

# THE NATURAL JUSTICE ANNUAL REPORT



*\*Remembering Mzee Abubakar Al-Amudy*

**2019 - 2020**

Standing with communities for social  
and environmental justice

 **NATURAL  
JUSTICE**

# ACKNOWLEDGEMENTS

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**On the front cover:** On Sunday, 21 June 2020, we heard the news that Mzee Abubakar Al-Amudy, the Chairperson of Save Lamu, had passed on. Mzee Al-Amudy had been unwell for most of the year, and unfortunately, he succumbed to his illness. Mzee Al-Amudy was close to many of us at Natural Justice. We remember him well and continue to work closely with Save Lamu, an organisation he helped to establish and which he led for more than 10 years. Read our tribute here: <https://naturaljustice.org/tribute-to-mzee-abubakar-al-amudy/>

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\*Remembering Mzee Abubakar Al-Amudy

# MESSAGE FROM THE CHAIRPERSON OF THE BOARD

*Loretta Feris*

**The year 2019 was a significant year for Natural Justice in terms of its work in South Africa and Kenya. Some long-term empowerment processes came to fruition during the year, including the Rooibos agreement and the court win against the Lamu coal plant, and we see Natural Justice becoming a prominent civil society organisation working in Africa.**

During 2019, the new Board members, who include Makoma Lekalakala, Njoki Njoroge Njehũ and Lucy Mulenkei, settled into their new roles, bringing much insight and support to the board. They have also been of great assistance to Natural Justice in terms of their speaking roles and contributions to panels on indigenous and environmental rights.

These conversations are very important as we face so many environmental crises. Placing indigenous and local people's struggles at the forefront of people's imaginations will be a way to ensure they receive international support and recognition.

The commitment of Natural Justice and its staff and their support to communities has really been evident during this time. They widened the scope of work, moving into Botswana and Guinea and bringing on board a new team of Community Environmental Legal Officers.

Natural Justice has not only been working more widely, but also more deeply, strengthening its connection to the communities they work with. This is due to the sustained face-to-face contact it has maintained with communities over a long

period of time and the solidarity provided in the face of the numerous challenges faced by indigenous and local communities in Africa.

Covid-19 has brought new challenges. Even though the pandemic did not come about during the timeframe of this report, it would be remiss to not mention the massive challenge it presented. I must congratulate Natural Justice for weathering this storm and for the leadership, adaptability and courage displayed by everyone working there. A truly extraordinary team, considering the odds stacked against them.

The new strategy presented after the 2019 staff retreat shows great potential for bringing change in Africa and the communities Natural Justice works with at present, as well as those communities it will work with in the future. The values embodied and the principles that inspire the work are evident and it is clear that Natural Justice provides valuable empowerment opportunity embedded in integrity.

I am looking forward to seeing what Natural Justice brings for the future. On behalf of the board, I wish them well for 2020-2021.

# MESSAGE FROM THE EXECUTIVE DIRECTOR



*Pooven Moodley*

The year 2019 was a momentous one for Natural Justice. On 26 June 2019, a small community from Lamu won a massive victory in court to stop the proposed Lamu coal plant. This was a victory against companies with major financial backing and would have been the first coal plant operating in Kenya. It has now set a precedent which is reverberating across Africa and provides further hope to many more communities - as these struggles are common across Africa.

Natural Justice, together with Katiba Institute, provided the legal backup to [Save Lamu](#) and the [deCOALonize Campaign](#), who were challenging the coal plant. It serves as an excellent example of how, through community organizing, legal empowerment and biocultural community protocols – which Natural Justice has been pioneering – communities are in a position to protect themselves against rights violations and harms to the environment.

Later that year, on 1 November 2019, following nine years of negotiations, the world's first industry-wide benefit-sharing agreement was launched in South Africa between the Khoikhoi and San, and the South African rooibos industry. This is also a precedent-setting agreement which now ensures the recognition of indigenous communities in South Africa, and the recognition of the traditional knowledge they hold. Natural Justice provided the legal backup to the [National Khoi & San Council](#) during the negotiations. For the communities, it was a matter of the right to dignity and to justice. It was a victory celebrated and acknowledged globally.

During 2019 we started developing our new strategy. The strategy responds to the current context of the planetary crisis and the sixth mass extinction event that is underway. We are

witness to an alarming rate of biodiversity loss, accelerated extinction rate of animals, the impacts of the climate emergency and rising inequality.

The three programmatic streams, which we will take forward as an organisation, covers defence of rights and the environment, affirmation of rights where there have already been violations, and standing with communities as they contend with intersecting struggles, including patriarchy and other systems and forms of oppression.

While standing behind more communities in 2019, we consolidated some of our key initiatives and continued to build on the recent ones like the African Environmental Defenders Fund. We also increased our litigation capabilities to position ourselves to take on more environmental justice cases. We are also consolidating our "litigation plus" approach where communities are fully involved in the litigation strategy.

Based on the demand coming from communities, we have also increased our work on land issues. In Kenya, for example, Natural Justice has been a [Community Land Action Now!](#) supporter from its inception. The network embodies community-centric approaches, legal empowerment from the ground up, advocacy, and the creation of space to affirm rights and well as the defence of rights



**Pooven Moodley, on the right, at the Alternative Mining Indaba in February 2019.**

where they are infringed; an approach similar to that of Natural Justice.

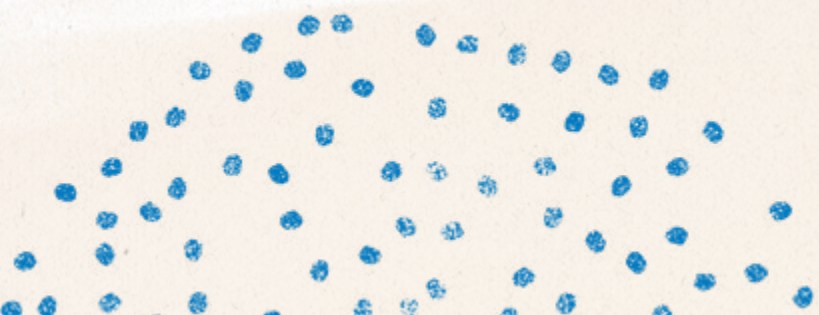
Our West African team has been expanding based on the increased struggles of communities in the region; including mining-affected communities in Senegal and Guinea. Biocultural community protocols and community audits have been used as essential tools for communities within these struggles, with litigation backup where required.

In early 2020, the Covid-19 pandemic started its impact on the African continent. It has been a difficult time for communities we work with, for staff and for partners. We have been able to navigate these additional challenges and adopt new ways of working.

As we look back at 2019, it has been a year of consolidation and growth with increased staff numbers and an increased number of cases

and communities we are working with. With the multi crises of Covid-19, racial inequalities, patriarchy and economic inequalities, we will need to dig deep to shift our current trajectory and ensure there is accelerated and more radical transformation of the systems – and also us, individually, in terms of our relationship with each other and the planet. Principles like respect and co-operation, are essential during this time.

