

C.R. SWART LECTURE

TOPIC: THE KHOE AND SAN AND THE POLITICS OF IDENTITY, NATIONALLY AND GLOBALLY

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Identity politics refers to activism/agitation/mobilization drawing on the supposed (real or imagined) shared experiences and identities of specific (and often marginalized or dominated) societal groups (e.g. ethnic minorities, cultural groups, women, gays, lesbians, bisexuals and transgendered people). Such activism is aimed at promoting the interests of the groups concerned. These interests may be conceived in terms of equality, liberation and/or self-determination. Whilst those involved in identity politics may be marginalized on the basis of their difference (from those in power), they usually demand to be respected in their difference, and also to be treated justly, regardless of that difference.

INTRODUCTION

In giving an account of the Khoe and San and the politics of identity, I would like to begin by sketching the historical background of Khoe and San identity politics. I will then describe Khoe and San activism or mobilization on a regional, continental and global basis. Finally, I will express my views on the way forward, and end off with a few closing remarks.

1. HISTORICAL BACKGROUND

The past decade has been characterized by growing Khoe and San organization and self-affirmation across southern Africa. This process assumed special significance in South Africa, where the affirmation of a Khoe and San heritage was largely muted before 1994. Although organizations of Khoekhoe people have been active in South Africa for a long time, for example the G.N.C. (Griqua National Conference) and the Griqua People's Organization, it is only since the 1990s that Khoe and San organizations have become directly involved in trans-national and global indigenous rights politics - more than two decades after the First Nations of the Americas and Australia started to voice their concerns in international forums for First Nations. Two key processes were important in this regard for the Khoe and San of South Africa. Firstly, the demise of apartheid created space for Khoe and San descendants to re-evaluate and reaffirm their Khoe and San roots. Secondly, the United Nations'

declaration of 1993 as an International Year of the World's Indigenous People and, subsequently, the declaration of the period 1994-2004 as an International Decade of the World's Indigenous People, had important consequences. These declarations focused greater global attention on "indigenous" or First Peoples. The declarations also generated greater sensitivity to, and support for, the politics and concerns of First Nations. This increased sensitivity and support was exemplified by the creation of WIMSA (the Working Group for Indigenous Minorities in Southern Africa) and SASI (the South African San Institute), catering for the San across Southern Africa.

In discussing the issue of claiming an indigenous identity, one realizes that this is a very controversial subject which often leads to serious discussions and intense debates. If we try to define the concept of an indigenous identity, we soon realize that there is no universal and unambiguous definition.

I would therefore like to focus more specifically on the historical impact of colonialism and the subsequent apartheid regime on the loss of our identity. The generic term *Khoe and San* was first used in the late 1920s by the German anthropologist, Leonard Schultze. The term became more established in anthropological circles after the publication of Isaac Schapera's book, *The Khoe and San Peoples of South Africa*, in 1930. Only during the 1970s did the use of the term become widespread among progressive historians; while it began to be commonly used by people of Khoe and San descent during the nineties.

The term *Khoe and San* refers essentially to people descended from the first indigenous people of southern Africa, the hunter-gatherers and the herders (Khoekhoe), who were living throughout the region at the time of European contact in the late fifteenth century AD, and who had been there for many thousands of years. The term *San* was historically often used by Khoekhoe herders to refer to the San. *Khoekhoe* was a self-referential group term for the herders.

For my people, the Khoe and San of South Africa, the forceful change of our identity started much earlier than the apartheid era. Colonization by the Dutch from 1652 onwards meant the gradual loss of land, culture, language, religion and economic stability – and also identity.

After the Khoe Wars of Resistance (1659-60; 1673-77) and the devastating outbreak of smallpox (during which thousands died), many moved away from the Cape. Cape Khoe groups joined others in the Eastern Cape, but especially those who were stationed along the Gariiep (Orange River). New clans were thus formed, such as the Koranna and the Griqua, who were descended from the Grigriqua. The social upheaval at the Cape also resulted in intermarriages between the White settlers, slaves and the Cape Khoe. The word "Bastaards", or "Basters", was invented to describe the offspring of these relationships. Slavery was abolished in 1834 and the new working class, consisting of Cape Khoe and San and free slaves, were referred to as "people of colour" by the British colonial government. In the meantime, our freedom of movement was severely hampered by pass laws. The term "coloured", therefore, was not the invention

of the National Party government of 1948. However, the National Party government used the term to further marginalize and oppress the Khoe and San community.

It is interesting that, after the Anglo-Boer War, or South African War (1899-1902), and the formation of the Union of South Africa in 1910, the Khoe and San were regarded as “natives” (inboorlinge). However, in the census of 1936, the classification was changed to “Mixed and Other-coloured”. After 1948 the confusion continued. For example, on a list included in the Population Registration Act of 1950, only the Griqua are mentioned specifically. In the same Act it was stated: “Alle Boesmans [San] en Hottentotte [Khoekhoe] word beskou as inboorlinge [natives]”.

