



# Annual Report

2020-2021

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# Letter from the Chairperson of the Board

Natural Justice grows from strength to strength. In 2020, the organisation began the task of implementing its new strategy, developed in 2019. This has brought many changes: many challenges and many opportunities. The team, held together by Pooven Moodley and Laureen Manuel, as well as long-standing Natural Justice staff like Gino Cocchiario and Barbara Lassen, have risen up to these challenges and embraced these opportunities.

There have been new demands placed on a growing organisation. I remember the days of Natural Justice being a handful of staff doing wonderful things from rickety desks and old chairs, based in Cape Town. Now it is a thriving entity, with growing teams of management, finance, administration, communication, and of course, programmatic staff. The spread of its reach across Africa has led it into Burkina Faso, Nigeria, Uganda, Ethiopia and Mozambique. The Hubs of Dakar, Nairobi and Cape Town are no longer focused on just a handful of community issues, but see themselves as the East, West and Southern African hubs, lighting up the map of Africa in the process.

I have seen the courage and fortitude of the staff as they take on international challenges. What began with the ground-breaking work on Biocultural Community Protocols, has spread to effective litigation against the Lamu Coal Plant, moving into solidarity, legal empowerment and support to a number of different communities challenging both large and small industries.

For many years to come, no one will forget the Covid-19 pandemic of 2020. Natural Justice felt the impact acutely, both personally in the deaths of family members (let them be remembered) and as a team, as they quickly adapted to an online world. Unfortunately, many of the communities they work with are not able to move over as easily and it was a palpable relief for the staff as they were able to travel again in 2021.

I commend them for their patience and adaptation. I also recognise the strain that it placed on people, working from home, juggling new responsibilities and new concerns, as well as feeling the deep sadness of death and struggle within their families and communities, and within the communities they have close working relationships with.

I applaud the commitment of the staff of Natural Justice through all of this. There are many new faces, and I am certain they hold the same passion as the long-term staff do in terms of making a difference. The climate crisis is here and there is a lot more work to do.

I extend the gratitude of the Board to the staff and management of Natural Justice for all they do, and to reiterate our support for the cause. We will continue to support in big ways and small. I am looking forward to seeing what Natural Justice brings for the future. On behalf of the board, I wish them well for 2021 and 2022.

**Professor Loretta Feris**

# Highlights from Francophone Africa

## Senegal

Natural Justice is continuing the process of establishing itself in Senegal. After two years of making contact with local communities and partners, the organisation is now in a phase of consolidating these partnerships while opening up to the new environmental challenges facing the country. In keeping with its legal empowerment approach, Natural Justice has focused on supporting communities affected by infrastructure projects that suffer various forms of environmental injustice, with an emphasis on coastal communities.

From an organisational point of view, the team has grown. We have recruited three Community Environmental Legal Officers (CELOs), which now enables community cases to be monitored more intensively. The AACJ project has boosted the ambition of this fledgling team, which now aspires to embrace new perspectives. So, in addition to Natural Justice’s involvement in infrastructure projects, the organisation is increasingly focusing on issues such as biodiversity conservation (with a stronger presence alongside the communities that are custodians of the Indigenous and Community Heritage Areas), fisheries, climate justice, the energy transition, and so on.



Natural Justice partners with the ICCA Consortium. We attend their working group meetings in Madagascar and in other countries where we are supporting ICCAs.

## Community audit of the Bargny coal-fired power station

In Bargny, the community audit process on the impact of the coal-fired power station has been completed at a time when the authorities are showing a certain hostility towards the plant. Located 60km from Dakar, the capital of Senegal, Bargny has been dealing with the consequences of the presence of a coal-fired power station for almost ten years. Natural Justice’s intervention consists of strengthening the efforts of this community by testing the legal capacity-building approach, which will culminate in the production of a community audit report.

## Niafrang Community Protocol

Located more than 700 km south of Senegal, the village of Niafrang is threatened by a zircon mining project operated by the Australian company, Astron. In 2020, the launch of a community protocol process helped to mobilise the community around the need to protect natural resources and oppose the proposed mine. The community protocol was strengthened by the launch of a legal strategy to challenge the project, in collaboration with our partner Advocates for Community Alternatives (ACA), based in Ghana.



Caption: Natural Justice and community members from Niafrang in Senegal who are undertaking a community protocol process.

## Implementation of the legal empowerment programme

Until Natural Justice arrived in Senegal, the approach of legal empowerment of communities was not well known. However, most communities faced with the challenges of environmental injustice expressed the need to know more about the legal framework of Senegal in order to better assert their rights. With this in mind, Natural Justice launched its legal empowerment programme with the recruitment of three new Community Environmental Legal Officers (CELOs) in 2020-2021, currently covering three areas. Exchanges and sharing of experiences are continuing with the Nairobi Hub to make this programme a model for French-speaking Africa.

## Legal action against zircon mining on Niafrang dune, Casamance

After lodging a legal appeal in 2020 to give the community access to information about the zircon mining project at Niafrang, the community, supported by Natural Justice and our partner ACA, obtained a ruling from the President of the Republic suspending the process of renewing the mining permits. In addition, under the auspices of the office of the Minister of Mines, two meetings were held in Dakar with Astron's legal advisers and the communities' lawyer. These meetings were an opportunity for the communities' lawyer to make their demands heard, while drawing the authorities' attention to the environmental risks of the project.

Following these two meetings, the Minister of Mines demanded that Astron provide the communities with any documents that could usefully inform them about the project. In addition to suspending the licence renewal process, the Minister proposed that his cabinet visit Niafrang to hear their demands in person.

