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メタデータ	言語: eng 出版者: 公開日: 2018-08-06 キーワード (Ja): キーワード (En): 作成者: Puckett, R. Fleming メールアドレス: 所属:
URL	https://doi.org/10.15021/00009131

‘The Space to Be Themselves’: Confronting the Mismatch Between South Africa’s Land Reform Laws and Traditional San Social Organization among the #Khomani

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ABSTRACT

South Africa’s ambitious land reform and restitution programs, launched by Nelson Mandela in 1994, sought to bring secure land tenure, economic development, and democracy to those dispossessed by discriminatory minority-rule and apartheid-era laws and policies. The Northern Cape’s #Khomani San people – a ‘community’ constructed for the purpose of meeting restitution’s requirements – struggled unsuccessfully from their historic land-claim victory in 1999 until 2008 to operate the community leadership and decision-making structures imposed upon them by land reform laws in the names of ‘democracy’ and ‘communal property’. Even given the 20th-century history of the #Khomani San as a diverse, dispersed people adopting a variety of livelihood strategies including performing for tourists and working on white-owned sheep farms, today’s #Khomani maintain a strong hunter-gatherer identity and display many of the community characteristics seen among other San and foraging peoples, including organizing themselves and making decisions in small, fluid, egalitarian groups. As such, the hierarchical, representative, community-wide committee structures imposed upon the #Khomani by land reform were both ‘foreign’ and culturally inappropriate to them, resulting in the apathy, hopelessness, and rampant alcohol abuse seen among other indigenous communities in such circumstances. However, after the lifting of these structures by Government under a punitive policy known as ‘administration’, the #Khomani have begun to flourish on their restored lands, quietly taking the reins of power in their own ways and making significant strides in the areas of community cohesion, pride, hope, cooperation, and economic development, particularly since 2012. However, unless restitution laws and/or their implementation procedures are amended, the decade of failure and despair is likely to be repeated on the #Khomani lands, as ‘administration’ will soon come to an end.

INTRODUCTION

1) Purpose

In this chapter, rather than providing a legislative ‘report’, my aim is to present a carefully detailed argument on what appear to be the primary reasons for the serious, well known, and – for many – surprising lack of direction, motivation, ‘development’, and ‘progress’ on the Northern Cape lands of the #Khomani San during the first decade following their hard-fought, historic land-claim victory in 1999. An important event for the #Khomani occurred in October 2008, when Government took over the management of the #Khomani lands from their own legally required CPA Committee.¹⁾ Government viewed this takeover as the result of #Khomani ‘failures’ to organise and lead themselves effectively, but it was the very removal of this externally imposed committee structure that finally provided the space for these indigenous San citizens of the new South Africa to begin working, organising, and taking the ‘reins of power’²⁾ in their own ways, with the fruits of this new, but fragile freedom becoming increasingly evident from 2012 to 2018.

2) Very Brief History of the #Khomani San

Approximately 400 to 500 million indigenous people live in the world today, of whom 5.2 million are or were hunter-gatherers (Hitchcock and Biesele 2000: 4–5). Of these, southern Africa’s 95,000 to 115,000 San or ‘Bushmen’³⁾ are the survivors of centuries of actions and policies aimed at San assimilation, dispossession, and extermination by both black and white newcomers on the lands formerly occupied only by the San.

In South Africa specifically, the ‘extent of land dispossession...has no parallel in other African countries’ (Ntsebeza 2007: 33). Under apartheid, the San effectively disappeared, as they were lumped into the catch-all, mixed-race category of ‘coloured’. Then in 1931, South Africa’s remaining southern Kalahari San people found themselves evicted from their lands in the far Northern Cape to allow the government to create the Kalahari Gemsbok National Park⁴⁾, now the Kgalagadi Transfrontier Park (‘the Park’). Later, as was the case for all coloured people under the Group Areas Act of 1950, they were ‘severely restricted’ in their ‘ability to gain access to land for productive purposes’ (Bradstock 2005: Note 3) and thereby became part of South Africa’s ‘poverty stricken, dispossessed labour reserve’ (Bradstock 2006: 247), the creation of which had begun officially with the 1913 Natives Land Act. Robins (2001b: 847) reports, ‘San people were not given their own “Reserves” as it was assumed that they were “extinct” or thoroughly assimilated’. Therefore, after the eviction of the #Khomani, ‘[w]hilst some had built squat shelters in the hamlet of Welkom outside the park, others had spread over the country eking out a living by any available means’ (Chennells 2006: 2), including becoming part of a base of landless farm labourers, who ‘lived with their families on privately owned [white] land’ (Ntsebeza 2007: 34), and on

whose backs white commercial farms were able to flourish.

In the late 1980s, after having lived as poverty-stricken migrant workers for as much as fifty years, a small number of 'coloured' people – the extended Kruiper family – were 'discovered' by white farmers to be 'Kalahari bushmen'. Thus, a tourist village was established on the Kagga Kamma Nature Reserve in the Western Cape's Cedarberg Mountains, and this San group began to perform for tourists and to be 'portrayed in the media as the last surviving group of hunter-gatherers' (Robins 2001a: 7). In January 1992, this small group 'started planning a return to the Kalahari' (Chennells 2006: 2). Their August 1995 land claim, made under South Africa's then-new land restitution programme, was filed with the Northern Cape Regional Land Claims Commissioner under the name 'Southern Kalahari San Land Claim Committee' (Chennells 2006: 2-3), as the name 'ǀKhomani San' had yet to be chosen as the umbrella term for this group. In 1996, the South African San Institute NGO ('SASI') was founded by attorney Roger Chennells in Cape Town to support the land claim (Chennells 2006: 2-3)⁵. Because of the work of Roger Chennells, the South African San people not only won their land claim – in the face of competing claims from their neighbours, the Mier people⁶ – but also succeeded in gaining priority status from Government, such that their claim jumped the queue and was settled in 1999, far more quickly than those of many other groups.

The successful ǀKhomani land claim is often held up as an example of a great San victory in southern Africa. This is particularly so, as only ten percent of today's San people 'retain access to their former natural resources, and only three percent are currently allowed to manage their natural resources' (ǀOma and Thoma 2002: 39). Even so, the cultural revival, socio-economic development, and political empowerment that many believed would be part of the ǀKhomani land-claim victory have yet to materialize in full.

3) The ǀKhomani Versus the 'Normal Lessons' of the State

Because of their interactions throughout history, government officials and foraging peoples typically do not view the State in the same ways:

[T]hose in government...usually see the state as the protector of the rights of all citizens. Hunter-gatherers...do not.... [The] history of relations between state entities and small-scale, sub-state societies...is a history of subjugation and intervention beyond what in sub-state society is regarded as morally justified (Barnard 2002: 16).

In its role as 'protector', the State is in fact protecting the dominant society's shared values, and in doing so, the State is viewed by indigenous minorities – who view themselves first as members of their indigenous group and second as national citizens – as a 'usurper' of the indigenous group's own values (Barnard 2002: 17-18).

As will be discussed in detail below, this protection of dominant values and

structures by Government is evident in the legal requirements of South Africa's land reform programme. Roger Chennells (2002a: 2) writes that South Africa's San people are required by the land reform laws 'to operate in accordance with received western notions of "representative democracy"'⁷) enshrined in the CPA Act. As such, SASI gave itself the task of teaching the #Khomani, !Xun, and Khwe San of South Africa 'the normal lessons of democracy': 'SASI focused its efforts on training and working with the leadership, attempting to ensure good governance and policies.... However, the [San] began to resent some of the controls on their power that were exerted through SASI' (Chennells 2002a: 2). This highlights an interesting phenomenon. As the San are struggling to improve their socio-political position, confidence, and economic status through organisations like SASI, they are concurrently beginning to resent the external controls – such as rules requiring community-wide representative decision-making – under which SASI has attempted to train these San to live. Thus, the San appear to seek empowerment without integration.

ASPECTS OF TRADITIONAL HUNTER-GATHERER AND SAN CULTURES

If after decades of dispersal, the #Khomani of today are seeking to maintain traditional San cultural practices in the face of integrative state policies, with which aspects of San culture(s) are the #Khomani likely to identify most closely, as constitutive elements of their (re)emerging San identity?

1) Kin-Based Community Organisation – Band and *N!ore*

Xhaikwe San community member Gabototwe (2011: 1) writes, '[O]ur ancestors had unique ways of organizing their societies.... However, due to...unjust government policies, ...we have been forced to adapt to the dominant cultures' way of life. However, assimilation or integration into dominant societies obviously did not work for us'. The San, therefore, still see community organisation as an important part of their culture and as markedly different from that of 'dominant societies'.

Lee (1998a: 7) writes that the San do not traditionally organise themselves in the same ways as stock-farming societies do, with the pastoral Khoe, for example, employing a 'social and political organization [that] resembles that of tribal stock-raising peoples elsewhere in Africa', despite their 'common ancestry' with the San. These different social/organisational models, then, can be viewed as representing a contrast between hunter-gatherer and agro-pastoral societies. Across hunter-gatherer societies, Hitchcock and Biesele (2000: 19–20) describe the specific aspects of such group structures: 'Some hunter-gatherers...lived in small...groups...known as bands that were widely dispersed.... The average group size was twenty-five to fifty people...united through bonds of kinship, marriage, friendship, and reciprocity'. With respect to the kin-based social organisation of the Ju/'hoansi and other Kalahari San, Smith *et al.* (2000: 73) explain, 'The

bands...are the core of their societies.... Such a group maintains, in [a] loose and non-exclusive manner..., ownership and control over a water hole and *n/ore* [or territory]. In tune with the seasons the group exploits its resources in small family groups or camps⁸⁾’ (see also Marshall 1998: 350; Lee 1998b: 77; and Hitchcock and Biesele 2000: 15–16). Smith *et al.* (2000: 70; 73) write of the typical territory structure of the ‘foraging band’-based ‘Bushmen of the Kalahari’, which specifically includes the #Khomani:

[L]and ownership is loosely defined; the “owner”...of a territory, or of a permanent water hole that defines it, ...[is] “more an informed person who can care for a water resource so that it can be shared than an exclusive holder of rights to that water” (quoting Katz, Biesele, and St. Denis 1997).

Lee writes that groups of 90 to 120 San camped together long term would be ‘abnormally large’ unless those individuals were settled due to ‘the introduction of an economic “magnet”’, like a Bantu cattle post, or due to local or national legal requirements (1998b: 92–94). When San population concentrations do increase too much, social problems can erupt. For example, when the South African administration’s land policies forced San population concentrations to increase beyond what the land could sustain in pre-independence Namibia, the results at Tsumkwe were ‘apathy and poverty, conflict, jealousies, fighting and alcohol abuse’ (Lee 1998b: 88–89). As a result, San simply began to leave Tsumkwe and ‘to return to their old band territories, leading quite self-sufficient lives based on foraging, herding and agriculture, as well as some wage labour’ (Lee 1998b: 88, 92; see also Smith *et al.* 2000: 76–78). This is strong evidence that the band and *n/ore* structure can persist or be revived, even after government policies have led to more concentrated community settlements.

2) Leadership and Decision-Making Structures

In addition to the small bands living in relatively fixed territories, hunter-gatherer societies differ from their agro-pastoral neighbours in their typical lack of overall headmen, hierarchies, or decision-making structures in which large groups are bound to the decisions of leaders or representatives.

As such, San organisation, leadership, and governance may seem non-existent to outsiders (/Useb 2001: 15). /Useb himself describes San leadership structures generally as ‘dissimilar to the common hierarchical leadership structures. ...[W]e choose to make decisions by reaching consensus’ (/Useb 2001: 15). However, continuing to operate with a system whereby decisions are reached with the input and agreement of all participants would seem to require that small-group organisation be maintained. /Useb (2001: 16) explains the traditional leadership and decision-making structures of his own Hai//om San:

[E]ach community⁹⁾ – consisting of 20 to 30 families residing at one waterhole –

had its own leader...[for that] traditional resource area.... Only after [Bantu] people and settlers had intruded...did it become necessary for the Hai//om to look for strong leaders. ...The system of reaching decisions by consensus and the tradition of exchanging information in an informal manner remained unchanged.

Thus, consensus and information-sharing are central to the San and remain so, even in the face of outside pressures. Barnard (2002: 9) describes typical leadership and decision-making structures in foraging cultures:

[F]oragers...have a political ethos in which leaders emerge for specific tasks. The position of leaders is not hereditary. Often it is transient.... Leaders aid in group decision-making, but...do not hold power. ...[S]eeking power is discouraged.... Leaders...typically do not like making...decisions for the rest of their communities.

Among the !Kung¹⁰) in Namibia, Thoma and Piek (1997) found similar leadership structures: ‘The...definition of a leader [includes]...the capacity to give advice. ...[A] leader has to serve the people, but is not allowed to represent them unless he/she is requested to talk on their behalf’ (quoted in /Useb 2001: 17–18). Leadership among the Kalahari San, although occasionally centralised, for example, to fight against encroachment by the Boers in South Africa during the nineteenth century, reverted to an egalitarian system after the particular need had passed. Throughout San history, Smith *et al.* (2000: 76) state, ‘[w]e can probably assume that...leadership roles have not changed’ from the following:

[A] Bushman *band usually has a tenuous authority figure, ...[who] is “as thin as the rest”...has no special privileges...[and] holds what little authority he has through...his ability...to give sound advice....* When decisions are made..., he may not...exercise any pressure on the group. *The deliberations are a free-for-all, to which everyone adds his voice – and hers....* The aim is to reach *a decision that all can live with, since all have had a say in it.* ...Nowadays an “uppity” leader is brought into line, through ridicule, criticism and *non-compliance* (quoting Marshall 1976; emphasis added).

Thus, all San have a voice in decision-making, and to have their advice followed, any leaders must remain meek, as illegitimate or haughty leaders will see their suggestions (or demands) ignored.

Another reason that a San group’s decisions may not stand involves San adaptations to life in the Kalahari. For example, because of the porosity of the soils and the variability of water and food resources, the Ju/’hoansi have adopted a long-term survival strategy based on flexible decision-making, such that their plans are ‘continually revised in light of the unfolding rainfall situation’ (Lee 1998b: 77, 79–84; see also Hitchcock and Biesele 2000: 19–20 and Barnard 2007: 73). Within this flexible, adaptive strategy, hunter-gatherer decision-making may

be viewed, not as a large group following final, binding decisions made by a leader or committee, but rather as a group of individuals taking the statements of band leaders or experts merely as advice or suggestions for today. With 'leadership' equating to the giving of advice or the sharing of expertise in a particular matter, and with the *choice* of whether to follow such advice left to each San individual, such societies clearly lacked formal hierarchies.

/Useb (2001: 19) concludes that, in general, it is 'evident that the San had traditional governance structures which were not necessarily discerned by the intruding pastoralists, missionaries, settlers and colonial powers as differing from their own'. As such, problems emerged when the selection of an overall leader was mandated by colonial governments, who either failed to 'discern' or actively ignored the existing San structures. For example, during the 1970s, /Useb (2001: 16–17) writes, '[T]he South African colonial regime [controlling Namibia]...ordered [the Hai//om] to immediately choose a central leader... [C]haos erupted [and]...no decision was reached'. Today, San leaders are still under pressure to expand their traditional duties 'drastically': 'A leader, who traditionally was seen as just one among others in the social organisation of the community, [is] now requested to bring the aspirations, plans and concerns of their communities to the attention of central government' (/Useb 2001: 20). Similarly, Kxao Moses #Oma described the representative governance structures that were instituted in Namibia's Council of Traditional Leaders as follows: 'We never wanted to represent our communities. That was a white people's idea in the first place' (quoted in /Useb 2001: 24). Saugestad (2001: 315–316) further notes that such imposed 'alien' representative structures have caused 'tremendous personal strain on people in leadership roles' in indigenous communities, because there is 'a significant difference between the *participatory democracy* practiced by most hunter-gatherers, and the *representative democracy*, on which modern organizations are depending'. However, when hunter-gatherer societies become post-foraging societies, how are aspects of their traditional cultures impacted?

