

Observations on the State of Indigenous Human Rights in South Africa

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Submitted by:

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SUPUSUPU

The Supusupu Khoikhoi First Language Project is based in South Africa. Supusupu challenges the kakapusa or erasure of Khoikhoi, a South African First Language, and the stories of her First People. Through art and stories, we seek to create solidarity spaces of #urusen or healing and llgams or conversations.

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I. Executive Summary

South Africa continues to fail to meet its obligations to protect the rights of Khoi and San Peoples to their lands, political representation, identities, languages, and cultures. The current 2022 census still limits identification to only five classifications—Black, White, Indian/Asian, Coloured, and Other—perpetuating Apartheid classification systems and failing to disaggregate data for Khoi and San Peoples. Khoi and San languages continue to be excluded from the nation’s official languages, and diminishing populations of language speakers put these languages in danger. Khoi and San Peoples also continue to lack formal recognition of their status as First Nations. South Africa has failed to uplift Indigenous languages and must provide further support, including in universities and other educational institutions and at the government level. Despite restitution processes underway to address historic and ongoing land theft under colonial and Apartheid governments, Khoi and San Peoples continue to face barriers, including administrative barriers to access claims procedures and the time frame for eligible claims excluding many Khoi and San claims. South Africa must ensure that restitution processes comply with Indigenous rights. Violence against people of Khoi and San descent continues, and violence against women across South Africa is rampant. Very little has changed since the last UPR cycle.

II. Background Information

This report focuses on two groups of Indigenous Peoples in South Africa known as the Khoi and San Peoples.

The San Peoples of Southern Africa are the descendants of the oldest human populations in the world, having lived in Southern Africa for nearly 200,000 years.ⁱⁱⁱ The term “San” is used as an umbrella for over a dozen distinct hunter-gatherer groups who speak distinctive “click” languages. They live across Namibia, South Africa, Botswana, and Zimbabwe and include the Khwe, !Xun, Ju'hoansi, Naro, Inuu and others.ⁱⁱⁱ

The Khoi (or Khoikoi) Peoples have lived in Southern Africa for nearly 2,000 years. Today, the Khoi People consists of the Nama People who are primarily located in the Northern Cape; the Griqua who are in the Western Cape, Eastern Cape, Kwazulu Natal and Gauteng, and various other parts of the country, where Griqua churches and/or branches are located; the Korana people, primarily in Kimberly and the Free State; and the Cape Khoi who reside in the Western and Eastern Cape.^{iv}

Together, the Khoi and the San are the First Peoples of South Africa. In the 1920s, a German anthropologist tried to combine many peoples – including the Khoi and San – into one ethno-linguistic group, coining the word “Khoisan.”^v The communities have mixed feelings about this name. The name “San” is also a name that was externally imposed by the Khoi. Some San groups prefer to be called Xam or by other specific tribal names such as Ncoa Khwe. Culturally, Khoi and San Peoples remain two distinct groups, although they share some experiences and political priorities as Indigenous Peoples in South Africa. The general preference amongst both Khoi and San people is to be called what they call themselves, i.e. by their clan names. Much of

the Khoikoi and San peoples' historical traditional lands were dispossessed beginning with the first instance of Colonial settlement in 1652.^{vi}

For the purposes of this report, we use the term Indigenous to refer to the Khoi and San Peoples, to align their status as rights holders under the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). However, the term 'Indigenous Peoples' is not widely used in South African law in the sense that it is understood in international human rights law, particularly in the context of UNDRIP's definition of "indigeneity." In Articles 6 and 26 of South Africa's Constitution(1996),^{vii} the term "indigenous" refers to the languages and legal customs of the majority black African population as distinct from those of other races. During Apartheid, San and Khoi peoples were classified as "Coloured," and the term "African" is used to refer to the largely Nguni-speaking groups in South Africa, as well as the Tswana, Sotho and Pedi speakers. The use of the term 'Indigenous' to refer to the "majority Black African" populations therefore does not include the San and the Khoi. None of the San or Khoi languages are included in the 11 official languages recognized in the Constitution. The South African Human Rights Commission stated, "While the Constitution uses the term "indigenous" in Section 181, it refers to the languages and legal customs of the Nguni, Sotho-Tswana, Venda and Tsonga-speakers and not the customs and languages of other races or ethnic groups."^{viii}

