

Customary land rights, communal land and development: The case of the Jul'hoansi and the Nyae Nyae Conservancy

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ABSTRACT One of the greatest concerns of San in Namibia revolves around land rights. The Nyae Nyae Conservancy in Tsumkwe District East of Otjozondjupa Region was the first communal conservancy of its kind in Namibia, established in 1998. In Nyae Nyae today, there are some 36 communities in an area just under 9 000 km² in extent. These communities largely consist of Jul'hoansi San. Key efforts of the Nyae Nyae Conservancy have focused on wildlife conservation, community development and land management, while also working on an ancestral land claim for the Nyae Nyae area. In this article, we draw from our anthropological and legal work to lay out some of the major challenges facing the Jul'hoansi of Nyae Nyae and elaborate on how they intersect with land matters. A major challenge to the Nyae Nyae Jul'hoansi began in April 2009 with the incursions of Herero pastoralists who brought their cattle herds into Nyae Nyae. The Nyae Nyae Conservancy and the Jul'hoansi Traditional Authority have sought the assistance of lawyers who have helped formulate an ancestral land claim which they aim to file with the Namibian High Court. By expanding on Jul'hoansi customary land rights, as well as current regulatory frameworks, we put challenges like this into a broader perspective.

KEYWORDS community; conservancy; customary land rights; Jul'hoansi; land; Namibia; Nyae Nyae

BACKGROUND

Namibia is well known internationally for its innovative conservancy-based community-based natural resource management (CBNRM) and wildlife conservation programmes (Jones 2010). Conservancies in Namibia are wildlife management institutions that were established in line with the Nature Conservation Amendment Act (5 of 1996). These institutions are local-level common property resource management bodies in communal areas which have defined memberships, constitutions, a representative committee, specified boundaries and land use plans that are developed in

communication with the Ministry of Environment, Forestry and Tourism (MEFT).

This article aims to explain the dynamics behind what is arguably one of the most successful conservation and development programmes in Namibia: the Nyae Nyae Conservancy. The Nyae Nyae Conservancy (or just Nyae Nyae) was the first communal conservancy established in Namibia in 1998 and its membership is made up largely of Jul'hoansi San; a group of indigenous former hunter-gatherers who reside both in north-eastern Namibia and north-western Botswana. They thus represent a transboundary group and, in the past,

had the right to travel back and forth between the two countries. Importantly, the Nyae Nyae Conservancy constitutes part of the Jul'hoansi San's ancestral land area. The Jul'hoansi of Nyae Nyae have long had clearly defined genealogical ties to resource areas, or *n!oresi*. Unlike other Bushman (San) people of Namibia, the majority of whom were deprived of land and dispersed as labourers on both white and black farms or in towns, the Jul'hoansi were fortunate to have maintained a substantial fragment of their former ancestral range.

Located in Tsumkwe District in Otjozondjupa Region in north-eastern Namibia (see Figure 1), the area where the Jul'hoansi reside can be classified as tree-bush savanna (Yellen & Lee 1976; Hays et al. 2014). Soils are sandy, with pockets of black cotton soil and outcrops of calcrete. In the past, the Jul'hoansi San in Nyae Nyae were mobile, moving from one residential location to another between five and 15 times a year (Lee 2016, 2018; Hitchcock 2018). Rainfall varies between 250 and 600 mm per annum, with an average of 400 mm at Tsumkwe and 560 mm at Grootfontein. Spatial and temporal variation in rainfall is substantial. Droughts are not infrequent in the Nyae Nyae area, occurring approximately two years in every five.

Geomorphological features in the northern Kalahari include undulating savannas and

grassland areas, vegetated linear sand dunes and fossil river valleys. There are also important physiographic features known locally as pans: low-lying playa-like areas that have clay bottoms where water accumulates after rains. These pans were important to the adaptations of both animal and human populations, serving as places where water, minerals and nutrients could be obtained and could serve as places that could be utilised for hunting and resource collection purposes.

In the Nyae Nyae region, there are 16 pans that were permanent, holding water throughout the year (Marshall 1976:64). In some cases, the pans are used for specialised purposes, such as ambush hunting of animals that came to them to drink and consume mineral-rich earth. In a sense, pans can be seen as 'islands' or 'oases' that are crucial to the subsistence and land use systems of the populations that utilise them. Nyae Nyae also has a community forest whose boundaries are similar to those of the conservancy itself.