SAN ADAPTABILITY AND CULTURAL PERSISTENCE

One often hears statements from non-San individuals that non-hunting San are no longer 'real Bushmen'. However, much excellent research and writing has shown that hunting/foraging societies, including the San, have practised a variety of livelihood strategies – including hunting, gathering, trade, stock-farming, wage labour, begging, and performing for tourists – throughout their histories, adapting to seasons, migrations, opportunities, economic circumstances, and displacements (see, e.g., Lee 1998a: 10, 18; Smith et al. 2000: 82; #Oma and Thoma 2002: 39; Taylor 2002: 471, 481, 483; Tomaselli 2002: 204; Kuper 2005: 205; and Barnard 2007: 6). Thus, the 'foraging' way of life may take many forms over time.

And through these myriad livelihood adaptations, foraging and post-foraging societies very often maintain their 'hunter-gatherer' identities (and occasionally,

practices), whether or not hunting itself remains economically necessary or legally permissible (see, e.g., Guenther 1998: 122–125; Lee 1998b: 95–96; Tomaselli 1999: 208 and 2006: 173; Sylvain 2002: 1074; Taylor 2002: 479; and Barnard 2007: 81).

Beyond this, there is evidence from numerous researchers in the field of San studies that suggests quite strongly that many facets related to sharing, mobility, and kin-based social organisation are not only similar across San groups, but also survive San sedentarization (see, e.g., Barnard 2002: 17–18 and Sylvain 2002: 1078–1079). More specifically, the ‘band’ or ‘camp’ structure discussed above appears to remain intact, even after sedentarization, livelihood changes, economic adaptations, or extensive contact with other groups (see, e.g., Kuper 1970: 47; Guenther 1998: 123; and Barnard 2007: 111). In summary, Guenther (1998: 131–132) reports, ‘Despite...changes in...economic practices, there are continuities in social organization.... The...camp continues to be the basic living group.... It would seem...that the farmer San of today...is still more a hunter and gatherer than he is a farm laborer’ (see also Barnard 2002: 6; 19).

As for the #Khomani, an abstract concept of ‘San culture’ might be particularly problematic, as the #Khomani ‘community’ was, in essence, invented for the purposes of their land claim (see ‘The Invented Community’ below). In this way, some aspects of traditional South African, Botswanan, and Namibian San cultures may have come into the community through individuals, like the Kruiper family, who had actual memories of living in the Park. On the other hand, the ‘rebirth’ of a sense of San-ness among the #Khomani may have (re)introduced more generalised aspects of San culture, including social organisation, as these formerly ‘coloured’ land claimants were taught some elements of ‘Bushman culture’ from members of more intact San societies through the land-claim process, the *Miscast* exhibition (see Skotnes 1996), and training offered by such bodies as SASI and the !Khwa ttu San Culture and Education Centre (see Staehelin 2002). Along these lines, Buntman (2002: 78) writes of the efforts of the #Khomani to begin to rebuild their own sense of identity and culture. In doing so, she interestingly separates the maintenance of an outward, touristic/material culture from the revival of ‘their culture and traditions’, which she seems to suggest is primarily a behind-the-scenes, inward-looking, organisational process, rather than a particular act, performance, or livelihood choice:

[I]t is...initially most likely, that they will maintain the generic...ethnic vision of themselves and...a...touristic form of artefact and material culture. Simultaneously however, they are attempting to reclaim and reconstitute their culture and traditions. ...[O]ne of the challenges is to encourage internal social order and agency which will allow the voices of the people...to be heard.

Thus, aspects of the traditional ‘internal social order’ seen among various Kalahari San societies, as well as San ideas regarding mobility, decision-making,

land, and leadership, may remain, or may at least be desired, among members of the resettled, post-foraging #Khomani San.

#KHOMANI LAND RESTITUTION – TWELVE YEARS OF DISAPPOINTMENT

In 1999, the Commission on Restitution of Land Rights (‘the Commission’) fell under what was then called South Africa’s Department of Land Affairs (‘DLA’)¹¹ and was the body responsible for the return of the land to the #Khomani. Although the economic and social conditions on the new #Khomani farms remain in need of improvement, it is important to acknowledge that South Africa has done more to restore lost lands to its indigenous citizens than almost any other country.¹² Regarding the #Khomani, long-time San activist Axel Thoma remarked, ‘The people got land, intellectual property rights, ...rights to education, ...everything which didn’t *exist* before. ...I think these achievements will actually move the young generation to say, “We *have* something. We are not anymore the *poor* San in the loin cloths.... We *are* somebody”’ (Thoma 6th Jan. 2010).

However, as will be discussed below, significant development progress only began to happen for the #Khomani more than a decade after their land-claim victory. In the meantime, there were naturally many complaints from community members and outsiders alike about the repeated failures to develop the #Khomani farms. Peter Mokomele, who at the time was Deputy Director of Post Settlement for the Commission in Free State and Northern Cape¹³, responds on behalf of Government:

Some people might say we don’t have time...to allow people to make mistakes.... It’s only...in hindsight, [communities]...say, “...We have wasted time and resources...” But because they are now at that point, they are more eager...to participate better in planning. ...Lots of people started to say, “...[H]ow do we get hold of our own development?” (Mokomele 15th Sept. 2009).

Here, of course, it is essential to understand what ‘development’ means to different land claimants, government officials, and outside observers. In terms of the concrete goals of individual land claimants, Phillipa Holden, ecologist and technical adviser to the #Khomani¹⁴, provides some insight, reporting that #Khomani land-claim leader Dawid Kruiper (who, sadly, died on June 13, 2012) ‘didn’t ever want a farmhouse. ...His *biggest* thing has been to get back into the Park, and since he’s been able to access...the Park...his ancestral land, that has put the greatest peace to him’ (Holden 19th Jan. 2010). Thus, for Dawid, a San elder wishing to return to the place where his father had been buried and to sit under the tree where his father once sat, a significant victory was indeed won. (See Figure 1.)

However, as #Khomani elder Andries Steenkamp (who has now also passed



Figure 1 Dawid Kruiper's home, built under his father Regopstaan's favourite tree, located on Sonderwater farm, which overlooks the southwestern boundary of the Kgalagadi Transfrontier Park. Photo by the author.

away, on August 23, 2016) explained, problems soon began in the Kalahari, as individuals attempted to access the funds held in trust by the #Khomani Communal Property Association ('CPA'): 'Before, there was no land, no money. ...After the land is coming, and there come a little bit of money, the fighting is starting' (A. Steenkamp 8th Sept. 2009). In fact, despite Phillipa Holden's characterisation of Dawid Kruiper as at peace in the Park, in a private moment with me in 2009, Dawid definitely expressed the frustration referred to by Andries. Dawid repeated several times that the whites had 'dropped' him after the land claim and that he had not seen any of the land-claim money himself, despite being 'the *leader* of the land claim' (D. Kruiper 4th Sept. 2009).

Even after their successful land claim, many #Khomani remain scattered across Northern Cape settlements. Andries Steenkamp stated, 'All the people cannot come to the farms because here is not work, not houses, not water' (A.

Steenkamp 23rd Jan. 2010). According to Andries, the 1,024 #Khomani San in 2010 were distributed as follows:

360 #Khomani living on or adjacent to the new #Khomani lands:

Six land-claim farms – 218;

Settlement of Welkom, outside the Park – 82;

Town of Askham – 60.

664 #Khomani remaining in more distant Northern Cape towns:

Rietfontein – 180;

Loubos – 102;

Mier I and II – 72;

Philandersbron – 80;

Noenieput – 30;

Upington – 200.

These figures confirm Bradstock’s findings (2005 and 2006) that many #Khomani are still unable to relocate to the new #Khomani farms and live there. As will be discussed below, this is based largely, as Andries suggests, on the longstanding absence of housing, water, allocated grazing ‘camps’, and livelihood opportunities there. Collin Louw, who is a resident of the primary #Khomani neighbourhood in Upington, adds, ‘[T]here’s no accommodation there. ...[Y]ou need to buy yourself some...material to go and put your house on [a farm]... [I]t’s expensive. So we’re still waiting for the government. ...We’d like to go there, but we can’t. ...*All* of [the #Khomani] want to go there’ (Louw 12th Jan. 2010). (See Figure 2.)

Thus, although many jubilant #Khomani rushed to occupy their newly won farms in 1999, many others still live elsewhere, as the frustrating lack of housing and reliable water sources has persisted into 2018¹⁵). Those who did return ultimately faced years of conflict, frustration, and a lack of ‘development’. In order to assess where South African land reform has had successes and where it has, thus far, failed the #Khomani, it is important to understand what Government intended, and what others expected, this programme to accomplish.

AIMS OF LAND RESTITUTION

1) Restitution of Land Rights Act

Under Nelson Mandela’s leadership, the objectives of South Africa’s new restitution programme included improving equity, initiating development, and reducing rural poverty (see Bradstock 2005: 1982; Walker 2005: 805, 816; and Boudreaux 2010: 14).

The restitution programme itself came into being via the Restitution of Land Rights Act, No.22 of 1994 (the ‘Restitution Act’¹⁵). Within the Restitution Act,



Figure 2 Typical #Khomani self-built home. Photo by the author.

the DLA lays out the following goals, definitions, and policies:

Explicit Goals:

These include ‘to promote equity for victims of dispossession’, ‘to facilitate development initiatives’, ‘to promote reconciliation’ (Commission 2004: 1), and ‘to promote the achievement of equality’ (Commission 2004: 5) through ‘restitution of a right in land’, defined as ‘the return of a right in land or a portion of land dispossessed after 19 June 1913 as a result of past racially discriminatory laws or practices’ (Restitution Act, Ch. 1, Sec.1);

Beneficiaries:

Those entitled to restitution include ‘a community or part of a community’ (Restitution Act, Ch. 1, Sec.2(1)(d)), with ‘community’ defined as ‘any group of persons whose rights in land are derived from *shared rules* determining

access to land held in common by such group' (Restitution Act, Ch. 1, Sec. 1; emphasis added);

Priority Status:

While a restitution claimant may be a dispossessed person or direct descendant, rather than a complete or partial community (Restitution Act, Ch. 1, Sec.2(1) (a)-(d)), the Restitution Act directs the Commission to 'ensure that priority is given to claims which affect a substantial number of persons' (Restitution Act, Ch. 2, Sec.6(2)(d)).

There were definite advantages, both in terms of overall success and resolution timing, if communities' advocates could find ways of gaining this 'priority' status for the claimant 'communities' they represented.

2) Communal Property Associations Act

Beyond the transfer of land, South Africa's land reform programme includes laws and policies that further define how recipient 'communities' should own, govern, and manage the lands they receive. The primary piece of legislation in this context is the Communal Property Associations Act, No.28 of 1996 (the 'CPA Act'). The CPA Act is premised on the following precepts, which establish common-property ownership and democracy as 'desirable' and 'necessary' ideals:

[I]t is *desirable* that disadvantaged communities should be able to establish appropriate legal institutions through which they may acquire, hold and manage property *in common*;

[I]t is *necessary* to ensure that such institutions are established and managed in a manner which is non-discriminatory, equitable and *democratic* and that such institutions be accountable to their members;

[I]t is necessary to ensure that members of such institutions are protected against *abuse of power* by other members (CPA Act, Preamble; emphasis added).

The CPA Act defines 'members' as members of a Communal Property Association ('CPA') or the members of a 'community', which is itself defined as a group who 'wishes to have its rights to or in particular property determined by *shared rules* under a written constitution and which wishes *or is required* to form [a CPA]' (CPA Act, Sec.1; emphasis added). Those required to form a CPA are communities receiving land under the Restitution Act, where the Land Claims Court has issued an order making land-claim success conditional upon the formation of a CPA (CPA Act, Sec.2(1)). The #Khomani San community is one such group. The 'shared rules' definition of 'community' also mirrors that found in the Restitution Act. A 'committee' of elected members must 'manage the

affairs' of the CPA (CPA Act, Sec. 1), and nowhere in the CPA Act do lawmakers appear to contemplate any groupings of individuals smaller than 'a community' (see, e.g., CPA Act, Sec. 2(1)).

A CPA itself becomes officially registered when its Constitution is approved by 'the majority of the members of the community present *or represented*' at a meeting in which 'a substantial number of the members of the community' were present (CPA Act, Sec. 8(2); emphasis added). Such Constitutions must include the following 'general principles':

[D]emocratic processes, in that all members have the right...to attend, speak at and participate in the voting at any general meeting;

[F]air access to the property of the [CPA], in that the [CPA] shall manage property owned...by it for the benefit of the members;

[A]ccountability and transparency, in that...the committee members shall have *fiduciary responsibilities* in relation to the [CPA] and its members and shall exercise their powers in the best interests of *all the members* (CPA Act, Sec. 9; emphasis added).

In addition, the Constitution must include policies and procedures outlining the 'purposes for which [the community's property] may be used', 'the physical division and allocation of the property', guidelines for the 'distribution and division of profits', measures of 'representivity' for meetings, and dispute-resolution and disciplinary guidelines (CPA Act, Schedule).

Where CPAs face chronic disputes or mismanagement, the CPA Act authorises the Director-General of the DLA to inspect CPA records, conduct an enquiry, issue subpoenas, or assign a dispute-resolution conciliator (CPA Act, Sec. 11). In fact, any community member may request assistance from the Director-General regarding disputes among community members, among CPA Committee members, or between a CPA Committee and the community (CPA Act, Sec. 10(2)). The Director-General would then appoint a conciliator, whose role may include 'mediating the dispute' and/or 'making a recommendation to the parties to the dispute' (CPA Act, Sec. 10(2)–(3)).

If these conciliation efforts reveal a problem or dispute that cannot be mended, the Director-General may either require CPA members to elect a new CPA Committee (if 'the integrity, impartiality or effectiveness' of the current CPA Committee or of any Committee member 'is in question') or request that the Court place the CPA under 'administration' (CPA Act, Sec. 11). Under 'administration', the Director-General gains the delegable power 'to manage the affairs' of the CPA in lieu of a CPA Committee (CPA Act, Secs. 13 and 15). In the worst cases, where a CPA 'because of insolvency or maladministration or for any other cause is unwilling or unable to pay its debts or is unable to meet its

obligations' or if the Court determines it would be 'just and equitable' to do so, the CPA may be liquidated and its land distributed by court order (CPA Act, Sec.13).

The end result of the CPA Act itself, then, may be viewed as the establishment of representative, democratic governance of the lands given to, and held in common by, an entire community with, by definition, shared values. Where a CPA Committee fails to perform its functions – making decisions and allocating and managing the community's lands – the options are a new CPA Committee, administration by the Director-General, or liquidation. Whilst a new CPA Committee may be elected after a period of administration – during which the community has shown its increased capacity to manage community lands and make community-wide decisions – there is no other organisational structure contemplated by the CPA Act. If a community falls under the CPA Act, it must learn to function with the CPA structure, as 'communities' with 'shared rules' managing commonly owned property in a democratic manner are key ideals espoused (and required) by South Africa's land reform programme.

