

## Water in Botswana: Selective Distribution of a Finite Commodity among Indigenes (San), African villages and non-Indigenous White Minority Communities, 1880s-2020

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### ABSTRACT

This article examines how water – a finite commodity, known in Setswana as *metsi* – has been distributed over time in Botswana. It argues that since pre-colonial times to the era of the post-colony there have been ever-growing calls for the rational and equitable distribution of water among all the inhabitants of the country. However, in spite of the increasing demand for equitable distribution of the resource, water has been unevenly and selectively distributed across space. Rain (known as *pula* in Setswana) is precarious. The disparities in the distribution of scarce water resources in a predominantly desert environment without much rain are historically evident in the distribution of the resource among indigenes (e.g. the San), village Africans and non-indigenous minority communities occupying the so-called white enclaves. In the pre-colonial and colonial periods, water was administered and distributed by 'tribal' authorities with no serious focus on minority indigenous groups (indigenes) such as the Kalahari San, who over time have been unequivocally displaced from their original lands or habitats. The colonial administration of the Bechuanaland Protectorate did not only neglect the San, but was also disinclined towards developing the water sector beyond the few white enclaves dotted in parts of the arid-to-semi-arid country to benefit the ever-expanding African village settlements. Such a discriminatory, selective and non-inclusive approach to water delivery had telling consequences for the sector's development in that colonial and post-colonial Botswana continued to negate a small, albeit increasingly growing Kalahari San voice for the extension of water and land rights to this marginalised community.

**KEYWORDS:** water-resources, water-scarcity, water-distribution, selective supply of water, African villages, indigenes (San communities), white enclaves, Botswana



## Introduction

Water is an essential resource for life and human development. This economic history article examines how water – a finite commodity, known in Setswana as *metsi* – has been distributed over time in Botswana. Water is one of the limiting resources to development in the arid-to-semi-arid country. The article argues that historically, water in Botswana was a commodity that was selectively distributed among the indigenous peoples or indigenes (e.g. the San or *Basarwa*, formerly known as ‘Bushmen’), the local African populations and the isolated white enclaves. It continued to be so over many decades since pre-colonial times up to the post-protectorate era (after 1966). However, in spite of the demand and growing calls to extend delivery to all the categories of the population, water in Botswana has been unevenly, and selectively, distributed across the said space.

Rain (known as *pula* in Setswana) is precarious. The disparities in the distribution of scarce water resources in a predominantly desert environment which does not receive much rain are historically evident in the distribution of the resource among indigenes (for example, the San) and non-indigenous minority communities occupying the so-called white enclaves.

In pre-colonial Botswana (prior to 1885), both water and land were used for political control by the traditional ruling elite or chiefs. In her study, Pauline Peters (1984) demonstrates that relatively small rural populations (by southern African standards) depended on artificially constructed (man-made) and protected water sources in the form of wells and boreholes. The protected boreholes facilitated political control. Early travellers to Botswana, before the declaration of the country as a Protectorate of the British, reveal that the most common source of conflict among people was over pastures for grazing their livestock. However, since the pastures were defined by the presence of water sources, the conflicts were actually over water (Peter, 1984) – a very critical resource in a country not known for water. In pre-Protectorate (pre-colonial) times, water had not yet been declared a basic human right nationally or internationally. Nevertheless, efforts existed to ensure that water was allocated to all recognised members of the community, suffice to say, the San, interchangeably referred to as ‘Bushmen’, *balala*, ‘servants’, ‘serfs’, and the ‘poor’, were not quite recognized or regarded part of mainstream Tswana societies as they were generally considered workers or labourers (Peters, 1984).

In the Protectorate (colonial) period (1885-1965), the colonial enterprise was not about the development of water provision, and other social services such as

education, health and transportation to both the Tswana and San communities but the consolidation of British territorial control in the country (Nyandoro, 2020). In the post-1885 political situation, water was in fact allocated on the basis of race.

**T**swana chiefs only wielded albeit minimal or autonomous power over water development, water supply infrastructure and other resources in their areas of jurisdiction (Nyandoro, 2020). From the early nineteenth century to much later into the 20<sup>th</sup> century, due to undeveloped water resources, many Batswana fetched water from rivers, streams and rudimentary wells as piped water was a rarity in most communities (Nyandoro, 2020). Throughout the colonial era up to 1965 water was critical in a desert climate, as rights to the commodity were also not deliberately extended to indigenes and the growing African villages. Water was mainly supplied to the isolated white enclaves dotted in some parts of the country (Nyandoro, 2018; Morapedi, 2014), with modicum supply exacerbating water shortages in the African villages (Nyandoro, 2018).

