



RAADSKOERANT

BOERE-AFRIKANERVOLKSRAAD

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Nommer 5

Vrydag 4 Oktober 2013

VOLKSRAADKENNISGEWING

Klag by S.A. Menseregtekommissie

In opvolging van Raadslid Abel Malan se voorlopige verslag oor die antwoord van die Suid-Afrikaanse Menseregtekommissie op die Volksraad se klag teen die S.A. Regering, word die volledige besonderhede oor die aangeleentheid hiermee ter algemene kennisname verstrek:

1. Die S.A. Regering het die Verenigde Nasies se *Internasionale Konvensie oor Burgerlike en Politieke Regte* op 3 Oktober 1994 onderteken en dit op 10 Desember 1998 gepromulgeer. Die Konvensie bepaal onder meer:

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

PART I

Article 1. 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

3. The States Parties to the present Covenant, ... shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2. 1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, ...

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

2. Die voorgenoemde Konvensie is deur die Verenigde Nasies as 'n menseregteverdrag geklassifiseer. Dientengevolge is die Internasionale Menseregtekomitee aangewys as die verdragsliggaam wat die implementering daarvan moniteer. Die S.A. Regering het hierdie liggaam se gesag in die verband aanvaar met sy promulgering van die *Opsionele Protokol tot die Konvensie* op 28 Augustus 2002. Die Protokol bepaal onder meer:

OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

The States Parties to the present Protocol,

Considering that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementation of its provisions...

Have agreed as follows:

Article 1. A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the (Human Rights) Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant.

Article 2. Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

3. Die Suid-Afrikaanse Menseregtekommissie (SAMRK) is kragtens art. 184 van die ANC se Grondwet vir SA ingestel. Die Kommissie moet onder meer:

- (1) (c) die handhawing van menseregte in die Republiek monitor en die stand daarvan bepaal.
- (2) Die Menseregtekommissie het die... bevoegdheid –

- (a) om ondersoek in te stel na en verslag te doen oor die handhawing van mense-regte;
- (b) om stappe te doen ten einde gepaste herstel te verseker waar menseregte geskend is.
4. Ons reg tot selfbeskikking kragtens die Konvensie word geskend deurdat die S.A.-Regering sedert sy promulgering daarvan op 10 Desember 1998, nog nie 'n vinger verroer het om uitvoering aan die aangehaalde bepalings daarvan te gee nie.
5. Die eerste, en voor die hand liggende plaaslike remedie om dié vergryp reg te stel, was om die Regering direk te nader. Vertoë wat oor 'n lang tydperk tot die Regering gerig is — ook deur persone en instansies buite die Volksraad — is eenvoudig geïgnoreer.
6. Die vanselfsprekende en korrekte volgende stap ter uitputting van plaaslike remedies, was om ons na die konstitusionele instrument wat geskep is om met menseregtever-grype te handel, te wete die SAMRK, te wend. Derhalwe het die Volksraad op 3 Desember 2012 die volgende klag by dié lig-gaam ingedien:

**AANKLAG BY DIE SUID-AFRIKAANSE
MENSEREGTEKOMMISSIE**

TEEN:

**DIE PRESIDENT EN LEDE VAN DIE
KABINET**

(hierin later “die Regering” genoem)

VAN DIE REPUBLIEK VAN SUID-AFRIKA

(hierin later “die RSA” genoem)

DEUR:

DIE BOERE-AFRIKANERVOLKSRAAD

AAN: DIE SUID-AFRIKAANSE MENSEREG-
TEKOMMISSIE
BRAAMPARK FORUM 3
HOOFDSTRAAT 33
BRAAMFONTEIN
JOHANNESBURG

GELIEWE HIERMEE KENNIS TE NEEM van die volgende:

