

# The human rights situation of the Rehoboth Basters

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## *UNPO submission to the Human Rights Council's Expert Mechanism on the Rights of Indigenous Peoples*

The Rehoboth Basters are descendants of the indigenous Khoi-People of Southern Africa and European colonists. Currently, the community lives in Namibia. As the rights of the Basters are frequently violated, this report aims to present a study on the promotion and protection of the rights of the Rehoboth Basters with respect to their cultural heritage. First of all, background information on the Rehoboth Basters will be given. Secondly, the violations of the rights that the Basters are facing will be briefly explained. Furthermore, several organizations, movements and events that promote and/or protect the rights of the Basters will be presented. Finally, recommendations will be given in the conclusion.

### **BACKGROUND INFORMATION**

The Rehoboth Basters are an indigenous people living south of Windhoek, the capital of Namibia. Most of their community still lives in an area of 14.216 square kilometers that was once the self-governing Rehoboth area. Others have moved abroad; some have moved to South Africa and others are scattered across Namibia in search of better living conditions. Years before the Germans installed their colonial rule over Namibia in 1885, the Rehoboth Basters settled their lands and developed their own legislation.<sup>1</sup> The Rehoboth Basters are Christian, and their language is Afrikaans. Although the history of the Basters is much older, the living area of the Rehoboth Basters from 1870 until 1990 was called Rehoboth, which had an autonomous status. Currently, the area is divided into the Namibian administrative regions Hardap and Khomas.

Their own developed legislation was in use for more than 100 years. This guaranteed to them the right of self-determination throughout the colonial period. This right was recognized by the German Empire and the Government of the Union of South Africa. A 'Treaty of Protection and Friendship' was concluded between the Rehoboth Basters and the German Kaiser. In the treaty, the rights and freedom that the Basters had acquired were recognized by his Excellency the German Kaiser. During the colonial time, the Rehoboth Basters kept their rights to exercise self-determination.<sup>2</sup>

The purpose of the Germans to conclude the treaty was to enhance their influence and to protect German citizens in Rehoboth. In 1893, Germany demarcated the boundaries of the 'Rehoboth Gebiet'. This area was much smaller than the original area of the Basters, causing strong protests of the community. Moreover, a 'Baster corps' were forcibly established, and the Basters had to provide aid in the military confrontations between the Germans and the Nama and Herero (other

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<sup>1</sup> Rehoboth Basters: <http://rehobothbasters.org/news/241-who-are-the-rehoboth-basters-n?id=241>

<sup>2</sup> UNPO: <http://unpo.org/members/7881>

communities living in Namibia). The Nama and Herero were defeated, through which Germany's control of South West Africa was now complete. As a result, the Rehoboth Basters lost their position and much of their autonomy of Rehoboth.<sup>3</sup> However, the Government of the Union of South Africa superseded the German Colonial Government in 1915.

It was decades later when the Basters received Self-Government based on their Paternal Laws by means of an Act of the South African Parliament 'Act 56 of 1976' in 1979. The Paternal Laws were thereby the official legal code that enabled the Rehoboth Baster community to govern their land and provided the people the opportunity to develop their culture and economy from 1979 to 1989.

However, this situation was reversed when the Swapo government of Namibia came into being. The consequences for the Basters were heavy, as all the land, investments, development projects and monuments which were communally owned was alienated, and as Rehoboth was further divided into the current provinces of Hardap and Khomas. The traditional land of the Rehoboth Basters was transferred to the Government of Namibia.<sup>4</sup>

According to Martin Dentlinger, representative of the Rehoboth Baster community, the Rehoboth Basters were in no way a product of Apartheid; they had known self-government since 1870. However, the Basters were the only people not granted the status of communal land as administrators or owners, despite having settled in Namibia prior to European colonization of the country and despite the fact that the Basters have a very strong and traditional link to the land. Dentlinger added that of all the ethnic groups in Namibia, the Rehoboth Basters were the only group singled out in the constitution, and the only group not granted communal land and was neither recognized as a traditional authority.

### **VIOLATIONS OF THE RIGHTS OF THE REHOBOTH BASTERS**

Nowadays, the rights of the Rehoboth Basters are still being violated. As a result of the acts of the Namibian government, their cultural heritage is in danger. One of the problems that the Basters are encountering is their Afrikaans language, as the Namibian government did not actually allow the use of Afrikaans in the communication within the government. Therefore, the Basters filed a complaint at the UNHRC on 17 November 1996. Although the UNHRC ruled that this is in violation with the rights of the Rehoboth community, the decision did not improve the situation.<sup>5</sup> According to Dentlinger, all legal documents are still required to be in English. The police that take down oaths do not speak Afrikaans, and this causes that especially the older people are not sure that their affidavits are taken down correctly.