**I**t was not until the independence of Botswana in 1966 that rising local demand for water in the growing towns (especially the capital city, Gaborone) and surrounding and distant villages strengthened the government's resolve to develop national water supplies to meet increasing water demand (Nyandoro, 2018), not only for what used to be white enclaves but also for the African villages. However, notwithstanding the government's realisation that water supply had to be boosted for all the people after the attainment of independence, the human right to water was seemingly not there. The human right to water (and sanitation) was only explicitly recognised on 28 July 2010, through Resolution 64/292 of the United Nations (UN) General Assembly, but even so ratified the Resolution was not extended to the San. In fact, the San continued to be deprived of water and meaningful water infrastructure as they undeniably suffered dispossession and displacement from their lands or their original gathering and foraging or hunting grounds (Morinville and Rodina, 2013). This caused distance and a rift between the San and the government as much as it also confirmed the worsening historical conflicts between the two over land and water.

**T**his study is divided into four sections. The first section covers the historical background to the study followed by the literature review and research methodology. In the second part, the paper analyses how the Protectorate government neglected supplying water to the African villages, but concentrated

on water delivery to the few white enclaves in the country that included the Ghanzi Resettlement Scheme. However, the challenge of neglect of water supply to African areas was rectified by the post-colonial government through post-colonial (post-protectorate) water supply developments in Botswana. The third section examines the deprivation of access to water by minority groups in independent Botswana. In spite of major improvements in water supply and management water development was however confined to the African villages and major industrial activities such as mining and livestock ranching to the detriment of supplying water or even recognising the right to water and land by minority indigenes such as the San whose plight has not been addressed in spite of successive remonstrations and legal challenges heard in Botswana's highest courts. The fourth and last section is the conclusion to the paper.

## Background

The pre-colonial administrative system in Botswana was presided over by Tswana chiefs who traditionally determined the use of natural and man-made (human constructed) water resources. Pre-colonial Botswana was ruled on an autocratic governance structure with chiefs possessing enormous power and authority over water and grazing lands. Water in traditional and even modern Tswana societies signified the presence of usable grazing areas (Basupi et al., 2017). In spite of the chiefs wielding enormous power there were, however, some checks and balances that ensured they acted in a seemly manner and often exercised their sovereignty for the common good. They received direct reports from sub-chiefs appointed by the chiefs and the entire community to guarantee transparency.

In pre-colonial Botswana – a country dominated by desert and water shortages – the chiefly elite traditionally exercised hegemonic powers over supply of scarce water resources (Nyandoro, 2020). The *Kgosi* and his *kgotla* or public assembly exercised central authority over water and land in what then were pre-colonial 'towns' (Nyandoro, 2020; Peters, 1984). They dominated water administration and control in Tswana society. The centrality of control over water points thus characterised the political organisation of pre-colonial Tswana polities. With the prevalence of drought and water scarcity, the Tswana primarily resorted to sinking wells to tap groundwater prior to the widespread drilling of boreholes which started in the 1920s (Nyandoro, 2020).

Although Botswana became a Protectorate in 1885, real attempts at water development and control by the state started at the turn of the twentieth century (around 1900) when water, so vital for socio-economic development, was necessary not only for cattle husbandry but had been instrumental in the establishment of central pre-colonial 'towns' (Nyandoro, 2020; Peters, 1984). In the period after 1900, water was administered and distributed by 'tribal' authorities, however, with no serious focus on minority indigenous groups such as the Kalahari San and the emerging and growing African villages. As a matter of fact, the colonial administration of the Bechuanaland Protectorate did not only neglect the San, but was also disinclined towards developing the water sector beyond the few white enclaves or precincts dotted in parts of the arid-to-semi-arid country. Such a discriminatory and selective approach to water delivery had telling consequences for the sector's development in that it continued to negate a small, albeit increasingly growing Kalahari San voice. The neglect of water in African areas was a dominant theme throughout the Protectorate era, and continued to be a dominant question and issue even in the 21<sup>st</sup> century with respect to the extension (especially the non-extension) of water supply and water rights to the Kalahari San communities as illustrated in the literature on Botswana, which among others includes water scarcity literature and conflict literature regarding forced movement and adaptation to certain land environments (see Nyandoro, 2019a; 2019b; 2021).

