Urban Protected Areas: Forces of justice or injustice for Indigenous populations? The cases of Xochimilco and the national parks of Mumbai and Cape Town

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Abstract

The study of three vast peri-urban protected areas, including two national parks, shows that the relationships between protected areas and justice must be addressed from two directions. On the one hand, injustice is often why these perimeters are created, such as in cases where inhabitants are evicted. In this sense, the space represents past or present policies for protecting these areas from local populations, Indigenous peoples in this case. On the other hand, there are times when national parks can be tools of justice, when responsible policies conceive facilitation of access to the park as a means of emancipation and reparation or when demands for more rights come from Indigenous groups themselves. Our analysis uses the concept of eco-ethnicity, which we define as an identity having two components: visibility of the group and its relationship – occasionally reconstructed – with the environment. A strong eco-ethnicity can contribute to the recognition of populations which may be used for Indigenous claims but also in the interests of public authorities.

Key-words

Urban national park, eco-ethnicity, spatial justice, Indigenous, Xochimilco, Mumbai, Cape Town, Adivasi, Khoisan, Xochimilca

Introduction

Picking endemic plants is forbidden in Table Mountain National Park, which today is doubly protected by its national park status (since 1998) and its classification as a UNESCO World Heritage site. This regulation has thus made some very ancient practices of African healers (*sangomas*) illegal; some of these practices were transferred by Khoisan populations – southern Africa's first hunter-gatherers (San) and livestock farmers (KhoiKhoi)[1]. In 1994, a medicinal herb garden was established in Langa township by the Tsoga Environment Center, an NGO founded in 1990 for environmental protection, struggle against poverty and improvement of the quality of life in the townships (*The Argus*, November 1994, cited by Khan, 2002, p.31). In 2005, the National Park decided to fund another medicinal garden in consultation with the Western Cape Traditional Healers' Association. By making the resources available elsewhere, the National Park was definitely diverting the users of medicinal plants away from the protected area. However, such initiatives also correspond to a genuine recognition of specifically African, occasionally Khoisan, environmental knowledge. In post-apartheid South Africa, these traditional gardens are intended as genuine tools

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[1] The category "Khoisan" was invented in 1928 by Leonard Schultze (a German anthropologist) to collectively designate the Khoi and the San, although these are two different cultures, each speaking its own language and whose lifestyles were quite distinct.

of spatial justice and reparation. The concession of spaces for cultivating endemic plants demonstrates the legitimacy of these "African" populations, an obvious effort to mitigate the consequences of over two centuries of official discrimination and spatial exclusion.

Indeed, protected areas (PA) and national parks in particular, are often created to the detriment of the local populations. In the countries of the South, many of the "Indigenous" populations – we will define this term below – have been removed from spaces for the purpose of nature conservation. Their eviction, or at least restriction of their access to the resources, resulted in forms of glaring injustices. Literature abounds on these exclusion processes (Dunlap, 1999; Harris, 2002; Randeria, 2007; Héritier, Laslaz éd., 2008). In this sense, these spaces reflect past and present policies carried out against local populations in order to put protected areas under a protective bubble. The national parks' landscape and their surroundings – the physical landscape as well as the social or ideal landscape – is the visible consequence of these policies. However, at the same time, according to the International Union for the Conservation of Nature (IUCN), the national parks are "... large natural or near-natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities" (Dudley, 2008, p. 20, our underlining). Despite past and current discriminatory policies, could the national parks, then also be tools for justice for marginalized Indigenous populations?

Achieving justice requires the social arrangements enabling each member of the society to interact with the others and for this to be possible, requires that official standards of legal equality be established (Villey, 1982). However, these standards are but a minimum threshold and their existence alone would not be sufficient. Their effectiveness is subject to at least two additional and cumulative conditions: redistribution and recognition (Fraser, 1998; 2004). In various cases, we observe that Indigenous populations that have been evicted for the creation of protected natural areas, demand their rights to their land, often with the support of non-Indigenous populations who help them take their cases to court. However, these initiatives are frequently "bottom up". Exceptions include "top down" as well, particularly when governments see facilitating access to "protected" spaces as a means for reparation, if not emancipation, to the benefit of Indigenous population that had been despoiled. Could these protected areas, erstwhile creators of spatial injustice, become tools for inclusion today?

In an effort to answer this question, we have selected three spaces: the Sanjay Gandhi National Park in Mumbai (India), the Table Mountain National Park in Cape Town (South Africa), and the UNESCO World Heritage Site, Xochimilco, in Mexico City (Mexico). They have in common their peri-urban, if not urban (Mumbai), locations near or within very major agglomerations: over 3 million inhabitants in Cape Town, 20 million in Mumbai and 23 million in Mexico City. Moreover, these areas are in countries that are to various degrees "emerging", where rapid economic, social, cultural, environmental or political changes threaten these parks. Finally, they are characterized by the presence - whether symbolic or physical, past or present - of Indigenous populations. The term "Indigenous" shall be understood here as "[tr.] inhabiting their place of origin" (Bellier, 2009; 2015; Belaidi *et al.*, 2016; Detienne, 2003). Indigeneity[2] implies a specific link to a place, or territory, as well as a temporality which would forge identity – as recalled by the contemporary struggles of the

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[2] We are basing ourselves here on the characterization in the *United Nations Declaration on the Rights of Indigenous Peoples* (2007) including four basic components: historic continuity on a territory, cultural difference, the principle of non-domination and self-identification.

