

# The Botswana Bushmen's Fight for Water & Land Rights in the Central Kalahari Game Reserve

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## Abstract

The Botswana Bushmen live in the Central Kalahari Game Reserve in the centre of Botswana. The area is known to be one of the most rugged, arid landscapes on the face of the planet. In recent years, due to claims from the Botswana government that the Bushmen needed to 'develop', extreme efforts have been made to force the Bushmen from the reserve originally allotted to them in the 1960s.

## Author's Note

I chose to research the situation of the Botswana Bushmen in the CKGR after learning about them when working with the organization Survival International. I since then have become a strong supporter of indigenous groups worldwide. The Bushmen in particular are an incredible example of the endurance of mankind in the most trying of environments. It is my belief that through sustainable development we can not only learn a great deal from those people whose voices otherwise would not be heard, but we can also show future generations the importance of the ethical treatment of all human beings.

## 1. Introduction

The presence of water is essential to both human survival and human development. Therefore, "for any sovereign nation- state government, the conquest and control of water resources is a paramount concern." (Workman: 2009, 128). This governmental drive to obtain and possess water, in order to progress human development, can be seen in Botswana, one of the fastest growing economies in the world.<sup>1</sup> Since its independence in 1966, the Government of Botswana (GOB) has sought to develop and advance through a series of progressive social policies and capital investment.<sup>2</sup> Through this development, certain groups of Botswana have benefitted, while others, primarily smaller, undervalued groups, have been forced to assimilate with development plans, or risk being pushed out. One such group marginalised by the GOB is the Bushmen of the Central Kalahari Game Reserve. Through aggressive measures such as prohibiting access to water and basic human

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<sup>1</sup> (<https://www.cia.gov/library/publications/the-world-factbook/geos/bc.html>, Accessed December 9, 2013; Taylor, 2007).

<sup>2</sup> Ibid.

services, the GOB has gradually diminished the freedoms and right to life of this indigenous group, at the cost of what they refer to as “development”.<sup>3</sup>

The British Protectorate originally established the Central Kalahari Game Reserve, or CKGR, in 1961 with the intent to protect the territory of the indigenous hunter-gatherer communities of the area (Bushmen), and the wildlife resources they subsist on (Sarkin & Cook: 2010-2011, 12). However, in more recent years, the reserve has been the hotbed of international attention following the GOB's decision to begin removing the indigenous tribes off of their traditional land. This decision came shortly after the country's discovery in the late 1980s of one of the largest diamond deposits in the world (Survival International, Workman: 2009, Sarkin & Cook: 2010-2011, 17). The government then turned its back on its original declaration of the purpose of the reserve, and set out to relocate the thousands of Bushmen to resettlement camps on the outskirts of the CKGR (Sarkin & Cook 2010-2011, Survival International, Morinville & Rodina: 2013). What ensued was an ongoing legal battle between the Government of Botswana and the indigenous Bushmen and their horde of supporters, both national and international human rights groups that were outraged.

Due to the extensive nature of this issue, it is unrealistic to cover all of the events which happened over such a long period of time. Therefore the points discussed in the following argument are slightly narrow in scope so as to allow for a greater range of subjects to be mentioned. The following expose will discuss the realities of the government's intentions in the alleged development agenda behind the relocation of the Bushmen and the deeper connection it has to the human right to water. It will also discuss whether the GOB's development policies are, in fact, for the greater good of the people they are meant to be helping, and if they are benefitting the development of the country as a whole.

## 2. The Bushmen & Their History of Marginalisation

The Bushmen, otherwise referred to as the San, Bushpeople, Basarwa, N/oakwe, or Kwe, “refer to a heterogeneous group of peoples who have predominantly resided in the contemporary contexts of Botswana, Namibia, South Africa, Zimbabwe, Lesotho, Mozambique, Swaziland, and Angola” (Morinville and Rodina: 2013, 5). While they are known internationally under many terms, for the purposes of honouring their history, and in trying to best avoid the derogatory connotations behind many of their names, they will hereafter be referred to as Bushmen (Survival International, Stephen Corry: 2011, Nthomang: 2002).