## Review of Literature

Peters, in her ground breaking journal article, 'Struggles over water, struggles over meaning: Cattle, water and the state in Botswana', in the 1984 issue of *Africa: Journal of the International African Institute*, has plausibly covered issues of water, water conflicts, land disputes, and the overbearing or domineering role of the state in the country's water narratives and discourses. She has analysed in detail the extant and ongoing conflicts over water between chiefs and their subjects in pre-colonial Tswana polities and after, and the struggles over water between the Tswana and a small and exclusive group of whites (Peters, 1984). Peters has done this with a lot of research expertise and passion about Botswana water history, but although alluding to the San in only a few sentences she invariably does not quite pay attention to this category of the country's population, perhaps because the San were a group that was not organised into large and centralised polities as the Tswana (Peters, 1984).

Thus, the San (just like the Bakgalagadi – a section of the Batswana of Sotho-Tswana origins) did not only become vulnerable to domination by other, more powerful polities in pre-colonial or colonial times (Peters, 1984). But, even after independence they were excluded from formal water supply and were merely confined to ephemeral waterholes in the barren desert wilderness.

**I**n government circles, the San were perceived as primeval or ‘primitive’ and developmentally backward or static and therefore, if they were not controlled it was thought, they would deplete vital natural resources or endowments such as water and wildlife. This, though, as argued by Hitchcock (2020) is an incorrect notion about a people who in recent history have exhibited impeccable organisation of their hunting and gathering life that historically and invariably depended on sustainable use of water and wildlife game. Yet, no major community outreach engagement or research had been conducted by the government at the advent of the Protectorate or independence to either extend water supplies or avail financial resources to fund development in the San areas to rectify waterlessness and water shortage. Worse still, Winters (2019) has been quite spot-on in observing that perhaps, the government of Botswana should have implemented a management plan developed by Arthur Albertson, an ecologist, and approved by the Botswana Department of Wildlife, which would have allowed for the inhabitants (the San) to stay on the Kalahari wild game reserve.

**I**n his research, Albertson found that ‘the inhabitants on the reserve have always [since time immemorial] lived sustainably in their community areas and have never depleted the resources ... [and] wildlife members have actually increased in the reserve in recent years’ (Winters, 2019). The findings, if acknowledged by the government of Botswana, could have contributed considerably to the proposed management of the game reserve and provided insights into 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 receiving a copy of the plan but not having read it (Winters, 2019). Additionally, in a press conference, the minister showed the management proposal to all, claiming it was ‘a plan of how the resources of the Central Kalahari [would be] used, how and by whom’ (Winters, 2019). However, had the minister read the plan, perhaps she would not have missed the section which states that, ‘it [the plan] acknowledges the presence of the people in the Central Kalahari Game Reserve (CKGR) and empowers them to use their zones sustainably’. In addition to this embarrassing

lack of research on the part of the government, they (government and officials) as indicated in extant literature and scholarship on the country also continued to inaccurately maintain that the reserve was intended for the protection of Botswana's wildlife, when in fact it had been racially designated by the colonial power, Britain, for the San – then commonly referred to as Bushmen (Winters, 2019; Taylor, 2007; Morinville and Rodina, 2013; Gall, 2003). Land and water, of course, are two compatible components of any society, and waterlessness in particular was a natural phenomenon and scenario in a desert environment for which the San were not responsible. In hindsight, then the move to chastise and find fault with the San's way of living was perhaps designed or intended to justify the eviction of this group from their original hunting grounds and limited water sources under the pretext that their daily activities were not compatible with government environmental philosophy.

**F**or Nyandoro (2013, 2018) waterlessness and water shortage in largely desert Botswana pre-dated political independence. Given a backdrop of no or insufficient water in pre-colonial Tswana polities, the level of Protectorate government expenditure on water supply and state funding of surface and underground water supplies in the country since 1885 (which marked the establishment of the Bechuanaland Protectorate, now Botswana) was low (Nyandoro, 2018). Although Nyandoro (2013) contends that water supply and demand statistics for these early Protectorate years are not easy to find what is known, however, is that water demand was not high because of the small Tswana population size of about 84,210 in the 1880s, which obviously did not include the San, and few major industries (Bechuanaland Protectorate, 1927; 1936; Nyandoro, 2013). Since the 1880s, although there were no major industries except cattle, some effort though was invested in water development and research, but it was rather underwhelming or disappointing. With no perennial rivers under its full control (apart from the tail-end of the Okavango River), and a drought-prone environment the territory had few water resources to meet ordinary demand of the Tswana village communities. According to Jerven (2010) and Nyandoro (2018), water and agriculture development for the Tswana peasant sector was neglected by the Protectorate administration. Clearly, formal water sources totally excluded the Kalahari San.