Based on the work with indigenous and local communities, we would like to strengthen our work with traditional knowledge during this time, as it offers alternatives to the current systems. We continue to open ourselves as an organisation to work more closely and collectively with like-minded organisations across the continent. If we are to fundamentally shift the status quo, we will have to work together. We must not just stop the harm from happening but also find alternative ways of being.



*Highlight:*

# THE ROOIBOS ACCESS AND BENEFIT SHARING AGREEMENT

On 1 November 2019, following nine years of negotiations, the world's first industry-wide benefit-sharing agreement was launched in South Africa between the Khoikhoi and San, and the South African rooibos industry. As representatives of the National Khoi & San Council, who represented the interests of some thirty indigenous communities, Natural Justice were able to provide years of support as the legal representatives and the facilitators of the **Biocultural Community Protocol**, which formed a parallel and equally significant process towards the agreement.

The agreement recognises the Khoikhoi and San peoples as the traditional knowledge holders to the uses of Rooibos, an indigenous plant species found only in the Cederberg region of South Africa. The agreement is the basis from which the Khoikhoi and San communities of South Africa will have access to benefits as a percentage contribution from the commercialisation of Rooibos by the South African rooibos industry.

The negotiations began in 2010 when the South African San Council wrote to the Minister of the then Department of Environmental Affairs (now, Department of Forestry, Fisheries and the Environment) requesting negotiations with the rooibos industry in accordance with South Africa's legislative requirements.

In 2012, the **National Khoi & San Council** joined the South African San Council in seeking recognition as shared traditional knowledge rights holders. The two Councils met with the South African Rooibos Council for the first time that

year in order to start the process of negotiating an Access and Benefit-sharing agreement for Rooibos, facilitated by the Department of Environmental Affairs and supported by the late Minister Edna Molewa.

After a thorough process of negotiations, an agreement was finally concluded on 25 May 2019. The ABS agreement launched between the parties now brings the South African Rooibos Industry into compliance with their benefit-sharing obligations as per South Africa's bioprospecting law and regulations, including the Nagoya Protocol and the National Environmental Management: Biodiversity Act 10 of 2004 and the Bioprospecting, Access and Benefit Sharing Regulation of 2008.

**Traditional Knowledge and the Khoikhoi and San Research shows that communities in areas where Rooibos is grown associate the knowledge of the uses of Rooibos with the African indigenous communities of the Khoikhoi and the San.**



In 2014, the Department of Environmental Affairs commissioned a [study on the traditional knowledge associated with Rooibos and Honeybush](#) (*Cyclopia* spp.). It concluded that the traditional knowledge associated with Rooibos lies with the San and Khoikhoi.

We wish to thank the National Khoi & San Council and the following funders for walking the journey with us: The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) through the ABS Initiative (ABSI), the Heinrich Böll Foundation (HBF), and the Open Society Initiative for Southern Africa (OSISA). Your roles enabled a possibility never imagined in South Africa, or even the world. Natural Justice is deeply grateful that you believed in us and in this important case.

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**“Our dignity is being restored in the land of our forefathers by recognising our Khoikhoi ancient traditional knowledge on rooibos. Our people are happy and our land healed.”**

— Stanley Peterson, National Khoi & San Council



*Highlight:*

# THE LAMU COAL PLANT JUDGMENT



Prior to the plans to build a coal plant in Lamu, few people – even in Kenya – knew about Lamu or the communities of Lamu. Communities living along the Kenyan coast are some of the most marginalised communities in the country, despite a thriving tourism sector. The plans to build a coal plant, and particularly the resistance from the communities that came about due to these plans, thrust Lamu into the international limelight. What resulted were protests and community activism, led by **Save Lamu**, an umbrella organisation made up of more than 40 local community-based organisations, which further increased the profile of Save Lamu and the controversial project.

Natural Justice is proud to be part of the efforts of community resistance that ultimately halted the building of the coal power plant – for the time being.

This was the first time in recent memory that a community organised itself so effectively as to oppose a big project like the 1050MW coal power plant. It was also the perfect example of the great sense of agency that emerges when communities are legally empowered to know and use the law to secure their rights.

Save Lamu moved from village to village helping residents of Lamu understand what it would mean to sell their land for the project or what impacts the project would have on fishing, a critical source of livelihood for thousands of fisher folk. The problems were locally contextualized and farmers on the mainland were soon working together with fisher folk on Lamu Island to object to the development of the project until their concerns around livelihoods and health were adequately

addressed. Not even promises of money and jobs would sway them.

This cooperation among communities in Lamu (under Save Lamu) grew into a movement. Eventually, communities from Kitui, where there are plans to mine coal, joined forces with them – ultimately forming the deCOALonize movement. **DeCOALonize used different community-centered strategies, including lobbying and advocacy, litigation and strategic communication, with one clear objective – prevent the development of a coal industry in Kenya.**

Under the deCOALonize campaign, the communities in Lamu and Kitui were able to reach the rest of the country through strategic public forums in Nairobi. The advocacy expanded beyond the environmental concerns and renowned economists were able to debunk the economic justifications for the coal plant and the economic risks of the project. DeCOALonize provided a platform through which communities could raise

their concerns with members of Parliament and lobby banks that pledged to finance the project to back out and divest.

Sadly, the government and project developers remained resolute in implementing the project. At this point, a legally-empowered community decided to challenge the decision to issue an environmental licence for the project.

There was little hope the court challenge would be decided in the community's favour. However, the challenge did mean the project would not be implemented until the case was decided. Save Lamu and its growing list of allies took advantage of this situation to broaden the discussion around why the coal plant was not just bad for Lamu, but also for the country. The deCOALonize campaign focused on strategic messaging both online and offline.

On 26 June 2019, David brought down Goliath in what has now become a precedent - not only in Kenya, but around the world. People can, indeed, rely on the courts to deliver justice.

The revocation of the licence was the culmination of a lot of close work between the legal team and residents of Lamu. The legal strategy was grounded in ensuring their proper understanding of what the law required of the project developers. In this way, those who appeared in court were able to speak from a point of greater agency

armed with information about their environmental rights.

While the project proponents have appealed the ruling, for more than a year now, the appeal has not progressed. Meanwhile, and in keeping with global trends, financial backing for the project has waned. The African Development Bank categorically stated that it would not provide a partial risk guarantee for the project. The project's Chinese financiers have also distanced themselves from the project.

Press attaché at the Chinese embassy Shelly Huang stated that, "I never heard ICBC has intention or interests in investing in the proposed coal project. My information is that the project has been suspended since several years ago. Not a single Chinese company is involved in it now." For the first time, this signaled that the death of the Lamu coal plant project was a forgone conclusion despite attempts by Centum Investment company to assure their investors that they could sell it to "other parties" as a recovery to the company.

Save Lamu continues with their sensitisation programmes and the community is aware that the project proponents could move the court any time with the appeal. However, what the judgment did, if anything, was to show the communities that they can win in a court of law - as long as they remain united and clear on their asks as supported by the law.



