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**ATT: South African Heritage Resources Agency (SAHRA)**

T/M: 021 462 4502

E: [info@sahra.org.za](mailto:info@sahra.org.za)

**CC: Heritage Western Cape (HWC)**

T/M: 021 483 5959

E: [ceoheritage@westerncape.gov.za](mailto:ceoheritage@westerncape.gov.za)

**RE: The KhoiSan Genadendal Movement's Knoflokskraal Occupation, Grabouw, Western Cape**

## 1. Introduction

In November 2020 the first KhoiSan occupants, seven (7) in number – of a community that at present stands at some 3,000 – settled at Knoflokskraal, near Grabouw, Western Cape. The settlement comprised some 400 informal dwellings situated on an approximate 1,800ha area of the Knoflokskraal forest (or Erven 335, 336 and 445, Grabouw), owned by the Department of Public Works (DPW) and managed by the Department of Forestry, Fisheries and Environment (DFFE) (Charles 2022; Human 2022; Human & Hendricks 2022). KhoiSan occupation at Knoflokskraal soon met with opposition; with the land earmarked for forestation, Albi Modise, DFFE spokesperson, stated (Human & Hendricks 2022): *“Illegal land invasions cannot be tolerated, as they result in large scale damage to forestry land intended to be utilised to the benefit of all South Africans.”* DPW and DFFE consequently initiated an “eviction” process. Initial court orders centred on “containment” to prevent further occupation and allowing demolition of unoccupied dwellings (Charles 2022). But “eviction” efforts were vehemently opposed by the community, resulting in security and police control of the area, and the matter headed to the High Court in the week of 6–10 June 2022 (Human & Hendricks 2022).

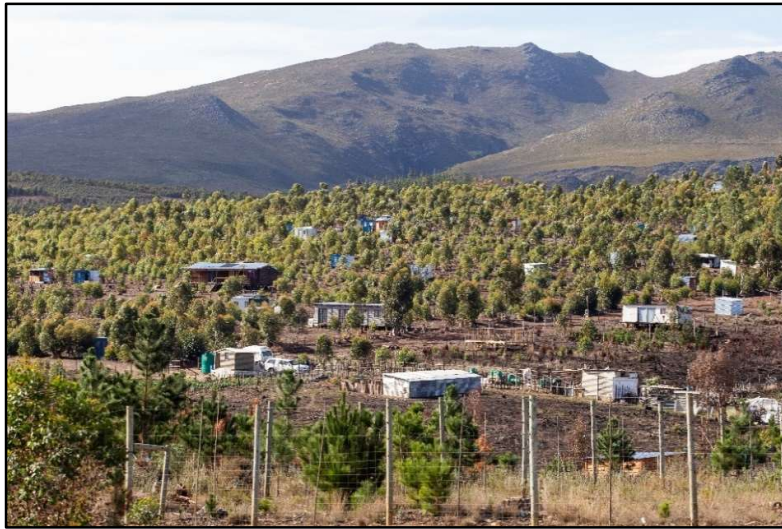
According to Flippie Ruiters, an early occupant at Knoflokskraal, *“We are not busy with an invasion. We are not busy with informal settling. We are reclaiming”* (Human & Hendricks 2022). Ruiters’ opinion is widely held by the community, cemented by community leader of the KhoiSan Genadendal Movement Richard Isaacs’ December 2020 land application, argued on historical and heritage grounds (with specific reference to the Genadendal Mission), and underscored by the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP 2007) and the Traditional and Khoi-San Leadership Act, Act No. 3 of 2019 (TKSLA 2019) (Charles 2022; Human 2022; Human & Hendricks 2022; FNIW 2021a). The KhoiSan Genadendal Movement community is diverse, including various Khoe<sup>1</sup> and San<sup>2</sup> tribes bound together by common KhoiSan heritage (FNIW 2021a, 2021b), and with the aim of the movement being to establish an “autonomous” self-sustaining community. The desire for such an establishment is argued as born from a joint failing economy–slow land restitution process, where community members deem a self-sustainable settlement as the most probable and -desirable solution. On the other hand, there is an expressed will by the community to have a place of their own – that they can call *home* or *our land*, “Narimam” – and where KhoiSan custom predicates lifeway. The settlement is ultimately envisioned complete with a school, a business centre, “bundu-court”, and the more (FNIW 2021a; Human & Hendricks 2022; Newzroom Africa 2021). According to Aubrey Wentzel, Knoflokskraal occupant, *“The actual goal is to have a better life going forward”*, while Isaacs opined, *“If you can have Orania, then you can also have Knoflokskraal”* (Human 2022).

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<sup>1</sup> Khoe – Khoe / Khoi after Khoekhoen / Khoikhoi – “Hottentot”.

<sup>2</sup> San – “Busman”.

[The initial and central KhoiSan Knoflokskraal occupation is described above. Jordan (2022), however, explains that the occupation also attracted other land claimant groups that resulted in disagreements and rivalry between groups.]



**Plate 1:** The Knoflokskraal settlement, Grabouw

(<https://www.groundup.org.za/article/grabouw-occupiers-want-to-create-soverign-khoisan-community/>)



**Plate 2:** Entrance to the Knoflokskraal "Khoi-munity" settlement, Grabouw

(<https://www.groundup.org.za/article/grabouw-occupiers-want-to-create-soverign-khoisan-community/>)

## 2. Discussion

The following aspects regarding the KhoiSan Genadendal Movement, Knoflokskraal, warrants brief discussion:

### 2.1. The heritage reference to the Genadendal Mission

The Genadendal Mission Museum is situated in the village of Genadendal, some 5km north-west of Greyton and 50km east north-east of Grabouw. The Genadendal Mission Museum is introduced as: *"The Genadendal Museum complex forms part of the Genadendal mission station which was established in 1738 by the Moravian Mission Society"* (<https://www.westerncape.gov.za/facility/genadendal-mission-museum>). Not only the Genadendal Mission Station

but the Moravian missionary movement, in general, merits further contemplation in this context. Space, however, allows only an abbreviated history:

*"The Moravian Church traces its roots back to very early reformist movements in Bohemia and Moravia (today in the Czech Republic) linked to Johann Hus. The movement, generally referred to as the Bohemian or Moravian brothers, survived the initial attempts to have it destroyed by the Catholic church. After the Reformation had swept large parts of Europe, the Counter-Reformation nearly succeeded in destroying the remnants of this brotherhood which scattered to remote areas throughout Bohemia and Moravia.*

