



Survival International submission to UN Human Rights Council on indigenous peoples and access to water

Survival International is an NGO in consultative status with ECOSOC

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1. The Gana and Gwi Bushmen, Botswana: Water as a weapon of eviction

The Botswana government has repeatedly used denial of water as a means to force the Gana and Gwi Bushmen off their land in the Central Kalahari Game Reserve (CKGR), and to prevent them from returning to that land. The government's use of this tactic continues despite the Botswana High Court ruling of December 2006 that the Bushmen have the right to live on their land, and that the evictions were 'illegal and unconstitutional'.

The 2002 evictions

In the 1980s, the Botswana government began providing basic water supplies to the Bushman communities in the CKGR. Water was pumped from a borehole at the community of Mothomelo, and was trucked to the other communities. Each community was provided with a large tank in which the water delivered to them was stored.

The government began evicting people from the CKGR in 1997, but many people refused to move, or returned to the reserve after the evictions. In 2002, in an attempt to finish the job it had started in 1997, the government evicted almost all of the remaining 700 or so Bushmen living in the reserve.

This time, in addition to the threats and intimidation used by its officials in the Bushman communities, the government terminated the Bushmen's water supply. The water deliveries stopped, and government officials dismantled the pump on the borehole in Mothomelo and poured the contents of the water tanks in each community into the sand.

2002 to 2006

Having been accustomed for a generation to receiving water from the government, the 30 or so Bushmen who resisted eviction and remained in the reserve in 2002 had to rely on collecting rainwater. On many occasions, people bringing water into the reserve to help the Bushmen were turned back by government officials or forced to empty their water containers at the gates of the reserve. The government also banned hunting and gathering in the reserve, making it difficult for the Bushmen to obtain water from plants and from the bodies of game animals.

Many of the Bushmen in the resettlement camps, desperate to return home, expressed to Survival their concerns about the lack of water in the reserve. Even if they had managed to get past the guards at the gate, what would they do about water?

Nevertheless, many did gradually return, and by early 2005 there were around 200 people in the reserve. Throughout 2005, this number fell once again as people who left the reserve to visit family in the resettlement camps were prevented from re-entering the reserve. In October 2005 the government carried out another eviction, this time using physical violence and evicting dozens of people.

The government also sealed the reserve, refusing to allow access for tourists, journalists, the Bushmen's lawyers, or representatives of the Bushman advocacy organisation First People of the Kalahari (FPK).

Still, a small group of Bushmen resisted eviction. The police set up camp in their communities, preventing them from obtaining food or water. Bushman Kangotla Kanyo, who with a few others evaded police and walked for three days through the desert, said, 'The others and I came out of the reserve to tell the outside world that we are really suffering with thirst and hunger. The police are camped at our settlement and we are not allowed to gather or dig anything to eat. The policeman called Dibuille told us, 'If you die, the government doesn't care. This is the time to show you that you are nothing.' The police said that we have to suffer thirst and hunger so that we will leave the reserve.'

The government's blockade soon took its toll. In November 2005, Bushman woman Qoroxloo Duxee, who had repeatedly resisted eviction, was found dead near the community of Metsiamenong in the CKGR. The postmortem report confirmed that she died of dehydration, starvation and shock.

The Bushmen's court case

The Bushmen filed a legal case against the evictions in Botswana's High Court in 2002. On the issue of water, their lawyers argued that when the government removed the water tanks and engine and pump from the borehole at Mothomelo they were committing an act that, along with other things they did (such as refusing to issue hunting licences) was intended to result and did in fact result in the dispossession of the Bushmen from their land without their genuine consent.

The Bushmen's lawyers argued that the termination of services, including the maintenance of the supply of water, was unlawful and unconstitutional. They also argued that the government's action placed it in breach of international standards of conduct about the adequate access to water, for example the statement of the UN Committee on Economic, Social and Cultural Rights that State parties should ensure that there is adequate access to water to secure the livelihoods of indigenous populations.

Court victory

The case was beset by long delays, but when it finally ended in December 2006, the court ruled that the Bushmen had the right to live on their land, and that the evictions were illegal and unconstitutional.

One of the three judges in the court also upheld the argument that the termination of the Bushmen's water supply was illegal and that it should be restored, but the other two did not, so the court ruled against the Bushmen on this point.

The judge who found in favour of the Bushmen on water, Unity Dow, said, 'The only explanation for the pouring out of water and the sealing of the borehole at Mothomelo... has to be that the Respondent [the government] wanted to press the point ... that the only option was relocations.'

Two of the three judges also said that the termination of the Bushmen's water supply contributed to their conclusion that they were forced to move.

The future

Following the court ruling, the Bushmen immediately sought assurances that they would be allowed to organise their own water supplies, and expressed their wish to install a pump over the now unused borehole in Mothomelo. In February 2007, Botswana's Attorney general wrote to the Bushmen's lawyers refusing this request, on the grounds that the borehole was 'government property'.

