

Inheemse Spoor

Celebrating San & Khoi Indigenous Knowledge

Uitgawe 3 (van 'n reeks van 4)

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Our people
must be
uplifted
3



Guide to
indigenous
rights
5



Oestyd op
Nieuwoudt-
ville
9



Dawid
Stuurman
vereer
11

Rooibos ooreenkoms groot **stap** tot erkenning, maar...

ZENZILE KHOISAN

Daar is wel 'n wet wat aanvaar is in die Grondwet van Suid Afrika wat op 'n manier erkenning gee aan die leierskap van Khoi en die San stamme, maar baie leierskap figure voel sterk dat hierdie wet swyg oor 'n belangrike kwessie – Eerste Inheemse Status van die Khoi en San.

Hierdie leiers is van mening dat die historiese Rooibos-ooreenkoms die Khoi en San as die tradisionele kennishouers van Rooibos bevestig, en dit lei tot die vraag waarom die stilswye oor die status van die eerste inheemse inwoners van die land?

Op 20 Desember 2020 het President Cyril Ramaphosa die Wet op die Tradisionele en Khoi-San leierskap onderteken (Wet 3 van 2019) en daarmee uiteindelik die weg oopgemaak vir die leierskap van die Khoi en die San in Suid-Afrika om amptelik erken te word deur die regering van die land.

Die presidensie het in 'n amptelike persverklaring gesê dat daar met hierdie wet beoog word om transformasie te bewerkstel in tradisionele en KhoiSan strukture, wat in pas is met die Grondwet en die Handves van Regte.

Die nuwe wet, wat vir die eerste keer in ons geskiedenis amptelik erken dat daar 'n leierskapstruktuur is onder Khoi en San stamme, gemeenskappe en afstammelinge, is deur sommige van die inheemse leierskap as geskiedkundig beskou.

“Die wet is iets wat ons gedink het sou nooit gebeur nie, en dit is 'n stap in die regte rigting, het Cecil le Fleur, voorsitter van die Nasionale Khoisan Raad (NKR), gesê.

Le Fleur, is een van die leiers wat reeds vir dekades besig is met onderhandelings vir die erkenning van die Khoi en die San.

“Die Wet is 'n begin en 'n stap in die regte rigting. Maar daar lê nog baie werk want die wet is stil oor die groot vraag rakende die erkenning van eerste nasie status van Khoi en San,” het le Fleur gesê.

Hy het hierdie kwessie aangespreek omdat die brandpunt van eerste nasie erkenning onderstreep word in die waterskeidings-ooreenkoms tussen die Rooibos-edryf en die Khoi en San, wat in November 2019 onderteken is.

Daarmee is jare se onderhandelinge tot op die spits gedryf en word dit daarmee erken dat die Khoi en San die regmatige kennishouers van rooibos is. Eers 'n jaar later is die Wet oor

Tradisionele en Khoi en San Leierskap deur die president bekragtig.

Met hierdie ooreenkoms moes die Rooibosbedryf, wat miljarde rand werd is, op hul swaard val en erken dat die Khoi en die San, as eerste inheemse inwoners van die land, die reg het om gesien te word as die kennishouers van dié waardevolle plant.

Die NKR voorsitter, wat vir byna tien jaar deel was van die Rooibos onderhandelingspan, het gesê dat met die ondertekening van die ooreenkoms het dit 'n duidelike boodskap aan almal gestuur dat die Khoi en San die nasies was wat die kennis gehad het van talle veelsydige en medisinale plante soos Rooibos.

Vir Le Fleur is hierdie ooreenkoms dus 'n belangrike vertrekpunt vir die kwessie van eerste nasie erkenning, “want hiermee het die Rooibos-bedryf aanvaar wat, sonder twyfel, die waarheid is.

Le Fleur het gesê baie van die lede van die NKR glo ook dat die nuwe wet 'n stap in die regte rigting is omdat dit grondwetelike erkenning aan Khoi en San leierskap gee, maar dit word nie werklik gesien as die oplossing nie.

Hy het verwys na die geskiedenis van die land en vind dit problematies dat die wet geensins die eerste nasie status

van die Khoi en San aanspreek nie.

“Die hele wêreld weet dat die Khoi en die San die eerste naie van hierdie land is, maar die wet rep geen word hieroor nie.”

Die NKR voorsitter het dit duidelik gestel dat, ten spyte van die leemtes van die huidige wet, moet die stryd vir die erkenning en opbou van die Khoi en San nasie voortgesit word.

“Dit is belangrik om te besef dat ons die momentum het omdat die hele wêreld reeds aanvaar dat die KhoiSan die eerste inheemse volke van Suid-Afrika is.”

Ander leiers het ook hul opinie oor die nuwe wet gegee, onder andere chieft Margaret Coetzee, leier van die Inqua KhoiKhoi stam en ook lid van die NKR.

Wet 3 van 2019 is nie 100% waarvoor ons beding het oor die jare nie. In 2002 tot 2003 het agt van die ou NKR-lede gewerk aan 'n dokument in Bloemfontein, waar ek die enigste vrou was.

“Ons het daar 'n dokument opgestel oor hoe ons grondwetlik geakkommodeer wil word. Die huidige wet is 'n redelike afgewaterde weergawe van dit wat ons op tafel gelê het, het chieft Coetzee gesê.

Vervolg op bl. 2



STEEDS HOOPVOL: Khoisan Afgevaardigdes van regoor die land staan biddend by die Kimberley 3 konferensie in 2013. Hoewel die Rooibos-ooreenkoms dit onomwonde duidelik maak dat die Khoisan die kennishouers van die plant is, wag die nasie steeds om amptelik as eerste nasie van die land erken te word. Baie NKR-lede glo ook dat die nuwe Wet op Tradisionele en Khoi-San leierskap 'n stap in die regte rigting is omdat dit grondwetelike erkenning aan Khoi en San leierskap gee, word nie werklik gesien as die oplossing nie.

FOTO: ZENZILE KHOISAN

NKR-Kontakte

Frans Kraalshoek: Free State Representative – Griqua
190 Garden Road
Bloemfontein 9306
Cell: 073 251 9090

Gabriel Marais: KZN Representative – Griqua
Rooi Poort Plaas
Greater Kok Stad Municipality 4700
Cell: 083 703 9405

Corneels Links: Kharkams Northern Cape – Nama
Hoofstad 249
Kharkams Northern Cape
Cell: 078 498 5564

Anthony Petersen: Free State – Korana
18 Hennie Street
Heidedal, 9306
Bloemfontein
Email address: jaftaza@yahoo.com
Cell: 084 253 4393

William Langeveldt: Vryburg Representative – Korana
(residing in Cape Town)
26 Ravel Road
Steenberg, 7945
Cell: 072 940 8380

Cecil le Fleur: Matzikama District Cape Town – Griqua
Binnesingel 31, Vredendal, 8160
Alternative address: Matzikama Municipality, Kerk Straat Vredendal
Cell: 083 234 5501

Gert Joel Links: Kuboes – Nama
Plot 144, P.O. Box 151
Kuboes, 8292
Cell: 066 545 8585

Chantal Revell: Cape Town Representative – Korana
15 Blagden Street, Cafda Village Retreat, 7495
Cell: 067 817 9337

Johannes Waterboer: Griekwa Stad Noord-Kaap – Griqua
Water Straat 3
Griekwa Stad, 835
Cell: 083 732 6819

Stanley Peterson: Upington Northern Cape – Griqua
Plot 18465
Khoisan Valley Rosedale
Upington, 8801
Cell: 073 029 9956

Johannes Maarman: Eastern Cape – Korana
Rooikloof Straat 558
Patensie, 6335
Cell: 074 872 6829

Louisa Williams: Kimberley – Korana
23 Debbie Court
Roodepan, Kimberley, 8301
Cell: 073 293 9467

Margaret Coetzee: Eastern Cape – Cape Khoi Inqua
33 Montague Road, Booysen Park, Port Elizabeth, 6059
Cell: 076 552 4723

Moirra Daya: Gauteng – Cape Khoi
Cell: 084 680 7779

John van Rooyen: Gauteng – Bushmen
Cell: 078 326 5394

Anthony le Fleur: Western Cape – Griqua
Cell: 082 555 6381

Chief Poom Mooney: Oudshoorn – Cape Khoi Attaqua
Cell: 083 590 2740 / 044 272 2848

Johan George: Eastern Cape – Korana
063 318 9271

Paul Pienaar: – Griqua
084 312 6946

Cedric Witbooi: – Nama
082 955 7789

Rooibos victory give leverage for further struggles

ZENZILE KHOISAN

As the full sense of the recognition that the Khoi and San are indeed the knowledge holder of the Rooibos plant, including is many culinary, medicinal and cosmetic uses, it is now very apparent that both the corporate world and the South African government are faced with a dilemma that cannot easily be dismissed.

This is, very simply because the very act of recognising that the Khoi and the San were the very first to possess the knowledge, and that the descendants of those who developed and handed this precious knowledge down through the generations, now lays bare what has been denied.

And with that, what has been edited from the national narrative, that the Khoi and San are indeed foundational South African peoples, with undeniable claims to land, culture, language and heritage.

The successful decade long negotiation, according the National KhoiSan Council chair Cecil le Fleur, opened the pathway to achieving a most important objective.

This objective is “to prevent the ongoing exploitation of Khoi and San traditional knowledge by big commercial concerns and to establish the principle that the benefits must be shared in a fair and justifiable manner”.

This was certainly achieved by a most formidable team, a group of very dedicated and knowledgeable Khoi and San leaders, supported by a very strong legal team, whose grasp of both indigenous history, as also South African and international law ensured that the team not only held its own, but also that they stayed the course of the more than nine years of complex negotiations.

From all that emerges, it is clear that the Rooibos farmers and the umbrella industry body, the Rooibos Council eventually had to relent from their earlier position, which was to deny that the Khoi or San were the first to develop and hold knowledge of the uses of Rooibos, and also that the Khoi and the San had no claim to the knowledge or the history associated with this knowledge.

