



NATURAL
JUSTICE

LAWYERS FOR COMMUNITIES AND THE ENVIRONMENT

ANNUAL REPORT

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MESSAGE FROM THE CHAIRPERSON OF THE BOARD

Chairperson of the Natural Justice Board of Trustees | **Loretta Feris**

It has been a year of change for Natural Justice. Pooven Moodley has joined as Executive Director and the staff complement is in the process of expanding. I warmly welcome Pooven to Natural Justice. Pooven has a vision for the organisation that goes beyond its current capabilities and will see it expand its climate justice work, something desperately needed, especially in South Africa. I also welcome new Board members Makoma Lekalakala, Njoki Njoroge Njehû and Lucy Mulenkei. Each holds valuable knowledge in their respective fields and I look forward to their inputs. Sadly, after 12 years, we say goodbye to long-time board member, Hennie van Vuuren. Hennie chaired the Natural Justice board with a deep sense of commitment and dedication. We will miss his wise inputs but wish him well in future endeavours.

Natural Justice continues to deepen its work on the African continent. The Kenyan office has thrived under the leadership of Gino Cocchiaro and the expansion into Francophone Africa through the opening of the Senegal office brings new and exciting challenges. We wish Barbara Lassen and her team well as they tackle the many extractive industry-related challenges in Francophone Africa. Whilst we are no longer able to continue our work in Zimbabwe, we believe that we made significant headway in the legal empowerment of a number of small communities.

“ The uniqueness of its approach, which is community-centred and responsive to reality, has stood it well over the last eleven years. ”

The board has much confidence in the work of Natural Justice, in particular its ability to lead environmental justice in the countries it works in and throughout Africa. The uniqueness of its approach, which is community-centred and responsive to reality, has stood it well over the last eleven years. This past year has seen Natural Justice make significant headway in their work. The process of working with communities on issues such as traditional knowledge, which may require policy change or strenuous negotiations, takes place over several years and it takes a while before one is able to see concrete outcomes. Over the last year, we have however, witnessed the culmination of many years of patience and persistence and on behalf of the board, I can say we are proud to see the progress in terms of the rooibos agreement in South Africa, the Port Lamu work in Kenya and the biocultural community protocol work in Madagascar.

In the wake of increasing destruction of natural ecosystems, devastating impacts of climate change and the trampling of indigenous knowledge systems, the expertise of Natural Justice is essential. We need to re-think our relationship with nature and with diverse knowledge systems. This is the work that is passionately led by the staff of Natural Justice. On behalf of the board, I wish them well for 2019-2020.



Executive Director of Natural Justice, Pooven Moodley, showing support to indigenous communities at the Climate Strike in New York.

MESSAGE FROM THE EXECUTIVE DIRECTOR

Executive Director | **Pooven Moodley**

I joined the Natural Justice team in September 2018. It has been an incredible journey since I joined. The first step was getting to know the committed and passionate team and the ethos and 'DNA' of the organisation. The second step was to get to know the communities we work with. Immersing myself in the communities we work with was an enriching learning experience, and continues to do so. It was a period of building on the strengths of the organisation and being part of a process to further transform the organisation as we consolidate our work with indigenous and local communities across Africa. Part of this process involved bringing on new board members and staff, ensuring greater integration of our programmes, being more deeply connected with movements and coalitions and increasing our visibility and reach. As the demand from communities increase, we are in a period of expansion of our programmes and the communities we work with.

“A key strength of the organisation is our approach in terms of how we work with communities.”

Taking the time to build trust and strong relationships with communities, while immersing ourselves in the struggles, is key to us standing behind communities and going on a journey together. This is evident, for example, in our work around legal empowerment and developing Biocultural Community Protocols. We have also moved to a model where Community Environmental Legal Officers are recruited from the communities we work with and continue to live and work in the community. There is an expansion of this programme being planned with the communities we work with in West Africa and Southern Africa, based on the learnings from

our Kenyan experience.

The Earth is currently experiencing an extinction crisis largely due to the exploitation of the planet by people. The science is clear in terms of the drivers of the crisis and possible scenarios in terms of sea level rise, droughts and water shortages, major weather events like cyclone Idai which wrought catastrophic damage in Mozambique, fires in the Democratic Republic of the Congo, Amazon, Arctic and Australia and global warming. As individuals and as organisations, we need to think about how we can most effectively challenge the ongoing destruction of the planet and, at the same time, ensure that people's rights are not further violated.

The work Natural Justice is involved in to stop fossil fuel companies from further harming the planet, or in supporting communities to assert their rights in terms of traditional knowledge, is critical during this time. Indigenous communities we work with are playing a key role in providing leadership and putting forward alternatives to the current paradigm. The work to stop the



Pooven at the Xolobeni dunes in the Eastern Cape during a healing ceremony.

Lamu Coal plant in the World Heritage Site of Lamu (the oldest Swahili settlement) is one of the highlights. Natural Justice has been working with indigenous and local communities in the Lamu area for the past decade and walked the journey with the communities. This involved organising, developing a Biocultural Community Protocol to ensure communities are aware of their rights and are in a position to assert their rights, legal empowerment work, including appointing a Community Environmental Legal Officer from within the Lamu community, and support with the litigation to stop the coal plant. This example highlights our approach with communities in the countries we work in.

Another example of significant but painstaking work is the case of Rooibos. Natural Justice has been supporting communities in their claim around their traditional knowledge to the uses of Rooibos. Again, Natural Justice has walked the journey to support communities to claim their recognition and rights in terms of traditional knowledge. Natural Justice continues to support indigenous communities in their ongoing negotiations with the Rooibos Industry. Once the recognition and benefit-sharing agreement is signed with the Rooibos Industry, it will set a global precedent for indigenous communities.

“The rooibos agreement will set a global precedent for indigenous communities”

Natural Justice has been very effective within the regional and international forums and negotiation spaces. Natural Justice, in collaboration with some of our supporters and partners, have pushed strongly on the issue of human rights within the Convention of Biological Diversity and also in linking with key indigenous movements and organisations across the globe to think through the planetary crisis and finding alternative ways to approach it.

In 2018, we decided to strengthen our work in francophone Africa and to open a third Hub in Dakar, Senegal. The Hub coordinates our work in Senegal, Guinée and Madagascar. A strong foundation is in place for the year ahead. We will be developing our new strategy which will respond to the planetary crisis, high levels of inequality and injustice and ongoing violation of rights. We will engage more in strategic litigation, develop an Environmental Rights Defenders Initiative, deepen our analysis using a feminist lens and heighten our organising capability linked to indigenous communities and movements we work with.

While there are many reasons to feel despondent during this time based on the further move to the right in terms of politics, the environment, violence against women, the injustice based on a skewed economic system that favours a few, it is also one of the most exciting times to be alive. There is a massive struggle ahead of us, but one we can certainly overcome as we organise and work together in the spirit of cooperation and not competition. We have the potential and the tools to turn the tide. We invite you to join us as a friend of Natural Justice as we navigate the turbulent waters and ask you to invite us to join you as you take the initiative.

A massive thank you to the Board, Staff, Supporters, Partners and Communities we work with.

In solidarity
Pooven Moodley
Executive Director: Natural Justice

From humble beginnings working with the San communities of South Africa, Natural Justice has expanded into a number of African countries, each with its own unique context, legal framework and environmental challenges. However, what is common is that the global need for natural resources and materials is driving devastating extraction and extinction rates across African countries, with implications for the communities we work with. Facing the loss of their land, livelihoods, culture and heritage, these communities are turning to a variety of remedies to protect themselves and their families' futures.

There is a recognised need for environmental rights-based approaches to enhancing sustainable development and resource protection. This is a challenge against the backdrop of significant global human rights abuses, brought about by states' corruption, ineffective coordination of institutions and states, lack of policy coherence at international and local level, lack of recognition of indigenous communities' rights and a failure to consult with communities in a meaningful way.

Any discussion on human rights should be broadened to include the right to a clean and safe environment, the right to act to protect the environment, the right to information and to participate in decision-making. This is something that Natural Justice works in earnest to achieve with communities.

“There is a growing recognition that climate change will threaten people's rights to life, natural resources, culture, basic social services and development; particularly in developing countries.”

While there is an urgent need to support the world to transition to a low-carbon, sustainable future, on the whole, shifts in this direction are incremental at best. Scientists now believe it might be too late to stop a climate crisis and the best we can do is start to build resilience and the adaptation capabilities within communities. This will require a global rights-based response which analyses obligations, inequalities and vulnerabilities, and seeks to redress discriminatory practices and unjust distributions of power.

Scientists show that solutions will be closely anchored to restoring and rehabilitating land. However, this is a resource that is currently facing degradation, dispossession and significant contestations around use, management and ownership rights. Notably, in Africa, the environmental rights and recognition of indigenous people are severely undermined, there is continued marginalisation of pastoral and rural communities, and those that stand up to defend their territories are threatened, abducted, harassed and assassinated. Domestic and international tribunals in the region have concluded that the failure to protect the environment may violate human rights and the collective rights of indigenous people and their ancestral land and resources. However, African states deny people decision-making authority over their resources.

These are the many challenges the communities we work with are facing on a day-to-day basis and the importance of our work grows daily. Seeking solutions through legal empowerment and the law continues to give communities redress through their rights, empowers them to be actively engaged in decision-making processes, but most importantly, provides them with the dignity they deserve.



The Khwe community residing in Namibia are in the process of completing their Biocultural Community Protocol with the support of Natural Justice. Here they are pictured with staff from the Namibian Ministry of Environmental Affairs

GOVERNANCE OF LANDS AND NATURAL RESOURCES PROGRAMME

Programme Manager: Governance of Lands & Natural Resources and Traditional Knowledge & Access & Benefit Sharing | **Lerato Seema**

HIGHLIGHTS

In 2019, Natural Justice appointed a new programme manager in Cape Town, Lerato Seema. He was immediately inaugurated into his role with a trip to Botswana to visit the San community at the Central Kgalagadi Game Reserve together with Cape Town Hub director, Lesle Jansen and intern, Bushra Zaheer. They will be working closely together to support the communities they work with under this programme, as well as the programmes on Traditional Knowledge & Benefit Sharing and Conservation & Customary Use.

UPDATES

San communities, Central Kgalagadi Game Reserve, Botswana: Natural Justice took its first steps to assist the San community of the Central Kgalagadi Game Reserve (CKGR) following the Botswana government's failure to enforce a court decision from 2006 which upholds their rights to their ancestral land and allows them to return to the land. They had been evicted from the land eleven years earlier. Having identified the "litigation fatigue" between the government and the community, we decided on an alternative approach to assist the community to try to get the court decision enforced. We set up various meetings with different stakeholders, including the Ministry of Environment and Tourism's Access and Benefit-sharing Desk Office, the University of Botswana's San Research Centre, as well as community representatives from a resettlement outside the CKGR called New Xade. The meetings resulted in the following key decisions:

- The Ministry of Environment and Tourism is in the process of domesticating the Nagoya Protocol, which will result in the development of national Access and Benefit-sharing legislation. This will be followed by collaboration with Natural Justice to implement the law by involving the San communities within the CKGR. This will see them consulted regarding

their resource use and having access to the land that they occupied and were displaced from.

- The University of Botswana's San Research Centre will seek a formal collaboration with Natural Justice and support a team of four San youth under the 'Community Environmental Legal Officer' programme, as part of a potential Legal Empowerment process for the CKGR and New Xade communities. The first part of this process will commence with the training of the San youth in 2019.

Khwe community, Namibia: We have been assisting the Khwe community to develop a Biocultural Community Protocol (BCP), which is, as of 2019, in its final stages. The drafting of the BCP was conducted in consultation with the government of Namibia due to the fact that the land on which the Khwe resides, the Bwabwata National Park, is officially designated as state land. The Khwe community live in the Park and believe they have ownership rights to the land. The land is divided into core areas (designated for special protection and controlled tourism) and multiple-use areas (zoned for community-based tourism, hunting, human settlement and development by the resident community). It was agreed to launch the BCP in 2019, although the initial date was postponed. The Namibian government has also set aside funds for the community for different development projects. Natural Justice will be assisting the community in the registration of a Deed of Trust for the management of the funds.