Jumanda Gakelebone of Bushman organisation First People of the Kalahari said, 'The court said we could go back to our land, but now we see that the government is doing everything it can to stop us. Why else would it stop us using a borehole that nobody else is using? Without water we cannot live in the Kalahari.'

There are currently signs that the government's position on this may be softening, but it is not yet clear whether or not the Bushmen will in fact be allowed to use the borehole.

2. Hydro-electric dams and their impact on indigenous peoples' health and livelihoods in the Amazon, Brazil

‘We need our land and rivers for our life and traditions. This is very important to us. We sing, we dance, we fish, we hunt, we plant. We are never still because that's our way, it's how we are.’

Kamalurre Mehinaku, Indian leader from the Xingu Park

Survival International is extremely concerned about the potential negative impacts of several proposed hydro-electric dam projects on indigenous peoples in Brazil. The indigenous peoples who will be affected have not been adequately consulted over the projects. The damage the dams will cause to their water resources and livelihoods (drinking water and fishing) will be immense, and in some cases irreversible, and result in economic hardship and illness. They will have a profound impact on indigenous culture, rituals and traditions associated with fish cycles and water.

In promoting major dam projects, the Brazilian government is violating article 231 of its constitution which states (in paragraph 2) that, ‘The lands traditionally occupied by Indians are intended for their permanent possession and they shall have the exclusive usufruct of the riches of the soil, the rivers and the lakes existing therein.’

Paragraph 3 states that: ‘Hydric resources, including energetic potentials, may only be exploited, and mineral riches in Indian land may only be prospected and mined with the authorization of the National Congress, after hearing the communities involved, and the participation in the results of such mining shall be ensured to them, as set forth by law.’

Brazil has ratified ILO Convention 169 on indigenous and tribal peoples which upholds indigenous peoples’ rights to use, manage and conserve their natural resources and to be consulted about any programmes exploiting any resources pertaining to their lands (article 15, paragraphs 1 and 2).

The Xingu river dams

The Brazilian electricity company, Eletronorte, is planning to build a series of large hydro-electric dams on the Xingu and Iriri rivers, tributaries of the Amazon river. Five dams would be built on the Xingu (at points called Jarina, Kokraimoro, Ipixuna, Babaquara and Kararaô) and one dam on the Iriri river called Cachoeira Seca.

Eighteen tribes with a population of 10,000 people live in the region of the Xingu. All depend on the Xingu river and its tributaries for fish and drinking water. The Xingu Park is home to 14 of the tribes.

Some of the potential negative consequences of the dam project on these indigenous peoples include:

- flooding of indigenous territories and therefore loss of valuable hunting grounds and gardens where crops and medical plants are cultivated – all these activities are core to the Indians' livelihoods.
- loss of fishing due to sedimentation and turbine turbulence; change in water quality resulting in less fish spawning; and fish migration routes curtailed by dams and turbines. All the indigenous peoples living along the Xingu river rely heavily on fish as a major and crucial part of their diet.
- loss of clean drinking water due to pollution and sedimentation.
- potential spread of diseases like malaria as mosquitoes will breed in stagnant waters created by the dams and lakes.
- new roads built for dam construction, cutting of swathes of forest for transmission lines, and clearing for construction sites will destroy forest and encourage settlement of non-Indians in the area, resulting in more pressure from outside on their territories and natural resources, and violent conflicts.

A full summary and discussion of the impacts of the dams is available on:
www.irn.org/programs/xingu/index.php?id=archive/TenotaMo.html

Indigenous resistance to the dams

In 1989, the Kayapó people led the opposition to Eletronorte's plans to build the dams mentioned above. They hosted an international meeting in the town of Altamira on the Xingu, attended by the world's media, NGOs, politicians and engineers from Eletronorte, to highlight how devastating the dams would be for them. They successfully lobbied the World Bank in Washington, which withdrew funding for the project. As a result of the Kayapó's campaign the dams were shelved.

In 2006, on hearing that the dam project was to be launched again, some 200 Kayapó Indians met at Piraçú, and spoke out unanimously against the dams, saying that they would have catastrophic effects on the ecosystem and would flood large areas of indigenous territory.

One point repeatedly emphasized by the Kayapó was that Eletronorte and President Lula, by not coming to Kayapó communities and those of other regional people to explain openly the details of their plans, or allowing for the Kayapó to discuss the project in the National Congress, are in violation of national law, which requires that any development project which involves potentially damaging effects on indigenous territories should be discussed with the indigenous communities likely to be affected, and those communities should have the opportunity to discuss the project in the National Congress

In addition to their intransigent opposition to the dams, the representatives of communities situated on the banks of the Xingu denounced the increasing pollution of the river resulting from agricultural activities, such as the massive cultivation of soya beans, and cattle ranching, in close proximity to the tributaries of the river. They demanded that the state regulate these activities to prevent the destruction of the riverine ecosystem.

