

# **A Survival International Report to the Human Rights Committee**



**Survival is an NGO in Consultative  
Status with the United Nations' ECOSOC**

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**Survival** 

## **Comments concerning the State Party's Report on Botswana in relation to compliance with the International Covenant on Civil and Political Rights, with specific reference to the Gana and Gwi Bushmen and Bakgalakgadi of the Central Kalahari Game Reserve.**



### **WHO ARE THE BUSHMEN?**

In the middle of Botswana lies the Central Kalahari Game Reserve (CKGR), a reserve created to protect the traditional territory of the 5,000 Gana, Gwi and Tsila peoples (and their neighbours the Bakgalagadi), and the game they depend on. The reserve covers an area of approximately 52,000 square kilometres (which makes it larger than Switzerland). It was created in 1961 by the British Protectorate and the protection it offered to the Bushmen was written into the Constitution with the agreement of Botswana's first democratic government.

The Gana, Gwi and Tsila are part of the group of tribes known as 'Bushmen' who are among the earliest inhabitants of southern Africa. They are probably the last Bushmen living self-sufficiently. Men hunt antelopes with spears or bow and arrows, and women gather wild tubers and fruits. They speak a click language and are famous for their musical abilities. In the trance dance healers use the rhythm of singing, clapping and dancing to contact ancestral spirits who help them cure sick people

In three big evictions, in 1997, 2002 and 2005, virtually all the Bushmen and Bakgalagadi were forced out of their lands in the CKGR by the Botswana government. They were originally told that the clearances were taking place because diamonds had been found on their lands. Later the government claimed that the evictions were to provide development to the people and to protect wildlife in the reserve

During the evictions, the Bushmen's homes were dismantled, their school and health post were closed, their water supply was destroyed and the people were threatened and trucked away. There was no real attempt to consult the Bushmen in advance about the removals.

Most of them now live in resettlement camps outside the reserve. Rarely able to hunt, and arrested and beaten when they do, they are dependent on government handouts. They are have become gripped by alcoholism, boredom, depression, and illnesses such as TB and HIV/AIDS.

**In December 2006**, the Bushmen won an historic legal victory when Botswana's High Court ruled that the 2002 evictions (which affected around 750 people) were 'unlawful and unconstitutional' and that the people had been forcibly evicted without their consent. The three judges also held that the government had acted unlawfully when it refused to issue hunting licences to the Bushmen.

## WHAT IS THE CURRENT POSITION?

Since the court ruling of last December, families have started the process of returning to their homes. There are now approximately 120-150 people back in the reserve. Survival estimates that there are a further 800-1,000 who would like to return home.

The people are being hindered in their return by:

### 1 **Fear**

The Bushmen have been psychologically affected by many incidents of torture and beating by wildlife guards in recent years. Since the court ruling, people in the resettlement camps have also been approached by government officials (including a visit by the President of Botswana, Festus Mogae), attempting to persuade the people not to return to the CKGR. They need reassurance from the government that incidences of torture, harassment and beatings will no longer be tolerated.

### 2 **Lack of transport**

People were originally moved out in dozens of trucks over a two month period. They have extremely limited resources and most are simply not in a position to transport themselves and their possessions (blankets, pots, water containers and small numbers of livestock) back into the reserve. The government has refused to assist with transport, despite the court ruling that the evictions were unlawful.

### 3 **Lack of water**

The Bushmen have been told that they may not install a pump at their own expense at their old water borehole in Mothomelo, inside the reserve. The reason given by the government was that the borehole 'belongs to the government'.

After the Bushmen's attorney complained, the government suggested that the Bushmen apply to the Department of Wildlife for a permit to use the borehole, which they did in early April of this year. No response has been forthcoming and government officials continue to tell Bushmen inside the reserve and in the resettlement camps that they will not be allowed to use the borehole.

