

INDIGENOUS PEOPLE AND HUMAN SECURITY: THE CASE OF OGIEK COMMUNITY IN KENYA*

YERLİ HALKLAR VE İNSANİ GÜVENLİK: KENYA'DAKİ OGIEK TOPLULUĞU ÖRNEĞİ

Buket ALTINÇELEP**

Abstract: One of Kenya's indigenous people, the Ogieks have a long history of struggle and resistance to preserve their land, means of subsistence, identity, and cultural distinctiveness. Ogieks were able to protect their land rights through the African Court on Human and Peoples' Rights in 2017. In this regard, this article examines the Ogiek's case, providing a brief overview of its historical background, the judicial procedures, and a critical analysis utilizing a human security perspective based on global governance. Consequently, the purpose of this study is to respond to the question, "how does the application of a human security approach within global governance contribute to our understanding of the challenges faced by indigenous communities in the chosen case?". As such, the Ogiek case aims to serve as a lens through which to examine the applicability of human security strategies in preserving the rights and general welfare of indigenous populations.

Key words: Ogiek, human security, indigenous rights, land rights

Öz: Kenya'nın yerli halklarından olan Ogiekler, topraklarını, geçim kaynaklarını, kimliklerini ve kültürel özgünlüklerini koruma mücadelesi ve direniş geçmişine sahiptir. Ogiekler, toprak haklarını 2017'de Afrika İnsan ve Halkların Hakları Mahkemesi aracılığıyla koruyabildiler. Bu kapsamda, bu makale Ogiek vakasını inceleyerek, tarihsel arka planını, yargı süreçlerini ve küresel yönetim temelli bir insan güvenliği perspektifinden yapılmış eleştirel bir analizi sunmaktadır. Bu çalışmanın amacı, "küresel yönetim içinde insan güvenliği yaklaşımının, seçilen vakadaki yerli toplulukların karşılaştığı zorlukları anlamamıza nasıl katkı sağladığı?" sorusuna yanıt vermektedir. Bu sebeple, Ogiek vakası, insan haklarını ve yerli nüfusun genel refahını korumada insan güvenliği stratejilerinin uygulanabilirliğini incelemek için bir lens olarak hizmet etmeyi amaçlamaktadır.

Anahtar Kelimeler: Ogiek, insani güvenlik, yerli hakları, toprak hakları

1. Introduction

Ogieks are one of the indigenous communities in Kenya that have a long history of resistance and struggle aimed at sustaining their land, livelihoods, identity and cultural distinction. Within this framework, in 2017, Ogieks managed to secure their land rights via African Court on Human and Peoples' Rights. In this regard, this essay will examine the Ogiek's legal case, briefly covering its historical context, the legal proceedings, and a critical analysis using a human security approach. Thus, this paper aims to answer "how does the application of a human security approach

* Geliş Tarihi: 30.11.2023, Kabul Tarihi: 22.12.2023. DOI: 10.54132/akaf.1398125

**Araştırma Görevlisi, Boston Massachusetts Üniversitesi Global Governance and Human Security, e-mail: baltincelep@gmail.com, ORCID: 0000-0001-9539-2809

contribute to our understanding of the challenges faced by indigenous communities in the chosen case?” Within this framework, first, this essay will give a brief overview of the historical background of the indigenous people and then address the Ogiek community. Then, this essay will provide the concept of human security along with explaining global governance. Lastly, Ogiek’s case study will then be discussed through the lens of the human security approach with five identified characteristics.

2.Methodology

In this paper, a qualitative analysis highlights the connection between indigenous people’s land rights and human security. Employing the UNDP’s 1994 Human Development Report (HDR) as an analytical framework, the study categorizes its outputs into five distinct variables, applying them to illuminate the Ogiek case. Besides, the analytical framework does not prioritize any specific characteristics within the human security paradigm and therefore it uses nominal variables to construct a more inclusive understanding. This study, which is positioned as descriptive research, highlights the need of investigating various social organization and political decision-making processes beyond the authority of the state. Overall, this article claims that the understanding of the many dynamics present in case studies requires the adoption of a human security perspective, which enhances comprehension of both subnational and supranational concerns.

3.Historical Background: Indigenous People in Kenya

Kenya’s past is characterized by colonization, when the British Empire took over in the late 1800s (Hornsby, 2013). Following its 1963 declaration of independence from British Empire, Kenya has faced opportunities as well as challenges in a number of areas, including government, the economy, and human rights (Hornsby, 2013). Especially land ownership and resource distribution witnessed substantial changes during the colonial era, which had long-lasting effects on Kenya’s indigenous populations (Hornsby, 2013: 757). While there is not a formal list of ethnic groups in Kenya, the number of ethnic categories and subcategories included in the nation’s population has varied over time, rising from 42 in 1969 to over 120 in 2019 (International Work Group for Indigenous Affairs [IWGIA], 2022: 7). Many pastoralist and hunter-gatherer societies among them claim to be indigenous peoples (IWGIA, 2022: 7). Kenya’s population is primarily rural, with sizable concentrations found along the coast around Mombasa and in the Highlands and Rift Valley surrounding the towns of Nairobi and Kisumu (IWGIA, 2022: 7). Kenya’s indigenous population include pastoralists like Endorois, Turkana, Maasai, and Samburu, as well as hunter-gatherers like Ogiek, Sengwer, Yaaku Waata, and Sanya. A quarter of the country’s population is thought to be pastoralists, and there are about 79,000 individual hunter-gatherers in the biggest group (IWGIA, 2022: 7). The majority of hunter-gatherer communities are found around rivers and lakes, in the coastal regions, and in the wooded Highlands (IWGIA, 2022). They used to hunt, fish, gather honey and other forest items (IWGIA,