*In the early 18th Century, Count Zinzendorf became involved with the pietist movement and allowed the Bohemian brothers to settle on his lands in the Lausitz area of Germany, just north of Bohemia. The town of Herrnhut (Lord's protection) was established. Very soon the Bohemian brothers became convinced that they should send missionaries out into the world and thereby became one of the first active missionary societies.*

*The Moravian Mission was the first missionary society in South Africa when one of its missionaries, George Schmidt, established a mission station at Baviaanskloof<sup>3</sup> (later renamed Genadendal – 'Valley of Grace') in the [Swellendam district of the] Cape Province in 1737. After some confrontations with neighbouring Boer farmers and the dominant Dutch Reformed Church, Schmidt was forced to leave the Cape. When the Moravians were allowed to return in 1792, the missionaries found remnants of the first missionary congregation still active. From Genadendal the mission spread throughout the Cape colony [...]" ([https://safrika.org/morav\\_en.html](https://safrika.org/morav_en.html)).*

The Genadendal Mission is historically introduced as (<https://www.genadendal.info/genadendal-mission-station/>):

*"The Genadendal Mission Station was initially established on 23 April 1738 when George Schmidt, a Moravian Church missionary, together with a small group of Khoikhoi, set up the first mission station at what was then called Baviaanskloof (Valley of Baboons). During his time there, Schmidt built a house, taught his followers to read the Bible, write and grow vegetables. The Dutch Reformed Church (DRC) did not take kindly to Schmidt's missionary work and he was forced to leave the country a few years later after he baptised five of his followers.*

*Almost 50 years after Schmidt left, a chance encounter between a Moravian Church member travelling to Europe and a local priest at the Cape set things in motion to re-establish the Moravian mission. In November 1792, the Moravian headquarters in Europe sent three men to the Cape. Hendrick Marsveld a 47 year old tailor, Daniel Schwinn a 42 year old shoemaker and Christian Kühnel a 30 year old knife maker.*

*On arriving at Baviaanskloof, Khoikhoi living in a kraal not far from the mission showed the men where Schmidt's house had been. Some of the walls were still standing. They were also told that Schmidt had planted an almond, apricot and pear tree. Schmidt had given his classes underneath the pear tree. To this day a pear tree still grows in the original location of Schmidt's one.*

*The missionaries also met Vehettge Tikkuie who was Schmidt's cook and housekeeper and had been one of the five baptised by him. After being baptised, she took the name Magdalena. Before he left, Schmidt gave her a copy of the New Testament and asked her to take care of his flock while he was away. For nearly 50 years Magdalena continued preaching and teaching others to read the bible and pray. She did so under the same pear tree which Schmidt had used. She still had the copy of the New Testament that had been given to her by Schmidt. The book is now kept at the Genadendal Mission Museum.*

*Magdalena told them that when Schmidt left, the converts returned to working at the farms and many of them had since died. Life had steadily gotten worse for the Khoi, who according to Magdalena, were*

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<sup>3</sup> The Baviaanskloof, Western Cape, where the Genadendal Mission was established should not be confused with the Baviaanskloof, Eastern Cape.

not as poor as they were 'now'. When the missionaries told Lena [Vehettge Tikkuie / Magdalena] that they had come to continue the work in Baviaanskloof, her response was, 'Thanks be to God.' Magdalena continued to help at the mission until her death on 3 January 1800.

Life was not easy for those who went with the 3 missionaries to live at the mission station. Initially, food had to be hunted or gathered. Some still owned livestock but most owned nothing. Many worked for neighbouring farmers to earn a living but were treated poorly and were reluctant to go back.

Some Khoikhoi still continued to practice some of their traditional cultural rituals but once baptised they were expected to stop. Like with Schmidt, any member of the mission found 'dancing and singing' traditionally was excluded from classes and church meetings until they repented. Converts were given a piece of land and the missionaries taught them to grow vegetables, make cheese and butter and to grind flour. Men would sell or barter their produce for other goods. Women would make items such as bracelets, necklaces, hats, tobacco pouches and purses which would be sold as curios to visitors. By the end of the century over a thousand Khoikhoi had flocked to the mission station.

After visiting in 1806, Governor Janssens, decided to change the name of the mission station from Baviaanskloof to Genadendal (Valley of Grace).

The Genadendal mission station again felt the resistance of the DRC who objected against the Moravians doing missionary work in a DRC district. Initially not even a church building was allowed and the missionaries held services in another building. Permission was eventually received to build a church but they were then prevented from ringing the church bell which the DRC, in a not so nearby town Stellenbosch, said was a disturbance. Again special permission had to be granted to ring the bell, which Genadendal then took full advantage of, ringing it several times a day."

Theal (1905), in his transcript of an 1830 report by J.T. Brigge, titled "Upon the 'Hottentot' and 'Bushman' Population of the Cape of Good Hope, and of the Missionary Institutions" provides some additional information on the Genadendal Mission:

"It appears that the first missionary institution in South Africa was established by the church of the Moravian Brethren, in the year 1737. The exertions of the missionary whom they selected were attended with great success, and such a capacity for instruction had been manifested by the Hottentots who repaired to the residence chosen by the missionary at one of their ancient kraals, now called Genadendal, in the district of Swellendam, that the jealousy of the neighbouring colonists was excited, and they commenced a system of vexation and opposition to the missionary, which compelled him, after a residence of six years in the colony, to retire to Europe. It was not until the year 1792 that the Dutch East India Company was induced to renew its permission to the Moravian church to send out missionaries to the Cape, who on their arrival re-established their mission at Genadendal; here they again encountered much opposition from the colonists, and were compelled, during a rebellion in 1795, to take refuge in Cape Town, where they received protection from the governor, and afterwards from General Craig, the Commandant of the British Forces, which not only enabled them to resume their labours, but effectually to oppose the hostility and evil designs of the inhabitants; they met with the same support from the Batavian government in 1803; and soon after the restoration of British authority they were invited by the Earl of Caledon to take possession of one of the government farms at Groene Kloof, and to establish a mission there for the reception and instruction of Hottentots. In the year 1816 the land was surveyed by order of the Government, and the missionaries were permitted to build a church; an additional quantity of land was ordered to be appropriated to Genadendal, and the sanction of Government was further given to the appropriation of a tract of land situated upon the White River, in the district of Uitenhage, to which the society added a farm by purchase, and gave the settlement the name of Enon. Soon after its commencement it was attacked by the Caffres [Xhosa] in 1819, and several of the Hottentots were killed. Upon the expulsion of the former, the settlement was re-occupied, and several buildings have been since erected in it, both for the use of the missionaries and the Hottentots.

