the Twa operate, the practises they have had as a people and that have been passed down through the generations, are now fading and being lost as a direct response to being separated from their homes and their lands.

In the report from Fauna & Flora International, Batwa Cultural Values in Bwindi Impenetrable and Mgahinga Gorilla National Parks, Uganda, we are shown another glimpse into the loss of culture and indigenous identity alongside the loss of land. In an interview for the report, George Wilson Mpakasihe states ““I was born and raised in the forest of Mgahinga. I started going to the forest with my father and other men for hunting when I was still young. I helped in carrying spears (amacumu), arrows (ubuta), bows (imiheto) and small locally woven bags (i.e. ubukocho). I enjoyed hunting black-fronted duikers (ifumbiri), buffaloes (imbogo), bush pigs (ingurube) and bush bucks (impongo). I miss the days when we would return from hunting with a lot of meat which we would share with other

families” (Flora & Fauna, 2013). Another member, Jovanisi Nyinakayanje reported “I was born in the forest of Bwindi and spent there about ten years. My father used to go hunting and leave us with our mother who would go with us to collect fire wood (udukwi) and food (ibyokurya). Outside our home, we had a small hut for worshipping (uguterekerera) which was mainly done by our father who would sacrifice to the gods before and after hunting. When they chased us from the forest, we started living here in Rushaga. We would go back to the forest to look for meat, honey, wild yams, firewood, weaving materials and medicinal plants. But later, we were told to stop going back to the forest. Many of our people died. We tried hard to survive in the challenging village conditions by begging for food from Bakiga” (Fauna & Flora, 2013).

Lastly, interviewee Beatrice Kimpaye said “On the few occasions I have been to the forest, I had gone there for firewood, weaving materials and dancing for tourists. I love the forest very much because it has abundant food unlike the village. As Batwa living in the village, we miss forest food especially honey from stingless bees, meat, mushrooms, vegetables and the berries of *Rubus sp*” (Flora & Fauna, 2013). These testimonies by Twa members show the same picture. The idea of cultural integrity of the Twa is intrinsically linked to the land and forests they claim indigeneity to. In removal from these lands, they are then separated from their culture and traditions, separated from their indigenous knowledge and practises, and without them face clear and steep declines in their health, prosperity, quality of life, and ability to survive.

At the international level the idea of cultural rights as an institution in indigenous rights was integrated into all mechanisms outlining indigenous rights and who had access to these. However, as shown in the case of the Twa, they do view themselves as needing access to these rights and show a lack of dignity and survival when removed from these rights. By making these connections, the Twa are adopting the ideas of cultural indigenous rights as put forth by the international arena and implementing themselves directly within the indigenous debate.

Governance

As has been evidenced in previous sections and chapters, there exists a clear set of barriers facing the Twa that place them in a position of ethnic and socio-economic marginalisation in all four nation-states, and one clear example of this is the lack of Twa to education and the trailing literacy rates of the Twa in general.

Much of the discussion on issues related to governance among Twa sources that have permeated the international constructions of indigeneity pertain to the material rights and allowances given to and exercised by the Twa, specifically related to the rights of education, housing, and ability to procure a

living outside of their ancestral forest lands. In Dust and Stones, Ndayishimiye addresses this concern many times, though differing from the official language utilised by international institutions that legislate indigenous rights and highlights the inability of the Twa to assimilate to their non-forest-based lifestyles. Writing on the [lack of] ability to become educated that many Twa face and his own personal experiences, Ndayishimiye writes, “Though I was able to return to primary school at that time, I faced intense discrimination from my Hutu and Tutsi classmates, who believed I belonged in the forest as a sort of sub-human being, hunting and gathering as my people did for thousands of years. Most Batwa children couldn’t bear the discrimination against them and dropped out; this continues today” (Ndayishimiye, 2010). Evidenced in much of his text, Ndayishimiye speaks to the discrimination that is actively restricting the educational prospects of the Twa, and the ethnic marginalisation that contributes to this as well.