Teen 1970, toe ’n klomp apartheidsliggame gevestig is, was dit nog net die Griekwa wat in die volkstelling aangedui is – die res is as kleurlinge gereken. Ek self, al is ek as kleurling geklassifiseer en my eie broers as Griekwa, het gelukkig grootgeword met die sterk wete dat ek Griekwa is en dat ’n rasgebaseerde wet my nie van my identiteit sal kan beroof nie. My historiese agtergrond en die gunstige kulturele omgewing waarin ek groot geword het, het my gelukkig ook in hierdie verband bevoordeel.

Dit is belangrik om daarop te let dat ’n beduidende groep onder ons ondanks vele pogings van verskeie vreemde moondhede (die Hollanders het ons bv. Bosjesmannen en Hottentotten genoem) aan ons ware identiteit bly vashou het. Self-identifisering was dus ’n belangrike manier om ons waardigheid te behou.

As a largely South African audience who formerly lived under apartheid, many of us should appreciate the crucial importance of self-identity – as opposed to imposed identity - in the reclamation of Khoe and San identities. People should be allowed to identify themselves as they wish. This applies to those who want to reclaim their much-suppressed Khoe and San heritage. The reclamation of Khoe and San identities is, of course, related to broader issues such as the restitution of traditional land, historical continuity, distinctive cultural characteristics, group consciousness and unity. The Khoe and San are striving towards unity amongst themselves in the context of the broader processes of nation-building in South Africa. The constitutional and transformation process of the nineties created the space for people formerly classified as coloured, such as the San and the Griqua, to be more assertive about their indigenous relationship to the land of their birth. The term “coloured”, as a legal civil category, was removed from the post-1994 statute books, though it was subsumed under the legal category “black”. This development caused others to start asking more profound questions about their indigenous Khoe and San identities in the new South Africa. These changes also stimulated greater mobilization amongst the Khoe and San and led to their agitation for First Nation rights.

2. NATIONAL MOBILIZATION

Early post-1994 Southern African First Nation organizations, such as WIMSA, SASI, as well as the long-standing GNC, became key catalysts in the agitation for “indigenous”/First People’s rights. WIMSA and SASI contributed towards bringing about

conscientization, politicization and cultural affirmation amongst the San across southern Africa. The demands made by all these Khoer and San organizations, as well as the indigenous-rights terminology that they used, also found resonance amongst some coloureds in South Africa who were seeking empowering post-apartheid identities. A growing number of coloureds embraced their Khoer and San roots; and many of them rejected the coloured identity as a colonial and apartheid imposition. A number of Khoer and San organizations, as well as various individuals chiefly comprised of claimants, also emerged in coloured communities.

Net na die vestiging van die demokratiese regering in 1994 het 'n afvaardiging van die Griekwa Nasionale Konferensie onder die gesag van Opperhoof A.A.S. le Fleur II President Mandela genader om die Khoer en San, en in besonder die Griekwa, se posisie in die nuwe Suid-Afrikaanse politieke bedeling te bespreek. Dit was ook tydens hierdie afvaardiging se besoek dat daar vir die eerste keer werklik politieke druk op die regering uitoefen is om Sarah Bartmann se menslike oorskot uit die "Musee de l' Hlomme" in Parys, Frankryk terug te bring. Die GNK het later hierdie druk binne die VN-strukture en direk deur die Franse pers ernstig verskerp. Met hierdie besoek aan die Mandela-regering het die nuwe regering dan ook die eerste geluide vanaf sy eerste inheemse mense gehoor en dit het waarskynlik daartoe gelei dat daar in besonder in die Grondwet vir die beskerming van die Khoer-, Nama- en San-tale plek gemaak sou word (Wet 108 van 1996, Hoofstuk 1; verantwoordelikheid – Pansat). Dat ons wel ernstig opgeneem is, blyk ook uit die feit dat die landswaapen grotendeels Khoer en San erfenisse uitbeeld. Hierop gaan ek later verder uitbrei.

Pres. Mbeki druk dit op 25 Julie 1999 met die Parlementsopening soos volg uit:

"Nor should we allow that those who were denied... their identity, including the Khoi and the San, continue to exist in the shadows... We consider the work of restoring the pride and dignity of all our people of vital importance to the task of advancing the human dignity of all our citizens and ensuring the success of our efforts towards national reconciliation and nation-building."

Hierdie positiewe denkrigting het nie by leë woorde gebly nie, maar uitgeloop op konkrete dade, waarvan ek net 'n paar gaan noem:

1. Die Nasionale Griekwa-Forum word in 1997 te Kimberley gestig a.g.v. die volgehoue druk wat die Griekwa Nasionale Konferensie op daardie tydstip deur die VN te Genève, Switserland, vanaf die internasionale verhoog op die regering uitgeoefen het.
2. 'n Gespreksforum tussen die regering en die Khoer en San is in 1999 gestig, nl. die "Nasionale Khoer-San-Forum" wat al die inheemse volksgroepe ingesluit het. Hierdie forum het die werk van die Griekwa-Forum oorgeneem en voortgegaan om uitsluitel oor grondwetlike akkommodasie te kry.
3. Die Nasionale Dept. van Provinsiale en Plaaslike Regering (DPLG) begin kort hierna met 'n Status Quo-proses waarvan die fokus op navorsing oor die tradisionele gesagstrukture van die Khoer en San en hul huidige leierskap val.