1. Die Boere-Afrikanervolk het op 23 en 24 September 2011 ‘n vry, regverdige en demokra-tiese volksverkieping gehou; waartydens ‘n Volksraad bestaande uit 9 lede verkies is.
2. Gemelde verkiesing is gefasiliteer deur die Volksraad Verkieping Kommissie (VVK) — ‘n lig-gaam wat sonder enige staatsfondse (en ter-wyl dit hoofstroom-mediadekking geweier is) ‘n huidige kieserslys van nagenoeg 36 000 persone bo 18 jaar opgebou het.
3. Gemelde Volksraad is verdermeer deur voor-genoemde kiesers bekleed met ‘n mandaat om hulle voor te gaan in ‘n proses tot herstel van hulle reg op selfbeskikking. Hierdie reg is ver-woord in (onder andere) Artikel 235 van die huidige Suid-Afrikaanse Grondwet asook in die Volkereg — onder andere in Artikel 1(2) en Ar-tikel 73 van die Handves van die Verenigde Na-sies (onderteken deur die RSA); asook Artikels 1(1); 2(2); 2(3); 25; 27 en 28 van die VN se Internasionale Konvensie op Burgerlike en Poli-tieke Regte, soos aangeneem op 16 Desember 1966; en geratifiseer deur die RSA op 10 De-sember 1998.
4. Ooreenkomstig sy mandaat, het die Volksraad vyf briewe aan die Regering gerig, te wete op 26 Oktober 2011, 8 Februarie 2012, 26 Maart 2012, 11 Junie 2012 en 17 Oktober 2012. (Afskrifte van hierdie briewe word hierby aangeheg as Aanhangsels A, B, D, E en F onderskeidelik). Aanhangsels A, B en F is persoonlik by die Kantoor van die President te Uniegebou in Pre-toria afgelewer, terwyl Aanhangsels D en E per elektroniese pos versend is.
5. Ontvangs van ons brief van 8 Februarie is skriftelik erken (Aanhangsel C). Behalwe dié er-kenning is geen reaksie hoegenaamd op voor-melde skrywes ontvang nie.
6. As ‘n maatreël tot uitputting van nasionale remedies, lê die Volksraad in naam van die Boere-Afrikanervolk hiermee ‘n klag teen die Regering — synde dat laasgenoemde in stryd met Artikel 235 van die huidige Suid-Afrikaanse Grondwet handel; en ook in stryd met die RSA se verpligtinge in hierdie opsig ten aansien van die Volkereg — spesifiek die Artikels hierbo vermeld.

ALDUS GETEKEN TE PRETORIA OP HIERDIE
30STE DAG VAN NOVEMBER 2012.

Geteken:

A.E. Breytenbach

Voorsitter: Volksraad

A.A. Malan

Adjunkvoorsitter: Volksraad

7. Op 29 Augustus 2013 is die volgende bevin-ding van die SAMRK in antwoord op die klag ontvang:

**SOUTH AFRICAN HUMAN RIGHTS
COMMISSION**

29 August 2013

RE: YOUR COMPLAINT

"... No comprehensive assessment on the substantive merits was engaged,... The determination of a prima facie violation would suffice for acceptance of the complaint for further investigation at a preliminary stage...

In the assessment of the matter regard was had to international law, the South African context, further information shared during a meeting with yourself on the 13th of May 2013 and the facts as alleged in the complaint itself. It is crucial to advice at this stage that the right to self-determination whether it constitutes internal or external secession, although commented on widely at the international level, has not been constricted to any clearly defined criteria for determination. However, based on the various considerations applied by courts and experts, the Commission was unable to establish a prima facie violation of the right to self-determination on the complaint as submitted to it.

In particular it was noted that the rights to identity and civil and political rights have not been limited unfairly to inform a basis upon which the right to self-determination may be said to be violated. In this regard the Commission was mindful of the legal frameworks and structures in place to protect such rights. Further that the current South African parliamentary system makes provision for all parties to participate; representatives from all walks of life are present in the parliamentary, provincial and municipal processes. The democratic process in the post-apartheid South Africa is therefore a free and open one. Similarly, no gross human rights violations attributable by the State on the group in question are noted nor was any evidence to this effect tabled with Commission.

Section 235 of the Constitution states the following:

"The right of the South African people as a whole to self-determination, as manifested in the Constitution, does not preclude, within the framework of this right, recognition of the notion of the right of self-determination of any community sharing a common cultural and language heritage within a territorial entity in the Republic or in any other determined by national legislation"

The right refers to the South African people as a whole and also as it is manifested in the Constitution. It is arguable whether the 36 000 constituents who according to the complaint indicated a need for self-governance constitutes "South African people

as a whole." In addition the Commission noted that by its own admission complaint does not claim to represent all Afrikaner people in the Country.

The Commission further considered whether the violation as alleged was apparent on the papers submitted to it. In this regard it considered the complainants submission regarding the origin, historical record, moral, fundamental and juridical considerations set out by the complainant therein. Apart from its own research, the advice of an expert was also sought.

The issues of origin, history and claim to land were found to be insufficiently substantiated as contrary views on these issues exist, There remains a need for these issues to be more fully substantiated and tested particularly because of their intrinsic connection to characterisation and as a basis to establish unique separateness from other groups, legal frameworks such as the Restitution of Land Act and research with regard to the indigenous peoples of South Africa would also require consideration.

