AFRICAN COMMUNITIES RESOURCE RIGHTS ALLIANCE

EST 2024

IP & TK PROTECTIVE & DEFENSIVE APPROACHES: SOUTHERN AFRICA

Lesle Jansen, IGC, WIPO 2026

Achieving Climate Justice through the Biocultural Rights of Indigenous Peoples and Local Communities

Indigenous Peoples

ANIMALS PLANTS FISHERIES

ACRRA
AFRICAN COMMUNITIES RESOURCE RIGHTS ALLIANCE

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A future where Peoples

steward their natural environment

with full recognition of their human rights

We are ACRRA, a Southern African alliance led by Indigenous Peoples and Local Communities (IP and LCs), advancing climate justice through Indigenous lawyering, legal empowerment, biocultural rights, and Indigenous-led conservation. Grounded in Indigenous knowledges and protocols, our work defends lands and oceans, upholds community rights, and challenges extractivism through strategic litigation and policy advocacy. We envision a world where the laws, knowledge systems, and land stewardship of IPLCs are recognised, protected, and central to building just and sustainable futures

SOUTH AFRICA: KHOIKHOI & SAN PEOPLES

UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/CN.4/2006/78/Add.2
15 December 2005

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-second session
Item 15 of the provisional agenda

INDIGENOUS ISSUES

Human rights and indigenous issues

Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen

Addendum

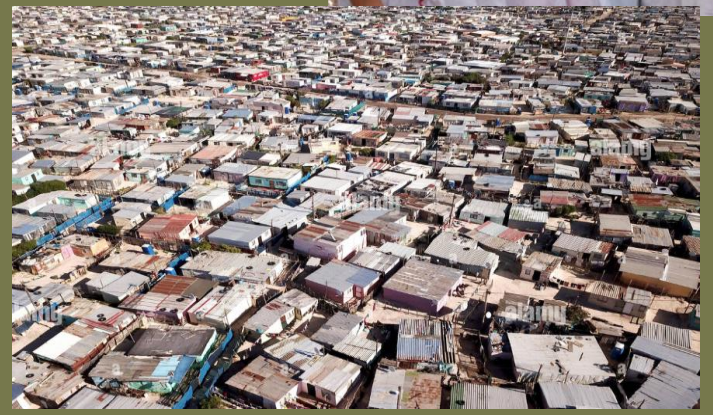
MISSION TO SOUTH AFRICA*

south african human rights commission

REPORT OF THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

National Hearing Relating to the Human Rights Situation of the Khoi-San in South Africa

25-26 November 2015; 9-10 December 2015; 18 January 2016; 11-12 & 14-15 April 2016



Indigenous Peoples

KHOIKHOI & SAN INDIGENOUS PEOPLES

30 YEAR TRAJECTORY: TK & IP RIGHTS

SA democratic elections (1994)

Nagoya Protocol(2010)

Hoodia Patent (1995)

Nestle/Rooibos x5 Patent Applications (2010)

Rooibos Industry-wide ABS Agreement (2019)