2022: 1). Pastoralist communities are found in arid and semi-arid lands, which make approximately 84% of the country's geographical area (IWGIA, 2022: 1). Their sizes, cultures, and identities are different (IWGIA, 2022: 6). Because of their past experiences with marginalization and discrimination, indigenous peoples continue to face economic marginalization and socio-political exclusion (IWGIA, 2022: 6). Land dispossession is another long-standing issue facing indigenous peoples (IWGIA, 2022: 9). The reasons for this dispossession include development, agriculture, preservation of the environment, military goals, and the perception by policymakers that the indigenous ways of life were archaic and detrimental to the environment (IWGIA, 2022: 9). The Ogieks¹ are one of the indigenous communities who experience these dispossessions, finding themselves endangered in terms of their survival and human security in the pursuit of economic development and prosperity (Koech and Simiyu, 2023: 305). In this regard, the Mau Forest and the role of Ogieks will be examined in the next section.

4.Mau Forest

The Mau Forest, which covers 900 km², is made up of six distinct satellite forests and sixteen connected forests (Klopp and Sang, 2011: 125). They comprise the biggest remaining indigenous forest in East Africa and together they form a single ecosystem (Klopp and Sang, 2011: 125). The Mau Forest complex is extremely significant because it acts as a reservoir for rivers west of the Great Rift Valley, even though less is known about it compared to many other East African forests (Klopp and Sang, 2011: 125). Critical ecosystem services are supplied by the Mau Forest to both Kenya and the surrounding region (Klopp and Sang, 2011: 125-126). These include of controlling river flow, preventing floods, storing water, decreasing soil erosion, promoting biodiversity, sequestering carbon, creating a carbon reservoir, and controlling microclimates (Klopp and Sang, 2011: 133). The Ogiek people, who have been hunting and gathering in the forest since long before colonization, also call the Mau home (Kimaiyo, 2004). The nearby populations also depend on the forest for their food, medicine, grazing grounds, water, and firewood. The forest is vital to Kenya's tea, tourism, and energy sectors, according to the Kenyan government and the United Nations Environment Programme (Force, 2009: 16). According to one estimate, the eco-services of the Mau provide about 35,000 employments in the tea industry alone, supporting the livelihoods of 50,000 small farmers and their 430,000 dependents (Force, 2009: 15-16). Accordingly, there would be profound cultural, social, and economic repercussions if the Mau were destroyed (Klopp and Sang, 2011: 126). The nearby populations also depend on the forest for their food, medicine, grazing grounds, water, and firewood. Accordingly, there would be profound cultural, social, and economic repercussions if the Mau were destroyed (Klopp and Sang, 2011: 126).

¹Some resources also refer it as "Okiek", in this essay the term "Ogiek" will be used for this community.

5. Ogiek People in Kenya

The Ogieks² are a tribe of at least 33 indigenous groups who live in Kenya's highland forests, notably Mou forest (Blackburn, 1982: 285). They are mostly wild fruit and root gatherers who also engage in traditional beekeeping, game hunting, and honey gathering (Claridge, 2017: 3). Besides, in Kenya, the Ogieks are the guardians of the ecosystem that sustains them and have lived in Kenya's Mau Forest since the beginning of time (Claridge, 2017: 3). Their distinct style of living is particularly suited to the wilderness (Claridge, 2017: 3). According to them, the Mau Forest serves as the community's home, place of education, cultural identity, and way of life, giving it a feeling of pride and purpose (Claridge, 2017: 3). Although the Ogieks have traditionally relied on the Mou forest for their livelihood, they have long faced difficulties asserting their land rights (Claridge, 2017: 3). Thus, the Ogiek people have experienced persistent denials and disregards about their rights to their traditionally held lands (Claridge, 2017: 3). The Kenyan government has frequently forced the Ogiek from their ancestral land without consulting or compensation since the country's independence, and even before (Claridge, 2017: 3). Without giving the Ogiek any share in the profits, the government has given land to other companies, including political supporters, and allowed substantial commercial logging to occur (Claridge, 2017: 3). The combination of these activities has threatened the Ogiek people's basic existence by preventing them from living according to their traditional hunter-gatherer lifestyle (Claridge, 2017: 3). Within this framework, the Ogieks have been unable to carry out their traditional religious and cultural rituals since they were driven from their ancestral homeland and denied entry to their home (Claridge, 2017: 3). The Ogiek have filed numerous lawsuits against the Kenyan government in the last 50 years, claiming that they have been treated unfairly and, most importantly, that their property has been illegally taken from them. (Kimaiyo, 2004). In this regard, October 2009 was a turning point for Ogieks because Ogieks and other settlers in the Mau Forest were given a 30-day notice to evacuate the area by the Kenyan government, acting through the Kenya Forestry Service. (Claridge, 2017: 4). After numerous national legal actions and advocacy campaigns failed to address the historical land injustices already experienced, the Ogiek people decided to file a case against their government to the African Court on Human and Peoples' Rights with the support of two non-governmental organizations, the Center for Minority Rights Development, and Minority Rights Group International (Claridge, 2017: 3-4).