Indigenous peoples in the Americas. But the extension of the debate to other parties and peoples in the world has led to an expanded understanding of indigeneity, in which the idea of first settlement is less central (even if it remains underlying) as it is debatable on some continents. A combination of criteria is accepted today. The connection to the territory is no longer the only principle; relationships of domination, discrimination and marginality have enriched and complicated the definition of indigeneity. Populations having in common that they 1) historically have had unequal power relationships with the nation-states in which they live and the society of these states, and 2) have been discriminated against or marginalized based on their life styles, can now be considered as Indigenous and potentially recognized "Indigenous peoples" (thus having access to special treatment).

Moreover, the spaces presented in this text are representative of exclusionary and domination practices that seriously damaged, if not destroyed, the lifestyles of the populations affected. These attacks, experienced as injustices, have an impact on how they live and how they claim their indigeneity for protecting their rights. Therefore, the definition and appropriation of the qualifier "Indigenous" and its evolution are greatly influenced by political considerations and objectives. This text examines the mobilization of the "image" of indigeneity by the players and populations affected as part of their struggles for spatial justice within these urban parks.

We will begin by presenting the diversity of the relationships between indigeneities and protected spaces in the three countries and agglomerations studied. Then, using the concept of "eco-ethnicity" for exploration, we will assess the degrees to which the states acknowledge the identities claimed. We will show as the first finding of this research, that the image enjoyed by the Indigenous populations in terms of relationships with the environment and ethnicity (which we call eco-ethnicity) is one of the factors influencing the management of their presence in the protected spaces; government authorities or other players may be inclined to grant them more rights if this image has positive virtues from an ecological perspective. The last part of the article will show the use, if not the instrumentalization, of the spatial justice processes through the place granted to or taken by Indigenous peoples in the protected spaces. Our second finding arises from that: in the contexts studied, even if it is still a matter of land and territories, the justice demanded by Indigenous peoples often refers less to a "right to the land" in terms of land retrocession, than to a "right to visibility" and the recognition of their presence in the territories from which they had been erased.

Indigeneity and (spatial) injustices

In the three countries analyzed here (South Africa, India and Mexico), the indigeneity of the groups studied is officially acknowledged to different degrees. Moreover, with the exception of the Adivasi (India), the injustices suffered by these groups are not related to the creation of a protected area on their territory – the prejudice long predates that.

Legislation on Indigenous status recognized to varying degrees

In India, Indigenous populations essentially correspond to what is called "tribal" populations, or Adivasi (literally, "aboriginals") - the definitions vary a great deal (Chavinier, 2008). The Scheduled Tribes, the only category officially counted since 1950 but which does not include all Indigenous peoples, represented 8.6% of the population in 2011 (cf. http://www.censusindia.gov.in). Their territories have been greatly reduced over the course of a history which relegated the Adivasi to wooded hills, which are themselves now coveted by major industrial or hydroelectric projects. However, in India's democracy, the Adivasi are not without specific rights: an affirmative action policy gives

them various benefits and job quotas in the public sector, spatial justice policies reserve seats for them in the municipal elections in some electoral jurisdictions and, above all, have granted them territories (Scheduled Areas) in hilly areas or in the Himalayas where they have a certain amount of autonomy. We note that in India, the Adivasi are rarely called "natives" or "Indigenous peoples" as no idea of anteriority is accepted in the official discourse. If they enjoy specific rights, like the Dalits (formerly the Untouchables), it is because they live in frequently miserable conditions and not because their territorial legitimacy is greater than that of other groups. As part of a historiography that is very disputed and politically highjacked by the Hindu nationalist right (Meyer, 2007), particularly since its return to power in 2014, the question of anteriority is extremely sensitive in India. Moreover, although the Adivasi represent more than one-fifth of the Indigenous populations on the planet, they have only been present since the 2000s in international arenas; before that they had preferred to play the affirmative action card at home.

In South Africa, though the matter of Khoisan anteriority is only contested by the Afrikaaner extremists, the *Traditional Leadership and Governance Framework Amendment Act*[3] stipulates that "South African Indigenous peoples consist of a diversity of cultural communities" (Republic of South Africa, 2003, p. 2) and targets all the country's black African populations (DTA, 2013). Furthermore, the re-inclusion of traditional authorities under the new Constitution (Chapter 12) did not initially target the Khoisan authorities because they were assumed not to have survived colonialism and Apartheid (Mukundi, 2009). Indeed, the Khoisan, who occupied the Cape's peninsula and province during the pre-colonial era were all but wiped out through a combination of massacres, epidemics and forced labour between the 17th and 19th centuries (Fauvelle-Aymar, 2002). In addition, their descendants were described as "Coloured" during the Apartheid regime, a classification which weakened the Khoisan identity to the point of making it invisible. However, after the tentative starts during the transition to democracy, the Khoisan renaissance led to the creation of the National Khoisan Council in 1999. The negotiations with the South African government specifically about the constitutional recognition of the traditional Khoisan chiefs led to the *Traditional and Khoi-San Leadership Bill* (TKLB), whose purpose is to complete and replace the 2003 law. Although Jacob Zuma, Vice-president and then president of the Republic of South Africa, described the Khoisan as the country's first Indigenous peoples[4] (Zuma, 2001; 2012), the TKLB did not recognize this status. Reworked many times, the bill introduced in Parliament in September 2015 is highly contested. These delays add to the ambiguity of South Africa's position; the country has not ratified the International Labour Organizations' *C-169 - Indigenous and Tribal Peoples Convention* (1989).