With the election of the National Party, in 1948, South Africa enacted a slew of race-based laws which formed the architecture of what was to become known as Apartheid: A system of legalised segregation and racial discrimination. One of the key pieces of legislation was the Population Registration Act No 30 of 1950 which classified South Africans as belonging to one of four population groups: White, Bantu (Black African), Coloured and Other. The term "Coloured" referred to peoples of mixed race as well as, in an act of cultural erasure, Peoples of Indigenous descent. The attitude towards "Coloured" people is best exemplified by a statement from Marike De Klerk, the former wife of the late former president, F.W. De Klerk, who spoke of "Coloured" People as a "negative group...a non-person. They are the people that were left after the nations were sorted out. They are the rest."^{ix} While the Population Registration Act has been repealed, the classifications have been retained to some degree insofar as they are still used to collect census data. In the 2011 and the current 2022 Statistics South Africa censuses, the categories of Black, White, Indian/Asian, Coloured, and Other are still used, and are the only options available to respondents.^x The government of South Africa does not track the number of people who identify as 'Indigenous.'^{xi} Approximately 8.8%^{xii} of the population is counted as "Coloured,"^{xiii} and an estimated 1% of the total population is Indigenous as the UN recognizes the term.^{xiv}

South Africa has many ethnic groups who speak 11 official languages, including English and Afrikaans. These include the Zulu, Sotho, Tswana, Ndebele, Venda, Swati, Tsonga, Pedi, Xhosa and other languages indigenous to South Africa that are not one of the five officially recognized Indigenous Peoples.^{xv} Most of the above groups have been recognized formally in terms of being a nation and having a language and a culture.^{xvi} Meanwhile, Indigenous Khoi and San Peoples have not been formally recognized. Since the advent of democracy in 1994, Khoi and San revivalist groups have advocated for the government to recognize peoples of Khoi and San descent as First Nation Peoples.

Today, the descendants of Khoi and San people live in both the cities and farmlands of the Western Cape, and to a lesser extent in the Southern Cape, the port cities in the Eastern Cape, and the financial hub, Gauteng. The dry and arid Northern Cape is the epicenter of language and culture preservation, where Ouma Katrina, the last fluent speaker of the San language N/uu, resides. The Northern Cape is less populated and more rural, and has therefore been less prone to Western influence. Pockets of people of Khoi and San descendants are found in small towns all over South Africa.

III. Previous Relevant UPR Recommendations

South Africa has received just two recommendations that explicitly mention Indigenous Peoples' rights over three cycles of UPR reviews and it has only accepted one. It has received other recommendations that are relevant to Indigenous Peoples' rights as well.

- a) In the 3rd cycle: *“Consider giving priority attention to indigenous peoples, in particular with reference to language, education and land redistribution.”* (Peru, Supported). Partially implemented.
- b) In the 3rd cycle: *“Take all the necessary measures to optimize land distribution, while implementing a land reform, providing adequate support and training to beneficiaries, in close consultation with all stakeholders”* (Haiti, Supported). Partially implemented.
- c) In the 3rd cycle: *“Promptly ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO).”* (Guatemala, Noted). Not implemented.

South Africa has also supported 62 recommendations related to gender and gender-based violence, including:

- a) In the 3rd cycle: *“Strengthen efforts to prevent and combat all forms of discrimination and violence against women, also by adopting and implementing effective measures on the issue, and ensure that women victims of violence receive appropriate help and that perpetrators are brought to justice”* (Italy, Supported). Not implemented.

While South Africa supported Peru's recommendation, it has yet to fully implement it. It continues to violate land and other rights of Indigenous Peoples in South Africa in ways that will be expanded upon in this report. Although some land redistribution has occurred, it has failed to remove obstacles that limit land redistribution to Indigenous Peoples; to prioritize education in Indigenous languages; or to ratify ILO 169. South Africa has not sufficiently implemented the recommendations related to gender and has not sufficiently protected women from gender-based violence.