Natural Justice at a scoping visit to Botswana. We met with the San community residing in New Xade settlement outside of Kgalagadi Game Reserve in Botswana.

Rehoboth Baster Geemente, Namibia: We assisted the Rehoboth Baster Geemente whose communal land was expropriated by the Namibian government and who are seeking ownership rights over 3000 plots that were not expropriated. Together with the Legal Assistance Centre in Namibia, Natural Justice drafted an application for a *writ of mandamus* against the Namibian government that will eventually confer rights over the 3000 plots to the community. In the

interim, we assisted the Rehoboth Baster Geemente to prepare a submission to the Commission of Inquiry into Claims of Ancestral Land Rights and Restitution regarding ownership of the land they occupy. The submission sought to demonstrate and confirm that the rehobothers are "indigenous" according to the African legal framework and, from such confirmation, to validate their historical relationship with the land that they occupy and the natural resources therein.



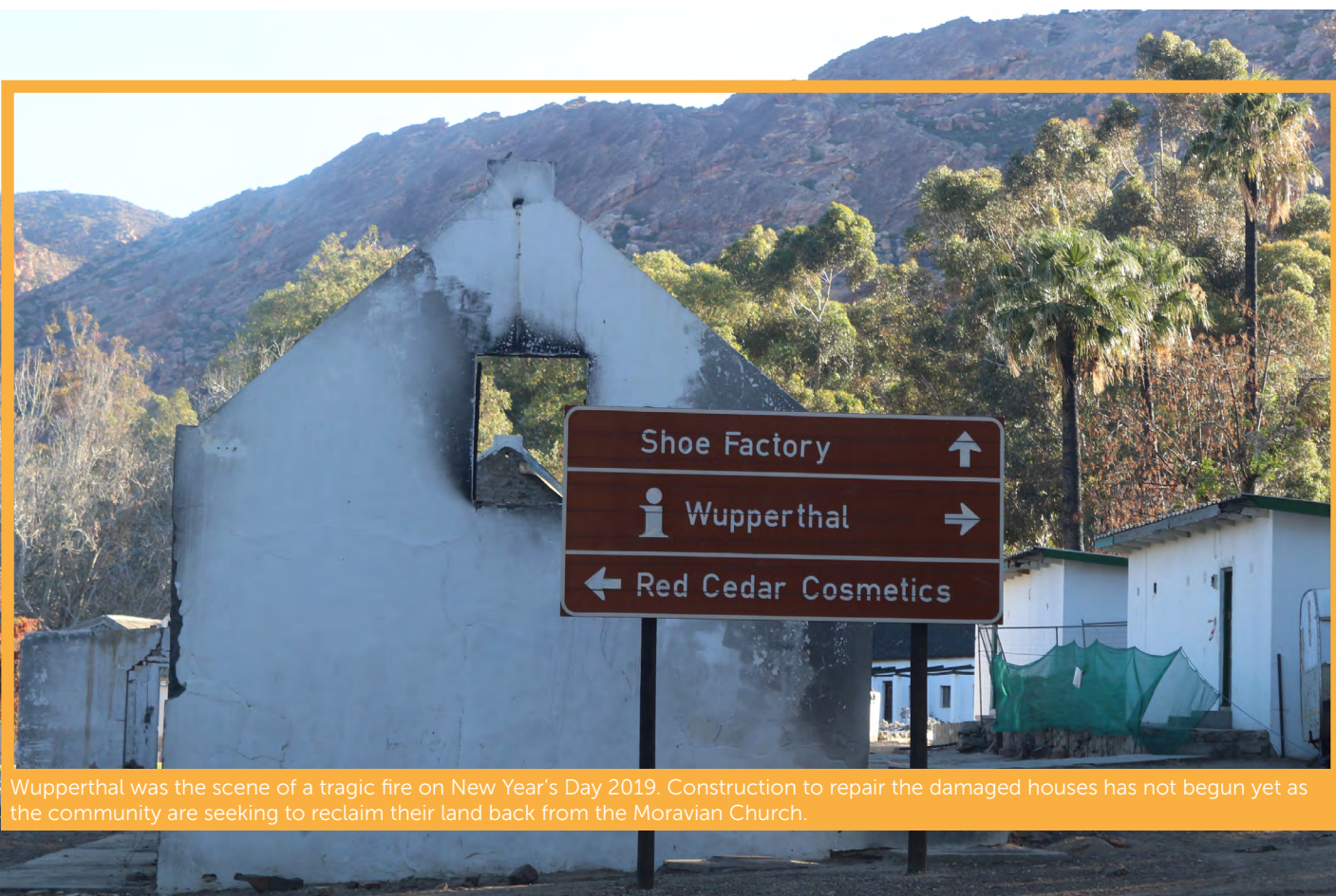
Natural Justice team meeting with indigenous San leaders, Roy Sesana and Jumanda, in Ghanzi, Botswana.

Guriqua fishers, South Africa: For the past two years, we have been assisting the Guriqua community of fishers on the West Coast of South Africa to draft their Biocultural Community Protocol (BCP). The community's livelihoods have suffered as a result of restrictions imposed by the Department of Agriculture, Forestry and Fisheries (now Department of Environment, Forestry and Fisheries), and enforced by the Marine and Coastal Unit. These restrictions limit their ability to access their marine natural resources. We have found it important to help the community to develop a BCP as a legal empowerment tool. The two-year journey to develop the BCP is almost at its end and we look forward to publishing the final publication.



San leader of the Khwe community, Taddeus Chedau addressing the Ministry of Environmental and Tourism Affairs on the community concerns and their Biocultural Community Protocol.

Khoikhoi and San Recognition, South Africa: The Khoikhoi and San communities in South Africa have been grappling with advancing their recognition as an indigenous community in South Africa. They have been identified as “coloured” people according to the current categorisation of people in South Africa. The community wants to institute proceedings in the courts of law to have them recognised according to how they self-identify as indigenous communities and to affirm the history connected to ownership of the ancestral lands which they claim collective ownership of. The initial approach of the process is to institute an Application for a Declaratory Order that confirms the existence of the Khoikhoi and San group as an indigenous community and the process is currently underway with the Khoikhoi and San being supported by Natural Justice and the firm of Chennells Albertyn in the matter.



Wupperthal was the scene of a tragic fire on New Year's Day 2019. Construction to repair the damaged houses has not begun yet as the community are seeking to reclaim their land back from the Moravian Church.

Wupperthal, South Africa: We have been engaged with the Wupperthal Community of the Western Cape who are currently residing and farming on land that they have affirmed belongs to them, but which is administered by the Moravian Church. The Church has required the community to pay rent for using the land. Natural Justice is assisting the community to establish a claim for the land, a process which may be taken into the courts should negotiations with the Church fail. We are being assisted by Chennells Albertyn on this matter.

Bethany, South Africa: We have been supporting the Griqua community in the Northern Cape whose land was taken away from them as far back as 1939. Although the process of land restitution took place in 1998, ownership over part of the land has remained with the Evangelical Lutheran Church. Natural Justice is assisting the community with a claim for restitution with the support of the Legal Resources Centre.



The leader of the Bethany community, Captain Kraalshoek, stands by a monument dedicated to his family and the people of Bethany.

INTERNATIONAL, NATIONAL & REGIONAL LEVEL PROCESSES

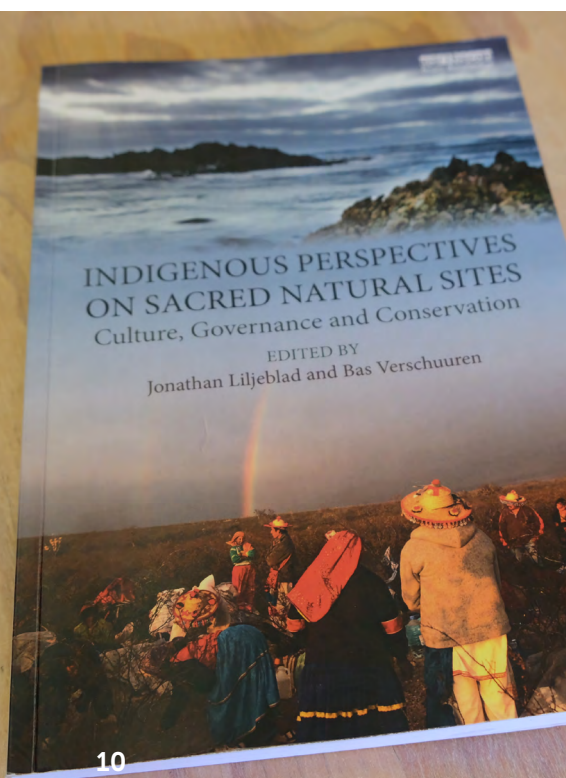
We have been part of the International Land Coalition since 2013. It is a network that provides a structure for collective action on land rights globally. In the South African context, it operates through LandNess which is the Land Network National Engagement Strategy in South Africa. We registered our membership with LandNess in 2019. We will be undertaking various activities over the next three years, including:

- Promoting the adoption of a just and equitable Land Policy in South Africa to provide for secure basic land and resource rights for all citizens.
- Improving institutional changes to achieve an effective land administration system land, data capturing and information management.
- Promoting equitable land distribution and public investment that supports small-scale farming and fishing systems.

RESEARCH & PUBLICATIONS

Cape Town Hub Director, Lesle Jansen, contributed a chapter in the book, "Indigenous Perspectives of Sacred Natural Sites-Culture, Governance and Conservation". It tells the story of the Griqua community living in Bethany and their sacred sites. In this chapter, Lesle also discusses human rights law and the protection of sacred sites and territories from an international perspective and national perspective, while noting the history and challenges of the community in relation to sacred sites. She provides recommendations to overcome these challenges.

During 2019, we carried out research on indigenous land rights in Africa and will soon be publishing an Indigenous Land Rights Report. The report outlines the context of indigenous rights in the region, illustrates how these rights have a direct bearing on indigenous communities in South Africa, and provides information on the best modes of enforcement of such rights.





First Regional Assembly of the ICCA Consortium, November 2018, Bishoftu, Ethiopia.

CONSERVATION AND CUSTOMARY USE PROGRAMME

HIGHLIGHTS

The Conservation and Customary Use Programme has been undergoing a shift since 2018 following the exit of our founder, Harry Jonas, who was also the Programme Director for CCU. With Barbara Lassen taking over the programme, we are seeking to keep up our strong international work, while also building a stronger presence on CCU issues at the African regional and local level.