In Mexico, the meaning of indigeneity is quite different. Indigenous peoples represented 9.8% of the population in 2005 (CDI, 2010). After the conquest of the Aztec Empire by the Spanish in 1521, the Aztecs' "acceptance" of Christianity enabled them to more or less openly preserve their tradi-

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[3] Prior to 1994, the traditional authorities were legally the first level of administration in black rural zones, although subject to the white government. They were responsible for maintaining public order as well as delivering basic public services. After the end of Apartheid, the need to make the country "a nation united in its diversity" led to reintegrating these traditional authorities by making them legitimate – the traditional chiefs were made and unmade by the colonial administration and the Apartheid regime, on the basis of their submission to the regime in place. Thus, the 2003 law establishes a new form of state recognition of the chiefs through the granting of certificates and the addition of a Traditional Council which must be made up of members chosen by the chief, one third women and other democratically elected members to fulfill the constitutional principles (non-discrimination and democracy).

[4] "I am proud to be here this evening to witness a defining moment in the history of our country in general, and that of the Khoisan people in particular - the first Indigenous people of our country" (Opening ceremony of the National Khoisan Consultative Conference on March 29, 2001).

tions and identities. Mexico is the only one of the three countries dealt with here to have ratified the ILO's *Convention No. 169*. On the basis of this text, 141 *pueblos originarios* (villages inhabited by Indigenous peoples) were recognized in the 16 *delegaciones* of the federal district of Mexico City. In 1992, Constitutional Amendment no. 4 was amended to recognize the multi-ethnic and multi-cultural nature of the Mexican nation, and in 2001, the autonomy of Indigenous peoples in community matters was recognized (Cloud et al., 2013). Even if reality is often far from the letter of the law, the case of the elevated area of Xochimilco attests to the relative autonomy.

Is spatial injustice the origin of protected areas?
Sanjay Gandhi National Park got its "national" status in 1950. Initially covering 19 km^2, protecting Mumbai's water supply was the primary concern at the time. Today it measures 104 km^2 (the size of Paris within its city limits) as the result of often brutal expansions which not only were revealed to be dangerous for the park, which found itself in direct contact with the city, but also overnight placed the Adivasi who were living there and mainly working as sharecroppers for absentee owners, in an illegal situation. These ethnic Warli or Kohli saw their livestock confiscated and cropping banned, and most had to leave their villages. However, more than 7,000 Adivasi remain inside the park, and continue to be threatened with eviction (Image 1).

Image 1: Water fetching in the « tribal » hamlet of Taleopada (© F. Landy)

Covered with mostly deciduous forest, the park is known for its leopards (the highest density in the world, in what is probably most densely populated city in the world) and its shantytowns (over 100,000 people within the park). The questions of spatial justice therefore pertain to both the "right to the city" for the inhabitants of these slums (Zérah, Landy, 2013) and a "right to the non-city" for

the Adivasi, who wish to continue living in the park for cultural reasons, but also for economic reasons (many have precarious work in the city, which does not allow them to pay for urban housing). The fact that the creation of this national park did not require the denial of so many rights makes it all the more possible to speak of spatial injustice. With the Adivasi's spatial footprint being relatively small, it was not necessary to destroy their homes and ban their activities. Simply controlling their activities would have been sufficient to effectively carry out a policy for protecting the physical environment. Contrary to what many Indians believe, the overall interest was not to remove all habitation from the park. The Adivasi, who often know the forest better than the forest wardens themselves, are frequently able to give the alert in the event of fire or poaching, or bring attention to other problems. The injustice in their regard is all the more flagrant as this discrimination is in contrast with various activities in the park (a little train, tourist visits to ancient Buddhist caves), not to mention the middle-class homes in no-building zones, detrimental to conservation but nonetheless tolerated as they're homes for well-off middle classes (Saglio-Yatzimirsky, Landy éd., 2014).

In South Africa, Table Mountain Park, which became a national park in 1998 and is completely located in the immense Cape Town municipality, is the largest of the three parks chosen for this study, with 250 km^2 (and over 1000 km^2 of marine protected area). It is also remarkable for the endemism of its shrub vegetation, the *fynbos*. The park includes private parcels, is subject to a great deal of pressure from tourism, and a good portion of the small agglomerations forming holes in the park's fabric are inhabited by black populations.
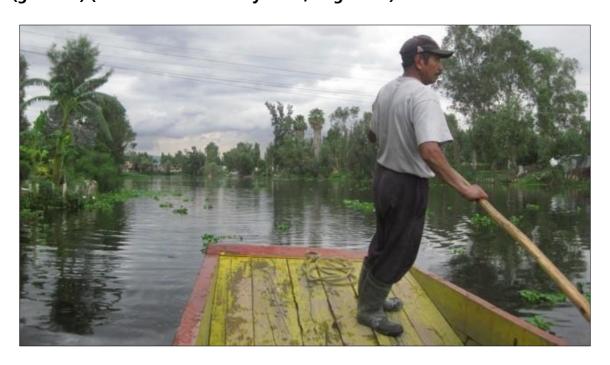
The spatial injustice here occurred well before the creation of the park. Since the late 1670s, European colonists had subjugated or chased away the Khoi from the lands they had occupied for as long as 2000 years in some cases (Elphick, 1985; Adhikari, 2011). Today the Khoisan are classified into five groups which include the Cape Khoi, revivalist Khoisan from the Western Cape (Verbuyst, 2015) who define themselves as the descendants of the Khoisan, working for the resurgence of the identity in the region. Their numbers remain undetermined. In the context of institutionalized racial segregation, the entire Cape peninsula was classified as a "white" area in 1957, and therefore all the "Indigenous" populations suffered from this segregation, the Khoisan and all "black Africans" alike.