² According to some sources, the Ogiek are mostly referred to in literature as the "Dorobo," a general term that comes from the Swahili word "Wandorobo," which is derived from the Maasai word "Il Toroboni," which refers to a person who is so impoverished that the individual has no cattle and must therefore survive on wild meat (Blackburn, 1982: 283). Thus, the Maasai, early Swahili traders, and later Europeans used the phrase indiscriminately (Blackburn, 1982, p. 283). On the other hand, the word "Ogiek" means "caretaker of all plants and wild animals" (Claridge, 2017: 3).

6.Ogiek vs Kenyan Government: African Court on Human and Peoples' Rights

In this section, Ogiek people's court process will be explored. Prior to that, a brief explanation of African Court on Human and Peoples' Rights, the concepts of indigenous people and land rights will be provided.

6.1. African Court on Human and Peoples' Rights

In 1986, the African Commission³ was established and the African Charter on Human and Peoples' Rights came into effect, establishing the African human rights system (Rösch, 2017: 244). The institutional structure has gotten bigger and bigger ever since (Rösch, 2017: 244). The Additional Protocol on the establishment of the African Court on Human and Peoples' Rights came into effect in 2004 after other Protocols had been signed (Rösch, 2017: 244). There are many claims that are deemed inadmissible before the African Court due to the rather convoluted connection between the African Commission and the African Court (Rösch, 2017: 244). The African Commission is quasi-judicial body that has the authority to hear "other complaints" including complaints from the government (Rösch, 2017: 244). Every member state of the African Union (AU) acknowledges the Commission's competence (Rösch, 2017: 244). Because just thirty of them have ratified the Protocol on the formation of the African Court, the African Court is not as recognized (Rösch, 2017: 244). The Protocol provides that communications from the African Commission, member states, and African intergovernmental organizations may be received by the African Court (Rösch, 2017: 244). Furthermore, nations may submit a declaration permitting individual and non-governmental organization complaints in accordance with Articles 5(3) and 35(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (Rösch, 2017: 244).

On the other hand, there is an essential point on the African court to be addressed (Open Society Justice Initiative [OSJI], 2023). Following the formation of the African Court on Human and Peoples' Rights, member states falling under its authority are required to abide by the Court's rulings in any case in which they are parties, within the time frame specified by the Court. Ensuring that the Court's rulings are carried out is another duty of the states. In accordance with Article 31 of the Protocol, if a State does not comply, this noncompliance is reported in the Court's report to the Assembly

³ "The Commission began operating in 1987 with a broad mandate, including the promotion and protection of human rights, the interpretation of the Charter and any other task entrusted to it by the Assembly of Heads of State and Government. In terms of its promotional mandate, the Commission has the power to collect documents, undertake studies and research, organize seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights and, should the case arise, give its views or make recommendations to governments. It also has the power to formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms and to cooperate with other African and international institutions concerned with the promotion and protection of human and peoples' rights" (Bekker, 2007: 156).

(OSJI, 2023).

The Protocol creating the African Court has been approved by most States, however the rulings of the African Court are not widely enforced. States have frequently postponed implementing court-ordered remedies for human rights violations. The political authorities of the African Union have not taken sufficient initiative to guarantee that State acts rapidly implement, binding in nature, court rulings. In response to the Court's decisions, a few States withdrew their declarations. In response to the Court's decisions, a few States withdrew their declarations; Rwanda in 2016, Tanzania in 2019, and Benin and Cote d'Ivoire in 2020. For the people in question who were denied access to a legal remedy that they had already been given, as well as for the preservation of human rights throughout the continent, these developments to the Court itself represent serious setbacks (Why the African Court, 2023).

6.2. Concept of Indigenous People in Africa

Given that the transnational indigenous movement began in the Americas and that African experiences have long been neglected, the idea of being indigenous is more contentious in Africa than it is in other parts of the world (Ndahinda, 2011: 59). Indigenous rights were gradually introduced to Africa by local African communities and non-governmental organizations starting in the late 1980s, which helped to establish their acceptance at the national and regional levels (Rösch, 2017: 246). The African Commission formerly opposed the need for a legal protection system for indigenous populations, reflecting the tendency of many African nations to reject the concept of indigenous rights (Davis, 2008: 18). Their main concern is that the idea would favor some ethnic groups over others and encourage secession. Nonetheless, various scholars and communities disagree with the idea, arguing that it perpetuates colonial prejudices and is an "artificial construction" of Africa (African Commission on Human and Peoples' Rights, 2005: 86). The African Commission's Working Group on the Situation of Indigenous Populations/Communities in Africa was founded in 2003 in response to the continuing discussions around indigenism (Rösch, 2017: 246). It takes on three roles: developing an African definition of indigenism, investigating how the African Charter affects indigenous peoples, and formulating suggestions for the monitoring and protection of indigenous peoples' rights (Rösch, 2017: 246). As a result, it is central to the discussion of indigenous rights within the African human rights framework and actively engages in partnerships with non-governmental organizations and indigenous groups (Mukundi Wachira/Karjala, 2011: 401).