IV. Ongoing Violations of Indigenous Rights

A) Violations of Land Rights

UNDRIP Articles 3, 8, 10, 11, 12, 13, 19, 28, 32; ICCPR Article 26

A.1 Failure to Address Land Claims

South Africa voted for the adoption of the UNDRIP in 2016. South Africa is a state party to the ICCPR^{xvii} and to the CERD.^{xviii} Yet, South Africa continues to violate Khoi and San Peoples' rights to access their sacred sites and fails to uphold its responsibilities under international law. The case of Table Mountain exemplifies these violations. The fight for the Khoi and San Peoples to access and conduct ceremonies at their sacred mountain is fueled by their long-lasting relationship with this sacred place. The Khoi believed their supreme god, Tsui//Goab, roamed there. "The Supreme Being of the Khoi-Khoi," published in 1881, documents many acts of ceremony and describes how the Aboriginal Peoples of the region referenced both good and evil. It is on this basis that the alliance at Table Mountain, who are descendants of these ancestors, are now basing their reclamation of the Mountain as an historic place of spiritual significance. The Khoi called Cape Town 'Camissa,' the place of sweet waters, based on a stream that flows from under the mountain and into the ocean. Table Mountain is presently state-owned property and forms part of Table Mountain National Park. In October 2020, representatives from different Khoi and San Tribes formed an alliance aiming to reclaim Table Mountain and occupied the site until their arrest on January 1, 2021.^{xix} On January 28, 2021, the Mountain 12, as the representatives are known, appeared in court briefly. They were all released on bail, and all charges were dropped later in 2021. Tazlyn Maasdorp, whose husband, Timothy Maasdorp, was among the arrested, stated on January 28: "It is a bittersweet moment yet again, this postponement [of the trial]. However, the Mountain 12 greatly appreciate all the support and prayers from everyone. As this court case will go into our history books of tomorrow, the next generation will be proud of the sacrifices we are making today."^{xx} The cultural and historical significance of land to the Khoi and San Peoples is summarized by the National Coordinator of the Khoisan Liberation and Mass Movement, Anthony Phillip Williams, who said, "We need our land back so our people can have a future... Without it, we will forget who we are."^{xxi}

Another pending Khoi and San land claim includes Hangberg just outside of Cape Town—an area to which Khoi and San people and people the government classified as "Coloured" were segregated in the 1950s^{xxii} and whose residents have been subject to evictions and displacement ever since.^{xxiii} Hangberg came to prominence in 2010 after the residents of the area took to the streets when Cape Town's government declared that 30 homes were built on a firebreak and needed to be demolished. Clashes with police resulted in 3 residents losing an eye. Between 1950 and 1980, people who were classified "Coloured" were forcibly removed from Houtbay valley and moved to Hangberg. Today, many people in Hangberg who were classified "Coloured" identify as such, and a small percentage identify as Khoi or San.

A.2 Expropriation Amendment as an Effort to Redress Apartheid Land Rights Violations

South Africa's White population (8% of the total population) currently owns 72% of farmland. South Africa's Black population (80% of the total population) currently owns less than 10% of farmland.^{xxiv} Under the purview of early 20th century Apartheid policies, 7% of farmland was allocated for division among Black, Khoi-San, and "Coloured" persons.^{xxv} This land theft and

relocation of communities violated rights against forced assimilation, forced migration, compensation or redress for stolen lands, and destruction of cultures, as well as self-determination and the right to undertake their own economic activities and forms of livelihood. The law additionally violated Article 26 of the ICCPR by treating the Khoi and San unequally with respect to other racial groups in South Africa.