The NKC chair makes a further point that with the Rooibos nego-

From the Editor's pen

tiation the team want dealing with a deeper issue.

Le Fleur notes that “we wanted to send a message to the corporate world and to government that if you recognise that the Khoi and San were indeed the first knowledge holders, then it follows that the other great lie must also be refuted.

And they must acknowledge that the Khoi and San are the first indigenous people and therefore have to be recognised, restituted and restored.

We certainly can learn a great deal about history and the rights of a people from a red bush that has been part of us for centuries.

The other aspect of the process of validating the traditional knowledge holder rights of Khoi and communities with a long history of use and engagement with Rooibos is the transformative role of the Biocultural Community protocol process. From the testimonies of members of these communities is very clear that this is a powerful identity development process that has also

We certainly can learn a great deal about history and the rights of a people from a red bush that has been part of us for centuries.

lifted up the sense of self worth in these communities.

Through this biocultural community protocol process, where the community itself is given a voice, it is evident that the BCP process was more that the knowledge of a valuable plant like Rooibos.

Through this process, the members of these communities that had suffered dispossession of land, identity and traditional knowledge were able to gain a deeper sense of identity, a sense of connectedness to the broader family of Khoi and San descendants throughout South Africa and Southern Africa.

This type of process hold out much hope not only for Khoi and San communities not only in the Rooibos growing regions but also for communities of Khoi and San descendants throughout South Africa who have been fighting a gruelling struggle for recognition, restitution and restoration.

‘Erkenning diep geestelike saak’

Vervolg van bl. 1

“Maar die wet is nou daar, so laat ons as die leiers van ons volk – soos die wet bepaal – konsentreer op die profiel van die leiers volgens hul geografiese gebied,” is chieff Coetzee se raad.

Sy meen dat daar in enige proses “waar ons te make het met die erkenning van ons land se eerste inheemse inwoners, moet ons met eerlikheid navorsing gaan doen oor die geskiedenis van ons land.

“Erkenning van ’n volk is nie net die politieke erkenning van leierskapfigure nie, maar ’n baie dieper saak oor alles wat die inheemse volke deurgemaak het,” het Coetzee gesê.

Daar moet ook aandag gegee word aan die voorstelle wat Suid-Afrikaanse Menseregte Kommissie aan die regering gedoen het oor regte van ons KhoiKhoi volk, wat alreeds moes ingeskop het.

“Ons kom al baie lank aan met die kwessie oor erkenning vir ons volk en ek was een van 21 inheemse leiers wat met oud-president Nelson Mandela gaan praat het oor hierdie saak.”

Coetzee vertel dat die inheemse leiers vir Madiba geluk gewens het toe die land se eerste demokratiese grondwet tot stand gekom het, en dat hulle dié Suid-Afrikaans ikoon by daardie geleentheid geraadpleeg het om die grondwet te wysing sodat die aspirasies van die Khoi en San aangespreek kon word.

“Erkenning vir ons mense is nie net ’n politieke kwessie nie, dit is baie dieper, dit is vir ons ’n kulturele en ’n geestelike saak.

“Dit gaan tot by die sewe beginsels in ons !Nau-seremonie, wat die fondasie is van ons inheemse bewussyn. Daarmee saam die feit dat die hele kwessie van erkenning, asook dié wat handel oor die gewoontereg binne die Khoi en San kultuur, nie ie aanspreek word nie.”

Natural Justice, die nie-regerende organisasie wat die Khoi en San bygestaan het met regsadvies in die Rooibos-ooreenkoms, en wat ook ander inheemse volke reg oor die wêreld bystaan, het in hul reaksie op die wet gesê dat daar nog baie brandpunte is wat aangespreek moet word.

Hierdie brandpunte sluit in onder meer dat die Khoi en San erken moet word as die eerste inheemse nasie van Suid-Afrika; dat die woord “Kleurling” verwyder moet word van alle amptelike dokumente en dat enige verwysing na mense van “gemengde herkoms” vervang moet word met die woord met Khoisan.

Natural Justice wil verder hê dat die Kwadie-Khoi taal as amptelike taal in die land erken word en dat “die Khoisan met grond en hulpbronne voorsien moet word om hul kultuur en tradisies te bevorder”.

Wet 3 van 2019 is nie 100% waarvoor ons beding het oor die jare nie. Ons het ’n dokument opgestel oor hoe ons grondwetlik geakkommodeer wil word. Die huidige wet is ’n redelike afgewaterde weergawe van dit wat ons op tafel gelê het.

Message from the National KhoiSan Council Chairman – Cecil le Fleur

‘Our people must be uplifted’

National Khoisan Council chairperson Cecil le Fleur was involved from beginning to end with the process of negotiating an agreement between the Rooibos Industry and the Khoi and San.

This process ultimately led to an agreement, signed in November 2019, between the Rooibos Industry and the Khoi and San in which the first indigenous people are recognised as the primary knowledge holders of this high value cosmetic, medicinal and culinary product.

This agreement has been widely celebrated not only here in South Africa, but among indigenous peoples worldwide. However, getting to a place where one can seize victory from a long and very difficult negotiations process is not an easy task. **ZENZILE KHOISAN** talks to **CECIL LE FLEUR** about this long journey.

Inheemse Spoor: What were the primary motivating factors for the NKC involvement in the rooibos ABS negotiations?

Cecil le Fleur: If we look back on the process of entering into a negotiations process that lasted more than nine years then in its clear that our strongest motivating factor is that to prevent the ongoing exploitation of Khoi and San traditional knowledge by big commercial concerns and to establish the principle that the benefits must be shared in a fair and justifiable manner.

There was also a deeper issue that motivated us, which is that we wanted to send a message to the corporate world and to government with the investigation of our claim as the holder of this primary indigenous knowledge, because it sends a clear message that the Khoi and San people were the first people in this country to have this knowledge.

Inheemse Spoor: What were your impressions of the negotiating team and its ability to engage such a formidable industry and what is your perspective on the negotiating pathway?

Cecil le Fleur: This was indeed instructive for us, because the Rooibos processors and Rooibos farmers were, at first, not afraid of this claim.

They denied that THE Khoi and San were the first people to use this plant and this position was clear when they even arrived at the negotiating table without a lawyer.

When it came to our team that were part of the negotiations, I was truly impressed with their of their knowledge of the Rooibos plant and I realized at the start of the negotiations that we had a really formidable team who were up to the task.

It also was clear that even the Rooibos industry was impressed with the depth of the knowledge of the Khoi and San team who were negotiating.

This team was complemented by two very accomplished attorneys who were fully committed to our case. The first was Roger Chennels of Chennels Albertyn, who has a very long history of supporting our people, particularly with the years of work he has committed to serving our people in their fight for justice in regions such as the Kalahari.

Then we also had on our side Lesle Jansen a Khoi women and a lawyer who assisted us as the representative of Natural Justice, who put her whole heart and soul into the process from which we emerged victorious.

What I definitely can say is that this was not an easy process because it took more than nine years, and it cannot be said that this was a rollover for the commercial



LIGHT AT END OF THE TUNNEL:
NKC Chairman, Cecil le Fleur.

companies. For quite some time they tried to prove that our research was wrong, but in the end they failed.

Inheemse Spoor: What is your view of the Bio-cultural Community protocol that was developed and how will it assist in broadening the access and benefit agreements for indigenous peoples beyond Rooibos?

Cecil le Fleur: The concept of the Biocultural Community Protocol is very new to the Khoi and San people, because our people are not fully organised and they did not know they had a right to a claim.

Our people also did not have knowledge or a full understanding of laws both nationally and internationally which supported their rights to a claim, so we were very privileged to have our attorneys who were very helpful in assisting us with this, so that we could reach our goal.

It is also very clear that the BCP process impacted upon the communities in a very positive way, because it put a lot of emphasis on identity and a sense of belonging – belonging to a bigger family of Khoi and San people.

In this respect, here again I must recognise Lesle Jansen of Natural Justice, who empowered us to create a document, a protocol that unifies us and teaches us a lot about ourselves. This process of creating a Biocultural Community Protocol taught us a lot about the similarities that binds us together and reveals that we are from one point of origin.

Inheemse Spoor: The Rooibos agreement precedes the Traditional and KhoiSan leadership Act (ACT 3 of 2019), now signed by the president into law. How does this law give effect to the struggles the NKSC has waged on behalf of Khoi and San peoples, and how will it actually be implemented?

Cecil le Fleur: For many in the National Khoisan Council the act is a first step in the right direction, but it is very clearly not perceived as the solution.

This ACT recognises Khoi and San people in South Africa and by giving statutory recognition to Khoi and San leadership it lay the basis for further claims. It does not recognize the Khoi and the San as the first indigenous peoples of this country.

However, if we go into the history of this country, the whole world knows that the Khoi and San are the first inhabitants of this country, but the ACT is silent on the issue of First Nation Status.

I can certainly state that I fought very hard, even going to Pretoria to discuss with the officials to get the words Khoi-San into the ACT.

This was important because now we have all the leverage to take the process further, because cannot be disputed is that the Khoi and the San are indeed the first indigenous people of this country.

What is necessary is to move the process further and the focus now must also be to get our communities recognised.

What we must fight for now is our collective rights to language, to heritage, indigenous knowledge and land and further in this regard the next step must be the urgent socio-economic development of our Khoi and San people.

Our Khoi and San people do have a right to land and also to economic development and now funders both in South Africa and abroad can fund our people.

In terms of achieving this Rooibos and Boegoe and all other products that are associated with our indigenous knowledge will have to form part of the master plan for the upliftment and development of our people.

We shall have to bring together all our economists and all our other skilled people to develop this master plan.

Inheemse Spoor: South Africa is undergoing a difficult, sometimes uncertain period with great uncertainty. How does this affect the fight for full recognition, restitution and restoration of the Khoi and San?

Cecil le Fleur: We are fighting for our people who are still suffering from the unjust legacy of colonialism and apartheid and government must realise that with this ACT coming into law the Khoi and San are now part of the national structure of the society.

However, it must be accepted that government must budget for the rebuilding of the Khoi and San people and adequate resources must be allocated to capacity building for the full restoration of our people.