*Highlight:*

# THE ENDOROIS PEOPLES BIOCULTURAL COMMUNITY PROTOCOL

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**The Endorois community developed a Biocultural Community Protocol (BCP); a living document that articulates their self-determined values, procedures and priorities, while setting out the community's rights and responsibilities under the customary, national, as well as international laws.**

By providing technical support, Natural Justice guided the Endorois community through rigorous consultative and community-led processes where traditional leaders, men, women, and youth provided detailed accounts that helped outline the Endorois' customary laws, traditional knowledge, and their role in protecting and conserving ecosystems. Additionally, Natural Justice conducted legal empowerment and awareness creation initiatives on international and domestic laws that the Endorois can utilize to affirm and defend their customary and legal rights to land, biological and natural resources.

The process culminated in a BCP document that was launched on 31 August 2019 and is currently being used by the Endorois as guidance in providing constructive and proactive engagements on issues around their land, territories and natural resource governance.

The BCP calls upon the national government, the county governments and key stakeholders whose jurisdictions fall within its land, to recognize and appreciate the Endorois' vital role as guardians and conservators of biological diversity, specifically in the Lake Bogoria and Mochongoi forest ecosystems. The document provides clear terms, conditions, and guidelines that regulate

access to the Endorois' knowledge and resources within their territories. Besides this, the BCP is a key tool in ensuring that cultural and spiritual links between Endorois Indigenous people and land is revived and sustained.

Additionally, the BCP recognises the current challenges the community faces, and the ensuing impacts on the communities' livelihood and cultural systems. The governance structures defined in the BCP guide the engagement of the county and national government institutions, leading to a harmonious linkage between the community's traditional mechanisms and the county and national governance structures. Lastly, the document recognises the Endorois women as part of the solutions to the current ecological crisis and direct beneficiaries of nature's contribution to people.

The document has resulted in more collaboration between the community, the county government, and the national government (represented by the Kenya Wildlife Service). This has led to the development of a joint management plan for Lake Bogoria that outlines how the resource will be used, accessed, and exploited for the benefit of all stakeholders.



*Partner highlight:*

## COMMUNITY LAND ACTION NOW



**Community Land Action Now (CLAN) is a network of community-based non-profit and community-based organisations that focus on community land work aimed at returning land to or acquiring land for communities in Kenya. The loose network was incepted in 2018 after communities felt that there was not enough being done to ensure communities can retain, own and access their ancestral land.**

Land in Kenya has been the subject of constant struggle and strife. Many competing interests exist under the development agenda, as well as the move towards an industrial revolution in Kenya. However, this push for development doesn't take into consideration the impacts of these decisions on the communities already living on that land. Kenya passed the Community Land Act in 2016 which focuses on the legal registration of communally held land by Indigenous Peoples and Local Communities in Kenya. The Act repeals the former Trust Land Act and is meant to govern the land previously designated as trust land. CLAN's engagement in these discussions is rooted in the previous work members have done within their communities with the added advantage of a collective voice for action.

Most recently, in the wake of evictions of communities in both the Embobut and Mau forests, CLAN arranged and executed a high-level press conference with external partners targeted at news agencies. The press conference was a huge success and forced the government to acknowledge that evictions, while in themselves unlawful, were especially awful when the country is already dealing with the ramifications of Covid-19.

CLAN has contributed to writing submissions on different laws and policies. This has been accompanied by verbal contributions by various members. Being able to ground some of the languages in these documents in the real needs and problems that communities are facing has been a work in progress but Natural Justice hopes to increase the capacity of the network to engage in these exercises.

The Land Tenure Facility, an organisation that works in the land space, was attracted to the work that CLAN is doing and has offered to fund the network that will cover operations for two years, starting in 2021. This is an amazing feat and gives CLAN the opportunity to do more direct work with communities to help them understand the community land registration process and use it to register their lands. Since the enactment of the CLA 2016, only three communities have been able to go through the process to completion and are now in possession of their community titles.

Natural Justice has been a CLAN supporter from its inception. The network embodies community-centric approaches, legal empowerment from the ground up, advocacy, and the creation of space to affirm rights; and well as the defence of rights

where they are infringed; an approach similar to that of Natural Justice.

Natural Justice serves as a technical partner, providing support for individual CLAN members seeking to develop BCP documents, giving general advice to the network, as well as targeted technical support through its expertise. More recently, Natural Justice has committed to help the network develop a plan for a comprehensive paralegal programme that will encompass legal

empowerment, policy development, advocacy, and movement building. The work that CLAN does dovetails with the work that Natural Justice is building in the land sector and brings us closer to the ground where CLAN members are.

Going forward, Natural Justice along with other 'friends of the network' is hopeful that it will grow to be the eye in the increasingly dangerous storm that is community land reform and rights.

# A YEAR IN PICTURES

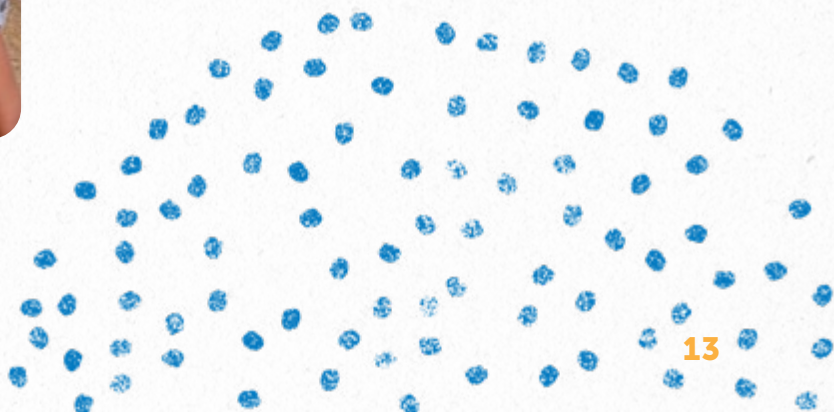




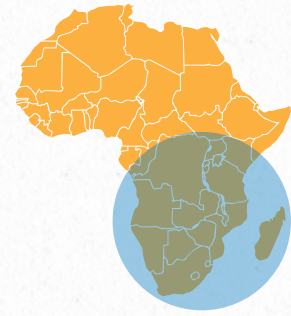
# Telling the story of Indigenous Rooibos Farmers, South Africa:



In December 2019, a small team from Natural Justice travelled to Nieuwoudtville and the Suid Bokkeveld in South Africa where a community of Indigenous Rooibos farmers live. A filmmaker from Cape Town joined us there. The goal was to create a short film on climate change impacts on farming in the area. The film also raised the narrative of their use of traditional knowledge and their understanding of climate change to determine their adaptation measures. We thank the National Khoi and San Council members, Alida Afrika and Kenneth Marman for their assistance and for taking part in the film.



## Southern African strategy development process:



Members of the southern African team met in February 2020 to develop a Hub strategy. Led by outgoing Hub Director, Lesle Jansen, the staff were able to get insights into their personal abilities, as well as their abilities as a team to work together. They also decided on a way forward to tackle the numerous issues found in the region, focusing on legal empowerment and Biocultural Community Protocol development, two effective measures used by Natural Justice to empower the communities they work with.



# The Rooibos Access and Benefit-sharing Agreement negotiations, South Africa:



Much of 2019 was spent finalising the negotiations between the National Khoi and San Council (NKC) and the South African Rooibos industry to develop the world-first industry-wide Access and Benefit-sharing Agreement. This process was led by the negotiating team of the NKC, who were assisted by Lesle Jansen and the southern African team members. The Agreement was concluded in 2019.