INTERNATIONAL, NATIONAL & REGIONAL LEVEL PROCESSES

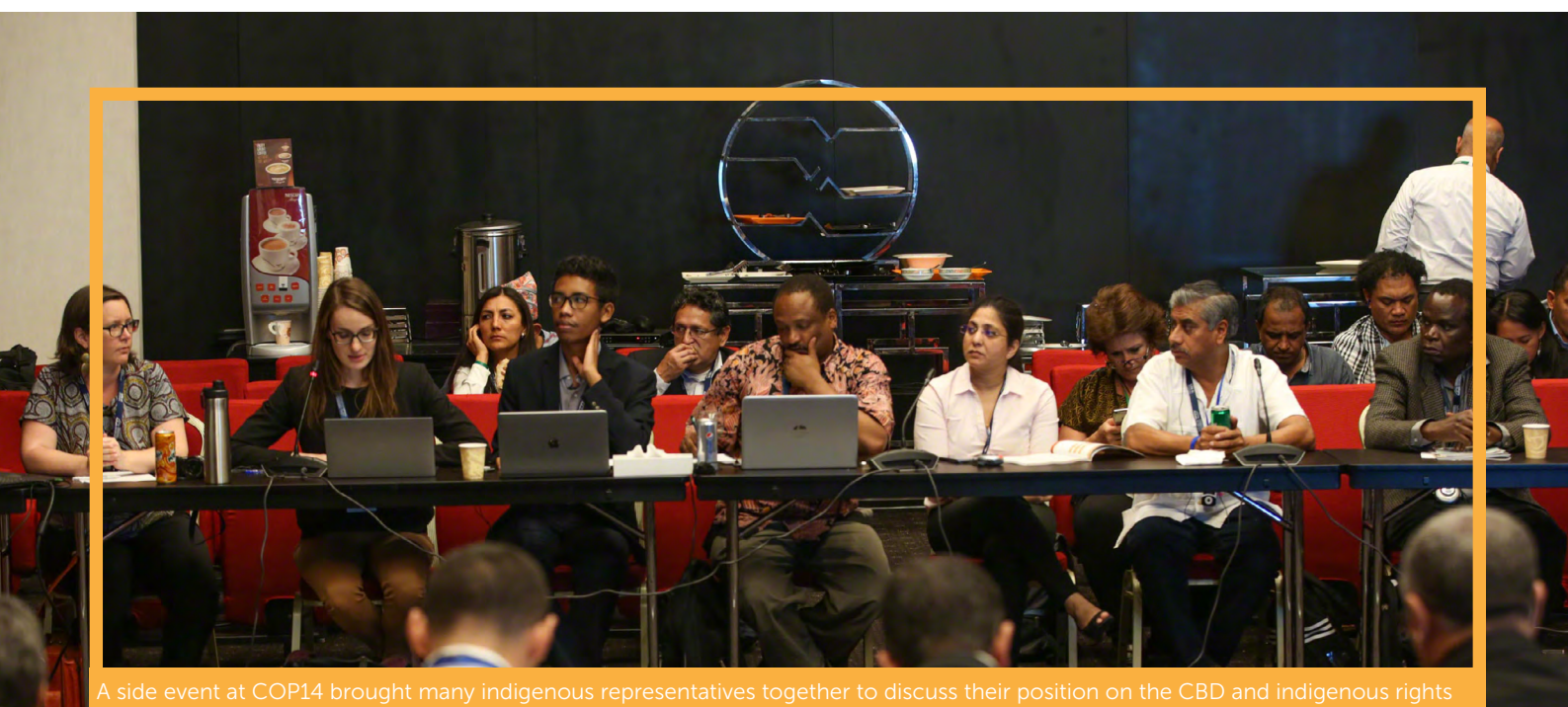
Convention on Biological Diversity: Under Harry Jonas' leadership, we were able to strengthen the inclusion of issues concerning indigenous peoples and local communities in decisions at the 14th Conference of the Parties of the Convention on Biological Diversity in Sharm-El-Sheikh, Egypt in December 2018. This includes a decision on "Protected areas and other effective area-based conservation measures" which, for the first time, contains guidance on other effective area-based conservation measures (OECMs). This will allow areas conserved by indigenous peoples and local communities to be recognised for their contribution in halting biodiversity loss. In 2019, we are focusing our efforts at the CBD level on the development of the new post-2020 strategic framework. This framework will replace the current CBD Strategic Plan and its Aichi targets and guide global efforts against the loss of biodiversity in the next decades. We are working to ensure that human rights aspects are included in the framework, such as land rights and the right to a clean and healthy environment, and that the voices of indigenous peoples and local communities from Africa are taken into account. We are collaborating with SwedBio and the Forest Peoples Programme to host preparatory workshops on this issue, building on the Global Dialogue on Human Rights and Biodiversity Conservation that was held in January 2018 in Eldoret, Kenya.



Barbara Lassen and Harry Jonas at the 14th Conference of the Party of the CBD in Sharm-El-Sheikh, Egypt

Indigenous Territories and Community Conserved Areas (ICCAs): We are coordinating 20 reviews of national legal frameworks across the world (including 8 in Africa) as part of the ICCA Global Support Initiative, in partnership with the UNDP Small Grants Programme and the ICCA Consortium. These reviews analyse how national frameworks support, or hinder, communities' efforts to protect, conserve and benefit from their territories of life, and give recommendations for legal reform. We also participated in the first African regional assembly of the ICCA Consortium in November 2018. This assembly kicked off a process of building regional structures of the Consortium, in which Natural Justice will play a strong role.

We have been working in Namibia and Botswana with communities whose rights to land, natural resources and traditional knowledge are impacted by protected areas (see details under the Governance of Land and Natural Resources Programme). In Kenya, we are supporting the Ogiek



A side event at COP14 brought many indigenous representatives together to discuss their position on the CBD and indigenous rights



First Regional Assembly of the ICCA Consortium, November 2018, Bishoftu, Ethiopia.

Peoples by providing input into a government taskforce in charge of implementing a landmark 2017 decision by the African Court on Human and Peoples Rights. This decision ordered the Government of Kenya to take measures to remedy violations of the Ogiek's rights in the context of their eviction from the Mau Forest.



Members of the National Khoi and San Council's Access and Benefit Sharing Working Group at Natural Justice in 2019. We are acting as their legal representatives during the negotiations for an ABS agreement for Rooibos.

TRADITIONAL KNOWLEDGE AND BENEFIT-SHARING PROGRAMME

Programme Manager, Governance of Lands & Natural Resources and Traditional Knowledge & Access & Benefit Sharing | **Lerato Seema**

HIGHLIGHTS

In 2019, Natural Justice appointed a new programme manager in Cape Town, Lerato Seema, who also manages the programme for Governance of Lands & Natural Resources.

UPDATES

Rooibos Access and Benefit Sharing, South Africa: We have been engaged in a seven-year journey to assist the National Khoi and San Council (NKSC) of South Africa in formulating a contract with the South African Rooibos Council (SARC) that will result in the Khoikhoi and San peoples of South Africa acknowledged as the traditional knowledge holders to the uses of the Rooibos plant. This agreement is in line with Access and Benefit-sharing principles set out in the Convention on Biological Diversity (CBD) through the Nagoya Protocol, as well as national legislation through the Biodiversity Act.

The contract is an undertaking by the SARC to share benefits from Rooibos products with the indigenous Khoikhoi and San people. After a considerable number of engagements between the relevant parties, the parties signed the benefit-sharing agreement at the offices of the Department of Environmental Affairs in Cape Town at the end of March 2019. The process was followed by finalisation of a compliance mechanism overseen by the Department of Environmental Affairs which will guide the implementation of Standard Operating Procedures that outlines the Rooibos industry's bioprospecting, access and benefit-sharing permitting system. The contract has a suspensive condition which requires the registration of a Trust, which we are helping the NKSC to finalise and register.

Rooibos Biocultural Community Protocol, South Africa: Natural Justice has been assisting the National Khoi and San Council (NKSC) to develop their Biocultural Community Protocol for their Khoikhoi representatives and indigenous farmers. The BCP sets out who the Khoikhoi people are, their rights to their traditional knowledge of the uses of Rooibos and gives context to the access and sharing of Rooibos benefits and the intellectual property rights in place. We will be assisting the NKSC to launch the publication at the end of 2019.



An indigenous Rooibos farmer stands behind a Rooibos plant, displaying its distinctive fynbos features. We are supporting the Khoikhoi and indigenous farming groups in the drafting of their Biocultural Community Protocol, through which they will assert their traditional knowledge to the uses of Rooibos.

Analavory and Ampangalatsary, Madagascar: We supported the development of two community protocols for the farming communities of Analavory and Ampangalatsary which include aspects regarding access to plant genetic resources for food and agriculture, as well as farmer's rights. Both protocols were adopted by the communities in 2018.



Farmers taking part in the community protocol development process for the community of Analavory, Madagascar

Endorois, Kenya: We are continuing our support to the Endorois indigenous community to develop a community protocol. This protocol will address issues of access and benefit sharing as well as the co-management of the Lake Bogoria reserve on the ancestral lands of the Endorois.

INTERNATIONAL, NATIONAL & REGIONAL LEVEL PROCESSES

Drawing on our experience from six African countries, we developed a publication on “Community Protocols in Africa – Lessons for ABS Implementation”. It takes a detailed look at the processes that communities have used, their successes, challenges and lessons learned, and gives advice for the future recognition of community protocols in the context of Access and Benefit Sharing.



You can read the publication [here](#)

In partnership with the ABS Capacity Development Initiative and the Indigenous Information Network, we organised a community-to-community exchange on traditional knowledge and Access and Benefit-sharing. The event took place in Pretoria in September 2018 and brought together community representatives, traditional healers and civil society from around the continent and from India.



Melissa Groenink joins Natural Justice as the new Programme Manager for Climate Change. She joined hundreds of others at one of the Climate Strikes taking place in Cape Town. Here she stands with Sinxolo Delanto, an administrator in the finance unit.



CLIMATE CHANGE PROGRAMME

Executive Director | **Pooven Moodley**

HIGHLIGHTS

In 2018, Natural Justice said goodbye to the Climate Change Programme Manager, Cath Traynor, who has been integral to building the programme through her expertise and extraordinary research skills. While the programme took a brief hiatus after this, from 2019, the focus on climate change and community impacts will be strengthened under the leadership of Pooven Moodley and a new programme manager, Melissa Groenink.

Natural Justice has developed a partnership with the International Land Coalition (ILC) and the International Fund for Agricultural Development (IFAD) to explore the issue of land tenure and the link with climate change adaptation within the Africa context. The overall goal of this project to improve the resilience of smallholder farmers and indigenous peoples to climate change by addressing tenure security-related constraints through the development of a partnership model between IFAD and ILC members. The initial research will take place in Madagascar, Malawi, Cameroon and Niger. Tools will be developed during this period which can then be applied to any African country and subsequently tested in Asia and South America.

Natural Justice is developing a body of work with a focus on strategic climate litigation in Africa. The initial phase will involve legal research with a focus on climate and rights of nature cases from across the globe. Natural Justice will work with a range of other legal, human rights and environmental organisations to explore joint work in terms of strategic climate litigation. The groundwork for this will be climate legal empowerment. We will undertake research, develop materials and work with communities to realise their rights based on the Constitution, legislation linked to fundamental rights to water, food and the right to a healthy environment and international instruments and commitments.

Natural Justice is working with indigenous and local communities to assist them to understand the impacts of climate change, and to support their responses to climate change threats and impacts through local to global actions. Our approach is to assist communities to stop harmful infrastructure and mining projects which violate their rights. This includes intervening in the Lamu Coal Plant, supporting work around the mining in Senegal and Guinea and in solidarity with activists and communities in South Africa. We are also supporting communities across the countries we work in to challenge violations at a local level and also to explore alternatives to ensure that communities are in a stronger position to deal with the impacts of climate change.

“Our approach is to assist communities to stop harmful infrastructure and mining projects which violate their rights.”

UPDATES

People’s Report, South Africa: Natural Justice were approached by African Monitor to facilitate the drafting of a chapter for South African Citizen’s Report for representation at the High-Level Political Panel at the United Nations in July 2019. South Africa was one of 21 governments that volunteered to present its progress in implementing the 2030 Agenda for Sustainable Development. Natural Justice, together with 350 Africa, Legal Resources Centre, Greenpeace Africa and GenderCC Southern Africa, drafted the report on the Sustainable Development Goal 13 – Climate Action. You can access the report on our website [here](#).

Natural Justice sees climate change as one of the most pressing issues the earth is facing. The development of the Climate Change Programme that will see Natural Justice support communities to respond to climate change impacts, and contribute to litigation and policy

submissions to assist with mitigation efforts, is a priority. We are currently contributing to climate change litigation in South Africa and, through the Community Environmental Legal Officer programme in Kenya, have been supporting communities to respond to extractive industries, development and fossil fuel projects, particularly in Lamu County.

Climate Change Bill, South Africa: In 2018, we also had the honour of being part of a contingent of civil society organisations and other stakeholders invited by the South African National Department of Environmental Affairs to comment on the newly drafted National Climate Change Bill. At the workshop that took place on the 3 July 2018, Natural Justice presented on the integration of local communities in the development and implementation of various strategies that could address climate change concerns at the local level, where implementation can make a significant difference.