This shows the direct results of a lack of governance over their educational institutions and ability to provide their own resources and education to Twa youth. Ndayishimiye does not necessarily utilise the same language that we have seen at the international stage, the institutional provisions of indigenous human rights at that level focused on providing resources to indigenous communities in order to be able to control their own systems of governance and administration, a large part of this being the control over education and also the necessity of accurate and accessible inclusion of indigenous children in non-indigenous education. Without the provision for this right to education included in the indigenous rights the Twa claim access to, the educational ability of the group is in decline, and the text by Ndayishimiye shows us the effects of this exclusion from indigenous self-governance efforts. Furthermore, in evidence of the effects of not being able to practise an autonomous Twa society and the exclusion from non-Twa societies, we see Twa members addressing the rights of governance and adopting the ideas behind the language of indigenous rights law from the international sphere relating to governance and indigeneity.

Other Twa activists in the region speak to the same issues, such as a Twa member, Alice Nyamihanda, who spoke to interviewers for a feature video story on the Twa in Uganda which was published on YouTube and on the organisation’s website, *Under Told Stories* (Under-told Stories, 2021). These interactions between non-governmental or civilian actors and Twa actors are clearly documented examples of the Twa interacting directly with the concepts of the internationally constructed indigenous rights, and show a clear image of how the Twa view themselves, as told in ways that are accessible to them – such as in a video interview from a civilian actor in the region. Nyamihanda stated, “We need representatives to represent the Batwa at a national level, even at all levels. Even at the village level, we don’t have someone” (Under-told Stories, 2021). Nyamihanda shows the lack of inclusion of Twa members in governmental organisations and exclusion in representative governance.

As a result of this, Nyamihanda portrays the issues that face the Twa, and outlines the reasons why such governmental representation is essential for alleviating the issues most pressingly facing the Twa. One of the narrators and presenters for the video, Fred de Sam Lazaro speaks in the video of the interactions and information that came from Nyamihanda and informs us, “She took us to visit her people in a mountainside village. Here, children are miles from any school, she says. Even minimal fees and the required uniforms are out of reach. Barely 10 percent of Batwa children are enrolled in school, she says. Advocates have taken their case to Uganda’s courts, which have ruled that the Batwa are entitled to compensation for the loss of their land. However, few people we talked are sure that relief will come any time soon or what shape it might take. One big problem, because of their small numbers and discrimination, the Batwa have little political power, says Alice Nyamihanda” (Under-told Stories, 2021). While this is not a direct quote from Nyamihanda herself, we are shown what she has told the presenter, the picture she has painted for herself and her fellow Twa, and why the issue of representation is a key matter of concern in the fight for Twa rights. The lack of education, the lack of socio-economic equality, and the inability of the Twa to fight politically for their rights, has directly related to their quality of life, as is shown here again as others have previously stated above. Nyamihanda shows us the articulation of the missing link, the governance of the Twa, either their ability to govern themselves and their right to self-determination or just their equal inclusion into local/national government institutions. As mentioned above by Ndayishimiye, Nyamihanda echoes the need for Twa governance, interacting with the ideas behind indigenous rights of governance outlined at the international level. We are shown again that the Twa are utilising the terms presented in the international arena to outline the rights owed to indigenous groups.

Most importantly however, in the sector of governance as a debate amongst the Twa and indigenous communities at the international level, is the concept of self-determination and the context of adopting the concepts of indigeneity if a group feels that they apply. Much as was the concern for nations at the international level, specifically African states, the ideas of self-determination allow a group to decide on their own if they are in fact indigenous (Saito, 2023; ACHPR, 2007). As we have seen in the research above and in previous chapters, the concept of self-determination has de facto begun for many Twa members. Simply the identification of similar narratives of struggle, comparison in rights access and needs, and the use of the rhetoric of indigeneity as described at the international level have been put to use in the context of certain Twa actors. One clear marker of this, besides the anecdotal use of indigenous and correlation to indigenous struggle that we have seen in Twa voices earlier in the chapter, is the court case petitioned to the government of Uganda by the Batwa, represented by the UOBDU (ULII, 2021).

Terms are used to define the indigenous claim to the forests, like “ancestral lands,” and clear correlations are made between the dispossession of the Twa from their lands and the marked need for compensation after non-consensual dispossession as is found in the UNDRIP as a protection for

indigenous peoples (ULII, 2021). The court case posits the Twa as an unequivocal indigenous actor in Uganda, and as such is seeking reparations/political mediation for removal from their indigenous lands and lack of compensation post eviction. The court case later on went on to receive a ruling by the Constitutional Court of Uganda that the government was responsible for “illegal evictions of the Batwa” and recognised the struggle of the Twa in Uganda (Forest Peoples Programme, 2021). More than anything, this engages most directly with the concepts of self-determination and indigenous construction from the international level, in fact from UNDRIP as well, and shows the level to which Twa have begun to engage with indigenous constructs from the international level and putting those constructions into practise in their efforts to access rights.