Natural Justice is delighted with this development, as the introduction of the legal aspect into this struggle, which has been going on for nearly 10 years, has begun to bear fruit.

## Guinea

Guinea is known for its mining potential and is cited as having the world's leading bauxite reserve. A number of Western and Asian mining companies are exploiting these resources, with huge impacts on communities. It is in this context that Natural Justice has been working since 2019 with communities in the Boké mining area to draw up a community protocol for communities impacted by the *Compagnie de Bauxite de Guinée* (CBG) and a community audit of the impacts caused by the *Société Minière de Boké* (SMB).

Restrictions caused by COVID 19 slowed down community work in 2020, but Natural Justice was nonetheless able to continue certain activities such as collecting information on mining impacts, validating georeferenced participatory maps and developing an advocacy strategy towards the *Société Minière de Boké*. We also supported one of our national partners, *Mêmes Droits pour Tous* (MD), in recruiting and training community paralegals. Natural Justice was able to use its partner community structures to launch awareness-raising campaigns on COVID 19, including through community radio stations.



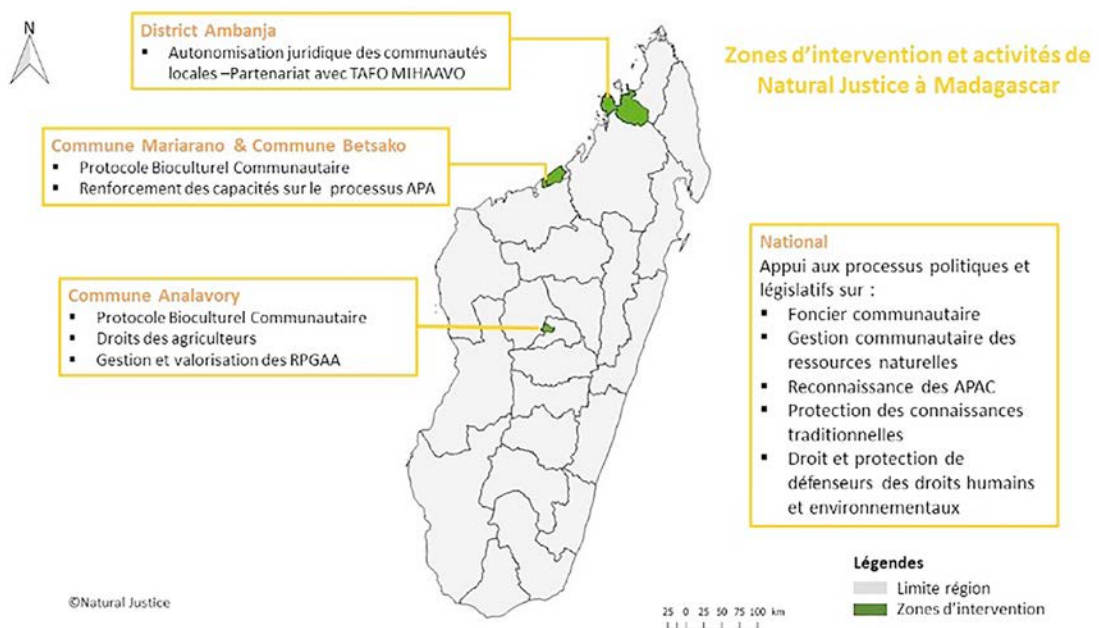
The Société Minière de Boké mine lies close to the homes of community members.



Caption: Natural Justice collecting information from communities in Guinea regarding the impact of mining on their homes and the environment.

## Madagascar

Carte : Zones d'intervention et principales activités de Natural Justice en 2020



Source : Natural Justice, 2021

## Partnership with TAFO MIHAAVO for the legal empowerment of Ambanja communities

Natural Justice has established a partnership agreement with the TAFO MIHAAVO network (a national network of nearly 600 associations of local communities managing natural resources in Madagascar). As part of this partnership, Natural Justice is supporting the implementation of a pilot project in the District of Ambanja (Diana Region) with funding from the FANAINGA Civil Society Fund for a period of 2 years. The project involves legal empowerment activities for a number of local communities suffering from the negative effects of the mining project run by *Société Ruby Red Mada*, illegal and unsustainable exploitation of natural resources and failure to comply with community management rules.

The following activities were carried out in 2020:

- Support for the recruitment and training process for the joint initiative team: 2 community paralegals, 1 project coordinator and 1 administrative and financial manager.
- Carrying out a preliminary study on local legal practice, the dynamics of the players involved and mapping the intervention areas.
- Setting up a legal resource centre at the TAFO MIHAAVO office to provide legal advice and assistance to communities.
- Follow-up and legal advice in litigation involving cases supported by the legal resource centre.
- Revision of a guide on remedies for local communities in the face of environmental offences, which will be shared with the communities.



Natural Justice supporting their partner TAFO MIHAAVO with legal empowerment support for communities.



## Monitoring the use of the Community Biocultural Protocol (BCP) by the Mariarano and Betsako communities in the Mandravasarotra value chain

Natural Justice has continued to monitor the use of the BCP of the Mariarano and Betsako communities to negotiate biotrade agreements with *Mandravasarotra* (*Cinnamosma fragrans*) leaf growers. Demand for Mandravasarotra continued despite the health crisis linked to Covid 19 and has even increased due to its use as a traditional remedy. Due to travel restrictions, support was provided remotely. Correspondents in each community regularly exchanged information with Natural Justice by telephone.



