

seems to be Hitchcock, Robert K.

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government level within the region, national and international NGOs have expressed interest in working with it and funds provided by several donors have made possible the establishment of a few community projects. Gaining full recognition and respect among all ethnic groups residing in the Omaheke Region remains the OST's primary challenge.

### Conclusions

It is hoped that the San - with the assistance of the international public and the United Nations Working Group on Indigenous Populations - will be able to influence the Namibian Government to revoke its plan to relocate almost 20,000 refugees to the home of 4,500 San who need their natural resources to realise their plans for the envisaged N= a Jaqna Conservancy. It is also hoped that the devastating consequences of the extension of the Angolan war onto Namibian soil will lead the Namibian Government to reconsider its "invitation" to the Angolan Armed Forces (FAA). If San were to be allowed to focus on their aspirations, plans and projects without interference from more powerful and dominating State structures and groups, they could gradually achieve their goals at local, national and regional levels.

### BOTSWANA

A major concern of the approximately 53,500 San in Botswana during 2000 was whether or not San communities would be able to maintain their land and resource rights given changes that have occurred in Botswana government policies and the kinds of conservation and development initiatives that are being implemented there. According to San spokespersons and advocacy groups, such as First People of the Kalahari (FPK), Kuru Development Trust (KDT), and the Working Group of Indigenous Minorities in Southern Africa, there were four major areas of concern in 2000: (1) subsistence hunting rights, (2) land rights, (3) rights to benefits from tourism and from wildlife-related conservation and development projects, and (4) cultural and language rights.

### Subsistence Hunting Rights

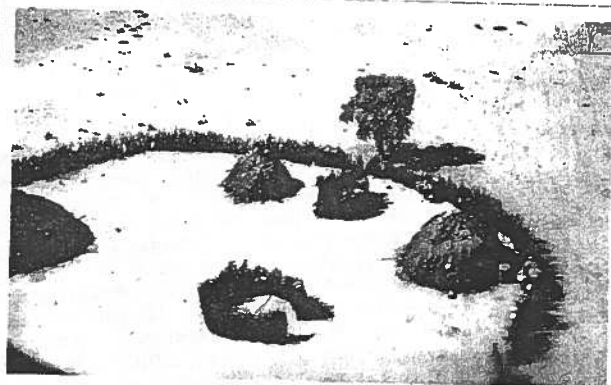
*Subsistence rights* are those rights related to the fulfillment of basic human needs (e.g. water, food, shelter and access to health assistance and medicines). The denial of the right to hunt and gather, according to some people, is an example of restrictions placed on subsistence rights. The San of Botswana understand full well the need for conservation of wildlife, plants and other resources. At the same time, they feel that they should be able to exploit resources as long as they do so in a sustainable manner.

From 1979 to 2000, Botswana was the only country in Africa that allowed its citizens who carried out subsistence hunting - hunting for the purposes of obtaining meat and other wildlife products for household consumption - to engage in legal hunting, which was made possible through the provision of Special Game Licenses under Botswana wildlife conservation legislation. In the rest of Africa, those people defined as subsistence foragers generally risked arrest and imprisonment if they engaged in subsistence hunting. In March 2000, the government of Botswana issued new 'National Parks and Game Reserves Regulations' (27 March 2000, *Botswana Government Gazette*). In Section 45.1 of these regulations, the following point was made:

*Persons resident in the Central Kalahari Game Reserve at the time of the establishment of the reserve or persons who can rightly lay claim to hunting rights in the Central Kalahari Game Reserve, may be permitted in writing by The Director (of Wildlife) to hunt specified animal species and collect veldt products in the game reserve, subject to any terms and conditions and in such areas as the Director may determine (Republic of Botswana 2000).*

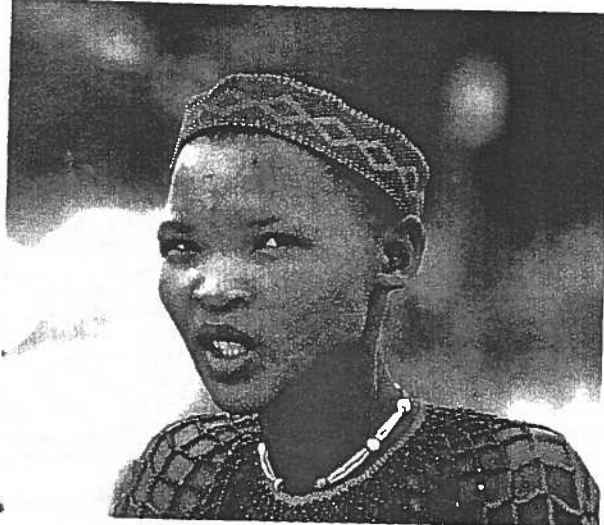
What this means, in effect, is that Special Game Licenses would no longer be issued to people. Instead, people in the Central Kalahari Game Reserve will have to apply to the Department of Wildlife and National Parks in the Ministry of Commerce and Industry in order to obtain hunting rights in the form of a Director's License. As of 2000, therefore, Special Game Licenses were no longer being provided to subsistence hunters in Botswana.