In December 2021, the South African parliament rejected an amendment proposed to Section 25 of the Constitution intended to redress past injustices of land dispossession under Apartheid by providing for the expropriation of farmland from white South Africans to landless Black South Africans under circumstances deemed 'just and equitable.'^{xxvi} The amendment received just shy of the two-thirds majority of votes needed to pass it. The primary point of political and public contention surrounding the amendment was that of 'nil compensation,' which provided for expropriation of land without compensation. The Khoi and San Peoples were represented as the First Peoples during the public hearing processes in the Northern Cape and Western Cape. The communities voiced support for the amendment on the condition it be revised to encompass land dispossessed prior to 1913, in order to widen the scope of dispossession to include dispossession which began with first European contact in the 1600s.^{xxvii}

The subject of "nil compensation" also comes up within the Expropriation Bill, currently tabled, [Clause 12(3)] in situations "where land is expropriated in the public interest...where the land is not being used and the owner's main purpose is not to develop the land or use it to generate income, but to benefit from appreciation of its market value..." among other conditions.^{xxviii} The primary differentiator between the amendment and the bill is that the former seeks to facilitate expropriation with "nil compensation," while the latter seeks to outline that manner through which expropriation must take place, acting as a guiding instrument for the expropriation of properties by the state.^{xxix} Land restitution is referenced in the bill under "Expropriation for '*Public Interest*'"; "In order to redress the results of past racial discriminatory laws or practices."^{xxx}

A.3 Violations of Access to Land Restitution

While the above bills and amendments fail to advance, Indigenous Peoples continue to face rights violations related to land restitution. The Restitution of Land Rights Act^{xxxi} was passed within seven months of the new democratic government's establishment in 1994, thereby supporting section 25(7) of the 1996 Constitution,^{xxxi} which provides for the restitution of land rights to persons or communities who were dispossessed of property after June 19, 1913, as a result of previous racially discriminatory laws or practices. The Restitution Act established the Commission on Restitution of Land Rights^{xxxiii} (Land Claims Commission) to investigate and process all land claims lodged by December 31, 1998. Specific issues thwart the implementation of land restitution laws and policies for the Khoi and San.

First, the fixed cut-off date of 1913 is particularly relevant in the context of Indigenous Peoples' land claims because it technically barred the Khoi and San as their claims predate 1913. The Act makes no provision for land dispossessions that occurred prior to the passage of the Native Land Act of 1913.^{xxxiv} According to the Presidential Advisory Panel on Land Reform's 2019 report, "[the Land Restitution Act] will not and has not delivered substantive justice for those

persons who lost land long before the 19 June 1913 [Native Land Act]." The report's findings became a source of frustration for Khoi and San Peoples, whose unique legal and historical situation continues to be underrepresented in these discussions,^{xxxv} a violation of their right to Free, Prior and Informed Consent (FPIC) on legislative issues that affect them.

Second, for Indigenous Peoples, the land claim filing process is often complicated or too technical. Indeed, the large number of unresolved claims in the post-Apartheid era continues to be a stumbling block for Indigenous Peoples' and Community Conserved Territories and Areas (ICCA) implementation in South Africa.

Third, some claims concern land that has already been designated as a protected area or is being used for other government purposes. The case of District Six in Cape Town is one example of this. District Six is a neighborhood in Cape Town whose occupants were largely classified as "Cape Coloureds." In the 1970s, under the notorious Group Areas Act, the community was subjected to what are known in South Africa as "forced removals" in order to clear the way for white people to move in. Most of the houses were bulldozed and the people dispersed to an area known as the Cape Flats where their descendants today live in abject poverty. A process of restitution has been initiated but most of those claims remain unsettled.^{xxxvi} In 2013, a Khoi and San group temporarily occupied 19 housing units in District Six, Cape Town, claiming that the land is ancestral to the Khoi and San Peoples.^{xxxvii}

A.4 Violations of Free, Prior and Informed Consent

Other violations of the right to FPIC, and to sacred sites are brought to the forefront through the current court battle between the Khoi-San Peoples, and the retail giant Amazon. The latter has begun construction of their African headquarters in Cape Town on a site of great historical significance to both Peoples.^{xxxviii} This was the site of the Battle of Gorinaiqua in 1510, fought between the Gorinaiqua Khoi Peoples and Portuguese colonial forces, led by Viceroy Francisco de Almeida; as well as the first Khoi-Dutch War (1659-1660), an area that now forms part of the Khoisan Legacy Project, and the National Liberation Heritage Route.^{xxxix} As of March 2022, a judge required the project to halt pending consultation with Indigenous Peoples.^{xl}

An application to interdict the ongoing development was presented to the Cape Town High Court by the Goringhaicona Khoi Khoi Indigenous Traditional Council (GKKITC), and the Observatory Civic Association. This is subject to some contention however, as the First Nations Collective (FNC), another Khoi-San community group, has voiced support for the project. Their primary motive for support was the promised "'World-class facilities where the First Nations will be empowered' [with] plans for the facilities to include an Indigenous garden to grow traditional medicinal plants, an amphitheater where the group can perform traditional song and dance, in addition to a cultural media centre."