3) Development Goals of the Two Acts

Except for vague references to 'development initiatives' and a mission of promoting 'equity' – not explicitly defined – for 'the landless and rural poor' (Commission 2004: 1), the Restitution Act itself cannot be read as the guide for a programme of actual rural development or poverty reduction. Working in conjunction with the Restitution Act, the CPA Act was designed to allow 'disadvantaged communities' to hold land collectively and manage it through elected trustees, who are 'given extensive power as holders of the land on behalf of the community' (Everingham and Jannecke 2006: 549). Thus, the CPA Act 'intended to empower communities to achieve housing, agriculture and social welfare, to allocate land rights by majority consent, and to co-operate with state agencies or private entities' (Everingham and Jannecke 2006). How communities were expected to 'achieve' these goals is, however, left all too unclear, and as Andries Steenkamp indicated above, the #Khomani CPA Committee would come to be seen by community members as little more than the keepers of a pot of available money.

However, some authors have found a general 'development' aim within the spirit of South Africa's land reform programme (see, e.g., Philander and Rogerson 2001: 85; Attfield et al. 2004: 410–411, 413; Hall 2004: 214–215; Everingham and Jannecke 2006: 545; Thwala and Khosa 2008: 41; and Leyshon 2009: 756). A key to understanding development 'failures' among the #Khomani San, then, may be provided by exploring how other indigenous/foraging groups have responded to 'development' projects or policies introduced into their 'communities'.

CRITIQUES OF DEVELOPMENT PROJECTS CONDUCTED IN INDIGENOUS COMMUNITIES

In general, it would appear that indigenous communities – defined by Saugestad below as differing markedly from a country's dominant culture – are least likely to benefit either from a-historical, a-political, standardised, pre-packaged 'technical and bureaucratic' assistance (Bryant 2002: 272) or from generalised development policies that are designed to be easily implemented nationwide and to uphold the political interests and cultural ideals of a country's dominant society (see Ferguson 1990 and Williams 2003).

1) Non-San Foragers

Rather than the political empowerment recommended by Ferguson (1990), NGOs are often involved in teaching indigenous peoples how better to govern their lands and their communities, within the laws of the state (see Bryant 2002: 273–274). When such training and development work is planned and provided solely by outsiders, there is little chance that the wishes or needs of the communities themselves will be adequately addressed (see Hitchcock and Biesele 2000: 12; Taylor 2002: 486; and Schimmel 2009: 515), and this can have extremely detrimental effects within communities, including 'apathy and loss of self-esteem' and a 'rise in anti-social behavior' (McIntosh 2002: 76; see also Smith et al. 2000: 89–90, 95 and Schimmel 2009: 514–515).

Government development programmes often seek the integration of these groups into the State's economy and dominant society, instead of working to incorporate (or allow flexibility for) hunter-gatherer systems of social organisation and governance – as well as the livelihood aspirations of these communities – in development plans or policies. In the sphere of economic/livelihood activities, von Bremen (2000: 279) explains that development work among hunter-gatherers like the Ayoréode people of Paraguay results in great frustration for project managers. Resisting programmes aimed at 'integrating them into the dominant society', the Ayoréode continue with their own 'immediate returns' belief system and 'adapt to imposed economic activities' including 'projects, development aid, and wage labor' by simply 'gathering' the resources that these programmes introduce into their region (von Bremen 2000: 280–282).

Development activities may involve more than programmes of economic integration, however, as where development laws and policies seem to aim at the replacement of a group's deeply ingrained social structures and values with those of the dominant society (regarding the San, see Twyman 1998: 765; Smith et al. 2000: 95; and Hitchcock 2002: 813). Writing of the Baka forest foragers or 'Pygmies' of Cameroon, Hewlett (2000: 385; 387) explains that both Government and NGOs believe that social/organisational changes are required: 'The establishment of hierarchy (i.e., community leaders) and formally educating Baka are...desired goals' (Hewlett 2000: 387–388), but the impacts on Baka culture

would be severe:

[W]ith the adoption of agriculture, hierarchy, and formal education, few elements of Baka culture – e.g., egalitarian social relations, interactive styles, conflict resolution, sharing – would be left. *What is maintained is what is perceived as culture* (language, ritual, and medicines). Generally, both government officials and NGOs want the Baka to be more like them: sedentary, responsive to hierarchy, healthy, wealthy, and wise (Hewlett 2000: 387–388; emphasis added).

Thus, development efforts of both government and NGO workers tend to promote the survival of ‘what is perceived as culture’ by outsiders, rather than, in this case, the Baka people’s own, inward-looking sense of their culture, including a lack of hierarchical governance.

O’Malley (1996: 314–315) writes of the great ‘formal distance between modern liberal forms and assumptions of government and those which are endemic to their colonized (as opposed to...culturally familiar) subjects’: ‘[One such] assumption [has been] that self-determination could be achieved by providing colonized subjects with the forms of government associated with self-determination in the liberal state...[including] community councils...impersonal administration...and meritocratic hierarchicalism’. Such programmes frequently fail, even when governments strategically place some governance in the hands of ‘communities’: ‘[G]overnment at a distance frequently becomes problematic as locals react by “failing” to take their duties seriously, or grasp the reins of power and direct community activity in ways not intended by programmers’ (O’Malley 1996: 313; see also von Bremen 2000: 279).

That such imposed governance structures are a severe burden to foraging communities is demonstrated in the work by Ichikawa (2000: 263–264) among Congo’s Mbuti ‘Pygmies’. There, the government attempted to institute policies aimed at the ‘*émancipation des pygmées*’, which included inducements for the Mbuti to settle along roadsides, build village-style houses, take up farming, and pay taxes. Ichikawa (2000: 263–264) explains further:

The Mbuti band [now] also has a representative, called the *kapita*, who serves as a liaison with the government.... These forms of participation in the state system are...felt as a burden by the Mbuti. ...The *kapita* system itself was introduced by external forces for administrative reasons and does not derive from Mbuti social relationships in any sense.

As seen above, the San typically address issues of illegitimate, hierarchical leadership with acts of ridicule and non-compliance. Non-compliance – viewed by government as ‘failure to govern’ – appears to be the reaction of other non-San foragers, as well. Many communities that are not ‘culturally familiar’ to the dominant society often fail to operate their received community-council structures

as the planners had intended. O'Malley's study (1996: 314–315) in an Aboriginal community displays how “self-managing” corporate entities’ there were doomed to fail:

Indigenous Aboriginal governance – attuned to nomadic existence – reflects far more fissionable and temporary arrangements and non-corporate forms.... Consequently, community councils frequently “broke down” into factions...thus...“failing” to govern.... Within governmental discourse,...[t]here was a clear sense that government and administration were objective relations necessary to self-determination but these were being “impeded” by Aboriginality.

2) San Communities

Regarding the San, Biesele and Hitchcock (2000: 306; 321–324) describe similar traditional-versus-imposed governance conflicts among the Ju/'hoansi of Namibia, as the San, development workers, and government officials interacted during the formation of the grassroots human-rights and resource-management body, the Nyae Nyae Farmers Cooperative, which instituted region-wide ‘government by committee’, rather than the smaller, kin- and *n/ore*-based governance structures typical of the San:

Some Ju/'hoansi were distinctly uncomfortable with the idea of representative government.... [N]ational and developmental expectations were that [traditional leadership, band, and *n/ore* structures]...would vanish overnight and give way to...“democratic” structures...as the cooperative became in the eyes of...government the “local traditional authority” in the absence of a [San] headman tradition.¹⁷⁾

In this way, Government saw a lack of the strong leadership, hierarchies, and representative structures that are basic elements of the dominant society, and instead of seeking to understand and work within the San structures, Government insisted on the creation of systems that it could recognise. This was extremely detrimental to the San:

New Ju/'hoan leaders have been expected to transcend both the long-tenured social attitudes of their relatives toward non-self-aggrandizement and their own traditional altruism patterns as they forged new public selves and organizational functions. Individuals have suffered mightily in this process.... Like former foragers everywhere in a world of agriculture and industry, San frequently run afoul of this system because it defines out of existence some of their very bases of survival (Biesele and Hitchcock 2000: 306, 321–324; see also Barnard 2002: 5, 10).

Thus, traditional San leadership ideals are not merely preferences that can be unlearned or abandoned. These social structures are among the ‘very bases of survival’ for foragers, as these ideals have emerged over generations, guide how

groups interact with each other and their environment, and cause severe unrest in communities who are forced by national laws to abandon them.

After their successful land claim, the #Khomani were seen by many as needing to be ‘drawn into the “civilising process” through development and...capacity-building programmes’ (see Robins 2001b: 844). Indeed, Robins (2001b: 841) found that the #Khomani CPA Committee was finding it difficult to ‘make decisions concerning natural resource management’ on their lands due to ‘tensions between the decision-making procedures stipulated [by law] and the *ad hoc* decisions of the traditional leadership’. And as noted above, Chennells (2002b: 51) confirms that the #Khomani have struggled with governance, leadership, and decision-making structures imposed from outside:

[L]egislation required the San...to operate in accordance with received Western notions of “representative democracy”. ...A significant number [of] #Khomani...abhor the constitutional instruments required to manage their affairs. Holding meetings...and formulating land use plans...in accordance with government requirements are processes totally foreign to these San (see also Chennells 2002a: 2).

In addition, as will be discussed further below, the #Khomani are a community created out of an amalgamation of individuals who had had very different experiences during apartheid, ranging from more ‘traditional’ members who performed for tourists to more ‘Western’ members who had been primarily stock-farm workers. Robins (2001b: 841–842) believes that the community’s early ‘traditional/Western’ divide was actually generated initially by the dual mandate of NGOs ‘to promote the “cultural survival” of indigenous peoples *and* to socialise them into becoming virtuous modern citizens within a global civil society’. This ‘socialisation’ includes a mission ‘to inculcate Western ideas about “civil society” and democratic accountability’ (Robins 2001b: 841–842). However, the combination of a) the traditional, small-group, consensus-based decision-making structures typical of the San and b) the divisions within the #Khomani community in particular create a situation in which legally required community-wide agreement on such items as livelihoods and land uses seems doubly unattainable. In this context, Robins (2001b: 846) depicts San ‘development’ as particularly ‘messy’:

The San...have been constructed as a [“homogenous”] “target population” by a range of...institutions, including [the] state... [However] the San “target population” is a “moving target”, unable and unwilling to live up to either “western” fantasies of...Late Stone Age survivors, or developmentalist visions of...normalised, ...“civilised” modern subjects (citing Ferguson 1990).

Today, “external domination of hunter-gatherer societies is increasingly structured by the bureaucratic state...” [via]...settlement schemes, social services,

land-tenure policies, and political representation policies' (Hewlett 2000: 380, quoting Hitchcock and Holm 1993). However, in the context of the San, Hitchcock (2002: 813; 824) argues that 'efforts must...be made...to allow local people to have a say in development planning, and...to make decisions about their own land, natural resources, identities, and political participation'. Based on the research outlined above, conducted among San and other current and former hunter-gatherer societies, such development planning will surely have to involve allowances for the ways in which foraging societies choose to organise and govern themselves.

RESTITUTION OUTCOMES FOR THE #KHOMANI SAN

1) The Invented Community

The return of the #Khomani 'from exile' (Robins 2001b: 834) was not a straightforward process of reconnecting with family members, cultural identities, and ancestral lands. As noted by Chennells (2002b), years of dispossession and dispersal had led to a #Khomani 'community' in which 'no central coherence remained'. Thus, as essentially a *non*-community in the early to mid-1990s, the #Khomani would have been unlikely to succeed in a land-restitution claim. Ferguson (1990) criticizes the development industry for requiring a bounded, defined target group, and in line with this, South Africa's Restitution and CPA Acts do indeed require a 'community' for the purposes of receiving, owning, and managing lands. Therefore, a group or collection of individuals may portray an essentialised image of themselves as an intact, coherent community for the purposes of gaining access to land, assistance, and development funding. In this way, an identity and community may be invented strategically (see Sylvain 2002: 1081–1082 and Guenther 2006: 18).

Robins (2001b: 840) writes that attorney Roger Chennells 'recognised that the land claim process required...consistent narratives of cultural continuity and belonging' (see also Chennells 2002b: 51 and Kuper 2003: 394). Thus, 'the #Khomani community' of today was invented to satisfy South Africa's land-claim laws. In fact, many of the #Khomani land claimants 'were meeting for the first time', and their 'extremely diverse backgrounds' were making it 'difficult for them to forge a cohesive collective identity' (Robins 2001a: 26)¹⁸. Robins (2001b: 840) quotes Chennells as saying, '[T]he...major challenge is trying to make the myth that we've actually created in order to win the land claim now become a reality. It is the myth that there is a community of #Khomani San. At the moment there is no such thing'.

Thus, although the #Khomani put forward images of cohesion, continuity, common cultural heritage, and optimism in reclaiming their 'ancestral land' (Robins 2001b: 833–834), the successful #Khomani land claim and the legally required 'community' ownership, decision-making, and governance structures that came with it neither gelled with San ideas about legitimate leadership and

decision-making structures nor led to the creation of a cohesive, functioning community on the ground. Significant impacts of this failure to create, or function as, a 'community' included more than a decade of development stagnation and economic disappointment for the #Khomani.

2) Economic Impacts

In all, the #Khomani received freehold title to 25,000 hectares inside the Kgalagadi Transfrontier Park, but since no residential or agricultural activities were allowed in the Park (Ellis 2010: 184), the #Khomani also received six farms outside the Park, totalling 36,889 hectares (Chennells 2006: 3). Three of these farms were designated by the #Khomani as stock farms, with the other three initially set aside as 'traditional-use' farms, where non-farming livelihoods could be practised. The settlement included a further 7,000 to 8,000 hectares to be donated by the Mier community and R516,000 to purchase commonage around the primary post-eviction settlement of Welkom (Chennells 2006: 3), where the Kruiper family had settled. (See Figure 3.) The #Khomani land-claim settlement also included R2.3 million in cash, the principal of which could only be used for 'development' work on the lands, but the interest on which the #Khomani CPA Committee could initially access for farm maintenance and related expenses.

James (2000: 147) depicts land restitution generally as restoring 'property to those whose original ownership of it assured them a better life'. For the #Khomani, however, restored lands have not yet fully resulted in an overall 'better life'. Robins' (2001a: x-xi) findings two years after #Khomani resettlement included widespread unemployment, 'erratic sources of income', an inability to sustain 'San cultural and language projects' in the face of socio-economic insecurity, 'Government delays in...housing and infrastructural development', '[d]eep intra-community divisions' over land use and livelihood strategies, and a continuing #Khomani 'perception...of political and economic marginality and disempowerment'.

Although the six farms received by the #Khomani had been white-owned commercial livestock and game farms with 'a comprehensive and well-maintained infrastructure' at the time of transfer (Bradstock 2006: 251), this certainly did not remain the case. During my initial visits in 2009 and 2010, it was very common to hear of broken water pipes and failed water pumps on the farms, as well as huge gaps in farm fences, allowing both game and sheep to escape. As for Government's responsibility in this area, Bradstock states, 'To date, the government, in particular the Department of Agriculture, has been unable to transfer the technical skills that the group requires' (Bradstock 2006: 251). In my experience, this incapacity and slow farm development seemed to be the result of a) as Bradstock suggests, a lack of organised farm-management training provided by the Department of Agriculture or the DLA and b) in line with Robins' findings, an almost complete lack of #Khomani community-wide agreement on suitable land-use plans and livelihood projects and little personal or group motivation to carry out development plans or repair farm infrastructure.

