

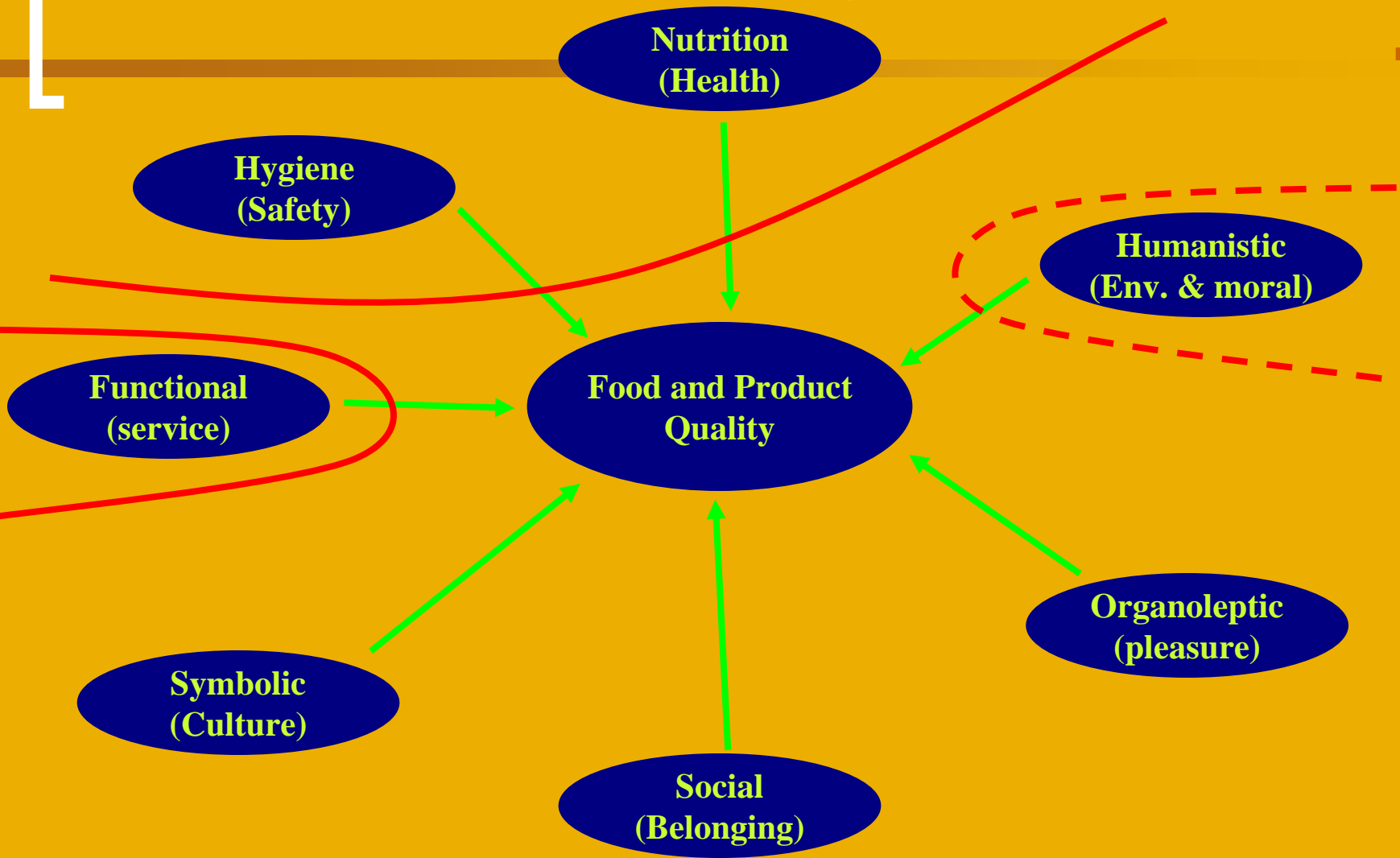
Linking Farmers to Markets through Valorization of Local Resources: The Case for Intellectual Property Rights of Indigenous Resources