In the meantime, people continue to be arrested, jailed, fined, and deprived of their assets (e.g. horses, donkeys, weapons, bridles, saddles). Such an event occurred in July 1999, when 13 men from New! Xade, one of the resettlement locations, were arrested for allegedly engaging in illegal hunting. In this case, 7 of the men were arrested inside the CKGR, in contravention - allegedly - of section 2(3) of the 'Wildlife Conservation and National Parks Act, 1992'



A contemporary San settlement, Botswana. Photo: Arthur Kravitzkoff

Young San woman dressed for dance, Botswana. Photo: Arthur Kravitzkoff



(Republic of Botswana 1992). In addition, 6 men were charged with having killed a gemsbok in GH 10, one of the controlled hunting areas (CHAs) in Ghanzi District, sometimes called the Okwa Wildlife Management Area, and were charged with having contravened 19(3) of the 'Wildlife Conservation and National Parks Act'. The men who were arrested had Special Game Licenses, so the charge of hunting without a license was thrown out of court in October 2000.

### Security Rights

A major concern of San and other rural people in Botswana relates to security rights. *Security rights* include the rights to be free from torture, execution and imprisonment, or rights relating to the integrity of the person. This set of rights is especially important in light of the frequency of allegations of torture and mistreatment of suspected "poachers" by game scouts and other government officials in Botswana. Such an incident allegedly occurred in late August 2000 in the Molapo area of the Central Kalahari Game Reserve (CKGR). The claims relating to this case are still uncertain, and investigations into the matter are ongoing. But some general information has been obtained.

According to field reports on the incident, 20 men and 4 women from Molapo in the CKGR were allegedly detained by the Botswana Police from Rakops and game scouts from the Department of Wildlife and National Parks for supposedly being involved in a poaching operation. Some of the people detained were taken into the bush away from Molapo and allegedly tortured for a period of 6 days. Subsequent to that incident, a prominent member of the Molapo community, Mathambo Sesana, died of a heart attack which, according to some reports, was a result of the treatment that he had received at the hands of the police and game scouts.

There were other incidents in 2000 in which individuals were arrested and detained for allegedly hunting without a license. In some cases, the charges were dismissed. In other cases, the individuals were kept in jail for inordinately long periods without being allowed to hear the charges against them or have access to legal representation.

### The Central Kalahari Game Reserve and Land and Resource Rights

Botswana has devoted a substantial proportion of its total land area to conservation purposes, including parks, game reserves and na-

tional monuments, all of which fall under the category of State land (17% of the country) and Wildlife Management Areas (WMAs), which are blocks of land in the so-called tribal land areas or communal lands of the country (71% of the country, about half of which is now zoned as Wildlife Management Areas).

One of the few game reserves in Africa that until recently allowed residents to continue to reside and earn a livelihood was the Central Kalahari Game Reserve (CKGR) in Botswana. As reported in *The Indigenous World 1997-98* (pp. 300-303) in May 1997, the government of Botswana relocated a sizable proportion of the CKGR's population, over 1,100 people, to two sites outside of the reserve, one in the Ghanzi District to the west of the reserve (New !Xade), and the other in the northern Kweneng District south of the reserve, Kaudwane, not far from Khutse Game Reserve. The populations of the new communities are so large, and the resources in the vicinity of the settlements so few, that the residents have been unable to sustain themselves through foraging, small-scale agro-pastoralism and rural industries, and have thus had to depend heavily on the government of Botswana's relief programs for economic support.

A Negotiating Team regarding the CKGR has been meeting with government officials for a number of years and it met with officials from the Department of Wildlife and National Parks several times during 2000. The Negotiating Team consists of representatives from First People of the Kalahari, Ditshwanelo (the Botswana Center for Human Rights), the Botswana Christian Council and WIMSA, along with a legal advisor, Glyn Williams, of Chennells Albertyn, a legal firm based in Cape Town. The Negotiating Team has pushed for recognition by the government of Botswana of the rights of the G/wi, G//ana, Bakgalagadi and other groups in the CKGR, including (1) residential rights, (2) hunting rights, (3) gathering rights, and (4) rights to a share in the economic returns from tourism in the reserve.

The Negotiating Team wants to ensure that the people who have rights in the reserve get some of the benefits from the tourism and other conservation and development-related activities in the CKGR. The Team has called for the inclusion of the needs of CKGR residents in the *Central Kalahari Game Reserve Management Plan*, which is currently in the process of being revised and updated by the government of Botswana. It is hoped that the new management plan will include "communal use zones" where people from local communities in the CKGR will be able to continue to obtain the resources necessary for subsistence and income generation.

The San in various parts of Botswana, with assistance from personnel employed by non-governmental organizations, notably First People of the Kalahari and Kuru Development Trust, were engaged

during 2000 in the mapping of San territories (ancestral lands) and land use patterns as part of a strategy to gain government and district council recognition of San land and resource access rights. This process has been done using Geographic Positioning System (GPS) instruments and applying Geographic Information Systems (GIS) techniques. Such mapping work was carried out in the Dobe and !Goshe areas of western Ngamiland, in the Okavango Panhandle area, and in the Central Kalahari Game Reserve.