SHAKE ON IT: Cecil le Fleur, NKSC Chairman, Minister of Environment Affairs, Forestry and Fishery, Barbara Creecy, Colin Louw (NKSC) and Martin Bergh of the Rooibos Industry at the historical signing of the Rooibos ABS agreement. **PIC: NATURAL JUSTICE**

Other examples of ABS agreements

India

The Kani tribe in India used a plant called Arogyappacha for energy and phytochemical pharmacological investigators have been trying to pursue patents for this plant. Kani tribe members used the fruit of the plant strategically to preserve most of the plant and not deplete the resource.

Now the product is called Jeevani and it is developed from the leaves of the Arogyappacha plant. In 1995, the Kani tribe was able to facilitate an agreement that allows proceeds to be shared equally between researchers and the tribal community.

The Kerala Kani Samudaya Kshema Trust was created to receive the finds, so that funds would be equally distributed between community members and not leave out women. The trust is dedicated to the welfare of the Kerala Kani tribal community, implements development projects, and is dedicated to documenting and protecting the knowledge of the Kani tribal community.

Some of the good practices that have been identified in this case are:

- Ongoing development of more transparent and democratic mechanisms, with the representation of Kani in second agreement (2006)
- Co-option of women to trust executive committee to improve the gender balance
- Trust fund contributions to community hall, local employment and transport improvements
- This is identified as one of the few successful cases of the CBD that generates income through benefit sharing

Brazil:

Brazil's Law No. 13123 of 2015 regulates the access to Brazilian genetic heritage and associated traditional knowledge and the sharing of benefits arising from their utilisation. "Genetic heritage" is an essential component to the Brazil ABS system.

The new law established the National System for Genetic Heritage and Associated Traditional Knowledge Management, which is a online self-regulation and notification system requiring access to Brazilian genetic heritage and any associated traditional knowledge to be monitored and managed.

Prior informed consent is not required for access to Brazilian genetic resources, rather any access inside or outside the country to Brazil's genetic heritage is conducted electronically through SisGen. The exportation of any resources or

any material containing Brazilian genetic heritage also has to be registered in SisGen. Additionally, Material Transfer Agreements must be made for any shipments of resources for research purposes and registration in SisGen must be completed before resources are exported or any scientific results are published.

Argentina

As of March, 2017 provinces in Argentina have ownership over the natural resources found within their territories and the provinces are empowered to provide consent for access to genetic resources found in their area.

This law was adopted to control research and potential exploitation of resources.

The Federal government is then responsible for adopting minimum legal environmental standards that guarantee a baseline level of environmental protection across the country, but the provinces are responsible for their own regulation to enforce the Federal rules.

Currently, the Federal Government has not adopted a law setting minimum environmental standards on ABS, which remains the largest challenge for ABS agreements in Argentina.

Certain aspects of the ABS regime are regulated through the Administrative Decision No. 226/2010 which applies to genetic resources that are going to be exported.

Additionally, ten provinces out of Argentina's 23 have regulated ABS issues to varying degrees.

The key differences between the provinces include: the formal and substantial requisites required to grant access to genetic resources; the material scope of the legislation; the obligations and conditions imposed on users of genetic resources, and the kind of benefits arising from the utilisation of genetic resources that are expected to be shared with the province.

The challenge with Argentina's ABS legal framework is the lack of a law setting minimum environmental standards throughout the country, which has led the ten provinces who have adopted ABS regulations to have vastly different requirements.

It has become very hard for researchers and other groups to access genetic resources here because the evidence required to issue the export permit for genetic resources cannot always be obtained.

Some provinces do not require ABS documentation, making the legislation only partially effective.



EVICTED: The Endorois community of Kenya were evicted from their land by their government o create the Lake Bogoria Game Reserve without any prior consultation, thereby compromising their customary rights. They were also not involved or consulted in the management of the reserve, or received any share in the benefits , nor compensated for the loss of access to grazing land for their livestock.

ABS agreements to rights the wrongs

The Endorois are an indigenous minority community living in the Lake Bogoria area of Baringo County, as well as partly in Nakuru and Laikipia Counties in the Rift Valley Province of Kenya.

They have been living around Lake Bogoria for almost 300 years and regard Mochongoi Forest and Lake Bogoria as sacred ground due to the use of these locations for key cultural and religious ceremonies.

They identify themselves as both an indigenous and minority community in Kenya. They have been formally recognized as such by both the Working Group on Indigenous Populations/Communities of the African Commission on Human and Peoples' Rights, and by the UN Special Rapporteur on Indigenous Rights.

They are currently estimated to be about 60,000 in population, yet have never been recognised by the government as a distinct ethnic community.

In 1973, the Government of Kenya forcibly evicted the community to create the Lake Bogoria Game Reserve without any prior consultation, thereby compromising their customary rights.

Thereafter, the Endorois were not involved or consulted in the management and operation of the reserve. They did not receive any share in the benefits emanating from the reserve, nor were they compensated for the loss of access to grazing land for their livestock.

The community members were arrested for allegedly trespassing when they visited the reserve for cultural and religious purposes, as a result of which their spiritual and cultural survival, tied to their ancestral lands, was threatened.

In 2010, the African Commission on Human and Peoples' Rights recognised the rights of the Endorois community

over their ancestral land, and thereby allowed them unrestricted access to the reserve to graze their cattle and pursue their cultural and religious practices.

Establishment of these rights gave them standing to get a share in any benefits arising from indigenous knowledge and resources including benefits derived from the reserve as a tourism destination.

Community Protocol

The Endorois community protocol is still being finalised. However, community members feel that they have already benefited from the process. They are more aware of their rights, including benefit-sharing, and improved the level of organisation in the community.

The discussions also strengthened their conservation efforts and the traditional restrictions regarding resource use. The process opened opportunities for involvement and leadership for youth and women.

It also brought the national and county government and the community together, resulting in close collaboration regarding ABS issues.

Challenges and addressing them

A key issue when developing a community protocol is to define who the community is, and who will be part of the community protocol process and implementation.

The Endorois consider that they have the fundamental right to determine their own membership; for this reason, they have developed an "Endorois Community Membership Code".

This code defines the criteria under which a person qualifies as a member of the Endorois community, including rules of descent. There is no proper infrastructure and road network in some parts of the community, and this limited the accessibility to the consultative

forums for some community members. Older generations were particularly disadvantaged, which posed a challenge as they are the ones who are the traditional knowledge holders.

The community protocol was developed in the specific context of including ABS into the management of the Lake Bogoria Reserve, and to define community governance and procedures for future ABS agreements.

However, during consultations, the community brought up a number of other concerns regarding the management of natural resources, and their relationship with the Reserve.

These include issues such as human-wildlife conflict, cattle rustling or infrastructure. The EWC and the community will have to strike a balance between a comprehensive reflection of the community's challenge, and the agreement on a particular focus (in this case ABS) to increase the effectiveness of the protocol process.

The community protocol was something new and the community members needed to know why it was important before they could begin their deliberations. It was also based on complicated international and national laws, which took time to understand.

Some community members were skeptical about the process based on their earlier experiences.

They would ask if someone wanted to take their land from them, like it had been done with the Lake Bogoria Reserve. A lot of care had to be taken when communicating the process and handling community dynamics.

Language barrier this also an issue but it helped to have educated members of the community present, who assisted the others in understanding the discussions.

We've learned how to protect our rights

The BCP has helped us as a community to protect traditional knowledge, because most of the people did not know how visitors should approach access and use of their resources, or how to protect them for future generations.

It assisted us so much in giving the people the information on how to protect their knowledge.

We found that the elders gave us a lot of information, some of which



Christine Chebii

we had no knowledge about. So we also learned a lot. When we were on the ground, we found that most of the women are custodians of the traditional medicine, and they were the ones giving us information about

the importance of plants, because they are knowledgeable. What I learned during our meetings was that we have a culture where sometimes men and women cannot interact together, so you have to interview them separately, so

that they can give you some information in detail about the plants.

We are losing traditional knowledge in terms of the passing of knowledge from the elders who have passed away.

The BCP has created a lot of expectations. After the information they gave us, there should be a booklet and a way that it can be used even by future generations.

We are losing traditional knowledge in terms of the passing of knowledge from the elders who have passed away.

Many legal instruments defend first nation's rights



Indigenous peoples have engaged in a wide range of international negotiations and processes to secure rights in other instruments, such as the UN Convention on Biological Diversity (CBD) and THE UN Framework Convention on Climate Change.

ZENZILE KHOISAN

With many indigenous cultures increasingly under threat worldwide, and with increasingly complex issues that first peoples have to navigate, many wonder what strategies to employ in order to achieve their goals.

These struggles, particularly of South Africa's foundational peoples include the fight to protect their heritage, culture and languages, demand return of ancestral lands and constitutional recognition, restitution for historical injustice of oppression and the restoration of indigenous peoples with, full self-determination, in the lands of their forebears.

Many describe this process as sometimes feeling completely without recourse, particularly in South Africa, where, even today, there is no official recognition of the foundational languages that were first spoken in this country, where this language is limited to an expression on the national coat of arms.

In the case of land claims, several national conferences, notably the Kimberly 1 and Kimberly 2 national consultative conference on land claims placed a most loaded question before Gugile Nkwinti, who was the then minister of Rural Development and Land Reform, when the delegates asked: "How are we to be restituted for land of which our ancestors were disposed during colonialism, when the official law on restitution sets a cut-off date at 1913, when most of the Khoi and San were already dispossessed of their land?"

There are many other examples of how the current national legal framework is inadequate or does not give the necessary support to indigenous peoples as they struggle to fight discrimination and correct the injustices of the past.

However, even as many despair at where they believe is a difficult state of affairs, it is very clear that this is not quite the case.

In fact, a new compendium of all international agreements, conventions, declarations and other legal instrument, appropriately titled The Living Convention, produced by Natural Justice, has come to the rescue of those who are fighting to correct deep injustice.