Biocultural Rights/ Protocol: Approaches- ERA

Indigenous Peoples

SOUTHERN AFRICA: CBD/NAGOYA PROTOCOL ON ABS

SOUTH AFRICA

❑ Amending our Intellectual Property Rights Act

❑ Indigenous Knowledge Systems Act (2019): documenting Indigenous Knowledges

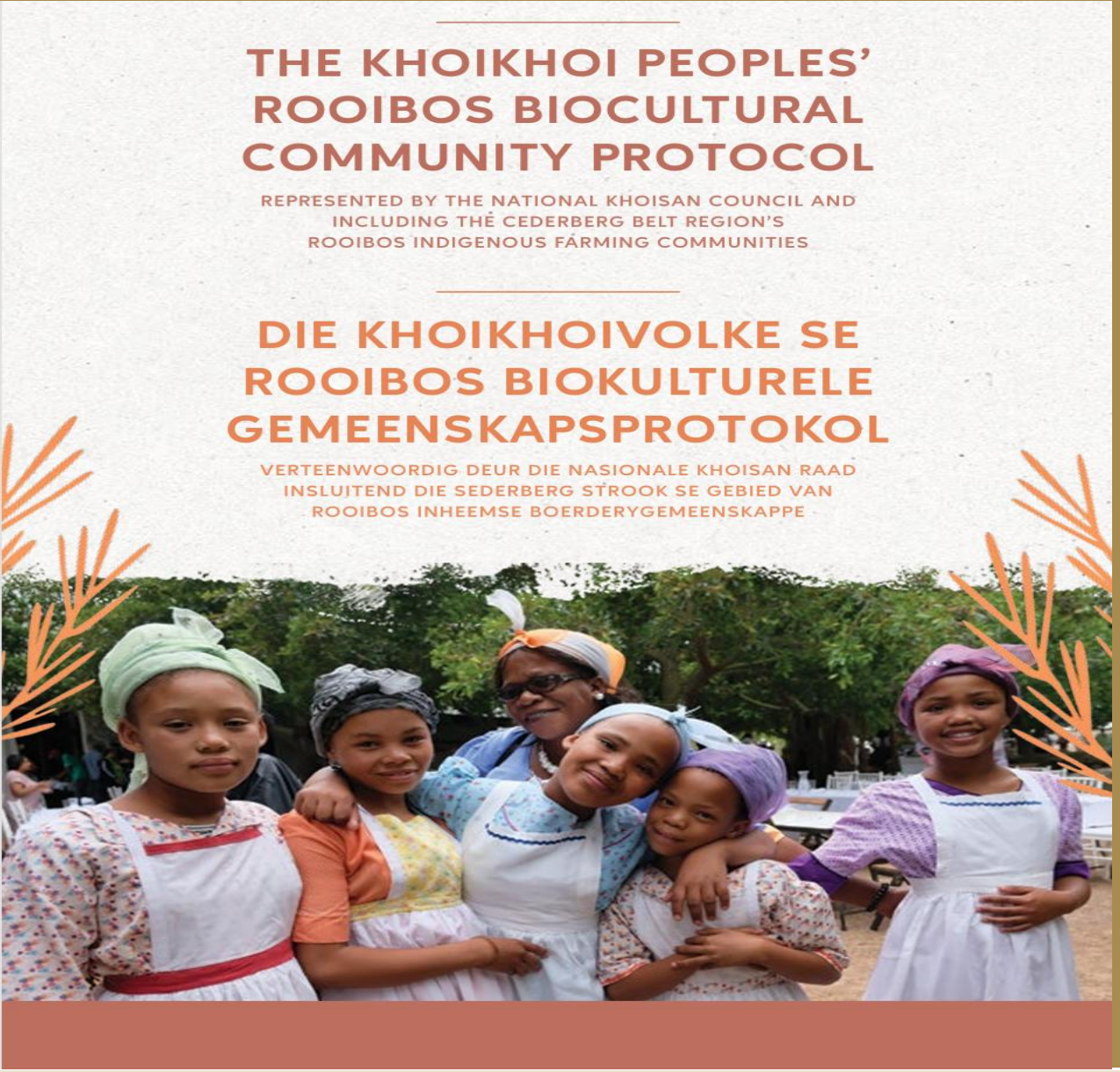
❑ Community Protocols

NAMIBIA

❑ "Traditional Knowledge Act"

BOTSWANA

❑ Biocultural Community Protocols developments



- Defining moment in Khoikhoi & San recognition struggle
- Recognition as TK holders= meant by implication, connection to land
- Unlocked TK recognition to Customary plants which formed basis of SA Bioeconomy Plan
- San & Khoikhoi: engagement with State

BIOCULTURAL COMMUNITY PROTOCOLS:
Both Defensive & Protective

GURIQUA KHOISAN COUNCIL

HISTORICAL FISHERFOLK OF THE WEST COAST

MARCH 2022 MONICA CLOETE

1 / 40

THE GURIQUA WOMEN'S VISION:

Our women's vision included greater and meaningful access to food, ceremonies, ritual practices, artisanal activities in Lamberts Bay and Saldanha Bay.

This is important for the purposes of teaching the youth, being involved in cultural activities which allow them to express themselves as women within their culture.

Such things include being the custodians of ritual and traditional dance practices, needlework, making clothes and cooking for the tribe.

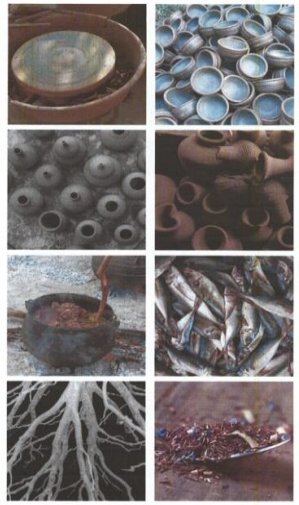
What do we eat?