These hunter-gatherers are believed to be one of oldest indigenous groups on Earth, having lived in Southern Africa for tens of thousands of years (Survival International, Sarkin & Cook: 2010-2011). Findings by geneticists show that the Bushmen and their neighbours, the Khoekhoe, carry genetic material indicating their ancestors as the ancestors of all living people (Sarkin & Cook: 2010-2011). Their deep knowledge of their land has enabled them to survive in Sub-Saharan Africa,

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<sup>3</sup> *The Eviction of the Bushmen*. Prod. Carte Blanche. *Survival International*. Carte Blanche, n.d. Web. 20 Nov. 2013. <<http://www.survivalinternational.org/films/carteblanche>>. Documentary

“the most water-stressed region of the world”, for thousands of years (Qiu, Pulitzer Center, 2013).

The Bushmen's history of inequality is not recent and is attributed to the “evolution of the cattle industry” led by the local Tswana peoples well before the independence of Botswana. The Tswana, “traditionally a cattle-herding culture...developed several major Tswana kingdoms” headed by kgosi, or chiefs. (Sarkin & Cook: 2010-2011, 6-7) The power of the kgosi was often determined by the amount of cattle they possessed, thus leading to the large growth of cattle herds in the region, particularly between the 17<sup>th</sup> and 19<sup>th</sup> centuries (Good: 2003; Sarkin & Cook: 2010-2011). During this pre-colonial era, the ruling Tswana kingdoms forbade Bushmen from participating in local politics and owning land, eventually reducing the group to slavery and serfdom (Good, 1993, Sarkin & Cook, 2010-2011). In one description by Siegfried Passarge, the daily life and labour of the Bushmen included “forced pillages of property, unjust requisitions for work, and most of all the daily rapes of the women and girls’...murder almost ‘constantly’ accompanied these ravages” (Good, 2003, 14). During the British Protectorate, things did not significantly change for the Bushmen, for when the British arrived in Botswana, it was the Tswana who were viewed as the ruling party while all other groups were forgotten (Sarkin & Cook, 2010-2011).

With the advent of the cattle industry in Botswana in the 1930s, much of the open lands were seized by Tswana and privatized, once again pushing the Bushmen off the land and being given no rights. Furthermore, the landowners, with the help of newer technology, began to construct private boreholes to maintain their livestock, tapping “water sources in bedrock aquifers, beneath the sand cover, allowing access to water previously inaccessible” (Morinville & Rodina: 2013, Sarkin & Cook: 2010-2011, 8). The Bushmen, who relied mostly on surface water, occasional rain harvesting, and communal boreholes as their primary water sources, were now forced to travel greater distances in search of water (Morinville & Rodina: 2013). Additionally, measures enacted by the British such as the Chieftainship Act and the Tribal Territories Act of 1933 gave greater official power to the “eight principal Tswana-descended ethnic groups”, which were later carried over into independence and to this day prohibit the “thirty eight other ethnic groups” in Botswana from meaningfully participating in politics and having a voice in greater social decisions (Cook & Sarkin, 2010).

This decades-long pattern of extending land for private cattle herders has increasingly reduced the availability of communal lands for the Bushmen, and other small hunter-gatherer communities, to subsist on. The 1975 Tribal Grazing Land Policy is another example of how the formerly “communally owned land around the Kalahari desert” was “[re-allocated] to the more economically powerful members...[of] Botswana”, which happened to also be the majority ethnic groups of the Tswana (Nthomang, 2002, 110). This not only annexed the Bushmen from their land, but left them landless, penniless, and forced into serfdom by the Tswana elite (Nthomang, 2002). This alleged economic development of cattle herding has not only stripped the Bushmen of their rights and lifestyle, but it is also presently places immense strain on the environmental resources of the country, in particular water. (Sarkin & Cook: 2010-2011) Furthermore, “the GOB has used the [Bushmen's] perceived nomadic nature as an excuse to validate denying them ownership over any land or natural resources. In a 1978 legal opinion, the GOB proclaimed that the

[Bushmen's] 'nomadic status' indicates that, 'they have 'no rights of any kind' deriving from customary practices, and in particular no land rights" (Sarkin & Cook: 2010-2011, 9).