Of our three spaces, the Xochimilco Delegation is where spatial injustice is the least pronounced. Located within the Federal District of Mexico, it covers 122 km^2. It was nicknamed the "Venice of America" by the first Spanish chroniclers, and like the park in Mumbai, it owes its being placed under protection to the necessity of supplying Mexico City's other four boroughs with water. Today the park's local economy is more dependent on tourism than on its "traditional" agriculture. There is no doubt that the arrival of the *conquistadores* tragically upset the local societies. But the Xochimilca possess most of the *chinampas,* this grid of parcels of land reclaimed from the water (Image 2). The recognition of the *pueblos originarios* made it possible to keep the Xochimilca agglomerations inside the protected area itself. So, it's unclear whether or not unjust policies can be spoken of today. But protection policies in a region classified as a UNESCO World Heritage Site in 1987 and appearing on the list of the Ramsar Convention on the conservation of wetlands may run counter to the interests of the Indigenous populations, who are not necessarily prepared to conserve all of their practices that are deemed "traditional". Many Xochimilca have begun raising crops in greenhouses, filling in certain canals, focusing on mass tourism and thus threatening their classified countryside.

Thus, the three case studies present very contrasting situations. There have been significant numbers of Adivasi in the present-day Mumbai park for probably only a century, the Khoisan have lived in the Western Cape for 3,000 years, and the Xochimilca have lived in Xochimilco for 1,000 years. Though all have the benefit of state policies aligning with a certain logic of spatial justice on a na-

tional scale, only the Xochimilca are recognized as "Indigenous peoples" as defined by international law (in other words, as defined by the ILO's Convention n° 169) and as such, have specific rights. It would therefore be appropriate to look for other factors for explaining this diversity, beginning with socio-political contexts. The environmental image of these groups – what we call "eco-ethnicity" – is undoubtedly a part thereof.

Image 2: A Xochimilca travelling along the channels between *chinampas* on a *trajin-era* (gondola) (© Karl-Heinz Gaudrey-Sada, Aug. 2011)

Degrees of "eco-ethnicity" and recognition of identities

Eco-ethnicity is a group identity which, like all identities (Barth, 1969), is forged through others' perspective as well as the group's perceptions of itself. It is made up of two components (Landy, 2014). First, "ethnicity" per se: the ethnicity of certain populations has been profoundly altered through processes of acculturation and métissage, while others have maintained or "reinvented" theirs. Thus, in India, many Adivasi are no longer distinguishable through their language or religion, having melted into the dominant culture, whether they've wanted to or not. Treated with contempt or forgotten by most of their fellow citizens, they are unknown to the rest of the world. In terms of notoriety, and therefore, soft power, they are at the opposite end of the scale of the Maasai of Kenya and Tanzania, for example, who are nearly universally known, and who have been able to preserve and, most important, exhibit an extremely visible identity. Does that not make it easier for them to demand justice?

Secondly, eco-ethnicity is defined by its "ecological" component, i.e. by the type of relationships a group has with its environment. These are effective relationships, resulting from specific ontologies such as Descola (2005) described, but also relationships with the environment as perceived by the Other. In other words, these relationships may correspond to what is commonly called "sustainable development" today without necessarily being recognized as such by other ethnic groups or gov-

ernment authorities, while conversely, certain practices may be considered questionable from an environmental perspective (such as the Maassai rites of passage requiring that one kill a lion) and are officially forbidden but charges are not always laid due to the strength of the group's "environmental" reputation (the Maasai continue to be perceived as living in harmony with the savannah, and with its wildlife in particular).
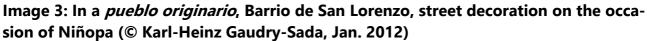
Our assumption is therefore that the concept of eco-ethnicity makes it possible to grasp differences between groups considering themselves as Indigenous, but also to emphasize that certain forms of indigeneity, those with a strong "ecological" component, may promote official recognition of these populations, to the point of qualifying them as a "people" and granting them specific rights, as is the case of the Xochimilca in Mexico.

A landscape eco-ethnicity: the Xochimilco

Although the conversions to Christianity did not destroy the Xochimilca culture, Mexico City's expansion in the 20th century turned out to be a much greater danger. The Xochimilca are only 8% of the Delegation's 370,000 inhabitants. For the Xochimilca, Mexico City remains the "outside", while Xochimilco remains quite distinct, forming its own little island within the agglomeration, despite the gradual transitions of the landscape. While language is a Xochimilca identity marker in the surrounding mountains, in Xochimilco, it is the landscape of canals and *chinampas* that indicates the ethnicity, just like the towns that are recognized as Indigenous.