Despite mainly residing in an area that is relatively rich in natural resources, the Jul'hoansi of Nyae Nyae are among the poorest people in the country (Biesele & Hitchcock 2013). Today, the Jul'hoansi number some 2 800 people and have managed their resources on a conservancy and individual community basis since the conservancy's inception. The Nyae Nyae Conservancy is the only place in

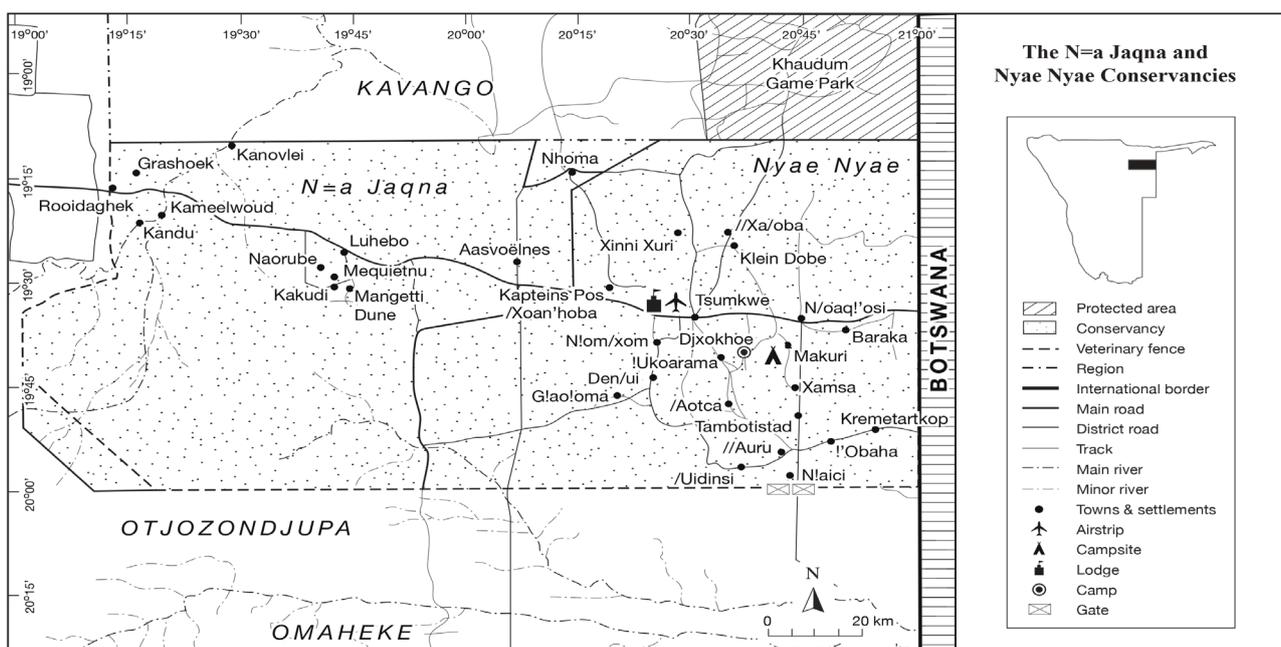


Figure 1 The location of Nyae Nyae Conservancy and N!a Jaqna Conservancy in North-eastern Namibia.

Namibia where an indigenous hunter-gatherer community has the right to hunt a specified number of wild animals for subsistence (Biesele & Hitchcock 2013).

Today, some of the income for community members comes from the exploitation, processing and sale of high value plants such as Devil's Claw (*Harpagophytum procumbens*) (Cole 2018). Another source of income, especially for Jul'hoan women, has been the manufacturing and sale of crafts such as ostrich eggshell bead necklaces and bracelets. Most of the Nyae Nyae communities have developed irrigated gardens which have helped supply some of their nutritional needs. From an economic standpoint, Nyae Nyae has been one of the more successful communal conservancies in Namibia.

While their position within Namibia's CBNRM constellation is unique and despite the relative success of the Nyae Nyae Conservancy, the Jul'hoansi of Nyae Nyae still face an array of challenges. With this article, we will illuminate the various issues that the Jul'hoansi have had to contend with since the establishment of the Nyae Nyae Conservancy. We do this by drawing on a series of individual and group interviews that took place in all 36 of the Nyae Nyae communities from 2009 to 2024.