While the marginalisation of the Bushmen began in the post-colonial period, its destructive pattern continues into the present day. Even with the demarcation of the CKGR for the indigenous group in the 1960s, the GOB continues to go to great lengths to ensure that the Bushmen are unable to survive on their land (Sarkin & Cook: 2010-2011, Survival International, Nthomang: 2002, Morinville & Rodina: 2013).

### 3. The Battle for the Central Kalahari Game Reserve

When the Central Kalahari Game Reserve (CKGR) was created in 1961, the Bushmen believed their ancestral lands had finally been returned to them. The reserve, which sits in the centre of the country, is the "second largest game reserve on the...continent" (Sarkin & Cook: 2010-2011,12). In the early 1980s, with the discovery of diamonds on the CKGR, the GOB set out to relocate the Bushmen to resettlement camps on the outskirts of the reserve (Survival International). While the government maintains that there is no linkage between the mineral discovery and the Bushmen's forced removal, some Bushmen and their representatives (e.g. human rights organisations such as Survival International) do not agree.

In three clearances spanning from 1997 to 2005, the Bushmen were "encouraged" to leave the reserve. "The rationale behind the relocation project as presented by the government of Botswana was threefold- (1) it was cost prohibitive for the government to provide services to remote and dispersed populations; (2) people and wildlife were incompatible in the reserve; (3) [Bushmen] would be better off in locations closer to developed infrastructure" (Morinville and Rodina: 2013). Furthermore, the GOB claimed the Bushmen had to develop themselves by forgoing their traditional lifestyles, as they were "'stone aged creatures' who were doomed to 'die out like the dodo' if they failed to fall in with official plans for their development" (Good: 2008, 124). The GOB not only assumed the Bushmen were a primitive and undeveloped peoples, but also that their lifestyle was greatly reducing the number of wildlife game in the CKGR, which in fact was the opposite.<sup>4</sup>

Arthur Albertson, an ecologist, developed a management plan approved by the Botswana Department of Wildlife, which would allow for the inhabitants to stay on the reserve. In his research, he found that "the inhabitants on the reserve have always lived sustainably in their community areas and have never depleted the resources...[and] wildlife members have actually increased in the reserve in recent years."<sup>5</sup> <sup>6</sup> These findings, if acknowledged by the GOB, could have contributed much to the proposed management of the CKGR and provided insight in the arena of sustainable development and conservation. However, despite Albertson's best efforts, when he and lawyer Glen Williams met with Margaret Nasha to discuss the plan, the Minister of Local Government admitted to having a copy of the plan but not having read it. Additionally, in a press conference, the minister showed the

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<sup>4</sup> <http://www.survivalinternational.org/films/carteblanche>.

<sup>5</sup> Ibid.

<sup>6</sup> [http://www.ditshwanelo.org/bw/images/CKGR\\_Seminar.pdf](http://www.ditshwanelo.org/bw/images/CKGR_Seminar.pdf).

management proposal to all, claiming it as “a plan of how the resources of the Central Kalahari [would be] used, how and by whom.”<sup>7</sup> As Carte Blanche points out, “if the minister had eventually read the plan, perhaps she missed the section which states that, ‘it acknowledges the presence of the people in the CKGR and empowers them to use their zones sustainably’.”<sup>8</sup>

In addition to this embarrassing lack of research on behalf of the government, they also continued to inaccurately maintain that the reserve was intended for the protection of the Botswana wildlife, when in fact it had been designated for the Bushmen (Taylor: 2007, Morinville & Rodina: 2013, Gall: 2003). When the British created the CKGR in 1961, it was meant as a permanent home for the tribe. However, the administrative officer George Siberbauer used the title of “game reserve” as there was no proper legislation at the time which would allow for the establishment of a “peoples reserve” (Sarkin & Cook: 2010-2011, 12). Thus, the CKGR “is unique in that it was created not only as a nature reserve but also to protect the rights of around 5000 people, mostly San, who wanted to maintain their hunting-gathering lifestyle” (Taylor: 2007, 3).