As an introduction to the most exceptional compilation of almost every legal instrument that can be used by everyone, from a local community struggle on land rights or access and benefit sharing, to a national organisation dealing with national issues, The Living Convention is a very important reference for all who seek justice for the most marginalised. For all who are interested in accessing this very important guide to rights and obligations The Living Convention give the necessary

introduction:

Indigenous peoples, local communities and peasants have fought hard for the rights they have secured at the international level. Decades of commitment, tenacity, personal sacrifices, and well-executed negotiating strategies have led to important rights gains and legal recognition, perhaps most significantly enshrined in the United Nations (UN) Declaration on the Rights of Indigenous Peoples (2007) and the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018).

In addition to these landmark instruments,

primarily for Indigenous peoples, local communities and peasants, as well as their supporting organisations and other stakeholders and interested parties.

It is intended as an easily accessible resource for exploring the full range of provisions in international law that address the interrelationships between, among other things:

- ♦ individuals, peoples and communities;
- ♦ livelihoods, culture and spirituality;
- ♦ territories, landscapes and seascapes;
- ♦ biodiversity and other natural resources;
- ♦ knowledge, innovations and practices;
- ♦ agricultural systems, including crops and livestock;
- ♦ climate change, and
- ♦ legislative and judicial systems.

It aims to further empower Indigenous peoples, local communities and peasants to articulate, affirm and assert their roles, responsibilities and rights in maintaining the integrity and resilience of their social-ecological systems.

It underscores the legal and ethical obligations of governments, the private sector and other actors to uphold the substantive and procedural standards that are clearly elaborated in internationally agreed instruments.

It is also hoped that this publication will inform debate about why – despite the wealth of supportive international law – we are witnessing unprecedented levels of human rights abuses and environmental degradation across the globe, and how this can be effectively addressed.

The Living Convention (Volume I) contains a compendium of internationally

recognised rights that support Indigenous peoples, local communities and peasants. It is organised so that, for example, all provisions that deal with free, prior and informed consent (FPIC) are grouped together regardless of whether they are located in human rights instruments or multilateral environmental agreements.

The same is the case for provisions relating to a range of other rights, including: cultural traditions; land tenure; customary and sustainable uses of biodiversity; farming and livestock keeping; public participation in decision-making; and access to justice.

Volume II sets out the rationale and methodology. It illustrates how counter-mapping international law has rendered a comprehensive and integrated body of international legal provisions that are supportive of Indigenous

peoples', local communities' and peasants' rights to protect their physical, cultural and spiritual relationships with their territories, areas, and related resources.

The Living Convention aspires to build awareness around a wide range of international law, help identify gaps and ultimately provide a basis for promoting implementation, enforcement and legal reform.

It also aims to spur renewed interest in the question of national implementation of international obligations and catalyse an urgent engagement with the question of the legal weight of international law.

The compendium (Volume I) provides a comprehensive and approachable overview of international legal provisions that support the integrity of Indigenous peoples', local communities' and peasants' relationships with their territories of life.

The Compendium can be used like a dictionary to find out about the body of law supporting particular rights.

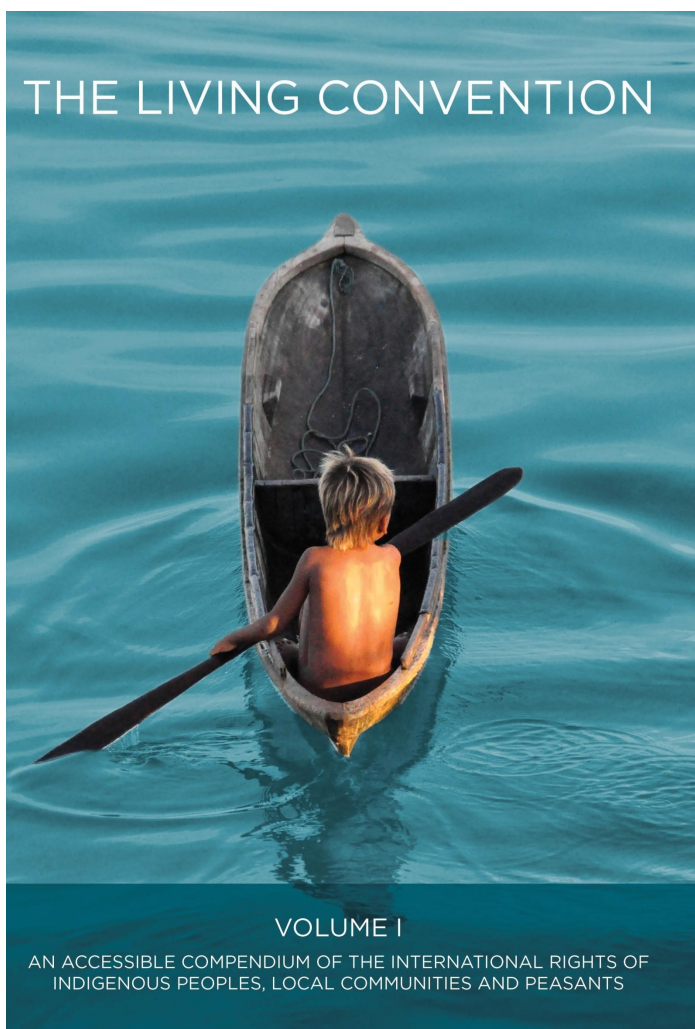
The methodology (Volume II) can be read to engage more deeply with the framing of international law and how it can be counter-mapped to increase its local legibility and applicability.

Indigenous peoples, local communities and peasants can use the Compendium for a wide range of purposes, for example, when:

- Framing a local development plan or 'plan de vida' and proposing new self-defined initiatives such as a land claim;
- Engaging a range of governmental and non-governmental proponents of projects proposed to take place on or that will affect their territories of life and/or natural resources, among other things;
- Negotiating or preparing for litigation with government agencies and/or the private sector; and
- Drafting petitions and advocacy strategies or articulating community protocols.

For more information on The Living Convention and to download Volume II, please visit: www.naturaljustice.org/the-living-convention

There are many other examples of how the current national legal framework is inadequate or does not give the necessary support to indigenous peoples as they struggle to fight discrimination and correct the injustices of the past.



Indigenous peoples, local communities and peasants have also engaged in a wide range of international negotiations and processes to secure rights in other instruments, such as the UN Convention on Biological Diversity (CBD) and THE UN Framework Convention on Climate Change.

Today, Indigenous peoples', local communities' and peasants' rights are enshrined in a wide range of international instruments.

The distinct bodies of rights continue to grow as new instruments are negotiated and adopted, as progressive jurisprudence is developed through regional and national courts, and as countries enact laws that respect the rights of Indigenous peoples and local communities.

The Living Convention has been produced

Madagascar *leads the way* on successfully implementing ABS

ZENZILE KHOISAN

One of the very significant signposts on the pathway to entrenching the traditional knowledge rights of indigenous peoples and communities, particularly in the African continent, has been the small island nation of Madagascar, which has set a high watermark for not only enforcement, but also the long term and sustainable protection and due exercise of these rights as they relate to indigenous communities of the island.

A signatory to the Nagoya Protocol, which is the most critical document on biodiversity and the rights to Access and Benefit sharing, Madagascar has surpassed many nations in its sensitive, respectful and, ultimately successful approach to empowering the islands indigenous communities through Access and Benefit Sharing (ABS).

ABS is guided and protected by a Bio-cultural Community Protocol, which is further empowered by a fully developed legal framework written into the country's constitution.

Natural Justice has been an active partner in this process in its critical handbook *Community Protocols in Africa: Lessons learned for ABS implementation*.

The local communities of Mariarano, a municipality in the Boeny region of Madagascar, manage one of the most biodiverse forests in the North-West of the country.

The dry tropical forests of this area harbor a large number of endemic plant species, which are of high interest to scientists and commercial users, both in Madagascar and abroad.

The communities' livelihoods are based on agriculture, fisheries, animal husbandry and use of forest products.

Local traditions and customs still play an important role in the lives of the communities, as do the spiritual relationships with their environment. The "fady," or cultural prohibitions, are still strongly respected.

One of the plants endemic to the region is *Cinnamosma fragrans*, also known as mandravarotra or motrobe in the local language.

This plant is very popular in traditional and modern medicine for its multiple therapeutic virtues.

In Malagasy, mandravarotra means: "keeps evil away". All components of this plant can be used for their medicinal properties (stem, leaves, bark, fruit and roots).

In traditional medicine, it is mainly used against poison, in tonics and in case of difficult deliveries.

Research has confirmed the properties

of the plant as: antiviral, expectorant, broad-spectrum antibacterial, antifungal and neurotonic.

The *Cinnamosma* plants found in the Mariarano area stand out for their exceptional quality compared to plants sourced from other parts of the island.

Every year, the local communities of the area supply *Cinnamosma* leaves to a number of different users, mostly bio-trade operators who transform them into essential oil, both for the domestic and for the international market, especially in Europe.

Seven villages from the area joined forces to develop their community protocol. Six of them are located in the Mariarano municipality, the seventh is a village in the neighboring municipality of Betsako that co-manages the same forest with one of the ariarano villages.

The communities agreed because all seven villages manage and supply the same resource (*Cinnamosma fragrans*) to external actors, share the same set of challenges regarding the regula-



Cinnamosma fragrans, also known as mandravarotra or motrobe in the local language.

tion of access and sustainable use of their resources, and share the same cultural roots and similar livelihoods.

They therefore aspired to develop a common decision-making process around these issues.

However, inspired by the process, several neighboring villages have asked to be included and it is foreseen that the community protocol will eventually be extended to the entire area of the two municipalities, Mariarano and Betsako.

The communities of Mariarano proposed a Malagasy translation of "community protocol": Tari-dàlana sy Vina Iombonana (TVI), literally translated as "Guide and Common Vision".

This translation came out of a lengthy consultation, and was chosen based on the communities' understanding of the



ATTENTIVE AUDIENCE: Communities in Madagascar at an information session about Access and Benefit Sharing protocol. **PIC: Natural Justice**

purpose of community protocols in their context: "Tari-dàlana" or "guide" because the community protocol gives guidance on what to do, and "Vina Iombonana" or "Common Vision" because it conveys messages from communities who speak with one voice and who want to have the same vision of things.