Overview of Project

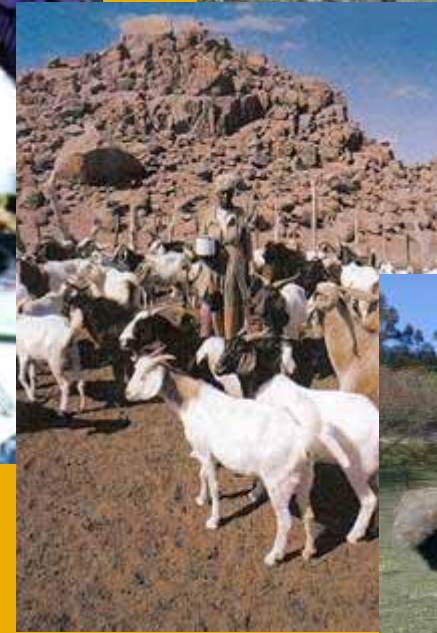
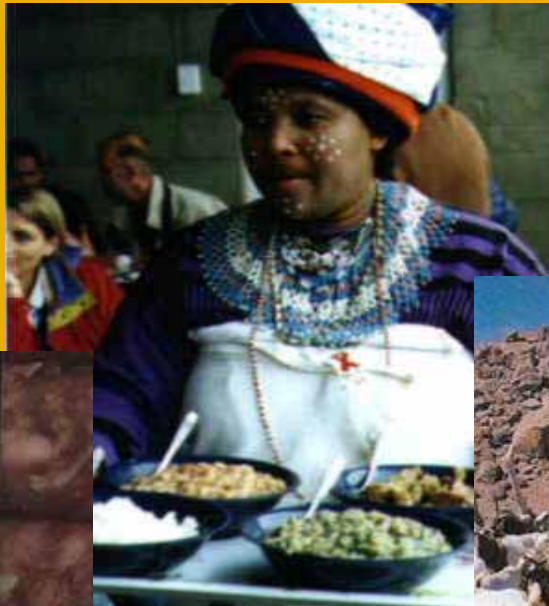
Dr Merida Roets

Scientific  **Roets**
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The Nature of Quality



Indigenous Resources



Use of Geographic Indications Internationally

- EU (652 products)
- China (43 products)
 - Long Jin tea, Shaoxin yellow rice, Xuan Wei ham
 - 80 more expected
- India
 - Darjeeling tea
- Vietnam
 - Nuoc Mam fish sauce
- Thailand
 - Thai Jasmine Hom Maii Rice
- Norway
 - Tjukkmjølkk from Røros
- Colombian coffee – EU application

Problem Statement

- Southern Africa has a unique diversity of traditional knowledge & resources
 - Cape flora
 - Mopani worms
 - Marula fruit
 - Etc.
- Rural poor communities are custodians, but....
 - Rooibos
 - Red Masai Sheep
 - Hoodia



Project Objectives

- Non-exhaustive list
- Southern African and Namibian case studies
 - Local culture
 - Geography
 - Human activity
- Strengthen the capacity of local communities
- GIs as a marketing and income generation mechanism
- Evaluate legal & institutional framework
- Prepare for commercial exploitation

[Project Phases]

- I – Develop list of indigenous resources & case study selection
 - II – Participatory capacity building on IP
 - III – Characterisation of case studies
 - IV – Assess Legal & Institutional framework
 - V – Prepare case studies for submission
 - VI – Sharing of recommendations
-
- September 2005 to August 2007

Project Partners

- South Africa
 - University of Pretoria (Lead proponent) (Prof Johann Kirsten)
 - Scientific Roets (Dr Merida Roets)
 - Western Cape Department of Agriculture (Dr Dirk Troskie)
 - Adams & Adams (Cerkia Bramley)
- Namibia
 - Private (Dr Helmke Sartorius von Bach)
 - Ministry of Agriculture, Water & Forestry (Bernd Rothkegel)
 - Indigenous Plant Task Team (Bianca Braun)
 - Namibian Agricultural Union (Oliver Horsthemke)
- France
 - CIRAD (Dr Estelle Biénabe)
- USA
 - Advance Associates (Justin W van Fleet)