Knowing the reserve was set aside for the Bushmen and that Arthur Albertson's ecological studies have shown that the Bushmen are not negatively impacting the wildlife, what then could the Botswana government claim was the reason behind the tribes relocation? Minister Margaret Nasha in a personal interview with Carte Blanche claimed,

“The issue of Basarwa [(Bushmen)], sometimes I equate it to the elephant. We once had the same problem with elephants. When we wanted to cull, and people said no. They are such nice cuddly animals. Its not cuddliness, were talking about the environment and the destruction. The issue of Basarwa here is a human rights issue. Do you allow a section of the population to continue living in the manner they are doing? Not accessing information, not accessing education for their children and health facilities and all those things that every other Botswana has free access to. And as a government we had to take a stand and say, no that is not right.”<sup>9</sup>

Disregarding the insolent analogy of the Bushmen's and Elephant's situations, if one were to make the argument for the GOB's decision that this was merely another attempt to increase Botswana's development in the most economically feasible way, while maintaining their “African Miracle” image, the realities of the situation for the Bushmen remain horrendous. (Cook & Sarkin: 2010) For a people whose identity is intrinsically attached to their land, their removal from this land and placement in settlements, and by extension a sedentary lifestyle, is incredibly damaging. As Keitsope Nthomang notes, visiting the Bushmen's settlements reveals the extent of their suffering, as they experience problems of poverty, drug and alcohol abuse, and poor nutrition (Nthomang: 2002). Not only did the government of Botswana blatantly disobey the desire of the people to stay on their ancestral lands, which had been demarcated for them years before, and which they are entitled to,

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<sup>7</sup> <http://www.survivalinternational.org/films/carteblanche>.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

but they removed them in the name of “development”, only to place them in conditions which are leading to their demise. For the GOB to claim the Bushmen as destructive to the development of the country as a whole and then to actively participate in measures that only stunt development is seemingly contradictory. If the government truly had the best interests for the success of the tribe, surely they would work with them to ensure they were receiving the services they needed most and would contribute to their overall success.

While fingers can be pointed at the government for their condescending behaviour toward the Bushmen and their dubious policies towards human rights, one must also ask why the Bushmen went along with the government's plans and moved from their lands. In a 1996 report entitled, *When will this moving stop?* the Botswana Human Rights advocacy group, Ditshwanelo, did just that and asked residents of the CKGR why some of them had moved to the resettlement camps. In reply the residents remarked,

“there were threats that water would be cut and they would have no water supply. There were a number of other threats that were used to lure people to move. Essentially people didn't move out of their willingness, people didn't choose to move. They moved because there was fear that if they didn't move, then what would happen?”<sup>10</sup>

In addition to the various threats placed on the Bushmen to make them move, the government took extreme action to forcibly remove them from the CKGR. On January 31, 2002, in an effort to “expedite the removal of the remaining [Bushmen]... The GOB ceased provision of all basic services to the Reserve, including drinking water, [all] borehole access [and] food rations” (Sarkin & Cook: 2010-2011, 14). John Simpson, BBC World Affairs Editor, visited the abandoned villages in the CKGR, and in a documentary discovered the smashed wellheads the government officials had been sent in to destroy. Peering into the water borehole, Simpson remarked, “instead of the stuff of life, nothing but sand”.<sup>11</sup> Along with the inability to access the water boreholes, the residents were restricted from bringing water into the reserve and from hunting for food. “The GOB...removed water tanks...and then forbade the use of donkeys, which had become necessary to transport water from further away, claiming that livestock, as potential carriers of disease, threatened the wildlife” (Sarkin & Cook: 2010-2011, 14-15). Due to these restrictions, two residents died after being severely beaten by wildlife scouts for hunting, and one woman, Qoroxloo Duxee, died of dehydration and starvation.<sup>12</sup> This termination of water services by the GOB came exactly two months after the UN Committee on Economic, Social and Cultural Rights declared water a “public good fundamental for life and health...indispensable for leading a life in human dignity... [and] a prerequisite for the realization of other human rights” (UN CESCR: 2002).