**R**oe (1980), Peters (1984; 1994), Makgala (2012), Nyandoro (2018; 2020), Parsons and Crowder (1988) reveal the inadequacies of the colonial water infrastructure and management system which was largely confined to the borehole programme. The water supply system was not only confined to the

borehole programme, but it mainly favoured the few white colonial settlements to the exclusion of most African villages. The politics of exclusion hit hardest at the San who fundamentally have not been accorded water rights since pre-colonial times to date. The lack of a focused water policy by the Bechuanaland Protectorate administration also constrained the entire economy of the country (Nyandoro, 2018). In Peters' (1994) view, water development projects were constrained by limited funds and a political landscape dominated by white interests. The lack of funds thesis has also been corroborated by Morapedi (2014) who says water development on a national scale failed because available funds were often deployed for the advancement and supply of water to the few white-owned mines and ranches. If there were no funds for water development for the major Tswana polities, it is therefore axiomatic that funds were also not available to cater for the water needs of an underprivileged and societally excluded San community. Against this backdrop and literature, the selective and unequal distribution of water in Botswana among indigenes (San), African villages and non-indigenous white minority communities is examined from the 1880s to the second decade of the 21<sup>st</sup> century, with the state and Tswana chiefs, African and San lobbyists and activists being the dominant players.

## **Methodology**

This is a qualitative study in the humanities and social science disciplines. Research on which the study is based was carried out in Botswana between January 2010 and July 2012. It was conducted under the auspices of the Office of Research and Development (ORD) at the University of Botswana (UB) under whom I was a recipient of a grant to carry out research on Botswana pre-colonial, colonial and post-colonial water provision, supply and development. The ORD, however, is not responsible for the views and opinions expressed here. In highlighting water provision, the development and management of water resources in Botswana, the study draws on a rich collection of published and unpublished data including a selection of archival records from the Botswana National Archive and Records Services (BNARS), field interviews (oral sources) and secondary literature to discuss major trends in water resources provision, policy development and practice in a semi-arid environment focusing on three categories of the population, Africans living in Botswana's rural villages, the Kalahari San and whites residing in the so-called settler enclaves. The sources



used in the study assisted in detailing the opportunities, limitations and challenges facing pre-to-colonial Botswana's water sector and to record water development in the contemporary era, delineating important socioeconomic and political dynamics of the evolution of the country's water sector.

## Results and Discussion

### *The protectorate government water supply: White enclaves favoured against African villages*

Having been established in 1885, the Protectorate government neglected supplying water to the African villages, but concentrated on water delivery to the few white enclaves in the country in spite of Africans needing water. Africans living in the Tswana villages, though, had an unflinching desire to secure reliable water supplies for their cattle (Peters, 1984). This perennial desire to provide water for their animals by the Batswana cattle farmers was a major cause of conflict between neighbouring African groups and white farmers. Between the 1920s and 1930s, boreholes were seen as a solution to allaying water conflicts and to successful ranching by the Tswana cattle owners.

Good boreholes not only provided a reliable water supply, but they drastically reduced labour input compared to drawing water manually (Peters, 1984). However, the biggest challenge confronting African village communities was not the labour issue, but racial discrimination in water supply by the Protectorate Administration which favoured the isolated white areas against African rural households. The Administration wanted to promote the livestock sector but on a restricted budget. The African cattle owners hoped to secure funds from that limited budget to grow their livestock industry. But they were faced with competing demands for the funds from the relatively few white ranchers in the Protectorate and also from the 'resource-rich' African chiefly elite who owned relatively larger herds of cattle than the ordinary community members or subjects. In a situation of limited funds, priorities were therefore established at least in part by the competition between claims, and the voices of the white settlers which tended, at that time, to overpower those of the Africans. For example, since 1900 up to 1955 and even beyond water supply and funding of surface and underground water supplies in the Bechuanaland Protectorate (non-existent in the 1880s) still remained low (Nyandoro, 2013). During the so-called 'years of progress' – 1955 to the end of the Protectorate in 1965 – while some measures were taken to boost development, the measures were

nonetheless biased in support of white farmers and white enterprises mainly located in the Ghanzi white resettlement area (Nyandoro, 2020; Morapedi, 2014; Tlou & Campbell, 1997).

### *Ghanzi: A favoured white resettlement scheme in Botswana*

The colonial government in Botswana preferred and favoured the Ghanzi white resettlement scheme which was set aside for large-scale farming, ranching and mining enterprises. During the Bechuanaland Protectorate, state support for the Ghanzi white-operated farms was provided mainly for agriculture, but mostly for cattle and other livestock ranching activities (Hitchcock, 2002). The colonial administration embarked on tangible measures to bolster white farmers (Nyandoro, 2020). For example, water supplies on cattle trek routes and roads in the territory were improved. By June 1957, approximately £15,000 had been spent from the Underground Water Development Scheme D2639 in providing adequate water supplies between Ghanzi and Tshane, and on the original trek route from Ghanzi to Lobatse.