*From a Return made by the superintendent of the Moravian missions at the end of the year 1823, there were at the institution of Genadendal 1,403 individuals, of whom upwards of 600 were children, and 1,213 were baptized; at Groene Kloof 400, of whom 285 were baptized; at Enon 227, of whom 146 were baptized; and 100 at the leper hospital at Hemel and Aarde, the care and superintendence of which had been undertaken, at the request of Governor Lord Charles Somerset, by one of the brethren and his wife. A considerable reduction was expected in the number of Hottentots at the institution of Genadendal at the expiration of one year's absence, when, if they do not appear, their names are struck out of the list. The three stations of the Moravian missionaries enjoy one great local advantage, of being well supplied with water; and at Genadendal and Enon watermills have been erected, by which the inhabitants of the neighbouring country have been benefitted. The lands adjoining the establishment are not fertile, and like most other tracts of and at the Cape, require the aid of irrigation; the gardens at Genadendal enjoy that advantage and are very productive. At each of these stations there are very good residences for the missionaries, chapels and school-houses; and at Genadendal there is a house appropriated to the use of strangers. At this station, and at Enon, there are smiths' forges, shops for carpenters, wheelwrights and coarse cutlery. The houses of the Hottentots are built of clay and wattled sticks, and covered with thatch; but they appeared to be low, small, and inconvenient. Those of the establishment of Enon were built on a better plan, and with more attention to comfort and regularity than either at Genadendal or Groene Kloof. From the numbers of Hottentots who have resorted to Genadendal, and carried with them their sheep and cattle, the extent of pasturage, notwithstanding the addition made to it by the Government, has been found insufficient; and it was contemplated by the missionaries to purchase some land in another part of the district. It is to be observed, that, no grant of land, at any of the stations, has yet been made. That at Genadendal is held under a permission given in pursuance of certain resolutions of the Governor in Council, in the year 1792, to the missionaries, to proceed to Baviaan's Kloof, (the ancient name of Genadendal,) and to settle there in order to preach the Gospel to the Hottentots, and to instruct them; promising at the same time, that they should be in nowise molested in their place of residence. Since that period the lands of Genadendal have been regularly measured, at a considerable expense to the society; and by Lord Bathurst's directions, signified to Governor Sir J. Cradock, in the month of December 1813, the latter was instructed 'to place the missionary establishment in such possession of the grants of land as might secure them from ejectment or disturbance in future.' No regular grant, however, has yet been made of any of the lands assigned to the society, either previous or subsequently to 1813. The Hottentots of the Moravian Institution are not subject to any system of coercive labour; and they are not prevented from working with the farmers, even when their labour may be required by the missionaries.*

*By the evidence of the Hottentots, whom we had an opportunity of examining at some distance from the mission, it appears that the common labourers receive from 5 to 6 skillings, (equal to 14d. sterling); masons and mechanics, as much as 1s. 9d., and 4s. 6d. per diem, when employed by the missionaries. All the Moravian Brethren pursue some branch of mechanical or agricultural industry, the profits of which are carried to the account of the society. By these occupations, they have succeeded in inducing several Hottentots to follow their example, who have now become good mechanics, and who find employment amongst the neighbouring farmers. The common labourers are also much in demand in the district, especially during the harvest. Notwithstanding these advantages, the missionaries observed, that in their dealings with the farmers, the Hottentots, from ignorance of the value of money, and from habitual carelessness and indifference, entered into agreements that secured no adequate remuneration for their labour, and were also in the habit of receiving from the farmers articles of no intrinsic value, but charged at a high price. They therefore established a magazine at Genadendal, where they retail at reasonable prices articles of clothing and other necessities; and they recommended the Hottentots to stipulate for payment of their wages in money or corn. With a view also to lessen the temptation of receiving wine or spirits from the farmers, and of securing stock of better quality for the consumption of the Hottentots at the station, the missionaries commenced the plantation of a vineyard at Genadendal, from the produce of which they are enabled to supply wine to their labourers, according to the usual practice of the country, and to sell it to them in reasonable quantities at the few festivals which they celebrate in the year. Transactions of this kind,*

*however beneficial to the Hottentots, as they are admitted to be, could not be expected to take place without exciting the jealousy and suspicions of the farmers, whose interest, as employers, suppliers or payers of wages to the Hottentots, were equally affected by the advice as well as by the practice of the missionaries.*

*Upon a complaint that was made by a respectable and rather opulent farmer in the neighbourhood, we found that the charges of making undue profit on the sale of goods, and of selling and distributing improper quantities of liquor, were disproved, and that the candid explanation afforded by the intelligent and active superintendent of the Moravian missions was amply confirmed.*

*Of the improvement that had been made by the Hottentots at the Moravian missions, or of their acquirements, we had few opportunities of forming any judgement. When assembled in the churches for Divine service, some appeared to be devout, and all were attentive. Their appearance denoted poverty, which was attributed to the successive failure of two years' harvest; and the interior of their dwellings exhibited few marks of attention to order and cleanliness. The children attend the schools, and are taught to read and write; the girls are instructed in needlework, in which they excel; but it was stated by the missionaries that they experienced some difficulty in obtaining a regular attendance, on account of the claims of the Hottentot parents to apprentice the services of their children even at an early age.*

*For the purpose of maintaining order in the Moravian villages, overseers are appointed, who, in conjunction with the older members of the society, take cognizance of offences against its rules, and award punishment, which consists either of stripes upon the back with a rod of quince, and, in cases of repeated and wilful disregard of the advice and admonitions of the missionaries, expulsion is decreed, with a permission to dispose of any property or growing crop which the offending party may possess. Compensation for damage done to the houses and gardens is adjusted by a valuation made upon the spot, and in case of dispute upon this or other points, reference is first made to the missionaries, who rarely fail in making a satisfactory adjustment.*

*The propensity of the Hottentots to the use of spiritous liquors forms the great obstacle to their moral improvement; and their frequent absence from the missionary stations, occasioned by their service with the farmers, especially at the station of Groene Kloof, exposes them to temptation which few of them are able to resist, and confirms them in habits which it is found very difficult to counteract. It would be unfair therefore to form an estimate of the success of the Moravian, or indeed other missions, by the habits of the Hottentots, when placed beyond the reach of the influence and admonition of the missionaries; but if the records of the provincial court of Swellendam may be taken as a test of the conduct of the inhabitants of Genadendal, the return of offences committed by them within the district during four years is highly favourable, for they do not exceed seven; and, with one exception, consist of cattle stealing and theft. Upon visiting the Moravian mission, we found the Hottentots duly impressed with a sense of the benefit which they had derived from the pious instructions of the brethren, and with strong feelings of respect for their characters; nor did we find that those impressions had been impaired by the example of deference which the Moravian missionaries have uniformly shown to the wishes and measures of the Government. From the superintendent, as well as from the brethren, we received frequent testimonies of the liberality and favour with which they have been treated; and while they were disposed to attribute to political causes the obstacles which certain measures of the colonial Government opposed to the amelioration of the state of the Hottentot population, they silently and respectfully awaited the period of their removal."*

Further investigation is necessary, but the above confirms relation between the KhoiSan Genadendal Movement at Knoflokskraal and the movement's Colonial Period heritage reference to the Genadendal Mission.