In having considered the matter, the Commission is also mindful that the complaint is brought on behalf of a substantial number of people who are deserving of a finding regarding their claim. It is also mindful that in the context of our countries history this is a claim that has significant impact for hard won victories, the constitutional spirit of reconciliation and acceptance of diversity and social cohesion.

In the circumstances the Commission is of the view this matter is best placed before an appropriate forum like the courts to more fully consider its many complex and nuanced dimensions.,

The basis for the Commission rejecting your matter is premised on the provisions of Article 12(8) (a) of Chapter 4 of its Complaints Handling Procedures, which provides as follows:

12 8 (a) If the Provincial Manager makes a finding that the complaint does not fall within the jurisdiction of the Commission, or could be dealt with more effectively or expeditiously by another organisation, institution, statutory body or institution created by the Constitution or any applicable legislation, the complainant ... must be notified thereof, in writing; f.... "(own emphasis)

In the circumstances the Commission will proceed to close its file on this matter.

CHANTAL KISOON
PROVINCIAL MANAGER
GAUTENG

8. Kommentaar op bostaande verslag:

a. Die Kommissie toon 'n onwilligheid of 'n onvermoë om te begryp wat met selfbe-

- skikking vir 'n volk bedoel word. Ofskoon geen wet tot nog toe deur die Parlement gevoer is om aan ons volk enige vorm van selfbeskikking te verleen nie, en in weerwil van geskrewe en mondelinge getuienis wat voorgelê is, is die Kommissie "unable to establish a prima facie violation of the right to self-determination."
- b. Die onbegrip word verder gedemonstreer deur hul beklemtoning van die "free and open" demokratiese proses asook die burgerlike en politieke regte, insluitend stemreg, wat die Grondwet in die teenswoordige Suid-Afrikaanse eenheidstaat aan landsburgers verleen. Ons argument dat ons volk weens die ongunstige getalsverhouding binne so 'n bedeling nie 'n wesenlike invloed op die politieke gang van sake kan uitoefen nie, word totaal en al geïgnoreer.
- c. Die Kommissie se onhoudbare uitleg van art. 235 van die Grondwet wat die "*South African people as a whole*" as bepalende norm voorhou sonder enige verwysing of oorweging van die "*right of self-determination of any community sharing a common cultural and language heritage within a territorial entity*", plaas sy bevoegdheid om oor sake soos die onderhawige te oordeel, onder verdenking.
- d. Ofskoon die Volksraad nie aanspraak maak op verteenwoordiging van die gehele Afrikanerdom nie, is die Kommissie daarop gewys dat daar faksies in die volksgeledere buite die Volksraad se ondersteuningsbasis is wat dieselfde ideaal nastreef. 'n Billike bepaling van steun kan slegs deur 'n omvattende meningsopname of referendum, wat uit ons belastingbydrae befonds word, verkry word.
- e. Die Kommissie voer aan dat die oorsprong, geskiedenis en aanspraak op land onvoldoende gestaaf is, aangesien teenstrydige beskouings daarvoor bestaan, en bevind dan: "There remains a need for these issues to be more fully substantiated and tested", onder andere om te dien as "a basis to establish unique separateness from other groups" — asof ons ganse geskiedenis nie ons uniekheid as volk bevestig nie! Die Boere-Afrikanervolk se volkskap is so onomstootlik in die geskiedenis vasgelê dat ons dit nie aan 'n menslike hof se oordeel sal onderwerp nie.
- f. Die Kommissie gee nietemin toe dat die klag gelê is namens 'n "substantial number of people who are deserving of a finding regarding their claim". Voorts word bevind dat ons eis (om selfbeskikking) "significant impact" het op die nuwe bedeling en alles wat dit verteenwoordig.
- g. Dit is dus duidelik dat ons eis om selfbeskikking en die klag teen die Regering weens sy versuim om sy verpligtinge daaromtrent na te kom, 'n tameletjie van sodanige omvang en impak is dat die Kommissie nie kans sien vir die gevolge van 'n uitspraak in ons guns nie.. Derhalwe word bevind dat "this matter is best placed before an appropriate forum like the courts to more fully consider its many complex and nuanced dimensions." Die klag word dus van die hand gewys op grond daarvan dat dit "could be dealt with more effectively or expeditiously by another organisation, institution, statutory body or institution created by the Constitution or any applicable legislation."
9. Die Volksraad is oortuig dat sy optrede tot dusver korrek was, en reaksie wat nou uit die President se kantoor ontvang word, bevestig dit. Terwyl kennis geneem word van die SAMRK se suggestie om ons na die houe te wend, is die Volksraad bedag op die risiko's verbonde aan beroepe op 'n vyandig gelaaide Konstitusionele Hof, en sal die saak omsigtig en met inagneming daarvan verder gevoer word.
10. Die Volksraad wil ons volk dit op die hart druk dat die lotgevalle van ons volk enkel in die hande van God berus en dat ons ons vertrouwe alleen in Hom stel. Wanneer ons ons saak voor wêreldse instellings en owerhede bring, doen ons dit in die wete dat Hy sy raad ook deur middel van hulle volbring en dat Hy selfs hulle bese bedoelings gebruik om sy doel te bereik.