The hybrid syncretism of Christianity and pre-Columbian religions is also specific, notably with the Niñopa (or Niñopan) cult (Image 3). The symbol of the Xochimilco identity, the Infant Jesus, or Niñopa, is associated with the Aztec sun god. Dressed like a Christian saint, it is worshipped along with the axolotl (*Ambystoma mexicanum*), an endemic species of salamander. This animal is an endangered species, specifically because it is absolutely dependent on its ecosystem. Thus, protection of the landscape is far from just representing an economic and ecological issue: it is also a matter of protecting an animal that is seen as representative of Quetzalcoatl's brother, the "feathered serpent" and creator of humanity. This legendary association is reinforced scientifically by the axolotl's ability to regenerate up to 70% of its body and brain after injury. The fact that the Xochimilca identity is connected to a landscape (the *chinampas* culture) and an animal (the axolotl cult) gives it a strong "ecological" component which provides a great deal of legitimacy and therefore, political leverage.

Image 3: In a *pueblo originario*, Barrio de San Lorenzo, street decoration on the occasion of Niñopa (© Karl-Heinz Gaudry-Sada, Jan. 2012)

Eco-ethnicity as a renaissance: Cape Town

During Apartheid, the classification of the Khoisan as "Coloured" – in various sub-groups[5] - as well as their forced removals, finished the fracturing of the Khoisan identity in the 20th century (Mitchell, 2012). The frequency of inter-marriage with other ethnic groups also weakened it both economically and with regard to the language and cultural transmission. This ethnicity, which is poorly recognized and has long been poorly laid claim to, is partially counterbalanced by a strong ecological identity.

Table Mountain, which is so important in the contemporary urban landscape, plays a major role in the Khoi culture. It was called "Hoerikwaggo", or "the mountain in the sea". This name is now officially used in South Africa. In 2005, SANParks, the national parks management agency, gave this name to the organized hikes on the mountain, thus essentially identifying Table Mountain by its Khoi name (image 4). Initially, the guides even had to explain the sacred nature of the Mountain for the Indigenous peoples and to report how they were using its biodiversity (interview with the Tourism Manager, 2010). The San are very knowledgeable about their ecosystems' resources, particularly with regard to food, medicinal plants and habitat (Fritz et al, 2005; Belaidi, 2005). If the guides for the hikes do not introduce the Khoisan culture to the hikers, the fact remains that from the open-

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[5] In the "Coloured" category, there were various sub-groups, including the Cape Coloured, the Cape Malay, the Griqua, the Nama and "other coloureds". The members of the Khoisan community were classified based on their ancestry in one or another of these sub-groups. This means, for example, that the descendants of Khoi and Afrikaner were often classified as Griqua, while the descendants of slaves were classified as Cape Malay..

ing pages of its website, SANParks assumes this relationship with indigeneity by stressing Table Mountain's deep temporal and cultural connections[6]. It is true that the peninsula's 2004 classification as a UNESCO World Heritage Site is based on an IUCN report which mentioned the cultural specificities of the site (IUCN, 2004) although they had not been claimed by the South African government in its UNESCO nomination file. By stressing its significance for the pre-colonial populations, the IUCN highlighted the connection between the site's endemic vegetation – the *fynbos* – and Cape Town's pre-colonial history. The fynbos, whose use then spread beyond the region, recalls the "African" origin of Cape Town's population. In this context, it has become an element of the national "reconciliation" process. Because it makes the case for the "African Renaissance" (understood as the renaissance of the African continent, see Crouzel, 2000), recognition of Indigenous knowledge is deemed part of the national "reconciliation"[7] process (SADC, 2006). This is precisely what Jacob Zuma is referring to in his speeches on recognition of the Khoisan, and not an Indigenous renaissance.

Image 4: A sign along the Hoerikwaggo trail, that uses the khoi toponym (© N. Belaidi)

A weak eco-ethnicity: the Adivasi of Mumbai

As mentioned above, some Adivasi stayed in the Mumbai national park after its creation. But even if there are a few covertly cultivated fields, a few goats graze at the risk of being confiscated and some medicinal plants, if not wood, are occasionally sold in town (although officially these can only be gathered for domestic use), the "tribes" have lost the essentials for subsistence and for the most part, have become commuters.

The Adivasi are indeed remarkable for their invisibility. The entrance to the national park is decorated with paintings inspired by Walt Disney's *Jungle Book,* and not famous traditional Warli paintings. The Adivasi are considered by many Indians as "backward" populations: primitive and good at

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[6] https://www.sanparks.org/parks/table_mountain/about/history.php, consulted on 04.10.2016
[7] "Unfolding indigenous knowledge systems as a basis for unfolding advocacy of the African Renaissance" (SADC, 2006).

destroying the environment by burning off the land. However, the Adivasi of Mumbai respect the forest as a place of life, a space of material and spiritual resources, they worship Waghoba, the tiger-god whose little brother is the leopard (Ghosal, 2013), and never has an Adivasi been killed by these animals as they know how to live with their ecosystem.

As we have just shown, the urban parks studied are marked by the presence of certain figures of the autochthonous lifestyle. But when all is said and done, are these powerful enough to be the basis of Indigenous claims, and make the protected areas vehicles for justice?

Is the protected area a stepping stone toward more justice?

The populations studied have claims that in general greatly exceed the context of the park, and instead concern the space that they want to occupy or seeing themselves recognized in society. However, the protected area may be a stepping stone to these claims. What remains to be seen is if these claims end up genuinely in favour of the populations or if they are only instrumentalized by government authorities.