[Project Outcomes]

- Improved awareness of IP & GIs
- Criteria for guidelines
- Enhanced appreciation of GIs - markets & wealth
- Educational & participatory tool
- Partnerships with farmers organisations
- Non-exhaustive list of potential cases

Project Outcomes

- Documented & developed case studies
- Cultural – Terroir interaction
- Products for submission
- Laws and institutions between RSA & Nam
- Policy recommendations
- Regional co-operation on GI (ie devils claw, Kalahari Red Goats, Kalahari Truffle, Mopani worms)

[Intellectual Property]

- Protection given to a person or persons to reward them for the creative endeavors of their mind
 - Protect Moral and Material Interests of Inventor(s)

Intellectual Property

- Patent
- Petty Patent
- Plant Patent
- Plant Variety Certificate
- Trademarks
- Trade Secrets
- Geographical Indicators
- Public Registries
- Private Registries
- Access/Benefit Sharing Agreements
- Conservation/Protection Areas
- Sui Generis Systems

IPRs and Traditional Knowledge

- Difficult to Identify IPR Knowledge Holders
- Compatibility of IPRs with Traditional Aspects Associated with Knowledge
- Consideration of the Goals/Desires of Knowledge Holders

IPRs and Traditional Knowledge

- **Biggest Challenge:**
 - Prevent Misappropriation of Intellectual Property Belonging to Traditional Knowledge Holders by “Outsiders”
- **Examples:**
 - Andean Maca
 - Ayahuasca
 - Basmati Rice
 - Neem
 - Turmeric
 - Rooibos Tea

“Big Question”

- Which IP option or options can best protect a community’s traditional knowledge to promote sustainable development while acknowledging the cultural aspects of the knowledge and the community’s goals and desires.

Answering the “Big Question:” IP Community Tool

■ Process

1. **Assess Knowledge and Identify Knowledge Holder(s)**
2. **Examine Cultural Aspects & Determine Community Goals**
3. **Select Most Appropriate IP Protections from a “Menu” of Possible IP Options**
4. **Pursue Relevant Protections**

[IP Tool: Matrixes]

■ Cultural Aspects

- Spiritual
- Subsistence
- Economic
- Traditional Secret
- Medicinal
- Historic

■ Community Goals

- Profit
- Dissemination for Public Good
- Avoid Exploitation
- Avoid Inappropriate IP Claims
- Preservation

[IP Tool: Selection]

- ***Cross-references these categories with 11 potential IP solutions.***
- ***Communities select best option(s) and solicit protection.***



Considerations for Project

- What is the role of the community in identifying and selecting IP solutions for their knowledge?
- Can possible IP solutions be eliminated prior to considering community goals and cultural ties to knowledge?
- Can one IP solution protect the interests of the knowledge-holding community?
- Who constitutes an IPR knowledge-holding community?
- Who will enforce IP protection(s) after it is selected?
- How can community participation be maximized?
- And...

How can we ensure the project protects the traditional knowledge holders, their knowledge, resources and biodiversity?



[Objectives]

- To build capacity within indigenous resource owner communities to assess and protect IPRs.
- Will assist in the building of case studies in a participatory manner
- Assist communities whose indigenous resources have potential for IP protection

[Approach]

- The capacity-building activities will be designed with a rights-based educational approach
- This will serve as a tool for empowerment and engagement
- This will ensure that communities understand what opportunities exist
- This will assure communities that the concepts are not mandatory or Western-based knowledge and property approaches
- The capacity building workshops will apply a pedagogical approach which will strive to deliver content and facilitate dialogue (using linguistic, logical, spatial, intrapersonal, interpersonal and naturalistic tools).

[Training techniques]

- Creative participatory methodology
- Start most sessions with “what they know” – Generate discussions in small groups e.g. What do they know about their rights and the constitution? Then, how do they think these rights and the constitution relate to the use and benefit from indigenous resources?
- Then move on to session which discusses the practice e.g. What their rights are (National and International e.g. CBD)
- Workshop “hand-out” – published booklet in “train-the-trainer” format (Contains relevant legislation, entire workshop process and exercises, be interesting and user friendly etc.)