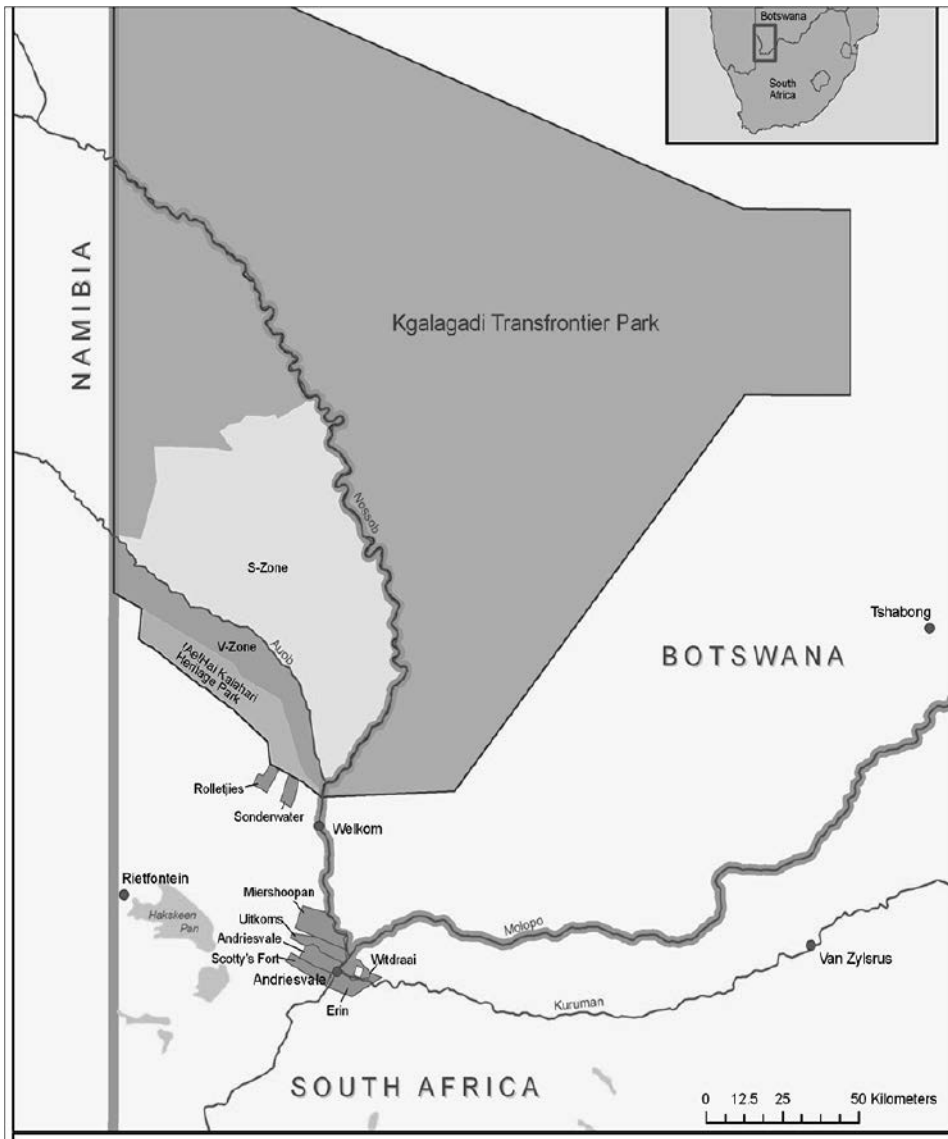


Figure 3 Kgalagadi Transfrontier Park, including #Khomani symbolic-rights area ('S-Zone') and Contract Park (Heritage Park and 'V-Zone'), plus the six original land-claim farms and two newer farms (Rolletjies and Sondervater) donated by the Mier community. Source: David Grossman.

Roger Chennells completed a report on the #Khomani situation in 2006, by request of the Commission on Restitution of Land Rights. Chennells was clearly disappointed with, among other things, the economic and development stagnation of the #Khomani over the first seven years, using terms like 'poverty-stricken' and 'anarchy' to describe the #Khomani and the state of their farms (2006: 7). Bradstock's research confirmed at least the 'poverty-stricken' aspect, revealing that

the primary source of #Khomani income in 2006 was non-farm wages¹⁹⁾ (accounting for 36.2 to 56.6 percent of family income), with the secondary source being public transfers (32.7 to 47.3 percent of income) made up of old-age pensions, disability grants, and child grants (2006: 255).

Surprisingly, Bradstock found that farming activities generated only 0.2 to 4.2 percent of #Khomani family income: ‘[I]n spite of the fact that [they] are beneficiaries of the land reform programme there is no evidence to show that agriculture is a key livelihood activity [among the #Khomani]’ (Bradstock 2006: 255). Bradstock’s findings should not be viewed as suggesting that no one on the #Khomani farms is raising livestock. Indeed, many of my interviewees, including Andries Steenkamp and Dawid Kruiper, owned at least some sheep or goats. (See Figure 4.) What Bradstock’s results do indicate, however, is that very few #Khomani were generating income from stock-farming in 2006, despite their collective ownership of 36,889 hectares of farmland. As will be discussed below, despite less ‘anarchy’ on the #Khomani farms today, this largely subsistence-level



Figure 4 #Khomani sheep and goats on Andriesvale farm. Photo by the author.

farming situation has continued for most #Khomani stock-farmers into 2018.

Chennells places much of the blame for #Khomani development failures on the shoulders of local government and the Department of Land Affairs. He identifies specific government shortcomings as follows: a) the failure of the DLA to undertake proper planning prior to the land transfer, which has led to an uncoordinated, 'self-help' mode of land and resource use on the farms; b) the failure of the DLA to appoint and pay the salary of an overall farm manager as promised by the Minister in 2002²⁰; c) a lack of assistance in completing the process of allocating sheep camps to individual farmers; d) delays in providing housing and the failure of local government to work with the #Khomani to find suitable sites; and e) a lack of proactive support by the DLA in helping the #Khomani plan and run income-generating projects (2006: 11–19). Chennells concludes that the Director-General of the DLA 'is obliged to take charge and implement a series of steps necessary...to correct the [chaotic] situation and provide the foundation for the development that should take place' (2006: 21).

Indeed, several authors have suggested ways to improve land reform's ability to bring about 'the development that should take place'. Whilst such ideas vary widely in terms of their scope and realism, I will focus here on one particularly promising line of thought.

THE NEED TO INCORPORATE INDIGENOUS STRUCTURES INTO NATIONAL LAWS

On the one hand, neo-liberal policymakers view the State's role as one of 'withdrawal...in favour of enhanced self-regulation by individuals' (Bryant 2002: 287). On the other hand, the stated ideals and requirements of South Africa's CPA Act are evidence that such 'self-regulation' may have to take place within particular decision-making and governance structures prescribed by the State. Against neo-liberalism's detached, universally applicable ideals and rules, Saugestad describes the situation faced by many indigenous groups today:

[A] group is only indigenous in relation to another encompassing group, which define the dominant structures of the state. ...The core feature of this relationship is...[the state's] *lack of recognition*...of the distinct background and...needs of the indigenous population (Saugestad 2001: 304–307).

Thus, Saugestad argues against solutions that merely address a group's poverty. Tackling only the poverty of an indigenous group, particularly hunter-gatherers like the San, only addresses the symptoms, rather than challenging 'the dominant rules of society, whereby culturally specific qualifications and skills are rewarded differently, consistently leaving the minority in a disadvantaged position' (Saugestad 2001: 309–310; cf. Ellis 2001). Therefore, accepting that hunter-gatherers may have different world views that affect how they perceive leadership,

organise and govern themselves, and make a living, governments should work with indigenous groups to overcome ‘bureaucratic ignorance about the logic of foraging systems and the...non-farming use of land’²¹) and then use such co-operative engagements to create government policies that take into consideration ‘a group’s cultural heritage’ (Saugestad 2001: 311–312; 317).

Beyond policymaking, Kull (2002: 58) speaks of a ‘growing international consensus on the importance of local and community participation in development’, with empowerment as the goal: ‘[R]eal decision-making power must be vested in legitimate community institutions. ...The *legitimacy* of community institutions is rooted in the notion of popular acceptance’ (see also B.C. Smith 2007: 280–281). As seen above, indigenous peoples tend to react against leaders and structures viewed as illegitimate with acts of non-compliance, and this is confirmed by Kull (2002: 63): where community decisions must ‘conform with existing legislation and rules’, such policies ultimately transfer ‘insufficient rights’ to the community. Without empowerment and legitimacy, programmes risk ‘ineffectiveness due to non-compliance and resistance’ (Kull 2002: 58–59).

Ultimately, government officials must, it is argued, recognise the ineffectiveness of their current policies that apply to indigenous groups and seek to make improvements to those policies. In the Australian desert, O’Malley (1996: 315–316) found that policies based on liberal principles proved unworkable and that politicians eventually began to take notice:

The governmental version of self-determination was failing...because of the robust nature of Aboriginal forms of governance. ...[R]esistant indigenous governances asserted themselves not through overt opposition..., but by *rendering white practices of rule unworkable*.... In the face of this, profound observations crept into government discourse,...noting the irony in “Aboriginal communities...being asked to accept non-Aboriginal structures in order to have greater control over their own affairs”. ...[O]rganizations “that have emerged from within the Aboriginal community...are *functioning better than [those] imposed by the government*” (quoting statements from the House of Representatives Standing Committee on Aboriginal Affairs 1990; emphasis added).

Thus, and very importantly, evidence that imposed structures are inadequate to address the distinct circumstances, preferences, and traditions of an indigenous group may not come from community protests, but instead may be seen through the behind-the-scenes emergence of indigenous structures that simply ‘function better’.

At such a stage, some authors argue that lawmakers must work with communities to amend ‘failing’ government policies. O’Malley (1996: 321–322) notes with approval that Australian government officials ultimately did become ‘involved in a reciprocal process of constituting their programme in ways that are acceptable’ to the Aboriginal people in whose community they were working:

In order to access the Aboriginal subjects and render them self-determining subjects of liberalism, it became necessary to incorporate their forms of indigenous governance...[reflecting] a far more constitutive role for the resistant Aboriginal domain than is compatible with its interpretation only as an obstacle to rule or a source of failure.

In this way, ‘Aboriginality’, ‘indigenesness’, or ‘San-ness’ need not be something that is blamed for slow development progress and trained away. Instead, by incorporating some of the traditional organisational and kinship practices of a particular group into the policies that apply to that group, Government not only serves that community more effectively, but serves its own purposes – governance, development, poverty reduction – better, as well. However, co-operative, ‘reciprocal’ lawmaking is something that is very rare today (see Hitchcock and Biesele 2000: 14–15). A member of the Hai//om San, /Useb (2001: 27) writes, ‘I hope that all San traditional leaders...will be given the opportunity to live up to *their own concepts of leadership*, and serve but also motivate their communities...to reach their goals’ (emphasis added). As San continue to organise themselves and speak out concerning their struggle for rights, land, and recognition, ‘It remains for governments to listen, to hear and to act’ (Smith et al. 2000: 98).

THE #KHOMANI IDENTITY

So if Government listened to what the #Khomani themselves were saying, what would they hear? Do the #Khomani see themselves as a ‘community’, and after years as scattered ‘coloured’ farm labourers and tourist performers, do they self-identify as ‘indigenous’, ‘Bushman’, ‘hunters’, and/or ‘San’?

One of the most interesting aspects of my earlier Kalahari fieldwork (in 2009 and 2010) was coming into contact with so many different, flexible, and changing conceptions of what it means to be San, KhoiSan, Bushman, or #Khomani in the Kalahari today. Andries Steenkamp explains, ‘As you go to Petrus Vaalbooi,²² he’ll say, “No..., don’t tell me about the #Khomani...I am a Bushman”. Other ones say, “OK, ...I am #Khomani”’. Others only like to be called ‘San’ (A. Steenkamp 8th Sept. 2009). In the opinion of South African San Council (‘SASC’) Secretary Collin Louw, ‘We want to be San, not KhoiSan. ...KhoiSan is...a name that came from...apartheid.... It’s *colonised*. [With the term] KhoiSan, you don’t have your identity. You are...nothing! ...They took our identity. They made us Cape Coloureds. Now the new Government came and made us South Africans. They didn’t give us back our identity’ (Louw 12th Jan. 2010). Thus, to be a San person is to be something special. ‘KhoiSan’ and ‘South African’ are simply too generic, too inclusive.

As we have seen, the San have a history of adapting their ‘Bushman’ identity to circumstances in the Kalahari, for example, as economic opportunities arise.

Indeed, various groups in South Africa today are often in competition for the same resources, whether donor funding, job opportunities, or particular stretches of their believed former territories. Depending on the context – community pride versus access to resources – identities may shift. This is seen quite markedly in the Kalahari, where many may self-identify variously with Griqua>Nama/Khoe²³) pastoralists or #Khomani/San/Bushman hunters. Professor Pippa Skotnes witnessed inter-group prejudices and shifting identities first-hand during her famous *Miscast* exhibition in 1996: 'A lot of the criticism I got was in not making a distinction between the cattle-owning Khoekhoe and the cattle-*stealing* Bushmen. [Smiles.] ...Some of them [who were complaining] were Griqua groups or groups who were *aligning* themselves to one or other group, but who had not necessarily a deep, *known* connection to that group' (Skotnes 4th Jan. 2010).²⁴)

Even among the #Khomani and their neighbours, such shifting 'alignments' occur. Holly Shrumm – a social worker and community volunteer in the town of Askham, which lies directly behind the #Khomani 'traditional' farm of Witdraai – describes these flexible self-identifications:

Today...there's no straight line between the different communities here, but often they try and separate themselves, along whatever characteristics they may want to distinguish themselves by that day: "I'm Griqua. I'm a farmer". But then the next day, they might say, "Oh, I'm a San. I'm a Bushman" (Shrumm 23rd Jan. 2010).

Whilst much of this is surely based on actual intermarriage amongst 'coloured' populations during colonial and apartheid periods, it is also understandable that a people who previously had, as Chennells said, 'no right to be anywhere' (Chennells 13th Dec. 2009), might do their best to *be* whatever is necessary to get the most benefit today. This ties in very well with a comment made by Frederik ('Fonnie') Brou, who was the acting #Khomani assistant to the DLA's Peter Mokomele. Fonnie explains that the #Khomani generally do not understand working, paying bills, and saving money 'because...now they²⁵) are not in a job, so if ever they get any money, they want to buy food...clothes...drink. ...[T]hey live *day-to-day*'. He agrees that this attitude is derived from traditional San culture: find and eat what you can today, 'tomorrow you can find more' (Brou 8th Sept. 2009). Thus, the #Khomani people's focus on *today*, both in terms of identities and income, seems to indicate the persistence of some traditional San cultural adaptations based on a hunting-and-gathering past.