Claims that exceed the protected area

It is quite rare for Indigenous populations to demand that protection of the park's spaces and its resources be totally suppressed. But in Mumbai, the Adivasi were living in the park prior to its creation and many still live there. They therefore are struggling to be able to continue living there and practice certain activities. Even if gathering dead wood or growing some vegetables near the house remain officially prohibited, there would seem to be a *de facto* right to do so. Women even sell cucumbers to the tourists, which is fairly remarkable given that all food trade is officially prohibited in the park, including near the lake with peddle boats where Mumbai families crowd in on the weekends. Some associations (*sangathna)* have been formed to protect the Adivasis' rights. These associations are mostly of external origins; they are led by non-tribal leaders and play an equivocal role, often being interested in the electoral support of the Adivasi – when the associations are supported by a political party – or they're motivated by real estate interests, as we will see. In the hamlet of Navapada, four households take a chance on raising some goats: "but it's because they know people in the *sangathnas"*, a teacher who lives there told us. Indeed, the houses there are mainly properly built in the traditional Adivasi architectural style, while other hamlets in the park are built of scavenged materials, indicating a more fragile status and less protection by the "*big men*" and their clientelist system.

The fact remains that the Adivasi are scarcely visible in Mumbai, living in their hamlets hidden by the forest or lost in the concrete jungle. A few political posters or graffiti are on the outside walls of some houses; not much, really. In addition, the claims are rarely made to demand new political rights in the name of ethnicity but instead in the name of respect for government regulation. An activist reminds us that "This is tribal land; non-tribe members are not entitled to buy tribal land". This individual is very aware of the legal imbroglio of the local land system (a considerable amount of the land in the national park was not notified as such and the Adivasi continue to pay land taxes, etc.). However, we should qualify this. On the one hand, the Adivasi are far from being mere victims. They sidestep the law, too (if for survival more than enrichment) by occasionally renting out a portion of their small house to immigrants coming to work in Mumbai. Threatened with the destruction of the shantytowns adjacent to many of their hamlets, some have managed to take advantage by obtaining a small apartment in the Chandivali project built to resettle the inhabitants of the slums destroyed and renting it out under the table. On the other hand, the government authorities' attitude toward them is changing, leading to a subtle recognition, as we will see.

The contrast is great with Xochimilco, which is not a national park. There the authorities have tended to allow rather than prohibit some forms of local development for conservation purposes. Of course, this has officially been the end of traditional axolotl *tamales* during *fiestas,* as the axolotl is a protected species, and no more *Erythrina coralloides* tamales either as the small local tree that produces the beans is also protected. And of course, the Xochimilca would like to obtain full management of the informal habitat installed in their villages, and water rights are another contentious issue. Moreover, the relative decline of the *chinampas,* some of which have now been left fallow, is accelerated by the ban of certain intensive farming practices. But erosion of the banks and the poor maintenance of the canals is also explained by other factors, such as the absence of land titles even though the land is private property; this leads to conflicts that are often politicized and hastens the rural exodus. Furthermore, the boom in tourism, accelerated by the area's classification, makes it possible to generate new revenues. Generally speaking, the older populations are the ones complaining, unlike some of the young people who come back to settle in Xochimilco after studying in Mexico City, relaunch *chinampas* agriculture with the goal of taking advantage of the opportunities to sell certified, quality produce at a high price to well-known restaurants in downtown Mexico City, for example. These young people are less interested in a narrative denouncing "injustice" in the name of Xochimilca traditions than in a trade situation with the "outside" and thus, complementarity. Overall, the Xochimilca have gained more than they have lost with their region's designation as a UNESCO cultural heritage site.

The Khoisan are far from being in the same situation in the region of Cape Town. While they appear to be in demographic decline, they are increasingly present politically, both in South Africa and at the international level (Fritz et al., 2005), and particularly with South Africa's support of the *United Nations Declaration on the Rights of Indigenous Peoples* (2007) since the advent of democracy. This is the specific context that the Khoisan refer to for their claims: they consider themselves "Indigenous" and do not want mere recognition as "traditional" chiefs (Mitchell 2012). The objective is to see both their primary occupation recognized, and acknowledgement at the constitutional level of the cultural genocide of which they were victims. Their demands, territorial included (primarily lands located in Cape Town), pertain less to restitution of this or that parcel than to demands for destruction of sites (for example, the Castle of Good Hope) or changes of place names (District Six, for example) in order to eliminate the vestiges of colonization (Verbuyst, 2015). Until now, the land claims could not come to anything as the *Restitution of Land Rights Act* n° 22 did not authorize reparations to individuals or groups except for land confiscated by the laws of 1913. In 2014, the act was amended and a note added indicating that the government will conduct research on the Khoi and San claims on the lands confiscated prior to 1913. In reality, this should not change a great deal in the Khoisan claims, who use land claims as a metaphor for their exclusion in order to open discussion on identity, language, historic awareness or reparation (Walker 2008). Although the South African government may appear to be favourable to "symbolic restitutions"[8] (re-establishment of the name Hoerikwaggo is a good example of this), recognition as an Indigenous people, able to exercise specific rights, is considered a threat to national reconstruction and therefore, for the time being, cannot be contemplated.

There is often, in South Africa and India at least, quite a gap between the acceptance by government authorities of certain practices and the full recognition of rights in the name of indigeneity.

