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## 10 The rights of minorities and subject peoples in Botswana: a historical evaluation

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### 10.1 INTRODUCTION

This paper focuses on the rights accorded to non-Tswana groups incorporated into Tswana states voluntarily or by conquest. These subject peoples, or minority groups as they are nowadays termed, often outnumbered their Tswana overlords. Even today, the 'minority tribes' are in fact in the majority in the Central District and Ngamiland. Yet it has been true of both traditional and modern Tswana<sup>1</sup> that ethnic conflict has been largely avoided. This paper suggests that the reason for this absence of conflict has been the openness of Tswana<sup>2</sup>, its capacity to absorb and adapt outside influences without losing its own identity in the process.

Some minority groups were never accorded the same rights or privileges as those of Tswana origin, but most of these minorities had the opportunity of being granted the same rights and privileges over time. There was exploitation and political domination, but the injustice was hardly ever perceived to be so great as to justify or fuel rebellion.

This paper begins with a discussion of the status structure of historical Tswana<sup>3</sup> and the theory of human rights accorded therein. Then consideration is given to the specific political, economic, social and cultural rights which existed in practice for minority groups. Finally the changes in the condition of minority groups since independence are examined.

### 10.2 COMMONERS, FOREIGNERS AND SERFS

In Tswana<sup>4</sup> during the pre-colonial and colonial eras, social status derived from cultural or kinship proximity to the kgosi and his relatives, the dikgosana. There were three broad classes of subjects in descending order of status: commoners, foreigners and serfs.<sup>5</sup> Commoners were non-royal members of the Tswana nuclear group as well as those immigrant or conquered groups who had proved themselves loyal subjects of the kgosi.

Foreigners were immigrants or conquered groups who had not yet attained the status of commoners or who had no wish to meld their identity with that of the dominant Tswana group. As Schapera points out, the rights initially granted foreigners by their Tswana overlords varied 'according to their mode of absorption, their or-

ganization and numbers, and their culture'.<sup>6</sup> Important too was the physical distance of the settlers from the Tswana capital.

A group of foreigners who were absorbed voluntarily, had a tradition of centralized leadership, were of a size sufficient to maintain a corporate identity, lived far from the capital, and whose culture could meld easily with that of the Tswana were likely to be granted more rights and privileges and to attain more quickly full rights of citizenship as commoners. A people who had been absorbed by conquest, were acephalous and lacked a corporate identity, lived close to the capital, and were alien in language and culture to their new masters would be forced into the class of serfs and would be exploited for the benefit of the other classes. The result was that subject peoples could be commoners (e.g. the Babirwa, Bakaa, and Bakhurutshe), foreigners (e.g. the Ovaherero, and Kalanga), or serfs (e.g. the Basarwa and Bakgalagadi).

Over time some subject groups moved from one status to another. The Bayei, for example, at different periods, were treated as serfs, foreigners and commoners by the Batawana. To complicate matters even further, within a particular subject group there could be serfs, foreigners and commoners, although usually one type predominated at any one time. At the turn of the century, among the Bayei, those who lived close to the capital tended to have a master-serf relationship with the Batawana. Those resident at the periphery of the state were likely to be treated as foreigners. Many Bayei seemed to be accepting their lower status in that they would refer to themselves as Makuba ('useless people'), the Batawana term for the Bayei.

Because the spectrum of subject groups' rights is so broad, we propose to focus on those subject groups found at the 'least rights' end of the spectrum. These groups often shared a common characteristic: cultural distance from Tswana<sup>7</sup>.<sup>8</sup> As one authority states, 'It is apparently only when incorporated peoples differ appreciably from those of the nuclear stock in language and culture, and above all race, that they are relegated to a position of marked social inferiority and economic exploitation'.<sup>9</sup> Not surprisingly, among some of these subject groups (the Kalanga and the Bayei for example) serious challenges to the legitimacy of Tswana<sup>10</sup> arose during the colonial period. And it is also the plight of one of these subject groups (the Basarwa) that today represents the most serious challenge to Botswana's claim to be a liberal democracy.

### 10.3 THE CONCEPT OF PERSONAL RIGHTS IN TSWANADOM

Jack Donnelly has argued that 'the idea of human rights, as that term is normally understood — namely as rights/titles/claims held by all individuals simply because they are human beings — is foreign to traditional African society and political culture'.<sup>11</sup> Human rights, he suggests, can only be held by an individual; since their source is human nature, they are also universal. Rights in 'traditional' societies, contends Donnelly, are usually held by communities, not individuals; their source is membership in a particular community.<sup>12</sup>

In Tswana<sup>13</sup> this generalization appears to hold true: rights were accorded those

who were members of the morafe, and membership in the morafe was defined by membership in a kgotla or ward, the basic administrative unit of Tswanaedom. Those who were not ward members, for example most if not all Basarwa, were treated as serfs, as persons without rights. Thus the rights we shall be talking about – economic, political, cultural and judicial – are primarily communal rights.

This concept of rights has not gone unchallenged however. The penetration of capitalism since the nineteenth century has brought with it notions of individual property rights in land and capital. And the ideology of nationalism has undermined the legitimacy of communal politics with the notion that all Batswana are citizens of one nation, Botswana, and owe their primary loyalty to this nation.

The conflict which has arisen between the old concept of morafe citizenship and this new definition is a recurrent theme of the paper. Nowhere is it more striking than in the present plight of the Basarwa, a people denied rights to land because they are not members of a morafe, yet who are being removed from land they have occupied for centuries because it has been commercialized for the use of the private citizens of Botswana.

#### 10.4 ECONOMIC RIGHTS

Schapera states that 'every member of a tribe enjoys certain rights and privileges in common with his fellow tribesmen. He is entitled to land on which to erect his home, to plough and to graze his cattle, and to all other facilities for earning a livelihood . . .'.<sup>8</sup> In theory, and usually in practice, members of subject groups recognized as being members of the morafe had the same economic rights as any other Mongwato, Mokwena or Motawana. They had access to land and water, absolute property rights, control over their own labour, and were usually subject to the same restrictions concerning movement and settlement. They paid the same taxes and, subsequent to the late nineteenth century, paid no tribute to the Tswana kgosi.