During the event, Natural Justice also engaged with various stakeholders and the general impression

received was that stakeholders were “somewhat satisfied” that the South African government had finally drafted a bill, which was long overdue. Many participants expressed that the Bill needed to be revised around issues dealing with development and implementation at local level, co-operative governance between different departments on national, provincial and local level



around a combined unified goal of addressing climate change, and issues of enforcement and compliance. You can read more about the workshop [here](#).

Kenyan programme: Natural Justice is undertaking a project that seeks to ensure that indigenous peoples and marginalised communities in Kenya are empowered to invoke climate-related laws, regulations and institutional accountability in development projects to improve their resilience to the impacts of projects and climate change. When community members are excluded from decision making processes and laws, and safeguards and conditions are not followed, the impacts of development projects can be amplified. This can further exacerbate the effects of climate change and place vulnerable communities under insurmountable pressures. These significant impacts are also rarely remedied by authorities mandated to do so, resulting in continuous injustices.

“ These significant impacts are also rarely remedied by authorities mandated to do so, resulting in continuous injustices. ”

This project, therefore, seeks to understand how the impacts from project developments are exacerbating the effects of climate change and simultaneously analyse how indigenous peoples, and marginalized communities can invoke climate-related laws, regulations and institutional accountability in development projects, to shield themselves from the impacts of projects and improve their resilience to climate change.



The women in Boké are struggling to find adequate drinking water and are pictured here queuing for and fetching water from a small stream.

EXTRACTIVES AND INFRASTRUCTURE PROGRAMME

Hub Director, Kenya | **Gino Cocchiaro**

HIGHLIGHTS

The year produced an excellent convergence between our work supporting community legal empowerment and litigation. We had an amazing legal victory with Save Lamu and Katiba Institute in the High Court of Kenya for communities in Lamu affected by a mega port construction. This judgment sets a powerful precedent for all communities whose rights are affected by massive infrastructure developments. Our legal empowerment work continues to produce concrete results for community members and we saw these in both Kenya and Zimbabwe. All our work was underpinned by comprehensive research - in Kenya, Zimbabwe and South Africa - that provides us with lessons so that we can continue to strengthen our support to communities. We were also extremely excited to begin our work in both Guinea and Senegal and are committed to support communities affected by mining and energy projects.

UPDATES: KENYA

Lamu Port litigation, Kenya: The Government of Kenya, through the Ministry of Transport, is building a 32-berth port, estimated to cost US\$5 Billion, at Manda Bay in Lamu. The project is part of the government's larger flagship project to establish a transport corridor of road, rail and pipeline, linking the proposed port of Lamu through northern Kenya to South Sudan and Ethiopia. This is known as the LAPSSET project. The Environmental and Social Impact Assessment was completed and approved in 2014 and the contract for the construction of the first three berths was signed on 1 August 2019 with a Chinese company. The project was delayed by a petition filed by ten residents of Lamu before the High Court in Nairobi (Petition 122 of 2012 *Mohamed Baadi and Others V the AG and Others*). The residents' case was that the project would contribute to biodiversity loss, deforestation and loss of vegetation cover, displacement

without adequate compensation, loss of livelihoods, loss of traditional knowledge, the violation of human rights and social problems.

Six years after the petition was first filed in the Court, a five-judge bench issued a seminal judgment on 30 April 2019 declaring that the planning and construction of the Lamu Port have violated the constitutional rights of Lamu residents, including the right to a clean and healthy environment, cultural rights, right of access to information, and participatory rights. Although the port construction was not halted, the project proponents and the environmental regulator were directed to involve the Lamu county government in the conceptualisation and implementation of the project. It affirmed the importance of public participation and required the development of a public participation programme to incorporate and address the concerns of the Kenyan citizens. Furthermore, it expressed the importance of the Environmental Impact Assessments and Strategic Environmental Assessments as tools for environmental consideration in project implementation. Most importantly it upheld the right of the community in Lamu to a clean and healthy environment and to the protection and promotion of their cultural rights.

With a lack of jurisprudence that conceptualises the constitutional right to a clean and healthy environment, the decision of the Court has been invaluable in expanding the understanding in that area of law. The ruling itself is a strong first step towards ensuring more responsible and beneficial infrastructure projects to come. It echoes the fact that sustainable development requires respecting the public's right to a clean and healthy environment and meaningful public participation in the development of infrastructure projects.

“ This is a strong decision based on common sense. Before starting a massive project like LAPSSET, the government must identify economic, cultural, environmental, and human rights impacts of the project and work with communities to mitigate those impacts and protect unique resources. ”
- Jennifer Gleason, Environmental Law Alliance Worldwide.



The construction of the port in Lamu County, Kenya, violated constitutional rights and will impact the communities of Lamu for generations to come. A court case brought to challenge this has reiterated how important it is to include community consultation in the conceptualisation and implementation of development initiatives.

Lamu Coal Plant litigation, Kenya: In 2014, Amu Power in Kenya won a bid to operate the first ever coal fired power station plant in East Africa, to be built in Lamu. This was appealed by Save Lamu, a community-based organisation, and five Lamu residents representing the interests of a vibrant and diverse community that has called Lamu Island home for centuries. Natural Justice supported the litigation team who were representing the Lamu challenge. The appeal filed at the National Environmental Tribunal (NET) (Appeal case 196/2016 *Save Lamu and Others Vs Amu Power Company Ltd and National Environment Management Authority (NEMA)*) was against the granting of an Environmental Impact Assessment Licence by NEMA.

The residents challenged the flawed process in which Kurrent Technologies Ltd, appointed by Amu Power to conduct an Environmental and Social Impact Assessment Study, contravened constitutional and legal provisions that guide the conduct of this process. Besides the lack of adequate public participation, other key objections to the granting of the licence includes the weak economic justifications given to back the plant; misrepresentation of air quality data to downplay the health impacts to the nearby population; adverse climate change impacts; cumulative impacts with several development projects taking off in the area; and the potential polluting of the water sources and marine environment surrounding the plant. After a two-year long court process, both parties filed submissions between November 2016/December period. The long-awaited decision was delivered in June 2019 revoking an Environmental Impact Assessment (EIA) Licence.



For those living in Lamu Town in Kenya, the construction of a coal-fired power station in Lamu could have adverse impacts on their livelihoods, environment and way of life. The communities have come together to stand against its construction.

Statute Law amendments, Kenya: On 13 November 2017, the National Assembly in Kenya published the Statute Law (Miscellaneous Amendment) (No. 3) Bill which makes minor amendments to various statutory provisions; particularly sections 125 (1) and (5) of the Act. The effect of this was to take away the powers of the Judicial Service Commission to appoint the Chairperson of the National Environmental Tribunal (NET). With respect to the Environmental Management and Coordination Act (EMCA), the Bill also sought to amend Sections 129(3)(c) and (d) and (4) of the Act, to require any person or group bringing a challenge to the NET to apply for an injunction on any contested projects, as opposed to the NET bringing an automatic injunction, and to have the amended section apply retrospectively thus requiring parties to make

fresh applications for a stay order to maintain the status quo of any matter or activity that had already been subjected to an appeal.

This would have far-reaching effects on the constitutional obligation of the State to protect the environment, the right to a fair hearing, the constitutional functions and independence of the judiciary and more specifically, the independence of NET; particularly because the amendments effectively amend the Constitution and the Judicial Service Act No. 1 of 2011 with regards to the provisions on the independence of the judiciary. A Petition was filed in the High Court of Kenya in Nairobi to challenge these amendments and we await the outcome.

Legal Empowerment Programme, Kenya: The legal empowerment programme in Kenya aims to create a network of legally empowered people who can resolve environmental issues caused by major projects. It aims to build local resources, knowledge and capacity and reduce a community's dependency on lawyers or legal researchers. Paralegals form an important component of the programme.

Extractive industry projects have a greater impact on communities and their environments through development-induced displacement, the conversion of commons lands used for multiple livelihood uses to industrial, infrastructure or mining, and intense impacts on the environment through degradation and pollution. Although there are laws that are supposed to support communities and their environments, often they are disregarded and undermined by state agencies. They either implement the law inadequately, or implement it in a manner that defeats the original intent of the law. Communities not only remain largely or completely unaware of their rights and environmental regulations that are supposed to minimise and mitigate impacts borne by them, but also lack the capacity to use them to ensure compliance and hold regulatory institutions and proponents accountable to these laws. Further, the effectiveness of the overall legal framework is further undermined by gaps and overlaps between laws and their implementing institutions.

Through legal empowerment, the paralegals, otherwise referred to as Community Environmental Legal Officers (CELOs), work with affected communities and local organisations to increase legal compliance and file complaints in instances of non-compliance. Each complaint brought



Natural Justice and Malindi Rights Forum during an information-exchange. Malindi Rights Forum currently hosts two Community Environmental Legal Officers and works closely with Natural Justice as a partner in Kilifi County, Kenya.

to the CELO is solved with the affected community members. The process includes monitoring, collation of evidence, citing relevant law, as well as drafting letters to administrative bodies and embarking in dialogue. Consequently, the data collected by the paralegals is aggregated and used to examine the nature of impacts, how the relevant environmental law has responded and the type of remedies that are available.

The Natural Justice paralegals continued to train communities, county members and officials on land and environmental laws, with regards to a number of projects which their communities are impacted by: including salt projects, port project, road projects, energy projects, like the Lamu coal plant and oil and gas projects. CELOs also create general awareness on the pipeline project and the LAPSET land acquisition processes - both which are described in this report.

In a bid to sustainably expand the legal empowerment programme, Natural Justice partnered with the Malindi Rights Forum, a community-based organisation in Marereni, Kilifi County, to use the paralegal methodology. Natural Justice trained two paralegals to subsequently work with Justus Tsofa, a CELO working in Kilifi County, to assist communities affected by the salt companies in the area.

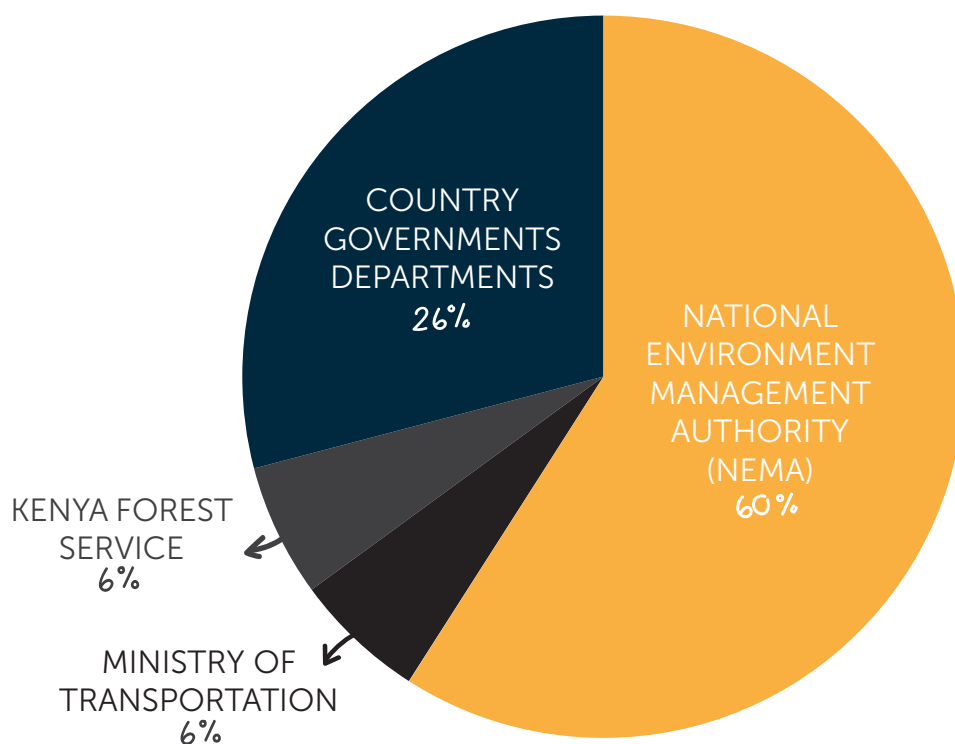


Chart: The chart depicts the work undertaken by the community environmental legal officers in solving cases. In 2019, 25 access to information letters were sent to the administrative institution.