The Government of Botswana, having never signed the UN declaration, did not feel bound by it and therefore did not abide by it. Therefore, the GOB's blatant disregard for international human rights spurred 243 relocated residents of the

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<sup>10</sup> <http://www.ditshwanelo.org/bw/images/CKGR%20Seminar.pdf>.

<sup>11</sup> <http://www.survivalinternational.org/films/kalaharicourt>.

<sup>12</sup> <http://www.survivalinternational.org/tribes/bushmen/diamonds>.

CKGR, under the leadership of Bushman Roy Sesana, to bring a case to the High Court of Botswana in February 2002 (Roy Sesana and Others vs. Government of Republic of Botswana: 2006). The group sought justice for their forced relocation, and the government's termination of various service provisions including access to their boreholes. Unfortunately, the case was dismissed on technical grounds and was not brought back to the high courts until 2004. (Morinville & Rodina: 2013) The appeal in 2004 spanned two years and turned out to be the most expensive court case in the history of the country (Cook and Sarkin: Spring 2010, Bennett: 2013),

“The original urgent application...over the four years...the case [ran], evolved into a full-scale trial, of a scale none of the parties, nor the two courts, for that matter, could have initially anticipated...It attracted a lot of interest, as well as a fair amount of bandwagon jumpers, both nationally and internationally...perhaps [more than] any other case has ever done.”<sup>13</sup>

The 243 applicants, all relocated residents of the CKGR sought justice not only for the wrongful dispossession of their land but also the termination of their basic and essential provisions without their prior consent, as well as the government's decision not to issue hunting licenses to the residents.<sup>14</sup> There were more than 19,000 pages of transcript, which reviewed whether the Bushmen legally owned the land of the CKGR and were wrongfully removed (Workman: 2009, Sarkin & Cook: 2010-2011). Additionally, the court assessed “the legality of the GOB's decision to cease provision of basic services to the inhabitants...whether these service ought to be reinstated...[and] whether it was unconstitutional to also deny the Bushmen special game licenses to hunt” (Sarkin & Cook: 2010-2011, 4). Furthermore, the case brought up wider debates over development and the rights of indigenous populations to manage and decide their own futures.

When the GOB was confronted with hard evidence in court regarding their termination of services and their deliberate action to deny the Bushmen water, the government's attorney, Sidney Pilane denied the accusations (Workman: 2009, 163). What Pilane claims the government did was merely “‘move its water provision’ from one place to another” (Workman: 2009, 163). If indeed the government was just moving the Bushmen's water resources to another location, it still remains unclear why they would deny the tribe the ability to bring in their own water resources to their homes in the reserve.

#### 4. The Diamond-Bushmen Paradox

In an interview in 2003, Survival International's Jonathan Mazower asked Botswana's President Festus Mogae if he would let the Bushmen return to their homes in the CKGR. In reply, Mogae said, “Where is home? Home is in Botswana where they live. The CKGR is for animals, not people. You don't know. I am their countryman and not you. I know better.”<sup>15</sup> Mogae's claims that the reserve was

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<sup>13</sup> <http://www1.chr.up.ac.za/index.php/browse-by-country/botswana/1118.html>.

<sup>14</sup> Ibid.

<sup>15</sup> <http://www.survivalinternational.org/films/kalaharicourt>.

intended for the protection of wildlife was an empty statement, perhaps intended to conceal the corrupt truth behind the situation.

The GOB throughout the entire ordeal has maintained one of two positions. Firstly, they claim that removing the Bushmen was necessary for protecting the wildlife in the CKGR, particularly because the tribes' way of hunting "interferes with conservation" (Sarkin & Cook: 2010-2011, 15). Secondly, the government believes that this is a developmental issue, wherein the Bushmen are a primitive, backwards group that must 'develop' and rid themselves of their traditional lifestyle, accepting Botswana's 'modern' society as their own (Sarkin & Cook: 2010-2011, 15). Yet, as the UN Committee on Economic, Social and Cultural Rights pointed out in a council in 2002, "water is required...to realize many of the Covenant rights" of which include: food production, securing livelihoods, cultural practices, health and hygiene as well as personal and domestic issues (UN CESCR: 2002, 3). Therefore, as Margaret Nasha and the GOB have consistently claimed that they wanted to help the Bushmen to 'develop', their actions, like cutting off their water supply, completely contradict their intended purpose. If one wishes for a populace to develop and expand, by denying them the essential tool for survival, and thus development, they are not only risking the Bushmen's lives, they are inhibiting them from moving forward in any direction.