Some subject groups such as the Ovaherero, which were incorporated into Tswanaedom impoverished and propertyless, have prospered in the twentieth century, taking advantage of a system of cattle-lending (*mafisa*), a form of cattle-feudalism, to eventually rival their Tswana overlords in numbers and quality of cattle herded. Under the mafisa system, in return for herding a patron's cattle, the client is entitled not only to the use of the cattle but usually also to appropriate one or more of the offspring each year.

Parsons argues that throughout much of southern Africa mafisa has been the most important basis of state organization.<sup>9</sup> By lending-out cattle obtained by conquest to commoners, nineteenth century Tswana dikgosi created a client class which, like the feudal lords of Europe, promised loyalty and service in return for use of their cattle. These vassals or servants (*batlhanka*) became *basimane ba kgosi* (literally the chief's boys), and also performed administrative functions as overseers, or later district governors.

The mafisa system was used in much the same way to incorporate foreigners into the economic life of the morafe, and it has continued to be the most important means of access to cattle and cattle accumulation for the poor. Solway's study of one

Bakgalagadi group in the western Kweneng shows how by means of mafisa, cattle ownership in Bakgalagadi households 'has grown from a small percentage at the beginning of the century to over 90 per cent by the late 1970s'.<sup>10</sup>

Not all subject groups have been allowed to profit from the mafisa system. Some have been denied the right to own cattle, or more commonly, denied access to land and water. They have been forced to become serfs, rather than clients of the cattle owners. The Basarwa in particular, and to a lesser extent the Bayei, the Bakgalagadi and the Batswapong, have been the victims of a form of hereditary serfdom called *bolata* by the Bangwato and *bothanka* by the Batawana.

Tlou suggests that in Ngamiland serfdom evolved out of a system of voluntary clientship: 'It seems plausible that, having been dispossessed of their property by the Batawana, some Bayei, Bakalagadi, and a few Basarwa attached themselves as clients to wealthy Batawana in order to secure a livelihood. As time passed, what began as voluntary service turned into a hereditary one, imposed and perpetuated by the more powerful Batawana'.<sup>11</sup> Miers and Crowder paint a similar picture in the Central District: 'What began as a relationship between Bangwato pastoralists and traders and their Basarwa hunting partners and pastoral clients changed into a servile relationship wherein the Basarwa served first the Ngwato state and later became the private property of Ngwato pastoralists'.<sup>12</sup>

It has been suggested that the transformation of clients into serfs was the result of the 'dramatic expansion of the hunting economy' after the arrival of white traders in the second half of the nineteenth century.<sup>13</sup> When the Tswana elites began to invest their profits in expanding their cattle herds, they looked to the Basarwa to supply their increased labour requirements. Tlou too emphasizes the importance of *bothanka* as a 'dependable and easily exploitable labour force'.<sup>14</sup>

Schapera, however, sees serfdom as a product of the process of state-formation: 'the Kgalagadi, Sarwa, Koba (Bayei), Tswapong, or other vassal peoples living in any district were the serfs of the overseer who was entitled to appropriate whatever property they acquired'.<sup>15</sup> Both Schapera and Solway view the arrival of European traders as bringing about the decline of serfdom, not its reinforcement, since their presence allowed the serfs to develop independent trading relationships and thereby forced the Tswana masters to treat their serfs as clients if they wished to obtain goods for trade.

It is certainly true that there was legal reform of property relations in some Tswana states during the last decades of the nineteenth century. Sebele of the Bakwena and Bathoen I of the Bangwaketse gave their serfs the right to hold property, thus, in theory at least, greatly weakening the institution of *bolata/bothanka*. Khama III of the Bangwato went even further in efforts to free his *malata*. In his words, 'these tribes became in the first instance so apprehensive of the declaration granting them property rights that at last I had to ask European traders to travel among them and sell goods'.<sup>16</sup>

Despite the declarations of dikgosi, serfdom actually increased its hold over certain subject groups, in particular the Bayei and Basarwa, during the first half of the twentieth century. Whatever the origins of serfdom, its usefulness to Batswana cattle owners ensured longevity. This was reflected in the Tagart Commission report

of 1931. The commission, which was inquiring into the conditions of the Basarwa, reported that many were still treated as serfs. They were unable to dispose freely of their labour, enjoyed limited property rights, had no control over land, and were liable to be transferred as property on the death of their master.

Representatives of the Bayei in Maun presented a petition to the district commissioner in 1948. The character of their demands reflects the persistence of serfdom. One requested the abolition of the practice whereby a Motawana master claimed the property, and sometimes the children of, his Moyei serf on the latter's death. Another demanded 'full rights to the use of land for purposes of grazing and ploughing'.<sup>17</sup>

The key factor which maintained, or reintroduced, restrictions on the economic rights of Bayei and Basarwa does appear to have been the labour requirements of the booming pastoral economies of Ngamiland and Gammangwato.<sup>18</sup> Parsons suggests that evidence presented before the Tagart Commission shows that 'market conditions had intensified the use of serf labour while the serfs themselves increasingly attempted to flee such oppression by becoming labour migrants'.<sup>19</sup> Paradoxically, it was through the operation of 'market conditions' that the British hoped to banish serfdom from the protectorate.