The water supplies were equipped with reservoirs and drinking troughs under the CDWF Scheme D2677 which provided for an expenditure of £5,000 (Morapedi, 2014; Nyandoro, 2020). Although there were 'limited funds' for the development of water infrastructure (Parsons & Crowder, 1988; Peters, 1994), water development on a national scale failed because available funds were often deployed for the advancement and supply of water to the few white-owned mines and ranches. This therefore does not only illustrate that a substantial proportion of the budget was expended in support of the white ranchers but also that a substantial proportion of Ghanzi's population were white ranchers (Morapedi, 2014; Nyandoro, 2020; Silberbauer, 2011). Thus, in the post-protectorate era, the state, while focusing on major economic sectors and enormously supporting mining, significantly and persistently bailed out white farming as there was massive state assistance provided for white agriculture in the Ghanzi settlement scheme.

State support since the protectorate era became the basis of the settlement's success in future as the Ghanzi farms subsequently developed into the beef hub of Botswana (Morapedi, 2014) – a status they continued to enjoy several years into the post-colony. Therefore, limited financial resources for many years did not permit large-scale investment in the social sectors of the economy such as water, energy (electricity), transport (roads), health and education (Interview with Khupe, 2011; Interview with Paya, 2011; Nyandoro, 2020). While African

development picked up momentum after independence, most of the time it was lagging behind the white development sectors. Among other things, this is what motivated the independence government to appreciate the need to rectify water shortages especially for the growing African villages, lamentably though not for the San communities perennially crying for water services provision.

***Independence water supply: The need to rectify water paucity for African households***

The paucity of water supply in Botswana that militated against growth and development had been inherited from the colonial power, Britain, but was by and large rectified by the post-colonial government (Nyandoro, 2018, Nyandoro, 2023). Given the importance of water in development, the Botswana government after 1966 embarked on efforts hitherto not prioritised in colonial times to improve supply and achieve equitable distribution of a major but finite resource. Nevertheless, Botswana faced the problem of how to equitably distribute water among its rapidly growing population (estimated at 500 000 in 1966, over two million in 2010 and 2.169 million by 2014) (Nyandoro, 2018).

Water exhibited and reflected some competing interests between African households, African and white-owned ranches, the few white-owned mines, the San and wildlife. The most compromised groups, in order of deprivation but with a vested interest in water, were the African villages and the oppressed, under-represented, vulnerable and marginalised indigenous San communities (see Nthomang, 2002). The deprivation of access to water among minority groups in independent Botswana has a long *durée* history.

***Deprivation of Access to Water of Minority Groups in Independent Botswana***

Since the establishment of the post-colonial government in 1966, there were ever-growing calls for the rational and equitable distribution of water among all the inhabitants of Botswana. However, some of the calls have not been heeded. There was unremitting neglect and deliberate underdevelopment of the water sector in the colonial period except for the development and expansion of water supply to the small but dominant white settler community in Botswana (Nyandoro, 2018; Morapedi, 2014; Tlou & Campbell, 1997). However, this argument about the colonial neglect of water resources development has been denied by Steenkamp (1991) who rejected the conventional characterisation

especially of the 1930s as either one of unremitting neglect or deliberate underdevelopment of water supplies by providing a totally different perspective regarding the cattle industry (see also Nyandoro, 2018). Steenkamp (1991), for example, pays tribute to Charles Rey, the British Resident Commissioner at the time, for responding to the needs of the country's economy with a comprehensive development strategy focusing on water resources and the revival of the cattle industry. However, his argument that cattle and water were inextricably linked in colonial Botswana, did not mean that there were no water challenges in the country as the African villages continued to experience water shortages (Nyandoro, 2018).

**T**he lack of water started to be addressed, in a meaningful sense, by the post-colonial government after 1966 especially with the enactment of the *Water Act* in 1967 in response to the deprivation and inadequacy of water (*WUC Act, 1970; WUC Annual Report, 2010/11*). The passage of the *Water Act* was soon followed by the establishment of state-initiated water supply and management agencies in the form of the Department of Water Affairs (DWA) of 1968 and the Water Utilities Corporation (WUC) formed in 1970 (Nyandoro, 2018; Nyandoro, forthcoming, 2024).

**S**ince independence, rising local demand for water in the growing towns (especially the capital city, Gaborone) and surrounding and distant villages therefore strengthened government's resolve to develop national supplies to meet demand (Nyandoro, 2018). Successive governments, in order to minimise deprivation, made enormous efforts to cater for all actual and latent water users in both the urban and rural settlements. For example, to keep pace with aggregate demand in the rural settlements, more than 60 supplementary boreholes were drilled every year (Nyandoro, 2018; Carlsson & Ntsatsi, 2000).