11. Tydens die Groot Trek, was daar verskillende trekke wat soms van mekaar verskil het oor bepaalde sake en onafhanklik van mekaar gehandel het. Nogtans het hulle een gemeenskaplike doel gehad, naamlik die vestiging van 'n eie staat waar hulle vry sou wees van vreemde oorheersing. Daarin het hulle uiteindelik geslaag. Vandag bevind ons volk hom in 'n soortgelyke situasie met verskillende faksies wat die verwesenliking van die vryheidsideaal nastreef ofskoon hulle in werkswyse verskil. Laat ons mekaar ondersteun en nie afbreek nie.

MAG GOD ONS DAARIN LEI

A.E. BREYTENBACH
Voorsitter

Kleinfontein, 3 Oktober 2013

VOLKSRAADKENNISGEWING

Reaksie uit President se kantoor

In antwoord op die prokureursbrief wat op 6 Mei op die President beteken is, is 'n skrywe onlangs van die Hoof: Regs- en Uitvoerende Dienste van die President se kantoor ontvang waarin versoek word dat kopieë van alle vorige korrespondensie met die President se kantoor aan hom voorsien word. Blykbaar kan die gelewerde korrespondensie nie gevind word nie. Dit word nou benodig "In order for the Presidency to properly consider your request".

Hierdie reaksie is waarskynlik 'n direkte gevolg van die klag wat die Volksraad by die SAMRK gelê het. In laasgenoemde se verslag word gerapporteer dat "to demonstrate the exhaustion of domestic remedies the Commission has been advised of the non-responsiveness of the Presidency to a meeting to discuss the complaint and requested in its capacity as a Human Rights Institution to facilitate such a meeting."

Die gevraagde dokumente is op 27 September aan die President se kantoor gelewer onder dekking van 'n omvattende skrywe van die Volksraad se prokureur waarin die aanloop tot die 1992-referendum en die daaropvolgende gebeure met betrekking tot selfbeskikking vir die Boere-Afrikanervolk omstandig uiteengesit word. Ten slotte word die Regering daarop gevys dat

"International Law prescribes that, when national remedies had been exhausted, a people suffering a breach of the right to self-determination should approach the international community for assistance in terms of a peaceful solution. The *Volksraad* submitted a first report in this regard already to the UN and certain foreign embassies in South Africa during November 2012.

"Should neither national- nor international efforts bear any fruits, the *Volksraad* is under the mandatory obligation to refer the matter back to the people on the VVK voter's roll for a populist decision by the latter on what the next step would be. That point in the cycle, according to the *Volksraad*'s mandate, should in fact have been reached already. It is thus confirmed that, should Government contemplate heeding the *Volksraad*'s request for discussions, time is of the essence."

A.E. BREYTENBACH
Voorsitter

Kleinfontein, 3 Oktober 2013

OPROEP: ROOI OKTOBER AKSIE

Volksgenote word opgeroep om die wêreldwye Rooi Oktober-aksie op 10 Oktober 2013 te ondersteun ten einde ons protes teen die verdrukking en moord op die Boere-Afrikanervolk sigbaar te maak.

Raadpleeg <http://www.redoctober.co.za/events/> en <http://www.redoctober.co.za/petition/> vir volle besonderhede.

A.E. BREYTENBACH
Voorsitter

Kleinfontein, 3 Oktober 2013

Die Vaste Fondament

"Nou lyk elke tugtiging of dit op die oomblik nie 'n saak van blydskap is nie, maar van droefheid; later lewer dit egter 'n vredevolle vrug van geregtigheid vir die wat daardeur geoefen is.

Daarom, rig die slap hande en die verlamde knieë weer op;

En maak reguit paaie vir julle voete, sodat wat kreupel is, nie uit lit raak nie, maar liever gesond gemaak word."

Hebreërs 12:11-13