CHALLENGES FACING THE PEOPLE OF NYAE NYAE

In many ways, the areas where the Jul'hoansi reside today are being subjected to a land rush by other groups, private companies and the state who are seeking to utilise them for purposes of grazing, resource extraction, hunting and tourism. In the face of these threats, the Nyae Nyae San are seeking to assert the politics of belonging through purposeful construction of their self-identity, documentation of their long-standing ties to the land, and public discussions and demonstrations of the innovative ways that they use and manage resources. In some cases, they are using legal strategies in their efforts to address land and resource issues.

JUL'HOANSI AND LAND ISSUES

An important action taken by the Jul'hoansi in 1990–1991 and continuing to recent years was the mapping of their traditional *n!oresi* (Vermeyleen et al. 2012; Biesele & Hitchcock 2013; Begbie-Clench 2016). According to the Jul'hoansi a *n!ore* is an area over which local people have rights of access and resource use. A *n!ore* is sometimes given a name, often related to people who lived there in the past or events that occurred in those places. Virtually all of the *n!oresi* contain natural resources upon which people depend, including water, wild plant foods and medicinal plants, trees for shade, fuel wood, and construction, and materials such as stone used in the manufacture of tools and other goods. Sizes and shapes of the *n!oresi* vary, but often they are round or elliptical in shape.

N!ore sizes vary substantially, averaging approximately 200 to 400 km² in the Nyae Nyae region (see Figure 2). The boundaries between the *n!oresi* are generally not marked, but in the past most local people were familiar with these areas and knew where their own *n!oresi* ended and where the *n!oresi* of others began. Rights to the *n!oresi* are inherited from both sets of parents (that is, bilaterally). In some cases, Jul'hoansi could gain access to an empty *n!ore* through moving in and living there, in other words, through occupation. The advantage of having the *n!ore* system among the Jul'hoansi is that it spreads people out across space, thus reducing density-dependent difficulties and facilitating management at the local level.

The management of the *n!oresi* among Jul'hoansi is done collectively, often with the involvement of *n!ore kxaosi* (land managers) (Biesele & Hitchcock 2013). These individuals usually consist of some of the older people in the group who have an understanding of the history of land use and occupancy of the areas where they live. It is these individuals who are consulted by local community members or outsiders when they want to visit a *n!ore*. The *n!ore kxaosi* are well known to the local group members as well as to other Jul'hoansi and usually to members of other groups. It is usually these individuals from whom outsiders seek permission to enter a *n!ore* and use its resources. These days, however, people more often tend to approach the Jul'hoan Traditional Authority, Tsamkxao #Oma, to ask for land, who generally

refers them to the Nyae Nyae Conservancy and the Nyae Nyae Community Forest management committees and the Otjozondjupa Regional Land Board. This is mainly because of the Communal Land Reform Act (5 of 2002) which provides guidance on the registration of customary land rights and rights of households in communal area.

The *kxal'ho* (literally, 'sand surface') represents all of the land inhabited in the past and present by the Jul'hoansi and all of its water, bush foods, game, grazing, wood, minerals, and other natural resources as well as places of historic and cultural significance (see Marshall 1976; Biesele & Hitchcock 2013). It is estimated that the Jul'hoan

ancestral territory was between 70 000 and 80 000 km² in size at one time. Today, the Jul'hoan area in Namibia is the equivalent of the size of the Nyae Nyae Conservancy, or, as noted previously, an area of about 9 000 km². What this means, in effect, is that the Jul'hoansi have a more restricted area in which to operate, and that density-dependent factors play a more significant role. This situation is exacerbated by the fact that Jul'hoan family size is growing substantially, according to numerous observers. Factors contributing to this change are the sedentarisation of the Jul'hoansi in Nyae Nyae (Draper & Howell 2006), as well as government programmes that provide N\$250 per month per child to Namibian families.