Conclusion

As shown in the passages and sections above, while not being present at the construction of what it means to be indigenous at the international level to begin with, the Twa have adopted the terminology and concepts from this space to speak to the real issues that they are facing as a people. They have interacted meaningfully with the ideas of what it means to be indigenous, how they view themselves as a people indigenous to an area, the constructions of land and indigenous land rights and what this means to them, as well as the issues of culture and governance for indigenous peoples.

While the Twa are based in four different national borders, they rarely address themselves by these national markers and rather either refer to the specific forest they come from, or by simply being Twa. It is important again to note that the voices we are receiving in this section and in this debate are not proportional to all Twa; Rwandan Twa specifically might be decreased as a voice due to the nature of the national identity barrier to indigenous claims and other Twa not educated to the degree/in English to participate at the international level. In effect, the Twa refer to themselves cohesively in international literature and media, however this may not always be the case for all Twa in all four national boundaries. Due to the nature of semi-nomadism and the process of evictions and socio-economic barriers, there has been a large amount of fluctuation in location of Twa groups, and as such the barriers separating them, specifically national boundaries, have become more varied as well. There also appears to be the level of social ostracization that does not allow the Twa to forget their Twa-ness, an as a result this identity comes first for almost every Twa actor cited above. The collective identity of being Twa therefore appears most prominently and while there are national variations and discrepancies, the Twa appear to identify as Batwa first before anything else. There also has emerged a sense of similarity in struggle and the problems faced by Twa in all different areas. Their relation to their forests, to their culture and way of life, is similar if not the same in all regions. They are combined by a shared lack of access to their ancestral lands and the socio-economic factors that result because of this. Lastly, the cultural significance of their ancestors, their

lands, and their way of life ties the groups of Twa together and creates a sense of a unified Twa identity in the discourses that Twa people project into the international domain.

The removal from their ancestral forest lands have created a plethora of problems for the Twa, and in these issues, they have seen their struggle mirrored with that of indigenous struggles around the world. Following and alongside the adoption of other African groups as indigenous in seeking indigenous rights, the Twa have carved a seat at the table of the indigenous debate and made clear efforts to fight for those indigenous rights for themselves. Most importantly, they have interacted with these concepts in ways that prove they do consider themselves to be indigenous, by the very metrics of indigeneity the international institutional space has used to construct indigeneity as is defined for indigenous rights. Much like other African groups at the international level, such as the San, the Endorois, and the Maasai, the Twa (or at least a portion of Twa actors) have begun to imagine themselves within the indigenous debate at the international level, most specifically in order to gain access to rights that fell within the matrix of indigeneity (Sapignoli, 2018; Hodgson, 2009; Lynch, 2011). The Twa in all nations they are found in at all levels of access have decided they are indigenous to their territories and have begun using this space to seek their own indigenous rights. While this is true, however, it is not to say that all Twa view the same and this is a small subsection of construction by the Twa that has managed to reach the international audience. There might be contrasting or contradictory evidence at other levels, and the Twa are a diverse and spread-out people, however what has been able to permeate the space that constructed indigenous rights, is that Twa actors see themselves within the indigenous debate, as indigenous actors and so do those that speak to and for them.

Chapter 7: Conclusion

The international arena has been constructing indigenous rights for the last century (Xanthaki, 2012) and throughout that time, the areas discussed, the protections offered, and the very idea of who is indigenous has gone through significant change. The original areas understood to be indigenous have shifted from Oceania and the Americas (Gagnon, 2013), to encompass groups around the whole world, and part of that expansion has begun to include the African continent. However, there are many contestations for the regions indigenous claims, predominantly coming from African nation states (ACHPR, 2007). There are discussions around the problematisation of the term 'indigenous' in the region and in wider contexts due to colonisation and coloniser rhetoric (Saito, 2023; Ndahinda, 2011). Alongside this debate has been the African Court of Human and Peoples Rights (ACHPR) advisory opinion in response to the UNDRIP, which problematised the idea of African indigeneity as all African's were indigenous to the region itself (ACHPR, 2007).