Perhaps coincidentally, as the government has maintained these positions on the forced removal of the tribe, on the other hand they have simultaneously allowed companies such as DeBeers to occupy the reservation for diamond exploration and mining. What then is the government's public position on these claims? And does the presence of these companies not create an impediment to the conservation of the reservation, something the GOB has maintained as its original and present purpose?

In November 2002, two months before the last evictions of the indigenous Bushmen from their traditional lands in the Central Kalahari Game Reserve, President Festus Mogae proclaimed, "There is neither any actual mining nor any plan for future mining inside the reserve".<sup>16</sup> The connection between the forced removal of the Bushmen and diamond prospecting on their land cannot be overlooked, as much of Botswana's success is due to its diamonds. Even President Mogae himself said, "the partnership between De Beers and Botswana has been likened to marriage...[and that] a better analogy might...be that of Siamese twins" (Good, 2003, 17). As Jeremy Sarkin and Amelia Cook point out in their research, "diamond mining is now the core of Botswana's economy...Nearly all of Botswana's advancements in infrastructure, healthcare, and education are the result of diamond revenues" (2010-2011, 17). In 2001-2002, diamonds were recorded as contributing 33 per cent to the country's GDP, and constituting "65 per cent of government revenue, and some 80 per cent of foreign exchange earnings." (Good, 2003, 18) It is worth noting at this point that the CKGR's most lucrative resource is also diamonds, as it is "the richest diamond-producing area in the world."<sup>17</sup> However, Mogae has continually denied the presence of diamond exploration and mining on the reserve, failing to mention the four existing diamond mines which fuel Botswana's economy and that constitute more than a third of national GDP, in addition to the Gem Diamonds mine under

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<sup>16</sup> <http://www.khoisanpeoples.org/indepth/exiles-kalahar.htm>.

<sup>17</sup> <http://www.survivalinternational.org/tribes/bushmen>.



construction in the CKGR (Pulitzer Center: 2013). While Mogae has continually denied the mining allegations, other representatives, including the local Government Minister, Michael Tshipinare have stated that “the country reserve[s] the right to mine any resource wherever it deem[s] feasible” (Good, 2003, 18).

The Ghaghoo diamond mine, owned by Gem Diamonds, is located 45 km inside the eastern border of the CKGR.<sup>18</sup> It is believed to have a carat resource of 20.53 million with an estimated worth of \$4 billion US dollars.<sup>19</sup> In 2011, after Gem Diamonds board approved an \$85 million capital budget for the site, construction began.<sup>20</sup> While these figures undoubtedly are going to provide huge economic benefits for the country of Botswana, is this economic development worth the major environmental and social impacts it will have on the CKGR?

Not only are these mines on land originally set aside for the hunter-gatherer groups and the wild game they hunt, they are exhausting precious water sources out of the country's pocket. “Mining companies are paying nothing for water now...because hydraulic costs are subsidized by the government (250 million Pula or \$2.9 million), companies like Debswana have no incentive to use expensive technology that allows viable long-term use.”<sup>21</sup> While some mining companies are relying on the government for their water sources, others are drilling deep boreholes, which is also extremely exhausting on the land. “It's going fast”, says Roman Grynberg, a senior research fellow at the Botswana Institute for Development Policy Analysis. “Groundwater accumulates in geologic time and they're certainly mining it a lot faster.”<sup>22</sup>