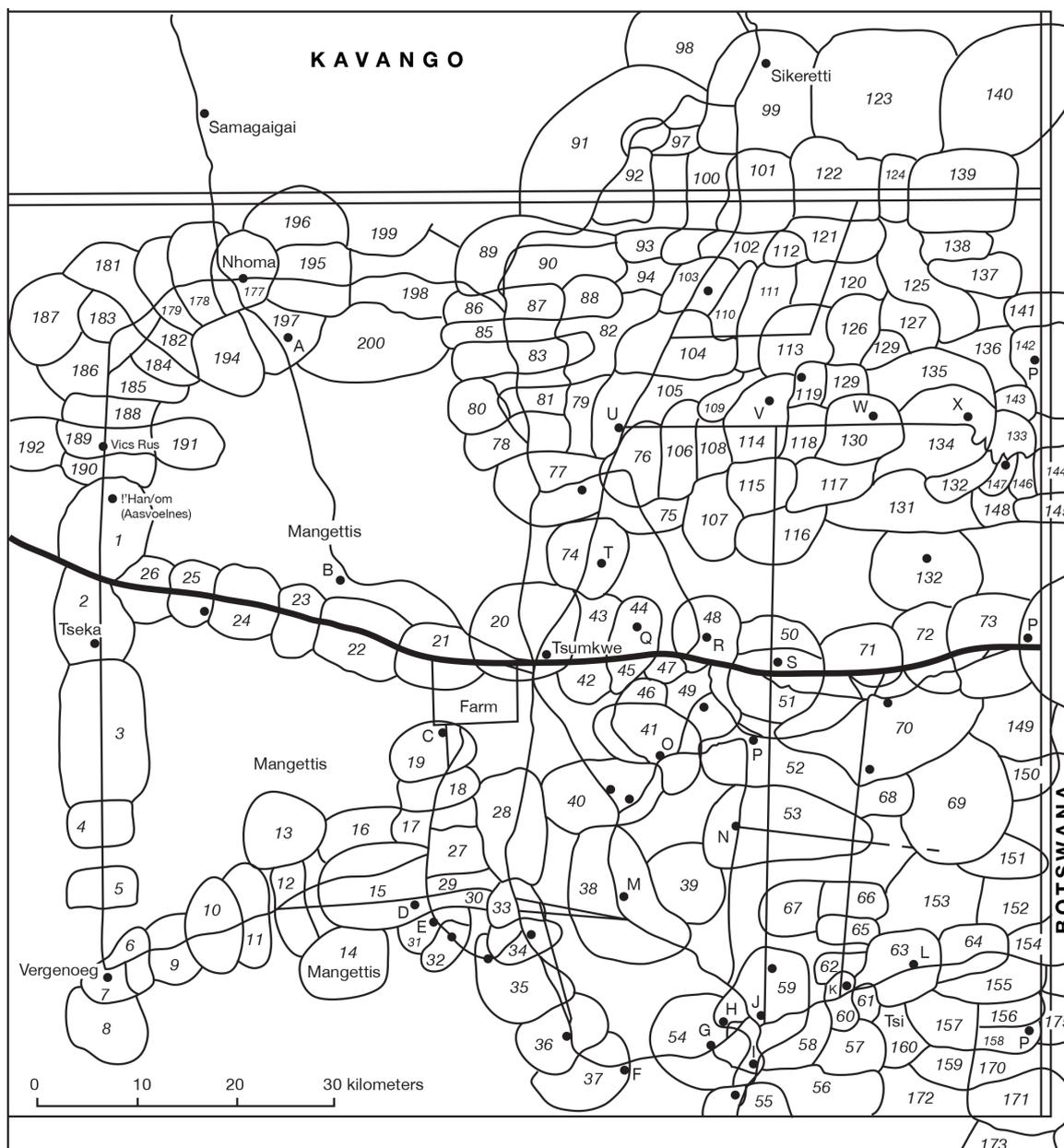


Figure 2 Map of *n'loresi* (historically honoured resource areas) in north-eastern Namibia.

Wiessner (2014) points out that in the 1990s and early 2000s “Land rights were largely maintained by social boundary maintenance, with *hxaro* (*xaro*, *haro*) partnerships giving others temporary access.” *Hxaro* is a reciprocal, delayed Jul’hoan exchange system involving goods distribution (often ostrich eggshell bead bracelets and necklaces) which link people together as partners over extensive areas. These exchanges have been reduced over time, but people retain the knowledge of their *hxaro* partners, and these links are important to mobility options available to people in Nyae Nyae.

COMMUNAL LAND AND CUSTOMARY LAND RIGHTS

In the 1980s, some of the Jul’hoansi who were living at Tsumkwe opted to move out of the government-established settlement and return to their *n!oresi* (ancestral areas) so that they could resume independent living (Marshall & Ritchie 1984; Marshall 2003). Over time, the number of Jul’hoan communities in the region expanded, reaching 36 in 2025. This process was facilitated by the Nyae Nyae Development Foundation of Namibia, a non-government organisation based both in Windhoek and in Tsumkwe.