While the #Khomani San are struggling to reconstruct a sense of their own identity, culture, heritage, and pride, their efforts have been attacked by San in other parts of southern Africa. Professor Skotnes describes criticism that she witnessed among the San themselves during *Miscast*: 'There were big divisions between native speakers and Afrikaans...or...Nama speakers. ...The Afrikaans-speaking descendants who were claiming a Bushman ancestry were...disparaged' (Skotnes 4th Jan. 2010). Among the #Khomani, land-claim leader Dawid Kruiper,

who spoke Afrikaans and Nama but not N/u,²⁶⁾ was chosen as the #Khomani traditional leader, but language loss is provided as evidence by other San groups that the #Khomani are ‘less real’, despite the fact that it was not the #Khomani, but apartheid (and pre-apartheid) governments that placed the San under the control of Afrikaner farmers. Skotnes continues, ‘Dawid Kruiper and his group came under a lot of critical attack...because...they came dressed in their skins, ...and other people saw that as...pandering to...other interest groups’ (Skotnes 4th Jan. 2010). This is also interesting because, when I attended Dawid’s 75th-birthday party, I was the only true outsider present during the festivities. Several #Khomani men, including Dawid’s brother Buks (now also deceased), were ‘dressed in their skins’ and clearly seemed to be enjoying this opportunity. (See Figure 5.) Although loincloths might be used regularly in an attempt to attract tourists or funders, this cannot be viewed as an instance of that, occurring as it did behind the settlement of Welkom, with no television cameras in sight.²⁷⁾

For the #Khomani, however, after years of labouring on white-owned farms, much of their traditional knowledge has been lost. Therefore, elements of San knowledge and livelihoods (including animal-tracking and the use of medicinal plants) are being taught or re-taught to the #Khomani by outsiders, either San brought in from Namibia and Botswana or whites. At !Khoa ttu, Ivan Vaalbooï describes his feelings about learning San traditional knowledge from activist, author, and wife of Axel Thoma, Magdalena Brörmann-Thoma:²⁸⁾ ‘At first, it



Figure 5 #Khomani man wearing traditional San clothing in Welkom. Photo by the author.



Figure 6 San youth gathering and studying traditional San medicinal and food plants with Axel Thoma at !Khwa ttu. Photo by the author.

sounded a little bit strange.... How can a white person tell me about this? ...But...I don't think it's a problem. In the past, we didn't have that much time to go with our parents into the bush..., but today we have the opportunity to learn that, even though it's from other people' (Vaalbooi 7th Jan. 2010). (See Figure 6.)

Others display anger when faced with the fact that the #Xhmani are having to re-learn aspects of San culture. Collin Louw laments, 'The apartheid regime destroyed *everything* of us. ...There's a couple of old people who still talk the language, but it was very *hard* for them to come out! ...But God gave us a second chance by bringing us back! It's our *dream* to be what we really are' (Louw 12th Jan. 2010). For Collin, the San identity is still very much based on traditional cultural practices, including teaching the children to speak N/u. Indeed, language was identified at the *Miscast* exhibition as one of the keys to Bushman-ness. Professor Skotnes remembers, 'One of the Bushmen at *Miscast*...said, "You know, I feel very sorry for somebody who doesn't speak their language anymore, because if you don't speak your language, you're not a *person*".... What you are is something else' (Skotnes 4th Jan. 2010).

Dawid Kruiper's brother, Buks, argued that, for him, Bushman-ness was just in his blood (B. Kruiper 4th Sept. 2009). He did not speak N/u, but even in the settlement of Welkom, he ventured out to gather traditional medicines, both earning a living for himself and expressing his San-ness in his own way. Andries

Steenkamp, despite his focus on stock-farming as a livelihood, also strongly identified himself as a Bushman. Andries described his actual ethnic heritage: 'In the old days, my great-grandfather was working with the Basters²⁹⁾ in Mier. And before any people could come in, they had to go to [him], ...and he made the agreement to work together and stay together. That's why you see my face doesn't look like the Kruipers'.³⁰⁾ I asked whether this was due to his Baster blood. 'Yes, so mixed up' (A. Steenkamp 23rd Jan. 2010). Still, as also evidenced by stock farmer Petrus Vaalbooi's 'I am a Bushman' statement above, individuals who may have mixed genetic backgrounds and different ideas for ideal occupations – tour guide, sheep farmer, professional – may feel a strong connection to a 'Bushman' identity. Collin explains, 'If you have your identity, then you have your culture. Your tradition – ...if you have that, you can *live* according to...what you really are. I am a San, and I want to live like that. ...If you have a job, that doesn't say you can't be a hunter – because it's your tradition' (Louw 12th Jan. 2010). Thus, even among #Khomani living away from the land-claim farms and pursuing more professional or mainstream livelihoods – like Collin's political work with the South African San Council and his service as an Upington church elder – the 'hunter' identity discussed above is still strong. In this way, it is clear that 'Bushman-ness' cannot be defined by choice of livelihood or 'what is perceived as culture' (Hewlett 2000). A San identity is based on a belief in, and identification with, a hunting-and-gathering past, whether or not those skills actually remained in the knowledge of the 1990s '#Khomani' land claimants.

Thus, it is important that #Khomani voices be heard, and their actions or inaction be considered, when assessing the persistence of San cultural practices or beliefs among the #Khomani today. Andries Steenkamp illustrates the complexity that exists: 'This is the land of the #Khomani San, not only the land of the traditional people. It is the land of *all* the #Khomani San, because all of us are traditional!' (A. Steenkamp 23rd Jan. 2010). What this seems to indicate is a view that all #Khomani, including stock-farmers, are interested in preserving San heritage, that all San are by definition traditional. For Andries, being San did not relate to occupation, blood, or physical features. Being San, perhaps, is more inward-looking: it means identifying with and maintaining aspects of San culture. Andries' statement also provides evidence that the strict 'traditional/Western' divide outlined by Ellis (2010) may not represent a clear-cut division among the #Khomani themselves, or that if this division does exist, it is based much more on the visible livelihood choices and land uses of individuals (one group is farming, while one group is gathering) than on varying connections to more internalised senses of a Bushman/#Khomani/San identity ('I am a Bushman!', 'All of us are traditional!'). And if a devout sheep-herder like Andries – viewed, like Petrus Vaalbooi, as strictly 'Western' by outsiders – considered himself 'San' and 'traditional', then his #Khomani cultural identity must have gone beyond 'what is perceived as culture', as Andries was not personally involved in any activities, such as craft-making, that outsiders would readily identify as pursuits of 'the

Bushman’.

Thus, in exploring #Khomani self-conceptions, identities, preferences, aspirations, and frustrations, it will be necessary to look beyond the obvious livelihood choices – stock-farmer, craft-maker, hunter – that individuals have made since 1999. A choice to raise sheep, whether temporarily or permanently, does not equate to an antagonistic attitude towards, or the abandonment of, ‘the traditional’ in the minds of #Khomani individuals.

So, specifically, how did the #Khomani – who clearly still identify with an indigenous, hunting-and-gathering mode of thought – respond to the leadership and organisational structures required by South Africa’s Restitution and CPA Acts?

‘FAILURE’ OF THE #KHOMANI CPA

As discussed above, indigenous groups may respond to the introduction of development funds simply by ‘gathering’ those funds as a newly available resource and may react to imposed governance structures that they deem illegitimate by ‘failing’ to decide, lead, and act in the ways Government intended. The failure of three post-land-claim #Khomani Communal Property Association (‘CPA’) Committees and the DLA’s takeover of #Khomani governance under the CPA Act illustrate these processes remarkably well.

In 1998, the #Khomani formed a preliminary Land Claim CPA Committee (the ‘preliminary CPA Committee’) to assist with the land-claim process and take ownership of the land. After their successful land claim, the #Khomani then began the critical task of managing their new lands under the leadership of an elected, official CPA Committee (the ‘first CPA Committee’), as required by the CPA Act. Divisions in the #Khomani community regarding livelihoods, land allocation, and land uses – along with extreme poverty and a lack of familiarity with leadership hierarchies, representative governance, and farm management – led to the inability of the first CPA Committee to function, either effectively or ethically. Technical adviser Phillipa Holden was working among the #Khomani as they were first trying to follow the CPA Act’s requirements:

That first CPA [Committee]...started crumbling.... Land Affairs...conduct[ed] a forensic audit and...remove[d] them from power. ...Then a second election was held, with a second...[CPA] Committee, but...the second Committee was relatives...of the first bunch! So it was business as usual. ...Dawid [Kruiper] and the traditional people [told me], “You’re not going anywhere until we’ve sorted this mess out”. Because by this stage, they’d now been completely marginalised from the Committee, weren’t notified about meetings (Holden 19th Jan. 2010).

Thus, the first CPA Committee was removed by the DLA for improper farm management and financial recordkeeping. At the same time, traditional leader Dawid Kruiper, who served with both the preliminary and first CPA Committees,

found himself and other ‘traditional’ #Khomani excluded by members of the first and second CPA Committees from the community-wide decision-making that the CPA structure was designed to provide. Without community cohesion, the stock-farming #Khomani had attempted to move forward by grabbing financial resources and decision-making power for themselves.

Andries Steenkamp, who had served as Treasurer of the preliminary CPA Committee, also described what happened after the DLA removed the first CPA Committee:

After that first CPA Committee come two CPA Committees. He³¹⁾ must manage the land. He tried to do it, but my my... [The third] Committee *can* do a good job because he have for one year training in financial management. ...But I don't know what [the third Committee was doing] with the money... And then..., from the beginning of the third Committee, Peter [Mokomele of the DLA] was there. ...[During the third Committee's] second year, [Peter said], “OK, now can you go ahead. I shall not come every month, but...every second month”. ...But the evaluation and monitoring was the job of Peter Mokomele, so he [should] look [in on us] all the time (A. Steenkamp 8th Sept. 2009).

Thus, the third CPA Committee also failed to govern the six original #Khomani farms effectively. Based on Andries' statement, this failure occurred, not primarily as a result of insufficient training, but in some ways due to a lack of oversight by Peter Mokomele, who believed that the #Khomani were adapting to farm management by committee. Former Head Programme Manager for SASI, Grace Humphreys, who worked tirelessly, but unsuccessfully for many years to initiate sustained, food- or income-generating projects among the #Khomani (see Figure 7), also believes that the failure of Government to guide the three official CPA Committees was a key to their downfall:

Three consecutive management committees failed to be proper managers and proper leaders. ...It is not as simple as the leaders not rising to the occasion. ...You can't take a herder boy and make him a manager all of a sudden. ...The Department of Land Affairs did not provide enough guidance and support to these Committees, many of whom were illiterate people who are suddenly going to manage assets of millions of Rands (Humphreys 26th Aug. 2009).

However, such ‘guidance and support’ by the DLA would still have had to revolve around the requirements of the CPA Act, and thus would have involved much of what was discussed above – teaching the San to organise themselves like hierarchical agriculturalists – which would seem to be just as doomed to fail as the CPA Committees themselves.

Young #Khomani Fannie Brou, who was assisting Peter Mokomele with financial recordkeeping after the failure of the third CPA Committee, described



Figure 7 Remains of the SASI vegetable garden, an example of a failed 'development' project for the #Khomani 'community'. Photo by the author.

how this last CPA Committee took and used community funds:

I shall not say they [were] *stealing* money. They take the money and work with the money, but they doesn't give [bank] slips. ...For two [years], they sign cheques, and the cheques [have] come back. ...We must pay it now... It was for food and for stipends...and diesel for the bakkie³²⁾ (Brou 8th Sept. 2009).

Thus, #Khomani community funds were taken by CPA Committee members, but interestingly, not for personal accumulation, but for much more basic survival needs. In this way, the #Khomani, like the Ayoréode people mentioned above, 'gathered' the funding made available to the CPA Committees. Faced with extreme poverty and an inability to reach community consensus, CPA Committee members helped themselves to community money.

In addition to a lack of oversight and assistance by Government and the 'gathering' of community funds by impoverished CPA Committee members and their families, the failure of the #Khomani to come together and make cohesive, community-wide land-use plans led to the inability of the CPA to manage the #Khomani farms. Fannie Brou and two NGO representatives from the Kuru Family of Organisations and SASI all agreed that the main problems for the three failed CPA Committees included fighting amongst different #Khomani groups regarding

land use (Brou, Humphreys, and Stewart 3rd Sept. 2009). Andries Steenkamp described what he witnessed, involving both a lack of government attention and increasing #Khomani confusion with the CPA system:

In the beginning, [Peter was meant to] evaluate the Committee, but he never do it because he [took] too long out of meetings.... [It was] not going right. And the people is writing letters to him. OK, he come back and say, “The community is saying [this] and that”, and then the Committee is saying, “The community don’t understand what I do” (A. Steenkamp 8th Sept. 2009).

That the #Khomani community members failed to understand the purpose and function of the CPA Committee clearly illustrates the mismatch between the CPA Act’s required structures and those that would probably be more familiar to the San. And as discussed above, leadership and governance structures that are not supported by indigenous-group members often spawn community ridicule and inactivity. In the case of the #Khomani, such inactivity in turn rendered CPA Committees powerless, both to generate community consensus and to encourage the implementation of any decisions that might have been reached. Andries explained, ‘The CPA Act says that the CPA is the manager of the land. But they cannot do the work.... They can do the planning, but they cannot do the implementation’. Ultimately, the #Khomani people themselves must carry out the work on the farms (A. Steenkamp 23rd Jan. 2010).

Peter Mokomele provides his own assessment of the CPA Committee failures as follows:

With the previous CPA Committee, we...[had] the taking of minutes and chairing of meetings, so in the beginning, it went well. [Then]...I said, “...I will no longer be chairing meetings or coming every month. I will now give you space to start doing things on your own.” ...Unfortunately, I was disappointed.... They started to do things that I did not...foresee.... They needed more oversight. I trusted them (Mokomele 15th Sept. 2009).

This ties in well with Stenson’s (1993) findings cited by O’Malley (1996: 313) above that ‘[G]overnment at a distance frequently becomes problematic as locals react by “failing” to take their duties seriously, or grasp the reins of power and direct community activity in ways not intended by programmers’. Thus, by taking community resources and ‘failing’ to produce #Khomani community agreement and motivation, all three post-land-claim CPA Committees ‘disappointed’ the DLA, which was empowered under the CPA Act’s ‘administration’ procedures to disband the CPA and take ‘the reins of power’ away from the #Khomani.

Unfortunately, as mentioned above, where CPAs face chronic disputes or mismanagement, the CPA Act authorises the DLA Director-General or the

Director-General’s chosen delegate ‘to manage the affairs’ of the CPA in lieu of a CPA Committee, *after* which the only two options are the election of yet another CPA Committee or the liquidation and distribution of the CPA’s lands as the Court ‘deems just and equitable’ (CPA Act, Secs. 11, 13, 15). When asked whether he believed that, after ‘administration’ by the DLA, a newly elected #Khomani CPA Committee would lead to improvements, Andries Steenkamp responded, ‘The community is saying that they don’t think it would be better, that it would be the same as before. ...The last Committee was the highest-level educated Committee, but they did the bad work. [Laughs.] That is the truth! It is not training’ that is needed for the #Khomani to manage their lands effectively (A. Steenkamp 23rd Jan. 2010). As of 2018, however, learning to function with a new CPA Committee or liquidation of their lands are the only options available to the #Khomani under the current CPA Act.

ADMINISTRATION WHILE WAITING FOR ANOTHER CPA COMMITTEE

Therefore, in October 2008, the DLA Director-General used his delegation authority to assign Peter Mokomele as the acting ‘administrator’³³³ in lieu of a CPA Committee for the management of the #Khomani lands, in addition to Peter’s long-held role as DLA post-settlement official for the #Khomani and several other communities. Thus, the #Khomani entered a period without their own CPA Committee.

As noted above, Peter Mokomele is no longer with the DLA. But at the time of his ‘administration’, Peter clearly lacked the funding, staff, and time to administer the #Khomani farms as the #Khomani people felt he should have done. Andries Steenkamp described the situation at the time: ‘[Peter] is saying, “...I take over now, and I try to do things...better. ...Here is problems”’ (A. Steenkamp 8th Sept. 2009). Such #Khomani ‘problems’, including inter-group conflicts and an overall lack of coherent land-use and development plans authored and agreed by the #Khomani themselves, led Peter to believe that, under his administration, the best course for the #Khomani would be further delay, to allow for an audit, social facilitation, and community-building to proceed. In 2009, Peter outlined his plans as follows:

Once we do the [fourth CPA Committee] elections, then I would hand it over...to [an appointed farm] mentor to deal with...everyday management... So once the people get into a pattern of implementing the [CPA] system, ...then they’ll be...on their way. ...And if all of those things are performed well, ...we...say, “OK, you have actually succeeded. You have proven that you *can* actually run these things” (Mokomele 10th Dec. 2009).