6.3. Right to Land in Africa

Land assumed a central role in the Ogiek case. While the indigenous right to land is recognized by International Labor Organization (ILO) Convention 169 and

the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the African Charter does not explicitly contain a right to land, neither individually nor collectively (Rösch, 2017: 251). In the African human rights system, it has been derived in three different ways: from the right to property (Article 14), the right to practice religion (Article 8) and the right to culture (Article 17) (Rösch, 2017: 251). The African Court discussed it mainly as a derivative of the right to property (Article 14), but different aspects of the right to land also reappeared in relation to other rights (Rösch, 2017: 251). Thus, it is thus not very surprising that the African Court aligned itself to the African Commission's position (Rösch, 2017: 253). It derived a communal right to land from the right to property by interpreting the African Charter in the light of the UNDRIP. (Rösch, 2017, p. 253). Article 14 can thus be both an individual and a collective right (Rösch, 2017: 253). Restrictions are only allowed in the public interest or in the interest of the community and in conformity with national legislation (Rösch, 2017: 253)

6.4.Ogieks vs Kenyan Government

The Ogieks have been fighting for their land since the 1960s (Rösch, 2017: 245). In October 2009, the Kenyan Government issued a 30-day evacuation notice to the Ogiek community for forest protection reasons, further exacerbating the situation (Rösch, 2017: 245). In the next month, two non-governmental organizations (NGOs) representing the Ogiek community in the Mau Forest, the Centre for Minority Rights Developments (CEMIRIDE) and Minority Rights Group International (MRGI), filed a complaint to the African Commission on Human and Peoples' Rights (Rösch, 2017: 245). In 2012, the African Commission on Human and Peoples' Rights transferred the case to the African Court on Human and Peoples' Rights in accordance with Article 84 of the Rules of the African Commission because the Kenyan government disregarded the African Commission's directive for provisional measures (Rösch, 2017: 245). The eviction was severe enough to potentially violate the Ogiek people's rights to property and development, among other things, and the African Court issued an order of provisional measures in 2013 in response to a directive from the Kenyan government amending the country's land legislation against the Ogieks (Rösch, 2017: 245). Nothing came of the Court's Protocol's Article 9's peaceful resolution procedure (Rösch, 2017: 245). Later, in May 2017, The African Court declared that there had been violations of the following rights: the right to property (Article 14), the right to culture (Article 17(2) and (3)), the right to development (Article 22), the freedom to profess religion (Article 8), the right to non-discrimination (Article 2), and the right to natural resources (Article 23) (Rösch, 2017: 245). As a result, the Kenyan government has to take the necessary action (Rösch, 2017: 245). In July 2020, during the COVID-19 pandemic, the Kenyan government evacuated Ogiek people from Eastern Mau, notwithstanding the victory (Chebet, 2023). This move received harsh condemnation from both domestic and international groups (Chebet, 2023). Two years later, The African Court on Human and Peoples' Rights declared on June 23, 2022,

that the Kenyan government must acknowledge the Ogiek's indigeneity, assist them in obtaining legal rights to their ancestral lands, and compensate them 157,850,000 shillings for decades of material and moral losses (Lee, 2022).

7.Human Security Approach

7.1.Review of Human Security

The concept of "human security" states that the primary goal of both domestic and international security strategies should be ensuring the safety of human lives (Bajpai, 2003). It stands in contrast to and developed from growing discontent with the state-centered conception of security as a conceptual framework for comprehending contemporary human vulnerabilities and military actions as well as suitable responses to them. (Bajpai, 2003).

Utilization of the idea has expanded since the mid-1990s. (Gasper 2010). Although it was first mostly used in relation to state policies and the search for new international security and development agendas following the end of the Cold War, civil society organizations are increasingly using it to advocate for policies on a wider range of current issues, such as migration, climate change, and civil war (O'Brien et al, 2010; Gasper 2010). Research and degree programs in human security have been developed by academic institutions (e.g., University of Massachusetts Boston and University of Tokyo). However, the concept of human security is problematic. Its concept has been given many different forms, and there have been several attempts to develop related international agendas. There have been disagreements over attempts to institutionalize human security at the UN and advance it as a foreign policy tool for governments (Parr and Messineo, 2012: 2). A substantial body of literature has been produced that either explains, defends, or challenges the concept's meaning. It allows for new perspectives and offers voice to new actors. Its emphasis on people and integration of non-military methods as security measures adds value to the security domain (Parr and Messineo, 2012: 3). For instance, *Common Security: A Blueprint for Survival*, published in 1982 by the Independent Commission on Disarmament and Security Issues under the direction of Olof Palme, discussed how security entails not only military but also economic and political cooperation (Rothschild, 1995). Numerous actors have proposed the broad formulation, including the 1994 HDR, the European Council and the Barcelona Group, the Commission on Human Security, the Government of Japan, and academics like Thomas (2000), Chen and Narasimhan (2003), King and Murray (2001), Tadjbakhsh and Chenoy (2007) and Beebe and Kaldor (2008). Some adopt a more reductionist approach, focusing only on threats from disease and natural disasters (King and Murray 2001). Additionally, the UN's Human Security Network, the yearly Human Security Reports, and scholars like MacFarlane and Khong employ the narrowed definition, which concentrates on threats of violence, especially organized political violence (MacFarlane and Khong, 2006: 245). Human security is defined as "freedom from organized violence," which

is defined as follows: (1) the violence is perpetrated by a known offender; (2) it is not random but rather is arranged in a way that “makes that violence potent” (MacFarlane and Khong, 2006: 245). Besides, many international affairs practitioners in the areas of development and security are skeptical about its applicability in real-world situations and political significance and criticize it for being unclear and open to interpretation (whether it is a norm or a term) (Paris, 2001).