<https://naturaljustice.org/the-rooibos-access-and-benefit-sharing-agreement/>



## Filming the south Durban communities, South Africa:



In 2019, Natural Justice travelled to Durban to assist with the filming of the south Durban communities, and to highlight the work of the South Durban Community Environmental Alliance (SDCEA), who is walking a journey with Natural Justice to expand their reach and impact through litigation and legal empowerment. SDCEA have been working very effectively for a number of years to monitor and challenge the impacts of industry on the low-income communities of south Durban in South Africa. The film shows the contribution of SDCEA to the empowerment of communities and the justice they have brought for nature and people.



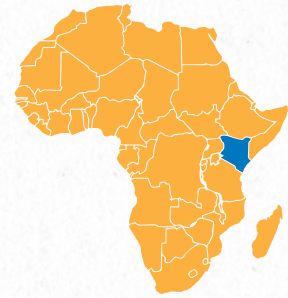
## BCP launch in Analavory, Madagascar:



For a number of years, Natural Justice worked closely with the farming communities of Analavory and Antavolobe in Madagascar to undertake a Biocultural Community Protocol (BCP) process. The BCP focuses on understanding decision-making processes within the communities, empowering communities around their understandings of their rights to their genetic resources and situating the communities in a better position to negotiate an Access and Benefit-sharing Agreement. The BCP also focused on the International Treaty on Plant Genetic Resources for Food and Agriculture. The BCP was finalised in 2019 and launched in a small ceremony.



## The salt industries in Kilifi County, Kenya:



During 2019, the small team from Natural Justice visited Kilifi County to meet with the Community Environmental Legal Officer who is implementing a legal empowerment process in the county, focused mainly on the impact of the salt industries on the water, livelihoods and land of local communities. Jutus Tsofa introduced the team to the many local people he is walking the empowerment journey with, including those directly impacted by the salt industries, which span more than 30kms. We met with many of the local community members and partners, such as the Malindi Rights Forum.



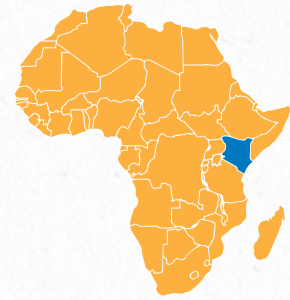
## Protecting the aquifer in Cape Town, South Africa:



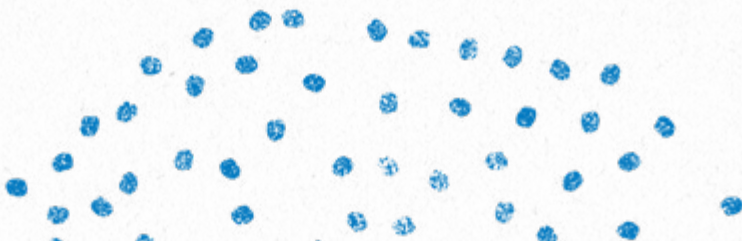
The Natural Justice team have begun a relationship with the Philippi Horticultural Area Food and Farming Campaign (PHA Campaign) to implement legal empowerment tools to strengthen the Campaign's response to developments in the area. The PHA is a farming area that is situated on an important aquifer, and protecting the integrity of the aquifer to ensure long-term water access and climate change adaptation, has been identified as an important aspect of the work of the Campaign.



## Legal empowerment in Lamu county, Kenya:



Our work in Lamu in Kenya spans many years. Most recently, we employed a Community Environmental Legal Officer to work closely with partners such as deCOALonize and Save Lamu to undertake legal empowerment with local fishers and farmers. In early 2019, the team from Natural Justice travelled across Lamu to meet with various representatives of fishers, farmers, partners and supporters to understand the situation better. The building of the Lamu Port facility, the threat of the development of a coal plant and the various road and rail networks have all resulted in various impacts on peoples livelihoods, culture and opportunities – as well as impacting the local environment for perpetuity.





# Launch of the Rooibos Biocultural Community Protocol, South Africa:



In 2019, the Southern Africa team were thrilled to launch the Khoikhoi Peoples' Rooibos Biocultural Community Protocol (Rooibos BCP), together with the National Khoi and San Council. The BCP provides the story of the Khoikhoi peoples' journey as traditional knowledge holders to the uses of rooibos, as told by the Khoikhoi for their own community. The BCP journey began in 2012 and became a supplementary process to the Rooibos access and benefit-sharing (ABS) negotiations which were started around the same time.

<https://naturaljustice.org/publication/the-khoikhoi-peoples-rooibos-biocultural-community-protocol/>



## Developing a BCP for the baobab, South Africa:



In December 2019, Natural Justice met with six Venda chiefdoms as part of a Biocultural Community Protocol process. The project is working with six chiefdoms/traditional authorities and their communities. A field trip was conducted with members of Natural Justice meeting and discussed aspects of the baobab, a key indigenous tree species, with representatives of the chiefdoms. As part of this process, Natural Justice travelled to the Vhembe District Municipality in Limpopo, South Africa.

<https://naturaljustice.org/natural-justice-begins-biocultural-community-protocol-process-in- Venda-south-africa/>



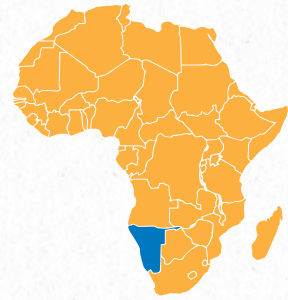
# The Climate Action Workbook and Trainings, Durban, South Africa:



During 2019, Natural Justice developed a Climate Action Workbook that was piloted with the South Durban Community Environmental Alliance (SDCEA) and the South Durban community in December that year. This Climate Action Workbook is the first of its kind and intends to raise climate awareness and literacy, while also providing the tools and resources necessary to take action against harmful industry and state practises that exacerbate the effects of climate change.



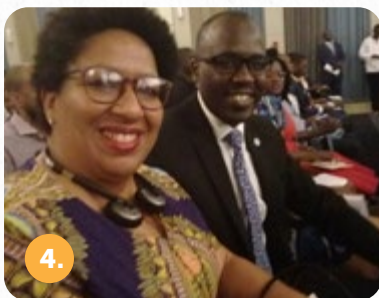
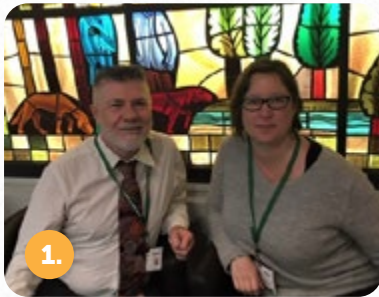
## Namibia Workshop on Marula:



From 4-5 November 2019, a regional workshop on Marula Sector Development was organised and hosted in Windhoek, Namibia. The hosts were the SECO-funded, ABS Compliant Biotrade in South(ern) Africa (ABioSA) project with support from the GIZ-funded Biodiversity Management and Climate Change project, in collaboration with the Namibian Ministry of Environment and Tourism. Delegates from Botswana, Namibia, South Africa and Zimbabwe discussed the potential bio-trade opportunities for the plant in southern Africa and abroad. The workshop focused on establishing the scope of individuals who have different interests in the use of Marula, such as, harvesters, oil extractors, cosmetics businesses and liquor businesses. Job Morris, the Natural Justice representative in Botswana, reflected on the workshop, highlighting that the marula sector needs to be more inclusive of communities who have harvested and exploited marula for millennia. The challenge is how these communities can organise themselves in order to enter access and benefit sharing agreements.