National ABS framework
Decree N ° 2017 - 066 of 31/01/2017 Regulating Access and Benefit-sharing Arising from the Use of Genetic Resources calls for the respect of customary law and opens the possibility of basing consent on community protocols. It prescribes that "for local natural resource managers and holders of associated traditional knowledge, where appropriate, consent is formalised as a convention.

This convention is established in accordance with the rules of customary law, traditional values and practices prescribed in the locality and must not be contrary to the law and the regulations in force. Assuming that traditional values and practices are already documented by a tool developed by the communities, this tool must be consulted and integrated into the convention."

Objectives and content of the protocol

The protocol was developed to address the twin challenges of illegal access to the *Cinnamosma* plant and unsustainable harvesting practices, and to prepare the community in the case of future ABS negotiations. In principle, operators accessing biological resources have to request a permit with the regional forest service, which involves consultation with the local communities.

However, in the past, communities were often not consulted at all, or not adequately. They also observed that certain users were operating without the appropriate permits.

Moreover, the communities felt that they were at a disadvantage when negotiating prices and benefits with the users.

The aim of the protocol was therefore to jointly hold the users of the communities' resources accountable and to demand responsible and ethical practices.

To this end, the communities defined a joint decision-making process between the seven villages. From now on, users requesting access to the resource will have to follow the same procedures and rules, regardless of which village they plan to collect the resource in.

Elements of the Mariarano community protocol

- ◆ Decision-making structures and processes at village level and between the seven villages.
- ◆ The process that commercial users, operators, researchers and others must follow to access the genetic resources and traditional knowledge of the community
- ◆ Benefit-sharing terms and conditions for purchase of plant material
- ◆ Traditional rules and values of the community
- ◆ Conflict resolution process
- ◆ Commitments of the communities to conserve their natural resources, especially the *Cinnamosma fragrans* plants
- ◆ The rights of local communities over the natural resources and associated traditional knowledge under international, national and regional law and regulations.

Process
The Mariarano community protocol was initiated and proposed to the communities by the GIZ "Programme d'Appui à la Gestion de l'Environnement" (PAGE) as a pilot to test the community protocol approach in Madagascar.

The process was conducted by a committee of community representatives that included village authorities, representatives of natural resource management committees and traditional knowledge holders. It was supported and facilitated by a joint team from GIZ PAGE and Natural Justice.

The regional forestry administration, which is in charge of permitting and monitoring the use of plant resources, was informed at every stage of the process. The process took a little over two

Outcomes and challenges

Outcomes

Since its adoption, written agreements based on the community protocol have been established between five different villages and the specific biotrade operators that these villages supply to.

These agreements contain information on prices, purchasing terms, harvesting areas, sustainable harvesting practices, and non-monetary benefits such as infrastructure and social projects.

The regional administration now requires operators to present these agreements as part of their permit applications.

The operators have also signed a commitment with the regional forest service stating that if their activities, or those of their value chain partners, should become ABS-relevant in the future, they will follow the national ABS framework.

The learning effect during the development of their community protocol has allowed the communities to distinguish users who are in good standing (with valid permits) from those who are not, and the procedure for dealing with cases of irregularity.

With the support of officers of the regional forest administration, communities took responsibility when they were confronted with cases of unlicensed access and have halted the collection activities until the situation is solved.

Challenges and how they were addressed

Distances and accessibility of villages: Several small villages make up the municipality of Mariarano. These villages can be quite far apart and their accessibility is not always easy.

It was therefore necessary to work closely with community representatives to communicate with certain villages.

It was also necessary to ensure that at least two representatives from each village were present during the community meetings. At the end of each meeting, a worksheet capturing key messages and decisions was developed with the participants to assist them in the reporting in their respective villages.

Identification and representativeness of the members of the drafting committee

The aim was to ensure a balance between the legitimacy and competence of the members of the community protocol drafting committee.

Two community representatives from each village formed the committee. The usual procedure for establishing such a committee would be for communities to designate their representatives themselves.

However, it was clear that the choice was often directed towards local elites, including those with a certain status in the villages

(traditional chiefs, administrative chiefs, etc.)

Individuals with some analytical capacity or other perspectives, but lower status in the community were therefore less likely to be designated.

As a result, after discussion between communities and facilitators, one of the two representatives from each village was nominated by the communities on a “legitimacy” basis, the other by facilitators according to “competency” criteria (in particular, to be a good communicator, to know the context of the seven villages and to have a certain capacity for analysis).

Time for communities to think about the content of the tool: The process to develop the community protocol was defined by the local communities with the support of the

“Only by developing our own protocol did we become aware of the value of our resources and our knowledge
- leaf collector

facilitators at the beginning of the process. However, during its execution, the predefined approach was systematically revised.

The communities needed more time than expected for their reflections regarding the content of the protocol.

There were multiple causes, such as the divergence of interests (which made it difficult for communities to reach consensus, especially on the definition of the decision-making process); and the need for more in-depth consultation of the communities on some sensitive issues (e.g. modalities of benefit-sharing).

The role of the facilitator in this context was to systematically trigger the reflections of the communities through questions and practical scenarios.

For this purpose, role plays and case studies were favored as learning methods.



LEAF COLLECTOR: A Madagascan native processing motrobe leaves.

Protocol benefits communities

I have been working for a long time in the harvesting of motrobe leaves.

Local people have always used this plant as medicine. But since operators started buying the leaves of the plant, the villagers began to sell them.

Every year, there is an operator who looks for and orders these leaves. Many of us are collectors. Like me for example, for two years now, I have been living from the collecting of motrobe leaf.

In my perception, the community protocol claims benefits for the entire population and not just for an individual. The introduction of the community protocol has led to good changes in our community.

Previously, when there were operators looking for motrobe, it was often only us collectors who were aware. But now that there is the protocol, all the villagers are informed.

When we reached an agreement with an operator not long ago, the protocol was used. There was a benefit-sharing agreement



Sagni Dolli Zozo, motrobe (Cinnamosma fragrans) leaf collector.

established. The price of the kilogram of leaves which before was 400

Ariary rose to 700 Ariary now, thanks to the protocol. This is due to the fact that we made a contract with the operator concerning the benefits to be shared, the price of motrobe leaves and that if he did not agree to establish this agreement, we could not collaborate with him.

Before, there was no contract, the operator alone decided the purchase price of the leaves.

It has to be said that the community protocol improves things. I encourage operators to continue to share benefits with the local communities.

With these benefits, we can easily educate and raise awareness with the communities about the value of protecting the resources, because if they deteriorate, what will we have

PROCESS



Celebrating ART with healing, self-love

While doing research for her thesis which focuses on the physical attributes influencing the formation of cultural identity in Coloured and Khoe women of the Western and Northern Cape, **ANNELIZE KOTZE** was looking for strong women to interview when she stumbled on **Lukretia Booysen**

It was while I was doing online research for strong women, as well as looking for art galleries to assist in promoting the artwork of a San gentleman I met, I discovered a gem of a dynamic young woman with the name of Lukretia Booysen.

Her aim is to promote the art of indigenous communities, to give back to communities and also to nurture pride in indigenous culture and heritage while also fostering a spirit of healing.

Lukretia Booysen is Director of The Keona Art Institute, as well as clothing designer. She identifies herself as a proud Khoisan woman.

Her lovechild, The Koena Art Institute, celebrates creativity, openness, tolerance, and generosity. The focus of the institute is to be inclusive and to provide a space where diverse cultural, artistic, social, and political positions are welcome.

Her conviction for her craft and her cause is contagious and her vivacious spirit is one that is destined for greatness. She epitomises how your destiny chooses you because of who you are and it is your choice to fulfil that destiny, no matter what challenges comes along.

Her drive is inspiring and gives hope for the greater cause of the recognition of the indigenous peoples of South Africa.

I had the privilege to sit down with her and ask her a few questions.

Annelize Kotze: Tell us a bit about Lukretia the person and what influenced the work that you are doing.

Lukretia Booysen: I am originally from the small town Worcester in the Western Cape. I stem from Khoena heritage and always wondered why our people didn't celebrate and honour this ancestry. That was the reason I started doing what I do. I wanted to see people who look like me celebrate, embrace and be proud of who they are. I did something about it and it turned it into what people see today.

AK: How has the journey been for you thus far?

LB: It has been an inspiring and beautiful, yet difficult journey. It has been a lot of sacrifice and hard work. There is hardly any support for the indigenous peoples in South Africa, which makes me sad because we as Khoena people have so much to offer to the world.

However, I decided not to let the lack of sup-



port deter me. Our peoples stories still need to be told. I give my contribution proudly as I know there are many who are also doing the same.

AK: What have been some of the highs and lows you have experienced on your path of destiny?

LB: The most difficult part is how society sees

our people. We as indigenous Khoena people are constantly politicised by the broader South African society and that is something I wish would change.

We as Khoena people simply want to just be... and breathe without having to talk about politics when we embrace who we are.

It does get exhausting at times.

The highlight



TRUE IDENTITY: Lukretia Booysen, Director of Koena Art Institute, and clothing designer.

has been the Kwaaikhoi clothing range that has been relaunched and most importantly the opening of The Koena Art Institute, which celebrates Khoena heritage and art.

It is special because it is owned, and run by our people and all the artists are of Koena decent or have great passion for the preservation of Khoena Heritage. I work with the most amazing, talented and precious artists who have so much pride in their craft and heritage.

Every day I thank our ancestors and God for having the privilege to do what we do.

AK: How and why do you keep going?

LB: Sometimes I ask myself how we have been able to grow this far so quickly. But I think our story is something that needs to be told more often and people want to know more about the contemporary Khoena descendant.

It does get financially difficult because we do not get the financial support from our government. I have applied countless times for funding and we have been declined each time.

However, our art sales have kept us going and that support gives one the energy and will to continue. Our approach to heritage preservation is very different – it's a non-political, artistic and new approach to heritage preservation.