[According to the records of the National Khoi and San Council (NKSC) the Genadendal KhoiSan comprises one (1) of 21 [1/21] geographically recognised KhoiSan groups scattered across South Africa (NKSC 2016; PMG 2016)].



## 2.2. The reference to Orania and self-sustainability

Nefdt (2022) introduces the KhoiSan Genadendal Movement, Knoflokskraal, as:

*"In South Africa there lies something of a relic from our less than favourable history. Its name is Orania, and premises itself as a white-only Afrikaans town in the Northern Cape, located near the Orange River.*

*Orania has, for obvious reasons, been a point of contestation in SA since its establishment in 1991. Why? Well, in short, it pretty much goes against most of the common principles of the New South Africa by virtue of its existence.*

*It's based on the concept of 'self-determination' for people like the Afrikaner people and is 'one way of facilitating peaceful and orderly transformation,' Carel Boshoff IV who was the president of the Orania Movement, as per abc News.*

*It may not serve as a point of inspiration for most, but for some in the Western Cape, it has created a spark when it comes to a loophole opportunity.*

*In the Elgin Valley by Grabouw in Overberg, a few thousand people reside in an unfamiliar spot known as Knoflokskraal, or the Khoi-munity as its entrance sign reads [...]*

*Most of the desires of the Khoi-munity echo sovereignty, which refers to being a self-governing state. There are a few requirements needed to be sovereign state; a permanent population, defined territory and capacity to enter into relations with other states, all of which require votes in the international arena.*

*The most notable sovereign state is the Vatican City which is independent of Italy."*

Orania, Northern Cape, is centred on the farm Grootgewaagd, purchased in 1990. In April 1991 the first 13 families settled on the property and in 1992 a town council was established. Since its founding the town (and property) has expanded noticeably, with a current population of just over 2,000. The town aims to preserve Afrikaner cultural heritage with a focus on "self-reliance" and "self-governance". The Orania Movement predates and represents wider support for the principles and aims of the Orania concept than directly associated with the town. Moreover, Orania claims support of similar type cultural initiatives / establishments, with specific reference to the Xhosa community of Mnyameni, Eastern Cape (<https://en.wikipedia.org/wiki/Orania>). While Orania, as town, is fairly small, with a population of, as mentioned, some 2,000, it may well be said that it represents one of the – if not the – economically most successful cultural communities in South Africa.

But Orania, as stated above, is by a far cry not the only cultural community in South Africa. Not limited to, but post-1994 many a cultural community was founded primarily under the Restitution of Land Rights Act, Act No. 22 of 1994 (RLRA 1994). Often merely referred to as "local communities", albeit regularly of evident cultural identity, communities routinely organise and make laws – or rules – for themselves within the framework of the South African legal system, under among other Communal Property Associations (CPAs) established in terms of the Communal Property Associations Act, Act No. 28 of 1996 (CPAA 1996).

It is necessary to further consider Nefdt's (2022) description of the KhoiSan Genadendal Movement's occupation at Knoflokskraal as a willed "sovereignty" with direct reference to a "self-governing state" equated complete with none other than the Vatican City. This should be regarded as a gross misrepresentation of the community's intention. There is at present no evidence that the KhoiSan Genadendal Movement wills anything more than a property to be owned and managed – in accordance with the laws of South Africa – tailored according to KhoiSan culture and custom. There is no evidence of a will of secession from South Africa, or to in any way distance themselves from a South African or greater KhoiSan identity. It is necessary to, first and foremost, understand the KhoiSan Genadendal Movement's reference to "sovereign" and "self-governing" – or rather simply a self-sustaining community – within the legal framework of South Africa (not excluding the UNDRIP 2007) and not within Nefdt's contrived "loophole" secessionist context.

Reporting on Knoflokskraal, however, raises further concerns. Aside from mention of the movement's name – the KhoiSan Genadendal Movement – by the movement itself (FNIW 2021a, 2021b), it remains wholly unreported on, thereby obscuring the pertinent heritage reference to the Genadendal Mission as a Colonial Period or historical Khoe establishment and leaving the reader with a single reference, being that of Orania. To date no government or government associated cultural heritage institution, including university departments and museums directly involved in KhoiSan and / or Living Heritage studies, has weighed in on the matter. Neither has any non-government organisation (NGO), with many claiming to fight for human-, aborigine-, minority- and cultural rights, and including Orania and their purported support of like cultural initiatives / establishments.

Despite Isaacs' reference to Orania, *"If you can have Orania, then you can also have Knoflokskraal"* (Human 2022) – with Orania being the only cultural context referred to in reporting on Knoflokskraal – the overwhelming and exclusive reference to Orania, juxtaposed against the complete omission of any other cultural reference, be it in relation to the Genadendal Mission in specific, the KhoiSan in general, or that of any other established "local community", needs further consideration. *"The media plays an important role in disseminating information to the public about key issues and topics. Most of the knowledge that the public has about most issues stem from the information that they receive from the mass media [...]. The media is adept at constructing a public opinion. The influence that the media has on public perception is significant. Individuals who control the mass media could sway public opinion to their advantage. The media plays an integral role in influencing the masses on what they should view as important issues. Based on the fact that the media can easily sway public opinions, it is not far-fetched to state to a large extent, people's opinions are shaped by the media"* ([https://static.express.com/jhgfrfvb12edsdoc/role\\_of\\_media\\_in\\_creating\\_public\\_opinion.pdf](https://static.express.com/jhgfrfvb12edsdoc/role_of_media_in_creating_public_opinion.pdf)). Consequently, it is necessary to ask what role the media has played in the absolute lack of public support in the case of the KhoiSan Genadendal Movement's ambition at Knoflokskraal from a cultural heritage point of view. Perhaps this question also needs to be framed in terms of the general public's broader understanding of the KhoiSan, both as a people – being the indigenous people of South Africa – and as a collective culture. Moreover, not a single cultural heritage specialist institution or rights organisation has made a statement, raised an opinion, or called for attention to the cause of the KhoiSan Genadendal Movement in the near year and a half since the first occupants settled at Knoflokskraal. Not one. Therein, similar to the role the media plays in shaping public opinion – in support of, or in opposition to causes – it is necessary to ask what role the absence of cultural heritage specialist institutional and rights movements' opinion have played. Should the absence of such opinion be interpreted as (silent) opposition to the KhoiSan cause for land rights and self-sustainability within the framework of the law? But if so – and at the backdrop of Knoflokskraal media reporting – what are we to make of cultural heritage specialist institutional and rights movements' purported advocacy ambitions and claims?