Contrastingly, the GKKITC argued that the consultation process for the project only consulted the FNC, in the processes leading up to the approval of the project. The council argued that under Articles 6 (1a, and 2) of the Indigenous and Tribal Peoples Convention of 1989, the project proponents ought to have consulted the council in a manner that best suited their interest.^{xli}

Most recently, on March 18, 2022, the Western Cape High Court interdicted the River Club development in the matter of *Observatory Civic Association and Others v Liesbeek Leisure Properties Trust*. This was in part due to the “issue of proper and meaningful consultation with all affected First Nations Peoples”. The interdict was issued in accordance with the National Environmental Management Act, 107 of 1998; in essence the project proponents, Liesbeek Leisure Properties Trust, who in the context of our analysis are acting on behalf of Amazon, are to undertake a second round of consultations with the affected Indigenous communities.^{xlii}

There have been some successes upon which future restitution can be modeled. The Riemvasmaak Community, the Mier Community, the Kleinfonteintjie Community in Schmidtsdrift, and the Khomani San Community of the Southern Kalahari are among the Khoi and San communities that have benefited from the land restitution program.

The 1999 approval of the San Peoples’ 1995 land claim was one of great historical significance; even so, there are major drawbacks to be resolved for proper resolution of land claims. The lands, now known as the Kalahari Hunting Farm, are community-owned. They consist of 6,000-hectares of farmland at the edge of the Kalahari desert, used for the purpose of a commercial hunting ranch, where they take clients on walk-and-stalk hunts of Wildebeest, Springbok, Oryx, and Hartebeest. With an additional 25,000 hectares of land within Kalahari National Park, 40,000 hectares on six farms near the settlements of San Peoples. The Peoples were also granted Hunting and Cultural Rights related to the land grant. This win facilitated the economic empowerment and development of the communities, particularly through the hunting and tourism industries.^{xliii} On the other hand, the Peoples had been promised financial resources from the State to assist in administering the farm and finance the communities’ relocation; these resources were withheld despite a lengthy court battle, which caused financial strain given that the traditional lands were more than 60km away.^{xliiv}

It is our hope that the government of South Africa will revise the current state of the land restitutions and land claims process; in order to implement a regulatory process that is more reflective of the historical redress and pave the way for more success stories like those discussed above.

b) Violation of Rights to Education in Indigenous Languages and Other Cultural Rights *UNDRIP Articles 13, 14; UN Charter Article 11*

Since 1994, many different groupings of people who identify as Khoi and San have participated in initiatives to bring awareness to the cause of being recognized as First Peoples or in the quest for attaining First Nation status. The most noteworthy activity is that of a group who have been camping at The Union Buildings^{xliv}—the office of the presidency of South Africa—since 2017 and continued on as of January 2022. This act of resistance advocates for the Khoi and San People to be officially recognized as the First People of South Africa, and that the languages of the Khoi and San Peoples be added to the other 11 official languages. While the Traditional and Khoisan Leadership Act 3 of 2019^{xlv} became legislation, giving formal recognition to Khoi and San leaders,^{xlvii} it does not recognize the Khoi and the San as First Nations nor designates their

languages among the official languages of South Africa.

There has been some effort by the government to revitalize Khoi and San languages. XK FM in Kimberly, for instance, is a radio station that was founded by the State and is largely subsidized. The inhabitants of Platfontein in Kimberly are approximately 6,000-10,000 people from the !Xun and Khwe communities, who speak !Xun and Khwedam, which are both San languages. This community was brought to South Africa from Namibia after Namibia's independence from South Africa in 1990.

Yet, since 2007, at least 4 N/uu speakers have passed on, and Ouma Katrina Esau is now the last remaining N/uu speaker. Very little has been done in order to accelerate the teaching and learning of Khoekhoegowab or any other Khoi or San language.