**I**n order to meet major urban, village and subsidiary water supplies government was complemented by the local district councils. According to the National Development Plan 8, in 1998 (the year Festus Mogae assumed the presidency) the government of independent Botswana had set up 460 rural village water supply schemes operated and maintained by the various district councils situated throughout the country (Republic of Botswana National Development Plan 8, 1992). Mogae, like his predecessor (Masire), realised that institutional stability depended on the strength and inclusiveness of village institutions (Baturo, 2014; Nyandoro, 2018) in maintaining water supply.

In 2011, the then president, Ian Khama, also demonstrated commitment to rectifying water deficiencies and deprivation in post-colonial Botswana by acknowledging the legacy of an inadequate water infrastructure inherited from the colonial government. The President demonstrated the importance of water to 21<sup>st</sup> century Botswana, when he embarked on state-initiated water and electricity projects which clearly were central to the development of the country (Khama, 2011). However, most of the plausible water development projects that were undertaken during the post-colony mainly addressed water deprivation for the formal African villages then known as reserves and the rising urban settlements, but similar efforts were not deliberately extended to address the water plight of an apparently long and forgotten constituency, the Kalahari San.

*Plight of indigenous minority groups: Government refuses to recognise san water rights*

The San, the Balala, the Nama, and their sub-groups constitute the indigenous peoples of Botswana. Although Botswana adopted the UN Declaration on the Rights of Indigenous Peoples in 2007, the country's indigenous peoples particularly the San and their sub-groups were and are still not recognised by the government. These indigenous minority peoples are among the most underprivileged in Botswana, as far as access to water, land and other resources are concerned. With their peculiar nomadic way of life – entailing being highly mobile groups or societies of hunter-gatherers of wild animals, fish and wild plants for survival – they definitely needed an ideal water environment with assured water supply and rights. All this depended on whether the government was prepared to give them a hearing or not. Their plight with regard to water rights or lack of that right has occasionally been brought to the attention of the government through the Botswana Parliament or legislature.

Parliamentary proceedings in the form of *Hansard* publications shed some light and also the *Botswana Daily News* covered some of the thorny issues concerning water. For example, representations were made in Parliament to the Government of Botswana regarding access to water by the San of the central Kalahari – known in colonial times as Bushmen (*Hansard*, 2002). However, the policy of the Government is that the San should move from their traditional settlements in the Central Kalahari game reserve to locations where the government felt that they would have better economic opportunities, and access, to services including water (*Hansard*, 2002).

Representations were further made about the need to maintain water supplies for those San remaining in the reserve, but it has been reported that water supplies have been withdrawn from this constituency because it is reluctant to be relocated (*Hansard*, 2002). It is, however, claimed that, with the relocations, the Botswana Government tried to push the San out of the Central Kalahari Game Reserve since diamonds were found there in the 1980s (Good, 2003).

The Government of Botswana (GoB) allegedly dismantled water pumps and drained the water tanks of the San in order to force them out of the central Kalahari – a move seen in the international and especially the British media as a form of ethnic cleansing (*Hansard* 2002). It was precisely for that reason that the British Government decided in 2002 to stop funding Botswana water supplies. Those San remaining – the estimates vary from between 20 to 100 people – (the actual number is about 65000) therefore had to obtain water supplies either from what they had conserved, or from water brought into the reserve, or from the mine site at Gope. In the circumstances, a legal case against the government, arguing that the withdrawal of water supplies was unlawful, was heard in court (*Hansard*, 2002).

These unsuccessful claims and conflicts over water and other resources raging in the Botswana parliament over the CKGR lands (established by the British in 1961 as a home for the San) go back to the 1970s (Winters, 2019). The ongoing ancestral land conflict between the government of Botswana and the San people, has resulted in one of the most expensive court cases in the history of Botswana. The conflict began over the relocation efforts by the government, which culminated in some forced resettlement outside the game reserve in the 1990s into the newly created settlements such as the New Xade, with some moral issues emerging subsequently due to poverty and economic deprivation.

Following the forced resettlements, and the ongoing struggle between the San and the government over land rights arguably because of the discovery of diamond reserves in the area, an organisation, the ‘First People of the Kalahari’, advocating for the rights of the San was founded in 1991, registered in 1992 and officially recognised in 1993. Since the mid-1990s, the central Government of Botswana then started implementing a relocation policy aimed at moving the San out of their ancestral land arguing that many residents of the game reserve wished to become settled agriculturists, practicing crop cultivation and livestock rearing as opposed to hunting and gathering (see Hitchcock & Vinding, 2001).