The above should not be misinterpreted as support for illegal land occupation, albeit argued as "reclamation" by the Knoflokskraal occupants. It, however, draws attention to the role of the media and cultural heritage specialist institutional and rights movements in their support, or opposition, of causes directly associated with the shaping of public opinion. And ultimately these role players should be held accountable for the support or opposition garnered for causes they claim to stand for. In the case of the KhoiSan Genadendal Movement, with specific reference to cultural and heritage rights and the people's willed land for purposes of self-sustainability, biased media reporting and the absence of cultural heritage specialist institutional and rights movements' support has become a telling aspect, well worthy of investigation in itself – the silence from said role players is deafening.

### 2.3. The KhoiSan as a socio-economically and culturally marginalised minority group

This section briefs over selected reporting on the socio-economic and cultural marginalisation of the KhoiSan under the democratic dispensation. In so doing it is necessary to acknowledge the continuation of marginalisation from former regimes, but with marginalisation under former regimes (largely) falling outside the scope of this report.

- 2001 (BBC News 2001):

*"Bushmen' Marginalised in South Africa –*



South Africa's indigenous people, known as Khoisan, are demanding better treatment from the country's government. Khoisan, previously called Hottentots and Bushmen, were dispossessed by the colonialists and oppressed by the apartheid regime, and now they say they are being marginalised in South Africa.

At a conference, which ended on Sunday, they argued for legal protection of their culture and language. Since the end of apartheid the Khoisan have gained limited recognition and projects have been set-up to preserve indigenous culture.

South Africa's Deputy President Jacob Zuma said that he detected a growing sense of pride amongst the country's indigenous people. He told delegates: 'You have taken charge of your own heritage and your own destiny.' Mr Zuma also acknowledged the important role that the Khoisan have played in the country.

Assimilation: Approximately one million South Africans (2% of the population) are believed to have Khoisan origins. But many have assimilated. Few people speak any of the indigenous languages or maintain a traditional lifestyle. Delegates at the conference wanted the Khoisan identity to be recognised in the constitution and for their languages to be taught in schools.

They were also concerned about the issue of land restitution. The existing law only applied to land seized after 1913. The Khoisan say that they were dispossessed long before that. They are urging the government to look into land thefts dating back to 1652."

- 2015 (ENCA 2015):

*"The KhoiSan People Call for Acknowledgement of their Culture –*

*[Reporter 1]: 'The KhoiSan people say they've been side-lined by the democratic South Africa for far too long. They say it's time to stake their claim in the country and are calling for their language and culture to be officially recognised. To begin with they want to be reclassified.'*

*[Tania Kleinhans-Cedras, Institute for the Restoration of the Aborigine of SA]: 'Within our classification code the last three digits were determined based on which race group you are from. So, I'm saying, I'm not a Coloured, I'm an aboriginal KhoiSan by birth. You classified me as such. So, it is incumbent upon you to reinstate me to who I really am.'*

*[Reporter 1]: 'After several complaints by the indigenous group, the South African Human Rights Commission [SAHRC] is compiling evidence to determine how KhoiSan rights may have been violated.'*

*[Danny Titus, SAHRC]: 'They want to be acknowledged as part of the diversity and not something that is subsumed into a broad mass of non-racialism or of South Africanism. That too. But please acknowledge me as you acknowledge people from Xhosa extraction, from Zulu extraction. Please acknowledge that we also have histories. That we have cultures. And they're asking the SAHRC and the country in broad to acknowledge that. And also to acknowledge that their lands were taken away. And that they cannot become part of a democratic South Africa if their voices are not heard.'"*

- 2022 (ENCA 2022):

*"Land Reform in SA: Mabuza Calls for Inclusion of KhoiSan –*

*[Reporter 1]: 'Deputy President David Mabuza says KhoiSan communities have lost trust in government. He was speaking on the final day of the Land Summit in Boksburg.'*

*[Reporter 2]: 'Mabuza says government and the communities need to work together on land issues.'*

*[David Mabuza]: 'I can see that from time to time you don't really trust ... you don't trust what we say as government. You don't trust that. From today onwards I think we must improve on our trust. And we are going to demonstrate that in our workings. We're going to work with you to shape out a decision, a decision that would suit you as a community. We're not going to impose anything on you. And sitting here the commission that was assigned to look at the Khoi and San matters, I think it has done the best job. We must give them a round of applause. We are going to take on all those issues, and we'll pursue them. Now there's*

*a request that we must create a committee that will solely deal with matters that are affecting our Khoi and San leaders.”*

The above merely serves to assert the recognised marginalisation of the KhoiSan. It highlights the little progress with regards to KhoiSan rights over the rough three (3) decades of democracy in South Africa, the KhoiSan's continuing struggle to have cultural customs recognised and to freely partake therein, coined with land concerns and limited economic opportunities.

### **3. The National Heritage Resources Act, Act No. 25 of 1999 (NHRA 1999)**

Not limited to, but the following sections of the NHRA 1999 pertain:

#### **The Act**

To introduce an integrated and interactive system for the management of the national heritage resources; to promote good government at all levels, and empower civil society to nurture and conserve their heritage resources so that they may be bequeathed to future generations; to lay down general principles for governing heritage resources management throughout the Republic; to introduce an integrated system for the identification, assessment and management of the heritage resources of South Africa; to establish the South African Heritage Resources Agency together with its Council to co-ordinate and promote the management of heritage resources at national level; to set norms and maintain essential national standards for the management of heritage resources in the Republic and to protect heritage resources of national significance; to control the export of nationally significant heritage objects and the import into the Republic of cultural property illegally exported from foreign countries; to enable the provinces to establish heritage authorities which must adopt powers to protect and manage certain categories of heritage resources; to provide for the protection and management of conservation-worthy places and areas by local authorities; and to provide for matters connected therewith.