It is challenging to provide a precise definition of human security because, “like other fundamental concepts, such as human freedom, human security is more easily identified through its absence than its presence, and most people instinctively understand what security means,” according to HDR 1994 (UNDP 1994), which is frequently cited as the origin of the term’s modern broad usage. Overall, the two pillars of the UN charter, freedom from want and freedom from fear, which serve as the cornerstones of human rights instruments, are frequently described as integrating human security in UN texts and discussions (Ogata 1998, Thakur 1997, Frechette 1999, Annan 2000). The broad definition is closely related to the conceptions of human rights and capabilities, representing their intellectual underpinnings (Parr and Messineo, 2012: 7). Despite the debate, the core normative principles of the human security notion have been embedded in UN policy documents on Post-Cold War shared global security objectives since the 1990s (Parr and Messineo, 2012: 9).

7.2.Human Security Framework

In the case of Ogieks, gaining their land rights is equivalent to protecting their human rights. In this regard, despite being theoretically separate, human security and human rights are inextricably connected (Andersen-Rodgers and Crawford, 2022: 75). Within this framework, this section will aim to examine Ogiek’s case via human security approach. First the main characteristics of human security approach will be provided. It is important to note that, as addressed above, there is no standard definition of human security. In this paper, HDR will be used as the basis for human security within the framework of global governance. Before addressing UNHDP’s conceptual framework, this paper will briefly mention about the development of human security.

Today’s world has global issues (e.g., humanitarian crises, military conflicts between and within states, climate change, terrorism, the drug trade, AIDS, and economic instability) that pose severe challenges to human security in countries (Jang et al., 2016: 1-2). These issues have grown too complex for a single state to handle on its own, and thus it creates global interdependencies (Jang et al., 2016: 1; Rosenau, 1992: 3). In this regard, “in a world where authority is undergoing continuous relocation – both outward toward supranational entities and inward toward subnational groups - it becomes increasingly imperative to probe how governance can occur in the absence of government” (Rosenau, 1992: 2). Within this scope, global governance emerged as a relatively new concept, theory and tool that is developed by both academics and policy-makers in order to provide a comprehensive understanding

of the changing world system, its issues and potential pathways for addressing them (Jang et al., 2016; Dingwerth and Pattberg, 2006). Hence, global governance with its various processes, mechanisms, and structures emerged for solving these new global issues. However, global governance cannot be addressed clearly due to the complex nature of these global problems and gaps within international order (Jang et al., 2016). Besides, global issues in all sectors (e.g., health, food, environment, humanitarian) are not isolated from the political and socio-economic dynamics of communities. Hence, in order to assess and/or provide global solutions to the challenges that exist in the field of global governance, it is not enough to recognize global issues evidently. At any scale, this process is challenging. Even the most appropriate global solutions may not be implemented because it is one of the most difficult policy areas to understand and in which to operate. In this regard, it is important to examine distinct features of global governance.

The main reason for the formation of these new four structures is the involvement of new types of agencies, actors and governors in global politics in addition to national governments (Jang et al., 2016; Avant et al., 2010). Hence, global governance includes not only states but also international organizations, nongovernmental organizations, transnational corporations, norm entrepreneurs, scientific experts, civil society groups, networks, partnerships, activists, business associations, professional associations, private military and security companies, as well as transnational criminal and drug-trafficking networks (Jang et al., 2016: 2; Dingwerth and Pattberg, 2006). Since a large number of these new actors define and influence the existing global governance framework, these are active agents that seek new structures and rules (Jang et al., 2016: 2; Avant et al., 2010). They are therefore not just considered as actors but also as governors⁴, authorities that wield power across boundaries in order to influence policy (e.g., EU⁵) (Avant et al., 2010: 2). The concept of global governance also attributes an equal role to actors/governors rather than establishing a hierarchy among them (Dingwerth and Pattberg, 2006: 192). For instance, both the Belgian government and Greenpeace are considered actors in international governance (Dingwerth and Pattberg, 2006: 192). “Governors thus create issues, set agendas, establish and implement rules and programs, and/or adjudicate outcomes” (Avant et al., 2010: 2).

Within this framework, the new human security approach is among the main concepts introduced by global governance. One of the main reasons is that since the release of the 1994 HDR, there is notable change in the concept of security, notably a change from national security to human security. In this regard, first, there is a focus shift from traditional state-centered security (especially from nuclear security) to a people-centric approach (people’s wellbeing) (Andersen-Rodgers and Crawford, 2022). Second, the report identified seven dimensions of human security, including

⁴ There are five bases of authority for governors: institutional, delegated, expert, principled, and capacity-based (Avant et al., 2010: 11-13).

⁵ “Global governance is, in this perspective, frequently conceived as a long-term project of global integration, for which the evolution of the European Union can be considered a model” (Dingwerth and Pattberg, 2006: 195).

economic, food, health, environmental, personal, community, and political security (UNDP, 1994). Thus, the different aspects of security that have an impact on people and communities are acknowledged by this multidimensional approach. Third, human security encompasses a wider range of actors than traditional national security, which is mainly dependent on states, state agencies, and alliances (Andersen-Rodgers and Crawford, 2022). Human security includes states, local and state-level agencies, international law, treaties, agreements, non-governmental organizations (NGOs), civil society, and individual citizens (Andersen-Rodgers and Crawford, 2022). The report highlights the role that different actors play in promoting human security when there is a lack of governmental security actors (United Nations Development Program [UNDP], 1994). Fourth, in line with this evolving perspective, human security is generally defined as the freedom from want and the freedom from fear. Fifth, due to the expansion of scope and actors, it represents all three generational rights: first generational (civil and political rights as the earliest human rights), second generational (basic needs such as food, shelter, education, and employment are met and they are able and empowered to participate in society to the fullest extent) and third generational rights (cultural heritage, minority rights, children's rights, women's rights, and environmental rights, among others) (Andersen-Rodgers and Crawford, 2022: 85). Hence, human security emphasizes the complexity of security and the engagement of multiple actors in securing the rights and well-being of individuals and communities, representing a substantial shift towards the way people perceive and address security issues. As a result, HDR's human security approach in the political realm is considered as "larging people's choices" (UNDP, 1994).

