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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 August 2021]

* Issued as received, in the language(s) of submission only.



The Government of Germany neglects its legal and moral obligations in the case of the Herero Nama Genocide

The recent reconciliation agreement between the Government of Germany and the Government of Namibia is considered highly debatable by many, foremost the descendants of some of the victims of the genocide 1904-1908 committed by the German Empire, namely the Herero and the Nama. Whereas the Government of the Federal Republic of Germany has finally recognized the happenings deriving from General Lothar von Trotha's 1904 incitement to extermination as an actual genocide, appropriate reparation payments still lack. Despite the fact that Germany has ratified the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, which inter alia obliges to punish genocide (Article 1) and ensure that effective penalties are provided for persons found guilty of criminal conduct according to the Convention (Article V), the government of Germany has up until this point not provided any monetary compensation without attached pre-conditions (for example social projects etc.). Society for Threatened Peoples would furthermore like to stress that it is legally binding to provide reparation in the aftermath of a genocide in accordance with international law.

The German government has refused to negotiate with the actual descendants of the victims of the genocide, namely the Herero and the Namaqua representatives. The latter tried several times to pressurize the negotiating parties – the German and the Namibian government - to include them without success. This is a violation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as the negotiations between the German and the Namibian state government took place without the free prior informed consent (FPIC) of the affected communities who, according to UNDRIP, are entitled to that right. Apart from that, based on IX/15. of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Society of Threatened Peoples would like to point out that a party found guilty should provide reparations to the actual victims and is only meant to compensate a state if the according state has already provided reparation to the victims. However, as far as Society of Threatened Peoples is aware, the latter has not been the case in Namibia, which implies that a reparation payment to the Namibian state is not adequate in the frame of the genocide from 1904-1908.

In addition, Society of Threatened Peoples kindly asks the UN Human Rights Council to consider the fact that the West German government has actually granted reparation payments to Israel and to individual Jews via the Conference on Jewish Material Claims Against Germany with regards to the Holocaust by signing the Luxemburg agreement, after the Nazis had committed the horrible genocide of over six million Jews during the Holocaust in the 1940s. We do not compare the Holocaust and the genocide against the Herero and Nama, but would like to point out that Germany back then fulfilled its legal obligations set by international law regarding the Holocaust with the Luxembourg agreement. The US-American author Ta-Nehisi Coates wrote in 2014: "reparations could not make up for the murder perpetrated by the Nazis. But they did launch Germany's reckoning with itself."

In order to achieve justice for the victims of the genocide against the Herero and the Nama as well as the Damara and the San by obliging Germany to grant reparation payments to them, Germany could be sued at a legal body which is actually responsible for such issues, namely the International Court of Justice in the Hague. Only a nation state could file such a case in this matter before the International Court of Justice.

The descendants of the victims of the genocide from 1904-1908 are still immensely affected today. The mass murder of their ancestors has caused an economic and political loss of power and damaged the cultural identity. The intergenerational trauma which is rooted in the genocide has been transferred to the present-day generation. Apart from the emotional wounds that have been passed on, the present-day Herero and Nama communities lack adequate access to land. Up until today, Namibia's land distribution is highly unequal and disproportionately large parts of Namibian soil are still owned by the white, German-speaking Namibian population or foreigners, including Germans. Furthermore, some of the descendants of the genocide-victims are still living in the diaspora and claim not to have any access to the land which is supposed to be theirs. Thus, the forceful dispossession committed by the German Empire led up to conflicts driven by the unequal access to land up until today.

Society for Threatened Peoples calls for a public debate on the question of land distribution in the frame of the aftermath of the genocide from 1904-1908 and pledges for the Government of the Federal Republic of Germany and the Government of the Republic of Namibia to consider dispossessing the descendants of the perpetrators of the genocide with regards to land rights.

During the German colonial rule in present-day Namibia, body parts and remains of the victims were taken away, inter alia for the sake of scientific and medical research. Up until today, some of these remains still remain in Germany.

Additionally, the German genocide-perpetrators forcefully took more than 205,640 cattle away from the Herero and the Nama from 1884–1915. Apart from the obvious problem of dispossessing the Herero and the Nama of cattle in a country which is covered by desert to a large extent, it is a severe cultural issue in this case as cattle are of specific cultural value to the Herero. In addition, multiple items including livestock, ostrich feathers, instruments and commodities of daily use were stolen from the local population. In addition, German companies claimed ownership of large parts of the country regarding mineral rights, including half of the Namibian coastline. Furthermore, incredibly high revenues were accumulated by the Germans through systematic exploitation: the Diamond Agency for South West African Protectorate alone exported diamonds that were discovered on lands taken from the Nama people with an estimated value of 155 million Reichsmark at the time. Apart from that, Germany received substantial savings from the use of forced and/or slave laborers. The Herero and the Nama now view themselves as entitled to revenues regarding all of the aforementioned plus interest. In addition, Society of Threatened Peoples argues that Germany still has a lot of political influence in present-day Namibia, not least because of their financial involvement and the historic context of being an ex-colonizer. Thus, Society of Threatened Peoples demands Germany to be monitored, especially regarding the financial flows between the two nation states and the strongly related political influence which appears to play a crucial role up until today.

Furthermore, Society of Threatened Peoples would once again like to stress that the descendants of the victims are still severely traumatized. Thus, Society of Threatened Peoples suggests to consider obliging Germany to provide mental health services for the descendants of the victims.

As outlined in this statement, the descendants of the victims living today are still highly affected by the genocide and Society for Threatened Peoples considers it crucial to hold genocide perpetrators (and their descendants) accountable, respect the international law as well as legal frameworks and ensure an appropriate access to their legal rights for the affected communities respectively the genocide victims and their descendants.

Therefore, the Society for Threatened Peoples calls upon the UN Human Rights Council to urge the German Government to:

- Provide appropriate reparation payments which are not linked to any kind of precondition on how the money is to be spent, e.g. social projects, to the actual descendants of the genocide victims rather than the Government of the Republic of Namibia,
- Actively invite the Herero and the Nama representatives to the negotiation table and ensure their eye-to-eye participation in the negotiation process,
- Send the German Chancellor to Namibia personally to seriously apologize and ask for forgiveness on Namibian soil in person,
- Consider dispossessing the German descendants of the perpetrators of the genocide as their proprietorship of the land is the result of the genocide,
- Return all the skulls and body parts to the descendants of the victims,
- Provide an accounting of scientific research revenues plus interest,
- Provide an accounting of all medical discoveries and academic findings drawn from the research and the experiments.