#### **Preamble**

This legislation aims to promote good management of the national estate, and to enable and encourage communities to nurture and conserve their legacy so that it may be bequeathed to future generations. Our heritage is unique and precious and it cannot be renewed. It helps us to define our cultural identity and therefore lies at the heart of our spiritual well-being and has the power to build our nation. It has the potential to affirm our diverse cultures, and in so doing shape our national character. Our heritage celebrates our achievements and contributes to redressing past inequities. It educates, it deepens our understanding of society and encourages us to empathise with the experience of others. It facilitates healing and material and symbolic restitution and it promotes new and previously neglected research into our rich oral traditions and customs.

#### **Section 2 – Definitions**

2. (iii) “conservation”, in relation to heritage resources, includes protection, maintenance, preservation and sustainable use of places or objects so as to safeguard their cultural significance;
- (vi) “cultural significance” means aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance;
- (xvi) “heritage resource” means any place or object of cultural significance;
- (xviii) “heritage site” means a place declared to be a national heritage site by SAHRA or a place declared to be a provincial heritage site by a provincial heritage resources authority;
- (xxi) “living heritage” means the intangible aspects of inherited culture, and may include –
  - (a) cultural tradition;
  - (b) oral history;
  - (c) performance;
  - (d) ritual;
  - (e) popular memory;
  - (f) skills and techniques;
  - (g) indigenous knowledge systems; and
  - (h) the holistic approach to nature, society and social relationships;
- (xiii) “site” means any area of land, including land covered by water, and including any structures or objects thereon.

#### **Section 3 – National Estate**

3. (1) For the purposes of this Act, those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate and fall within the sphere of operations of heritage resources authorities.
- (2) Without limiting the generality of subsection (1), the national estate may include –
  - (a) places, buildings, structures and equipment of cultural significance;
  - (b) places to which oral traditions are attached or which are associated with living heritage;

- (c) historical settlements and townscapes;
  - (d) landscapes and natural features of cultural significance;
- (3) Without limiting the generality of subsections (1) and (2), a place or object is to be considered part of the national estate if it has cultural significance or other special value because of –
- (a) its importance in the community, or pattern of South Africa's history;
  - (b) its possession of uncommon, rare or endangered aspects of South Africa's natural or cultural heritage;
  - (c) its potential to yield information that will contribute to an understanding of South Africa's natural or cultural heritage;
  - (d) its importance in demonstrating the principal characteristics of a particular class of South Africa's natural or cultural places or objects;
  - (f) its importance in demonstrating a high degree of creative or technical achievement at a particular period;
  - (g) its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
  - (h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa.

### **Section 5 – General Principles for Heritage Resources Management**

5. (1) All authorities, bodies and persons performing functions and exercising powers in terms of this Act for the management of heritage resources must recognise the following principles:
- (a) Heritage resources have lasting value in their own right and provide evidence of the origins of South African society and as they are valuable, finite, non-renewable and irreplaceable they must be carefully managed to ensure their survival;
  - (b) every generation has a moral responsibility to act as trustee of the national heritage for succeeding generations and the State has an obligation to manage heritage resources in the interests of all South Africans;
  - (c) heritage resources have the capacity to promote reconciliation, understanding and respect, and contribute to the development of a unifying South African identity; and
  - (d) heritage resources management must guard against the use of heritage for sectarian purposes or political gain.
- (3) Laws, procedures and administrative practices must –
- (a) be clear and generally available to those affected thereby;
  - (b) in addition to serving as regulatory measures, also provide guidance and information to those affected thereby; and
  - (c) give further content to the fundamental rights set out in the Constitution.
- (4) Heritage resources form an important part of the history and beliefs of communities and must be managed in a way that acknowledges the right of affected communities to be consulted and to participate in their management.
- (5) Heritage resources contribute significantly to research, education and tourism and they must be developed and presented for these purposes in a way that ensures dignity and respect for cultural values.
- (6) Policy, administrative practice and legislation must promote the integration of heritage resources conservation in urban and rural planning and social and economic development.
- (7) The identification, assessment and management of the heritage resources of South Africa must –
- (a) take account of all relevant cultural values and indigenous knowledge systems;
  - (b) take account of material or cultural heritage value and involve the least possible alteration or loss of it;
  - (c) promote the use and enjoyment of and access to heritage resources, in a way consistent with their cultural significance and conservation needs;
  - (d) contribute to social and economic development;
  - (e) safeguard the options of present and future generations; and
  - (f) be fully researched, documented and recorded.

### **Section 7 – Heritage Assessment Criteria and Grading**

7. (1) SAHRA, in consultation with the Minister and the MEC of every province, must by regulation establish a system of grading of places and objects which form part of the national estate, and which distinguishes between at least the categories –
- (a) Grade I: Heritage resources with qualities so exceptional that they are of special national significance;
  - (b) Grade II: Heritage resources which, although forming part of the national estate, can be considered to have special qualities which make them significant within the context of a province or a region; and
  - (c) Grade III: Other heritage resources worthy of conservation,
- And which prescribes heritage resources assessment criteria, consistent with the criteria set out in section 3(3), which must be used by a heritage resources authority or a local authority to assess the intrinsic, comparative and contextual significance of a heritage resource and the relative benefits and costs of its protection, so that the appropriate level of grading of the resource and the consequent responsibility for its management may be allocated in terms of section 8.

## **Section 8 – Responsibilities and Competence of Heritage Resources Authorities and Local Authorities for Identification and Management of National Estate**

8. (2) SAHRA is responsible for the identification and management of Grade I heritage resources and heritage resources in accordance with the applicable provisions of this Act, and shall co-ordinate and monitor the management of the national estate in the Republic.
- (3) A provincial heritage resources authority is responsible for the identification and management of Grade II heritage resources and heritage resources which are deemed to be a provincial competence in terms of this Act.
- (4) A local authority is responsible for the identification and management of Grade III heritage resources and heritage resources which are deemed to fall within their competence in terms of this Act.