4. Nadat die ǀKhomani San in die apartheidsjare van hul tradisionele gronde in die Kalahari verdryf is, is "n grondeis met die hulp van die Werkgroep oor Inheemse Minderhede in Suider-Afrika (WIMSA) ingestel. Daarna is in 1999 ses plase en in 2002 'n verdere 25 000 hektaar in die Kgalagadi Gemsbokpark bewillig. Ook ander gemeenskappe se grondregte word in ag geneem en so het die Griekwa byvoorbeeld hul plaas, Ratelgat, aan die Weskus teruggekry asook 'n plaas naby hul hoofkwartier te Kranshoek. Die Nama-gemeenskap van die Richtersveldbesit nou na 'n taai stryd 'n groot aandeel in die regte tot die diamantmyne in hul gebied.
5. Die Nasionale Dept. van Kuns en Kultuur onderneem in 2000 die Nasionale Khoe en San Erfenisprojek om landwyd aan inheemse erfenisterreine erkenning te gee. Dit is n onderneming wat tans nog onafgehandel is.
6. Die Kabinet aanvaar in 2004 die aanbevelings soos uiteengesit in die Kabinet se memorandum. Dit het daartoe gelei dat daar in November 2004 'n interdepartementele werkgroep in die lewe geroep is. Die liggaam bestaan uit verteenwoordigers van al die lynfunksiedepartemente en het ten doel om die grondwetlike akkommodasieproses op 'n meer gekoördineerde wyse aan te pak

3. NON- GOVERNMENTAL LEVEL

In the meantime, we have realized that our people should also be mobilized through non-governmental structures at a national level. Through the initiative and guidance of Prof. Jatti Bredekamp, then director of the Institute for Historical Research at UWC, more than 600 delegates, representing 36 organizations, met in Oudtshoorn in 2001. The theme had historic significance: "Khoen and San Diversity in National Unity"; and the key-note speaker was former Deputy President Jacob Zuma. During that event, the National Khoen and San Consultative Conference was established and I was elected as chairperson. (The NKOK held its second national conference in Springbok in 2003.) In spite of financial difficulties, the NKOK managed to play a major role at two events: firstly, it hosted the pre-summit for indigenous delegates from all over the world in Kimberley, prior to the "World Summit for Sustainable Development" which took place afterwards in Johannesburg (2002). Secondly, it also hosted the state funeral for the reburial of Sarah Bartmann during the same year. This funeral, which was the result of numerous negotiations between the French government and ours, is yet another example of the seriousness with which the cause of the Khoen and San is regarded. President Mbeki himself was the key-note speaker.

In 2002 the South African San organizations came together to establish a national body, "The National San Council", with the purpose of co-ordinating the advocacy and lobbying of the three major San groups (!Xun, Khwe and Khomani). This body is recognized by the Department of Provincial and Local Government.

In fact, it is noteworthy that, on the whole continent of Africa, no other country has yet made more progress in terms of its relationship with first indigenous communities than the Republic of South Africa. However, two burning issues remain unresolved:

1. The responsible application of the notion of self-determination.
2. The constitutional accommodation of the Khoe and San people.

These issues are taking a long time to be resolved; and the tardiness of the process is causing much frustration and unhappiness among my people.

4. **SELF-DETERMINATION**

Self-determination is admittedly a highly debatable - and indeed, often controversial - subject. All the efforts to successfully define self-determination, up to now, have not really resulted in any meaningful success. Before I elaborate further on the question of what our understanding of self-determination is, I want to make it clear that our notion of the principle of self-determination is definitely not the same as that of the Afrikaner separatists. We do not claim the right to secession or an independent state within a state, or even a homeland. A number of misunderstandings have arisen, such as the erroneous impression that we want special rights, apart from those enjoyed by all South African citizens. This is, however, a serious violation of the truth. In our view, the meaning of self-determination can be regarded as an embodiment of the need of indigenous people to determine their own future and their own destiny, in so far as it has relevance in terms of local powers over schooling, decisions on curriculum content in schools, control or even joint control over natural resources, such as national parks, mining industries and tourism in traditional areas, etc. It is therefore important that we should not be dominated by those who control the economy, or by dominant cultures, or by the state machinery that surrounds us. Assimilation, stigmatization, loss of self-esteem, the death of our indigenous languages, decline in traditional and cultural practices, especially amongst our youth, are the mostly commonly identified factors which motivate the Khoe and San to fight for their right to self-determination.

Self determination as a key principle in maintaining and preserving culture and identity

The African Charter upholds the principle that peoples have the right of “self-determination”. Even though African states, ever since the founding of the Organisation of African Unity (OAU), have held to the principle of territorial integrity, there is nevertheless no perceived problem with regard to peoples asserting their self-determination, as set out in article 20 of the charter.