Along with the impact these extractions will have on the already stressed water resources of the CKGR, Gem Diamonds has already negatively impacted the lives of the hunter-gatherers who both live on and own the land on which they are mining. Not only has the GOB forced the removal of the Bushmen off their land, but they have also already begun construction of the mine on their land without the Bushmen's participation, agreement, or monetary inclusion in the matter. As Survival International alleges, the company did not carry out significant consultation with the Bushmen about the matter, and more companies, such as Petra Diamonds, are now prospecting in the area.<sup>23</sup> Most interestingly, a look at Gem Diamonds' Annual Report for 2013 reveals that the company claims to have set up a “community water supply programme [which] has drilled and equipped four boreholes, giving four communities a sustainable water supply within the Central Kalahari Game Reserve”.<sup>24</sup> Not only have the communities been left anonymous, leading one to believe they could in fact be the established mining communities, but this also completely contradicts the GOB's argument that the reserve must remain as a habitat for wildlife and not for people. Even if the communities were in fact not comprised of employed miners for Gem Diamonds, one must ask why these communities are

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<sup>18</sup> <http://www.gemdiamonds.com/gem/en/operations/botswana/>.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> <http://pulitzercenter.org/reporting/africa-botswana-mochudi-water-boreholes-drills-diamond-minerals-mine-poverty-unhealthy-untreated-government-cattle-gaborone-dam-thirst-hydraulic-commercial-farmers>.

<sup>22</sup> Ibid.

<sup>23</sup> <http://www.survivalinternational.org/tribes/bushmen>.

<sup>24</sup> <http://www.gemdiamonds.com/gem/uploads/reports/reports/Gem-Diamonds-AR.pdf>.

allowed to continue to inhabit an area that has been strictly forbidden for the Bushmen. Additionally, as the GOB has continually expressed their concern that the Bushmen are a threat to conservation initiatives on the reserve, how then are they blind to the disruption that is being brought upon the land, its flora, and fauna from mining companies?

As with any extractive industry, there are environmental impacts that will affect wildlife. Nevertheless, there seems to be little to no concern for this matter, despite the insistence of the GOB for more than a decade that the CKGR must remain solely a habitat for animals. As for Gem Diamonds' plans for addressing these matters, they claim "the highest environmental standards will be strictly adhered to, to ensure minimal environmental impact from the mine's development. Independent advisors, Marsh Environmental Services, a division of Marsh (Pty) Ltd, were appointed to undertake an environmental impact assessment which included a stakeholder engagement process."<sup>25</sup> These 'assessments' are misleading to the public, as they are being done by a division of one of the world's leading insurance broker/risk management companies, which has, in recent years, been the centre of civil action cases for illegal misconduct. Not only have their business intentions been questioned, but they publically state on their company website that their "guiding principle is to consider (its) clients' best interests in all placements".<sup>26</sup> Therefore, one could conclude that Marsh Environmental Services would most likely have the best interests of their client, Gem Diamonds, a multi-billion dollar company that is likely paying them a considerable amount of money for their services, and not of the impoverished Bushmen and the wildlife who live in the reserve. One therefore cannot be assured that the assessments taken are not biased and are not concerned primarily with the economic viability of this proposed venture, but the actual environmental impacts they will have on the CKGR.

## 5. The Situation Today and Its Possible Global Impacts

Following the Bushmen's appeal in 2004, the case carried on for two years. Finally in December 2006, the court ruled that the actions taken by the GOB were unlawful (Morinville & Rodina: 2013, 8, Bennett, 2013). The land and subsistence rights were returned to the Bushmen, and they were allowed to go back to the CKGR, though this only applied to the 189 original applicants who remained alive (Morinville & Rodina: 2013, 8). As the Bushmen's lawyer recounts, "one judge held that the forced relocation had abridged Bushmen's rights to 'life, liberty and freedom of movement', and that the root cause of these violations was a view of 'development' that 'failed to take into consideration [their] knowledge, culture and ideologies.'"<sup>27</sup> Yet, while the denial of water provisions and other services remained a staple discussion in the case, the court ruled that the termination of these services on behalf of the government was not unconstitutional, and that they were not required to provide these services to the Bushmen (Morinville & Rodina: 2013, 8).