The farmers of Analovary in Madagascar have created a Biocultural Community Protocol which has assisted them to negotiate Biotrade agreements.

## Facilitation of the working group on the documentation and protection of traditional knowledge

Previously, with the support of the national environmental programme GIZ (ABSI), Natural Justice facilitated a working group with the Ministry of the Environment in Madagascar that brought together a number of stakeholders (government agencies, private sector, CSOs, researchers and representatives of the association/platform of traditional knowledge holders) working in different sectors. Restrictions linked to Covid 19 limited the activities carried out. However, virtual exchanges continued. As a result, it was possible to identify national legal frameworks, documentation approaches and protection practices relating to traditional knowledge.

## Promoting the rights and protection of human rights and environmental defenders

Natural Justice has produced a short documentary film highlighting the situation of environmental defenders in Madagascar, with the support of TAFO MIHAAVO and funding from the Swiss Embassy in Madagascar. The documentary traces the place of communities in relation to the legal framework in the country and their challenges in applying the legal framework. It specifically traces the struggle of three cases:

- The case of the villagers of Andina, in the Haute Matsiatra Region, faced with an Amazonite mining operation that impedes their right to water.
- The land conflict between the communities of Andranobe, in the Vakinankaratra Region, and the decentralised local authority and an agricultural company.
- The case of the communities managing the Tsiazompaniry forest, in the Analamanga Region, faced with the threat of a private individual taking over 30 hectares of the forest.

Follow the link to read more about these cases and watch the video: <https://naturaljustice.org/les-communautés-locales-au-centre-de-la-défense-leurs-droits-humains-pour-protéger-la-nature-et-leur-mode-de-vie-a-madagascar/>



Natural Justice supported the development of a documentary highlighting the situation of environmental defenders in Madagascar.

## Support for legal reform to assert the rights of local communities in environmental management and protection

Natural Justice is supporting the process of drafting and revising legislation on:

- Community land tenure
- Community management of natural resources
- Protection and rights of defenders of human and environmental rights
- Protection of traditional knowledge
- Access and Benefit Sharing (ABS)

Natural Justice provided technical inputs and supported the participation of local communities, members of TAFO MIHAARO, in national dialogues, as well as sharing experiences from other countries where the organisation works.



Natural Justice supporting their partner TAFO MIHAARO with legal empowerment support for communities.

# Highlights from East Africa

## Challenging the Nairobi Expressway

The [Nairobi Expressway project](#) is a 27km, four-lane, dual-carriage road built through Nairobi, Kenya. Access is through ten interchanges with toll plazas. In 2018, China Roads and Bridge Company (CRBC) was given a 30-year concession under a public-private partnership and a year later, Kenya's then-President Uhuru launched the project in October 2019. To provide "right of way", institutions like schools, places of worship and malls were demolished.

A case was launched against the National Environmental Management Authority (NEMA) and CRBC to challenge the expressway's construction. Natural Justice joined the Greenbelt Movement, Katiba Institute, Wangari Maathai Foundation and Dandora Community Justice Center as appellants. The case was brought to the National Environment Tribunal. The Kenya National Highways Authority (KeNHA) joined as an interested party to the case.

The case challenged NEMA's decision to issue an environmental impact assessment licence for the project when, among other things, there had been inadequate public consultation, a failure to disclose detailed project designs, an absence of key baseline studies, inadequate climate change considerations or considerations of mass rapid transit alternatives.

In complete disregard for due process, the project developer and the Highway Authority continued construction despite several verbal warnings from the Chairperson of the National Environment Tribunal. Natural Justice and the other organisations issued applications to have the Tribunal issue a formal warning, but these were ignored. A separate contempt application filed in the High Court against the Highways Authority and project developer was also not successful.



Natural Justice and partners at a protest over the environmental degradation caused by the Nairobi Expressway.

The case has highlighted a need for broader advocacy around the Environment Tribunal’s interpretation of the statutory provision requiring a halt to project development once an appeal is lodged at the tribunal. Positively, the issue and the question of development decision-making have been the subject of a special volume of the *East African Law Journal* to which Natural Justice contributed.

Outside of the court room, [Natural Justice joined several organizations](#) to protest the environmental degradation the project has left in its trail. The march started at the foot of a Mugumo tree whose cutting has been a source of outrage by many city residents. In addition to raising awareness about the expressway project, the march was also significant as it brought together many Nairobi resident groups who are mobilising to ensure public open spaces are better secured.

### Claim for compensation by Mama Juma Ngozi for loss of farmland

Natural Justice has worked extensively worked in Kilifi County, where salt mining companies have caused extensive irreversible environmental damage. One case is that of Mama Juma Ngozi. Mama Juma Ngozi is pursuing a claim of monetary compensation against [Kurawa Salt Company](#) for loss of crop production caused by underground salt and chemical seepage due to a lack of a buffer zone between her homestead and the salt fields.

We obtained reports from the National Environmental Management Authority and the Kilifi County Department of Agriculture, Livestock, and Fisheries, assessing the damages on Mama Juma Ngozi’s farm as a result of the salt mining activities on the neighbouring property. Advocacy from our Community Environmental Legal Officer (CELO), Justus Tsofa, lead to key institutions conducting a findings mission and releasing a report that confirmed that the salt firms’ activities were, indeed, harmful to her agricultural activities and, therefore, needed to compensate her.

The award of compensation was made based on the damage observed on her farmland and, particularly, on Casuarina trees and Coconut trees from which she gains a livelihood. There was also a recommendation made for ongoing soil testing. This, we believe, will address the fact that compensation awarded has not taken into account her claim for the total loss of livelihood as she currently cannot use her farmland.