During the 1930s, partly because of external pressure from organizations such as the League of Nations, and partly because Resident Commissioner Charles Rey saw the Basarwa issue as a stick with which to beat Tshekedi Khama, the colonial administration ceased to ignore the plight of the serfs and took what it believed was the final action to abolish *bolata*/*botlhanka*. Proclamation No. 14 of 1936 required that all 'native labourers' should be paid for their labour, either in cash or in kind, that they should be free to choose their employer, and that they could terminate their employment with one month's notice. According to Miers and Crowder, 'the British believed they had broken the back of the problem and that in time the economic and social position of the Basarwa would improve as more of them entered the wage-labour force and acquired stock of their own or took to farming'.<sup>20</sup>

It was not only the Basarwa who were going to be thus liberated. In 1938 the district commissioner for Ngamiland predicted that the opportunities provided by migrant labour would 'act as a strong influence to emancipate the subservient tribes of Makuba (Bayei) and Mambukushu who when they have been to the mines and have seen the outside world and have earned a little money will not submit so readily to the arrogant demands of the Batawana proper'.<sup>21</sup>

In Ngamiland incomes from migrant labour did have a significant impact on the region's economy. The Witwatersrand Native Labour Association had been given permission to establish a depot in Maun in 1937. By 1950 over 4 000 labourers were sent to the mines via the Maun depot each year. Although most of these were from Angola, those who did come from Ngamiland received a total of £81 743 in deferred pay in 1950, and according to the district commissioner 'a large proportion of it was spent in the district'.<sup>22</sup>

While some income went for consumer goods, most was spent on cattle by men who had owned few or no cattle before. Some Bayei, although primarily fishers and agriculturists, attempted to build up cattle herds of their own after the rinder-

pest epidemic of 1896 had rid large parts of the delta of tsetse-fly. This aspiration had been blocked for most Bayei by a lack of cash and by the institution of *botlhanka*. Work in the mines now provided that cash.

The ruling Batawana were very hostile to these efforts on the part of their subject peoples, particularly since available grazing land was shrinking as the tsetse-fly returned during the 1920s and 1930s. They restricted access of Bayei to grazing land and sought, unsuccessfully, to prevent the Bayei accumulating more cattle.<sup>23</sup> If the Bayei sought redress in *kgotla*, the Regent Pulane Moremi herself admitted that 'in cases where a Motawana and a Moyei are involved the Moyei does not stand a chance'.<sup>24</sup> The result of this frustration of Bayei economic aspirations by the ruling Batawana was the emergence of Bayei separatism which is a part of Ngamiland politics to this day.

While the opportunities offered by migrant labour to the Bayei may have helped in their emancipation, the same cannot be said of the Basarwa. Unlike the Bayei, who had a measure of economic independence based upon their agricultural and fishing activities, the Basarwa were almost totally dependent upon their Tswana masters. Cultural traditions too were a handicap: 'Basarwa who wished to accumulate stock or grow crops faced social pressure to share food and possessions, which discouraged their efforts'.<sup>25</sup> Even those who did manage to build up a small herd found that without wards of their own and access to *dikgotla* they were denied access to land and water. Miers and Crowder argue that 'despite the expenditure of time and effort, and the considerable publicity given to the question in the 1930s, the great majority of the Basarwa in the reserve (Central District) were worse off when the colonial period came to an end three decades later'.<sup>26</sup>

The Basarwa apart, Solway has argued from her Kweneng study that as the capitalist concept of ownership gradually replaces communal property rights, the significance of ethnicity and kinship as economic determinants is reduced and subsumed under class. She comments, 'Whereas in the recent past ethnic and/or kinship affiliations may have determined a household's ability to gain access to *mafisa* cattle for ploughing or to water for livestock, these ties, while certainly still important, no longer provide the same security'.<sup>27</sup> The trend towards privatization, both of land (TGLP) and of cattle (the decline in importance of *mafisa*) has limited access to pastoral resources. She foresees the growing polarization of society 'with a capitalist class which owns a disproportionate share of the means of production and an increasingly large poor class which has few prospects for direct participation in agro-pastoral production'.<sup>28</sup>

To summarize the foregoing discussion, the economic rights of subject peoples in Tswanaedom were largely determined by the extent to which they were regarded as legitimate members of the political community. Those peoples who had their own wards, *dikgotla* and headmen, thereby had access to land and water and could also thus protect their property rights. Those subject peoples who did not have these institutions were not members of the *morafe*, were usually deprived of access to land and water, and did not have absolute property rights. Whether one became a client or a serf depended on proximity to the Tswana elite in terms of culture, economy and geography.

Over time most subject groups did become fully incorporated into the morafe. The institution of mafisa appears to have played a central role in this process of incorporation since it provided subject groups with access to pastoral resources. The major exceptions to this rule have been the Basarwa, and to a lesser extent, the Bayei. In recent decades, though the process originated during the era of Khama III, the growth of the capitalist concept of ownership, particularly of land and cattle, has reduced, but not eliminated the significance of ethnicity as a determinant of economic status. To be sure, the Basarwa have not been able to take advantage of this process since, as Hitchcock points out, from the government's perspective 'because the Sarwa are not tribesmen and because they are nomadic hunter-gatherers, they do not have land rights'.<sup>29</sup>

## 10.5 POLITICAL RIGHTS

In theory, access to the kgotla system guaranteed freedom of speech, as well as judicial rights and a degree of political participation in the administration of the morafe. In practice, scant respect was often accorded members of 'low status' subject peoples (such as the Bayei, Kalanga and Bakgalagadi) who attempted to voice complaints and grievances. They were often bullied and ridiculed by their 'betters'. Nor was there in fact 'freedom of speech' for members of these groups. During a kgotla held in Maun in 1948, a Moyei was fined £5 for affirming the continued existence of bothhanka status (he had said that 'Bayei are still made to carry burdens').<sup>30</sup>

Those of the lowest status, the Basarwa, were excluded from the kgotla system altogether. In theory the reforms of Khama III ended this exclusion, but in reality it still continues. Hitchcock found in his interviews conducted in the Western Sandveld of the Central District during the late 1970s 'that a large proportion of the people in the region are still outside the traditional political structure'.<sup>31</sup>

Participation in central government by subject peoples in Tswanaadom, as for every member of the morafe, was limited by the custom that 'the government of the tribe is ultimately concentrated in the hands of the Chief'.<sup>32</sup> Participation in central government was therefore determined by whether or not one could advise the kgosi, and in general, although the kgosi could take advice from whomsoever he wished, the inner council of the morafe was usually constituted by dikgosana.