In 2013, the current Kaptein of the Captains Council, John McNab, expressed his concern over the fate of the Rehoboth Community. The Captains Council is the traditional leadership body of the Basters that consists of a captain and three members. According to McNab, the Rehoboth Basters lost their culture, sacred places and their traditional land after the government of Namibia came into being. He continued that the government refuses to give the Basters the right to self-determination. Their traditional authority is not being recognized anymore, as the government registered Rehoboth as commercial land. McNab states that this is against international law and minority rights, and that

<sup>3</sup> Zandberg J.: Rehoboth Griqua Atlas, 2<sup>nd</sup> Edition

<sup>4</sup> UNPO: <http://unpo.org/members/7881>

<sup>5</sup> Zandberg J.: Rehoboth Griqua Atlas, 2<sup>nd</sup> Edition

his community is in danger of extinction. He added that the Basters have lost their identity, and that their youth do not know anything about their culture anymore.<sup>6</sup>

The situation further escalated in February 2014, when the Captains Council allocated 1072 plots in Kuvukiland and Burgershoek to the members of the community, as this was a fulfilment of a promise by the previous Kaptein up to twenty years before the independence of Namibia. The town council's chief executive officer, Theodor Jankowski, stated that: *"This is an illegal act and all people allocated plots will have to move. The Baster Paternal Law no longer exists. Everything has to be done according to the existing laws of Namibia."* However, according to Jan van Wyk, who represents the United People's Movement on the council, the distribution is legal, as the decision is in line with the instruction of the previous captain and as it was approved by Cabinet following the Rukoro Report of 1992. In the Rukoro Report of 1992 is written that displaced male residents who were born in Rehoboth and turned eighteen before independence should be given 3000 unserved 'erven' (land).<sup>7</sup> In May 2014, the Rehoboth Town Council obtained an interim court order that prohibits the Rehoboth Bastergemeente and its leader, Kaptein John NcNab, from continuing to allocate plots of land at the town to people.<sup>8</sup>

Martin Dentlinger stated that the poor are losing their land and homes, due to the high legal cost involved in the estates (acceding N\$ 100 00.00/U\$55.00). Besides, the government is in charge of all land transfers of the resettlement programs, which lead to losses of private land. Without consultation of the traditional authority of the Basters, the government establishes army bases in the area of the Basters. Those camps are fully manned and armed during local government elections, and this is regarded by the Basters as intimidation for free and fair elections. Moreover, there is corruption at the Town Council, which is being ignored by the Anti-Corruption Commission, the Commercial Branch of the police and Minister Of Local Government. Finally, the influx of other tribes to the town causes numerous social and criminal problems.

## **PROMOTION AND PROTECTION OF THE RIGHTS OF THE REHOBOTH BASTERS**

As the rights of the Rehoboth community are violated, there is need for the promotion and protection of these rights. Therefore, the Rehoboth Basters were officially declared an Indigenous People of Namibia by the Kaptein and Peoples Assembly in 1992. The aim was to strive for recognition to obtain greater self-determination of the Basters' assets and development projects.

Besides, to create awareness for the situation of their community, the Rehoboth Basters have sent a representative to the UN Working Group every year from 1993. Moreover, the Rehoboth Basters became members of UNPO in 2007, hoping to regain part of their self-determination and a restoration of rights and the return of ancestral lands.<sup>9</sup>

Finally, the Rehoboth Basters are participating in political life through the United People's Movement (UPM). The UPM was established in 2009 and the movement's headquarters are in Rehoboth. Since 2010, the UPM is registered at the Namibian Election Commission, after a long and difficult struggle

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<sup>6</sup> UNPO, 2013 February 18: <http://unpo.org/article/15520>

<sup>7</sup> UNPO, 2014 February 11: <http://unpo.org/article/16836>

<sup>8</sup> UNPO, 2014 May 20: <http://unpo.org/article/17154>

<sup>9</sup> Zandberg J.: Rehoboth Griqua Atlas, 2<sup>nd</sup> Edition

to being acknowledged as a political movement. In the same year, the UPM won two seats in Rehoboth and one in Okahandja. The objective of the UPM is to unite the Rehoboth Basters and other indigenous groups to provide them with a political voice.<sup>10</sup> In December 2014, the UPM has won a seat in the National Assembly of Namibia. The national chairperson, Jan Johannes van Wyk, will represent the UPM in parliament. According to van Wyk, the UPM will concentrate on issues of national concern, such as the provision of land and housing. Besides, he will focus on land issues of the Rehoboth Basters, such as the expropriation of their properties by the Namibian Government and their quest for recognition as an indigenous people under the Paternal Law of 1872.<sup>11</sup>

## CONCLUSIONS & RECOMMENDATIONS

To conclude, the rights of the Rehoboth Basters are violated. Their cultural heritage is in danger, as they are not allowed to use their Afrikaans language in government meetings, and as their land has been registered as communal land by the Namibian government. Some of the Basters already moved away from their traditional land, hoping for a better life elsewhere. Therefore, the promotion and protection of the rights of the Rehoboth Basters is needed.

To obtain official recognition, Martin Dentlinger recommends the UN to recognize the Rehoboth Baster community as an indigenous people, and to include them in the Special Rapporteur's investigations on human rights issues in Namibia.

Furthermore, it is recommended that the international community assists in protecting the Rights of the Rehoboth Basters, by putting pressure on the Namibian government. Putting pressure can be achieved by promoting International Law, International Indigenous Rights and covenants. Moreover, international assistance is needed for the cancellation of the expropriation of land, assets and sacred monuments.

It is also recommended that the Namibian government recognizes Afrikaans as one of the official languages in Namibia, next to English. There are many Namibians speaking Afrikaans, and the government should adopt the language as official. This is important for the maintenance of the cultural heritage of the Rehoboth Basters.

Finally, the restoration of traditionally owned land, development projects, historical sacred monuments, investments, mineral and water rights, expropriated financial institutions and projects, the Captains House, Sam Khubis war terrain and grave yards is recommended.

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<sup>10</sup> Rehoboth Basters: <http://rehobothbasters.org/news/780-united-peoples-movement?id=780>

<sup>11</sup> UNPO, 2014 December 9: <http://unpo.org/article/17765>