The South African constitution of 1996 follows the same principle:

Section 235. The right of the South African people as a whole to self-determination, as manifested in this Constitution, does not preclude, within the framework of this right, recognition of the notion of the right of self-determination of any community sharing a common cultural and language heritage, within a territorial entity in the Republic or in any other way, determined by national legislation.

5. **THE KHOISAN RELATIONSHIP WITH GOVERNMENT AT NATIONAL,**

PROVINCIAL AND LOCAL GOVERNMENT LEVEL, 1997-2006, AND THEIR STRUGGLE FOR CONSTITUTIONAL ACCOMMODATION

The Khoe and San peoples were faced with the great challenge of confronting their new democratic government with the principle of self-determination. Given the controversial application of this concept in our dreadful historical past, one can understand that this would not be an easy task.

The first group to take the initiative themselves and petition the new government at national level about their civil status as an indigenous people, were the followers of the Paramount Chief A.A.S. Le Fleur II of the Griqua National Conference of SA. This initiative culminated in two meetings with President Mandela in 1995. It was possibly as a result of these meetings that the Deputy Minister of the Department of Arts, Culture, Science and Technology organized a Seminar Day on the Khoekhoe in Pretoria. A more concrete outcome of the meetings between the President and the Paramount Chief, was an investigation of the history, social structure and leadership of the Griqua community by the Department of Constitutional Development. The outcome of this research was the establishment of the National Griqua Forum in July 1997. The primary aim of this body was to hold discussions with Government concerning the best way to meet the constitutional demands of the Griqua community.

During May 1998, the Department held a conference on the constitutional accommodation of the Khoe and San communities, in Upington, during which the idea of a national body, representative of all Khoe and San groupings, was discussed. The same issue was again discussed at a follow-up conference held in March 1999, again in Upington. It was at this meeting that delegates agreed to the creation of a national body, which became known as the National Khoisan Forum (KNF), consisting of 21 members. The KNF was formally instituted on 27 May 1999.

Policy consolidation in South Africa is the primary key to creating a new policy climate in Africa in order to protect the rights of indigenous peoples. The existing constitution of the Republic of South Africa is one of the most liberal on the continent, and embraces the concept of *redress* for past discrimination. It already includes a clause (Section 6) making provision for the protection of language rights for Khoe and San peoples - the first peoples of southern Africa. President Mbeki has made it clear, through statements and actions, that he supports the restoration of dignity to South Africa's first peoples.

If South Africa can effectively integrate this "third generation" of collective rights within an existing democratic constitution (based on a unified state, fundamental human rights and universal suffrage), this will send a clear message to Africa and the world that indigenous rights are a necessary component of human and civil rights in modern democracies.

With the support of the International Labour Organisation (ILO), the government of South Africa initiated a policy dialogue with indigenous communities in 1999. This process has been exceedingly slow, owing to political and bureaucratic problems. The

delay in consolidating a domestic policy on indigenous peoples in South Africa is impacting negatively on the United Nations' efforts to expand the international standards and mechanisms for human rights so as to include the special needs of indigenous peoples. The successful adoption of a South African policy would probably have a major impact on the human rights culture of Africa and, more specifically, on the UN system. South Africa has a powerful moral authority internationally and is willing to use this authority in multilateral forums. At this stage, however, South Africa's Department of Foreign Affairs (DFA) may not take an official position on UN instruments and declarations pertaining to indigenous issues, until the Cabinet has resolved its own domestic policy position. It therefore came as a great surprise when the DFA brought out a positive vote in the UN for the adoption of the "Draft Declaration on the Rights of indigenous Peoples" in June this year, even before the completion of the policy process.

6. CONTINENTAL MOBILISATION

In November 2003 the African Commission on Human and Peoples' Rights (ACHPR) adopted its first policy paper, in which it was acknowledged that the concept of "indigenous peoples" indeed has relevance in Africa, and that across Africa, such peoples have been subjected to systematic human and civil rights abuses.

The report furthermore concludes that land dispossession is a major problem threatening the survival of IPs, rendering them increasingly destitute and impoverished. It is also pointed out that although it has been contested, the term "indigenous peoples" is valid in an African context, as it opens the way for the victims of particular human rights abuses to improve their situation. The report concludes that the human rights situation of indigenous peoples and communities in Africa is a serious cause for concern, and that effective protection and promotion of their human rights is urgently required.

Given the fact that the recognition and participation of indigenous peoples in the ACHPR is still in its initial phase, the Khoe and San peoples have not yet utilized this forum extensively. However, last year, at Banjul in The Gambia, I presented the case of the Khoe and San people to this commission. In particular, I highlighted the position of the Khomani-San in the Kalahari, and referred specifically to the sensational court case in respect of Optel Rooi and the human rights abuses that these people have suffered. At a recent meeting of IPACC in Cape Town, we resolved that in future, we would focus more on this African forum in order to iron out our indigenous problems and issues, since this body is operative on our continent, and is directly linked to the African Union. In the near future, I will also try to link up our South African organizations with the ACHPR, in view of the fact that South Africa plays a major role in this commission, as well as in the African Union.