The issue of how to handle customary land rights on communal land has been a major source of debate and concern for the people and government of Namibia since independence on 21 March 1990, and during the Conference on Land Reform and the Land Question held in June–July 1991 (Republic of Namibia 1991) and the Second Conference on Land Reform in Namibia held in October 2018 (MLR 2018; Melber 2018; Republic of Namibia 2018; Werner 2018). Under government legislation at present, all communal land in the country is state land.

Much has been written about land tenure and reform in the communal areas of Namibia, which make up approximately 36.1% of the country’s land area of 826 680 km² (Odendaal & Werner 2020; Odendaal 2024). The breakdown of land tenure categories in Namibia is shown in Table 1. When land reform discussions were initiated in Namibia, concerns were raised immediately about the potential impacts on the poor. Some of the first people to speak out about the impacts of land reform were members of rural minority groups, including the Jul’hoansi San who attended the First Land Reform Conference in 1991 (Biesele & Hitchcock 2013). As noted previously, the Jul’hoansi San of the Nyae Nyae region represent one of the few African indigenous peoples who have been able to retain a relatively significant portion of their ancestral land. They have been able to do this through careful management of their natural resources and the land where they live, and through extensive participation in government policy debates and initiatives. Some of the land management activities include the establishment of settlements some distance from one another, the limits on exploitation of wildlife and plant resources as they became increasingly scarce and the replanting of high value plants. Some of the efforts to retain the land have been done in conjunction with anthropologists and lawyers.

The Jul’hoansi historically were egalitarian and their politics were based on consensus (Marshall 1976). Leaders were individuals who had substantial knowledge of their areas (*n!ore kxausi*). Leadership qualities that were reinforced at the community level consisted of self-effacing behaviour, openness to others, willingness to share goods and services, and the possession of historical and social knowledge. Some individuals who were influential at the local level included successful

Table 1 Land tenure zoning in Namibia.

| Land tenure category | Size (km ²) | Percentage of the country |
|---|-------------------------|---------------------------|
| Communal land | 298 200 | 36.1 |
| Commercial land (freehold) | 356 700 | 43.1 |
| Conservation area (parks and game reserves, etc.) | 116 000 | 14.0 |
| Other government and parastatal uses | 32 400 | 3.9 |
| Urban usage | 7 200 | 0.9 |
| Other uses | 16 180 | 2.0 |
| Total | 826 680 | 100.0 |

Note: Data obtained from the Ministry of Environment, Forestry and Tourism (MEFT), and the Government of the Republic of Namibia; See also Republic of Namibia (2017), NSA (2018).

hunters or orators, while others were individuals who had notable abilities to resolve conflicts between individuals or groups. A term that some Jul'hoansi used for 'leader' was //kaiha (Hitchcock & Biesele 2013; Hays & Hitchcock 2020).

The Jul'hoansi were among the first San group in Namibia to get a Traditional Authority (TA) status (a government-recognised leadership position), from the Namibian government (Republic of Namibia 2000). The Traditional Authority has a land allocation role in line with the Communal Land Reform Act (5 of 2002). Tsamkxao #Oma was appointed in 1998 as the Traditional Authority for the Jul'hoan people. Tsamkxao was well known in Namibia for his three-minute-long presentation on the Jul'hoan *n!ore* system at the National Conference on Land Reform and the Land Question in Windhoek in July of 1991 which received a standing ovation. Today, the Jul'hoan Traditional Authority (JUTA) plays an important role in the management of the Nyae Nyae region.

COMMUNAL LAND AND CONSERVANCIES

In late April 2009, a group of Herero pastoralists invaded Nyae Nyae Conservancy with over a thousand head of cattle. Following this invasion, the government intervened and confiscated these cattle a month or so later. In response, the pastoralists sued the government, were awarded a financial settlement, and proceeded to purchase more cattle, while still remaining in Tsumkwe (Hays 2009; Begbie-Clench 2016; Hitchcock 2018).