## Meetings and conferences



1. Barbara Lassen at the Second meeting of the Open-ended Working Group on the Post-2020 Global Biodiversity Framework, February 2020 in Rome, Italy
2. ICCA Consortium General Assembly, India, December 2019; <https://www.iccaconsortium.org/index.php/2019/12/16/newsflash-24-november-december-2019/>
3. ICCA Consortium working group in Madagascar, January 2020; <https://www.iccaconsortium.org/index.php/2020/02/19/local-communities-and-youth-express-views-on-post-2020-global-biodiversity-framework/>
4. Lesle Jansen at the African Commission, as part of the Working Group on Indigenous Rights, October 2019
5. Meeting with the Philippi Horticultural Area Food and Farming Campaign at the Cape Town Hub in February 2020
6. Philippi Horticultural Area Food and Farming Campaign BCP workshop, January 2020, Cape Town
7. Samia Omar Bwana (centre) from Save Lamu with Gino Cocchiaro at Financing the Future conference, Cape Town, South Africa; <https://financingthefuture.global/>
8. World Justice Forum 2019: Pooven Moodley with Thuli Madonsela and Advocate Ndimisa Ntsebeza; <https://worldjusticeproject.org/our-work/engagement/events/world-justice-forum>

## Support and Solidarity



South Durban Community Environmental Alliance (SDCEA) protest outside the Safripol KAP AGM, Cape Town, November 2019. Natural Justice showed solidarity with our community partner calling for accountability for pollution, explosions and other hazards caused by industry in Durban, South Africa. A chemical fire at the Safripol plant in 2019 caused sicknesses amongst local communities in the vicinity.



Silent protest at the First meeting of the Open-Ended Working Group on the Post-2020 Global Biodiversity Framework in August 2019, Nairobi, Kenya. The protest called for the recognition of indigenous peoples as key protectors of biodiversity.



Climate Strike protest in Kenya 2020. Natural Justice, other civil society organisations and the Kenyan public joined millions of others in climate protests around the world, calling for their governments to recognise the climate crisis and act towards reducing fossil fuel development.



Lesle Jansen supporting the PHA Campaign outside the Cape Town High Court. The Campaign is challenging the authorisation of certain large developments in the Philippi Horticultural Area, a farming area in Cape Town, South Africa.



Pooven Moodley in Xolobeni, South Africa, in 2019. Here he is showing solidarity with a community that is opposing mining developments in their area.



Sengwer peoples march for land rights in Kenya, 2019. The Sengwer indigenous people are fighting for recognition of their land as communal land.



Supporting the PHA Campaign during a 2019 Climate Strike. Natural Justice, the PHA Campaign, other civil society organisations and South Africans joined millions of others in climate protests around the world, calling for their governments to recognise the climate crisis and act towards reducing fossil fuel development.

# THE COMMUNITY ENVIRONMENTAL LEGAL OFFICER PROGRAMME

*Rose Birgen*

Community environmental legal officers (CELOs) are grassroots or community paralegals and lawyers, working with communities affected by extractives, infrastructure, industry, and conservation projects, to solve their day-to-day legal challenges through administrative channels.

The CELOs work with the affected communities to solve their legal challenges stemming from issues affecting the land and environmental resources, as well as the livelihoods of the communities. They deal with issues such as land grabs and environmental non-compliance, to name a few. The affected communities, through their interactions with the CELOs, learn about their rights, and how to realise them within the law. Based on the grassroots experiences, affected communities and CELOs, through evidence collected, advocate for systemic changes.

In 2019, we expanded the legal empowerment programme through Haki na Sheria and Save Lamu, employing more CELOs within Natural Justice and within the community partners we work with. Three at Natural Justice, one at Save Lamu; two at the Malindi Rights Forum and seven for Haki na Sheria. This brought the total number to 12, as of January 2020.

#### What has the CELO programme contributed to the communities

- **Legal Compliance:** In 2019, the CELOs continued to track legal compliance during the construction or operations stages of major projects Lamu, Kilifi, Isiolo, Garissa, and Marsabit) counties. Under the paralegal

programme, 25 access to information letters were sent to the administrative institution, 17 complaint letters were filled with different administrative offices, and four access to information complaints were submitted to the Ombudsman out of which two complaints were solved.

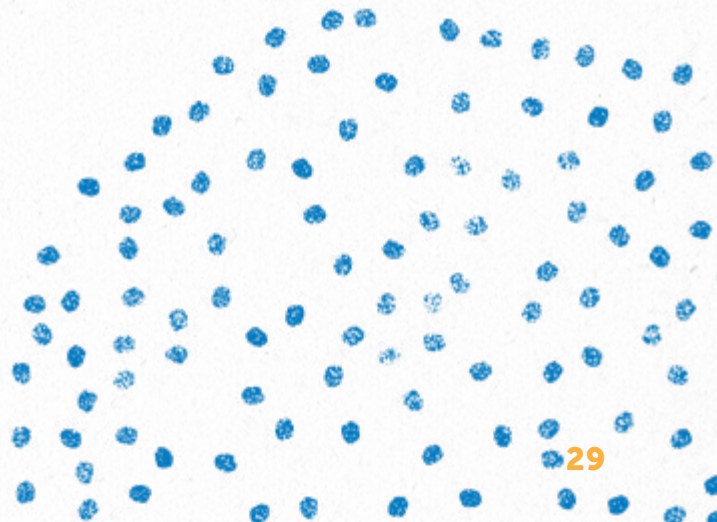
- **Land Acquisition:** The LAPSET Corridor Development Authority in Kenya has gazetted its intention to compulsorily acquire some 81,811.66 ha of land in Lamu County for a diverse range of LAPSET-related projects including Special Economic Zones, roads, a crude-oil pipeline, amongst others. With the help of technical expertise, Natural Justice translated the coordinates onto a map to establish the extent of acquisition and help communities to know whether their land could be subject to acquisition. Further, a land acquisition process fact sheet was prepared.
- **Legislative Developments (National and County):** With the assistance of the CELOs, Natural Justice submitted robust comments to Parliament and the Senate on various Bills: Public participation Bill, Draft frameworks and instruments in the Mining sector (a regulatory framework for Community Development Agreements for the mining



sector with implications for proposed coal mining activities in Kitui), Public Order Bill, Draft Fisheries (Beach Management Units) Regulations, Access to Information, Kilifi County Solid Waste Management Bill, Kilifi County Draft Air Quality Regulations and Kilifi County Forest Management Policy .