Wild foods, Snoek (Fish) Lobster, Sea Birds, Waterbloometjies, Hottentotskool (Cabbage) Berries and Figs. Salt.

Women's roles:

Childcare, Gathering, Medicine, Cooking, Religion.

GURIQUA WOMEN HAVE A TRANSFORMATIONAL VISION FOR LAMBERTSBAAI



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GURIQUA COMMUNITY'S VISION:

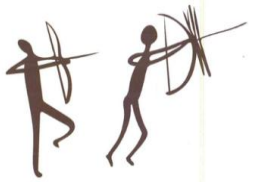
We, as the representatives of the Guriqua community, have developed a development plan that seeks to address poverty issues within the community whilst preserving our culture and heritage, through the creation of more jobs thereby achieving sustainable economic growth. This objective can be achieved through the following endeavours

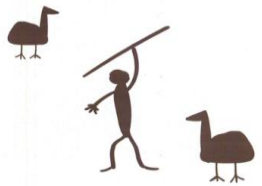
1

We want sustainable capital and social investment for our community, for the purposes of ensuring development of our infrastructure projects such as schools, clinics, shops and a tourism centre. We think this will ensure that our cultural identity is preserved whilst still enjoying modern development.

2

We strongly desire that Saldanha Bay and Elands Bay as well as the entire West Coast area, be declared as tourism and heritage sites in order that the area and wildlife in these areas can be secured and protected for the Guriqua generations to come. We hope that the declaration will benefit the Guriqua people and bring value to our social, economic and cultural development.





3

Current rules and regulations in the fishery sector exclude the rights of the indigenous people of the Guriqua. We call for the change in the fishery sector in order to be consistent with our cultural rights to hunt and gather marine resources, in accordance with our customary rights.

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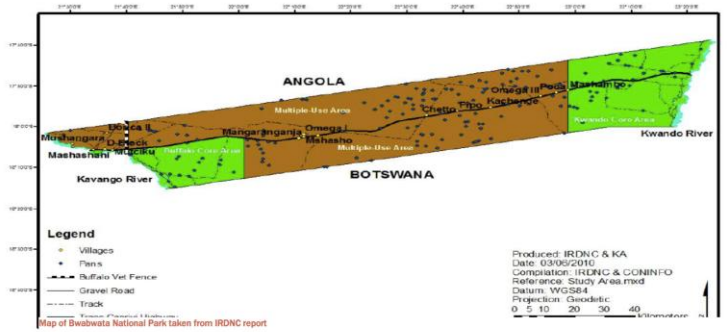
Khwe, San from Bwabwata National Park

BIOCULTURAL COMMUNITY PROTOCOL OF THE KHWE COMMUNITY

Residing inside Bwabwata National Park, Namibia

DRAFT VERSION

The multiple use areas are zoned for community-based tourism, hunting, human settlement and development by the resident community. In the multiple use area, residents are allowed to live, to plough, to collect firewood, bush food and building or other raw materials for subsistence purposes.



Map of Bwabwata National Park taken from IRDNC report

All commercial use of land and natural resources within both the core and multiple use areas, such as contracting of hunting concessionaires, tourism activities, the commercial harvesting of devil's claw or large scale agricultural projects needs to be authorized by the MET while distribution of community

9. ANNEXURES

9.1.Biodiversity register

FOOD PLANTS INSIDE CORE AREA

1. Lqom (mangetti)*
2. ǂúmbé
3. tceu (large false mopane)
4. tc'inya
5. ǂquenya (monkey orange)
6. qai (marula)
7. deu (mushrooms)
8. dinga
9. tcere
10. berries
11. céé
12. //qani
13. Nlumithara
14. Bororo
15. Ng'ueni
16. /'iya
17. Qawaba (quantawaba)
18. Potǂxori
19. Tcukc'om
20. Tcindtere
21. Iqan

FOOD PLANTS OUTSIDE CORE AREA

1. Sour

* underlined plants being most important.