The Ju/'hoansi San of the Dobe area sought to further institutionalize their land and resource rights in western Ngamiland. One way that they have gone about this is through establishing new water sources, one successful one being at !Ubi (Qubi), a Ju/'hoan community that is the most important n!ore in the Dobe complex of n!oresi, (Ju/'hoan traditional territories). The !Ubi n!ore is some 230 sq km in size and is the only n!ore besides Dobe itself in which there are Ju/'hoansi residents living year round.

In the process of applying for water rights in western Ngamiland, individuals have on occasion attempted to outmaneuver their communities and obtain individualized rights over water points, something that has not gone down well with other Ju/'hoansi, who have pushed for rights to be given to communities rather than individuals, something much in keeping with Ju/'hoan traditions and sensibilities. Fortunately, these efforts have not been successful, and there is still a possibility that the various family groups at Dobe who have traditional territorial rights in the region around Dobe will be able to obtain title over their n!oresi, which they can then manage through a representative community body such as a trust.

Another way the San attempted to obtain land and resource rights was through engaging in community-based natural resource management (CBNRM). The Botswana government had passed legislation in the 1980s and 1990s that made it possible for local people in communal (tribal land) areas to gain rights to wildlife resources if they formed a community-based institution, usually a community trust, and then applied to the Department of Wildlife and National Parks for a wildlife quota for the area where they resided.

In October 1997, the people of /Xai/Xai, a community of some 350 people in western Ngamiland, formed the /Xai/Xai (Cgae Cgae) Tlhabololo Trust. In exchange for the sub-leasing of some of the wildlife of the controlled hunting areas to which the people of /Xai/Xai had access (NG 4 and NG 5, which together make up an area of some 16,966 sq km), the trust was in a position to make as much as P1,000,000 per year. In August 2000, there were 24 people employed by the safari operator, and food, medicines and other goods were being supplied to the population of /Xai/Xai as part of the joint

venture agreement. There were at least half a dozen community trusts that had majority San populations in Botswana in 2000, some of them in and around the Okavango Delta region and others in the western part of the country in North West, Ghanzi, and Kgalagadi Districts.

In January 2001, however, the Ministry of Local Government stipulated that the community trusts that had been formed in the 1990s and early part of the new millennium in Botswana no longer had the right to retain the cash that was generated from their operations; the resources instead were supposed to go to the district councils. The Botswana government decision was challenged by non-governmental organizations, international donors, and San themselves. At the time of writing, no final decision had been reached on the status of the community trusts in Botswana.

### Cultural and Language Rights

The language rights issue in Botswana has been an ongoing concern of the San for years. Botswana government policy is such that the languages taught in schools in the country are Setswana and English. There is no mother tongue education in the so-called minority languages, such as Ju/'hoan, Nharo or !Xoo. San children who go to school must learn Setswana when they start their education, and they are sometimes discouraged from speaking their own languages. The rights of minorities to speak their own languages and promote their own cultural traditions was the subject of a symposium held at the University of Botswana ("Challenging Minorities, Difference, and Tribal Citizenship") from May 23-26, 2000. At that meeting, several San spoke out on the importance of being able to use and teach San languages.

Efforts continued to be made in 2000 to engage in minority language education activities as part of the Nharo Educational Program at D'Kar in Ghanzi District, and the work of the Village Schools Program (VSP) in Namibia, in which the Ju/'hoan language is being taught, has important potential implications for Botswana San (see LeRoux 1999; Batibo and Smieja 2000). Thus far, however, the government of Botswana has not made a formal decision to allow mother tongue education in minority languages in the Botswana school system. The future of the San of Botswana depends very much on their ability to convince the Botswana government, international agencies, and non-governmental organizations of the importance of paying attention to social, economic and cultural rights, which they see as a matter of cultural as well as physical survival.

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### SOUTH AFRICA

The policy situation for indigenous peoples in South Africa shifted repeatedly during 2000, with different government departments being more or less helpful but with no coherent policy guidance or political commitment emerging from the Cabinet or the President.

In 1999, President Thabo Mbeki demonstrated his government's commitment to redress for indigenous peoples by accelerating land restitution to the !Khomani, !Xú and Khwe peoples. However, this momentum did not continue into 2000. Mbeki's desire to stake out South Africa's leadership position on human rights in Africa and at the UN was eclipsed by other events at home, including a weakening currency and a debacle over the President's views on AIDS and other public relations problems.

### South Africa Recognises Indigenous Peoples

The year started auspiciously with South Africa openly supporting the UN Declaration and the Permanent Forum during a Commission for Human Rights debate in Geneva in March 2000. South Africa stated unequivocally that it recognises the presence of indigenous peoples in South Africa and challenged other African countries to be honest about the issue. UN watchers noted that South Africa might be able to encourage Canada and other sympathetic countries to accelerate the speed of processing of the Draft Declaration on the Rights of Indigenous Peoples (UNDDRIP). The Department of Foreign Affairs was keen to develop a coherent policy