The government deemed hunting and gathering obsolete and an untenable way of sustaining the San's livelihoods, as it also saw this as incompatible with preserving wildlife resources in the reserve. This was a fundamental reason it advanced for relocating the San from the game reserve. However, the San resisted the forced eviction and relocation from the reserve which lacked services, including water, because they desired to continue with a hunting-gathering life, which was an integral and important part of their culture. On their part, there was a deep personal connection to the land in the reserve. Hence, those who opposed relocation expressed a desire to stay or return to the reserve despite the challenges of living there. Jumanda Gakelebone, a spokesman for the San in Botswana, told *The Guardian* (2014) that:

*We [the San] have survived for millennia in one of the world's driest areas but they [government] treat us as stupid. We are hunter-gatherers yet we get arrested. We cannot damage the wildlife. If we kill one animal, we eat it for a month. We are not allowed to hunt but others can.*

In addition, the human rights group, Survival International (2013), quoted Gakelebone categorically restating the San's position, thus:

*We [San] are still hunter-gatherers. We want to be recognized as hunter-gatherers. If you say don't hunt, it means don't eat. If you are going to ban hunting, you have to consult us. You're going to turn us into poachers. But hunting for us has never been about poaching. We hunt for food.*

In 2002, the government cut off all services to residents of the reserve. A legal battle, therefore, began, and in 2006, the High Court of Botswana ruled that the residents of the CKGR had been forcibly and unconstitutionally removed. The sentiments above from the spokesman of the San and from an international human rights agency are indicative of the San's refusal to move in spite of government insistence that the group should be relocated. The government though denied forcibly relocating the San. Contrary to the government denial, a 2006 ruling by the High Court of Botswana confirmed, however, that residents belonging to the San group had been forcibly and unconstitutionally removed.

Opponents of the relocation policy claimed that the government's intention was to clear the area, the size of Denmark, for the lucrative tourist trade and diamond mining. The issue of relocation thus impacted the human rights of the San as much as it exacerbated the clash of the rights of indigenous communities and their access to water with the rights of the state to environmental conservation

and mineral resource exploitation (Sarkin & Cook, 2010-2011). James Anaya, the Special Rapporteur on human rights and fundamental freedoms of indigenous people for the United Nations, described loss of land (and indeed water) as a major contributor to many of the problems facing Botswana's indigenous people, citing the San's eviction from the CKGR as a case in point. Government representatives argued that allowing even small communities to live within the game reserve was incompatible with the reserve's (if not the government's) aims of wildlife conservation (Sarkin & Cook, 2010-2011).

This official position seemed to be based on the fact that up to the era of the post-colony and contemporary historic times, the Government of Botswana still erroneously assumed that the San were autochthonous, indigenous, ancient, 'primitive' or traditional people who belonged to prehistoric times and thus did not fit into the government's revered colonially-founded notion of modernisation and what was termed 'progressive' people (Nyandoro, 2019b).

The belief in the notion of modernity on the part of the government meant that the San were seen as an undeveloped people whose lifestyle was greatly reducing or endangering wildlife game (and water) in the Kalahari game reserve, which in fact was the opposite (Winters, 2019), as they were not merely fighting for water, land and wildlife game in the reserve whose resources they in fact used more sustainably than the diamond mining companies. Such thinking that the San society and African lives in general must be re-ordered or reorganised and developed by the state to uplift their lives to a 'progressive' standard, which seems to be premised on modernisation theory and the Botswana government's notion of modernisation has, however, been challenged in other contexts (Nyandoro, 2019b; 2021). It still must be challenged when juxtaposed against the San whose way of life is not only proven but deserves to be tolerated and respected for its unique culturally grounded conservationist ethos that should be tapped into in this rapidly industrialising country by southern African standards.

Contrary to the government's thinking, it can be noted that among the San of Botswana, specifically and Southern Africa generally, nature was and continues to be appreciated, respected, honoured and revered (Hitchcock, 2020). Hence, the prescribing of standards for the development of the San in the post-colonial period is not only politically driven, discriminatory, developmentally stultic and disadvantaging the San and their community, but it is threatening to dislocate development and a cultural society and heritage that should be preserved for posterity. This then is the context in which the San, over the years,



have vociferously challenged and resisted (in courts, civil society platforms and elsewhere) the limits or restrictions (on land and conservationist grounds) imposed by the government/ which were hindering their prospects of economic, social and cultural advancement as Anaya contends.