The salt mining in Kilifi County have damaged the surrounding environment and impacted the livelihoods of farmers, including Mama Juma Ngozi who is requesting compensation.

## Biocultural Community Protocols in Kenya

One of the tools of legal empowerment that Natural Justice aims to do very well and is known for, is strengthening community governance systems through the development of biocultural community protocols (BCPs). These aim to enhance resource management and secure community land, as well as safeguard traditional knowledge linked to key species. To that end, we helped Indigenous communities in Marsabit and Tana River develop BCP documents to safeguard their Indigenous and traditional knowledge on the genetic resources of their people.

In Marsabit, the community is setting up a botanical library of medicines and medicinal herbs that they have been using to treat humans and livestock. Also worth mentioning is that the Council of Governors (COG) convened a meeting in April 2020 to discuss how counties could better advance recognition of Traditional Knowledge and Indigenous Knowledge, especially in medicine, through research.

The Sengwer and Yaaku forest communities have also approached Natural Justice to help them in their BCPs. The communities, in conjunction with the Hunter-Gatherer Foundation of Kenya, will be developing protocols around their Traditional knowledge, as well as outlining aspects of their relationship with the forests and the benefits therein.

## Litigation Highlights

**Sosian Energy Appeal:** Natural Justice and the Katiba Institute in Kenya are representing community members opposed to the granting of an Environmental Impact Assessment licence for geothermal exploration activities in their area. The communities are opposed to the project due to inadequate public participation and concerns around potential impacts given the proximity of the activities to their homes.

**East Africa Crude Oil Pipeline (EACOP):** The governments of Uganda and Tanzania have signed agreements for the implementation of a pipeline through Uganda and Tanzania – one of the longest in the world. There was a clear intention to fast-track project implementation, which prompted civil society organizations in Kenya, Uganda, and Tanzania to file a reference before the East Africa Court of Justice challenging the pipeline. [Natural Justice is a party to the case](#). In partnership with the Climate Litigation Accelerator at the New York School of Law, we also commissioned a report looking at the omitted greenhouse emissions from the project. Aside from the litigation, there have been several notable wins. First, three French banks have confirmed they will not finance the project. The [#StopEACOP](#) campaign, which we are a part of, has also secured substantial coverage on the issues – particularly the human rights impact on communities.

## Law and Policy Reform Work

One of the core functions we perform in our Law and Policy Reform Work is interact with the drafting of laws and offer our views in the law-making process. We, therefore, submitted comments on the Public-Private Partnerships Bill, 2021 that seeks to repeal the current Public-Private Partnership Act, No.15 of 2013. The amendment Bill is expected to speed up infrastructural and development projects by facilitating faster processing of privately initiated proposals, enabling direct negotiations through direct procurement and value engineering of open procurement options in line with the new directive to align public investment programs into project prioritization. Among the fundamental issues we raised include transparency and accountability in the procurement process and the consideration of human rights and environmental issues in the development of PPPs, including ensuring the participation of affected communities.

## Stopping waste disposal during the Port Link Road construction

The [Port Access Road project](#), also known as the Port Link Road, is a road that was being developed in Lamu County, Kenya, to link to the new berths in the Lamu Port. The road was completed before an Environmental Impact Assessment licence was issued. The contractors also dumped waste in

community farms. Our CELO in Lamu, Said Salim, worked with farmers to stop the contractors who were illegally disposing of waste on community farms. With his help, the clients drafted and lodged a complaint letter to the National Environment Management Authority (NEMA) county office. The County Director of Environment undertook a site visit and enforced compliance.



Road construction in the Lamu area has impacted farmers and landowners, who have experienced dumping of waste.

## Reopening of the Lamu Garsen Road

The residents of Bomani area in Mokowe, Lamu (Kenya) got a reprieve after the natural water ways, which were previously blocked by the construction of the Lamu Garsen road causing floods during the rainy seasons, were reopened following a series of letters and complaints letters to the National Environmental Management Authority and the County Commissioner of Lamu. The County Commissioner met with residents to discuss a longer-term plan.

## Getting informed about the Boyani Limestone Quarry

Boyani Kokotoni Limestone quarry was established by the China City Construction Company who were contracted by the Kenya National Highway Authority to mine limestone for part of the Mombasa-Nairobi highway road construction. Unfortunately, the quarry was established without an Environmental Impact Assessment (EIA) license and became a source of sorrow for the communities living in Miritini.

Our CELO in Kilifi, Justus Tsofa, has been spear-heading the efforts to support the community. Pressure was placed on the Ministry of mining, National Environment Management Authority (NEMA), and the Commission of Administrative Justice (CAJ), to provide project information including the mining license, the EIA report and environmental license, and the assessment report that had been prepared by the Kenya National Highways Authority (KeNHA) to facilitate compensation. When the blasting activities resumed, Justus worked with the affected community to lodge another complaint to NEMA.

NEMA eventually issued a temporary closure notice to the company undertaking blasting activities, requiring them to put in place measures to mitigate and address complaints raised by community members. We continue to track compliance with the closure notice. Further, after several requests to NEMA, we have finally obtained the project EIA and License. We continue to track the assessment of damages reports from the Kenya National Highways Authority.

## Research on land injustices by salt mines in Kenya

Natural Justice has been working with communities in Kilifi County in Kenya, where several salt firms are in operation and have contributed to environmental and human rights violations of communities – which include historical land injustices. Natural Justice, together with other concerned partners, have been pushing for a review of land titles acquired by the salt firms as part of a concerted effort to give the communities an opportunity to revisit their land injustice claims.