In 1948 when a section of the Bayei petitioned the Regent of the Batawana, Pulane Moremi, for the right to have representatives at every level of administrative affairs, she replied that 'it was a long standing custom that if there is any important matter affecting the tribe, it is first discussed by members of the Royal family only, as a preliminary step. I do not intend to break away from this custom and the Bayei cannot expect to claim something that is even refused to Batawana who are not of royal blood'.<sup>33</sup>

The degree of participation of subject groups in local government, that is the extent to which they were allowed to rule themselves, ranged from semi-autonomy to complete subjection. The most important variable was culture. According to

Schapera, 'Immigrants of Sotho (and especially Tswana) stock were normally granted the same political and other rights as "true" tribesmen'.<sup>34</sup> He goes on to cite the example of the Khurutshe under Rauwe, who settled in Gammangwato in 1913, and were allowed to build their own village and retain Rauwe as their leader, with the proviso that they had to observe Khama's laws. Subject groups such as the Bayei and Kalanga, however, received very different treatment. When the Kalanga were incorporated into the Bangwato state during the nineteenth century, they were placed under the authority of Bangwato overseers.

Khama introduced an element of self-government after 1896 when he allowed the hereditary rulers of bafaladi groups to re-assume control. Tshekedi Khama, however, later rejected this idea. The latter's re-introduction of direct rule sparked the rebellions of the Bakanswazi and the Babirwa of Malema.<sup>35</sup>

The Bayei of Ngamiland once conquered were placed under the authority of overseers, re-named Chief's Representatives during the 1930s. The Bayei did not have kgotlas of their own until after 1948, and they struggled in vain until the office was abolished in the 1950s to have a Moyei appointed as a Chief's Representative.

From the 1930s onwards, the British made efforts to 'democratize' local government in Tswanaadom by the establishment of representative councils. These councils were supposed to give more political rights to subject peoples. Their ultimate objective, however, was the integration of the various peoples of the territory into one homogeneous group.

The councils failed to function at all effectively until the early 1960s, partly because of the opposition of the dikgosi, but also because of the opposition of subject groups. Among the more resistant were the Bayei who did not wish to lose their identity in the Tswana 'melting pot'. As mentioned above, Bayei 'separatists' continued to fight up to and even beyond independence for communal political rights.

The nationalist politicians of the 1960s had the same goal as the British officials. For them local councils were the foundation of a new Western-style democracy which did not recognize the legitimacy of communal rights. Demands by an ethnic group to rule themselves by their own law and customs were now labelled 'tribalist'.

Finally, a word must be said about the political right of freedom of movement. Under Tswana law, all subjects had limited freedom of movement. Commoners could move freely within the tribal reserve, but crossing into the areas of neighbouring states or settling somewhere other than one's ward was possible only with the chief's permission. Khama III, for example, appointed a guard at each of the four railway stations in Gammangwato in order to prevent the unauthorized departure of women by train to South Africa.<sup>36</sup> Generally, subject communities lived where their Tswana overlords told them to live, and if they refused, force was used without a great deal of discretion to persuade them to move. In 1920 the Babirwa of Malema were evicted from the Tuli Block by Khama III at the instigation of the British South Africa Company and the colonial administration. Their houses were burnt and they were forcibly taken to Bobonong.<sup>37</sup>

Subject peoples were not only expected to live in a certain area but also to live in a certain way: in Tswana-type villages or towns. Khama III began the process of concentrating scattered subject communities into more easily administered and



controlled villages, Bobonong was such a village. During the 1930s the process of 'villagization', as termed by colonial officials, received British approval. From their perspective it was a means of increasing the efficiency of tax collection.

There was resistance. The Ovaherero in Ngamiland were successful in their battle with the Batawana kgosi Moremi III. They convinced the British that, being nomadic pastoralists, 'it was impracticable to model Damara (Ovaherero) settlements on the Setswana model'.<sup>38</sup> The Ovaherero in Gammangwato were faced with a more formidable foe. Tshekedi Khama boasted that 'the Damaras in Banwato (sic) country have permanent villages at Mahalapye and Mabeleapodi . . . because the Chief enforces the principle of administration upon all members of his tribe irrespective of clan'.<sup>39</sup> However, the effectiveness of this policy of villagization can be judged by the fact that it is still being advocated by the BDP government.<sup>40</sup>

In short, the political rights of subject groups in traditional Tswanaadom were recognized more in theory than in practice. The main area where subject peoples were given freedom was in the sphere of local government. In the post-colonial era, the only political rights recognized are those of the individual Motswana.

## 10.6 JUDICIAL RIGHTS

Judicial rights in traditional Tswanaadom, as with political rights, were based upon access to the kgotla. Without access to the kgotla, and usually this was granted only to commoners, there simply was no justice. The kgotla served as the court of every Tswana community, from the ward to the morafe. The 'commoner' subjects, such as the Bakaa, Babirwa or Kalanga, or even the Bakgalagadi in areas too remote to be under effective control of their patrons, had their own ward kgotla, often chaired by their own hereditary headmen. Minor social conflicts could thus be resolved on the basis of the specific laws and customs of a given community. Appeal from the ward courts to the court of the kgosi was possible in all cases.

By the beginning of the twentieth century the growing practice of appointment of regional overseers/representatives created a new hierarchy in the judicial system. All appeals to the court of the dikgosi had to pass through the representative's court. The judgments of the lower courts could be quashed or revised by the higher courts. The extent to which the laws and customs of the parties to the dispute were considered by the appellant courts probably depended upon the degree of subservience of the appellant's community as well as the character of the court itself. There are reports that Khama III ascertained the name of a community before judging cases on appeal.<sup>41</sup>

But in cases of serious conflict between subject peoples and their rulers, the formers' right to defend themselves was determined by the latter. During the early 1920s, the Babirwa chief Malema hired a South African lawyer to fight for the Babirwa's right to live where they wished - in the Tuli Block. The colonial administration denied them the right to do so. The otherwise liberal Khama III had argued that by allowing his subjects to sue him, the administration was transgressing his 1895 agreement with the British Queen.<sup>42</sup> Similarly in a Serowe kgotla meeting, called in 1927 to discuss the Bahurutshe trouble in Tonota caused by their joining the An-

glican Church, it would seem that one Mohurutshe was allowed to speak only one sentence.<sup>43</sup>

Under the Native Tribunals Proclamation No. 75 of 1935, all courts of the dikgosi and their representatives were designated as senior tribunals. The remaining courts were labelled junior courts. Regulations for both levels of courts were created, but in practice the pure logistics of having hundreds of ward courts work according to prescribed composition and procedure defeated the purpose.