For years, the government has also continued to deny the Bushmen use of a water borehole or the ability to sink their own boreholes on the reserve. Instead, they

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<sup>25</sup> <http://www.gemdiamonds.com/gem/en/operations/botswana/ - Operations.>

<sup>26</sup> <http://www.sec.gov/Archives/edgar/data/62709/000119312504171862/dex991.htm.>

<sup>27</sup> <http://sacsis.org.za/site/article/1686.>

have been expected to carry in all of their own water resources, which fails to consider those who are old or physically impaired.<sup>28</sup> After further litigation in the Court of Appeal, it was ruled that the Bushmen were allowed to use the existing boreholes and sink their own, and that government attempts to stop them were unconstitutional.<sup>29</sup> Nevertheless, the government has continued to find means of restricting the Bushmen's rights and their ability to live on the reserve. Through the strict issuing of permits to enter the reserve, many Bushmen have been cut off from members of their families, and those who disobey these systems can be sent to prison for up to seven years.<sup>31</sup>

Most importantly, due to the fact that the ruling only applied to the original plaintiffs, it is extremely important that the Bushmen seek legal measures which will insure that their non-applicant family members will not only be able to visit the reserve, but live on it as well. The Bushmen are currently hoping to challenge this court ruling and argue that Roy Sesana and the others sued not only for themselves, but also for the entirety of their tribe who were relocated in 2002.<sup>32</sup> If the tribe is unable to do so, they risk losing their land after all of the original applicants have passed away, thereby giving the GOB what they have been attempting to expropriate for decades.

What remain as an even scarier threat are the possibilities this situation has left for the governments of other African countries to follow suit in human rights violations and water issues. If the rest of the world is able to look on as the "African Miracle" blatantly ignores human rights, what precedent does this then provide for them to feel the need to govern responsibly?

As James G. Workman discusses in his book, *Heart of Dryness*, this disgraceful 'development' on behalf of the Botswana government is not far from genocide (2009: 181). As Workman points out, "the [GOB's] coordinated plan of different actions aiming at the destruction of essential foundations of the life of [the Bushmen]", otherwise referred to as genocide, may in fact be due to resource scarcity. As seen in Sudan, after a water became scarce, fighting broke out and more than 200,000 people died (Workman: 2009, 182). As most of the interior of Botswana consists of the arid landscape of the Kalahari, and water resources already prove strained throughout periods of the year, it is inevitable that the extensive mining and resource extraction in the "most water stressed region of the world" will only further deplete the water table.<sup>33</sup> As Roman Grynberg, senior research fellow at the Botswana Institute for Development Policy Analysis, notes, "We can afford to import so we don't think twice about it. Botswana is in the pariah state category here. We share water, import water, drill really deep for water. So how are we going to pump enough for everyone to drink, keep a large national herd, and expand mining?"<sup>34</sup> As the Bushmen are hardly capable of an uprising against the government due to a lack of resources and sheer numbers, and the legal framework has done little

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<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>31</sup> <http://sacsis.org.za/site/article/1686>.

<sup>32</sup> Ibid.

<sup>33</sup> <http://pulitzercenter.org/reporting/africa-botswana-mochudi-water-boreholes-drills-diamond-minerals-mine-poverty-unhealthy-untreated-government-cattle-gaborone-dam-thirst-hydraulic-commercial-farmers>.

<sup>34</sup> Ibid.

thus far to help them, what will become of them as the fear of countrywide drought becomes realized? Is one to assume that the ancestors of all humans on Earth will just fade away like the water they so desperately have spent the past two decades fighting for?

## **6. Conclusion**

The Bushmen's history of marginalization in Botswana is not new. For hundreds of years, this culturally and historically rich tribe has been left to suffer at the hands of the prominent few. While certain measures have been taken to protect these people – such as the establishment of the CKGR and the 2006 court ruling entitling them to return to the reserve from which they had been forcibly removed – there still remain many aforementioned measures that have suppressed the lives and development of the Bushmen. The UN's declaration on the Human Right to Water was a giant step forward in the world of human rights and water issues, yet it still remains only as a declaration and not a binding mandate. As the GOB continues to focus on its economic development through mineral extraction, the already stressed water table will only become more so. The current measures and actions being taken by the GOB may not only destroy the lives and culture of the ancient Bushmen, but leave the country in a worse environmental state, of which they may not be able to come back from. For now, it is up to the world community to question the actions of the GOB and stand with the Bushmen in the fight not only for their right to water and life, but the preservation of a culture from which we all ultimately derive.

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