“17 complaint letters were filled with different administrative offices”

Paralegal capacity-building, Kenya: Our paralegal in Kilifi, Justus Tsofa, participated in the first learning exchange focused on environmental justice that was organised by the Global Legal Empowerment Network and hosted by Namati’s country programmes in Sierra Leone and India. He visited communities affected by mining and large-scale agriculture projects, shared experiences and lessons on environmental justice strategies in use in Africa, and discussed



Justus Tsofa is the Community Environmental Legal Officer in Kilifi County. Here he shares a moment with one of the community members he is working with to challenge environmental injustices in the salt industry.

tactics for high-level advocacy. In addition, our paralegal in Lamu, Saidi Salim, participated in a legal empowerment training with mining-affected communities in Zimbabwe.

Legal and Policy, Kenya: Communities are rarely meaningfully involved in drafting legislation that is relevant to their environment and ways of life. In this regard, Natural Justice works with communities to provide recommendations to government or regulatory authorities on improvements to Extractive Industry-related laws, regulations and systems to improve environmental decision-making for affected groups. This is done through sharing information on laws, assessing and commenting on relevant Project Environmental Impact Assessments (EIAs) and License Conditions in Kenya, and making written submission to relevant regulatory authorities. Supporting communities we work with, Natural Justice Kenya made seven submissions to the National Environment Management Authority on various EIAs. It also made

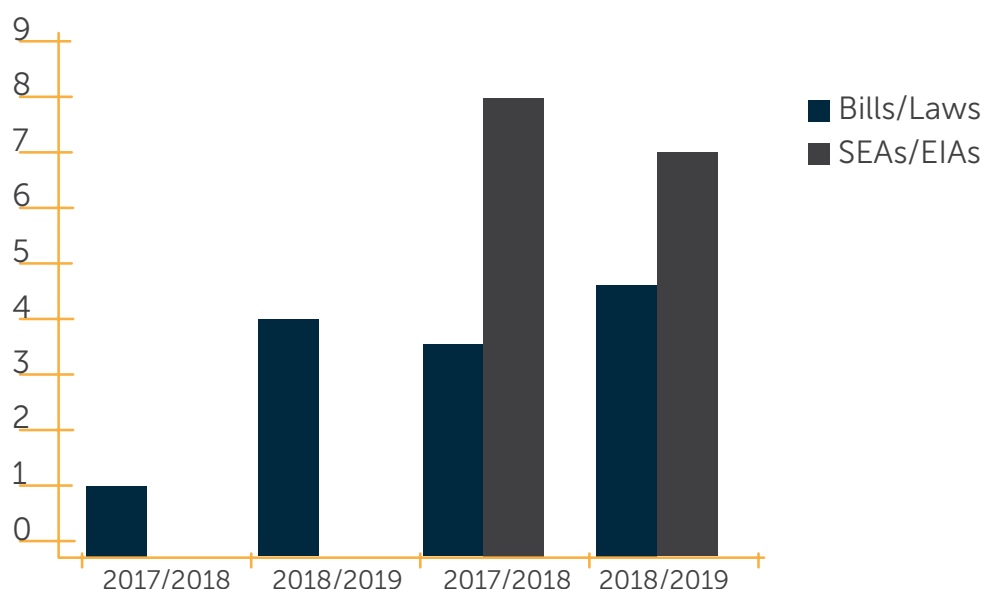


Chart:



The environmental impact of the mining in Zimbabwe can be seen in the photos taken as part of a monitoring exercise.

submissions to Parliament on the Land Value Index Bill, the Public Participation Bill, the Community Groups Draft Bill, the Energy and Petroleum Bill, as well as before NEMA on the Draft Environmental Impact Assessment Regulations.

UPDATES: ZIMBABWE

Marange and Arda Transau, Zimbabwe: Natural Justice worked with community-based organisations in Marange and Arda Transau to launch the completed Biocultural Community Protocol (BCP). Community members developed and prioritised plans of action extracted from the BCP and centred around different thematic areas. Importantly, some of the community partners from trusts and the Zimbabwe Diamond Allied Workers Union also developed their own plans of using the BCP. The process of drafting the BCP also received media attention. Copies of the BCP were also provided to different government, council and parliamentary stakeholders.

The protocol opened up discussions over



Marange, Arda Transau and Penhalonga community members sharing their experiences on the development of the environmental audit and community protocol.

CASE STUDY: LEGAL EMPOWERMENT IN ZIMBABWE

Penhalonga, Zimbabwe: The Penhalonga community completed their environmental audit focusing on the mining impacts of the Redwing Mine and DTZ-OZGEO on their community and the environment. During the process of developing the audit, the community engaged with and filed complaints with the environmental regulatory authorities and administrators, including the Environment Management Agency (EMA), Mutare Rural District Council (Community Social Services Department), as well as the local councilor and a Member of Parliament.

The legal empowerment process involved community legal training and education, localised community organising of small groups and engaging regulatory and administrative authorities using access to information letters and complaint letters. The process helped affected community members develop concrete legal and administrative solutions to daily environmental justice problems. Through a step-by-step process, community members managed to obtain small and big wins in a context where there was arbitrary enforcement and compliance with environmental laws. Some of the wins include having EMA inspect the Redwing mining site alongside community members who pointed out various environmental violations. These included poor dump management, dust pollution from mine tailings, and discharge of effluent into Mutare River, amongst others.

Due to this, Redwing was imposed with compliance conditions to remedy the dust pollution that affected the community. Redwing purchased and installed a dust suppressant in the form of a water pump. The structured engagement with regulatory authorities through launching community complaint letters and community access to information letters resulted in increased responsiveness of regulatory authorities.

Through the legal empowerment process, Penhalonga community members are no longer passive recipients of development but are able to hold duty bearers accountable, and ensure enforcement and compliance with environmental laws and regulations in order to defend their environment and community. The community will continue to engage regulatory authorities to obtain remedies for other environmental challenges in collaboration with the Centre for Natural Resource Governance.

You can access the community audit [here](#)

community priorities and concerns over diamond mining impacts. The engagement processes were carried out in collaboration with the Centre for Natural Resource Governance (CNRG) who are using the protocol and the legal empowerment approach in community stakeholder dialogue, particularly on environmental justice concerns.

You access the BCP here

Legal Empowerment Launch, Zimbabwe: Natural Justice carried out a legal empowerment training and launch for ten mining affected communities around Zimbabwe in collaboration with the Centre for Natural Resource Governance (CNRG). Communities in attendance were Marange, Arda Transau, Penhalonga, Hwange, Mazvihwa, Zvishavane town, Mberengwa Mpalawani, Mbire, Chivi, Shamva and Matepatepa. Various organisations that attended included the Christian Legal Society Zimbabwe, Muonde Trust and others.

The training and launch were organised to strengthen the capacity of grassroots organisations and civil society organisations to use different legal empowerment tools and interventions in the form of community-led environmental audits and community protocols in pursuit of environmental justice. Marange and Penhalonga community members also presented their completed environmental audits and community protocols, and gave a narration of their journey and achievements. The Legal Empowerment Launch received some media attention. The training roused interest from different organisations present such as the Christian Legal Society Zimbabwe who will be collaborating with CNRG in carrying out similar legal empowerment work. Muonde Trust, who are also working on their own community protocol, gained more insights into the process.

Strategies Research, Zimbabwe: The Quantitative aspects of the Strategies Research was carried out as well as Qualitative Research. The research aimed to investigate the different strategies used by Civil Society Organisations and community groups to remedy the impacts of extractive projects. Research involved travel to mining affected communities to carry out interviews with affected communities and community-based organisations. Communities engaged with are Kwekwe, Bindura, Kadoma, Shamva, Shurugwi, Zvishavane, Hwange, Penhalonga and Marange amongst other mining affected communities. The first draft of the Strategies Research has been compiled and is being reviewed by CSO organisations that collaborate with Natural Justice. Thereafter the final edit will be done followed by publishing and distributing the research. A Study on Environmental Impact Assessment practice in Zimbabwe's mining sector was completed. The study focused on two case studies, Marange and Penhalonga where there is diamond and gold mining respectively and assess - communities participation in the process, level of compliance with the EIA regulation and level of enforcement by the relevant regulatory body. The study is undergoing the final edit and layering and will be published and distributed in 2019.

UPDATES: GUINEA

Open-cast mining, Guinea: In Guinea, Natural Justice is operating within the partnership framework established by the 11th Hour Project, the grant-making arm of The Schmidt Family Foundation. We are assisting two communities affected by open-pit bauxite mining companies in the Boké region: The Boké community is affected by Société Minière de Boke-Winning Africa Ports (SMB-SWAP), a Guinean joint-venture mainly owned by investors from China and Singapore. The communities are complaining about several drastic impacts. We are undertaking a ground truthing, or community auditing, process of the major mining impacts. These include environmental impacts, such as the destruction of water sources and scarcity of drinking water, the loss of agricultural lands, and the proximity of mining quarries to the villages, which are contributing to high levels of air pollution and noise. They also include socio-economic impacts such as the lack of compensation and unjust compensation for land and natural resources losses, as well as the lack of employment opportunities for the youth. The community audit is

covering ten villages impacted by the mines, the mining roads and the ports established by SMB. Carried out in collaboration with Association Mines Sans Pauvrete (AMSP), the community audit has been combined with a participative mapping process that provides a deeper understanding of the meaning and relevance of available and lost natural resources for the community. Both the community audit report and the maps will be integrated with other components of the partnership programmes, such as those carried out by AMSP, l'Association pour le Développement Rural et l'Entraide Mutuelle en Guinée (ADREMGUI), Human Rights Watch and the China Accountability Project.

The second case involves communities from Sangaredi who are affected by Compagnie des Bauxites de la Guinée (CBG) who has been present in the region since 1973. Natural Justice started a biocultural community protocol (BCP) with ADREMGUI as the local partner. The BCP covers eighteen villages affected by more than four decades of devastating mining activities. The aim is to reinforce the communities' legal knowledge and to equip them with appropriate tools and strategies to assert their rights over their ancestral natural resources.

The BCP will help to strengthen the communities positions during a mediation process between them and CBG, which will be carried out by the International Finance Corporation (IFC) Compliance Advisor Ombudsman (CAO), and facilitated by our partners, the Centre de commerce international pour le développement (CECIDE), ADREMGUI and Inclusive Development International (IDI).



The women in Boké are struggling to find adequate drinking water and are pictured here queuing for and fetching water from a small stream.

We are also carrying out a participative mapping of the communities' natural resources that existed before and after the arrival of the mining company. The mapping has helped to assess the magnitude of the communities' losses in terms of agricultural lands, water and other natural resources. The participative maps are to be used for the CAO mediation and other advocacy strategies.



The community of Sangaredi map out their community resources as part of the Biocultural Community Protocol process.

UPDATES: SENEGAL

In the beginning of its work in Senegal, Natural Justice carried out a baseline study with two components. The first component presented the legal framework and the institutional landscape of the extractive and infrastructure sectors in Senegal. The second highlighted critical issues and mapped the different projects, actors and dynamics that prevail in the implementation of these frameworks, as well as the strategies used to seek remedies for environmental impacts and communities' rights violations. Although being an internal process, this study facilitated the identification of the cases where we could bring added-value to the work already done by the well-established civil society organisations in the country.

Bargny Coal Plant, Senegal: The community of Bargny, in the south-east of Dakar, faces the impacts of a 125MW coal power plant, including severe cumulative impacts on the quality of air, the sea water and marine environment, and land rights. A traditional fishing community has been living on the coast for generations and the project has drastically affected the economic opportunities of the fish dryers, especially the women, and the availability of drinking water, and caused them several social and cultural harms.