Hopefully, the Working Group and all the indigenous representatives and African human rights activists who are involved in this process, will be able to put this window of opportunity to good use. With the adoption of the report and this resolution, indigenous peoples in Africa will now have an important platform from which to shed light on the

situation of indigenous peoples in Africa, and to lobby African governments to recognize indigenous peoples, their human rights concerns and their particular needs. While the whole issue was initially greeted with scepticism and rejection by some members of the African Commission, the general attitude is now both open and positive.

7. THE ROLE OF NON-GOVERNMENTAL ORGANIZATIONS

The formation of IPACC (the Indigenous Peoples of Africa Co-ordinating Committee)

An urgent need arose to establish a broad network and advocacy organization in Africa. African indigenous peoples wanted to know each other better, and to meet with other indigenous peoples of the world to learn about their struggles. As indigenous people of other continents appeared to be well-organized, and in a better position to join forces in an effort to fight for their rights, African indigenous peoples felt a similar need for the consolidation of their forces into a strong organization that could represent them on the different forums within the UN structure.

It was as a result of this sentiment, shared by indigenous African peoples, that IPACC was born. Berbers, Maasi, Khoe and San, Pygmies and other peoples came together and created an advocacy network. In the past six years, we have moved forward from being the most marginalized group at the UN, to being one of the leading regional blocs. Africans have progressed from our fragile civil society structures at home to a major international advocacy network. Over time, IPACC has developed its vision and mission. The network, with its Cape Town-based secretariat, developed an electoral system to ensure that representatives from the whole of Africa would be actively involved in the Executive Committee.

Meetings were held in South Africa, Kenya, Morocco and Burkina Faso to hammer out policies, structures and strategies. IPACC has played a key role in facilitating the participation of indigenous peoples in various international forums, including the meeting of the Commonwealth heads of governments in South Africa (1999), the World Congress against Racism (2000) and the World Parks Congress (2003). IPACC played a key role in the nomination of the first African civil society representative on the Permanent Forum. This election process took place in Pietermaritzburg in Kwazulu-Natal in the year 2000; and I was nominated by the UN to supervise that process. As members of IPACC, we are seeking to improve democracy in Africa; to bring more voices into decision-making processes; to bring about greater recognition of the fact that diversity is a resource and not a threat; and to encourage states to rediscover the roots of their society.

The role of the Khoe and San in IPACC

The driving force behind the establishment of IPACC was a Cape Town-based human rights lawyer, Roger Chennels. Supported locally by the structures of WIMSA and SASI on the one hand, and the Griqua National Conference on the other hand, he began to

write a draft constitution in 1996. This constitution was adopted by the “African Caucus” in 1997 in Geneva; and the first continental body for Africa’s indigenous peoples could be established.

8. GLOBAL MOBILIZATION

We must remember that the oppression and marginalization of the Khoe and San started 350 years ago, as a result of the actions of nations such as the Netherlands and Britain. This means that much more is at stake here than just local issues. Despite the positive negotiations with our government and the developments that followed, it was nevertheless still crucial to find international partners who could identify themselves with our struggle. We found those partners within the structures of the United Nations.

Aangevuur deur ons pas verkreë politieke vryheid het die GNK in 1995 onder die gesag van wyle Opperhoof A.A.S. le Fleur II 'n epiese tog na Switserland onderneem om vir die eerste keer die Khoekhoe mense te gaan verbind aan die internasionale stryd van inheemse mense om vir hul regte en vir die erkenning van hul inheemse identiteit te veg. Ons voorleggings by die WGIP het hoofsaaklik op grondregte, grondwetlike akkommodasie, die herlewing van die inheemse Khoe en San kultuur, asook tale gefokus. Hierdie onverwagse verskyning op die internasionale verhoog het die Suid-Afrikaanse regering onkant betrap en hulle het geen voorbereide antwoord op ons voorlegging gehad nie. Selfs tydens ons volgende voorlegging in 1996 het hulle steeds soos die graf geswyg. Agter die skerms was daar egter onderhandelinge aan die gang en in 1997 – net voordat ons weer na die VN sou gaan – is ons en al die ander bestaande en nuttigste Griekwa-organisasies vir dringende samesprekings na Beaufort-Wes ontbied. Net vyf dae later, op 1 Julie 1997, is die Nasionale Griekwa-Forum op aandrang van pres. Mandela self in Kimberley gestig. Drie weke later, by die WGIP se jaarlikse konferensie in Genève, het daar vir die eerste keer sedert 1920 'n Suid-Afrikaanse regeringsverteenvoerder in die VN opgestaan en 'n voorlegging gemaak wat oor Suid-Afrika se inheemse mense handel het. In hierdie voorlegging het hulle belowe dat hulle die Griekwa grondwetlik sal erken en akkommodeer. Hierdie belofte is later na die hele Khoe en San uitgebrei, maar die stryd om dit afgehandel te kry, duur nog moeisaam voort.