We do not trap our people in time like most organisations have. We have a very progressive approach that acknowledges the descendants of the Khoena peoples that aims to instil the pride in our people that was stripped away by generations of construing narratives.

AK: What has been the reaction from indigenous communities and the general public on what you do?

LB: The response has been warm, amazing and absolutely beautiful. I sometimes wonder if there is a catch, but I realise that people are and have been hungry for the actual account and truth by Khoena peoples themselves.

AK: Is there a message you would like to give to people, artists and young girls as an inspiration to them?

LB: Be you. Always share your ideas, your vision, your contribution. And be open to learn, ask when you need help. Always listen from a point of trying to understand, be ready to fail and forget your ego... it's your greatest enemy.

Find what you love. Find what you want to do and believe in it, pursue it with ALL your might. Believe in your gifts. Sometimes people will not be on your side and that is okay. Just keep going because you have something valuable to give to the world. Believe that you can and work for it!

I would encourage everyone to visit the Koena Art Institute and see the depictions of some familiar faces from your own community – whether you are from the Western or Northern Cape.

It is a celebration of our heritage, our history, our culture and a showcase of the talent of our communities while paying homage to and honouring our ancestors.

Contact the Koena Institute on:

info@koenaartinstitute.co.za

Tel: +27 76 735 7812

https://www.koenaartinstitute.co.za/

Exploring art, ideas, issues

The Koena Art Institute celebrates creativity, openness, tolerance, and generosity.

We aim to be inclusive where diverse cultural, artistic, social, and political positions are welcome. Committed to sharing the most thought-provoking modern, fine and contemporary art, and hope you will join us in exploring the art, ideas, and issues of our time.

Khoisan artists from across SA showcase their artworks, reflecting the narrative through the eyes of the Khoena people, indigenous to Southern Africa.

Exhibitions host a beautiful balance of seasoned and upcoming artists, presenting an exiting array of content central to the modern/contemporary Khoisan narrative.

Source and artwork:
www.koenaartinstitute.co.za



Painting by Bryne Newveldt



Artwork by Marlene Liebenberg



Painting of the indigenous riel dance by Anthony Roach.

Blik op ... Nieuwoudtville

Onthef dié gebiede van heffingsfooie

Die inheemse mense wat woonagtig is in die gemeenskappe wat die Sederbergstrook uitmaak, was onder dwang geëtiketeer as “Kleurlinge” onder Apartheid se rasseklassikasie-wette, soos amptelik bevestig deur die VN Spesiale Rapporteur in 200516.

Sonder enige poging om vooraf toestemming te verkry in terme van TVV/ ABS vir die op afdwing van daardie etiket, het die Apartheidsregime die uitwissing van ons kulturele identiteit verhaas.

Hierdie plattelandse plaasgemeenskappe in die Sederbergstrook bestaan uit diegene wat woon in Wupperthal, Nieuwoudtville en Suid-Bokkeveld, asook ander omringende boerderygebiede wat nie hier spesifiek genoem word nie, maar wat nogtans respektiewelik ingesluit waar daar 'n beduidende aantal persone oorspronklik van Khoi-afstammeling is.

Hierdie is spesifieke inheemse boerdery-gemeenskappe het dus 'n unieke identiteit as uitsonderlike inheemse mense.

Hulle is in die verlede opsetlik geïgnoreer en daarom moet ons benadruk dat opgelet moet word dat die boerderygemeenskappe van die Sederbergstrook inderdaad inheems is.

Hierdie gemeenskappe is belangrike aandeelhouers in hierdie proses as bewerkers van Rooibos deur volhoubare wilde tee oes-insameling en beperkte verbouing.

Hulle vorm deel van die Rooibosonderhandelinge as spesifieke ontvangers van voordele binne die Rooibos voordeelverdelingsmodel.

Hulle dien ook op die Khoi-Khoi Volke Rooibos Biodiversiteitstrust vir doeleindes van

voordeel-verspreiding.

Opkomende en kleinskaalse plaasboere op Nieuwoudtville verskaf sowat 20% van Rooibos-tee.

Sommige van die gemeenskapslede is voormanne op tep-lase en baie is arbeiders, terwyl ander wekers is by die plaaslike teefabriek waar die tee verwerk word as die laaste stap. Beide die NKR en die SA San Raad stem saam dat die plaaslike boere van hierdie Sederberg-gemeenskappe vrygestel moet word van die betaling van enige heffing soos wat vereis word deur bio-prospekterende verpligtinge.

Hierdie vrystelling is gebaseer op die verstandhouding dat dit slegs van toepassing is op gemeenskapslede van Wupperthal, Nieuwoudtville en Suid-Bokkeveld, wat betrokke is by



KENNETH MAARMAN
verteenwoordiger van
Nieuwoudtville

die boerdery.

Dit word egter verder in 2019 deur die Departement van Omgewing, Bosbou en Visserie (DOBV) ondersoek.

'n Finale besluit sal geneem word sodra die DOBV hulle navorsing oor hierdie kwessie afgesluit het.

BRON: Natural Justice



DONKIERIT: Die Rooibos Erfenisroete is oor growwe terrein, maar die ervaring eg en uniek.



OESTYD: Maria Syster, met rooibos wat sy geoes het.



SLAAP SOOS VOOROUERS: 'n Nag in 'n matjieshuis is 'n onvergeetlike ervaring.



Ervaar Nieuwoudtville se kokerboom-woud

Soos ons weet, het ons voorouers na aan die natuur geleef. Hulle het niks gemors, gebreek of verwaarloos nie. 'n Gewoonte wat alle mense gerus kan volg.

Dit is 'n riem onder die hart om te sien hoe hulle die natuur kon benut sonder om skade te doen.

Die pragtige en buitengewone kokerboom – wat eintlik 'n vetplant is – is deur ons voorouers benut as pyle en die groot boomstamme van dooie bome is uitgehol en gebruik om kos koud te hou. Die veselagtige weefsels van die bas het toegelaat dat die wind daardeur waai, wat die inhoud koud gehou het.

Boonop verskaf die helder geel blomme aan die takke nectar aan die talle voëls, veral die suikerbekkies.

Outentieke, unieke rooibosroete

Rooibostee, bossiestee of stokkiestee, dié tee is so eie aan Suid-Afrika as wat kan kom. Jy kan maar soek, maar nêrens anders ter wêreld groei die rooibos nie.

Dit maak dus sin dat die Rooibos Erfenisroete tussen Nieuwoudtville en Wupperthal net so uniek en outentiek as die rooibos moet wees.

Grof en rof oor berge en dale met 'n donkiekar; oor gruispaaie, deur plaashekke (wat oop en toe gemaak moet word).

Die roete staan nie verniet by die plaaslike bevolking bekend as die Moederverloor Roete nie.

Maar vir diegene wat kans sien, wat reeds die roete meegemaak het, is dit 'n onvergeetlike ervaring waar mens met die egte, plat-op-die-aarde mense en omgewing kennis te maak – warm en uniek, net soos die inheemse mense en hul voorvaders.

En vir die bietjie ongemak kry jy die egte ervaring, die geskiedenis, die kultuur van hoe inheemse gemeenskappe hul bestaan maak.

Die mense, die aarde, die omgewing, die stilte, die natuurskoon, en die majesteuse Cederberg-reeks bied jou 'n onvergeetlike ervaring – jy sal met nuwe oë en nuwe waardering 'n koppie rooibostee geniet.

Die diverse rooibosroete loop deur verskeie plase, waar kleinskaalboere met rooibos boer. Mens kan stop om 'n geselsie aan te knop oor die unieke omgewing, of anders met die wink van die hand groot.

Hul sal met egtheid en warmte hul stories met jou deel, hul kultuur, leefwyse en jou self binne nooi sou jy 'n kykie wil kry in hul leefruimte.

Onthou net om die hek oop en weer toe te maak voordat jy aanbeweeg na die volgende plaas.

Dit is die besoekers se verantwoordelikheid om die plaashekkie by al die plase wat deur die roete loop, oop en toe te maak.

Dit bring ook 'n gevoel vna eenheid met die landskap en sal besoekers aanmoedig om weer terug te keer

Diegene wat verkies om oor te slaap, kan dit doen in 'n matjieshuis of selfs onder die sterre! Wat 'n ervaring om met die stadsjapies te deel.

En vanselfsprekend sal daar verfrissende, organise tee beskikbaar wees, saam met liplekker roosterbrood of tuisgemaakte brood.

Op die roete leer mens oor medisinale plante en hoe dit tradisioneel deur die KhoiSan gebruik is.

Dan is daar 'n kykie in hoe ons inheemse voorvaders die wêreld gesien het in die rots-tekeninge, wat eeue gelede daar geteken is.

Die toere op Wupperthal en Nieuwoudtville gee 'n demonstrasie oor die produksie, van begin tot einde, van rooibostee.

Vir diegene wat meen die donkiekar-ritte is dalk te outentiek na hul smaak is, kan hul die 121 km roete met 'n viertrek-voertuig of een wat nie te laag is nie, aandurf. Iemand met ervaring van gruispaaie moet dalk dan aan die stuur wees.

Die toestand van die paaie, kan wissel afhange van die seisoen en die paaie kan na harde reëns nogal uitdagend wees.

Die roete lê tussen twee belangrike biodiverse gebiede, en die oorgang tussen die Fynbos en die Renosterveld van die Kaapse Flora-streek en die Vetplantgebied van die Karoo bied 'n lus vir die oog.

Dan is daar nog die asemrowende blommeprag tussen Augustus en Oktober wanneer die velde omskep word in 'n lushof van kleur.

Daar is verskeie stilhouplekke om hierdie skouspel te bewonder, veral wanneer daar na die Biedouw-vallei afgery word.

Bykomende bronne:

<http://www.rooibosheritageroute.co.za/route/>

<http://www.nieuwoudtville.com/rooibos-heritage-route/>



Lang geskiedenis van onteining, verslawing

Ons Khoivoorouers het as nomadiese veeboere geleef tot hulle van hul gronde en bronne onteien is vanweë Kolonialisme en Apartheid — meer as 300 jaar van sistematiese verdrukking.