However, despite the tensions at the level of international institutions and discourses, over time various African groups have taken up international discourses, norms and platforms relating to indigeneity in pursuit of rights, such as the San, the Endorois, and the Maasai (Sapignoli, 2018; Lynch, 2011; Hodgson, 2009). These groups have been adopting rhetoric and engaging in rights seeking permeating to the international level of indigeneity construction, adopting the title 'indigenous and sometimes impacting the texts and concepts produced' One group that has largely been left out of the research on the subject, however, is the group the Twa. Based in Burundi, the DRC, Rwanda, and Uganda, the Twa are separated by four national borders and face a variety of problems specifically related to their claims of indigeneity and indigenous rights in all four regions. As such, they face a unique set of problems and the lack of an influx of research specifically related to their understandings as an indigenous group have left the Twa behind in much of the international conversations on indigeneity.

My research has demonstrated that the Twa are engaging directly with international ideas of indigeneity, making rights claims and contributing to international discourses about the meaning of indigeneity. They like other marginalised African communities are 'becoming indigenous' (Hodgson 2009), I have shown that the Twa have engaged directly in the discussion of who is indigenous, with some actors claiming their own space as indigenous actors in the international arena. Mainly through concepts of land rights and self-determination, the Twa have begun implementing themselves in the international indigenous and adapted the constructions at this level to their own identities and experiences. The international level has most clearly defined the criteria of indigenous rights to be found in land rights, cultural rights, and rights to governance and self-determination as an indigenous group. The Twa have directly engaged with these concepts, and the Twa actors that have permeated

to the international arena – granted actors with elite access, education, and languages – have taken on identities related to these classifications of what it means to be indigenous. In fact, most of these actors have engaged with indigeneity as a means of rights access and of reparations for lack of recognition of these rights before.

At the beginning of my thesis I aimed to understand how the international arena has set up and conceptualised the ideas of indigenous rights, how have those ideas permeated through the international level by both governmental and non-governmental actors, and how have the Twa then engaged with this construction, and how do they take on these concepts when viewing themselves. Ultimately, I wished to understand how the international level understands indigeneity and through that lens, how the Twa view themselves, especially in the international debate on indigenous rights in order to claim those rights themselves. I have shown that the basis of indigenous rights construction at the international arena has been adopted by elite actors within the Twa to claim their own places in the indigeneity debate. There have been groups of actors as well as individuals who have contributed towards a Twa understanding of indigenous as it has been laid out in the international arena, and they have adopted and interacted with indigenous notions set forth by both governmental and nongovernmental actors at the international level.

Ultimately, this is of importance as the Twa have been largely excluded from the international debate, having been engaging in it for decades. My work has shown that the Twa are actively involved in this conversation, and now the work becomes figuring out how this interaction has continued to shape international discussions of what it means to be indigenous. From this work, further efforts can be extrapolated to understand how other groups previously excluded from the discussion might conceptualise indigeneity and what the impact on international indigenous rights might be further. Most importantly however, it shows that the Twa are participatory in a larger international trend of indigeneity and indigenous rights seeking, and that the international community must now figure out if these rights and constructions are congruent with the needs of indigenous peoples today, and how to best actualise those needs.

Throughout each level of analysis, I analysed indigenous construction and conceptualisation through definitions of indigeneity, land rights, cultural rights, and governance. As my research showed, without a clear definition from the governmental level, the idea of who can be indigenous was left to self-determination and allowed for groups to claim indigeneity without having to prove a check list of criteria. However, this created strong tensions at the governmental level with some nation states anxious to avoid self-determination for fear of weakening their national territory (Saito, 2023). While this was critiqued at the governmental level, some actors at the non-governmental level of international construction welcomed the ability for groups to determine their own indigeneity (UNPO, 2017). In contrast to the above however, the discussion from the Twa seems to be more centred on

accessing rights and determining solutions to lived problems of exclusion or marginalisation, and less on their ability to be indigenous or not.

When it comes to other rights, such as the right to land, the analysis shows a similar conclusion, the international level of governance created strict criteria to view indigenous rights through, the international non-governmental level engaged more with the conservation aspect and the relation of indigenous peoples to their lands, rather than if the right to land was deserving. Again, at the Twa level, the elite Twa actors who engaged with indigenous rights at the international level assumed a position of indigeneity inherently and progressed directly to seek their indigenous land rights further. The international governmental level set out parameters for indigeneity and created an understanding of what it means to be indigenous and what indigenous rights might follow. The international non-governmental level looked more at how these rights might translate in real time and focused most closely on areas where these rights needed or had not been met. At the Twa level however, the discussion from those elite actors who engaged with international ideas of indigenous rights, as self-acclaimed indigenous actors suggested that they were indigenous inherently as a result of their circumstance, the problems facing them as a community, and as a result of their historical identity in the region. These actors then went on to debate the access to indigenous rights, and not their claims to indigeneity specifically. Other Twa actors who engaged in the debate at this level but did not explicitly state their indigeneity still engaged with the rights and protections afforded under international indigenous rights and seemed more interested in rights access rather than indigenous classifications.

