



13 September 2005

Re: Forced Eviction in the Central Kalahari Game Reserve

President Festus Mogae
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Botswana
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Dear Mr. President,

The Centre on Housing Rights and Evictions (COHRE) is an independent, international human rights non-governmental organisation mandated to protect and promote housing rights throughout the world. COHRE has Consultative Status with the United Nations as well as similar status with various inter-governmental organisations around the world, including the African Commission on Human and People's Rights.

COHRE is gravely concerned about the forced eviction of Gana and Gwi Bushmen (*Noakwe*) from the Central Kalahari Game Reserve (CKGR) by the Government of Botswana. Although the Government designated the CKGR as a homeland for the Gana and Gwi Bushmen in 1961, the Government has evicted the Bushmen arguing that their hunting practices were endangering the wildlife in the reserve and that the Government could no longer afford to provide services, such as water, to the Bushmen. The Government forcibly evicted 1 500 Bushmen from the reserve in 1997. According to reports, several hundred people remained and several hundred more returned over the years. The Government again forcibly evicted approximately 700 people, destroying the houses and the water supply of the Bushmen in 2002. At least 30 people remained and others have since returned. There are currently between 200 and 250 Bushmen living in the CKGR under threat of eviction and there are another 1 800 to 2 000 Bushmen living in resettlement camps, located outside the CKGR, under poor conditions with high rates of HIV/AIDS infection.

COHRE has also received disturbing reports that seven Bushmen were allegedly tortured by wildlife officials in July 2005 in Kaudwane, a resettlement camp near the reserve. Selelo Tshiamo, one of the Bushmen reportedly tortured, died in early August 2005 due to his injuries.

The Government of Botswana has continued to delay the court proceedings that 248 Bushmen have brought against the Government in order to have their right to live on their ancestral land in the CKGR upheld. The Government has also stated that if the court rules to allow the Bushmen to return to the CKGR, the Government will amend the Constitution to ensure that they do not.

Most recently, COHRE received reports that the Government had sealed off the reserve and threatened the remaining 200-250 Bushmen at gunpoint ordering them to leave due to the appearance of sarcoptic mange among the Bushmen's goats. However, Dr. James Wood of Cambridge University Veterinary School's Infectious Diseases Consortium has said that sarcoptic mange is easily treated in domestic animals and that "there is no reason to close a Game Reserve because of its presence there."

The Gana and Gwi Bushmen and supporting organisations, such as Survival International, argue that the true reason for the evictions is to make way for diamond mining. Shortly after the 2002 forced evictions, the Government reportedly awarded diamond exploration concessions to De Beers and its subsidiaries, as well as to BHP Billiton on Bushmen land. Although there had been concessions on reserve land before 2002, the number of exploration concessions granted more than trebled from 18 in 2000 to 62 in 2002.

We wish, respectfully, to remind you that the Government of Botswana is legally bound to respect, protect and fulfil the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination and the African Charter on Human and Peoples' Rights. Indeed, the African Commission on Human and Peoples' Rights in 2002 found that the African Charter guaranteed the right to adequate housing including the prohibition on forced eviction (see SERAC and CESR v. Nigeria, ACHRP 2002). The Government of Botswana is also legally bound to respect, protect and fulfil the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In the SERAC case, the African Commission incorporated the substance and jurisprudence of international human rights law on the prohibition of forced eviction into the implied right to adequate housing in the African Charter. Since the Government of Botswana ratified the African Charter on 17 July 1986, international human rights law binding upon the Government requires that evictions can only be considered as lawful if they are deemed necessary in the most "exceptional circumstances." If such "exceptional circumstances" exist, then certain procedural protections and due process requirements have to be adhered to, including that States *must* ensure, prior to any planned evictions, and particularly those involving large groups, that *all* feasible alternatives are explored *in consultation with affected persons*. Furthermore, and in any event, eviction shall not result in rendering individuals homeless or vulnerable to the violation of other human rights. Indeed, the Government of Botswana is legally obligated to ensure that adequate alternative housing and compensation for all losses is made available to affected persons.

The forced evictions of the Gana and Gwi Bushmen were committed in violation of the Government of Botswana's legal obligations under international human rights law, for a number of reasons, including:

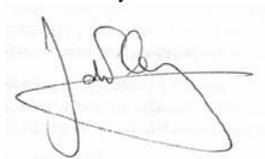
- (1) The evictions have not been deemed to meet the "exceptional circumstances" threshold by an independent and impartial tribunal;
- (2) The affected community has not been genuinely consulted;
- (3) Feasible alternatives to the planned eviction have not been considered;
- (4) Sufficient notice was not given to affected persons; and
- (5) No compensation was offered.

Therefore, COHRE urges the Government of Botswana immediately to:

- (1) Allow the Gana and Gwi Bushmen to return to the Central Kalahari Game Reserve;
- (2) Stop any plans to amend Botswana's constitution in a manner that would remove protection for the Bushmen;
- (3) Provide basic services including water to the community;
- (4) Provide restitution for all property which was destroyed by the Government; and
- (5) Provide health services for the Bushmen, particularly for those who have contracted HIV/AIDS.

We look forward to your response and an ongoing dialogue with your government on the rights of its people to adequate housing. We will be contacting your office shortly to follow up. Our staff will also be contacting your consulate in Geneva to request a consultation on these matters and our Litigation and Media Programmes will explore other forms of human rights advocacy as necessary. Thank you very much for your time and consideration.

Sincerely,



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