Hierdie verbintenis met die internasionale wêreld is moontlik gemaak deur die harde werk van veral die Noord-Amerikaanse inheemse volke. Hulle het dit uiteindelik in 1980 deur optogte na die Verenigde Volke sedert 1978 reggekry om die Werkgroep vir Inheemse Volke binne die VN-struktuur gestig te kry. Die WGIP (Working Group for Indigenous Populations) soos dit algemeen bekend staan, het die forum geword waardeur inheemse volke by wyse van voorleggings by die jaarlikse konferensies in Genève met hul onderskeie regerings kon praat. Menseregteskendings, grondbesettings, militêre aanvalle op inheemse burgerlikes, onderdrukking deur dominante groepe wat kultuur, taal en godsdiens betref, is van die vele punte wat op die forum se agenda beland. Dit dien egter ook genoem te word dat die San-leiers onder leiding van organisasies soos WIMSA (Working Group for Indigenous Minorities) en SASI (South African San Institute) alreeds 'n jaar voor die GNK in 1994 by die WGIP

opgetree het. Hulle het egter die hele Suider-Afrikaanse gebied verteenwoordig en nie spesifiek vir grondwetlike akkommodasie in Suid-Afrika. beding nie.

Die volgehoue druk van alle inheemse volke binne die WGIP het daartoe gelei dat twee baie belangrike prosesse vir bedinging binne die VN-struktuur van stapel gestuur is, nl.:

- * The Draft Declaration on the Rights of Indigenous Peoples.
- * The Permanent Forum for Indigenous Issues.

Die WGIP, wat reeds in die vorige paragraaf bespreek is, is 'n forum wat oop is vir alle verteenwoordigers van inheemse volke wêreldwyd. Dit is ook tot hierdie forum dat ander Khoekhoe groepe in die Wes-Kaap onder leiding van leiers soos dr. Willa Boezak, Joseph Little, Bazil Coetzee en andere hulle vanaf 1998 begin wend het. Dit is egter met 'n tikkie weemoed dat ek vanaand hier bekend moet maak dat daar tydens my pas afgelope besoek aan die WGIP in Genève, Switserland, sterk geluide deurgekom het dat die toekoms van hierdie veteraanliggaam in die weegskaal is en dat dit na alle waarskynlikheid afgeskaf gaan word. Noudat die Menseregtekommissie in 'n raad verander is en die Permanente Forum al hoe sterker na vore kom as die spreekbuis vir inheemse aangeleenthede – die Konsepdeklarasie vir die Regte van Inheemse Volke is in Junie vanjaar deur die Menseregteraad aanvaar – wil dit al hoe meer voorkom asof die WGIP tot 'n mate irrelevant geword het. 'n Mens kan maar net spekuleer oor wat in die plek daarvan gaan kom en of dit wel afgeskaf gaan word.

9. DIE PERMANENTE FORUM

Reeds in 1994 het die VN 'n resoluksie aanvaar dat daar 'n dekade vir inheemse volke uitgeroep moet word. Tydens hierdie dekade moes elke lidland of nasiestate ernstig op die regte van inheemse volke fokus. Een van die belangrikste internasionale instrumente wat binne die bestek van hierdie dekade deur onderhandelinge toestand gebring moes word, was die "Permanente Forum vir Inheemse Aangeleenthede".

The United Nations Economic and Social Council established the Permanent Forum on Indigenous Issues in July 2000, on the recommendation of the Commission on Human Rights. This decision was a breakthrough achievement in the decades-long struggle of indigenous peoples to make their needs and concerns known and to gain standing within the international community. The new UN body brings new ground, as it formally integrates indigenous peoples and their representatives into the structure of the United Nations. This marks the first time in history that representatives of states and non-government actors have been accorded parity in a high-level body within the United Nations.

The Forum's mandate is a broad one, covering all indigenous issues relating to economic and social development, human rights, the environment, culture, education and health.

***Inter alia*, the Forum is expected to:**

1. Provide expert advice and recommendations on indigenous affairs to the UN Economic and Social Council.
2. Raise awareness and promote the integration and coordination of activities related to issues of concern to indigenous peoples within the UN system.
3. Prepare and disseminate information on issues that are relevant to indigenous peoples.

The Forum must hold an annual ten-day meeting at either the UN headquarters in Geneva or the UN head office in New York, or any other venue selected by the Permanent Forum, in line with the UN's existing procedures and financial regulations. The meetings will be open, like those of the WGIP. Governments, intergovernmental organizations, NGOs and indigenous peoples' organizations will be able to participate in the Forum as observers. The Permanent Forum will submit an annual report to the ECOSOC Council on its activities.

10. THE DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

The UNHRC (United Nations Human Rights Commission) established an open-ended Working Group on the Draft Declaration on the Rights of Indigenous Peoples in 1995. The task of this working group was to debate the draft, consisting of 45 articles that were put forward by the Sub-Commission on Human Rights. At this forum, the participation of Indigenous Peoples is more limited, because delegates must belong to organizations that have been recognized by ECOSOC. In other words, delegates must have ECOSOC status. The WGDD meets annually for a two-week session in Geneva.