- **Submissions to improve environmental decision-making through the EIA and SEA:** In 2019, Natural Justice worked with the communities likely to be affected by the Al Sherman proposed salt works and the communities in Lamu affected by the

construction of road projects linking to the Port (all submissions can be found on our website). The project proponents developing the Lamu-Lokichar crude oil pipeline held public consultation meetings in the six counties the pipeline will traverse (Turkana, Samburu, Isiolo, Meru, Garissa and Lamu) and further prepared the Environmental Impact Assessment reports, which was published and the public invited to submit comments. The CELOs worked with affected community groups to make oral and written submissions in the consultation meetings.



# AFRICAN ENVIRONMENTAL AND LAND DEFENDERS FUND

*Eva Maria Okoth*

The African Environmental Defenders Fund is an initiative of the International Land Coalition (ILC) that seeks to support front line environmental and land defenders who find themselves in situations of emergency due to the nature of their work. The fund is managed and implemented by Natural Justice on behalf of ILC.

Since the commencement of the collaboration with ILC in 2019, Natural Justice sought to complete three main aspects of the project; including setting up a committee to assess applications to the Fund; establishing the rules of procedure and conditions for assessing applications to the Fund; and setting up a website dedicated to African Environmental Defenders and a communications plan to raise awareness about the Fund.

## EMERGENCY FUND COMMITTEE

Last year, a committee comprising five individuals was set up to assess and make decisions on applications submitted to the Fund. In selecting the committee, we sought: regional representation; French and English speakers; a representative of defenders; an ILC representative, and a technical expert in defenders' work/funds. The individuals appointed to the committee included: Gino Cocchiaro (Natural Justice Director Kenya); Fatima Diallo (Natural Justice Senegal); Audace Kubwimana (ILC); Daniel Kobei (Ogiek People Development Program); and Arnold Tsunga (Chair Southern Africa Human Rights Defenders Network).

## RULES OF PROCEDURE AND CONDITIONS OF THE EMERGENCY FUND

Based on the experiences of previous ILC Emergency Fund committees, Natural Justice developed a set of rules of procedure to guide the Committee when making its decisions. Generally, to be eligible for this fund, according to the rules, an applicant must be a member of an organization with ILC membership, or an organisation affiliated to an ILC member, be facing an immediate and imminent threat that is connected to his/her work as an environmental and land defender. The funds, if awarded, will only cover any immediate transitional costs arising as a result of the emergency, before a more stable source of support is found for the victim. The rules also define an emergency as a situation where there is an imminent threat of harm.

## AFRICAN ENVIRONMENTAL DEFENDERS WEBSITE AND COMMUNICATIONS STRATEGY FOR THE FUND

Lack of awareness about the existence of this fund was a major challenge to the effectiveness

of the Emergency Fund previously and, as a result, Natural Justice also developed a detailed communications plan to create awareness about it among ILC members. The development of the website and branding for the Fund was completed in 2019 through our consultant in South Africa named ALT Advisory Africa. The website provides an option for applicants to submit their requests online or dial emergency contacts provided on the web page. An official email was also set up to allow for email applications to the fund.

The Fund and the website [link [www.enviroidefenders.africa](http://www.enviroidefenders.africa)] were officially launched on the 10 December 2019 when the world was celebrating International Human Rights Day.

Natural Justice has since continued to actively seek additional funds for the website and Environmental Defenders activities so that the site can be adequately managed and additional support for defenders can be provided.

# FINANCE

Chief Financial and Operations Officer:

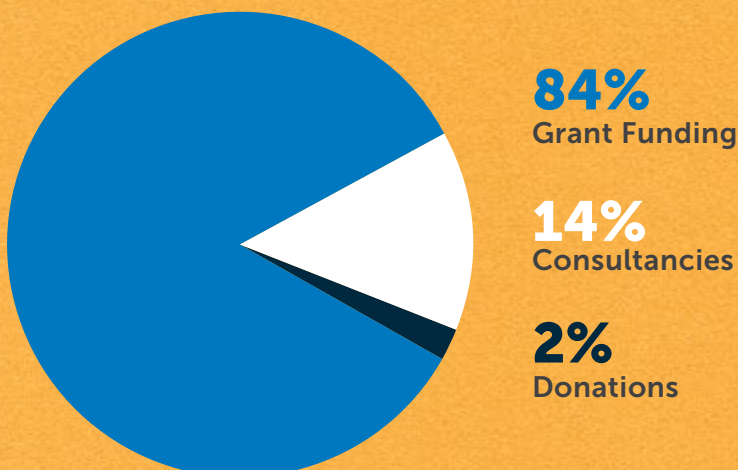
*Laureen Manuel*

As in prior years, the funding sources for Natural Justice in the 2020 financial year, comprises grants and consultancy partnership funding, as well as donations. The total funding for the year has increased by about 28% compared to the previous financial year. Grant funding, our primary source of funding, accounts for 84% of total funding for the year under review, while consultancy partnerships constitute 14%. Donations received include support from donors for travel and participation in international meetings, as well as donations from individual members of the public.

We are deeply grateful for the contributions and ongoing support of our donors and partners. The funding that we receive from them supports our work with communities across five programmes, and also supports our organisational overheads and administration.

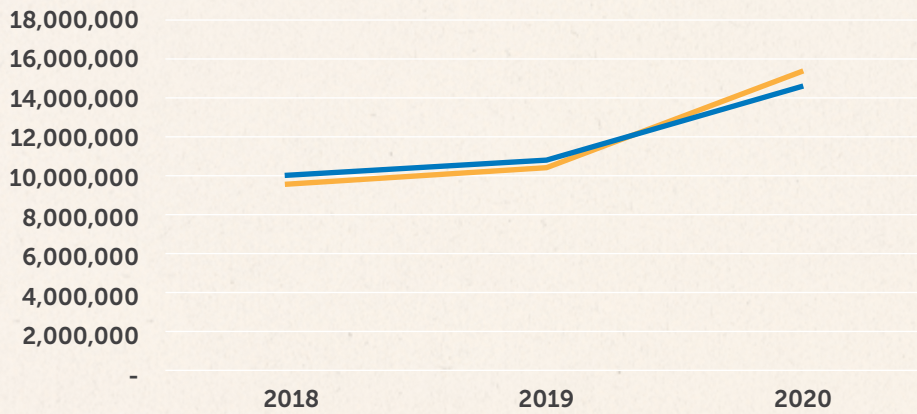
This financial summary is based on the audited financial statements audited by Mazars. A copy of the full statement is available on request.