Only a few important village headmen and district governors were given their own 'junior tribunals' which ranged from eight among the Batawana to fifteen among the Bakwena. Although unrecognized, the ward courts continued to function very much as they had done prior to 1934, though they had no power to impose punishments or enforce their decisions. The main result of this proclamation was the creation of a new intermediate grade of court in the form of junior tribunals which removed one step further the possibility of appeal to the kgosi's, senior court.

Despite all these courts and theoretical rights of appeal, few cases involving subject peoples were brought to the senior courts. Schapera found only fourteen out of the 107 internal disputes in the eight Tswana states between 1750 and 1945 explicitly involved a subject community.<sup>44</sup>

Before 1900, serfs were denied the right to seek justice. In the words of Hindness and Hurst, a molata was a contradictory being as 'he was a human subject but a legal non-subject'.<sup>45</sup> Since their legal status was that of human property of their masters, serfs were not allowed wards or headmen of their own. They thus had no rights of action against their master for any wrong inflicted upon them, not even of the seduction of their women or the alienation of their families to the master's house to perform various domestic chores.<sup>46</sup> A serf could probably marry any other serf but in practice it was not done without the permission of their masters if the parties belonged to different masters.

Serfs were often changing hands as rewards or fines, and although they had no freedom to change their masters, the latter could force them to move anywhere. In the 1890s, Khama took away the matimela cattle and Basarwa serfs from his rebellious son Sekgoma before allowing him to leave the chiefdom. Similarly, Sekgoma confiscated the serfs and cattle of those of his followers who decided to return to Khama. One of the points of conflict between Simon Ratshosa and the Tshekedi Khama was the return of serfs given to his wife by Khama III.<sup>47</sup>

Schapera hints that Bangwato masters sometimes sold Basarwa children to Boers and other Europeans.<sup>48</sup> Instances of bodily harm being inflicted on the serfs are too numerous to be documented here, but it is interesting to note that Simon Ratshosa, who in 1926 was so vocal in his criticism of how the Basarwa were being mistreated and enslaved by the Bangwato had himself been fined £60 in a Serowe court for killing a Mosarwa.<sup>49</sup> In the sphere of judicial rights then, as in the spheres of political and economic rights, most commoners, whether Tswana or non-Tswana, were treated alike: they were allowed autonomy to practise their own law and custom. It was only at the level of the morafe that Tswana judicial custom and practice assumed primacy. In the case of serfs, however, they were denied access to Tswana justice almost without exception.

## 10.7 SOCIAL AND CULTURAL RIGHTS

In social and cultural terms all subject communities were considered inferior to their Tswana rulers, but none more so than the serfs and those communities who were culturally and socially distinct from the Batswana. Inter-marriage with these groups, according to Schapera, was considered 'disgusting' by the Batswana. Among the Bangwato, the Kalanga and Bakgalagadi were referred to as *dikgokong* (wildebeest). In 1920 Khama was forced to arrange for the marriage of two of his leading commoners' daughters to two Kalanga headmen in order to 'destroy the old prejudice'.<sup>50</sup> The extreme quality of this prejudice, at least among some, is best reflected in a case cited by Wylie in which a MoNgwato cattle owner thrashed one of his Basarwa serfs to death for deserting his cattle and stealing a cow. In his own words he had 'never beaten dogs like I beat those Masarwa and never would'.<sup>51</sup>

The social and cultural rights of other subject communities were as respected, or as limited, as those of the Batswana themselves. For example, during the first part of the century, the dikgosi of the Bangwato, Bangwaketse, Bakwena and Bakgatla had abolished the initiation ceremonies. Some subject communities rebelled against this prohibition. It was one of the root causes of the revolt of the Bakgatla of Moshupa under Gobuamang against Bathoen II during the early 1930s. For the most part, however, Batswana rulers allowed their subject peoples to continue their own cultural traditions.

The other exception to this rule of non-interference was in the area of religious freedom. During the twentieth century, the London Missionary Society (LMS) became effectively the state church among the Bangwato and the Bangwaketse. Dikgosi of these morafe used the LMS to bolster not only the moral but also the material and political base of their power. The same role was played by the Dutch Reformed Missionary Church in the Kgatleng. When some of their subjects joined a church other than the 'established' church, such an act was regarded as political rebellion. For example, the Bakgatla kgosi Molefi banned the Zion Christian Church from the Kgatleng and persecuted its members, including his mother, although the members had helped him regain his chieftainship in 1945.<sup>52</sup> And when Mothowagae Motlogelwa established an independent church in Kanye, he was eventually exiled, without his followers, by Seepapitso to Lekgolobotlo near Gamaletse.<sup>53</sup> The Khurutshe of Chief Rauwe were allowed to settle in Tonota by Khama III in 1913 only after they had agreed not to bring Anglican Church with them. Tshekedi Khama sent a regiment to punish the offenders in 1927 after they continued to practise Anglicanism. When the colonial administration failed to back the Bangwato in their religious persecution of Rauwe's people, at least one Mongwato questioned whether the British 'were placing Servants above us to lead us'.<sup>54</sup>

## 10.8 CONCLUSION

Since independence 'subject groups' have, in theory, ceased to exist. There are only Batswana, each with the same political, economic and judicial rights. The govern-

ment labels demands for special or different treatment made on behalf of 'minority groups' as 'tribalist' (for example, the Kalanga demands on behalf of Ikhalanga). In practice little has changed as far as the rights of subject peoples are concerned. This is particularly true of the Basarwa.