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[8]"'Symbolic gestures/remedies' such as renaming towns, roads or geographical areas with "former or new Khoi and San terminologies'" (Department of Rural Development and Land Reform*,* 2013, p. 151).

And when this recognition does exist, it may well correspond to political or business objectives that are quite removed from the initial claims expressed by the Indigenous populations.

Recognition and instrumentalization

In Mumbai there is no official or commercial use of indigeneity, so there is not any instrumentalization in the strict sense of the word, and even less thought of reparation, given that until just very recently the Adivasi were not supposed to have any rights over the land. With the law prohibiting people from living in India's national parks, it is definitely difficult to use the Adivasi presence in the park to demand their recognition. But, let's imagine, for example, that at the entrance to the park a fake "tribal" hamlet were built with painted houses, that would be visited by tourists – something like these nearby authentic Adivasi villages, belonging to what is called "Film City" and which are occasionally used in Bollywood films. This hamlet does not exist and until recently, there was total unawareness of the Adivasi's proximity to nature. The images inspired by the Walt Disney film at the entrance to the park signal a desire to de-indigenize nature (better yet, to de-Indianize it given how "western" these images are!): a materialization of the nature/culture dichotomy dear to "modernity", as the jungle is presented here as tame and familiar (Landy, forthcoming). The real forest – and the Adivasi that live in it – is supposedly not of interest to visitors, or frightens them.

Of course, for the last few years the national park has permanently employed some Adivasi men – mainly for unskilled manual labour rather than for putting to use their knowledge of the environment for managing the park, truth be known. And in 2012, the new park director hired a young Warli artist to decorate the Education Centre. This commission was both a form of (partial?) recognition of his right to live in the forest and just as important, a recognition of the importance of the Adivasi culture in the perception of nature (see image 5).

Image 5: In his house within the national park, Dinesh, a young Warli painter, is posing in front of one of his paintings (© F. Landy)

A major hindrance to this recognition however, appeared recently: The *Forest Rights Act,* ratified in India in 2006, which gives specific rights to Indigenous populations and "other traditional forest dwellers", including in the national parks. The law notably allows households or communities to claim ownership of up to 4 hectares of land per family, if the land is cultivated. Even if this only applies in rural areas (and three-quarters of Sanjay Gandhi National Park is located in urban districts), many applications have been filed, which can only make the powerful Forest Department's position less flexible. It is all well and good for the Department to point out that the Adivasi are instrumentalized by Mumbai's real estate developers and the land shark mafia, which use the *sangathnas* or speak directly to the Adivasi to push them to claim land in the hope of acquiring it later. The founder of the tribal protection NGO, Jaag, told us that he had previously refused 5 million rupees from a developer… The Adivasi are not always taken for fools: "He started with a bicycle, now a motorcycle and soon he'll have his car!" a Warli told us regarding an NGO leader. All these examples show that there is very little institutional or official use of Adivasi ethnicity but a great deal of unofficial instrumentalization.

The situation is different in Cape Town. Behind genuine conservation concerns, identity and political concerns are central. Biodiversity serves as the medium of a culture and identity under construction, which is based on the national (re)construction process. The registration of Table Mountain as a UNESCO World Heritage Site reinforces the cultural and natural value of the site and tightens the connections between them, indeed their interdependence. The park directly participates in the national process for building the new South Africa (Belaidi, 2012). From this point forward, SANParks must promote a new concept of preservation, connected with the ideas of development and social needs, which involves a harmonious relationship between the parks and citizens, built particularly on the appreciation of the conceptions of nature specific to African cultures.

Historically, according to the conservation philosophies in South Africa's parks, the local populations were primarily viewed as potential poachers, competing for water and land, and their poverty repelled tourists. In the mid-1990s, SANParks understood the need to develop relations with the local populations through what was then called "social ecology": a new ethics of conservation which promotes community development through conservation and tourism (Cock, Fig, 2002). This new promotion of the natural (and cultural) heritage intended to revisit the racial particularisms and the conservationist approach current during the Apartheid era. Table Mountain National Park is emblematic in this area, with its motto "A park for all, forever": it is still "heritage building" but this time, to everyone's benefit. The national parks therefore are not only useful for protecting biodiversity or promoting ecotourism; they are also at the foundation of the strategies for the emancipation and recognition of historically marginalized populations. These issues are national as well as local as they affect the very identity of South Africa.

In this context, although the Xhosa are the local ethnic majority, the choice of the Khoi name, Hoerikwaggo ("the mountain in the sea") for Table Mountain rather than the Xhosa name Umlindi Wemingizimu ("the watcher of the south") testifies to the growing importance placed on the history of the Khoisan peoples in the construction of the national identity (Mitchell, 2012). Today this political process is expressed in South Africa's coat of arms which bears a phrase in Xam, a Khoisan language which is dead today, although none of the eleven official languages is Khoisan (it is, however, recognized in the Constitution and the state must ensure that it is championed[9]).

Furthermore, Table Mountain National Park benefits Cape Town to the extent that the emphasis placed on the value of nature tends to modify the city's image. Cape Town now presents as a green city, environmentally responsible, in a break with the Apartheid-era city known for its profound social and racial inequalities. The natural and cultural heritage and conservation have begun contributing to the development of a distinctive city plan – a necessity for attracting capital or tourists.