## FUNDING SOURCES 2019-2020



### YEARLY CASHFLOW 2018-2020

● Income (ZAR) ● Expenses (ZAR)



### EXPENDITURE 2019-2020



**73%**

Project Expenses & Travel

**27%**

Administration  
& Organisational Cost

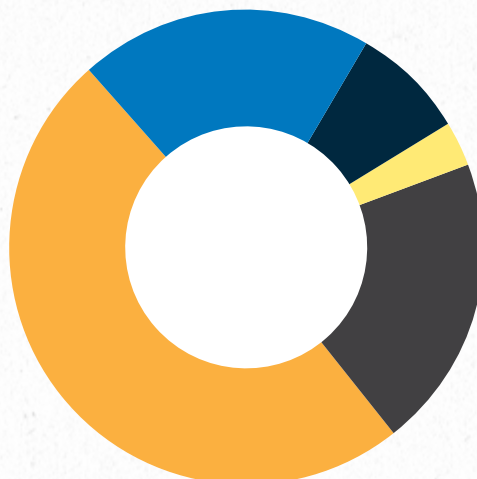
### FUNDING PER PROGRAMME

**20%**

Traditional Knowledge  
& Benefit Sharing

**49%**

Extractive Industries  
& Infrastructure



**8%**

Climate Change

**3%**

Customary Use  
& Conservation

**20%**

Governance of Land  
& Natural Resources

# HUMAN RESOURCES

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## Board

**Loretta Feris:** Chairperson

**Pooven Moodley:** Executive Director

**Laureen Manuel:** Chief Financial & Operations Officer

**Makoma Lekalakala**

**Njoki Njoroge Njehû**

**Lucy Mulenkei**

**Eileen de Ravin**

**Hadley Becha**

**Kanchi Kohli**

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## Staff

### MANAGEMENT TEAM

**Pooven Moodley:** Executive Director

**Laureen Manuel:** Chief Financial & Operations Officer

**Gino Cocchiaro:** Hub Director, Kenya

**Lesle Jansen:** Hub Director, Cape Town

**Barbara Lassen:** Hub Director, Senegal

## GUINEA

**Golota Raphael Lamah:** Programme Manager, Extractives and Infrastructure

**Mohamed Cissé:** Legal Consultant

## KENYA

**Omar Elmawi:** Co-ordinator deCOALonize

**Abiud Onyach:** Communication Officer

**Rose Birgen:** Snr. Programme Officer

**Mark Odaga:** Senior Programme Officer, Extractives & infrastructure

**Maryama Farah:** Senior Programme Officer, Traditional Knowledge and Benefit Sharing

**Cicilia Githaiga:** Programme Manager, Traditional Knowledge and Benefit Sharing

**Emmanuel Siakilo:** Research Officer

**Christine Osongo:** Finance and Administration Officer

**Joy Muga:** Finance and Administration Assistant

**Dalle Abraham:** Community Environmental Legal Officer

**Said Salim Said:** Community Environmental Legal Officer

**Justus Tsofa:** Community Environmental Legal Officer

**Eva Okoth:** Legal Fellow

**Winnie Changwony:** Environmental Justice Fellow

**Anne Mumbi:** Legal Fellow

**Maxwel Omondi:** Legal Fellow

**Brian Migowe:** Legal Fellow

## SENEGAL

**Fatima Diallo:** Programme Manager, Extractive and Infrastructures, Senegal and Guinea

**Thaddée Seck:** Legal Fellow

## MADAGASCAR

**Jazzy Rasolojaona:** Programme Officer, Traditional Knowledge and Benefit Sharing

## SOUTH AFRICA

**Ilse Booysen:** Bookkeeper

**Sinoxolo Delanto:** Fund Administrator

**Claire Martens:** Senior Communications Officer

**Ivan Vaalbooi:** Administrative Coordinator

**Allan Basajjasubi:** Researcher

**Job Morris:** Legal Fellow

**Sobantu Mzwakali:** Programme Officer, Governance of Lands & Natural Resources/Traditional Knowledge & Access & Benefit Sharing

**Melissa Groenink:** Programme Manager, Climate Change

**Bushra Zaheer:** International Fellow

**Rayna Sutherland:** International Fellow

# FELLOWSHIP REFLECTIONS

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## My Kenyan Experience at Natural Justice

*by Sabrina Nick*

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All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution - First Article of the Kenyan Constitution.

One week after having written the last exams for accomplishing the Master of Law in Switzerland, I came to Kenya for a fellowship with Natural Justice. With my legal background, I believe in the written text of the law and its enforceability. But, the three months in Kenya have taught me about other perspectives. Not everything is black and white like the paper and ink with which the laws are written down. The complexity of cases on the ground and the paths to tackle them are numerous.

In pursuit of social and environmental justice, the lawyers from Natural Justice are using the law to support communities to participate in decisions that affect their land, culture, and environment. This sounds wonderful, but what does this mission entail? What are the challenges the local lawyers are facing? I have had the chance to look over the shoulder of these top lawyers and get an insight into their daily work.

The cases Natural Justice is working on are numerous and every case has its challenges. It was very fascinating to learn about the different strategies of using the law to defend the voices of the local communities, with litigation as a last resort.

How do you make sure in a sustainable way that the rights of marginalized communities are respected? The keyword is legal empowerment! Only if people understand their rights and how

to claim them, they can sustainably influence the respect of the law. To that end, Natural Justice established the position of the Community Environmental Legal Officer (CELO).

These paralegals are the interface between the local communities and the Natural Justice headquarter in Nairobi. The main office in Nairobi is where the research and the strategy-making take place. Just like the city of Nairobi, the Natural Justice Nairobi Hub is a place where people are walking and thinking fast – an inspiring place, full of life.

I've spent most of my time as a fellow at the Nairobi office where I felt welcomed and at home. Every now and then you find new guests from partner organizations, donors or colleagues from other Natural Justice offices sitting with us at the lunch table, discussing and joking.

But I also have had the pleasure to experience the work of the CELOs on the coast of Malindi- and Lamu Counties.

Natural Justice supports the local communities in defending their interests and informs them about the institutions and authorities to link with. However, it is always the communities expressing what they want, writing letters to the authorities and taking the next steps. The communities put a lot of effort into the process and leave their fishing activity, their farming aside, for the meetings with Natural Justice. Thanks to this empowerment they learn inter alia how to demand information based on the Access to Information Act that gives life to Article 35 of the Constitution.





In order to support the communities, the CELOs are in contact with the communities and meet up with them regularly despite some of them living in remote areas. What I found interesting and practical is that the CELOs are recruited from the community so they know the local languages and customs. In order to build trust, they need to be understood as one of them. Therefore, they use the cheapest means of transportation – no showing off with big cars.

It's only when the communities understand that you are actually on their side, that they will open up and you can reliably work together. As Martin Luther King said: "We've got to understand people, first, and then analyse their problems."

This is how we ended up having a Tuk-tuk ride for one and a half hours to visit the community affected by the activities of the salt mining industry. On the way, it rained heavily and as we were about to leave the main road to visit the site, we were told that there is no way of accessing the site because of the muddy access road.

We learnt the only option we had was to drive another one and a half hour back to Malindi, soaked in water and the Tuk-tuk leaking from all possible and impossible sides. It's during the rainy season that you learn the practical skill of how to choose the perfect Tuk-tuk.

Sometimes you have more luck with the weather on field visits. Like the time when we went to visit the Kwani farmers in Lamu County, which are still waiting to receive indemnification for their land that has been acquired for the planned Coal Plant. For this field visit, we had proper cars which is good because we needed to drive off-road for quite a while. We drove on the Lamu Port–South Sudan–Ethiopia Transport (LAPSSET) corridor road, until we turned on a smaller road, passing the water tower and then got off-road.



We passed a water tank in the middle of the fields indicating CSR. Our guide – a local paralegal with Natural Justice – explained that CSR stands for Corporate Social Responsibility and that the tank had a hole in it from the very beginning and was therefore never used...

This doesn't leave me with a lot of hope for the other development projects of the LAPSSET corridor.