Despite numerous efforts by the JUTA and the Conservancy's management committee to seek redress, the situation remains unresolved, while the number of cattle within Tsumkwe Municipality has continued to grow. This expansion in livestock numbers is not only due to the accumulation of cattle by the initial group of invaders, but also due to local Jul'hoansi obtaining cattle through initiatives run by the Nyae Nyae Development Foundation of Namibia, as well as through self-purchase. The lack of legal repercussions following the invasion has contributed to a wider sense of impunity. Through the continued rise in cattle numbers, many of the Jul'hoansi *n!oresi* are facing increased competition for grazing.

In February 2018, Chief Tsamkxao #Oma issued letters to some of the original invading pastoralists, demanding they report to the Traditional Authority's office within 30 days to justify their continued occupation of the Nyae Nyae Conservancy with their livestock. Despite personal delivery by the secretary, Kallie Kallie N!ani, the pastoralists failed to respond. Consequently, the JUTA sought an interdict from Namibia's High Court in 2018 to prevent some of the identified livestock owners from engaging in the illegal grazing of animals, and evicted their livestock.

The Nyae Nyae Conservancy continues to focus on maintaining wildlife and plant resources in the area, and the land use plan allows for only a small number of cattle, in order to allow space for wildlife to thrive and move freely. Conservancy members agreed upon this land use plan with the government, understanding that their land rights are protected under Namibian law. This land use prioritisation is rooted in the historical dependence of Jul'hoansi on wildlife - something many Jul'hoansi community members would also like to pass on to future generations.

However, since the incursions of the Herero pastoralists, a reduction in usable plant and wildlife species has been observed. This has seriously affected subsistence hunting and the gathering of useful plants and other resources that people rely on. For instance, there has been a marked decline in traded plants, especially around Tsumkwe (Hitchcock 2015; Cole 2018).

The Nyae Nyae community has rights to the wildlife and plant resources according to Namibian law. Wildlife is covered under the Nature Conservation Amendment Act (5 of 1996), and plants are covered under the Forest Act (12 of 2001) and legislation dealing with community forests. According to the Nyae Nyae Conservancy and the JUTA these rights are being violated. It is for this reason that the Jul'hoansi have sought to file an Ancestral Land Claim (Odendaal 2024), which is still in progress. There are, however, both Jul'hoansi and Herero efforts to make claims to Nyae Nyae.

In 2018, there was a formal application from the Jul'hoansi seeking land rights in Nyae Nyae. However, the application was struck off the roll due to procedural errors (Odendaal 2024).

Devastated by this outcome, the applicants lodged an appeal, but it was not placed on the Supreme Court Roll and was later withdrawn after waiting for almost two years after unanswered letters to the Registrar. A renewed application was made in 2025, which is being brought to the High Court.

LIVELIHOODS AND BELONGING IN NYAE NYAE

One of the primary sources of income for the Nyae Nyae Conservancy is tourism. Tourists who enter Tsumkwe are supposed to stop at the Conservancy headquarters and pay a fee, though in practice this does not always occur. Some communities have their own tourism camps where they encourage tourists to stay, two examples being Makuri and //Ao//oba. There is growing competition among various Nyae Nyae communities for tourists to come there, which is causing some social tensions. According to the Nyae Nyae Conservancy and the Namibian Association of Community-Based Tourism Organisations, the Nyae Nyae Conservancy made around N\$7 million in 2023 and 2024.

Mining activities have had relatively minimal impacts in Nyae Nyae, at least from an environmental standpoint. Some two dozen Jul'hoansi were employed by Mt. Burgess Mining in the early part of the new millennium and the money they received helped not only families but also communities (Wiessner 2014). However, they do feel that if an economically significant mineral is discovered, they will be required to move out of the area where the mine will be, thus further reducing their land and resource access. Table 2 presents data on infrastructure, rangelands, and agriculture to help assess the status of Nyae Nyae communities (NNDFN 2017, 2018).

A constraint in the area south of the Nyae Nyae Conservancy is the presence of plants poisonous to cattle, notably *Dichapetalum cymosum* or *gifblaar* which may have contributed to the decision of Herero farmers to cross the Veterinary Cordon Fence and occupy some of the communities in Nyae Nyae. As of July 2025, there were 36 communities in the Nyae Nyae Conservancy area, all of which have water points that are protected from elephants and other wild animals. There are approximately 80 gardens in the Nyae Nyae communities, all of which are fenced, and the

majority of which have piped water (Jennifer Hays, Willem Odendaal, personal communications, January 2025). The communities themselves consist of a number of residential compounds, some of which are fenced, and in several cases agricultural fields which are on the peripheries of the communities.