While a phrase in the Khoisan language appears on South Africa's coat of arms, the Xochimilco landscape appears (as symbolized by the former lake system) on Mexico's flag and coat of arms. But the Xochimilco ethnic identity remains politically timid: the region is widely known and acknowledged with regard to tourism and flora but its ethnicity is hardly visible, except during traditional events. Some celebrations, like the that of the Niñopa, are celebrated by all *pueblos originarios* and serve as spatial cement. Given the ties between the Niñopa and the axolotl, this religious holiday is used by the *National Biodiversity Strategy and Action Plan* (NBSAP) that was created following the Rio Convention. This plan prohibits the consumption of certain traditional dishes but otherwise, the Xochimilco identity and the NBSAP seem to mutually benefit one another. The NBSAP's action is not limited to supporting the continuation of practices favourable to the conservation of endemic species: it fosters the creation of axolotl reproduction centres managed by the Xochimilca, backed by state officials and veterinarians. This means that the Xochimilca are able to maintain certain elements of their identity - their relationship with the salamander and its habitat - while in return, the NBSAP conservation policy benefits from Indigenous knowledge. So, ethnicity becomes a marker of ecology.

Tensions, exist however. Conventional farmers saw limits imposed on them for the use of phytosanitary products while the reduced use of the *chinampas* affected the productivity of flower and

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[9] Chapter 1, section 6 (2): "Recognising the historically diminished use and status of the Indigenous languages of our people, the state must take practical and positive measures to elevate the status and advance the use of these languages", Constitution of the Republic of South Africa, 1996, Statutes of the Republic of South Africa - Constitutional Law, issue n° 38, p. 1245; http://www.gov.za/documents/constitution/chapter-1-founding-provisions#5.

vegetable farming on which the Xochimilco had built their reputation. Another problem: ethnicity is hardly used for tourism. Xochimilco's reputation is based just as much on its boats (*trajineras)* decorated with flowers and steered by a boatman through the canals, as it is on agriculture. The usual tour suggested to tourists includes a one to two-hour ride, possibly topped off with *mariachis* (iconic Mexican musicians), during which the vendors set up in other boats come offering items or food. It is very rare for a *trajinera* to come ashore on a *chinampa* or stop to visit a *pueblo* – many tourists have no idea this is even possible. The boats can also be rented by the day, which is something generally done by city dwellers for special occasions. They take advantage of the landscape but the only contacts with the *chinampas* and Indigenous people are visual. While economically benefitting many Xochimilca, tourism makes only a rather feeble commercial use of the ethnicity. The state hardly values it anymore. The previously mentioned example of the NBSAP is something of an exception in this regard. Local agriculture remains primarily considered an inconvenience for the conservation policy. The *chinampas* landscape travelled by the colourful *trajineras* is in fact, very controlled: the boatman and his boat must obtain a permit from the federal district government, and the Xochimilca have barely any opportunities to launch local initiatives. Marketing local products to tourists provides few benefits to the *pueblos,* while the maintenance of the landscape and water quality are the responsibility of the Xochimilca. They are occasionally depicted by outsiders as destroyers of the environment and see their eco-ethnicity losing its environment value, which undermines them politically.

Conclusion

The term "Indigenous peoples" as a category of international law, recognizes the person as an individual member of a people and give it a legal status. This status allows special treatment in terms of individual and collective rights, and access to certain resources, land and funding. The recognition of certain populations as Indigenous peoples may produce a win-win outcome for the people involved and the public authorities alike: this is the case of the Xochimilca, who benefit from the policy protecting the axolotl salamander. At the same time, our examples have attempted to show that simply "de facto recognition" can also benefit states without being embedded in the official legislative framework that would grant specific rights. An example of this is Cape Town and beyond, South Africa, which by facilitating access of all populations to the park, is seeking to transform the image of the city and the entire country into that of a democratic, non-racial space of justice. Thus, our examples would appear to show that having a strong eco-ethnicity that is recognized by society would be a means for achieving cultural recognition and certain rights. Conversely, the Adivasi are the only ones of our three case studies who do not to appear in one way or another on the national coat of arms, and their weak eco-ethnicity is not appreciated except by a few private stakeholders with questionable objectives. The threat of eviction from the park is always hanging over their heads.

While both are definitely in a more favourable situation, the Khoisan in Cape Town and the Xochimilca in Mexico City have but little in common. The Xochimilca, who dominate locally, only see a portion of the tourism revenues, and their willingness to intensify farming on their *chinampas* conflicts with government biodiversity conservation policies. For the Khoisan, the effects in terms of justice can seem quite weak, since their demands for recognition are subordinated to the South African government's expressed more global objective of national reconciliation. However, although they are a minority, today they have a special relationship with the government despite having been quite invisible until the late 1990s. Of the three groups studied, they would thus appear to

be the one that has been able to find a genuine means for mitigating certain historic injustices in the existence of a protected area.

If it must be observed, at least as far as our three cases are concerned, that it is difficult for protected areas to become vehicles of spatial justice and reparation, this study confirms how much the social construction of territory depends on political, economic and cultural philosophies. Contemplating protected areas as spaces dedicated to justice and reparation calls upon the social dynamics by which the stakeholders define the space and fill it with meaning, in this case, justice. Now, we should bear in mind that the various social groups do not define justice the same way. Territory tends here to be reconfigured in accordance with justices where there is interaction, if not contradiction, between values and interests. Finally, the ways in which spaces are represented have proven to be revealing about how social relationships are expressed.

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