The political rights of the Basarwa have been handicapped by their lack of Tswana-type headmen and the absence of dikgotla. Without these institutions their wants and needs are not communicated to government, nor indeed are government's decisions communicated to the Basarwa. Two years after the launching of the Tribal Grazing Land Policy (TGLP), it was discovered that only 8 per cent of the population of the Western Sandveld, mostly Basarwa, had ever heard of it. The countrywide process of consultation carried out through radio programmes and kgotla meetings did not reach those people who were to be most (adversely) affected by the policy.

Economically, more Basarwa have grown more dependant on their employers since independence. What land rights they had have been under threat from land reform, wildlife conservation strategies, and the expansion of the cattle economy. The privatization of land under TGLP has been launched primarily in areas occupied by the Basarwa, i.e. the Central, Kgalagadi and Ghanzi districts. TGLP has in effect turned many Basarwa into squatters on the land of their ancestors.<sup>55</sup>

There are also pressures from conservation interests. Central Kalahari Game Reserve residents have recently been told (June 1988) that they must resettle outside the reserve, and plans to create new Wildlife Management Areas (WMA) will impose restrictions on permanent settlement in another fourteen per cent of the country. Hitchcock estimates that if the land set aside for commercial ranching areas, national parks and game reserves, and the proposed WMAs is added together, forty-one per cent of Botswana's land area will be 'off limits to remote area dwellers for subsistence procurement and production purposes'.<sup>56</sup> Also important is the fact that increasing numbers of boreholes and cattle, as well as growing human pressure near boreholes have depleted plant and game resources and thus undermined the hunting-gathering economy of the Basarwa who still depend very largely on veld products for food and shelter. Because they do not have access to water resources and grazing land, Basarwa cannot keep the few cattle they do acquire.

No compensation is available for this appropriation of the Basarwa's various means of subsistence. The conditions of farm labour, which many Basarwa take up to earn some income, remain exploitative and apparently unchanged since independence. Cash wages, if paid at all, are low and irregular.<sup>57</sup> Education could help the Basarwa, but despite the professed aim of the state to spread development, the Basarwa have been left largely outside the educational network. Hitchcock found that in the Western Sandveld only 1 per cent of the Basarwa were literate and one-third of them did not speak Setswana.<sup>58</sup>

Access to justice is another avenue of advancement blocked. Without dikgotla of their own they are at the mercy of the dikgotla of their employers/masters. Although complaints about late and underpayment of wages were heard in 94 per cent of the locations visited by Hitchcock in the Western Sandveld, only 11 people had taken their cases to the kgotla, and only two of these were actually heard.<sup>59</sup>

With their claims to land, veld products, game, cattle, and water sources all under threat, a very low degree of literacy, poor understanding of the modern system of government, and even greater dependence on their Tswana employers in practically every sphere of life, the Basarwa are more unequal than any ethnic group and the most exploited of all.

Government policy vis-a-vis the Basarwa has been fairly predictable: villagization. Efforts have been made through the Remote Area Development Programme to 're-group' the Basarwa into Tswana-type villages where they can be provided with water and social services, taught Setswana, and gradually transformed from mobile foragers into solid, pastoralist Tswana yeomen. Thus far the policy has been unsuccessful, primarily because the settlements have not been allocated sufficient resources, particularly good arable and grazing land, to make them viable in the long-term.<sup>60</sup>

To a large extent the grievances of the Basarwa have been voiced not by the Basarwa themselves but by self-appointed spokesmen from Europe and North America. Other minority groups have voiced their own discontent with the government's policy vis-a-vis minority rights. Bayei and Kalanga leaders, for example, are currently pressuring the government that their chiefs should be constitutionally included in the House of Chiefs as is now the case with the eight principle Tswana 'tribes'.<sup>61</sup> The language issue is another popular grievance: some minority groups would like to have the option of having their children educated in their own language. Most of these grievances are at least at present largely symbolic. This may change if and when economic growth slows to the extent that government has to make hard choices about the allocation of resources.

This paper has suggested that during the pre-colonial and colonial eras, rights were granted or not granted to subject peoples according to the degree of political, cultural and economic similarity between the subject people and the Tswana masters. In this way Tswana elites rewarded assimilation and punished separatism. By means of the institution of bogosi and later the manipulation and identification of the idea of the nation with Tswana culture, Tswana cultural hegemony has triumphed in Botswana, and this perhaps helps to explain the success of its liberal democracy. It is not just a rhetorical flourish when at election time politicians declare 'we are all Batswana now'. However one group, the Basarwa remains outside Tswana cultural hegemony and perhaps for that reason has still been denied basic political and economic rights. They are still not regarded as legitimate members of the morafe, even though the morafe has now been redefined to include all who are citizens of Botswana.

## ENDNOTES

- 1 A term used by Neil Parsons to describe those states where Tswana culture was hegemonic.
- 2 Among the Bangwato, commoners were called batlhanka (literally 'servants') whereas among the Batawana the serfs were called batlhanka. Similarly the

Bakgatla use the term badintlha (literally 'outsiders') for their commoners, the same term used by the Batawana for their foreigners (the Bangwato use bafaladi (literally 'refugees'). This apparent terminological confusion is a reflection of the fluid overlapping quality of these classes.