Thus, the standard for #Khomani ‘success’ – even today – continues to be the ability to ‘run’ a CPA Committee structure, whether or not such a structure is

culturally relevant to the #Khomani. As Peter's role was itself defined by the CPA Act, Peter clearly had to look to the CPA Act's current requirements for guidance, including the ultimate goal of someday electing yet another #Khomani CPA Committee. These continued delays, however, even after DLA takeover of #Khomani governance, were both unexpected by, and frustrating to, many #Khomani. Collin Louw argues for what he believes Peter Mokomele should have been doing as the #Khomani administrator:

Administration means there is someone coming in to do things on behalf of you.... If I respect the [#Khomani] leaders, I will call in the leaders and say, "Guys, this is what I will do, and I want your full support". ...He is supposed to...make decisions and do it! Because he is now the CPA! [Government said] we were not *capable* of doing it. ...If you are the administrator, ...you are...the one to make sure I am capable...of running the CPA (Louw 12th Jan. 2010).

In addition to the obvious frustration evidenced by Collin, it is important to note both his use of the term *leaders* (i.e., Government must work with multiple San-style leaders, rather than a single, central 'chief' like Government hoped Dawid Kruiper would be) and Collin's acknowledgement that Government deemed the #Khomani *incapable* of running a successful CPA. To be successful under the CPA Act, a Committee must not only manage community funds responsibly, but must also lead a system of representative, democratic, community-wide decision-making whereby the 'community' – defined by its shared values – plans land-use and land-allocation schemes by majority vote. Of this, the #Khomani, in Collin's words, are 'not capable'. However, in order to avoid liquidation of their lands, Collin is aware that their only option is now to *become* capable. As Peter noted above, he wanted the #Khomani to prove that they '*can* actually run these things'. Perhaps, as O'Malley's (1996) work suggests, Aboriginality or San-ness – rather than being seen by the DLA as something that needs to be given space by South Africa's land reform structures – is viewed simply as an impediment to 'progress' or 'development'. Having 'failed' on their own, however, the #Khomani are now looking to the DLA to provide the capability to 'succeed' under the current CPA Act requirements: 'you are the one to make sure I am capable'.

Interestingly, Anna Festus, a niece of Dawid Kruiper, indicates that, despite their prior struggles, a sense of #Khomani optimism came with the dissolution of the third CPA Committee: 'From the very beginning, there should [have been] more support and assistance.... It's only later when Peter was coming in, when [we thought] maybe we could still [be] rescued' (Festus 12th Sept. 2009). Just what the #Khomani primarily need to be 'rescued' from is an important question. Perhaps the answer is the CPA structure itself. Stepping back and looking at #Khomani poverty more broadly, former Mier Mayor Sophia Coetzee feels that, indeed, something that has not yet been grasped or fully considered may be holding back #Khomani development, motivation, and empowerment:

They had a CPA..., but now...they’re under administration. So there are things that block the growth of the #Khomani San. ...I cannot put my finger on it. But there is something that hampers their growth.... Development is not going fast. Why? (Coetzee 22nd Jan. 2010).

MINIMAL PROGRESS, 1999 TO 2011

Like the Mayor of Mier, the #Khomani have struggled to understand development delays, as well as to survive since 1999 with few opportunities to earn a living on their new lands in the Kalahari. Young #Khomani Fonnies Brou cites a lack of progress as the reason Peter Mokomele ultimately asked for Fonnies’ bookkeeping assistance in October 2008: ‘Peter asked me to help, because nothing was going on on the land’ (Brou 8th Sept. 2009). Indeed, Andries Steenkamp, who worked tirelessly for many years to initiate development, farming, and housing plans for the #Khomani, lamented, ‘I am now twelve years here, and I have [had] the land ten years. I am not going forward. No, nothing’ (A. Steenkamp 8th Sept. 2009). Looking at the situation since the 1999 #Khomani land-claim victory, Rietfontein schoolteacher Meris Kocks finds blame on both sides: ‘There was not...*upliftment*, through all those interventions of the State.... I will blame the government for what has happened to the #Khomani San. But I will also blame the #Khomani San because they let themselves down’ (Kocks 22nd Jan. 2010). Indeed, while the #Khomani were busy blaming Peter Mokomele for minimal assistance and lengthy delays, and Peter himself was accusing the #Khomani CPA Committee of corruption and community indecision, nothing was happening on the #Khomani farms towards the realisation of the poverty-reduction objectives, or possibilities, of land reform.

An important area for #Khomani ‘upliftment’ between 1999 and 2011 was the improvement of farm infrastructure, including repairing fences, replanting overgrazed flora, maintaining water pumps and pipes, and allocating plots of land, or ‘camps’, on the #Khomani stock farms (Scotty’s Fort, Uitkoms, and Andriesvale³⁴) to individual stock-farmers to provide uncontested space for their sheep and goats to graze. In 2010, Collin Louw, like Chennells (2006), expressed dismay that grazing-land allocation had not yet occurred, both because it is a community requirement under the CPA Act (CPA Act, Schedule) and because it is viewed as essential for stock-farm profitability. Speaking of the #Khomani Sheep Bank, which allowed San stock-farmers to borrow sheep to grow their flocks and pay back the ‘bank’ with new lambs, Collin argued that, without ‘camp’ allocation, the #Khomani could not become profitable farmers: ‘Livestock Bank...is not really effective. ...First of all, [the #Khomani] don’t have camps. They don’t have hectares for their sheep to go³⁵...which means it’s not sustainable’ (Louw 12th Jan. 2010).

With little infrastructure on the farms, the #Khomani during this period were largely unable to generate sustained income for themselves. While an elder on the

Bushman Raad (see below), Jan Johannes Pietersen ('Oupa Jan'), could find ways for the Erin and Witdraai 'traditional farm' residents to live off the land in more traditional ways – blending hunting, gathering, tracking, tour-guiding, selling traditional medicines, and craft-making with the keeping of a goat or two – he noticed in 2009 that the #Khomani stock-farmers had not actually fared better since relocating to their new farms post-land-claim. Oupa Jan noted that farmers' herds and fortunes did not increase during the first ten years (Pietersen 5th Sept. 2009). Stock-farmer Fonnie Brou explained in greater detail why #Khomani farming had failed to become profitable in the first decade:

[As] the people come in, they have a little bit of livestock...ten sheep, five goats. And then they must grow.... Now, some of them have...enough to be commercial.... There are three guys now on the farms [all in the Vaalbooi family] to go big.... This is the growing way [and it takes time]. That is why [some #Khomani] are not [profitable] on the farms. You must live from your livestock now. ...Every month, you must sell one or two, and...kill one for the house. So you go up and down (Brou 8th Sept. 2009).

During his lifetime, Andries Steenkamp kept a list of 46 registered #Khomani stock-farmers. Based on Fonnie's statement above, in 2009, 43 were still farming on a purely subsistence level, which corroborates and updates Bradstock's (2005 and 2006) findings.

The reaction of many #Khomani to the overall absence of development progress, legitimate leadership, or the ability to reliably feed their families was – and, for many, continues to be – the hopelessness that breeds apathy and alcohol abuse. Former SANParks Tourism Manager Dupel Erasmus describes a programme that he had hoped would help employ the #Khomani:

I initiated last year what we call learnerships, which are funded by Department of Labour.... I...got funding for 21 learnerships, which meant they would get a qualification. They will be paid...a monthly income, plus they'll be given practical experience in the workplace. ...It was widely advertised, and if two percent or five percent applied from the Bushman community, I didn't see that. ...I filled the 21 spaces. Maybe only four of them were even *related* [to the San]. ...There's opportunity, but you do not want to take the opportunity. It is the makeup of the #Khomani. ...We have to change [their] mindset (Erasmus 18th Jan. 2010).

Perhaps the #Khomani apathy, bred by years of conflict, confusion, delays, and disappointments, truly did create a kind of community paralysis, the inactivity that – as seen in O'Malley (1996), von Bremen (2000), Smith *et al.* (2000), and McIntosh (2002) – results when outside planning, decision-making, and governance structures are forced on to an indigenous community.

This inactivity can also lead to severe social problems. Schoolteacher Meris

Kocks referred to an article written by the Northern Cape Department of Social Services and Population Development regarding the July 26, 2008 celebration of World Population Day in Askham (pop. 1,000). This town is on the edge of the #Khomani farms and contains residents who are San descendants and the school that most #Khomani children attend through Grade 8. According to the article,

- the community is dominantly poor, with little or no source of income;
- alcohol abuse is rife;
- the majority of living units [are] shacks;
- youth are very de-motivated (Fortune 2008).

In situations in which #Khomani parents in Askham and on the #Khomani farms have little or no work and little hope of future #Khomani success, it seems possible that even the very talented, but locally focused children might ask themselves what the value of school is, particularly if there will be nothing to do with that education. One #Khomani youth, Richard Steenkamp, who did complete high school, lamented that, in the Kalahari, there were few places to use the training he had received. In fact, he was so unsure about his future that he was keeping his professional dreams a secret to avoid embarrassment if they never materialised (R. Steenkamp 25th Jan. 2010).

During one of my visits to the !Khoa ttu San Culture & Education Centre north of Cape Town, I was told that a recent #Khomani application to become a !Khoa ttu student had been unsuccessful, due to rumours of the applicant’s excessive drinking. And for the #Khomani themselves, the ‘drunk Bushman’ image is both understandable and embarrassing. Andries Steenkamp argued in 2009, ‘No one is going forward on this land. So the developing in the community is very slow.... As you [are] going, you see a drunk Bushman. All the time you shall see him, because he never focus on any other thing. There is nothing for him to focus on’ (A. Steenkamp 8th Sept. 2009). Knowledge-sharing and inspiration should be part of the role of the #Khomani leaders, but with a CPA system that disregards traditional San leadership structures, many of the leaders themselves, including traditional leader Dawid Kruijer, also descended into frustration, apathy, and alcohol abuse.

OPINIONS ON CPAs VERSUS SMALLER, ‘SAN-STYLE’ GROUPS

1) The Law Is the Law

Because the Restitution and CPA Acts are current law in South Africa, it is understandable that many would argue that the best route for the #Khomani would be to participate in the kind of processes outlined above: i.e., the #Khomani must simply, for their own good, learn to use the Acts’ ownership, leadership, and decision-making structures as they now stand.

Regarding the CPA Act’s community-wide governance, leadership, and

decision-making structures, Peter Mokomele wondered ‘whether a CPA is the right structure for the San. ...But if you are...trying to establish democratic principles..., then it’s the right structure’ (Mokomele 15th Sept. 2009). Thus, Peter, in line with the text of the Restitution and CPA Acts themselves, ultimately defended the land reform laws as agents for the instruction of all citizens on dominant ideals, including representative, democratic community governance. Still, after years working with the #Khomani, Peter’s admitted questioning of the CPA structure’s appropriateness for the San specifically was significant. With the laws as they currently stand, however, Peter felt he must work within the requirements of the Restitution and CPA Acts. As such, Peter believed that, instead of a different kind of community organisation and leadership structure, what was needed was *more* structure for the #Khomani:

Before [I feel comfortable allowing] the [next CPA] elections...there are a number of things that need to be dealt with: the procedures, the systems, the policies...need to be put in place so that we don’t have a repeat of all these failures.... Otherwise, it will look like we’re just running a machine that keeps on breaking (Mokomele 10th Dec. 2009).

Many would agree that the CPA structure itself is ‘a machine that keeps on breaking’. Roger Chennells compares the general failure of the CPA structure with the wider failure of local government in South Africa: ‘Local government is in a complete shambles, through lack of capacity. So...the San’s complete chaos of their CPA was just the same as other small institutions that have never had a history before. ...The [DLA] is trying to address that, but that’s quite slow and it’s not gonna affect the San soon’ (Chennells 13th Dec. 2009).

Therefore, while the governance failures of Municipalities across South Africa are leading Government to close poorly functioning Municipalities, Government is holding fast to its CPA requirements for land-recipient ‘communities’. And if, as Roger suggests, the DLA’s efforts to ‘address’ CPA failures take months or years to lead to new plans, structures, or legal options, ‘complete chaos’ for the #Khomani will likely continue. Interestingly, the former Mayor of Mier (one of the Municipalities that was shut down and merged in 2016) seems to believe that the #Khomani will ultimately learn to run a successful CPA: ‘I have no doubts about the #Khomani San’s development. They will grow, and they will develop. When you come back after three or five years, you will see the #Khomani San are on board’ (Coetzee 22nd Jan. 2010). As will be seen, however, #Khomani views of the CPA Act’s requirements indicate that getting the #Khomani ‘on board’ with the idea of communal ownership, leadership, and management is unlikely to happen on any timescale.

2) We Do Not Understand this Law

Young #Khomani Lena Jacobson expresses her frustration: ‘We’ve had three CPAs

in the past. They don’t *work*. We don’t know any more what to do about that’ (L. Jacobson 25th Jan. 2010). Part of this failure of the CPA system to ‘work’ for the #Khomani appears to be their lack of understanding of the laws and the structures they require. Andries Steenkamp explained, ‘The San don’t understand the Acts of the government very well. And that’s why no leadership is taking the lead now. ...I don’t know if the CPA is the right thing. ...[Government] messed that up’ (A. Steenkamp 23rd Jan. 2010). Anna Festus, an employed #Khomani professional who lives in the town of Upington, argues similarly:

The CPA laws...I, as an educated South African, can’t really understand [them]. What about my people...who are illiterate? ...The voice and the formality of that law must come from...our people also, who need to deal and work with that law. ...It was difficult for us...to...understand this thing. ...We need to maybe look into an...alternative, to bring in a structure which is...for the people, from the people. ...If you are not familiar with laws being put on to you, how [do] people expect you to manage? (Festus 12th Sept. 2009).

This is a poignant illustration of the #Khomani belief that these laws were ‘put on to’ them, without any opportunity for them to have a ‘voice’ in their content. For Anna, a new, alternative structure ‘for the people, from the people’ would allow the #Khomani to organise and govern themselves in ways that they do understand.

As Andries suggested above, this would then clear the way for San-style leadership to emerge, to allow them to begin ‘taking the lead’ in their own ways. And as one of the #Khomani most aware of, and involved in, community planning efforts, CPA issues, and struggles with local and provincial government, Andries himself had definite, informed opinions on the conflicts created by the imposed CPA system:

As you make resolutions [as] a [CPA] Committee member, ...the Act makes it so easy for a community member, who hasn’t made the resolution, not to come...to the Committee, but to go directly to the Commission and say that he doesn’t like the resolution, even if...only five or ten people...feel the same way. Then the Commissioner says [to the CPA], “The people do not agree with the resolution, so you must look again”. If you go to the community again and say, “Tell us what is going on”, they say, “No, no, go ahead!” (A. Steenkamp 23rd Jan. 2010).