Jul'hoansi say that they belong to this land and often refer to their land as their 'mother.' They also emphasise that they have emotional and spiritual attachments to their lands and to places and resources on their lands. Both Jul'hoansi and Herero have been excluded from the territories that they once occupied, and they have suffered at the hands of other groups. Both the Jul'hoansi and Herero are using political strategies to argue for their rights to land and resources. Both groups are attempting to avoid conflict and are seeking non-violent ways to resolve their problems. Around fires at night, the Jul'hoansi speak respectfully if cautiously about their interactions with the Herero.

According to Wiessner (2014), four per cent of conversations around the fire during the day address land rights. In individual interviews and group discussions Jul'hoansi acknowledge the presence and the social, economic and political significance of the Herero. Some Jul'hoansi argue that they and the Herero are 'one people, bound by their histories.' Others, however, emphasise how different the Jul'hoansi and Herero are and how in many ways they are competing for some of the same land, water and grazing.

Many Jul'hoansi see themselves as tied to all the people of Namibia not just as citizens of the country but as 'ones who belong.' They feel that they are residents of the places where they reside (even if they have moved from other locations). They believe strongly that they deserve to be consulted freely and openly about the plans that government, private companies, non-government organisations and individuals have for their areas. One of the arguments that some Jul'hoansi have made is that they live 'sustainable' lives, and that they work hard to ensure that the resources of their areas are not over-exploited.

The Jul'hoansi say that they belong not just to nature but to society. They insist that they not be associated with the colonial trope of "Naturvölker".

At the same time, the Jul’hoansi understand the limitations of the concept of ‘indigeneity’ and have argued that they are citizens of Namibia and therefore have rights equal to other citizens. They want to take full advantage of the benefits of modernity and development, while at the same time protecting and promoting their languages and cultures and passing their cultural heritage, traditions, and values along to their children. The Jul’hoansi also want to have both their collective and individual rights recognised.

Some Jul’hoansi also stress that the *kxalho*, which they see as ‘the landscape of home’, is under threat, and they want to ensure that they are able to regain access to lands and resources that have been lost in the past. Filing legal cases and seeking answers from regional and central government authorities, show the degree to which the Jul’hoansi and their neighbours want to defend their areas from outsiders and to reinforce their control over their land and resources. The San want to establish what they see as their customary rights to communal

Table 2 Nyae Nyae Village water facilities, gardens, livestock, rangelands, and practicing of conservation agriculture.