Working closely with Réseau des Associations pour la Protection de l'Environnement et la Nature (RAPEN), which is a network of diverse environmental grassroots organisations in the area, we have launched a community audit that aims to collect the diverse impacts of the coal plant which started operating in November 2018. As the Senegalese government and the other proponents of the project received funding from the African Development Bank, the community of Bargny have been fighting against the coal plant for more than five years through a compliance process by the Independent Review Mechanisms (IRM). The result of that process was the development of an action plan for the mitigation of the impacts. This has been firmly rejected by the community. RAPEN is resolutely determined to engage into a litigation strategy at a national level with the assistance of Natural Justice. While carrying out the community audit, we are currently working on the strategy and the legal arguments for the litigation process, analysing the Environmental and Social Impact Assessment in collaboration with Environmental Law Alliance Worldwide (ELAW), and preparing an economic analysis of the coal plant to assess its suitability within the current energy trends and developmental orientations in the country. This work is being carried out in collaboration with Greenpeace, Action Solidaire and Lumieres Synergies pour le Development, with the financial support of Heinrich Böll Stiftung.

Mboro Phosphate and Chemical Industry, Senegal: We are working on behalf of a community impacted by Industries Chimiques du Senegal (ICS), which is mainly owned by Indorama and which mines phosphate and supplies phosphate fertiliser products in Mboro. The communities in these areas have been impacted for over half a century by environmental and health problems, loss of agricultural lands, pollution of air, and the contamination of the sea water by chemical wastes being directly reversed into the sea by the company. After a recent gas leakage that caused serious health problems and damage to crops, we partnered with Plateforme Mboro SOS (PMS), a local movement mainly composed of youth, to launch a community audit of the impacts and carry out scientific testing to build a strong evidence-based advocacy strategy for this case.



Phosphate mining in Senegal is leading to environmental destruction, which the community of Mboro is challenging through the support of Natural Justice.

RESEARCH & PUBLICATIONS

Blood, Sweat and Tears: Community Redress Strategies and their Effectiveness in Mitigating the Impacts of Extractives and Related Infrastructure Projects in South Africa: 2008-2018

"Blood, Sweat and Tears" is based on research conducted on communities' responses to mining and the extractive industries in South Africa. The report tracks strategies used by communities (and their civil society partners and others) to challenge components of these developments and operations, and mitigate the impacts that the communities experience. An effort was made by the authors of the report to also consider the effectiveness of different strategies. The take-home message regarding effectiveness is that, although communities' concerns were in most cases acknowledged, the impacts did not stop and the remedy being sought was not achieved.

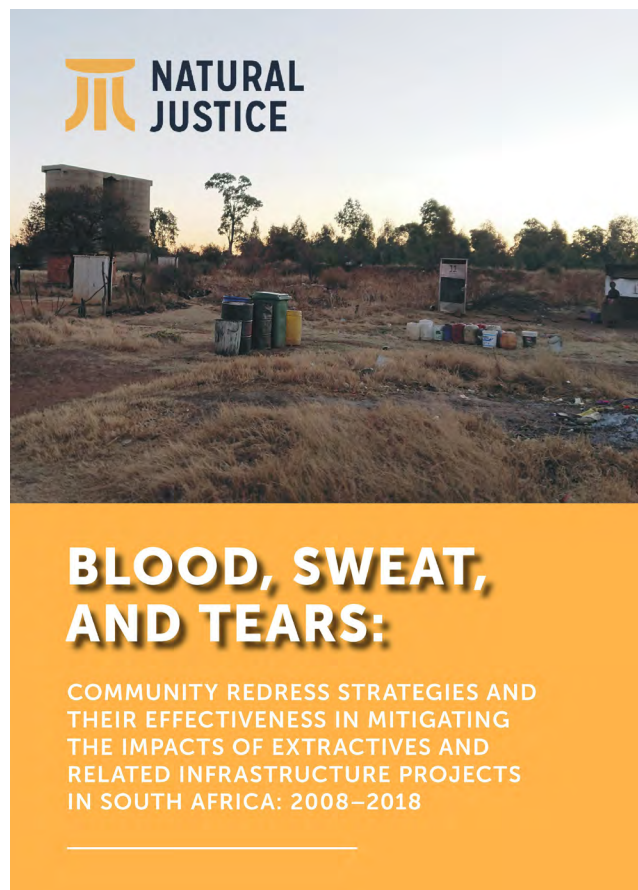
You can read the report [here](#)

Penhalonga Community Environmental Audit Report

Penhalonga is in the Manicaland Province of the Eastern Highlands of Zimbabwe. Gold mining

is one of the oldest livelihood activities in Penhalonga. However, it was during the last century that mining in Penhalonga became formalised, led by big business. This has altered the community's landscape and environment due to environmental laws and regulations not evolving at the same pace that mining was developing. The community environmental audit, also known as a ground-truthing report, is a process of examining the compliance of companies with laws, regulations and project certificate conditions. The community environmental audit was undertaken over 16 months with members of the Penhalonga Community.

You can read the report [here](#)



Marange and Arda Transau Community Protocol

The diamond mining activities in Marange and the forced relocation of the surrounding communities to Arda Transau have been continually violating the environmental, economic, social and cultural rights of the Zimbabwean communities of Marange and Arda Transau collectively. They resolved to develop a community protocol to set out their

concerns and community priorities to ensure their rights and dignity are respected. The process to develop the protocol began in 2014 and has consisted of meetings with over 4000 people over a period of three years. The communities collected the views of other members and then collectively agreed on the key issues that they wanted addressed. The communities wish to use this community protocol as a communication tool with government, companies and other stakeholders.

You access the BCP [here](#)

The work of Natural Justice is funded mainly through grant funding, which accounts for almost 95% of total funding received for the 2018-2019 financial year. In prior years, around 30% of our funding base came from consultancy partnerships and technical support to governments and/or research institutions. Over the past 5 years, we've seen some financial highs and lows, due, in part, to some of our organisational changes, but steadying in the last two years. Other funding received includes support from donors for travel and participation in international meetings, as well as donations from individuals.