- 3 Schapera, I. *Government and Politics in Tribal Societies*, (London: Watts, 1956) p. 198.
- 4 The Bakgalagadi and the Batswapong are the obvious exceptions to this 'rule'.
- 5 Schapera, I. *Government and Politics* . . . , p. 198.
- 6 Ibid., p. 268.
- 7 Donnelly, J. *The Concept of Human Rights*, (London: Croon Helm, 1985) pp. 80-87.
- 8 Schapera, I. *A Handbook of Tswana Law and Custom* (London: Frank Cass, 1955) p. 123.
- 9 Personal communication, April 11, 1988.
- 10 Solway, J. S. *Commercialisation and Social Differentiation in a Kalahara Village*, Botswana (Ph.D. thesis, University of Toronto, 1987) p. 294.
- 11 Tlou, T. *A History of Ngamiland 1750 to 1906: The Formation of an African State* (Gaborone: Macmillan Botswana, 1985) p. 55.
- 12 Miers, S. and Crowder, M. 'The Politics of Slavery in Bechuanaland: Power Struggles and the Plight of the Basarwa in the Bamangwato Reserve, 1926-1940', Unpublished paper, pp. 1-2.
- 13 Ibid., p. 4.
- 14 Tlou, T. *A History of Ngamiland 1750 to 1906: The Formation of an African State* p. 56.
- 15 Schapera, I. *Native Land Tenure in the Bechuanaland Protectorate* (Cape Town: Lovedale Press, 1943) p. 260.
- 16 Parsons, N. 'The Economic History of Khama's Country in Botswana, 1844-1930', in *The Roots of Rural Poverty in Central and Southern Africa*, edited by Robin Palmer and Neil Parsons (Berkeley: University of California Press, 1977) p. 133.
- 17 Bayei Petition, April 1948, BNA S.285/3/1.
- 18 The cattle population of the Protectorate increased from 139 000 in 1904-5 to 495 000 in 1921-22 and 1 400 000 in 1934 (Figures from Hubbard, p. 250). In 1923 the richest headmen in Ngamiland, Mogalakwe Nabeng, owned 20 000 cattle. (BNA S. 285/3).
- 19 Parsons, *Khama's Country*, p. 135.
- 20 Miers and Crowder, p. 38.
- 21 *Handing Over Notes, Ngamiland and Chobe District*, BNA DCMA 5/15.
- 22 *Annual Report for 1950, Ngamiland and Chobe District*, BNA DCMA 5/15.
- 23 The Regent of the Batawana, Pulane Moremi, was sympathetic to the plight of the Bayei. She condemned the 'cattle kings (who) advocate the selling of breeding stock so that the poor Bayei may sell all theirs and then become the servants of the wealthy Batawana', Regent to Resident Commissioner, 12 June 1951, BNA S.285/3/2.
- 24 Ibid. A similar situation prevailed in the Central District during the 1920s and

- 1930s: 'Ngwato cattle owners were using cases brought to the dikgotla and other legal means to systematically deprive Basarwa of stock and to dispossess those who still had any control over land and, most crucial, over sources of water' (Miers and Crowder, p. 40).
- 25 Miers and Crowder, p. 38.
  - 26 Ibid., p. 40.
  - 27 Solway, p. 366.
  - 28 Ibid., p. 368.
  - 29 Hitchcock, R. K. 'Tradition, Social Justice and Land Reform in Central Botswana' in *Land Reform in the Making: Tradition, Public Policy and Ideology in Botswana*, edited by Richard P. Werbner (London: School of Oriental and African Studies, 1982) p. 22.
  - 30 District Commissioner, Maun, to Government Secretary, Mafeking, 14 September 1948, BNA S. 285/3/1.
  - 31 Hitchcock, R. K. *Kalahari Cattle Posts: A Regional Study of Hunter-Fatherers, Pastoralists, and Agriculturists in the Western Sandveld Region, Central District, Botswana* (Gaborone: Government Printers, 1978) p. 122.
  - 32 Schapera, I. *Law and Custom*, p. 53.
  - 33 Judgment by Regent Pulane Moremi concerning a petition by the Mayei, BNA S.285/3/1.
  - 34 Schapera, I. *Tribal Innovators: Tswana Chiefs and Social Change, 1795-1940* (London: Athlone Press, 1970) p. 87.
  - 35 See Jeff Ramsay, 'Resistance from subordinate groups: Babirwa of Malema, BaKgatla Mmahanana and BaKalanga Nswazwi' in Fred Morton and Jeff Ramsay eds., *The Birth of Botswana: A History of the Bechuanaland Protectorate from 1910 to 1966* (Gaborone: Longman Botswana: 1987).
  - 36 Schapera, I. *Tribal Innovators*, p. 84.
  - 37 See Morton and Ramsay, pp. 64-81.
  - 38 Minutes of meeting to settle the Damara troubles, 10 December 1940, Serowe, BNA S.214/1/2.
  - 39 Tshekdi Khama. 'The Batawana-Damara Trouble', dated 21 September 1940, BNA S.214/1/2.
  - 40 The Vice President and Minister of Finance and Development Planning, Mr Peter Mmusi, called for such villagization on his recent tour of Ghanzi District (*Daily News*, May 20 1988).
  - 41 Schapera, I. *Tribal Innovators*, p. 88.
  - 42 Khama III to High Commissioner, 21 August 1922, cited in Q.N. Parsons, *Khama III, the Bamangwato and the British with special reference to 1895-1923*, (Unpublished Ph.D. thesis, Edinburgh University, 1973) p. 397.
  - 43 Wylie, D. 'The Centre Cannot Hold': *The Decline of the Ngwato Chieftainship 1925-50* (Unpublished Ph.D. thesis, Yale University, 1984) p. 254.
  - 44 Schapera, I. 'Kinship and Politics in Tswana History' *Journal of Royal Anthropological Institute* 93, 2, (1963) pp. 159-173.
  - 45 Hindness, B. and Hurst, P. Q. *Pre-Capitalist Modes of Production* (London: Routledge and Kegan Paul, 1977) pp. 112-113.