Ever since 1995, and throughout the "Decade for Indigenous Peoples", this draft was heavily debated, and the adoption of its articles was constantly blocked by the great powers, such as the USA, Britain, France, Canada, Australia and New Zealand. The word "peoples" with the "s" at the end, and article 3 on the right to self-determination, were always the stumbling blocks in respect of the adoption of the declaration. Last year, the General Assembly warned that the draft should be adopted before the end of the ten-year period. Therefore, the two-week session in September was extended to three weeks, and a resumed meeting was arranged for the end of the year. All these efforts were unfortunately in vain; and no progress was made. Recognizing the importance of this declaration, the General Assembly declared a new decade from 2005 to 2015. Then the miracle happened, when the Human Rights Council unexpectedly adopted the draft during their session in June 2006. At this stage, I must also mention that this year was marked as the year when the Human Rights Commission was transformed into a Human Rights Council within the United Nations structure. The following step will now be the referral of the declaration, by the UNHRC, to the General Assembly for final adoption at their session in November this year. If this happens, it will be a landmark victory for indigenous peoples, comprising one of the most important annals in the history of the struggles of these peoples.

In the next paragraph, I will focus on the significance of the draft declaration and South

Africa's support for its adoption.

The significance of the draft declaration and South Africa's support for its adoption

It took many years of lobbying by civil society to induce the Minister to support this Declaration. This shows that civil society CAN influence decisions in respect of foreign policy. This in itself is a significant achievement, particularly in view of the fact that indigenous peoples remain largely marginalized in the political system and economy of South Africa. Thus, in simple terms, one could say that the "small guy" actually managed to gain the attention of the "big guy", and to get some results.

The General Assembly is where "the big fight" will be taking place. The USA and its allies, including Russia, tried to suppress several initiatives to support the role of the UN in protecting universal human rights. The smaller countries entered into an alliance and finally managed to resist the pressure. South Africa committed itself to this alliance, along with the Congo (Brazzaville); and the alliance even enjoyed the tacit support of Morocco. South African independence is beginning to manifest itself more clearly at the UN. The African century is possibly unfolding at the UN.

South Africa's new government has been uncomfortable about the tension between collective rights and individual rights. Many in the new regime are suspicious of collective rights, viewing them as remnants of the apartheid era that are there to protect the privileged minority. Yet, they also regard themselves as part of Africa. Human rights – and also peoples' rights – are premises that are fundamental to the African Commission and Charter. It seems that the South African government has somehow taken a decision to allow African value systems to take precedence over the specific racial legacies of particular groups. This issue is far from being resolved, although the Africanization of our foreign policy was a significant development in this regard.

Similarly, Mohammed Valli Moosa said to us in Uppington, in 1999, that the ANC would not accept foreign standards for human rights, and that the decisions made would be based on South African norms and decisions. That statement was quite outrageous; but it does reflect a certain bias from which South Africa has always suffered. Yet if one closely considers the process, there is an awareness that we are meant to be setting out standards according to the international system. Part of the evil of apartheid was that it did not allow any outside comparisons, always arguing that we were too "special" and "unique" for any comparisons. There is clearly still tension between those involved in Foreign Affairs, who feel that we should adhere to international standards and, in fact, promote these standards; and those who are mostly involved in other ministries, who are suspicious of the international system because – ostensibly - we are "unique", or "too special", etc. The Geneva decision to support the draft declaration once again marks a victory for our rightful place in the world. This is very important for indigenous peoples, because it means a greater opportunity for the monitoring of standards and the promotion of best international practices, in partnership with UN agencies.

When Cabinet adopted the Memo on Khoe and San peoples, it was not clear whether we did, or did not, have a decision, in principle, on the presence of indigenous peoples. It was only a road map, not a policy document. This meant that Foreign Affairs could not make any firm decision. The fact that they supported the decision on the draft declaration in Geneva suggests that Cabinet has tacitly accepted a domestic framework, which opens the door for other initiatives to determine policy more clearly.

The outcome of all our international efforts culminated in the recent report of the UN's Special Rapporteur on the Human Rights and Fundamental Freedoms of Indigenous Peoples, Prof. Rodolfo Stavenhagen. He visited South Africa last year as a result of constant lobbying by IPACC (the Indigenous Peoples of Africa Co-ordinating Committee), and met with both government officials and our own representatives at governmental and non-governmental level. He also undertook two site visits, namely, to the Kalahari in order to meet with the San Council, and also to Kranshoek in Plettenberg Bay, in order to meet with the Griqua National Conference. At the end of his report, entitled *The Mission to South Africa*, Prof. Stavenhagen makes certain recommendations, of which I will quote only two:

1. National framework legislation, as recommended in the Status Quo Papers, should be promptly enacted with the full participation of indigenous communities.
2. The Government and Parliament should take all necessary steps, in consultation with indigenous peoples in the country, to ensure a prompt ratification of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

11. THE WAY FORWARD

I would like to propose an institutional framework based on a set of principles that would probably largely satisfy the needs and aspirations, at national level, of the Griqua and other first indigenous peoples in South Africa. Firstly, the proposed framework was based on the notion of vulnerability as a result of colonialism and apartheid, which stripped us of our indigenous identity, cultural identity and pride as a people. This injustice of history, we believe, can hardly be addressed within the existing mechanisms provided by the current text of the Constitution. We believe that a special empowering mechanism should be developed in order to efficiently redress the wrongs of the past that were perpetrated against the Khoe and San peoples of the land.