Currently, all water supplies have to be brought in on the back of trucks. Most people are unable to afford to do this. This constitutes a clear breach of Article 1(2) of the Covenant, which guarantees that no people shall be deprived of its means of subsistence.

### 4 **Government's continued refusal to let the Bushmen hunt**

All three judges of the Botswana High Court ruled that the government acted illegally when it refused to issue the Bushmen with hunting permits in 2002. Nevertheless the government continues to refuse to allow the Bushmen to hunt inside the reserve.

This also constitutes a clear breach of Article 1(2) of the Covenant.

## 5 Government's refusal to allow livestock into the reserve

The government originally said no livestock would be allowed in at all. They have recently relaxed this position and will now allow donkeys and horses to be used to enter the reserve and transport water. However, goats will not be allowed back into the reserve. Goats were originally introduced to the reserve by the government some decades ago, and no scientific basis has been established for the current ban. The Bushmen rely on goats to provide milk and meat for their children in times of drought.

Along with the refusal to allow the Bushmen to use their borehole to extract water, and to hunt on their lands, Survival believes that the refusal to allow their small numbers of goats into the reserve without any scientific justification constitutes a breach of Article 1(2) of the Covenant.

## 6 Government setting a limit on the number of Bushmen who may return

The Botswana government has declared that only the people listed in the court papers (229 people), along with their minor children, may return to the reserve. The court judgment, however, refers to the Bushmen's constitutional right to their land. The government has refused to accept that this applies to all those evicted in 2002, and probably also all those evicted in 1997, totalling around 2500 people. They have announced that only those on the list may return home.

The position taken by the government since the court ruling conflicts with the legal record. In 2004, the Attorney General agreed that the case should have legal affect not just for those listed in the court papers, but for all those who were relocated in 2002.

## COMMENTS ON THE STATE PARTY'S REPORT

Contrary to the State Party report, the evictions were not based on the conclusions of the 1985 Fact Finding Mission to the CKGR (paras 279-283). In fact, the Mission advised against removing the people from the game reserve:

It is apparent to the Mission that the desires of the human population can only be satisfied without damage to the wildlife and other natural resources of the Reserve by segregating the wildlife from that human development which is incompatible with wildlife conservation. **One way this could be achieved would be by resettlement of the residents to one or more locations outside the Reserve. This is neither desirable nor practicable.** The only other way perceived by the Mission would be to zone the Reserve (page 33).

The State Party claims that the Mission found that a number of locations were rapidly evolving into permanent, settled agricultural communities. Survival has been unable to identify the passage in the report that comes to this conclusion. When challenged, government officials have also been unable to identify from where this information is said to have come.

The State party also claims that the Mission found that people living inside the Reserve had largely abandoned their traditional way of life and were now hunting with guns and from four-wheel drive motor vehicles. In fact, there is nothing in the report to lead the government to this conclusion. When challenged, the government has been unable to explain why they continue to make this false claim. When questioned during the court case, the former Director of Wildlife admitted that the government had no reason to suppose that the Bushmen hunt with guns.

In paragraph 281 of its report, the State party claims that a group of people agreed to be relocated in 2001. The High Court of Botswana has since concluded that these removals took place forcibly and without the Bushmen's consent.

## CONCLUSIONS

Survival International would like the Committee to request the Botswana government to fully implement the December 2006 judgment in a spirit of justice and fairness to its people.

Survival hopes that the Botswana government will be encouraged to take at least the following steps:

- Allow all Bushmen who wish to return to the reserve to do so without the need for a permit.
- Allow the Bushmen to use water boreholes already existing in the reserve and also to sink their own where this becomes necessary.
- Allow the Bushmen to hunt and gather within the game reserve, in accordance with the court judgment
- Allow the Bushmen to take their small number of goats back into the reserve with them to guard against hardship in times of drought.
- Provide transport for the Bushman families and their possessions and livestock to be returned to the reserve, or at least provide financial assistance for them to arrange this for themselves.



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