2. The Eland

The most sacred animal to us is the eland, when the eland meat is brought home, no argument should be observed otherwise the ancestors will curse the ones who initiated the arguments.
We use the animal skin to make blankets, shoes and the fat for instigating a ceremony as well as healing the environment so that the environment does not die and to heal persons with eye and chest problem. We only hunt the old male eland. We do not hunt the female for the purposes of reproduction. The meat was kept for a period of time to reduce hunting and preserve the eland. We also hunt far from our home stead.

3. The K-tree tree

We use the K-tree for its k-tree seeds. The old man of the family then takes the uses it for healing people in the village. We also use the proceeds from the seeds for our initiation ceremonies.
The oil from the seeds is only harvested during certain periods normally from November to April, otherwise the person brings bad luck on to himself if harvested outside those periods. In this way we conserve and protect our K-tree. There are also certain plants in our Tradition that our culture does not allow to be touched nor harvested.

4. Wild animals and wildlife

Like everyone else in Namibia, we also have great value for our wildlife, which we see as our domestic animals. Our elders have taught us how to live with the wild animals; we consider them as our herds and flocks.

5. Traditional Knowledge

We hold rich traditional knowledge which was passed on to us from our elders. We as Khwe people are known for our healing knowledge for both our people and our environment.

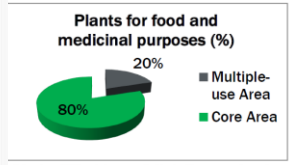
We collect the dry wood of the T-tree, we then cut it and remove the red part which is found in middle of the dry wood. Pound and get the powder, which we serve to get the finest powder. If someone from the village had gone for a very long time when they return home we also smeared the powder on their heads.
We use the seeds of a certain tree, to suppress hunger when it's ready for harvesting. Either it normally prepped with boiling water or cook it in meat, it should be prepared in a correct way and eaten responsibly as it is a very poisonous. The leaves of this tree can also be used to heal diarrhea and eye problems.
We hold knowledge on storage of our wild fruits so that they last longer. We put our fruits in holes and cover with them with a bulk of a certain plant, leaves of a certain tree and then sand on the top.

6. The transference of inter generational knowledge

We pass the Traditional Knowledge that we hold to our young ones during our traditional fire assembly and through learning by doing

5.1.THE BIOCULTURAL PLANT AND ANIMAL REGISTER

This register documents the indigenous biological resources that we depend on for our health, well being and culture. This register also pro-actively asserts our community rights in line with Namibian laws on the resources and associated knowledge and intellectual property. (See the Biological Plant & Animal Register in Annexures section)



Taken from CIRM workshop, compiled by the Khwe groups themselves, september 2014 in Bwabwata National Park.

It lists our plants both inside the core area and the multiple use area. It also lists our animals of customary importance and our medicinal plant sources. The three year BCP development process clearly articulates the need for greater access to our plant and animal resources both for livelihood, healing and teaching purposes.

In terms of our customary plant sources, it shows a key disparity between the sources located in the multiple use area, where we have free access to, and the core area, where we have limited to no access to. Based on the inputs from the Khwe participants, serious challenge exists around access to high value plants located in the core areas. Plants which we use for healing, food and medicinal purposes, we are only able to access in approximately 20 % of the cases, we are not able to access approximately 80 % of our food and medicinal sources.

This causes serious threats to our health and livelihoods.

The Khwe community calendar is based on the Biocultural Plant and Animal Register

5.2.KHWE COMMUNITY CALENDAR[1]