The government agency with the task to promote languages in South Africa is called the Pan South African Language board (PANSALB), which was established by parliament (Act 59 of 1995, amended by Act 10 of 1999) to “develop the 11 official languages, and Promote multilingualism in South Africa.”^{xlviii}

The constitution references the establishment of PanSALB in Section 6 when describing language rights. The PanSALB Act mandates that it initiate studies and research aimed at promoting and creating conditions for the development of all 11 official languages, plus the Khoe, San and South African sign language.

Indigenous Language activists like Toroxa Breda of Supusupu who teaches Khoikhoi or Khoekhoegowab, as it is known in Namibia where it is spoken by the Namaqua or the Nama Khoi and the Damara group, argues that PanSALB, the Department of Education, heritage institutions, institutions of higher education are intentionally failing to uplift the First languages of South Africa by their denial of the linguicide that resulted in a majority Khoi people in South Africa today calling a Dutch creole language, Afrikaans their ‘mamas gowas’ or mother tongue.” He states that “Universities also perpetuate exclusion — for the past 26 years, they have done little or nothing to u-khai (“uplift”) first languages in South Africa.”^{xlix}

Supusupu reports that 2022 to 2032 is the International Decade of Indigenous languages, yet it is already February, and there are no signs of PanSALB commemorating anything so far, not a whisper, not a poster, not a single indication of its commitment to the First Peoples of this land whose wealth built South Africa whose languages like Khoikhoi is still heard across South Africa, a language so powerful it changed the Dutch language and has influenced nguni languages like IsiXhosa. Not a single dedicated fund to support the work of activists and artists like himself, in violation of South Africa’s obligations under Articles 13 and 14.

Despite numerous requests to the National and local ministers of education to have Khoikhoi included as subject, responses from the government have been insufficient, in violation of South Africa’s obligations under UNDRIP Articles 13 and 14.

c) Violations of Indigenous Women’s and Children’s Rights

UNDRIP Articles 21, 22; CEDAW and CEDAW Optional Protocol obligations

On February 1 2022, South African president Cyril Ramaphosa signed three new bills into legislation in an effort to intensify the fight against gender-based violence.ⁱ Gender-based violence is a scourge that does not discriminate and is a huge issue that spans across race, creed, and culture. In poorer and historically disadvantaged communities, social ills like alcoholism and drug abuse perpetuate gender-based violence. It is noteworthy that people of Indigenous and slave descent, who have been classified as "Coloured," have a distinct history of being compensated with liquor in what was called "The Dop System" - a system in which farm labourers received alcohol as payment.ⁱⁱ Police violence also remains rampant in South Africa.ⁱⁱⁱ

Statistics South Africa reports that 20% of partnered women and up to 40% of divorced/separated women have experienced gender-based violence.ⁱⁱⁱ This data is not disaggregated for any groups and applies to women in general across South Africa.

All cases of gender-based violence are noteworthy, but the gruesome nature of the murder of Anene Booysen^{iv} requires special mention. She was only 17 years old, and she was found alive after being gang raped and disemboweled. She was from Bredasdorp, Western Cape, a region largely populated with people classified as "Coloured" many of whom are of Khoi and San descent. She was alive long enough to identify one of the killers. This is but one example of gender-based violence in communities like Bredasdorp.

Violence against Children

Triesa Van Wyk, mother of 13-year-old Jerobian van Wyk, found the remains of her son in a drain after he was murdered at the hands of a white farmer in February 2022.^{iv} Jerobian and a friend are believed to have stolen mangoes from the farmer's car. On August 26, 2019, 16-year-old Nathaniel Julies was shot and killed by police officers in Eldorado Park.^{vi} Nathaniel had Down's Syndrome. The two accused officers were known for using force on residents in the neighborhood and particularly would "open fire on...people not wearing masks," another police officer testified.^{vii} Child killings in the Western Cape in general is cause for concern. In 2020-2021, a total of 215 children were killed over a 14 month period.^{viii}

V. Recommendations

We urge South Africa to:

1. Take steps to facilitate dialogue with Khoi and San Peoples on healing from the lasting effects of colonization and genocide of language and culture, including provision of resources for a series of community-based workshops across the country.
2. Establish a task force to develop reparative strategies and mechanisms within government institutions for addressing the history and effects of colonization and genocide.