To read the Piraçú declaration in full see:
www.survival-international.org/news.php?id=1577

The headwaters of the Xingu river lie outside the Xingu Park and other protected areas and are therefore unprotected. According to the Socio Environmental Institute (ISA), deforestation along the Xingu's headwaters has doubled in the last decade, and already some tributaries have dried up due to deforestation and forest fires. Communities in this part of the Xingu region are already noting the impacts on the water. A report on the campaign to restore and protect the headwaters and gallery forests can be downloaded from:
www.yikatuxingu.org.br/revista/yikatuxingu-english.pdf

Kamalurre, a Mehinaku Indian from the Xingu Park, told Survival that *'All the headwaters of the great Xingu river are very polluted. This is because the white people who are agriculturalists throw in toxic pesticides. They chuck everything in there - rubbish, empty cans and bottles of rum. They also kill the wild animals and they leave the dead bodies rotting by the river banks. We Mehinaku use the water to bathe in, to drink from and to fish. We are fisher people - we don't eat red meat. In the Xingu there is a lot of fish, every type of fish. Fish are so important to us and now the fish are dying.'*

To read the full interview published in the UK's The Guardian see:
<http://society.guardian.co.uk/societyguardian/story/0,,1865232,00.html>

The Mehinaku are opposing the Culuene dam which is under construction in the Upper Xingu river. This area is sacred to the Upper Xingu peoples the first Kuarup ceremony, one of the most important rituals for the Xingu people, was held here. Following protests by the Indians, a judge halted the construction work. However building work has since resumed.

Small hydro-electric dams on the Juruena river and the impact of soya on rivers in Mato Grosso state

The government of Mato Grosso state recently announced that it intends to build a series of small hydroelectric dams (defined as having a capacity greater than 1 MW and less than 30 MW) along the Juruena river. The dams will be funded by a consortium of businesses involved in the soya industry, including the Grupo Maggi owned by state governor, Blairo Maggi. Up to 11 dams are planned along the Juruena. Six tribes, the Enawene Nawe, the Rikbatsa, the Nambikwara, the Pareci, Irantxe and the Myky, totaling 3,700 Indians in 87 communities, will be affected.

The small, isolated Enawene Nawe tribe will suffer the most direct impact, as the Juruena flows through their territory and two of the dams will be built less than 25 kms from it. The Enawene Nawe fear that the dams will have a devastating impact on the breeding cycle of the fish which are a vital part of their diet, as they are one of the few tribes who eat no red meat and therefore rely entirely on fish for protein. Fish also have huge ritual and symbolic significance for them. If the fish are destroyed, the great fishing ceremonies which form the bedrock of Enawene Nawe spiritual beliefs and identity will almost certainly disappear. Kawari, an Enawene Nawe elder explains: *'All this land belongs to the yakairiti - our ancestral spirits - who are the owners of the natural resources. They own the rivers, the fish and the trees. If you finish these off, the yakairiti will take vengeance and will kill all the Enawene Nawe.'*

The Enawene Nawe are opposing the dams, and have launched an appeal for support to halt their construction, stating *'We communicated clearly to the people who want to build the dams, 'Do not build the dams, we do not want them. As far as the Enawene Nawe are concerned, we are completely against the dams. We do not want a car nor do we want money. We are thinking about fish, and the water.'* To read their appeal in full: www.survival-international.org/news.php?id=2193

The Enawene Nawe have also spoken out against the soya and cattle ranching industries which they hold responsible for polluting the rivers with fertilisers and pesticides. Kawari says *'Now everything is finished. All the trees are gone. There are no bees' nests full of honey and no eagles. There are no tapirs, no monkeys - they have all died or fled. There are no animals here at all. The Preto river is totally spoiled. There are no fish and the river is all polluted. The ranchers are finishing everything and this land has become ugly.'*

There has been very little consultation with the indigenous peoples about the dams, and advisors and NGOs who might provide them with independent assessments and legal advice have not been invited to attend 'consultation' meetings.

The social and environmental impact assessment commissioned by the consortium of soya growers seeking to build the dams, states that the dams will lead to dwindling numbers of fish, poaching and illegal logging on in indigenous territories and encourage increased agriculture around them. This increased pressure on indigenous lands and livelihoods will fuel conflict and violence between Indians and non-Indians, and could ultimately destroy indigenous societies and their unique ways of life. The federal prosecutor's office is currently investigating the process of awarding licences for the dams and the lack of proper consultation with the indigenous peoples concerned.

The Xavante Indians who live in the east of Mato Grosso state are deeply concerned about the impact of the soya industry on the Rio das Mortes river basin. The Xavante Warã Association has launched a campaign to conserve and restore the Rio das Mortes river basin. They seek to protect lands and water sources that the Xavante depend on for

their physical and spiritual livelihood. See http://www.survival-international.org/files/news/25_1737_853_Xavante_Protest_Background.pdf for more information.

Like all other indigenous people, the Xavante depend on rivers for drinking water and for bathing. Water is also fundamental to many of their ritual practices.

The massive and uncontrolled expansion of the soya industry and the major dam projects pose a major threaten to the self sufficiency and economic independence of many of Brazil's indigenous peoples. They also threaten to undermine if not destroy their health, their religious and healing rituals and their sense of identity as Brazil's original or first peoples.

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