

22nd SESSION WORKING GROUP ON INDIGENOUS
POPULATIONS

AGENDA ITEM 4(A)

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This intervention refers to the San people of the Central Kalahari Game Reserve, Botswana.

In Africa the human rights of Indigenous peoples have been increasingly suppressed over the past three centuries, firstly by the colonial invaders, and subsequently by independent African governments that inherited the colonial biases against the innate human rights of their pastoralist and hunter-gatherer indigenous peoples.

We wish to draw attention of this forum to two major legal events initiated by indigenous peoples in Southern Africa.

In the year 2003, the Nama people of the Richtersveld won a landmark case in the South African High Court in which they won restitution of historically

expropriated land on the basis of their proven aboriginal land rights. These land rights were based upon their unbroken habitation and occupation of the land prior to expropriation, since time immemorial, and in accordance with their customary institutions and practices.

The San or Basarwa of Botswana are now locked in a crucial legal dispute with their government. The San have challenged the government's illegal eviction of San from their traditional lands in the Central Kalahari Game Reserve (CKGR) in January 2002.

The San, who have occupied the Kalahari since time immemorial, and for no less than ten thousand years, were forced to leave their traditional lands in the CKGR in Botswana in January 2002. During the height of summer, government officials supported by armed forces broke down the water tanks of the remote semi-desert San settlements, loaded them onto trucks and transported them to new "resettlement camps" outside the game reserve. The game reserve had been formed in 1961 whilst the country was still under the colonial power of England, and was specifically created in order to provide an area in which the San could continue to live their traditional lives in a natural ecosystem.

The Botswana government, one of the richest governments in Africa largely through diamond mining, has not accepted the basic principle that democracies should cherish diversity of language and culture.

The government of Festus Mogae denies the very evident situation that San people are marginalized from governance and are the poorest people in

Botswana today. The government goes further to deny the fact that the San peoples are the first peoples of Southern Africa.

In a form of cultural blindness similar to that of Australia and the USA at their worst phases during the 20th century, this African government mistakenly believes that there is no such thing in this modern age as a right to an indigenous or hunter gatherer culture. It has stated publicly that the San have no right to live “like animals” in a game reserve, and that it is its duty as responsible government to force them to leave their traditional area so that they can be part of a proper civilization.

Some powerful international campaigns have linked the aggressive behaviour of the Botswana government to the presence of diamonds in the game reserve. IPACC is closely associated with the legal team supporting the San, and believes that the current displacement of San peoples has nothing to do with diamond mining. The insistence of foreign NGOs is a on the diamond issue is confusing the already difficult negotiations in Botswana.

At stake is the rights of indigenous peoples to occupy their traditional lands, to practice their own culture, in a word: to survive.

The question that the watching world is asking is: Is it possible for the San of Botswana to receive a fair hearing in a court where the government of this small country is the defendant party?

The president of Botswana has made public statements that he fully supports his governments position on the case, and as appointer of the Judges, the legal team has thus far experienced a level of hostility and bias that brings into question the ability of the court to be fair and unbiased.

All indigenous organizations are requested to take note of this case, in which the very rights that are being debated in the Draft Declaration are being openly flouted by a modern African government.

IPACC will present a verbal report on this case at its open meeting at 6pm on Wednesday 21 July.

Thank you Mr Chairman.