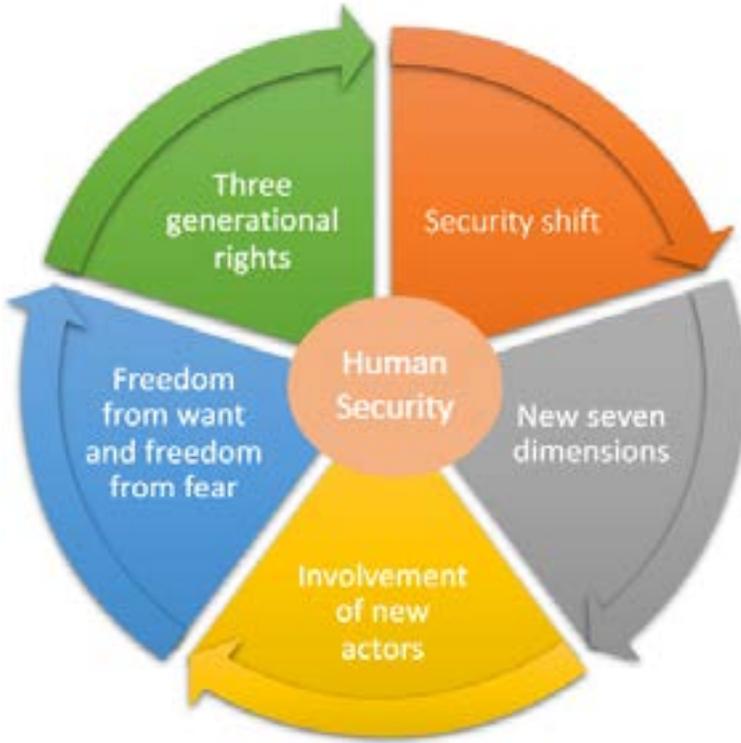


Figure 1. Characteristics of human security

8.Ogieks through the Lens of Human Security

First of all, it is apparent from the examination of Ogieks from a human security perspective that the Ogiek case is people-centric, concentrating on the survival and well-being of an indigenous group. Beyond simple geography, the Ogiek people have a deep bond with their ancestral territories, especially the Mau Forest. It includes a way of life that has been carried out for centuries, as well as their cultural identity and livelihood. The Ogiek's fight for human rights and land emphasizes how crucial it is to acknowledge indigenous groups as essential to the human security framework and how their well-being is linked to the well-being of society as a whole.

Secondly, the Ogiek case covers all seven dimensions (economic, food, health, environmental, personal, community, and political security) of human security and therefore provide an example of the multifaceted nature of human security. Ogieks have strong linkages to food and economic security because of their reliance on the

Mau Forest for hunting and gathering. Since they are forced from their ancestral lands, their loss of livelihoods has a major impact on their capacity to maintain a stable economic situation. It also puts their food security in jeopardy since it makes traditional hunting and gathering methods unattainable. On the health side, Ogiek people's forced removal from the Mau Forest disrupts their long-standing health practices, knowledge, and resources. Hence, the Ogiek people lose access to the healing methods and supplies that have historically kept them alive when they are forced from their ancestral territories. The lack of these services can put community members' health at risk, particularly if they depend on these conventional treatments for a range of illnesses. Ogiek's evacuation caused a loss of cultural identity and social cohesiveness, which may have had psychological challenges on community members. Regarding the environmental dimensions, the eviction of the Ogieks poses a threat to the environmental security of the entire region because their presence in the forest has traditionally helped preserve the ecosystem. This illustrates how indigenous cultures and environmental sustainability are interdependent. Furthermore, the Ogiek people face cultural dislocation and displacement as a result of their forced removal, which raises concerns about personal and communal security. As they challenge the policies of the government and interact with the African Court on Human and Peoples' Rights to protect their land rights, political security becomes crucial. The interdependence of these elements highlights the complex nature of human security and the necessity of addressing several aspects in order to ensure the well-being of indigenous populations.

Third, the engagement of various actors in human security is demonstrated by Ogiek's capacity to secure land rights and seek compensation through the African Court of Human and People's Rights. With NGOs' assistance, the Ogiek community was able to file a complaint against their government with an international court. Besides, a regional authority, African Court of Human and People's Rights, played a pivotal role in recognizing and affirming their rights. Before that another regional authority, the African Commission, transferred the case to the African Court. This shows how marginalized groups are able to stand to defend their rights and secure their well-being. It also emphasizes the need of having legal mechanisms available to individuals and the function of international organizations in preserving human security.

Fourth, the struggle of the Ogiek people embodies the two fundamental tenets of the human security framework: freedom from want and freedom from fear. In an effort to end poverty and economic instability, they want access to their ancestral lands and means of subsistence in order to achieve their goal of freedom from want. Their dependence on their lands extends across the seven dimensions of security (the second part of the human security approach) and makes their human security particularly vulnerable to external interventions/influences. As a result, the Ogiek people also seek freedom from fear. Considering both freedom from want and fear highlights the holistic nature of the challenges faced by Ogiek people, emphasizing

the interdependence between economic stability, land rights and broader dimensions of security.