To that end, the implementation of the recommendations of a grants review report released by the National Land Commission (NLC) in 2018 has commenced. The grants review report declared titles to various parcels of land illegal following an investigation into alleged historical land injustices by the NLC. Many of the title deeds to parcels of land used for salt mining were found to be irregularly acquired. The NLC, therefore, recommended that the Registrar of lands cancels these titles and give them back to the county government to resettle squatters who were irregularly displaced. The process of implementing this recommendation began.

**Salt Audit:** We are currently finalizing the salt audit report. This is a culmination of a two-year process undertaken by the affected community members with the help of the paralegals (from Natural Justice and Malindi Rights Forum). The audit highlights violations of salt companies.



Salt mining in Kilifi has devastated the local environment.



## County Headquarters compensation

The community in Lamu, Kenya, had their land **compulsorily acquired** to pave way for the construction of the County Government Headquarters. In 2016, the government, through the National Land Commission (NLC), began to acquire land in Kililana for the construction of the Lamu Port South-Sudan Ethiopia Transport corridor project (LAPSSET).

The community's petition to the county assembly of Lamu regarding the compensation of farmers whose land was illegally acquired for the development of the County Headquarters was presented to the clerk of the assembly. Following the referral of the matter to the Chair of the Land Committee, the County Secretary was summoned and questioned concerning the lack of compensation. The County Secretary was then ordered to present an explanation for the delayed compensation within two weeks.

The community further liaised with the Speaker of the county assembly to table a motion before the whole house requiring the affected farmers to be compensated. The motion was unanimously passed by all members of the county assembly. We are waiting for the County Executive for Environment to respond to this motion.



Farmer and residents of Lamu have had to leave their land to make way for the Lamu Port construction and associated infrastructure development, including a building to house the County Government Headquarters.



Said Salim and Pooven Moodley from Natural Justice stand in the area where farmers are fighting to keep their land which will be used for the Lamu Port South-Sudan Ethiopia Transport corridor project (LAPSSET).

## The Kenya-Guinea Paralegal Exchange

In March 2021, we hosted the Guinea team for a Paralegal Learning Exchange from 9-13 March 2021. The focus of the learning exchange was on the “environmental justice approach” of working with communities and the use of paralegals within that approach. The Guinea team was looking to start a programme to solve environmental justice issues in their communities using the legal empowerment approach as a technique. As such, they needed to participate in site visits and group sessions with community groups and partners in Malindi. To this end, this exchange allowed participants to leave with valuable information to incorporate in their future work.



Our Community Environmental Legal Officers (CELOs), otherwise known as paralegals, meet in the Nairobi Hub for an exchange.

# Highlights from Southern Africa

The Southern African team has been at the heart of the historical work of Natural Justice. The strength of the team lies in their legal empowerment work, which has resulted in multi-year relationships built with communities in an environment of respect and support. One of the key areas of focus is working with communities to develop their Biocultural Community Protocols (BCPs) and to support communities to strengthen their governance and decision-making structures in pursuit of negotiations for Access and Benefit Sharing (ABS).

However, in 2019 onwards, the team has also been pursuing litigation opportunities in order to protect communities from harmful developments, which has seen them begin to work with new partners, including the **PHA Food and Farming Campaign** and the **South Durban Community Environmental Alliance**. Through these partnerships, the team will be providing holistic support through capacity-development, training, litigation and the Community Environmental Legal Officer programme.

The Hub has also been testing the ground for developing BCPs in a quicker, more efficient manner, working particularly with six Venda Traditional Authorities, and with traditional knowledge holding and resource stewarding communities who have traditional knowledge of Buchu, Marula and **Aloe Ferox**. It has been an opportunity for the team to learn and reflect on the BCP process and its importance in strengthening internal community governance, and for laying a firm foundation for affirming community environmental and human rights.



The fruit of the marula tree. The knowledge of this species is held by indigenous people in Southern Africa.

The team has grown through the development of the programmatic streams and now boasts a large staff complement dedicated to strengthening their presence in Southern Africa, particularly in **South Africa, Zimbabwe, Botswana, Namibia** and **Mozambique**. At the end of this reporting period, we said goodbye to the long-standing Hub Director, Lesle Jansen, and welcomed indigenous-rights expert Delme Cupido as the new Cape Town Hub Director. We thank Lesle for her long-standing commitment and passion for developing her team.

## The Cape Flats Aquifer court case

In 2019, a case against the City of Cape Town and Western Cape provincial government in South Africa was launched to oppose the development of a very large, multi-purpose development, the Oakland City development, within the boundaries of the Philippi Horticultural Area.

Natural Justice assisted and supported the PHA Food and Farming Campaign to bring the case to court in the interests of protecting the farmlands, as well as the Cape Flats Aquifer which lies beneath it, as the Oakland City development is very likely to pollute and degrade it, as well as hinder the ability of the aquifer to replenish itself.

Considering the problem of water scarcity in the City of Cape Town, and factoring in climate change, the protection of the Aquifer will ensure that Cape Town residents will not be impacted by drought and will continue to have access to local food.

In the 2020 judgment, the judge ruled that the environmental authorisation of the project should be re-assessed, factoring in the impacts of the proposed Oakland City development on the Cape Flats Aquifer in the context of climate change and water scarcity. This was the first time in South Africa that the issue of climate change was ruled to be a factor that should be considered in development applications.