Die Khoi- Khoin het sedert 1652 grondonteining deur kolonialiste ervaar. Ons as inheemse mense het drie Hollandse oorloë, volksmoord, slawerny, ingeboekte arbeid en uiterste geweld teen onse mans, vroue en kinders, wat gewettig was, oorleef.

Hierdie wreedhede is steeds nie volledig gedokumenteer nie en bly grootliks onverteld, met die gevolg dat generasie steeds die trauma ervaar, wat op verskillende wyse in ons mense tot uiting kom.

Gedurende en na kolonisasie het Christen-sendinge na Suid-Afrika gekom om “onbeskaafde” inheemse mense “beskaaf te maak”.

In die Sederberg-gebied het sendelinge onse tradisionele en inheemse regeringstelsel opgebreek deur die vestiging van sendingstasies en ons mense oortuig om onder die vaandel van die Kerk God te dien, eerder as om voort te leef as “barbare.”

Die afbreek van onse inheemse “wesentlikheid”, met die vervanging daarvan deur die Christendom, het totaal ons inheemse kosmologieë en wêreldbeelde ondergrawe.

Ten einde die sendingstasies aan die gang te hou, het die sendelinge die koloniale regerings versoek om Khoikhoigronde in die naam van die Kerk te registreer en so ons grond-onteiening te bespoedig.

In plaas daarvan om te streef na billikheid, geregtigheid en gelykheid van die Khoi-Khoin, het die Kerk slegs geglo dat hulle ons moes bekeer en doop tot Christene.

Ons glo egter dat hulle ons nie tot Christene bekeer het nie, maar eerder tot Christelike slawe en so ons gebruiklike stelsels en praktyke totaal ontwig en vernietig het.

’n Uttreksel lees soos volg:
Die Katolieke geloof en die Christelike godsdiens moet verhoog word en oral toeneem en versprei word, sodat die heil van siele versorg kan word en dat barbaarse nasies tot ’n val en tot die geloof gebring word.

Enige beskikbare land wat nie deur Christene bewoon word nie, moet “ontdek word,” opgeëis en geëksploiteer word deur Christelike regeerders. - Leerstelling oor Ontdekking in Europa, 1493.

Ons was stelselmatig onderdruk deur vele koloniale regeringskodes, onder

meer:

- ♦ die Hottentotskode van 1809, (ook bekend as die Caledon Kode);
- ♦ asook die Meesters- en Diensknegte Wet van 1856, wat ingestel was na die afskaffing van slawerny, om die aanbod van arbeid op kommersiële plase te verseker.

Intussen het die Hottentotskode dit onwettig gemaak vir die Khoi-Khoin om grond te besit, hulle gedwing om ’n vaste “woonplek” te hê, op ’n plaas of ’n sendingstasie.

Dit was die eerste van ’n reeks paswette wat ingespan was om Afrikanerplaasboere te bemagtig om die bewegings van die Khoi-Khoin te kontroleer.

Dit was verder gestel dat as Khoikhoi persone wou beweeg, hulle ’n pas van hulle baas of ’n plaaslike amptenaar moes kry.

As ons gevang was sonder so ’n “vaste adres” was ons in hegtenis geneem.

Hierdie het gelei tot stelselmatige opsluiting in tronke – ’n sisteem wat ons tot vandag toe vind.

In die Wes-Kaap is daar 18 tronke, en die Khoi-Khoin maak die meerderheid van die totale tronkbevolking uit.

Hierdie negatiewe erflating hou steeds aan om die beeld van die rooibos inheemse boerdery-gemeenskap te skaad as ‘arm kleurling-plaasboere’, wat teenstrydig is met hulle status as tradisionele kennishouers sentraal tot die groei en ontwikkeling van die Rooibos-industrie.

Hierdie maatskaplike samestelling het dieselfde gebly vir oor die 200 jaar.

Die Kode was dus gebruik as wetlike en morele regverdiging vir die koloniale onteining van ons soewereine inheemse mense.

Deesdae bevind baie van ons Khoikhoi-afstammelinge steeds hulself as plaaswerkers op kommersiële plase waar hulle die diepgaande voorouerlike reg tot eise het.

Inderwaarheid besit hulle nie werklik grond- en bronregte op daardie plase nie, behalwe sekere woonregte en informele arbeid.

Die post-Apartheid Grondhervormingsprogram in Suid-Afrika het nie onse gemeenskappe betekenisvol bevoordeel nie.



BAAS EN KLAAS: Jan van Riebeeck en sy manskappe word deur die kunstenaar uitgebeeld as verhewe en die plaaslike KhoiSan as onderdanig, wat ’n verwronge beeld is. **REGS:** ’n Meer geloofwaardige uitbeelding van die inheemse volk.



Die regering het die geleentheid vir restitusie in 2014 her-open deur ’n Amendement op die Grondrestitusie Wet te bekragtig.

Ongelukkig het die Grondwetlike Hof in 2016 ’n uitspraak gelewer wat ’n einde gebring het aan die Khoi-Khoin en San se tweede potensiele geleentheid tot grondrestitusie, deur die Amendement Wet as ongrondwetlik te verklaar.

Totdat die wetgewers nuwe restitusiewetgewing bekragtig, kan die Khoi-Khoin en San nie grondeise instel nie.

Die Wet op Vakleerlingskap (1812) het dit terselfdertyd vir ’n plaaseienaar wettig gemaak om ’n Khoikhoi-kind van sy of haar ouers te verwyder en oor te sit na enige plaas waar die kind as arbeider nodig was.

Van daardie kind was dan verwag om in diens van die plaaseienaar te bly tussen ouderdomme van twee en 27.

Sommige bronne bereken dat meer as 2 000 Khoikhoi-kindere uit hulle ouers se sorg in daardie tydperk verwyder was.

’n Verdere maatskaplike erflating wat die Khoikhoi-gemeenskap treiter, is die *dopstelsel*.

Dit was ingeburger op wynplase in die Wes-Kaap waar die plaaseiener, naas die daaglikse lone, gereeld goedkoopwyn aan werkers gegee het as ’n mevallertjie.

Hierdie stelsel het alkoholisme aangewakker wat dramatiese onderplaa-sarbeders toegeneem het.

Dit het verskriklike maatskaplike skade veroorsaak – iets wat tot vandag ervaar word.

Fetale alkohol-sindroom (FAS) is onder hierdie gemeenskappe sewe keer hoër as die wêreldgemiddelde.

Die voormalige president, Nelson Mandela, se administrasie in post-apartheid Suid-Afrika, het hierdie praktyk beëindig deur dit as onwettig te verklaar.

Die apartheidsbeleid het onse inheem-

se identiteit verwyder deur die Wet op Rasseklassifikasie en die Wet op Bevolkingsregistrasie, waardeur Suid-Afrika rassekategorieë geskep het: (i) Blank (ii) Afrikaan (iii) Indiër en (iv) Kleurling.

Hierdie negatiewe erflating hou steeds aan om die beeld van die rooibos inheemse boerderygemeenskap te skaad as ‘arm kleurlingplaasboere’, wat teenstrydig is met hulle status as tradisionele kennishouers sentraal tot die groei en ontwikkeling van die Rooibos-industrie.

Die Khoi-Khoin is toe onder dwang geklassifiseer as Kleurling, ’n etiket wat ons nog verder onteien het van ons gebruiklike bronne en kennis (soos deur die Verenigde Nasies se Missieverslag aan Suid-Afrika in 2005 bevestig).

Elkeen wat nie binne een of ander kategorie geval het nie, is in ’n subklas onder die term “Kleurling” geplaas – ’n stelsel wat enige begrip van gemeenskaplike erfgoed vernietig het.

Die Wet op Groepsgebiede het nog ’n era ingelui van ge-dwonge verskuiwings vanaf gebiede waar ons gewoon het – hierdie keer dorpsgebiede.

Ontwrigting in terme van ruimte was duidelik volgens rasselyne.

In Kaapstad, byvoorbeeld, is die bruin gemeenskap verwyder uit 16 magistraatsdistrikte langs die Tafelberg-reeks.

Al hierdie gebiede was al langs die kosbare voetheuwels van Hoeri-kwaggo (“Berg by die see”) wat vandag Tafelberg genoem word – ’n Wêreld Erfenisterrein.

Daardie gemeenskappe is almal verskuif na wat huidiglik as die Kaapse Vlakte bekend staan: misdaadgeteisterde, verarmde gebiede met uiterste maatskaplike en ekonomiese uitdagings; agtergelaat in terme van die regering se ontwikkelingsprioriteite.

Bron: Natural Justice

Dawid Stuurman vereer met naam van lughawe

Byna 200 jaar na sy dood, is stamhoof Dawid Stuurman, onverskrokke Khoisan vegter van die Oos-Kaap vereer toe die Port Elizabeth Internasionale lughawe op 24 Februarie na hom vernoem is.

Die lughawe sal voortaan bekend staan as die Chief Dawid Stuurman Internasionale lughawe. Die minister van Kuns en Kultuur, Nathi Mthetwa het die nuwe naamsveranderinge in die Staatskoerant gepubliseer.

Stuurman is in sy stryd teen die kolonia magte gevange geneem en gemartel, maar hierdie onverskrokke inheemse held het dit reggekry om twee keer van Robben-eiland te ontsnap.

Hy het op 22 Februarie 1830 in Australië gesterf nadat hy daarheen verban is deur die Britse kolonialiste.

Chris Martin, Khoi-aktivis van die Oos-Kaap, het in sy reaksie gesê die Khoi en San is baie gelukkig.

“Dawid Stuurman was ’n groot KhoiSan leier in die streek. Ons is verheug dat die naam verander is van die vorige name wat ingesluit het HF Verwoerd en toe Port Elizabeth Internasionaal,” het Martin gesê

Dawid Stuurmanm was een van die laaste stamleiers wat ’n gewapende stryd teen kolonialiste gevoer het

Stuurman was ’n standvastige leier van sy mense en ongeag al die bese

dade wat die kolonialiste teen hom gepleeg het, het hy nooit sy mense verraai of die gesag van die koloniale regering aanvaar nie.