## **Section 12 – Object of SAHRA**

12. The object of SAHRA is to co-ordinate the identification and management of the national estate.

## **Section 13 – Functions, Powers and Duties of SAHRA**

13. (1) The general functions of SAHRA are to –
- (a) establish national principles, standards and policy for the identification, recording and management of the national estate in terms of which heritage resources authorities and other relevant bodies must function with respect to South African heritage resources;
  - (c) identify, record and manage nationally significant heritage resources and keep permanent records of such work;
  - (d) advise, assist and provide professional expertise to any authority responsible for the management of the national estate at provincial or local level, and assist any other body concerned with heritage resources management;
  - (e) promote and encourage public understanding and enjoyment of the national estate and public interest and involvement in the identification, assessment, recording and management of heritage resources.
- (2) Without limiting the generality of subsection (1) and in addition to the general powers and duties conferred in terms of section 25, SAHRA –
- (a) must investigate and advise the Council on—
    - (i) the state of South Africa's heritage resources and any steps necessary to protect and conserve them;
    - (v) the role of the national estate in the development and promotion of a cultural profile for South Africa;
    - (vi) action and expenditure by the State for the identification and management of heritage resources, including financial incentives and concessions for heritage resources management.

## **Section 24 – Functions, Powers and Duties of Provincial Heritage Resources Authority**

24. (1) A provincial heritage authority must –
- (c) promote the systematic identification, recording and assessment of heritage resources and heritage objects which form part of the national estate in a province;
  - (d) protect and manage heritage resources in a province which fulfil the heritage assessment criteria prescribed under section 7(1) for Grade II status.

## **Section 25 – General Powers and Duties of Heritage Resources Authorities**

25. (2) A heritage resources authority may –
- (a) promote and engage in research relating to the identification, assessment and management of the national estate as necessary for the performance of its functions;
  - (b) publish, or by any other means make available or distribute in any form, or cause to be published or distributed, any knowledge and information relating to the national estate and any of its functions or activities;
  - (c) inspect or document any heritage resource –
    - (i) which has the potential to become protected in terms of this Act;
    - (ii) which is, or which the heritage authority has reason to believe may be, so protected; or
    - (iii) which it wishes to document for research purposes, for purposes of building up a public record of heritage resources or as part of an investigation into a suspected offence in terms of this Act,And must maintain a register of such inspections.

#### **4. The United Nations Declaration on the Rights of Indigenous Peoples, 2007 (UNDRIP 2007)**

Not limited to, but the following articles of the UNDRIP 2007 pertain:

##### **Article 3**

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

##### **Article 4**

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

##### **Article 5**

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they chose, in the political, economic, social and cultural life of the State.

##### **Article 9**

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

##### **Article 11**

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

##### **Article 20**

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

##### **Article 26**

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

##### **Article 28**

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

##### **Article 29**

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

##### **Article 38**

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

## 5. Conclusion and Recommendations

It is recommended that SAHRA / HWC consults with the KhoiSan Genadendal Movement with regards to the establishment of a Living Heritage site as solution to their willed land, where they can – within the legal framework of South Africa and with specific reference to the NHRA 1999 – find a community organised according to common KhoiSan custom. And should the movement be interested in a heritage route to meet their desired goals, for SAHRA / HWC to guide and assist them therewith, including assistance with the identification and acquisition of a site for such an establishment, be it at Knoflokskraal or at a property in the general vicinity.

\* \* \*

The Genadendal KhoiSan comprises 1/21 geographically recognised KhoiSan groups scattered across South Africa (NKSC 2016). The aim of the movement is to establish an “autonomous” self-sustaining community in accordance with the UNDRIP 2007, supported by the TKSLA 2019, and with legal provision for such an establishment possible within the NHRA 1999. The will of the people is to establish a self-sustainable settlement that they can call *home* or *our land* – “Narimam” (FNIW 2021a) – and where KhoiSan custom predicates lifeway. It is important to note that the movement does not advocate secession or separatism: there is no evidence that the movement wants to distance themselves from a South African or greater KhoiSan identity. It is necessary to understand the reference to “sovereign” or “self-governing” within an indigenous peoples’ cultural context, as used in the UNDRIP 2007.

The heritage reference by the movement to the Colonial Period Genadendal Mission (established 1737 / 1738 and continued from 1792 onwards) is confirmed, although further research into the early mission settlement is deemed necessary. It is, however, worthwhile to note some important differences between the Colonial Period Genadendal- and the current KhoiSan Genadendal Movement’s ambition for a settlement:

1. The Colonial Period mission settlement focussed on the accommodation of Khoe only, while the KhoiSan Genadendal Movement community is diverse, including various Khoe and San tribes bound together by common KhoiSan heritage.
2. The Colonial Period mission settlement accommodated Christian Khoe only – as evidenced by the revived 1792 Genadendal Mission reference, “*Some Khoikhoi still continued to practice some of their traditional cultural rituals but once baptised they were expected to stop. Like with Schmidt [1737 / 1738], any member of the mission found ‘dancing and singing’ traditionally was excluded from classes and church meetings until they repented*” (<https://www.genadendal.info/genadendal-mission-station/>). The KhoiSan Genadendal Movement, on the other hand, emphasises KhoiSan tradition and custom, in line with current heritage principles and legislation. And with specific reference to religious freedom, it is noteworthy that the KhoiSan Genadendal Movement is inclusive of, at minimum, both Christian and Rastafari (FNIW 2021a).

Similarities between the Colonial Period Genadendal Mission and the KhoiSan Genadendal Movement’s ambition for a settlement is vested in a self-sustainable establishment from where the community can participate in the broader economy, in the past being the Cape Colony’s economy, and at present the greater South African economy. The Colonial Period mission settlement was based on farming – both agricultural and livestock – and low-keyed industry, including mechanical services with the likes of smith’s forges and wheelwrights at the station, the production of goods and services including shoemaking and -mending, tailoring, knife making and the more and shop keeping to dispose of goods, and complete with a school and guest house, or a “*house appropriated to the use of strangers*” (Theal 1905). The KhoiSan Genadendal Movement’s ambition is, thus, closely and undeniably aligned with their Colonial Period heritage reference.

The media’s sole comparison of the KhoiSan Genadendal Movement’s ambition of a self-sustainable settlement with Orania is here described as *unfortunate*, at best. Coined with the complete absence of support from the side of cultural heritage specialist institutional and rights movements, public support for the Genadendal KhoiSan cause is effectively non-existent; in turn warranting further investigation into the phenomenon, while coevally calling attention to the public’s understanding – or lack thereof – of the indigenous peoples of South Africa, the KhoiSan, and their role, both past and present, in the shaping of South Africa’s peopling. The before said not excluding the



issue of the media and cultural heritage specialist institutional and rights movements' – not-so-silent and silent – opposition to KhoiSan cultural and heritage rights in the national and international arena.