Fifth, since the Ogiek case acknowledges that the effects of their battle go beyond the current generation, it also exemplifies the idea of generational rights in human security. They safeguard the rights of future generations to their cultural legacy, economic stability, and environmental sustainability by protecting their lands and customs. This long-term view emphasizes how crucial it is to defend indigenous rights within the scope of human security.

Human Security	Ogiek People
Security Shift from National to Human	Ogiek case is people-centric, concentrating on the survival and well-being of an indigenous group
New Seven Dimensions	Ogiek case covers all seven dimensions (economic, food, health, environmental, personal, community, and political security) of human security and therefore provide an example of the multifaceted nature of human security
Involvement of New Actors	Involvement of local groups, NGOs and regional actors and state authorities
Freedom from want and freedom from fear	Ogiek case is about accessing to their ancestral lands and means of subsistence in order to achieve their goal of freedom from want and also is about freedom from fear to ensure their rights to not subjected to eviction or other external interventions
Three generational rights	Ogiek case exemplifies securing the rights of future generations to their cultural legacy, economic stability, and environmental sustainability by protecting their lands and customs

Table 1. Evaluation of Ogiek Case through human security

Overall, the case of Ogieks is applicable in human security concept and it matches with its five characteristics. Securing the land rights of the Ogiek people, when considered from the broad perspective of human security, can increase the security of both individuals and communities, ensure their survival, and provide them with greater control. This includes human security elements such as justice, security,

cultural identity and environmental sustainability.

In addition to above mentioned facts, a study examines the challenges that Ogieks confront due to the eviction via using questionnaires 465 respondents⁶ (Koech and Simiyu, 2023: 305). The results are provided in the below table.

Challenge	Agree	Disagree	Don't know
Integration challenges	100%	0%	0%
Psychological challenges	100%	0%	0%
Communication challenges	100%	0%	0%
Cultural preservation challenges	100%	0%	0%
Governance and administrative challenges	100%	0%	0%
Financial challenges	99 %	1%	0%
Educational and health challenges	99 %	1%	0%
Cultural challenges	98%	2%	0%
Legal challenges	98 %	1%	1%
Social challenges	98 %	1%	1%

Table 2. Challenges faced by the Ogiek as a Result of Evictions (Koech and Simiyu, 2023: 305)

Consequently, this study highlights the relevance of human security across several sectors and supports the concept that these issues pose a danger to Ogieks' capacity to achieve basic human needs and may have long-term damaging implications for their well-being.

Conclusion

This essay examines the Ogiek case, taking into account its foundation in history, its legal implications, and its connection to the concept of human security in broad. First, this essay provides a brief overview of the indigenous people's historical past before focusing on the Ogiek community. After that, this study looks at the legal system in Africa while delivering data on land rights and indigenous status. Finally, Ogiek's case study is examined using the five characteristics of the human security

6 "384 household heads, 1 county commissioner, 2 deputy county commissioners, 7 chiefs, 14 village elders, 1 county police commander, 2 sub-county police commanders, 5 conservationist organizations, 5 environmentalist groups, 1 United Nations Environment Programme (UNEP) officer, 1 UN Habitat officer, 1 officer from the ministry of environment, 10 officers from Kenya Forest Service (KFS), 10 officers from Kenya Wildlife Service (KWS), 5 officers from non-governmental organizations (NGOs), 1 officer from the National Environment Management Authority (NEMA), 15 heads of NGOs, and Community-Based Organizations" (Koech and Simiyu, 2023: 305).

approach as a framework. Within this scope, the Ogiek case can demonstrate how the complex structure of human security fits into this context. This can be important because human security is something that can never be ensured (as can be seen that after the Ogiek's victory, they have been evacuated again), there will always be security problems at different scales in different sectors. In this regard, in order to understand human security issues comprehensively, it is important to consider different dimensions and angles of the issue. Hence, reflecting on experiences such as the Ogiek case can be informative in terms of filling the gap in the literature, especially within the global governance literature, and seeing which practices in human security work under what conditions. Therefore, reflecting on these experiences may shed light on future interventions. As a result, the Ogiek case is not about only Ogieks, but also about the concerns of many indigenous tribes about land rights and general well-being.

BIBLIOGRAPHY

- African Commission on Human and Peoples' Rights, Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities (2005), p. 86
- African Commission on Human and Peoples' Rights. Working Group of Experts on Indigenous Populations/Communities. (2005), *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities: Submitted in Accordance with the "Resolution on the Rights of Indigenous Populations/Communities in Africa"*. African Commission on Human and Peoples' Rights.
- Amnesty International (2023, June 9), Why the African Court should matter to you. Retrieved from <https://www.amnesty.org/en/latest/campaigns/2023/06/why-the-african-court-should-matter-to-you/#:~:text=The%20African%20Court%20was%20created,which%20are%20binding%20on%20States> (Accessed 18.12.2023).
- ANDERSEN-RODGERS, David, & CRAWFORD, Kerry. F. (2022), Human security: Theory and action. Rowman & Littlefield
- ANNAN, Kofi (2000), Secretary-General Salutes International Workshop on Human Security in Mongolia. Two-Day Session in Ulaanbaatar, May 8-10, 2000. Press Release SG/SM/7382.
- AVANT, Deborah, FINNEMORE, Martha, & SELL, Susan (2010), *Who Governs the Globe?* New York: Cambridge University Press.
- BAJPAI, Kanti (2003), The idea of human security. *International Studies*, 40(3), 195-228.