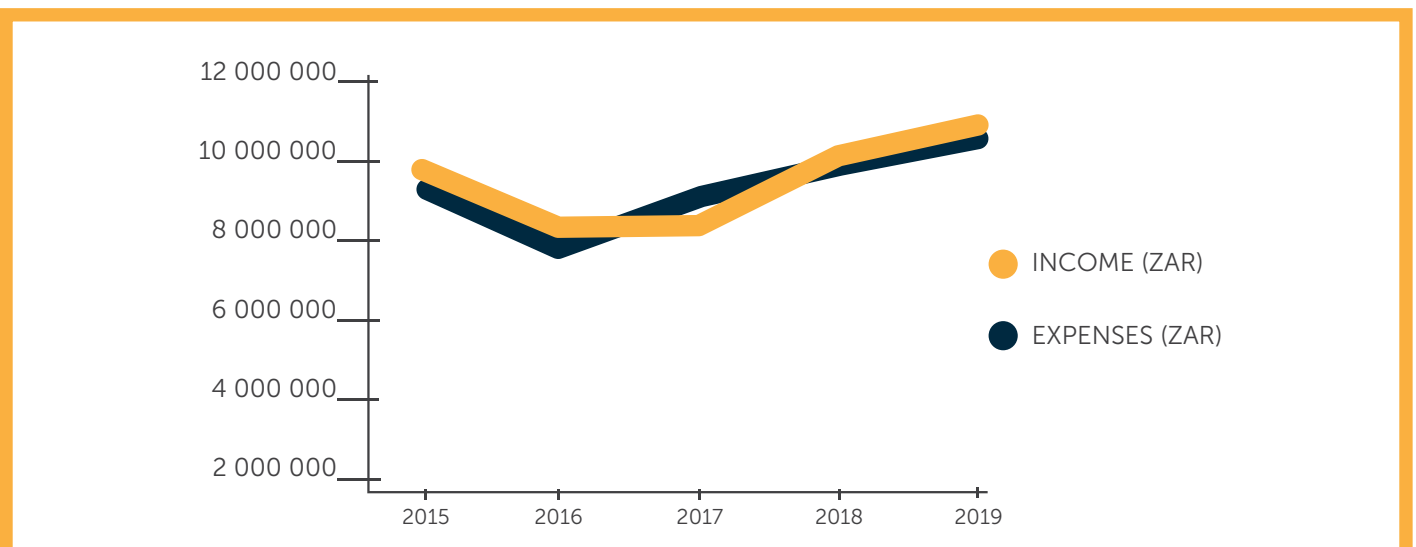


Chart: Yearly Cashflow 2015-2019

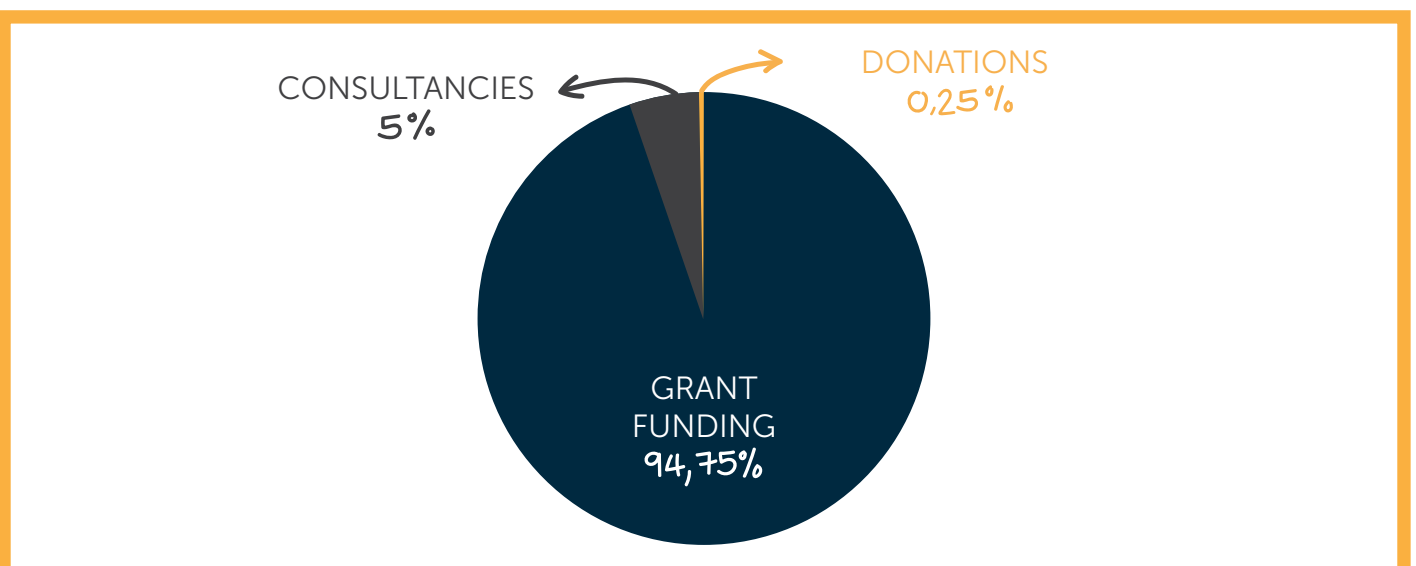
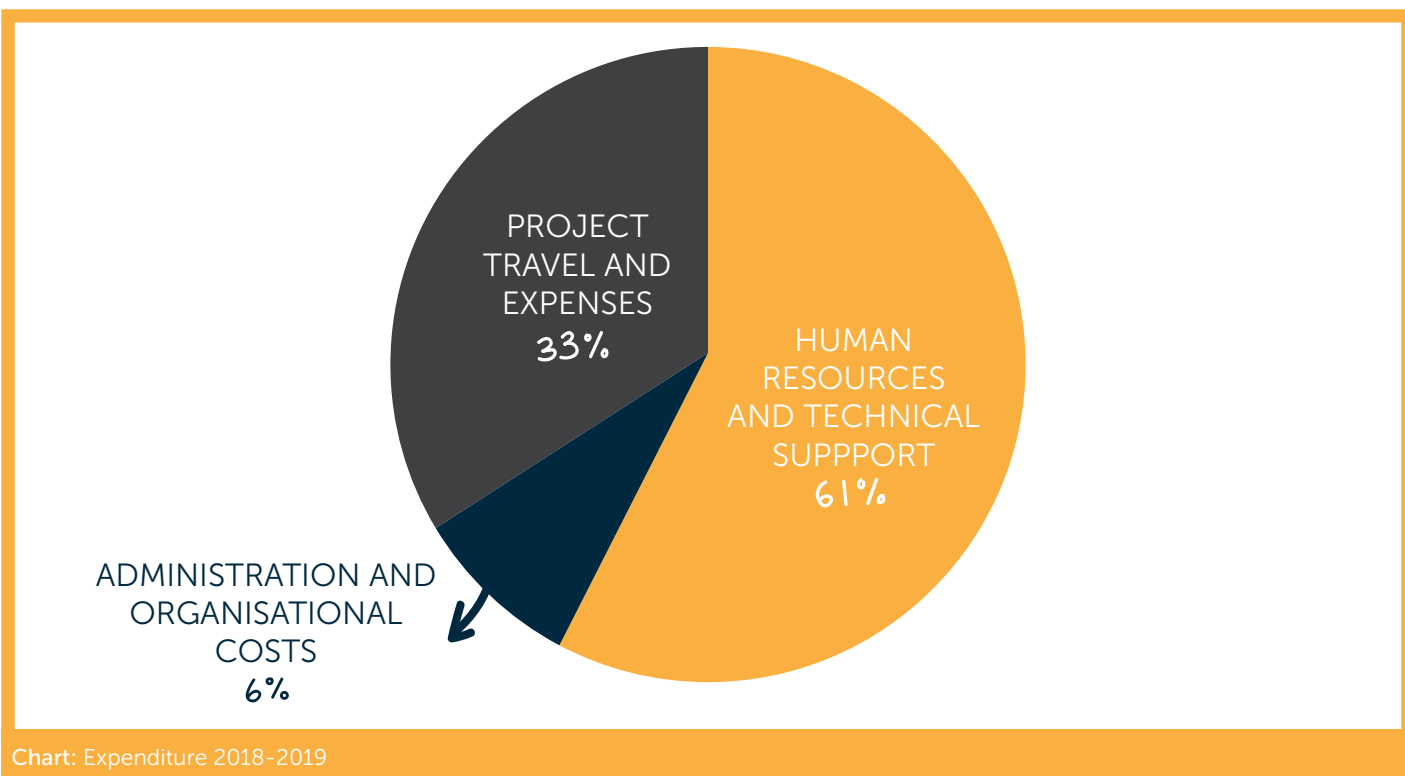
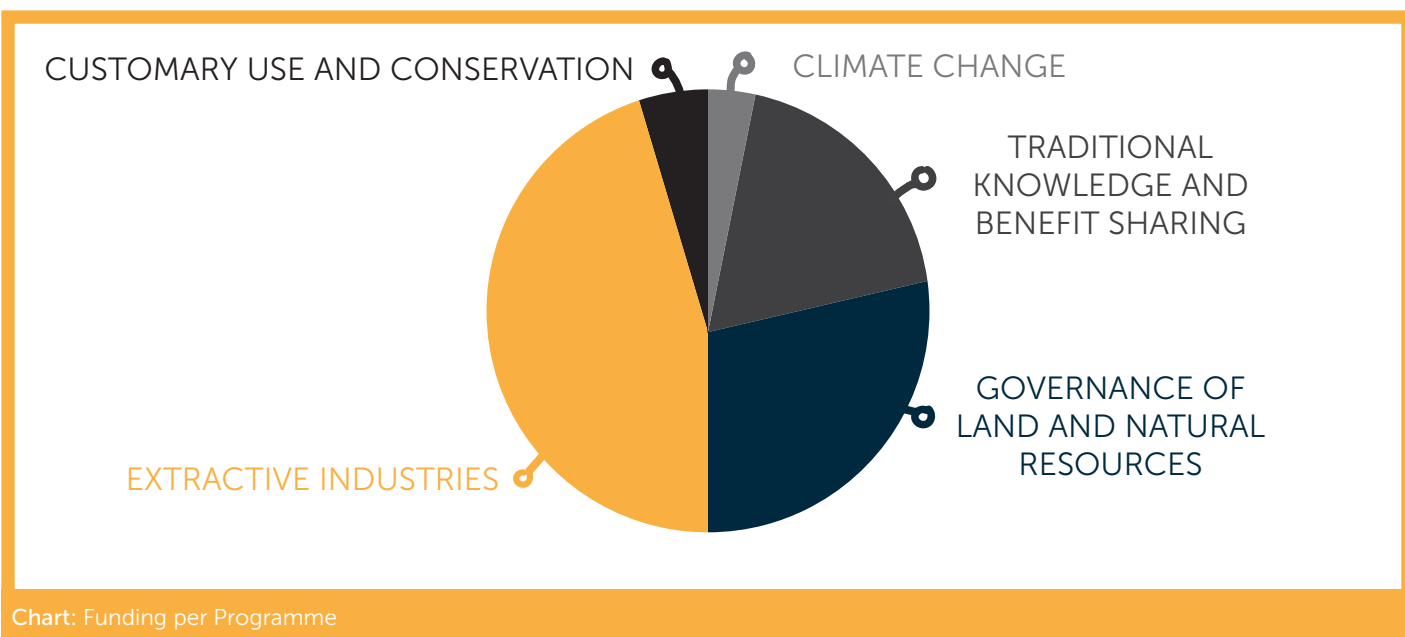


Chart: Funding Sources 2018-2019

The funding we receive supports our work with Indigenous Peoples and local communities and the environment, through activities across 5 focus areas, including legal empowerment initiatives, environmental impact assessment activities, and research projects, to name a few.

The Natural Justice team, geographically dispersed across Africa, in the Southern, Eastern and Francophone Africa regions, including Madagascar, work directly with communities and on environmental issues. Their time and efforts are supported by the funding that we receive, including administrative and overheads support.



Without the contributions from our donors and partners, we would be unable to do what we do. We are deeply grateful for their ongoing support.

This financial summary is based on the audited financial statements by Mazars. A copy of the full statement is available upon request.

BOARD MEMBERS

Natural Justice Board members for the 2018/2019 financial year were:

- Hennie van Vuuren
- Loretta Feris
- Hadley Becha
- Kanchi Kohli
- Eileen de Ravin
- Laureen Manuel (ex-officio)
- Pooven Moodley (ex-officio)

STAFF

Pooven Moodley: Executive Director
 Laureen Manuel: Chief Financial & Operations Officer
 Lesle Jansen: Hub Director, Cape Town
 Gino Cocchiaro: Hub Director, Kenya
 Barbara Lassen: Programme Director, Traditional Knowledge & Benefit Sharing
 Cath Traynor: Programme Director, Climate Change
 Harry Jonas: Programme Director, Conservation and Customary Use
 Johanna Von Braun: Executive Director
 Fatima Diallo: Programme Manager, Extractives & Infrastructure
 Jazzy Rasolojaona: Programme Officer: Traditional Knowledge & Benefit Sharing
 Programme
 Candice Pillay: Programme Manager, Extractives & Infrastructure
 Allan Basajjasubi: Lawyer
 Ilse Booysen: Bookkeeper
 Yanga Mvakwa: Funder Administrator
 Jacqui Damons: Funder Administrator
 Sinxolo Delanto: Funder Administrator
 Claire Martens: Senior Communications Officer
 Rose Birgen: Senior Programme Officer
 Judith Kamau: Administration Officer
 Edna Odhiambo: Programme Officer
 Cicillia Githaiga: Programme Manager
 Rashid Karayu: Community Environmental Legal Officer
 Dalle Abraham: Community Environmental Legal Officer
 Said Salim Said: Community Environmental Legal Officer
 Justus Tsofa: Community Environmental Legal Officer
 Abdi Rashid Roba: Community Environmental Legal Officer
 Popo Charo Gona: Community Environmental Legal Officer
 Florence Mramba: Community Environmental Legal Officer
 Anad Mohamed: Community Environmental Legal Officer
 Kaman Koulemou: Legal Researcher
 Lorraine Chiponda: Legal Researcher
 Emmanuel Siakilo: Research Officer

CONSULTANTS

Fadzai Mutavayi
Mahamat Atteib: Legal Consultant
Oumar Diallo: Legal Consultant
Johnlyn van Reenen: Consultant: EI Programme
Christy Bragg: Consultant: Ecosystem based adaptation

FELLOWS

Ivan Vaalbooi: Indigenous Fellow
Angela Mutsotso: Legal Fellow
Eva Okoth: Legal Fellow
Shaun Dunn: Legal Fellow
Job Morris: Legal Fellow

ASSOCIATES & INTERNS

Jainan Xu: Intern, Cape Town
Anne Njoroge: Intern, Kenya
Bushra Zaheer: Intern, Cape Town



REFLECTIONS Indigenous Fellow 2018: Ivan Vaalbooi

“ Working with the Natural Justice team has allowed me the space to learn and understand the deeper value of our indigenous people. ”

As another chapter in my young life is coming to an end, I would like to appreciate the moments I have shared with so many people. Today marks my last day in the offices of Natural Justice, an organization which I have come to love and appreciate for their human rights approach and their vision for indigenous peoples' rights.

I walked into the offices mid-June 2015, a young and lost San child from the Kalahari trying to find my feet in the big city of Cape Town navigating my way through studies and being able to survive in this busy city. Coming from the Kalahari, this was, and still is, an immense challenge. NJ had much patience and understanding for my situation.

Working with the NJ team has allowed me the space to learn and understand the deeper value of our indigenous people and has given me the window of observation as to how other groups deal with their challenges. It made me realize that so often we are looking for what we don't have, instead of appreciating what we do have, and to use that to our advantage to better our lives and those of our peoples.

During my time at NJ I had the opportunity to walk the footsteps of !Uxe Vaalbooi. I met people who spoke very fondly of him. People I have come to learn a lot from, places I visited with them, where we could sit down and share various ideas and experiences. As I end of this era with NJ, I would like to take a moment and thank each and every leader, traditional healer, academic, lawmaker/changer, activist out there. People I have met and that I have learned from. Thank you

so, so much for allowing me the opportunity to see life and opportunity, and the richness of culture and language, and indigenous rights through your eyes.

Special thanks to my NJ family for taking in a lost Kalahari child and providing him with all these opportunities. More specifically, thanks to Lesle Jansen who took a shot with me, when all seemed lost. Your continued support and teachings have shown me a greater side of life I never knew existed. Thank you so much for that.



“My work is not ending here. But this is just the beginning.”



REFLECTIONS

International Fellow: Jia'nan Xui

I really appreciate Natural Justice for offering me an internship opportunity with their Cape Town Hub within the Climate Change Programme and the Governance of Lands & Natural Resources Programme. I am an undergraduate student from the University of Toronto International Development Studies Program...Thanks to my relatively long stay in NJ, I was able to immerse myself quite deeply in the organization's work. Now I truly realize that in the "real world" developmental problems are highly complex and nuanced, and human rights advocates still face a lot of misunderstandings within mainstream society.

" The first thing I felt after I joined Natural Justice is that human rights abuse is never just a constructed concept for political manipulation. It is a problem that is truly happening on the ground every day. "

For most of the indigenous and local communities I have visited in the past ten months, people are still struggling to access basic resources and infrastructure for their livelihoods. Their requests for basic living standards and equal development opportunities, however, are often regarded and condemned as threats by large conservation projects, and public security campaign, due to the lack of communication and social stigmatization. The phobia or hatred towards poor local communities and human rights activists should be challenged immediately.