The KhoiSan Genadendal Movement's occupation at Knoflokskraal is argued as consequent to the joint failing economy–slow land restitution process under the democratic dispensation. Democracy in South Africa bears witness to the slow advancement of indigenous KhoiSan rights, albeit including establishment of the NKSC, a non-statutory body established in 1999, and adoption of the TKSLA 2019, but constructive government action to advance the KhoiSan cause is still largely amiss. Slow progress / continued KhoiSan marginalisation under the democratic dispensation should be weighed against marginalisation under former regimes: the Apartheid regime, and in the case of the Genadendal KhoiSan, the Cape Colony governments – both English and Dutch. And not excluding pre-Colonial impact and marginalisation, although in the case of the Genadendal KhoiSan Colonial Period marginalisation takes precedence over pre-Colonial impact. The point, however, remains that current slow progress / continued KhoiSan marginalisation should be considered against a backdrop of generational marginalisation: government intervention and assistance are necessary to assist the KhoiSan Genadendal Movement in their ambition – in accordance with their cultural and heritage rights – towards a self-sustainable settlement.

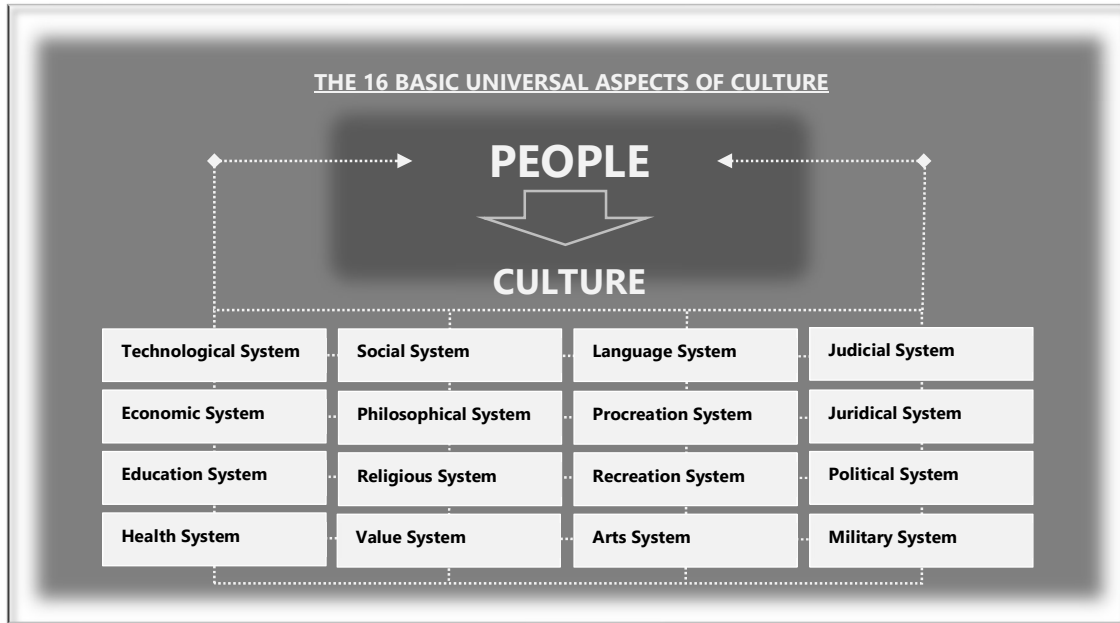
1913: the Natives Land Act, Act No. 27 of 1913 (NLA 1913) underscores the RLRA 1994, with 1913 being the threshold date for land claims. Communities displaced and dispossessed, with resultant impact on their lifeway, prior to 1913 – be it by Colonial Period or pre-Colonial agents – therefore seldom find redress and restitution in the courts. It is imperative, that where possible, such as in the case of the Genadendal KhoiSan, legislative measures the likes of the NHRA 1999 be employed where the RLRA 1994 falls short to address land- and heritage rights concerns:

Brigge's 1830 report is telling of the then pending Colonial Period expulsion / dispossession of the Khoe at the Genadendal Mission (Theal 1905): "[T]hey silently and respectfully awaited the period of their removal" – a near century before the 1913 threshold of the RLRA 1994, but as heritage concern clearly within the ambit of the NHRA 1999, and the UNDRIP 2007 to which South Africa is signatory to.

The media's sole reference to Orania with regards to the KhoiSan Genadendal Movement's ambition of a self-sustainable settlement has been described as *unfortunate*. Reference has also been made of the numerous cultural- or "local communities" established post-1994 under the RLRA 1994. However, it is necessary to also briefly comment on cultural communities founded or managed under a heritage premise, possibly the best known from a KhoiSan perspective (with reference to the Khomani San), is the Khomani Cultural Landscape, a declared World Heritage Site ([https://en.wikipedia.org/wiki/List\\_of\\_World\\_Heritage\\_Sites\\_in\\_South\\_Africa](https://en.wikipedia.org/wiki/List_of_World_Heritage_Sites_in_South_Africa)). Several other declared Cultural Landscapes – on world-, national- or provincial level – provides heritage protection to communities residing within the sites tailored according to the unique qualities of the respective sites. But a Cultural Landscape type site is not recommended for the Genadendal KhoiSan; without an in-depth discussion but suffice to say that a Cultural Landscape declaration accents a landscape–community conservation premise, often associated with limited conservation centred employment opportunities (eco-tourism and -guiding, and arts and crafts as an offset at tourism facilities etc.) directly subject to the surrounding economy. A Living Heritage type site, on the other hand, focuses on a holistic approach to culture, within the applied anthropological<sup>4</sup> arena, among other, defined by 16 cultural aspects and the linkages and interlinkages between these (Els 1992), adept to monitor and aid cultural development in an ever changing socio-cultural and -economical environment – and thus deemed more suitable to accommodate the goals of the KhoiSan Genadendal Movement's envisioned self-sustainable settlement, as simply defined by Wentzel, "*The actual goal is to have a better life going forward*" (Human 2022).

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<sup>4</sup> Applied / Developmental Anthropology.



**Figure 1:** The 16 basic universal aspects of culture (after Els 1992)

I trust SAHRA / HWC will address the reported concern with the necessary urgency it requires.

Yours sincerely,

**Karen van Ryneveld**

ArchaeoMaps

T/M: 084 871 1064

E: [k.archaeomaps@gmail.com](mailto:k.archaeomaps@gmail.com)

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