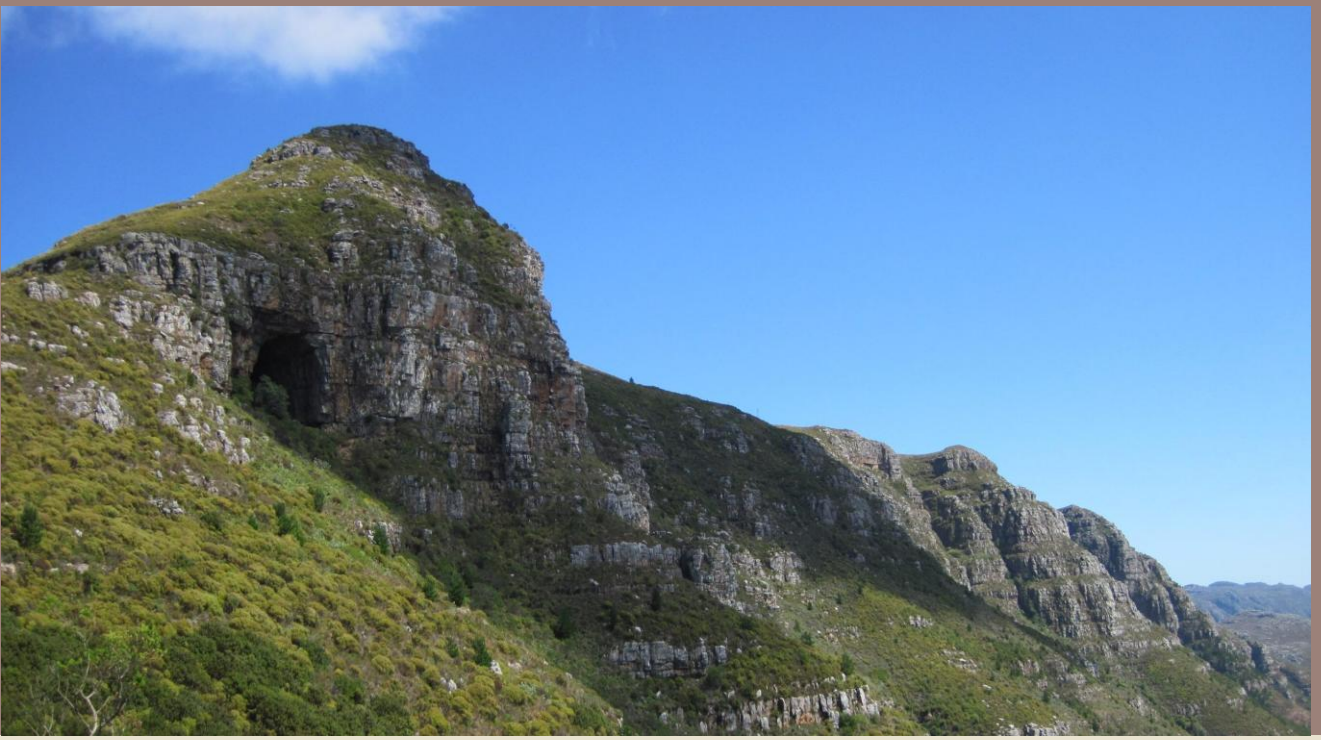
The Khwe custodian committee proposes this tool as a point of dialogue about when decision making processes can occur along the Khwe community's defined seasonal cycles for harvesting food, harvesting medicinal plants, storage of plants, fire and transplant. See figure below

[1] This is still an draft calendar. It needs to be developed further.

Indigenous Peoples

**TABLE MOUNTAIN,
CAPE TOWN, SA
NATIONAL PARK**

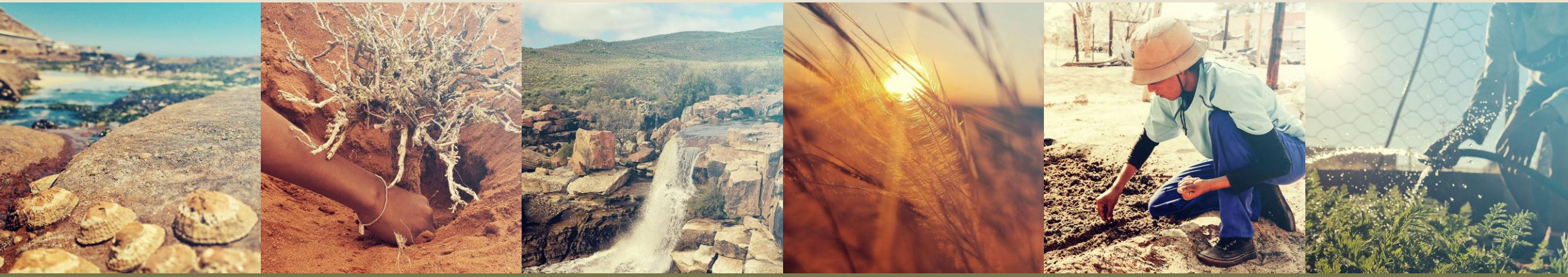
ELEPHANT'S EYE – Khoisan Princess, cultural site



BIOCULTURAL RIGHTS

uphold the right of communities to maintain their identities, protect sacred sites, steward biodiversity, and pass on knowledge, languages, and cultural practices to future generations.

Indigenous Peoples



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