Outside the courthouse during the court case brought by the PHA campaign in an effort to protect the Cape Flats Aquifer in Cape Town.

## Biocultural Community Protocol support in Venda

During 2020, the Natural Justice team, along with the Department of Forestry, Fisheries and the Environment (DFFE) and the United National Development Project, provided support and training for the development of a Biocultural Community Protocol for six Venda Traditional Authorities in the province of Limpopo, South Africa.

The BCP support was directed at six Vhavenda communities in order to strengthen their internal governance, build their knowledge and capacity in the pursuit of negotiating towards the conclusion of an ABS agreement. The Vhavenda communities hold rich knowledge of biological resources and the BCP was aimed at helping to protect the rights of these communities.

An in-person BCP workshop was held, followed by an online three-day training session, on Access and benefit-sharing. The latter training was held online due to Covid-19 restrictions. Members of the community noted that they feel more prepared to protect themselves and their knowledge. However, as the training was held online and not in-person, a handbook for use in ABS negotiations, specifically aimed at the six Vhavenda communities, was developed - which will be shared with the communities during the validation of the BCP.

Through these processes, Natural Justice was able to produce a draft BCP and ABS handbook. With DFFE, a BCP in-person validation workshop is planned for the six traditional authorities in 2022.



Natural Justice conducts a BCP workshop with communities from Venda, in Limpopo, South Africa.

## Preparing for the ENI-Sasol offshore litigation

In 2021, news of an application for oil and gas exploration off the coastline of South Africa, by Eni and Sasol, reached Natural Justice and partners. Concerned with the impact on the fisher communities, potential oil spills, and the concern over the impact of exploration on ocean life, challenging the exploration became a prerogative.

Following a series of meetings with environmental law colleagues from **Earthjustice**, and the local partners, **South Durban Community Environmental Alliance** (SDCEA), papers were drafted and filed, challenging the application.

A legal strategy was developed, and many key experts were engaged to draft comments in support of our court challenge. The Natural Justice team of lawyers learned a lot in the process and this has strengthened the internal capacity to take on large cases of this kind. This is an ongoing matter.

Read more: <https://naturaljustice.org/sdcea-goes-to-court-over-authorisation-granted-to-eni-and-sasol-for-offshore-oil-and-gas-exploration/>

## Launch of the Richard's Bay gas challenge

During early 2020, the Defending Rights team engaged with our partners, **Earthjustice**, and **South Durban Community Environmental Alliance** to prepare court submissions for a legal review against a decision to grant authorisation for the construction of the Richards Bay Combined Cycle Power Plant.

We have been working with several key specialists in climate change and renewable energy disciplines to develop arguments which support the conclusion that gas plants are not necessary to further South Africa's commitments to energy generation, and that South Africa's climate change commitments require us to reduce our dependence on fossil fuels.



Natural Justice stands with SDCEA and 350.org at the site of the proposed gas-to-power plant.

The application for judicial review in the High Court was launched on 9 April 2021. The review is based on several concerns raised regarding the Environmental Impact Assessment and the process of public participation that was undertaken.

The latest science on gas suggests that the greenhouse gas footprint of gas is worse than that of either coal or oil. Furthermore, the plant is not necessary to meet South Africa's energy needs - because cleaner, more cost-efficient alternatives are available.

This is an ongoing matter.

Read more: <https://naturaljustice.org/ground-breaking-litigation-sees-organisations-challenge-new-power-plant-in-richards-bay/>

## ABIOSA indigenous species project

During 2020, the Southern Africa team began the implementation of a project aimed at developing three Biocultural Community Protocols to support traditional knowledge holding and resource stewarding communities of the indigenous plants, Buchu, *Aloe Ferox* and Marula.

The programme is implemented as part of the ABioSA (ABS Compliant Biotrade in Southern Africa) programme, funded by the Swiss State Secretariat for Economic Affairs (SECO) and managed by GIZ.

Covid-19 restrictions impacted the ability of the Natural Justice team to meet with communities and hold intra-community dialogues. However, despite the varying restrictions throughout most of 2020, the team was able to meet with traditional knowledge holding and resource stewarding communities and held a national community conference bringing together the Buchu, *Aloe Ferox* and Marula traditional knowledge holding and resource stewarding communities.



Despite the Covid19 restrictions, Natural Justice was able to meet with custodians of traditional knowledge associated with various indigenous plants in South Africa.

The BCPs affirm and protect the rights of the communities, as well support the development of their governance arrangements for purposes of Access and benefit-sharing. The first drafts have been compiled and we will continue to be built on it with the communities.

The process has also helped the team and communities to reflect on the role of indigenous knowledge in mitigating the climate crisis. A thought piece on the subject can be found here. <https://www.dailymaverick.co.za/article/2021-04-21-earth-day-a-case-for-traditional-knowledge-to-mitigate-the-planetary-crisis/>

## The Khwe Biocultural Community Protocol and intergenerational exchange of Traditional Knowledge

A number of indigenous communities reside in the Bwabwata National Park, a conservation area in the north-east of Namibia. One group is the Khwe, a group of the San people. They are traditionally territorial hunter-gatherers and have lived in the area for millennia.

The Khwe consider land to be looked after as a home and a means of livelihood. Food, shelter and medicine are provided for through their occupation and use of the land. Almost every wild plant has a use, either for food or medicine and, in some cases, for use during traditional ceremonies.

The Khwe approach conservation, sustainable use and management of biodiversity from the perspective of developing and transferring knowledge and practices that can provide long-term solutions to issues of climate change, land degradation, unsustainable use of biodiversity etc. The transfer of their land and traditional knowledge is, therefore, the central means of conserving nature.