The principle of unique indigenous first-nation status, as recognized in international law, should be applied in the construction of the framework of constitutional accommodation for the Khoe and San.

The recognition of our indigenous status in constitutional terms must be separate from the constitutional acknowledgement of our status as a cultural community, as envisaged in sections 185 and 186 of the Constitution of 1996.

Moreover, we should not be treated strictly and exclusively in accordance with Chapter

12 of the Constitution, which serves the specific interests of traditional “African” communities in South Africa. In addition to the above principles, the suggested mechanism should make provision for the following types of structures:

A statutory representative council for First Indigenous Peoples of South Africa at a national level, in such a way that the retention of the identity of each indigenous grouping is ensured;

A separate Joint Standing Committee on Indigenous and Traditional Affairs, in both the National Assembly and the National Council of Provinces, on which the Khoe and San can be represented;

A representative structure for the Khoe and San peoples in the Legislature of each relevant province; and

Ex officio membership in the relevant structures of local government, where applicable.

TO SUMMARIZE:

The Khoe and San have achieved the following over the past decade:

- * We have managed to gain the attention of the government concerning the protection of our culture, religion and languages, and are working together with the government on certain events and projects.
- * Certain structures have been put in place to ensure our constitutional accommodation, such as the National Khoe-San Council. (However, the completion of this process is still pending.)
- * Portions of land have been restored to the Khoe and San people, although there are claims that still need to be finalized.
- * We have created unity amongst ourselves at a national level.
- * We have built up solid relations with the international community of First Indigenous Peoples.
- * Last, but not least, we have regained our sense of pride and dignity.

The greatest challenges that lie ahead can be summarized as follows:

- * How will the NKC manage to accelerate the process of constitutional negotiations?
- * How will we get the Department of Environmental Affairs and Tourism involved in the negotiating process?
- * How are indigenous people going to participate in the international policy mechanisms that have been agreed to by our government?
- * When will we get to the point where an open debate can begin, at the political level, between IPs and government on the outcome of the Status Quo research process and constitutional accommodation?

12. DIE ROL VAN AKADEMIESE INRIGTINGS

In die strewe na erkenning van ons Khoe en San identiteit het dit gou na die aanvang van die demokratiese bedeling in 1994 duidelik geword dat ons die ondersteuning van akademiese inrigtings nodig het. Naas ondersteuning het ons hulle ook nodig om vennootskappe op te bou sodat daar saam navorsing gedoen kan word oor die Khoe en San geskiedenis, die regstel van geskiedenis, die korrekte bepaling van kultuurerfenis-terreine, historiese grondregte, taalherlewing, outentieke leierskapstrukture, ens.

13. CLOSING REMARKS

We, as Khoe and San people, were the first community to suffer the colonial onslaught so many years ago. Along with foreign diseases, such as smallpox and malaria, which nearly wiped us out, we had to contend with the destruction of our culture, religion, languages and dignity. Although we have survived, the time has come for us to claim our rightful place in society.

It is noteworthy that the South African Human Rights Commission mentioned in its report, tabled in 2000, that the Khoe and San are one of South Africa's most vulnerable communities. It is also noteworthy that the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL) takes us seriously. This means that while we do have our own goals and specific needs, the Khoe and San still form part and parcel of the ideal of a "rainbow nation". It is therefore our desire to contribute to nation-building, so that we really can become one unified nation.

In conclusion, I want to assume that we are accepted as the First Peoples of South Africa by both the government and the rest of the rainbow nation – hence the great honour that is reflected by the prominence accorded to our heritage on the coat of arms of our beloved country. This is why I have chosen to end off by briefly reflecting on this national symbol.

COAT OF ARMS: [*The symbol will be flashed on the screen*]

The First People of South Africa are symbolically placed near the centre of the new coat of arms. The two human figures are derived from images on the Linton Stone, a world-famous example of South African rock art, in the South African Museum in Cape Town.

In accordance with our changing national consciousness, these images represent the Khoe and San as being the oldest known inhabitants of our land, thus testifying to our common humanity and heritage as South Africans.

The figures are designed in an attitude of greeting, symbolizing unity. The image of action also represents the beginning of the individual's transformation to become part of the greater sense of belonging to the South African nation and, by extension, to collective humanity.

The second Khoe and San related image in the coat of arms is the motto, *!ke e /xarra //ke*, which also reflects an emphasis on our collectivity as a South African nation in the making. As we know, the motto comes from the language of the /Xam people, and literally means: UNITY IN DIVERSITY.

Out of this arises a feeling of pride in the fact that our age-old values have always been: co-operation, humanness and neighbourly love; and we will strive to conduct ourselves accordingly at all times, both now and in the future.

I thank you