Nguni Hides and Damara Skins

A Potential Case Study for
Protection through Intellectual
Property Rights

The Cultural significance and Uniqueness of this resource

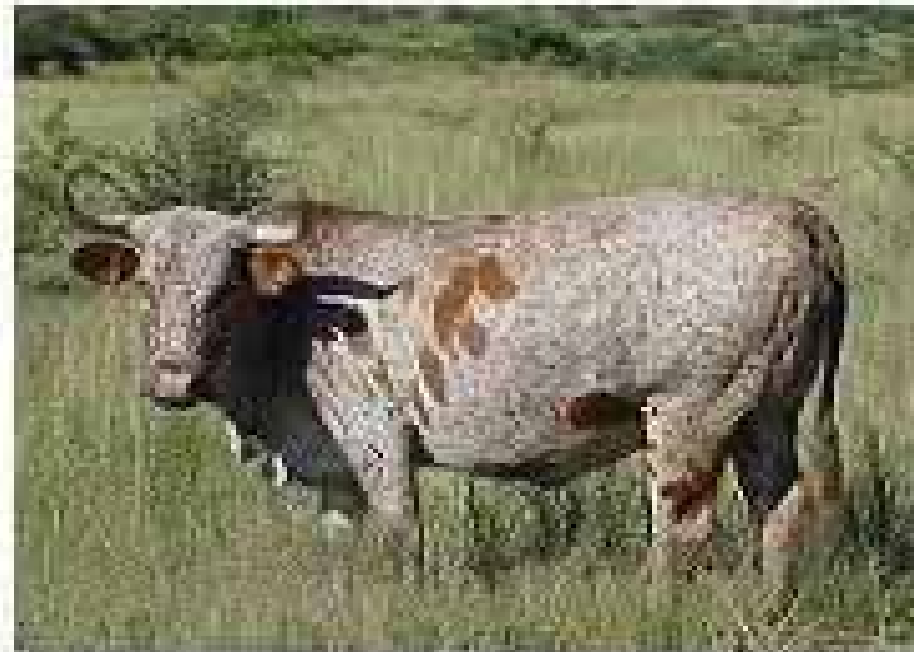
- Nguni Cattle have been closely associated with especially the Zulu culture, where every hide pattern has a different meaning (they are likened to reptiles, birds, rocks, animals, plants, and the weather).
- It is doubtful whether these hide pattern variations would exist (which give Nguni skins their uniqueness and value) if it were not for their association with the Zulu culture (most Western breeding programmes breed for a consistent "type")
- Very strong link to Zulu culture. A sign of wealth, and due to their intricate coat patterning, each pattern having a specific meaning. The different "battalions" of Zulu warriors could be distinguished by the specific Nguni hides used on their shields.



Unique (and named) Hide Patterns



The above animal with a white hide speckled with fine black markings on its sides is known as 'sour mile with flies' – Imansenezimpukane.



The colour of the hide and pattern of this red beast with large spots that have a white edging to them is known as 'stones of the Ngoye Forest' – AmasthoNgoye.