As a community granted the right to continue to reside in a conservation area, the Khwe are in a unique position as an indigenous people. This is not the case for many indigenous and cultural communities across the world, who are evicted from conservation and protected areas.

However, there are a number of challenges they Khwe continue to face. These include restrictions on their access to land and resources through the land management plans, which have implications for their diets, as well as their traditional means of conserving nature and the continuation of their cultural knowledge and practices.

Natural Justice have been working for many years with the Khwe to develop a Biocultural Community Protocol (BCP) which seeks to address the loss of their historical lands and natural resources inside the Park. The BCP speaks to their need for improved access and use rights to their customary resources within the Park.

They also wanted to protect and valorise their traditional knowledge associated with the rich biodiversity of the Park, knowledge which is under threat - because they cannot practice it and they cannot pass it on. This is partly because the youth are disconnected from Khwe cultural practices and knowledge on many levels, even from the perspective of communication between the older and younger generations.

In an effort to transfer their ancestral land to future generations, as well as their cultural identity and practices, the Khwe established the Khwe Custodian Committee (KCC) for maintaining, protecting and regulating the use of and valorisation of their traditional knowledge. The KCC's aim is to establish a platform from which to engage the youth and is a positive indication of their commitment to their knowledge.



In 2020, Natural Justice also engaged with younger people (and young women), appointing them for a brief period as Community Environmental Legal Officers (CELOs) as a means to organise/empower them and involve them in the project.

The appointment of the CELOs has played an important role in the project, despite the short time they have played this role. From the start, it has created a new sense of pride amongst CELOs for both their heritage and traditional knowledge, as well as provided them with new insights into environmental justice. The CELOs will be able to assist with the transfer of traditional knowledge from elders to youth. Being part of a CELO programme can also provide the youth with a livelihood opportunity and hope for future opportunities within Bwabwata – allowing them to build their lives within the park and continue their traditional practices.



Natural Justice with the Khwe Custodian Committee.

# Highlights from African Defenders Fund

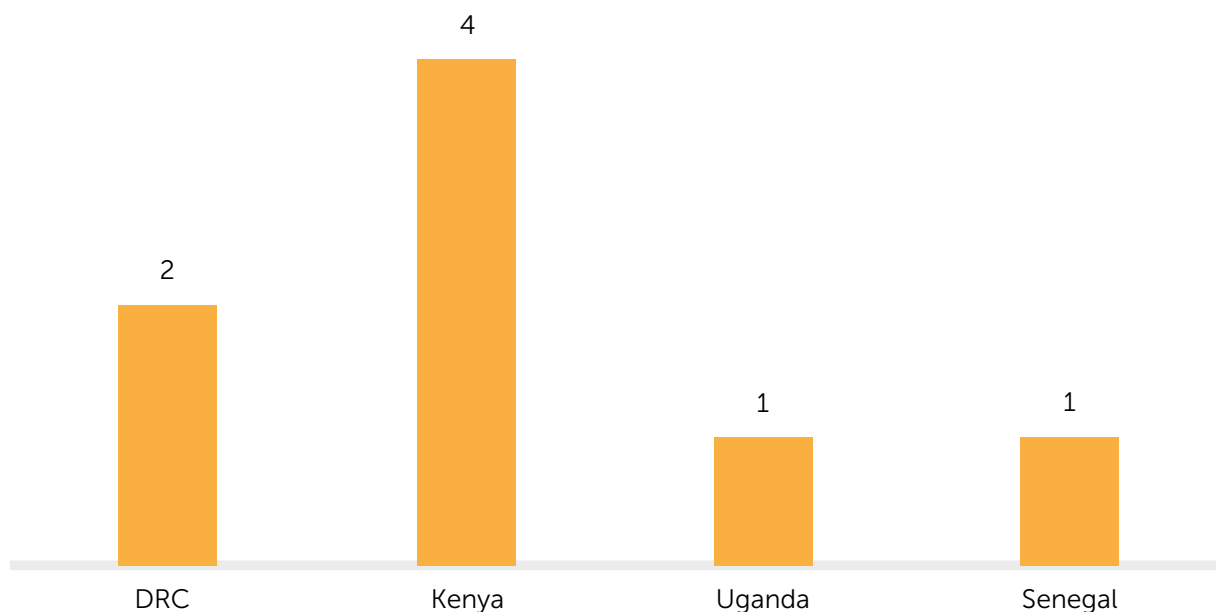
The African Environmental Defenders Initiative started out as an Emergency Fund following its launch on 10 December 2019 during the commemoration of the International Human Rights Day.

Initially, this fund targeted African land and environmental defenders who were facing threats and harassment due to their work and were affiliated to an organization belonging to the International Land Coalition (ILC) network.

The Fund laid down a strong foundation for the establishment of Natural Justice’s broader African Environmental Defenders Initiative which has since evolved into a holistic approach to protecting grassroots community defenders using a combination of both proactive and preventive measures to respond to incidents of violations and threats to defenders based on their needs.

## Key Highlights

Applications to the Fund approved between 1 March 2020 and 28 February 2021



- From 1 March 2020 until 28 February 2021, 9 among 17 applications were supported.
- Among the 9 supported applications, 5 were from Kenya, 2 from DRC, one from Senegal and one from Uganda.
- In total, emergency assistance was provided to 3 communities and 15 environmental defenders at risk.
- Types of assistance provided: short-term legal assistance and temporary relocation costs.