The weather needs to be good when visiting these farmers because we meet under a tree out in the cashew fields. After the explanation of the new strategy to receive indemnification, the farmers speak up about their concerns. Lastly, one farmer spoke up with this beautiful metaphor for the land grabbing that stuck with me:

"They came by night without even knocking at the door and made our daughter pregnant and then sneaked away. Though, in our culture, if you are interested in our daughter, we first sit together and talk about your intentions. But now that they have impregnated our daughter they are coming back and want to marry her and throwing the dowery at us."

During the meetings with the local communities, I could not understand much with my very limited Kiswahili. Therefore, I observed the people, how they talk, who talks and analysed reactions. I noticed the meeting is only finished once everybody who wanted to speak spoke up. I also noticed the respect between people is crucial. Every meeting starts with a prayer from the eldest, followed by the introduction of the people present and ends with prayer again to let everybody leave in peace.

At Lake Baringo, I had the honour to attend a traditional celebration of the Endorois community. They were launching their community protocol,

putting on paper a guide and negotiation tool ensuring legally sound procedures for external stakeholders wanting to interact with the community. As we were waiting for the governor to start the celebration, we had time to visit their Cultural Centre and dive into their culture and their lands. As the governor arrived the traditional dancers welcomed him with song and dance marking the beginning of the ceremony for the launch of a new era for this community.

I don't want to leave you with a glorified impression of Kenya. I have also learned about corruption in the system and been frustrated when clients have been compromised, undermining all the time and skill invested. The government bureaucracy that made my colleagues sacrifice working days – needlessly waiting in front of the offices to follow-up with the authorities and insist on getting responses to their letters. I saw how successful advancements in front of the Environmental Tribunal are appealed and strategic games are played in order to weaken opposition against the government's position.

During my fellowship, I not only learned a lot about legal empowerment at a national level,

but also had the chance to get involved in the preparatory session for a meeting of the Convention on Biological Diversity about the new global biodiversity framework. Natural Justice organized the preparatory meeting for representatives of local communities from across Africa – including Kenya – gathering their views and preparing them for international negotiations.

It confirmed to me the importance of the bottom-up approach. Actions on the ground ensure the successful implementation of a global framework. The people at the grass-root level depend on and care for their environment and are, therefore, likely to use it in a sustainable manner. Empower them, give them a stake and nature will blossom again.

I have had a unique chance to dive deep into the culture and politics of Kenya. The lessons learned, the people I have met and the conversations I have enjoyed, are countless. This fellowship leaves its traces not only on my curriculum, but also on my life experience.

I only have one more thing to say: Asante sana!

## The Fellowship Programme

*by Emmanuel Siakilo*

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Natural Justice commenced the Environmental Justice Legal Fellowship in 2019. We intended to provide an exciting opportunity to lawyers and researchers who are passionate about supporting communities in securing rights to their lands, resources, and knowledge, and to have hands-on experience in research and legal advocacy. Three national fellows joined the organisation as legal and research fellows in 2019, while two international fellows joined on a short-term (3-6 months) basis.

We aim to upscale this initiative across all the Hubs, and we are currently in the process of developing a concept for the Pan-African Fellowship Programme, which will culminate into a strategy. We also intend to continuously keep track of the fellowship alumni by inviting them to engage with Natural Justice and our partners, as well as with the communities that we work with.

# Reflections on Natural Justice

*by Shannon Marcoux*

Interning with Natural Justice's Cape Town hub was the best possible way to spend the summer after my first year of law school. As an intern with NJ's Climate Program, I had the opportunity to conduct interesting research on innovative climate litigation from around the world in support of climate litigation and legal empowerment work in South Africa.

The main reason I was drawn to Natural Justice in the first place was the organization's unwavering respect for the communities with whom it works. In a human rights space that is so often dominated by neo-colonial attitudes, I wanted to intern with an organization that works with communities and amplifies community voices instead of imposing its own organizational agenda. I found this at Natural Justice. While the biocultural community protocol is the most obvious manifestation of this, NJ's community-centred approach informs every single aspect of the organization's work and permeates office culture.

As an intern, I was treated as a valued member of the team. Not only was I invited to strategy

sessions and community meetings, but my input in these spaces was welcomed and taken seriously. Furthermore, Natural Justice challenged me to rethink my preconceptions about what legal advocacy looks like. The organization fosters creativity in problem solving and strategizing without binding itself to the confines of a traditional legal services organization. There was never a shortage of bold ideas flowing through meetings and daily conversations among the team. At a time when the climate crisis is forcing environmental advocates to act with boldness and imagination, Natural Justice was an inspiring place to work.

Team members' passion for justice and dedication to Natural Justice's mission are on display every day. This not only made coming to the office each day an enjoyable experience, but it also inspired me to continue pursuing community-centered environmental justice work as a career. I feel lucky to have called Natural Justice home—if only for a few months—and I look forward to continuing to follow Natural Justice's incredible work in the future.



# Working with deCOALonize

*by Abiud Onyach*

The deCOALonize campaign is a grassroots movement in Kenya that was made possible when communities in the Lamu and Kitui Counties came together to oppose plans to build a coal power plant and mine coal respectively. The campaign officially came together in 2017 and key environmental organisations, including Natural Justice, Greenpeace Africa, 350.org among others, joined to support the movement in preventing the development of a coal industry in Kenya.

The campaign created four strategic working groups to ensure effectiveness and proper coordination. The working groups include the communications group, lobbying group, community group and litigation group. These groups are led by organisations volunteering as the focal point. Natural Justice is the focal point for litigation – meaning we take the lead in matters of litigation and advise the members on the way forward on issues regarding litigation. Besides leading the litigation working group, Natural Justice has housed the deCOALonize campaign for the last two years.

## BENEFITS OF THE CAMPAIGN

The campaign, as was articulated in a past reflection by Rose Birgen <https://naturaljustice.org/reflections-of-the-lamu-coal-plant-case/>, was and still is a case of “David vs Goliath”. In some cases, for the first time, communities were able to consider courts as viable institutions to seek justice. Often, communities are sceptical about court cases due to the time it takes to resolve issues. There are enough documented

cases where victims have passed on before justice is served. The decision to go to court, and the judgment thereafter, restored communities’ hopes in the courts. This verdict not only benefited the affected community in Lamu, but also made other grassroots movements and communities realise that the courts are a viable option - despite the wheels of justice turning slowly.

Other benefits were seen from the coordination of the four working groups. Challenging harmful projects requires a multi-pronged approach. While courts have a lasting remedy, lobbying and advocacy are necessary to achieve public and institutional support. And we must not forget that communities have to be at the centre of decision-making about the way forward, as well as the central voice in the struggle.

## WORKING WITH DECOALONIZE

Working with the deCOALonize campaign has been eye-opening for the Natural Justice team working directly with the campaign. We have learned that communities can be courageous and can push back - with enough resources and support. It has been an exciting opportunity to learn about movement building and campaigns. The tactics employed by the working groups fit perfectly into our three streams: affirming rights, defending rights, and standing with communities. Unfortunately, the journey to stop coal in Kenya is not yet over, and as the focal point on litigation, Natural Justice is determined to work with deCOALonize to the conclusion of the matter.