This statement illustrates CPA Act Section 10, discussed above, in operation, with the Director-General using the Commissioner, or a member of his office, as the #Khomani community conciliator, responding to complaints from individual community members and making recommendations apparently designed to generate #Khomani agreement. However, as seen above, typical, consensus-based San decision-making is often described as a ‘free-for-all’, in which all San have a say, group members strongly oppose having representatives speak for them, and

any decision made one evening can be challenged the next day. Such systems suit small, like-minded, family-based groups who must adapt to daily climatic and resource-based changes in their environment and who, rather than electing a central chief, follow the informal, day-to-day advice of subject-matter experts within their group. A CPA system that requires representatives, central leaders, and decisions by majority vote has proven both unworkable for the #Khomani, who cannot reach their preferred consensus across the whole community, and frustrating for Government, who ultimately waited in vain for a decade for ‘final’ #Khomani ‘community’ decisions.

Regarding the current CPA structure and its impact on #Khomani development efforts, Bushman Raad member Oupa Jan Pietersen argues that the CPA system failed the #Khomani because it allowed some of the stock-farming San to take control of community resources and thus ‘didn’t represent the people’s interests correctly’ (Pietersen 1st Sept. 2009). Andries Steenkamp argued directly with Government over why so little had happened on the #Khomani farms between 1999 and 2010: ‘I asked the local government, “What is going on?” They said, “There’s too much conflict in the community”. I said, “...That is because you only go to Dawid [Kruiper] and talk to Dawid alone. Then you come to me, and talk alone with me. I tell you one story, and Dawid tells you another story”’ (A. Steenkamp 23rd Jan. 2010).

These last two statements, one from Oupa Jan on the ‘traditional’ side and one from Andries Steenkamp on the ‘farming’ side, highlight the different livelihood and land-use visions among the #Khomani, which Government has consistently used as an excuse for delays in implementing any development plans or projects.³⁶⁾ However, the Restitution and CPA Acts assume the existence of a cohesive, hierarchical, democratic ‘community’ and require community-wide planning and agreement. With a fictional #Khomani ‘community’, different factions seeking different livelihoods and land uses, individuals lacking management experience, and a people traditionally opposed both to strong, centralised leadership and to systems that allow others to speak for them, the CPA Committee could not possibly ‘represent the people’s interests correctly’.

Indeed, according to Andries Steenkamp, Government did not understand how the #Khomani would like to have managed their lands: ‘I [do] not think that the CPA structure is a very good structure to manage the land. ...[We] cannot manage the land like [we want] to do it, because all the time the government is [saying], “Oh no, not that!”. ... The community on the farms can do it better. We understand better. We practise it on the lands’ (A. Steenkamp 8th Sept. 2009). As such, Andries, as Chair of the South African San Council (‘SASC’), was attempting to convey to Government that the CPA Act does not suit the needs and management style of South Africa’s San people and that new legislation is required: ‘[If] you [want] to make another structure, you must...*lobby* the government to...look into the Act. ...That is what the San Council now try to do: go to the government and say...that this Act is not a good Act for restitution land’ (A. Steenkamp 8th Sept.

2009).

If poverty-reduction is truly an aim of South Africa’s restitution programme, proposed changes to the laws that would thereby allow the Restitution and CPA Acts to better fulfil such aims should surely be welcomed. Andries described his long-term campaign on this front:

I am telling the former Land Commissioner that I don’t think that is the right way to manage land, with CPAs. The Act is written by Government, and it is too strong for the people to manage the land. ...Because the Act is written in one way, and they didn’t know – that is fifteen years back! I think [Government] must try now to look again to this Act. I think this Act is the whole mess! (A. Steenkamp 23rd Jan. 2010).

Thus, Andries felt that Government was unaware that the CPA Act would fail to achieve its goals when it was written in 1996, but now Government is, or should be, well aware (A. Steenkamp 23rd Jan. 2010). Therefore, the South African San – the #Khomani, !Xun, and Khwe working together in the SASC – believe that alternatives to the CPA structure must be considered by Government, as the CPA Act is currently ‘too strong’, which based on statements from Andries and other #Khomani above, seems to indicate that the CPA Act creates, and relies upon, too much formal, hierarchical structure for the San.

3) #Khomani Ideas

As Roger Chennells noted above, the DLA’s attempts to address CPA Act issues are ‘quite slow’. In addition to the continuing slowness of Government, it is also possible that new restitution legislation would still fail to consider the voices of the geographically and politically marginal San people in any revised governance requirements. Therefore, following Barnard’s (2002: 19–20) plea that ‘it should be the goal of those non-foragers who are in power over foragers...to work towards a social order based on a merging of conflicting ideologies’, in 2009 and 2010, I sought ideas from several of the #Khomani on the kinds of management structures they would ultimately prefer to have on their farms. Peter Mokomele argued that the growth of #Khomani skill and confidence might coincide with, or result from, the first successful #Khomani projects. However, for project successes to occur, the #Khomani must be allowed to exercise, in Andries Steenkamp’s words, ‘our own right to get ourself up and *do* things for us’ (A. Steenkamp 8th Sept. 2009), thus leading development and livelihood projects as they choose. In this arena, #Khomani preferences seem to revolve around the idea of small groups of San coming together to manage projects, businesses, and farms.

Collin Louw, in arguing that under current conditions it is impossible to make a living on the #Khomani farms, provides his vision of #Khomani ‘development’: ‘Why can’t you put five people together and give them [a piece of] a farm? That’s *development!* But they didn’t do it!’ (Louw 12th Jan. 2010). By ‘they didn’t do it’, Collin indicates that the CPA Act, as implemented by Peter at the time, did not

allow it. With a focus on community-wide decisions, plans, and projects, Government frowns upon smaller groups trying to manage their own activities. Andries himself argued for the same kind of small-group projects: ‘You see everyone is standing...[along] the road.... I tell them, “...Why [do] you stand [separately along] the...road with things [to sell]? Come together and make a business! Then you can make money”’ (A. Steenkamp 8th Sept. 2009). Andries explained his own idea for a small business: a new farming venture in which eight #Khomani would come together, combine four sheep ‘camps’ and 330 sheep, manage the livestock and water sources themselves, and share the responsibility and the profits: ‘That is the best way to organise things right, to make a life. ...If I go forward, I must go now together. ...I try...to do things that I can *manage*’ (A. Steenkamp 23rd Jan. 2010). Thus, in line with traditional San social organisation, preferred, ‘manageable’ #Khomani livelihood ventures would involve neither lone individuals nor large groups.

Beyond day-to-day livelihood activities, Andries analysed the CPA Act’s insistence and reliance upon community hierarchies to govern their lands. Even as a dedicated stock-farmer, Andries found hierarchy anathema to the San, providing further evidence that San-ness does not require a strict hunting-and-gathering livelihood choice and that the adoption of some farming practices neither indicates nor necessitates the abandonment of traditional San organisational structures. Andries argued against the use of centralised, representative CPA Committees: ‘That style...is not a San style. That come from West Africa,³⁷ not...southern Africa. [Having a hierarchy] is...not a San style’. Andries would have preferred a more ‘San style’ of governance on the #Khomani lands, with separate groups headed by ‘the bloodline leaders’. He believed that ‘every one of them’ would be very effective as leaders of kin-based #Khomani sub-groups (A. Steenkamp 8th Sept. 2009). Such a structure would very closely match the leadership and organisational structures discussed above, such that smaller groups of San would be headed by various subject-matter experts, rather than having SASI and Government continue to seek to establish a primary #Khomani leader³⁸ and an overall sense of #Khomani community cohesion, which few #Khomani seemed to believe truly existed at the time, and which the forced CPA Act requirements were clearly failing to create.

Continuing into 2018, many #Khomani would still prefer to have this kind of decentralised management – smaller groups making decisions on their own pieces of land – applied to the governance and planning functions across all of the #Khomani farms on a permanent basis. An idea that seems to be very well supported by the #Khomani and those who work with them would be to have a separate farm manager for each of the six original land-claim farms. These six farm managers would be #Khomani people chosen by the residents of each farm and would be responsible for spearheading the planning and management of farm activities, infrastructure, and projects. Andries explained back in 2009,

In our community is good guys to do the job. ...I tell [Peter] that is a better way than...seventeen people [on a CPA Committee] to manage... [Each] can look after the farm where he stays. And [these] six people come every month together, and a part-time coordinator comes two times a month.... At the beginning of the month, he do the planning for this month..., and then he will evaluate it [to make sure] that what the plan says is implemented (A. Steenkamp 8th Sept. 2009).

Although such a plan would involve six farm managers instead of seventeen CPA Committee members, which would seem to be creating a larger territory per leader, each of the six new farm managers would only be responsible for planning, managing, and consensus-building on the farm where he or she lives, whereas the CPA Committee had been charged with creating consensus and making decisions for the #Khomani people and lands as a whole. Indeed, this new plan would take into account both the #Khomani lack of management experience and the San inability, or unwillingness, to make agreements across large groups or between different factions. Andries explained that the part-time coordinator or mentor position should be filled by ‘an outsider, not from the community, because the #Khomani San...don’t listen to each other. ...[But if] you bring back the CPA Committee as is stated in the Act, that [would turn out] the same. ...He shall never do his work. [We must]...let [separate farm managers] work with [our own] policies. So I think my plan is...better...[than] the plan in the Act’ (A. Steenkamp 8th Sept. 2009).

If, however, the CPA Act is not amended in such a way that CPA Committees are no longer required, other #Khomani who are familiar with the current CPA Act, like Fannie Brou, would like to have the focused farm managers replace the community-wide representatives as new #Khomani CPA Committee members: ‘CPA is not a good structure.... It’s better for [us to have] a mentor and the six managers.... But not a new [ordinary] CPA. ...You must have six managers on [the] farms, and they *form* the CPA...[along with] the...mentor. And then you can say, “OK, this is the CPA [Committee]”’ (Brou 8th Sept. 2009). Fannie believes that this redefined, seven-member CPA Committee, plus a separate #Khomani Council of Elders who would take charge of preserving and perpetuating San traditional culture, would be the ideal structure to manage #Khomani life and land in the Kalahari.

Roger Chennells, who has witnessed the successive ‘failures’ and disappointments of the #Khomani as they have tried to implement the current CPA Act requirements, opines that salvation for the #Khomani may indeed require less centralised leadership and fewer externally imposed requirements:

What would be the right kind of development plan? ...Would the right “development” be a *non-development*? ...And would it be appropriate to divide the land? Let the farmers farm; let the non-farmers just *non-farm*. ...That might be quite a coherent plan, even if you say, “We’re agreeing to let you guys just decide for yourselves.

We're not making any requirements from outside" (Chennells 13th Dec. 2009).

Without such changes, the #Khomani are likely to continue to suffer under the CPA Act's leadership structures, which thus far have failed to motivate the #Khomani people, as Andries advocated, 'to get ourself up and *do* things for us'. Ivan Vaalbooi, who was living at !Khwatla at the time, lamented, 'I want to go back and live [in the Kalahari], but our community has not developed that far because...the government is making...[unfulfilled] promises to our people. ...I think...the leaders in our community don't have the courage to take the community forward' (Vaalbooi 21st Aug. 2009). As seen in detail above, imposed governance structures that are viewed by indigenous groups as illegitimate are countered by community apathy and acts of ridicule and non-compliance. Not surprisingly, more than a decade of such #Khomani community reactions to those put in power under government-required structures has led to the lack of 'courage' noted by Ivan Vaalbooi among the #Khomani leaders, who count Ivan's father, Petrus, among their members. As noted above, many San today are hoping that San leaders 'will be given the opportunity to live up to their own concepts of leadership, and serve but also motivate their communities' (Useb 2001: 27). Yet, the question remains whether the South African government will fulfil their responsibility, as Smith *et al.* (2000: 98) argued, 'to listen, to hear and to act'. If #Khomani development, motivation, and poverty-reduction necessitate increased decision-making and leadership flexibility within the CPA Act, will Government listen and act in a timely manner to make the necessary amendments? Only time will tell.

For now, in addition to the stated ideas and plans of some of the more active, ambitious #Khomani community members presented here, the best way to test how the #Khomani would indeed respond to the absence of a CPA Committee structure altogether is perhaps to view their actions on the farms since the third #Khomani CPA Committee was dissolved in late 2008. Have recent years seen more activity out on the #Khomani farms, and if so, what forms did the planning, leadership, and management of such activities take?

THE BEGINNINGS OF SUCCESS

With the Director-General of the DLA/DRDLR, via a delegate – first, Peter Mokomele, then since 2014, Terance Fife – now acting as the #Khomani CPA Committee during the ongoing period of #Khomani 'administration' under the CPA Act, the lack of resources, time, and hands-on attention from Government has largely continued, leading many to view the situation on the #Khomani farms as one best described as lacking classical governance and order, as neither the DLA nor the #Khomani appear to be exercising community-wide control. Former SASI Programme Manager Grace Humphreys, for example, believes that there is now a 'void' (Humphreys 26th Aug. 2009). Similarly, a South African newspaper

described the status of the #Khomani in 2010 as follows: ‘[T]he CPA is not functional.... The farms are run in a semi-anarchic fashion’ (Anonymous *The Star* 2010). Indeed, both land-claim attorney Roger Chennells (2009) and community technical adviser Phillipa Holden (2011) described this period of ‘administration’ as one of ‘self-help’ for the #Khomani.

However, such ‘self-help’ attitudes have included a new sense, expressed by both the #Khomani and their neighbours, that the time has come for #Khomani-led livelihood activities. #Khomani youth Ricardo Seekoei agrees:

Government only lives for itself. ...Just once in a while do they come here. If they tell us “next year”, then we start to believe, “OK, next year things will be fine”. But we wait, the year’s over – nothing’s happened. We must start our *own* projects. That’s the only option. Because if we don’t start now, we will always be waiting (Seekoei 25th Jan. 2010).

A critical aspect of ‘starting our *own* projects’ has included creating or adapting ‘San style’ decision-making and governance structures to suit the needs of smaller groups of #Khomani. The most successful attempts to do so have involved the creation of the ‘Boesmanraad’ or Bushman Raad³⁹⁾ and the #Khomani Farmers’ Association, both of which – particularly since 2012 – have been able to initiate, fund, staff, and operate smaller-scale livelihood projects involving focused clusters of like-minded individuals making consensus-based decisions in small groups dealing with individual farms or sub-sections thereof, without mandated committees, hierarchical leaders, or overall ‘community’ approval.

The wide array of focused, small-scale livelihood projects initiated by the Bushman Raad on the ‘traditional’ side – including increased tracker-training, formalised commercial-hunting operations⁴⁰⁾, a (temporarily closed) research facility for traditional San medicinal plants, GIS mapping, cyber-tracking, tourist activities in the Park, a restaurant, a Living Museum tourist village with accommodations, and a ‘Veld School’ where young #Khomani can learn traditional San practices and environmental knowledge – and by the #Khomani Farmers’ Association on the ‘farming’ side – including fence repairs, water-source improvements, the complete allocation of sheep ‘camps’ in 2016, and the addition of Fannie Brou to the list of ‘big’, successful stock-farmers – will be the subject of two future publications, currently in progress, that will describe these projects and provide specific ideas on how to ensure that the currently required, inevitable return to a CPA Committee structure will not derail these significant #Khomani strides.

With regard to the Bushman Raad, the use of the term *raad* or ‘council’ may be misleading, as the numbers are actually quite small. Whereas the #Khomani CPA Committees had been comprised of 15 to 17 #Khomani representatives attempting to make decisions for over 1,000 local and regional #Khomani people, the Bushman Raad today is made up of two to three managers and two full-time

office workers (Holden 18th Apr. 2012), who are able to focus solely on livelihood activities for the 40 adult #Khomani living on Witdraai farm, plus some of the residents of Welkom, including remaining members of the Kruiper family. In addition to informal, consensus-based decision-making among Raad staff and potential #Khomani project leaders and subject-matter experts, the effectiveness of the Bushman Raad has been based on the ability, not only to focus on a small population and activities on three defined pieces of land (the Park, plus Witdraai and Erin farms), but also to begin creating the environment in which individual roles, projects, and experts may emerge. Income from such projects is divided into salaries for project workers, a payment to the project leader, and an amount for the Bushman Raad office account, such that at present no funds are being fed into an overall #Khomani community account, which – based on prior experience – Phillipa terms a ‘black hole’ (Holden 31st Aug. 2012).