## The case of five Batwa defenders illegally detained

The Fund was able to help 15 people and 3 communities in total. To illustrate how the fund works and the help that the Fund is able to provide, one of the 9 cases in which assistance was provided, is presented below.

On 8 June 2020, *Forest Peoples Programme* submitted an application to the Fund to request short-term legal assistance for five Batwa men who had been detained in prison in Bukavu, in the DRC, since August 2019. The five victims were arrested for conducting activities such as traditional hunting and gathering, which are considered to be illegal in the Kahuzi-Biega National Park. They were then accused of the illegal possession of weapons and the participation in a militia and were sentenced to 5 years in prison on 20 March 2020 without being given a fair trial.

The African Environmental Defenders Fund provided financial assistance to *Forest Peoples Programme* to enable the latter to work with the *Centre d'Accompagnement des Autochtones Pygmées et Minoritaires Vulnérables* and a legal team, in order to secure the release of the five victims. On 15 September 2020, the five Batwa men were finally released and all the charges against them were discharged.

# Publications

## Human Rights in the Convention on Biological Diversity



Natural Justice worked with several international civil society partners to bring attention to the rights of indigenous peoples and local communities under the Convention on Biological Diversity (CBD). The parties to the Convention are currently negotiating the strategic framework for the next thirty years, called the post-2020 Global Biodiversity Framework (GBF). After holding a multi-stakeholder workshop on human rights in the GBF in February 2020, the partners lobbied for the inclusion of the recommendations in the draft texts of negotiations. Two policy papers were produced to outline the gaps and proposing language on, among others, land tenure rights of indigenous peoples and local communities, the protection of environmental defenders, governance of protected and conserved areas, and rights to traditional knowledge. The proposed language was taken up by several civil society platforms in their interventions during negotiation meetings and backed up by some government delegations.

The latest policy paper is available here:

<https://naturaljustice.org/publication/applying-a-human-rights-based-approach-to-the-global-biodiversity-framework/>

## The Living Convention



We updated and launched the third edition of the Living Convention, an accessible compendium of Indigenous peoples', local communities' and peasants' international rights. Indigenous peoples, local communities and peasants often ask what their rights are at the international level. The answer to this crucial question is complicated for several reasons. The provisions containing the rights are spread across a wide range of international instruments, each with its own particular focus, secretariats and signatories. By collating provision from separate international instruments by type of right (e.g. Free Prior and Informed Consent or access to justice), the Living Convention is able to quickly assess the extent of international law relating to a particular issue. Read it here: <https://naturaljustice.org/the-living-convention/>

# Finance report

## Natural Justice Detailed Income Statement

|   | 2021              | 2020              |
|---|-------------------|-------------------|
| <b>Revenue</b>                                      |                   |                   |
| Donations   | 118 637           | 289 247           |
| Grant Funding                                       | 14 941 078        | 12,359,465        |
| Consultancy fees                                    | 3 607 021         | 2,060,927         |
|   | <b>18 666 736</b> | <b>14,709,639</b> |
| <b>Other Income</b>                                 |                   |                   |
| Other Income  | 3 313             | -                 |
| Earthrise mountain lodge income                     | 32 820            | -                 |
| Interest received                                   | 301 659           | 337,754           |
| Profit on disposal of property, plant and equipment | -                 | 4 999             |
|   | <b>337 792</b>    | <b>342,753</b>    |
| <b>Operating expenses</b>                           |                   |                   |
| Accounting fees                                     | 45 989            | 50,893            |
| Auditors remuneration                               | 110 241           | 82,620            |
| Bad debts   | 12 709            | 47,784            |
| Bank charges  | 122 411           | 78,725            |
| Cleaning  | 28 219            | 16,219            |
| Computer expenses                                   | 1 449             | 1,598             |
| Consulting fees                                     | 5 836 055         | 3,760,455         |
| Depreciation  | 92 084            | 101,589           |
| Donations   | 502               | 1,200             |
| Employee costs                                      | 5 597 791         | 4,455,997         |
| Insurance   | 66 187            | 17,859            |
| Lease rentals on operating lease                    | 370 640           | 255,835           |
| Loss on exchange differences                        | 313 811           | 63,415            |
| Meeting costs                                       | -                 | 12,059            |
| Municipal expenses                                  | 69 324            | -                 |
| Organisational strategy/Planning expense            | -                 | 274,232           |
| Postage   | -                 | 10 941            |
| Printing and stationery                             | 330 810           | 67,707            |
| Project contribution                                | 2 932 041         | 3,320,566         |
| Repairs and maintenance                             | 30 964            | 462               |
| Staff expenses                                      | 1 798             | 956               |
| Staff loans   | 2 050             | -                 |
| Subscriptions                                       | 50 970            | 7,950             |
| Telephone and fax                                   | 353 009           | 143,684           |
| Travel and accommodation                            | 2 135 110         | 2,455,206         |
|   | <b>18 505 064</b> | <b>15,227,952</b> |
| <b>(Deficit) surplus for the year</b>               | <b>499 464</b>    | <b>175,641)</b>   |

# Acknowledgments

Thank you to all the contributors of this Annual Report, including the programme managers, heads and directors, as well as the finance team and our interns. A special thank you to our funders who make this work possible. Thank you to our partners who support our work and contribute to the ongoing changes we see. The biggest thank you goes out to the communities we work with; the struggles are ongoing, but we are humbled by their endurance and commitment to justice.

## Donate

If you would like to support our work, kindly consider making a donation. Every little bit helps. Thank you. [naturaljustice.org/donate](http://naturaljustice.org/donate)

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