- BLACKBURN, Roderic. H. (1982), In the land of milk and honey: Ogiek adaptations to their forests and neighbours. *Politics and history in band societies*, 283-305.
- BEEBE, Shannon. D., & KALDOR, Mary H. (2010), The ultimate weapon is no weapon: Human security and the new rules of war and peace. *Public Affairs*.
- BEKKER, Gina (2007), The African court on human and peoples' rights: Safeguarding the interests of African states. *Journal of African Law*, 51(1), 151-172.
- CHEN, Lincoln., & NARASIMHAN, Vasant (2003), Human security and global health. *Journal of Human Development*, 4(2), 181-190.
- CLARIDGE, Lucy (2017), Victory for Kenya's Ogiek as African Court sets major precedent for indigenous peoples' land rights. *Briefing-Minority Rights Group International*, 3.
- DAVIS, Megan (2008), Indigenous struggles in standard-setting: the United Nations Declaration on the Rights of Indigenous Peoples. *Melbourne Journal of International Law*, 9(2), 439-471.
- DINGWERTH, Klaus., & PATTBERG, Philipp (2006), Global Governance as a Perspective on World Politics. *Global Governance*, 12(2), 185-203.
- FORCE, Mau Forest Task (2009), Report of the Prime Minister's Task Force on the Conservation of the Mau Forest Complex. Nairobi, Kenya.
- FRECHETTE, Louise (1999), Statement by the United Nations Deputy Secretary-General.
- FUKUDA-PARR, Sakiko, and MESSINEO, Carol (2012). Human Security: A critical review of the literature. Centre for Research on Peace and Development (CRPD) Working Paper 11, 1-19.
- GASPER, Des. (2010). Climate change and the language of human security. ISS working paper no. 505, The Hague, Netherlands.
- JANG, Jinseop., MCSPARREN, Jason., & RASHCHUPKINA, Yuliya (2016), Global Governance: Present and Future. *Palgrave Communications*, 2. <https://www.nature.com/articles/palcomms201545>
- HORNSBY, Charles. (2013). *Kenya: A history since independence*. Bloomsbury Publishing.
- International Work Group for Indigenous Affairs (2022), Country Technical Notes on Indigenous Peoples' Issues: Republic of Kenya.
- KIMAIYO, J. Towett. (2004), Ogiek Land Cases and Historical Injustices. *Ogiek Welfare Council: Nakuru, Kenya*.
- KING, Gary., & MURRAY, Christopher J. (2001), Rethinking human security. *Political Science Quarterly*, 585-610.
- KLOPP, Jacqueline. M., & SANG, Job. K. (2011), Maps, power, and the destruction of the Mau Forest in Kenya. *Georgetown Journal of International Affairs*, 125-134.
- KOECH, Betty. C., & SIMIYU, Ruth (2023), Challenges and Opportunities Resulting from Mau Forest Evictions of Ogiek Community, Kenya.

- LEE, Joseph (2022, June 24), Indigenous Ogiek win ‘landmark’ reparations ruling from African Court. Grist. Retrieved from <https://grist.org/indigenous/indigenous-ogiek-win-landmark-reparations-ruling-from-african-court/> (Accessed 18.12.2023)
- MACFARLANE, S. Neil., & KHONG, Yuen F. (2006), *Human security and the UN: A critical history*. Indiana University Press.
- MAJEKOLAGBE, Adebayo., & AKINKUGBE, Olabisi (2019), The African court of human and Peoples’ Rights Decision in the Ogiek case: an appraisal.
- NDAHINDA, Felix. M. (2011), *Indigenoussness in Africa: a contested legal framework for empowerment of ‘marginalized’ communities*. Springer Science & Business Media.
- O’BRIEN, Karen, ASUNCION, Lera St. Clair, and KRISTOFFERSON, Berit eds. (2010), *Climate Change, Ethics and Human Security*. Cambridge, Cambridge University Press.
- OGATA, Sadako (1998), Inclusion or Exclusion: Social Development Challenges for Asia and Europe. Statement of Mrs. Sadako Ogata United Nations High Commissioner for Refugees at the Asian Development Bank Seminar, 27 April 1998. Retrieved from <http://www.unhcr.ch/refworld/unhcr/hcspeech/27ap1998.htm> (Accessed 18.12.2022)
- Open Society Justice Initiative. (2013, June), African Court on Human and Peoples’ Rights. Retrieved from <https://www.justiceinitiative.org/publications/african-court-human-and-peoples-rights> (Accessed at: 2023)
- PARIS, Roland (2001), ‘Human Security: Paradigm Shift or Hot Air?’ *International Security*, 26.2, 87-102.
- ROSENAU, James. N. (1992), Governance, Order, and Change in World Politics. In J. N. Rosenau & E.-O. Czempiel (Eds.), *Governance Without Government: Order and Change in World Politics* (pp. 1-29). New York: Cambridge University Press.
- ROTHSCHILD, Emma (1995), ‘What is Security’, *Daedalus*, 124(3), 53-98.
- TADJBAKSH, Shahrbanou, & CHENOY, Anuradha (2007), *Human security: Concepts and implications* (Vol. 51). Routledge.
- THAKUR, Ramesh (1997), ‘From National to Human Security’ *Asia Pacific Security: The Economics- Politics Nexus*. Eds. Stuart Harris, and Andrew Mack. Sydney: Allen & Unwin.
- THOMAS, Caroline (2000), *Global Governance, Development and Human Security*. London: Pluto Press.
- UNDP (1994), *Human Development Report 1994*. New York and Oxford: Oxford University Press.