| District | Village | Pump | Protected | Water tank capacity (l) | Garden | Livestock | Rangeland | Conservation agriculture |
|----------|---------------|---------------|-----------|-------------------------|--------|------------------|-----------|--------------------------|
| North | #omlolo | Submersible | Yes | 10 000 | Yes | Cattle | Yes | Yes |
| North | /Xaloba | Submersible | Yes | 5 000 | Yes/f | goats | No | No |
| North | Octagai | Submersible | Yes | 5 000 | Yes | Cattle | No | No |
| North | #abacea | Diesel lister | No | 5 000 | No | No | No | No |
| North | Gloaguru | Submersible | Yes | 15 000 | Yes | Cattle | No | No |
| North | De#ua | Submersible | Yes | 15 000 | Yes/f | Cattle | Yes | No |
| North | Mooiplaas | - | - | - | - | - | - | - |
| Central | Makuri | Submersible | Yes | 15 000 | Yes | Cattle/goats | Yes | Yes |
| Central | Djoekwe | Submersible | Yes | 10 000 | No | Cattle | Yes | No |
| Central | !Aola | Submersible | Yes | 10 000 | Yes | Cattle | Yes | Draught animal |
| Central | N#animh | Submersible | Yes | 10 000 | Yes | No | No | Yes |
| Central | Nloaghosi | - | - | - | - | - | - | - |
| Central | Baraka | Submersible | Yes | 10 000 | No | Cattle (?) | No | No |
| Central | Ben se Kamp | Lister diesel | Yes | 15 000 | Yes | Cattle/goats | No | No |
| Central | Mountain pos | Submersible | Yes | 10 000 | Yes | Cattle | Yes | No |
| Central | Dou pos | Submersible | Yes | 15 000 | Yes/f | Cattle/goats | Yes | No |
| Central | UUKoroma | Submersible | Yes | 10 000 | Yes/f | Cattle | Yes | No |
| West | Duin pos | Submersible | Yes | 10 000 | Yes | No | No | Yes |
| West | Kaptein pos | Submersible | Yes | 10000 | Yes | Cattle | Yes | No |
| West | Apel pos | Submersible | Yes | 25 000 | Yes | Cattle | No | No |
| West | Routs pos | Lister diesel | Yes | 5 000 | Yes/f | No | No | No |
| West | N!omxom | Submersible | Yes | 5 000 | No | No | No | No |
| West | Denui | Submersible | Yes | 10 000 | No | No | No | No |
| West | Eagle pos | Submersible | Yes | 12 500 | Yes | Cattle/goats | Yes | Yes |
| West | Gaogoma | Submersible | Yes | 15 000 | Yes | Cattle/goats | Yes | Yes |
| West | Namtjoha | Submersible | Yes | 10 000 | Yes | Cattle | Yes | No |
| South | //Auru | Submersible | Yes | 12 500 | Yes | No | No | No |
| South | N#ama pan | Submersible | Yes | 10 000 (?) | Yes? | Goats/cattle (?) | No | No |
| South | Magamis | Submersible | Yes | 7 500 | Yes/f | Cattle | No | No |
| South | N!aici | - | - | - | - | - | - | - |
| South | /Aocha | Submersible | Yes | 5 000 (?) | Yes | Cattle/goats | Yes | No |
| South | Aha mountains | Submersible | Yes | 7 500 | Yes | No | No | No |
| South | Lobaha | Submersible | Yes | 10 000 | Yes | Cattle | Yes | No |
| South | Nama | Submersible | Yes | 7 500 | Yes | No | No | No |
| South | #Abace south | Submersible | Yes | 5 000 | Yes | Cattle | No | No |
| South | Paradize | Submersible | - | - | - | - | - | - |
| South | //Ari-G//aona | No water yet | - | - | - | - | - | - |

Note: Data obtained from the Nyae Nyae Development Foundation (NNDNFN) in Windhoek, Namibia (December 2018); f = non-functional gardens.

land, land which they feel belongs to them and has since, as they put it, 'time immemorial'. Some of them also argue that the communal land should be designated as commercial, and that their land rights be defined legally which will allow them to 'own' the land and to be able to pass the land on to their descendants.

CONCLUSIONS

We have described several issues that affect the people of Nyae Nyae and conservancies in general in Namibia. The subsistence and land rights of one ethnic group in Namibia should not be held up against the rights of another ethnic group that has also been historically marginalised. A solution should be found that preserves the rights of all groups of people. This means that fully maintaining the rights of the Jul'hoansi while also seeking a solution for the Herero and other farmers in Nyae Nyae is crucial. Most Jul'hoansi feel that they have the same rights as the Herero and that both should be respected.

It is crucially important to look at the way that the Jul'hoan San are actively negotiating their circumstances, especially with respect to land and resources. Jul'hoansi have had a significant measure of success negotiating their rights. They have done this in part through taking part in regional, national and international meetings and discussions and presenting their case and describing in detailed terms their land and resource management systems. They can enforce their rights through various laws, such as the Nature Conservation Amendment Act (5 of 1996), the Communal Land Reform Act (5 of 2002), and the Traditional Authorities Act (25 of 2000). However, the Jul'hoansi need to become more aware of their constitutional and statutory rights. Knowledge alone is not enough, the rights should be enforceable too, and for that, they need strong institutions, but also government institutions that respect and understand the law.

A delegation of Jul'hoansi has attended the United Nations Permanent Forum on Indigenous Issues (UNPFII) meetings in New York and meetings held by the Marginalized Communities Division of the Government of Namibia. They have held local meetings in which matters of land rights and land management are discussed in detail. A key concept

mentioned at these meetings revolves around *n!ore* rights.

In some ways the development work that has taken place in Nyae Nyae has been innovative and a model example of what development programmes should be. At the same time, there have been some difficulties, not least, ensuring a viable local economy for the Jul'hoansi (Biesele & Hitchcock 2013; Odendaal 2024).

The establishment of the Nyae Nyae Conservancy and the preservation of some of the land and natural resource base of the Jul'hoansi is a remarkable example of how development and applied anthropology can help promote local level development. Indigenous people in Namibia and around the world can learn a great deal from what has transpired in the Nyae Nyae region of Namibia.

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