As with the late Andries Steenkamp’s acknowledged expertise on the stock-farming side, this Raad system – which allows for smaller-group decisions and plans to be made and implemented and for the benefits of such efforts to flow directly to the participants – has encouraged leaders and experts on the ‘traditional’ side to step forward over the past few years to lead Bushman Raad activities. These expert, ‘San style’ project leaders have included Oupa Jan Pietersen (Park and research facility), Oom Jan van der Westhuizen (traditional medicines), Helena ‘Luce’ Steenkamp (Erin/Witdraai financial management and hunting operations), Barbara Raats (GIS mapping, cyber-tracking, and Living Museum), Koera Steenkamp (restaurant), and Dawid’s son John Kruiper (Park Committee and Veld School) (Holden 18th Apr. 2012; D. Kruiper 2012: 63, 91; and #Khomani San Website⁴¹). According to Phillipa, these activities have produced a new sense of purpose, focus, and pride among the #Khomani, as individuals emerge and are proud to say, ‘I’m leading this’, ‘I’m working on this’, ‘I’m a fieldworker’, etc., with the successes of some ‘enthusing’ the rest and bringing a sense that ‘we are finally achieving something’ (Holden 31st Aug. 2012).

Interestingly, this small-group structure – discussed earlier as a key element of traditional San/foraging cultures – is indeed engendering a new or renewed sense of San identity, particularly among the residents of Witdraai farm. A new logo has been incorporated on to #Khomani badges and uniforms, which several #Khomani (not just Witdraai residents) wear with great pride (Holden 31st Aug. 2012). (See Figure 8.)

CONCLUSION

Thus, the culturally significant ability to plan and lead *separate* livelihoods and cultural activities in a defined territory and with small, like-minded groups of participants has produced a sense of cultural pride and San identity that has served to *unify* many #Khomani, most noticeably since 2012. In this way, the capacity under ‘administration’ to abandon the CPA Act’s forced ‘community’ structures,



Figure 8 New #Khomani logo found on their website, correspondence, marketing material, signage, and uniforms and to be used on future branded products. Source: Phillipa Holden.

rather than leading to #Khomani fracture, has actually begun to bring some #Khomani unification under an emerging sense of San cultural identity and pride, because the culturally appropriate organisational forms that are constitutive of the San identity have been given the space to emerge.

I have argued that the currently legislated CPA structure is inappropriate to the #Khomani, who are both a) a fictional 'community' created from previously dispersed 'coloured' South African farm labourers and tourist performers and b) the remnants of an indigenous foraging society traditionally based on band and *n!ore* social organisation. Phillipa Holden responded to my conclusions as follows:

I agree – one big, all-consuming, amorphous CPA is not the best way to manage things.... People with [the] same outlook, common concerns, and interests [should be allowed to] focus on business at hand that impacts them directly and also feel empowered in doing so versus someone "ruling over" [them] and making decisions on their behalf.... I am all for devolving power down to the right level (Holden 17th Apr. 2012).

Phillipa argues that, in the ideal #Khomani governance structure, not only should power be pushed down to the 'right level', but individuals' power should also be 'clear and ring-fenced' (Holden 18th Apr. 2012). She further believes that my idea – linking San traditional social organisation with the #Khomani preference for, and the clear efficacy of, 'devolving power' down to smaller groups of #Khomani – is a central concept that had been missing (Holden 31st Aug. 2012) from past efforts to understand why land restitution had failed to produce the anticipated 'development' in and for the #Khomani San land-claim 'community'.

The #Khomani saw the opportunity under ‘administration’ to move ahead with ‘San style’ decision-making, organisation, and leadership, and they have begun to do things for themselves, according to their own conceptions of San, ‘Bushman’, or ‘#Khomani’ identities. The key to recent #Khomani progress was the creation of space, due to the absence of a CPA Committee, for their own culturally based identities and structures to emerge. Because, as we have seen, the ‘Bushman’ identity is not defined by livelihood choices or ‘what is perceived as culture’ (Hewlett 2000), #Khomani animal-trackers and stock-farmers alike have benefited from their recent ability to bypass the need for community-wide agreement because, as San people, they would never have organised themselves (except perhaps temporarily during their wars against Boer commandos) in large communities under an authoritative ‘chief’ or central committee, regardless of which livelihood pursuits were currently part of their survival strategy.

Because of the strong cultural element in Dawid Kruiper’s and Roger Chennells’ land-claim efforts and the consistently central ‘hunter’, San, and ‘Bushman’ identities I witnessed among both farming and non-farming #Khomani, I argue that the crippling poverty and social problems of the #Khomani during their first decade back in the Kalahari were at least partially the result of South Africa’s land reform laws that treated the San simply as an underclass, rather than a cultural group of former foragers who still retain aspects of their cultural identity and social organisation. In addition to the words of the #Khomani, their inaction during the successive official CPA Committees from 1999 to 2008 and their motivation under ‘administration’ also demonstrate the importance of culturally relevant, small-group decision-making and governance structures for these San.

In 2017, after a wait of more than two years, South Africa’s National Assembly finally passed the Traditional and Khoisan Leadership Bill. While new, untested, and controversial (Dentlinger 2017), the promise of national recognition of traditional ‘Khoisan’ governance structures via this law has brought hope to some South African San, at least of gaining a broader platform to air their grievances.⁴²⁾ Unfortunately, however under, current South African land reform laws and DLA implementation practices, the fledgling #Khomani livelihood projects that are now run by largely self-governing ‘San style’ sub-groups will one day come under another ‘all-consuming’ #Khomani CPA Committee, a mandated structure that has not changed. In fact, members of a new CPA Committee have recently been elected by the #Khomani San and are currently undergoing ‘capacity building trainings’ (Pienaar 8th June 2018), in what may ultimately be a futile effort to help them prepare to take up this ineffective structure once again. Therefore, it is critical that the Restitution and CPA Acts (either in their legislated requirements or in updated regulations and procedures for their implementation) provide new, permanent space for group organisation, decision-making structures, and conceptions of land-use and leadership that differ from the standard, community-wide, representative, hierarchical systems that South Africa’s land reform laws currently assume and require. David Grossman, who worked

alongside the #Khomani as a technical adviser for many years before his recent retirement, said as follows (Grossman 19th Jan. 2010): ‘Let them have a bit of peace and space. Space! To do what they want to do, not what NGOs...or CPAs or Government [want them to do].... Give them the space to be themselves.’

NOTES

- 1) While some would argue that this ‘takeover’ was not properly completed by Government until the appointment of an official, fully empowered ‘administrator’ in 2014, for the purposes of this chapter, the key moment was the disbanding of the third #Khomani San CPA Committee in 2008. Ever since that time, the #Khomani have been operating without an imposed, community-wide committee structure in place.
- 2) See discussion of O’Malley (1996) below.
- 3) The subjects of this chapter, South Africa’s #Khomani San people, tend to self-identify variously as San, Bushmen, and/or #Khomani and often use these terms interchangeably. Therefore, I will do the same here.
- 4) The ‘pristine environment’ model reflected in the #Khomani eviction of 1931 still, at least in part, guides policy decisions of the Botswana government, with respect to the San of Botswana’s Central Kalahari Game Reserve (Good 2008: 126–127).
- 5) Since winning the land claim, Roger Chennells has been far less involved in SASI’s operations, which shifted to capacity-building and development projects (with varying degrees of success) for South Africa’s #Khomani, !Xun, and Khwe San people. Since 2013, SASI’s primary function has simply been the organization of the annual Kalahari Desert Festival.
- 6) The Mier are a local stock-farming people who are the descendants of a Baster group who settled in an area stretching from Namibia, through Rietfontein in South Africa, and into present-day Botswana in the 19th century (Dierks 2004 and South African National Parks 2011). In 1998, the Mier filed a land claim, including lands also claimed by the #Khomani (Chennells 2006: 3).
- 7) Although different groups may view, conceptualize, and practise ‘democracy’ in different ways (see J.M. Williams 2010), we will see that the CPA Act’s hierarchical democratic ‘ideals’ do not fit well with the preferred social organization and decision-making structures of the #Khomani San people.
- 8) Among authors, there is some disagreement on whether the small-group organisation of the San should be termed the ‘band’ or the ‘camp’. Among the #Khomani, I did not hear any use of the term ‘band’, but the term ‘camp’ is used by the #Khomani to designate the small plots of grazing land that are allocated to individual families.
- 9) Because this San writer defines ‘community’ as a collection of families around a single waterhole, this passage is particularly interesting in the context of South African land reform (see below).
- 10) Over time, naming conventions for different San groups have changed. In this chapter, I will use the names that the authors of the individual references used in their writings, even if those names have since fallen out of favor.
- 11) The DLA has since changed its name to the DRDLR, the Department of Rural Development and Land Reform. However, the #Khomani continue to refer to this department as the DLA, so I have chosen to use that name throughout this chapter.
- 12) The UN’s Department of Economic and Social Affairs notes that, even today, ‘Dispossession

- of traditional lands and territories is one of the major problems faced by indigenous peoples all over the world' (2009: 87, 108).
- 13) Peter voluntarily left the DLA in 2013 and now works for a private firm, the Industrial Development Corporation in Kimberley, South Africa.
 - 14) Phillipa relocated to Australia in 2014 and is no longer directly involved with the #Khomani.
 - 15) See, e.g., 'South Africa's KhoiSan minority being ignored', *politicalanalysis.co.za*. (Anonymous 2018), accessed May 8, 2018.
 - 16) Although a Restitution of Land Rights Amendment Act was signed by President Zuma in 2014, this amendment did not alter any of the problematic provisions discussed in this chapter. The amendment's primary purpose was to re-open the land-claim process, to allow more groups to make land-restitution claims, which can now be filed into June 2019 (see Restitution of Land Rights Amendment Act, No. 15 of 2014).
 - 17) For a similar conflict regarding the governance of Namibia's Omatako Valley Rest Camp, see #Oma and Thoma 2002: 39.
 - 18) Even among San groups that do not have a history of dispossession and dispersal, Barnard (2007: 146) notes the existence of a multitude of complicating differences: '[D]iversities of all kinds exist...through time...[and] between individuals within the same...group'.
 - 19) My own fieldwork suggests that these wages are often earned by men from rare, temporary road works and by women from occasional cleaning and service work for local white farmers.
 - 20) As of 2016, a Farm Manager had finally been appointed for the #Khomani farms. However, according to the #Khomani I interviewed in 2016, this new manager's actual involvement, effectiveness, and respect for #Khomani community needs and priorities remain to be seen.
 - 21) As will be seen below, the #Khomani (like many San) engage in both farming and non-farming uses of land. In line with these varying livelihood choices, the 'cultural heritage' and identities of the #Khomani are still very much based on an adaptive, forager/hunter/gatherer mindset, which – although not focusing uniformly on farming across the population – may, at various times and by various individuals, include significant farming and herding activities.
 - 22) Petrus Vaalbooi was the first leader of the group of #Khomani who prefer stock-farming livelihoods and would, thus, be considered 'Western' by some.
 - 23) The Griqua are the 'mixed-culture' descendants of Europeans and stock-farming Khoekhoe people (Barnard 1992: 193 and Wilmsen 1989: 71, 80). The Nama people probably originated in the Northern Cape, number approximately 90,000, and are 'the best known of the Khoekhoe groups' (Barnard 1992: 176).
 - 24) See also Skotnes 1996.
 - 25) By 'they' here, Fonnies is referring to his own #Khomani San people in general and also to the more 'traditional' #Khomani people specifically.
 - 26) As of 2017, only four #Khomani were still fluent in their traditional language, N/u (see, e.g., recent film work by Hugh Brody, as well as Dlamini (2017)).
 - 27) I had not been officially invited to this event, so no preparations could have occurred on my behalf. And although television crews had been invited, it became clear very early on that reporters would not be attending. Even so, as easy as it would have been for the #Khomani men to return to their homes, metres away, and change into Western clothes, they chose to remain dressed in their loincloths.
 - 28) After many years of successful service, research, and advocacy across southern Africa, both Axel and Magdalena have now retired and returned home to Germany.
 - 29) By the early 19th century, within the 'mixed culture' group of the Griqua people, those who

- remained ‘more Khoekhoe in descent and custom’ maintained their Griqua identity, while those who were ‘more European than Khoekhoe’ came to be known as the Basters, at first a derogatory name and now preferred by the people (Barnard 1992: 193–195).
- 30) Although a Nama-speaker, Dawid Kruiper, as the #Khomani traditional leader, was considered more of a true ‘Bushman’ than many other #Khomani. Here, Andries is pointing out that a Nama (Khoe) person would be genetically more similar to a Bushman than a Baster (European+Khoe) person would be.
 - 31) Many #Khomani, in translating from their primary language, Afrikaans, into English during my interviews, very often used ‘he’ to indicate ‘they’, and in most cases, I have chosen to leave their words unchanged.
 - 32) ‘Bakkie’ is Afrikaans for ‘*pickup truck*’. The DLA purchased one bakkie for the #Khomani, and aside from walking, hitch-hiking, or using donkey carts, this is the only means most #Khomani have to travel on or around their farms.
 - 33) Ultimately, it was determined (via a lawsuit filed by the #Khomani San) that Peter was not in fact a fully funded, authorised, empowered ‘administrator’ under the law, and an official administrator – Terance Fife – was appointed in 2014.
 - 34) Due to an alleged legal drafting error between versions of the #Khomani CPA Constitution, the originally ‘traditional-use’ Miershoopan farm ultimately transitioned into a stock farm as well.
 - 35) Although there are clearly hectares available for grazing on the #Khomani stock farms, Collin’s statement seems to indicate a problem of ‘the commons’. The #Khomani wish to have individual, designated plots of land where they (alone or in small, cooperative groups) can graze their own sheep and goats, rather than risking conflicts over rights and responsibilities that may arise from common, community-wide grazing land.
 - 36) This includes the building of houses, whether built by Government or by the #Khomani using a government-supported programme. As of 2018, housing, water, and electricity continue to be top priorities for the #Khomani, who remain baffled at the delays in receiving these most basic of services.
 - 37) By pointing to West Africa, Andries refers to agro-pastoral governance systems developed by the Bantu-speaking peoples (including the Zulu), who may have originated in West Africa (see, e.g., Oliver 1966).
 - 38) In fact, the deaths of Dawid & Buks Kruiper and Andries Steenkamp have left many (both inside and outside of the community) wondering who would even be a candidate for overall #Khomani leader today. A new Traditional Leader has recently been elected, but time will tell how active and effective this person (Valie Vaalbooi) will be in the wider community.
 - 39) ‘Raad’ is the Afrikaans word for ‘*council*’.
 - 40) These hunts on Erin farm – which include #Khomani guides, trackers, skimmers, and game rangers – were announced in 2011, with a limited number of hunts taking place in 2012. The first full hunting season on Erin was in 2013, and these hunts have been fully booked (by both South African and overseas hunters) ever since.
 - 41) See <http://www.khomanisan.com/>.
 - 42) See comments of Uppington-based San in ‘South Africa’s KhoiSan minority being ignored’, politicalanalysis.co.za. (Anonymous 2018).

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