Completely different from Indigenous Breeds to the North of South Africa



The Tuli of Zimbabwe



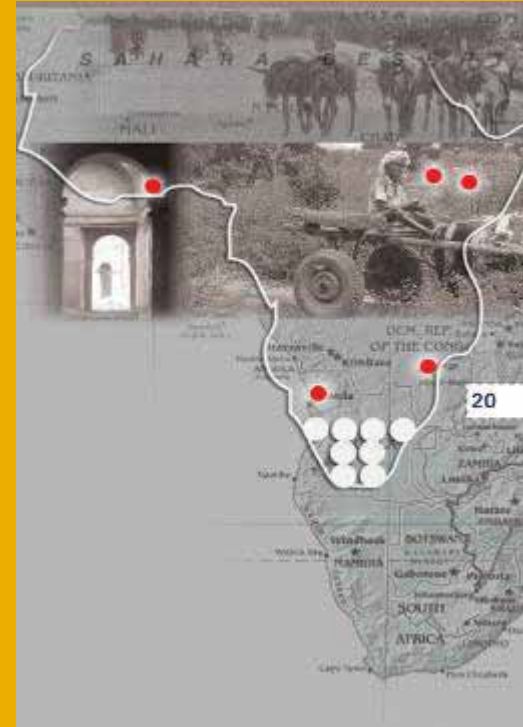
Production process

- These animals are usually communally grazed, low use of pharmaceuticals (dips and doses) and supplemented feed, and are generally left to fend for themselves.
- Because these livestock have been kept for their "cultural value" - more head of cattle or sheep determining a person's status and wealth - the animals were largely left to fend for themselves. The breed was developed through a system of "natural selection" with any animals susceptible to disease soon dieing leaving only the most hardy animals to continue the breed. Thus, they are highly fertile, with high resistance to disease, are adapted to harsh environments, with efficient meat production per hectare (due to their small frames).



South African History

Cattle, sheep and goat breeds were amongst the livestock owned by the Hottentots (Strandlopers) and Khoi (pastoralists) at the time of the arrival of the colonists. It has been determined that these animals were originally brought with the peoples of Central Africa who moved West around the Great lakes in an attempt to avoid the Rift Valley (with its concomittant diseases). Although a reduction in grazing in the West of the country (Einiqualand - along the banks of the Orange river where the Khoi mostly grazed their cattle) forced the reduction in cattle and an increased reliance on goats and sheep, trekking with the livestock was a common occurrence until early in the 1900's (Up and down and East and West within what is now known as the Northern Cape). The movement of Griquas to the East of the country, due to tension with the San (stealing cattle) and Settlers (taking of the land) in the Northern Cape, to Griqualand East - Kokstad/Matatiele/Mt Ayliff area - Southern KwaZulu-Natal, brought with them their hardy cattle breeds which could have added new blood to the cattle already owned by the Zulu.

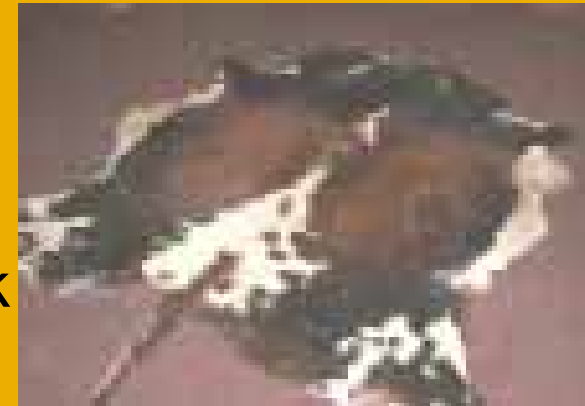


Resource Owners

- Both Nguni and Damara Breeders Associations exist.
- Both breeds are listed in StudBook (National Breed Registry – Public Registry)
- Several projects are involved with re-introducing Nguni cattle to emerging farmers (National Dept. of Agriculture)
- Several Nguni Breeding Programmes and Nuclear herds exist

Market Penetration

Nationally, a new fashion trend includes the use of Nguni skins as floor coverings and on highly fashionable furniture items (settees, ottomans, chairs, lamp shades). BMW has also indicated that, if quantities are not limiting, they are interested to look at Nguni hides for car interiors. The sale of Nguni skins internationally is limited (game skins such as zebra etc. are most sought after).



Collective Action in Marketing

- Project orientation
- Several small private companies that produce and/or market Nguni hide products (Almost cottage craft scale).

[Previous use of IP]

- None

Recommendation

- Truly unique to South Africa
- Skins have a fashionable “African” reputation
- No previous use of IP
- Documented and complex cultural association with Zulu culture
- Uniqueness due to cultural significance (visible through multitude of definite colour and pattern variations)
- May have problem defining “Resource Owners” – could approach latest project initiators from University of Limpopo, IDC and NDA.