Secondly, human rights advocates can adopt mixed approaches. Hard approaches like legal litigation is never the only way and should not be the only way to eradicate human rights abuses. The human and environmental rights lawyers in Natural Justice taught me how to facilitate alternative dispute resolutions between communities and external stakeholders, like government, conservation agencies, and transnational corporations. I also learnt that sometimes,

inappropriate approaches of human rights advocates, although well-intentioned, can create more friction and tension between vulnerable communities and powerful stakeholders, and have detrimental impacts upon the communities. Becoming conscientious towards power dynamics and adopting locally appropriate 'soft' approaches is one of the most important lessons I learned from Natural Justice.

In addition to all the invaluable lessons I learned, I also had a lot of personal reflections and questions at the end of my placement. My family and friends around me always have a perception of me doing charity work for an African grassroots NGO. Or another opinion could be that as a scholar graduate from a famous western academic institution, my research skills would be under-utilized or undervalued working within a relatively small organization within developing countries. In fact, the truth is that the Natural Justice is such a professional team, which deals with a lot of complicated legal contracts and policy recommendations at the local, national and international levels.

“I am confident to say that I have benefited more from working for Natural Justice, than Natural Justice could get from me.”

My academic and technical skills have never been undervalued for doing community work with an NGO. It is the roots in the communities that allows Natural Justice to produce the work that delivers concrete and earthy benefits for marginalized groups which many large institutions could seldom achieve. So why would people usually link smaller, southern NGOs with a sense of informality? Why would the NGO be regarded as a place where young professionals go for resume building and then leave for better alternatives in the global-north? Does pursuing public interests in the NGO sector necessarily equal to being financially drained?

I do not have answers for the questions mentioned above yet. But with the awareness of the 'otherness' towards indigenous, local communities and community-based NGO in the mainstream society, I know I would be able to walk further on the career path of development work.



CONVERSATIONS

ABS CAPACITY DEVELOPMENT INITIATIVE

Natural Justice has been a partner to the ABS Capacity Development Initiative since our inception. The ABS Initiative is supported by a number of donors and has been essential to Natural Justice's work to support communities in concluding Access and Benefit Sharing agreements for key resources. We spoke to Tobias Dierks, Communications Officer from Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), about their role in implementing this crucial international tool and how they have supported Natural Justice in implementing it with the communities we work with.

Can you provide us with a little background to the Access and Benefit Sharing Capacity Development Initiative

Established in 2006, the ABS Initiative supports the development of the legal and administrative framework for the benefit-sharing objective of the Convention on Biological Diversity and its Nagoya Protocol at a national level and helps actors to establish ABS compliant value chains that involve all relevant stakeholders - in particular Indigenous Peoples and Local Communities (IPLCs), public research bodies, the private sector, and non-governmental organisations.

The project raises awareness on Access and Benefit-sharing (ABS) among political decision-makers and provides support in formulating national legal and administrative regulations governing access and benefit-sharing, while incorporating civil society groups in these processes. It is also working with regional organisations to set up a transnational framework for the implementation of the Nagoya Protocol. Moreover, the Initiative offers training for users and providers of genetic resources and the related traditional knowledge, with the hope that IPLCs are equipped with the right knowledge to conclude ABS contracts in future.

Geographically, the Initiative is focusing but not limiting its activities on selected countries in Africa. Experience, findings and results obtained from this work will be passed on to other countries in Africa, the Caribbean and the Pacific.

Current donors are the German Federal Ministry for Economic Cooperation and Development (BMZ, also the host of the ABS Initiative), the Institut de la Francophonie pour le développement durable (IFDD), the Government of Norway, the Swiss State Secretariat for Economic Affairs (SECO), and the 11th European Development Fund under the ACP-EU Partnership Agreement.

For someone who may not know what ABS is, how would you describe it and what can it do for indigenous people, particularly?

Pretend you are a business person or a researcher who wants to gain access to specific plants and animals that my community claims to own. My community is in another country and gives you access to its resources and shares the traditional knowledge about their medical or cosmetic value, for instance. In return, you give us a share of the profits made by, after intensive research, commercialising the product you derived from these resources. Or your benefit-sharing may be of non-commercial nature. In that case, my community would receive training, specific technology or other means that would further our development. You also promise my government a form of benefit, well defined in advance. You, my community and my government negotiate the terms of this deal. This agreement is legally binding. If one of us does not comply with the obligations contained therein, the other party can file a lawsuit.

“ The Protocol is without a doubt a major milestone in the efforts to ensure justice in the protection and sustainable use of genetic resources worldwide.”

This ideal process, of course, will only work if my country has ratified and implemented the Nagoya Protocol on ABS and if IPLCs are legally recognised as providers of the resources. The Protocol is without a doubt a major milestone in the efforts to ensure justice in the protection and sustainable use of genetic resources worldwide. If implemented on a national level, it enhances legal certainty and transparency for all actors involved and supports socio-economic development. The Protocol also explicitly encourages countries to involve IPLCs as owners or custodians of genetic resources and holders of traditional knowledge in the agreement processes.

According to the ABS Initiative, how successful have ABS agreements been since the development of their framework?

There exists a range of benefit-sharing agreements worldwide but only a minority meets the expectations of the actual providers, involved government institutions and other relevant stakeholders. The reasons are multilayered. Not many countries have implemented the Nagoya Protocol so far, and even if this is formally the case, in some cases the relevant institutions, such as the Competent National Authority, are not functional yet. Users entering a country to gain access to genetic resources are sometimes not sure who their counterparts ought to be. The existing regulations themselves might be unclear to users and providers of genetic resources alike. Often IPLCs neither know their rights nor do they have the skills to negotiate ABS agreements on a level playing field with users.

In short: enforceable and mutually beneficial benefit-sharing agreements are still relatively rare and thus multi-level capacity building is still needed. Nevertheless, the number of requests to enter into ABS agreements is clearly on the rise. Non-commercial research institutes and the private sector – from small and medium-sized enterprises to global players – have realized the potential of the Nagoya Protocol for sustainable value chains based on biodiversity. Some of

them approach the ABS Initiative directly for support or attend its training courses or workshops. In addition, the ABS Initiative will develop a blended learning tool for specific ABS contract training courses.

Can you briefly tell us how Natural Justice and the ABS Initiative began a partnership?

Andreas Drews and Suhel al-Janabi, the founders and co-managers of the ABS Initiative, met Kabir Bavikatte as a young outspoken activist for community rights in 2005 at the very first regional ABS workshop in Addis Ababa. Harry Jonas we knew as rapporteur for the Earth Negotiations Bulletin during the ABS Working Group and other Convention on Biological Diversity (CDB) meetings. Working as a rapporteur for the regional workshops of the ABS Initiative, Kabir quickly became a legal advisor to the African Group in the negotiation process towards the Nagoya Protocol on ABS. When Kabir and Harry launched and registered Natural Justice in 2008/2009, the ABS Initiative provided a support letter for the South African authorities. After the launch of Natural Justice, Kabir continued to work for the ABS Initiative and to act as advisor to the African Group. Notably, the ABS Initiative was among the first donors to provide grant funding to NJ for its work on Biocultural Community Protocols (BCPs).

What are some of the ways that Natural Justice's work has supported your mission as an initiative?

We could fill many pages with the benefits NJ brought to the Initiative, or better, to the IPLCs as custodians and owners of genetic resources and holders of traditional knowledge. The core of our cooperation is on BCPs, which the ABS Initiative considers to be a crucial tool for the inclusion of IPLCs in emerging value chains compliant with ABS principles. For this reason, the Initiative supported the African Biocultural Community Protocol Initiative (BCPI), co-implemented by Natural Justice. The BCPI explored ways to establish BCPs in order to secure community rights and to strengthen the position of IPLCs during ABS agreement negotiations.

Although the project ended in 2015, the ABS Initiative and Natural Justice are continuing their partnership to support BCP processes in several countries and share their lessons learned in international forums. In addition, both organisations are facilitating Traditional Knowledge documentation, global IPLC exchanges and, most recently, developing specific public awareness material for IPLCs (radio shows, picture stories etc.).

“ In a nutshell: NJ is our closest advisor and partner when it comes to training IPLCs on ABS-related topics and integrating them into relevant processes. ”

What do you think has been crucial to the success of your partnerships and how has Natural Justice provided this?

We do not even need to mention the outstanding expertise and experience of Natural Justice in building capacities of IPLCs in the field of ABS. This goes without saying. But what makes our partnership so valuable are the interpersonal relationships that consist of trust, mutual understanding and the shared principal idea that drives us: support IPLCs in assuming their rights and meeting their counterparts on a level playing field. Natural Justice covers the legal and cultural aspects of our work that we may not master a hundred-percent We wouldn't have been able to introduce BCPs to our capacity-building activities without them. Last but not least, we can hardly imagine any workshop or training course involving IPLCs without Natural Justice.



SAVE LAMU

Natural Justice is a partner of Save Lamu based in Lamu, Kenya, a community-based organisation at the forefront of the struggle to protect and preserve the integrity of Lamu in the face of ongoing development which is threatening the socio-economic, cultural and environmental integrity of this UNESCO World Heritage Site. We spoke to Khadija Juma, Communications Officer for Save Lamu, about Save Lamu and the relationship with Natural Justice.

Who is Save Lamu and why was the organisation started?

Save Lamu is a growing coalition with over 40 community groups in Lamu County. It engages communities and stakeholders in decision-making to promote sustainable and responsible development and preserve the environmental, social and cultural integrity of Lamu County. There are major development projects that are coming to Lamu, which includes Lamu Port South Sudan Ethiopian Transport (LAPSSET) corridor, oil and gas exploratory activities that are on-going and the proposed coal-fired power plant. These projects will cause environment, social and health risks to Lamu County

What do you think makes Save Lamu a unique organisation?

Save Lamu is a strong grassroots organisation which engages communities and stakeholders in decision-making on all matters that are affecting our County. The organisation comprises over 35 local organisations carrying different aspects affecting our community, which all fall under one agenda: fighting for people's rights, be it environmental, social or economic.

“ Save Lamu has a number of objectives to achieve; therefore one of the objectives of Save Lamu is to enhance partnerships between local, national and multinational groups to carry out any of our objectives. ”

How do Natural Justice and Save Lamu work together?

Save Lamu and Natural Justice has been working together as partners since the inception of our organisation in 2011. Prior to that, we had a lot of attachments with Natural Justice, whereby they initiated the Biocultural Community Protocol (BCP) which Save Lamu embarked on drafting during that period. We continue to work together.

What is the importance of partnerships to your work?

We partner with Natural Justice through collaboration in terms of legal support. We were able to work together with court matters pertaining to our objectives, advocacy, and lobbying, picketing and demonstration. Through collaboration and partnerships, Save Lamu got legal support from Natural Justice among many other partners who also engage in other activities in the fight against the projects proposed in Lamu.

What have been some of the key achievements of the Save Lamu and Natural Justice partnership?

There are a number of key achievements that we have attained through the meaningful partnership with Natural Justice. One of which includes the court verdict in March 2018 pertaining to the LAPSSET project. We won the case! The ruling provided compensation for the Lamu fishermen whose fishing activities were stopped with the dredging that took place at the LAPSSET corridor. The other success story is the coal petition against the coal-fired power plant. The third success story includes launch of the Biocultural Community Protocol (BCP). All this was achieved through collaboration and partnerships.

How would the ideal future for Lamu look like?

Lamu is a marginalized County. We need to open up our County in terms of investment, infrastructure, trade and commerce, and employment for the Lamu people. For the youth, in particular, they could benefit from the many programs running in Lamu, which includes the LAPSSET scholarship programs, and through getting an education. The future of Lamu will have a successful generation in decades to come, that will make Lamu an example of an economically successful County.

“And on the negative side, Lamu will experience a population explosion with the developing projects proposed in Lamu.”

Projects like the coal-fired power station threatens healthy development and the well-being of our homeland and this will negatively impact on the culture and lead to a moral erosion. As a result, Lamu could also lose political leadership and its true identity.



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