- 46 Schapera, I. *Law and Custom*, pp. 250-251.
- 47 BNA S.43/7. Various documents in this file provide information on 'Slavery and slave trade among the Batawana and Bamangwato, 1911-28'.
- 48 Schapera, I. *Tribal Innovators*, p. 89.
- 49 See BNA S.43/7 for Ratschosa's pamphlet 'Disclosing some of the serious facts for the first time to Administration of the Bechuanaland Protectorate. How the Masarwa became slaves and why the Chief's word is law'. Details of Ratschosa's killing of a Mosarwa are also in this file, document no. 37.
- 50 Schapera, I. *Tribal Innovators*, pp. 87-88.
- 51 High Court Case No. 8 of 1931 in BNA cited in Wylie, p. 143.
- 52 Philip Monnatsie 'The Growth and Spread of Religious Sects in Kgatleng: the case of the Zion Christian Church 1933-77', BA dissertation, University of Botswana, 1980.
- 53 Morton and Ramsay, p. 18.
- 54 Otsile Moseweu, speaking at a kgotla meeting held at Serowe on 7 January 1927, cited in Wylie, p. 254.
- 55 Bob Hitchcock estimates that almost 21 000 people were residents of commercial ranching areas in the 1980s. Figure quoted in his speech 'The Future of Remote Area Development in Botswana', a seminar paper given at the National Institute of Research, July 1988.
- 56 Ibid., p. 11.
- 57 Hitchcock discovered that over 10 per cent of the farm bands in the Western Sandveld were not paid anything at all for their labour. Of those who were paid cash, the average wage was one fifth of the recommended minimum wage (*Kalahari Cattle Posts*, p. 314, p. 319).
- 58 Ibid., p. 366.
- 59 Ibid., p. 368.
- 60 Hitchcock suggests that a much more imaginative approach is needed by Government to these settlements, one that involves a radical break with the past. Instead of trying to turn the Basarwa into Tswana yeomen with a primarily pastoralist base, their economic systems should be diversified as much as possible making use of game harvesting, utilization of wild products, beekeeping, poultry schemes, woodcrafts, etc.
- 61 See Mr Mpho's essay in this volume for further discussion of this subject.

## DISCUSSION

Mr D. Kwele (Leader BPU) said pre-colonial democracy was limited to so-called major tribes. Minorities were denied freedom of speech in the kgotla. He agreed with Datta and Murray that in the pre-colonial times minorities were discriminated against.

Commenting on the Mgadla and Campbell paper, he further said, it was nonsensical to talk of democracy during colonialism. He said there was no such thing, as colonialism by its nature is anti-democracy.



## SECTION IV

# CITIZEN PARTICIPATION IN DEMOCRATIC POLITICS

## 11 Do Batswana think and act as democrats?

Gloriah Somolekae

### 11.1 INTRODUCTION

Botswana has functioned as a liberal democracy since 1965. A number of analysts have acknowledged this fact.<sup>1</sup> The country has many features of a liberal democratic system such as freedom to run for office, freedom of press, rule by elected representatives, secret ballot and equality of franchise. These procedures were not found in the traditional Tswana political system. The rulers, namely chiefs, acquired office through ascription. They did not have to compete in elections.

This should not, however, be misunderstood to mean that traditional Tswana political system was not democratic. What is perhaps true and worth taking note of, is the fact that liberal democracy and traditional Tswana democracy are two very different systems of government. In spite of this fact, it appears that the liberal democratic system, (which is just over twenty years old), is being built on and continues to find its support and continuity in the foundations of the traditional political system.

This essay explores the extent to which Batswana have come to accept the new democratic way of life. In particular, we examine, firstly, the extent to which Batswana are informed about the various democratic structures and what goes on within them; secondly, the people's attitudes toward representative structures such as parliament and village committees relative to the traditional chieftaincy system; and, thirdly, the public's commitment to some basic democratic values.

Throughout this paper a major concern will be the impact of basic social and economic factors on the involvement of Batswana within the new democratic struc-

In the post-colonial era he said the ruling party is dominating and abusing the institution of kgotla.

Prof. Crick (Edinburgh University) felt Mr Kwele's restriction of the definition of democracy to participation was limiting. He felt that the papers did not say much on the efficiency of the kgotla as a political institution.

Mr Morake (Minister of Education) said democracy must exist within propriety. He agreed that past, present and future democracy were and will never be perfect. For example, women in the past were excluded from kgotla discussions for unconvincing reasons. He felt we should take the best elements of the past and integrate them with what is good today.

Mr M. Mpho (Leader, BIP) agreeing with Mr Kwele's comments quoted an instance in 1944 when his own father was shouted down when he tried to speak in a kgotla debate in Maun.

Dr N. Parsons (Botswana Society) said that in the 1940s the British colonial government used minorities to weaken strong chiefs in the name of democracy. He said the colonial administration demanded introduction of more representative tribal councils to undermine chiefly power.

Dr P. Molutsi (Sociology, University of Botswana) expressed concern that from the three historical papers there does not seem to be a link between traditional political system and modern democratic institutions. He said the fact that there was some consultation does not demonstrate existence of democracy, otherwise we will be forcing the link and romanticising the past.

Mr Molomo was worried that instead of discussing democracy as a political system participants were degenerating into tribal and political differences. He felt the concentration should be on the constitution.

Mr Magang (MP) said everybody has a right by the constitution to be a leader in modern Botswana, contrary to claims by representatives of minority groups.

Mr Giddie (BNF) asked the question: For whom does democracy exist in modern Botswana? He answered that it was the ruling class.

Reacting to questions and comments Mr A. Campbell said consultation can be both a good and a dangerous exploitative tool.

Dr Murray (History, University of Botswana) said Basarwa were not consulted about the Tribal Grazing Land Policy of 1975. He also said when Bayei in 1948 asked for a chief of their own, they phrased it in Tswana objectives and perspectives.

Dr Datta (Historian, Democracy Project) said what the constitution says may not always be found in practice. To access democracy it is necessary to ask people their experience on issues of rights to land, water, etc.

Professor L. Ngcongco (History, University of Botswana) disagreed with Molutsi's assertions that there appears to be no link between past and present democracy. Tswana society was not an ideal type of democracy but was open and accepting to different viewpoints.

The Chairman, Professor T. Tlou (Vice Chancellor, University of Botswana) in conclusion said there are a number of important traditional institutions and aspects of tradition which will be useful to adapt to the present.