In meer as drie dekades van ongebroke diens as aktivis, stamhoof, militêre leier en politieke gevangene het hierdie seun van die Khoi in die Oos-kaap bewys dat die KhoiSan hand en tand geveg het om hul outonomie, hul gronde en hul menswaardigheid te behou. David Stuurman is in 1773 in die omgewing van die Gamtoosrivier in die Oos-Kaap gebore.

Vanaf 1658 is die Khoi en San volke deur middel van wapen, wet en ander metodes onteien van hul tradisionele gronde waarop hulle vir eeue gevestig was.

Hierdie onregverdige proses het alle stamme van die inheemse



Stamhoof Dawid Stuurman, onverskrokke Khoi-held van die Oos-Kaap, wat hard vir die regte van sy mense geveg het.



volk geraak, en dit is die rede waarom Dawid Stuurman, soos duisende ander Khoi en Boesmans, gedwing was om vir boere te werk, soos ene Johannes Vermaak.

David Stuurman se legende begin toe hy as plaaswerker deur Hannes Vermaak na Veldkornet Hendrik de Bruyn gebring is om gestraf te word na ’n woordewisseling tussen Stuurman en Vermaak.

Vermaak wou hê dat die opstandige Stuurman geskiet moet word, maar het later die straf van die veldkornet aanvaar.

Hiervolgens sou Stuurman aan ’n wa-wiel vasgebind word, met ’n sambok geslaan word, daar sout in sy wonde gevryf word en hy vir ure in die brandende son moes gelos word om te ly. Hy is verder verneder toe hy gedwing is om tna die Vermaak se diens terug te keer.

Volgens geskiedkundiges het Stuurman die plaas verlaat nadat Vermaak dood is en het kort daarna met honderde ander Khoi plaaswerkers aangesluit by die Khoi Rebelle wat in 1799 uitbreek het.

Die Khoi het toe saam met Xhosa-vegters in die streek verenig en teen die kolonialiste geveg. Hulle het met groot sukses gronde en vee terruggeneem, maar talle Khoi vegters en stamleiers is dood gemaak.

Teen die einde van die Khoi Rebelle het baie Khoi mense teruggekeer na die plase, maar die meerderheid van die Stuurmans het verkies om hulself te vestig in die omgewing van die Bethelsdorp-sendingstasie naby Algoabaai, waar David Stuurman as stamhoof ingesweer is nadat sy broer, Klaas, gesterf het.

Maar hulle sou nie toegelaat word om in vrede te leef nie. Dit was nie lank nie of die koloniste het met die hulp van boere en landdros Cuyler op die Stuurmans se herberg toegeslaan.

Gemeenskapslede is gedwing om weer by die plase te gaan werk en die Stuurman-stam is beroof van hul vee.

Stuurman en drie van sy vegters is in hegtenis geneem omdat hy na bewering nie sy samewerking wou gee om twee Khoi plaaswerkers aan Cuyler te oorhandig nie.

Stuurman is toe Kaap toe geneem en na Robben-eiland gestuur op aanklag van “verdagte aktiwiteit” omdat hy en sy mense hulself op die grense van die Kolonie gevestig het.

In Desember 1809 het Stuurman en ander Khoi gevangenes ontsnap en terugkeer na hul mense in die Oos-Kaap.

Vir die volgende tien jaar het Stuurman die Khoi en Xhosa rebelle teen die kolonie gelei, maar was ongelukkig in ’n lokval betrap en terug na Robben-eiland gestuur.

Twee jaar later het Stuurman saam met dertig ander gevangene weer van Robben-eiland ontsnap - hierdie keer in walvis skepe. Die Xhosa-profeet, Makana, en dertien ander het verdrink in die see by Blaauwbergstrand.

Dawid Stuurman en ander wat geslaag het om op die wal te kom is toe weer in hegtenis geneem. Stuurman is terug na die eiland gebring en is van daar na Australië gestuur, waar hy op 22 Februarie 1830 in ’n hospitaal in Sydney gesterf het.



CHIEF MARGARET COETZE OF THE CAPE KHOI INQUAS

Awake!!!

By Gaos M Coetzee

AWAKE Sons and Daughters of of the First Indigenous Peoples of SA
AWAKE!!!

Awake sons and daughters of the Aboriginal Nation of SA awake!!! For the Spirits of our ancestors are restless.

Thanks Tsui//Goab!
At last their soundless voices could be heard, in the leaves of the trees;
In the roars of the leopards and the songs of the birds of our Country.

Awake sons and daughters of the First Indigenous Nation of SA awake!

Awake and let our real history be known to every blood member of the Khoekhoena Nation.

Let's restore the heritage and traditions of our heritage in the hearts and souls of our youth.
For no Nation can have a future without a past.



Laaste !Nau vir legendariese Khoi Vryheidsvegter

Die gees van Dawid Stuurman, een van die grootste Khoi vryheidsvegters is in 2017 in Hankey, in die Gamtoos Vallei, in die Oos-Kaap tydens ’n inheemse Khoi !Nau seremonie begrawe.

Stuurman se oorskot is naby graf van Sarah Baartman, waar ’n monumet vir haar menslike oorskot opgerig is.

Inheemse leiers het met die !Nau seremonie en ’n spirituele diens Stuurman se siel op ’n simoliese manier begrawe omdat die beedere van die legendariese vegter nooit teruggebring kan word nie.

Navorsing het gewys dat dit onder die brug by die Sidney hawe in Australië begrawe is.

Stuurman is hierheen verban deur die koloniale regering nadat hy vir die tweede keer van Robbeneiland ontsnap is, waar hy as gevangene aangehou was.

Die Inheemse ritueel is deur inheemse leiers uitgevoer om die Khoi

stamhoof se gees huis toe te bring. Stuurman is een van die Khoi helde wat in die Oos-Kaap in opstand gekom het teen die koloniale regering se onregverdige onteiening en onderdrukking van die inheemse volke.

’n Grafsteen is onthul ter herdenking van sy manhaftige daad en opofferings vir sy volk.

Tydens die seremonie is daar gesing en gedans en revolusionere digkuns gelees.

Hierna is die houtkis, toegedraai in luiperdvel, in die graf gesak. Daarna is boegoewater oor die graf gestrooi, en Khoi aktiviste het vier wit duiwe losgelaat as vredesteken.

“Dit was ’n emosionele dag vir alle Suid-Afrikaners,” het Christian Martin, gesê nadat die laaste !Nau seremonie voltooi is.

Martin, ’n Khoi aktivis was een van agt afgevaardigdes wat na Australië gereis het om Stuurman se gees terug te bring.

Traditional Khoi-San Leadership Act

Significance of the act

A statement from the presidency reads that “the Traditional and Khoi-San Leadership Act seeks to transform traditional and Khoi-San institutions in line with constitutional imperatives, such as the Bill of Rights, and restore integrity and legitimacy of the institutions of traditional and Khoi-San leadership in line with customary law and practices.”

The act is also supposed to provide protection for the traditional and Khoi-San leadership and while traditional structures and leadership positions have been recognised by law there have never been statutory recognition of the Khoi-San.

The act therefore acknowledges the independence and culture of the Khoi-San.

The act seeks to ensure that traditional and Khoi-San leadership institutions promote:

- ◆ democratic governance
- ◆ advance gender equality
- ◆ promote freedom
- ◆ human dignity
- ◆ the achievement of equality
- ◆ non-sexism and
- ◆ strive to enhance tradition and culture.

Aim of the act

The specific goals of the act as laid out by the South African government include:

- to provide for the recognition of traditional and Khoi-San communities, leadership positions and for the withdrawal of such recognition;
- to provide for the functions and roles of traditional and Khoi-San leaders;
- to provide for the recognition, establishment, functions, roles and administration of kingship or queenship councils, principal traditional councils, traditional councils, Khoi-San councils and traditional sub-councils, as well as the support to such councils;
- to provide for the establishment, composition and functioning of the National House of Traditional and Khoi-San Leaders;
- to provide for the establishment of provincial houses of traditional and Khoi-San leaders;
- to provide for the establishment and composition of local houses of traditional and Khoi-San leaders;
- to provide for the establishment and operation of the Commission on Khoi-San Matters;
- to provide for a code of conduct for members of the National House, provincial houses, local houses and all traditional and Khoi-San councils;
- to provide for regulatory powers of the Minister and Premiers;
- to provide for transitional arrangements;
- to amend certain Acts;
- to provide for the repeal of legislation; and
- to provide for matters connected therewith.

Impact and ongoing debates

One of the biggest impacts of this bill is that the new law denies people the right to choose whether to have their cases heard in customary or state courts. Since customary and state courts offer different protections, constitutional scholars argue that people should not be forced to use a certain kind of law simply because they live in a certain area.



SIGNING THE BILL INTO EFFECT: Pres Cyril Ramaphosa signing the Traditional and Khoi-San Leadership Act in December 2020.

STAATSKOERANT, 11 DESEMBER 2020

No. 43981 25

PROCLAMATION NO. 38 OF 2020



by the
President of the Republic of South Africa

COMMENCEMENT OF TRADITIONAL AND KHOI-SAN LEADERSHIP ACT, 2019 (ACT NO. 3 OF 2019)

Under section 66 of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), I hereby determine 01 April 2021 as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at
Hole Park on this 02 day of December Two thousand and
Twenty.

President

By Order of the President-in-Cabinet:

NC Mma
Minister of the Cabinet

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Ongoing debates on the act includes the following:

- ◆ The Khoisan people must be recognized as the first indigenous nation in South Africa;
- ◆ The label “coloured” must be removed from all official papers as a reference for people of mixed colour and be replaced with “Khoisan”
- ◆ Kwadi-Khoe must be listed as an official language in South Africa; and
- ◆ The Khoisan must be given land and resources to continue their cultures and traditions.

Sources:

<https://www.news24.com/news24/SouthAfrica/News/ramaphosa-signs-contentious-traditional-and-khoi-san-leadership-bill-into-law-20191129>

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