3. Take all necessary steps to address the historical injustice of land theft, starting with European colonization and continuing through the Apartheid era, including through accessible restitution procedures, expropriation, and other instruments.
4. Support grassroots language revitalization movements by initiating and financing community-led collaborations with universities and schools.
5. Disaggregate data about Indigenous Peoples by including Khoi and San ethnic identities in the census and eliminating the requirement that they identify with one of the current census options (White, Black, Coloured, Asian/Indian, or Other) to ensure adequate representation.
6. Ensure compliance with the judicial order that paused the Amazon headquarters project proposed for a site of cultural significance to Indigenous communities in Cape Town until all stakeholders, especially Indigenous communities, are comprehensively consulted properly via their own representative institutions and decision-making processes and their FPIC is attained.
7. Formally recognize the Khoi and San Peoples as First Nations.
8. Take steps to ensure that San and Khoi Land claims predating the 1913 cut-off date are documented and recognized and that this process be concluded as speedily as possible.
9. Officially recognize Khoi or San languages as amongst the country's official languages and allocate financial resources for Indigenous language revitalization.
10. Invite UN Special Rapporteur on the Rights of Indigenous Peoples to visit South Africa.
11. Create a national action plan on implementing Indigenous Peoples' rights based on the World Conference on Indigenous Peoples' Outcome Document.

End notes:

ⁱ <https://www.nature.com/articles/ncomms6692>; <https://www.science.org/content/article/dwindling-african-tribe-may-have-been-most-populous-group-planet>;

ⁱⁱ Suzman, J. (2017). *Affluence without abundance: The disappearing world of the bushmen*. Bloomsbury.

ⁱⁱⁱ Stavenhagen, R. (2005). Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. *United Nations Economic and Social Council*. <https://www.hr-dp.org/files/2015/07/06/G0516746.pdf>

^{iv} <https://www.iwgia.org/en/south-africa/3593-iw-2020-south-africa.html>

^v Laura Secorun, Dispatch: South Africa's First Nations Have Been Forgotten, *Foreign Policy*, October 19, 2018, 2:31 PM, <https://foreignpolicy.com/2018/10/19/south-africas-first-nations-have-been-forgotten-apartheid-khoisan-indigenous-rights-land-reform/>

^{vi} Mitchell, F. (2012). *Khoisan identity*. South African History Online. Retrieved February 9, 2022, from <https://www.sahistory.org.za/article/khoisan-identity>

- vii Constitution of the Republic of South Africa (1996) Dec. 18, 1996. Act108 of 1996, G.17678, GoN 2083, arts. 6 & 26.
- viii South African Human Rights Commission. (2015-2016). Report of the South African Human Rights Commission: National Hearing Relating to the Human Rights Situation of the Khoi-San in South Africa. [https://www.sahrc.org.za/home/21/files/National%20Hearing%20Report%20on%20the%20Humn%20Rights%20of%20the%20Khoi-San%20-%2014%20March%202018%20\(003\).pdf](https://www.sahrc.org.za/home/21/files/National%20Hearing%20Report%20on%20the%20Humn%20Rights%20of%20the%20Khoi-San%20-%2014%20March%202018%20(003).pdf)
- ix <https://mg.co.za/article/2001-12-07-the-dark-side-of-marike-de-klerk/>
- x Stats SA, Rep. of S.A., Statistics by Place: Census 2011, http://www.statssa.gov.za/?page_id=964.
- xi Secorun, *supra* note 1.. (this goes with the previous Id., not with IWGIA which I inserted in between)
- xii Secorun, *supra* note 1.
- xiii Secorun, *supra* note 1.
- xiv <https://www.iwgia.org/en/south-africa/3593-iw-2020-south-africa.html>
- xv Indigenous Peoples of Africa Co-Ordinating Committee, *Who are the Indigenous Peoples of Southern Africa*, <https://www.ipacc.org.za/southern-africa/>.
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