My analysis suggests that the international construction of indigeneity is still largely contested due to the inherent tensions between nation states and self-determined indigenous groups in the region. The rule of state sovereignty and control is overarching in this level of debate, and as such all indigenous rights to be perceived at this level stay focused entirely within the understanding of the state as the unchallenged actor. The international construction from non-governmental agencies seems to most directly engage with the ideas set forth by the international governmental level but focuses on implementation and the effects of denial of these rights on groups around the world. Lastly the Twa level focuses most on how these rights should or should not apply to them, and then follows directly to their efforts to actualise these rights, or speak to these rights, at the international level. While the international system has indeed set up a framework for indigeneity and indigenous rights, the enactment of this has been fraught with rights contestation and debate around the world. As the international construction of indigenous rights is not enforceable and acts more as a framework for nation states to follow, indigenous rights are not fully protected at this level. However, this has not stopped Twa actors from engaging in the debate on international indigeneity and indigenous rights protection, or from claiming their indigeneity themselves. Whether that means this avenue will afford them these rights, or whether they will maintain a part of the global indigenous community remains to

be seen, however my research has clearly showed that they have begun the process of 'becoming indigenous' at the international level and have directly engaged with international constructions of indigeneity.

The framework of indigenesness in Africa is far from being finished and the construction of African identity and indigeneity is an ongoing debate that the Twa form one part of. Using my work and conclusions of the international understanding of indigeneity and how the Twa view themselves within this debate, further work can be done to understand how indigeneity is changing even further, and what the ramifications are for global human rights seeking. As indigenous rights shift and change in scope and access, so too must our ideas of human rights overall. Further questions can then be asked, what does the conceptualisation of indigeneity mean for non-indigenous society? How can non-indigenous society best act with indigenous society, and how best can they protect indigenous human rights around the world. We also are called to question; how best indigenous rights can be actualised. As mentioned in my work, there are many access barriers that come into play when groups in Africa attempt to claim indigeneity or to access indigenous rights. By understanding the ways that the Twa have interacted with indigeneity at the international level, we have a better understanding in the field of what barriers occur in this access, and the concepts from international constructions of indigeneity that are most important and vital to the groups on the ground. Using this understanding, we can continue to review and address at the international level where our understandings and conceptualisations come from, and how we can better actualise indigenous rights as it matters most to indigenous groups who deviate outside of the international indigenous geographical norm.

Furthermore, the field has opened in research as well, to understand indigeneity at the international level as it shifts in scope with rising environmental constraints and pressures. The issues facing many land rights areas within Twa society have all come from conservation or land ownership efforts. By making way for native plants and animals, the Twa have been denied their indigenous land rights, and face a myriad of critical dangers now themselves. As resources become scarcer or runout, as climates become increasingly uninhabitable, and as land becomes more limited, the issues surrounding the Twa's access to indigeneity and indigenous rights, alongside many other peoples and areas right now, will expand and face more and more indigenous groups as well as non-indigenous society as well. Future iterations of this research could go on to explore the specific ways Twa actors understand concepts of indigeneity on the local level looking to the dialogue happening among and between Twa actors on the ground. The concept of indigenous land rights, or indigenous rights in general will become more muddied and complicated, with more external actors at both regional and international levels coming into play and vying for resources. As states take on the mantle (mostly anecdotally) of indigenous rights efforts, the areas of concern will likely fall along these lines, of conservation, sustainability, and indigenous access to land, resources, and self-determination. The

following questions for the research must be, how do other groups neglected from this space view *their* indigeneity, what indigenous rights are not being met and are indigenous rights framed accurately for indigenous needs, and how can we ensure current and future generations the protections of indigeneity that they are in need of. The goal of human rights research, including indigenous human rights, must be for the good of people and access to these rights, and the next steps from my research will help to achieve this for indigenous peoples around the world.

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