Anaya, reacting to expectations in the game reserve and the wildlife conservation argument, said the government's position on the issue of loss of land by the San and the projected mining activities appeared to conflict with its decision to permit diamond mining by Gem Diamonds (2013) within the reserve. The mining operation was projected to last several decades, but the government contradicted itself by saying although exploration had taken place, diamond mining would not be viable and that the relocation policy had nothing to do with mining. Although the government claimed that the enterprise was not viable, in 2014 the Ghaghoo mine, operated by Gem Diamonds, however, began extracting ore in the game reserve (the ancestral land of the San). Of course, "Ghaghoo's launch was not without controversy ... given its location on the land of the San" (Miller, 2014, p. 1 in Rapaport Diamond Report, 2023). As observed by the Survival International's (2013) Director, Stephen Corry, with the opening of the mine:

*Botswana's commitment to conservation is window dressing. The government falsely claims that the Bushmen's presence in the reserve is incompatible with wildlife conservation, while allowing a diamond mine and fracking (hydraulic fracturing) exploration to go ahead on their land (see also Sarkin & Cook, 2010-2011).*

The forced settlement at New Xade in particular, created new moral anxieties. For instance, in 2005, John Simpson of the *BBC News* described the people of the area as suffering from drunkenness, prostitution and sexually transmitted diseases (STDs) and recounted the government's concealing act in the following way: 'When the Botswana government takes foreign guests to New Xade on fact-finding trips, it shows them the showcase schools and clinics which have been built for the Bushmen. [But] The VIP buses take a detour in order to miss the shebeens [bars]'. Besides the morality questions raised, Simpson suspected the relocations were partly motivated by plans for diamond mining although the government did not divulge or confirm that plan.

In a 2005 embassy communication released in 2011, the United States (US) Ambassador to Botswana, Joseph Huggins, condemned the forced evictions by stating that:

*While it is probably the case that two-three years on since the move, the greatest trauma is past, it is also clear that people have been dumped in economically absolutely unviable*

*situations without forethought, and without follow-up support. The lack of imagination displayed on the part of the GoB [Government of Botswana] is breathtaking. The GoB views New Xade as similar to many sites of rural poverty, deserving no special treatment. But the special tragedy of New Xade's dependent population is that it could have been avoided'.*

*This matter, as in other cases, was taken before the courts. In its 2006 decision, the High Court held in Roy Sesana and Others v. The Attorney General (2006) that the San who were suing the government (the San plaintiffs) were 'forcibly or wrongly and without their consent', deprived of possession of land that they lawfully occupied. The judgement [or verdict] noted conflicting and confusing statements and actions by the government. According to Anaya, the case 'highlight[ed] the failure of the government to adequately consult with indigenous peoples in significant decisions affecting them and to respect their rights to traditional lands and resources [including water]'.*

Most importantly, on 13 December 2006, the San won a historic ruling in their long-running court case against the government. According to the lawyer, Bennett Gordon (2013), representing the San, nobody thought the Bushmen had any rights before their court victory; "Nobody even cared." The case was decided shortly before the United Nations Declaration on the Rights of Indigenous Peoples was adopted in 2007. Legal scholars, Anton and Shelton (2011, p. 640) wrote that the case "amplified what some consider a potential conflict between environmental protection and human rights."

By a two-to-one majority, the court ruled that the refusal to allow the San or *Basarwa* into the game reserve without a permit, and the refusal to issue special game licenses to allow them to hunt, was 'unlawful and unconstitutional'. It also found that the San were 'forcibly and wrongly deprived of their possessions' by the government. Two of the three justices referred to the relative powerlessness of the San, partly as a result of discrimination and little to no political-economic power relative to majority ethnic groups, known in colonial times as tribes.

The court further concluded that even the so-called 'voluntary decisions to relocate' on the part of the San were not voluntary after all as they were not based on informed consent, in light of the emerging evidence that the government had not adequately informed the San about compensation or their right to return to the reserve after relocation. Although the High Court did not compel the government to provide services such as water to any San who returned to the game reserve, as of 2006, more than 1,000 San intended to return to the Central Kalahari Game Reserve - one of Africa's largest protected nature reserves.

The government, however, interpreted the ruling narrowly when it allowed only limited numbers of San to return to their cherished land, and merely required descendants (notably, the children and other relatives) of the original applicants in the case to obtain permits in order to return to their ancestral land in the reserve. However, allowing only a small or some restricted number to return to the reserve, illustrated the selective and discriminatory nature of the government as other San who were not part of the original litigants were thus not seen as belonging to the contested land. The decision to limit and/or exclude direct and indirect beneficiaries (and would-be-beneficiaries) of the High Court land conflict victory showed that the San may have celebrated their victory too soon (Taylor, 2007). As a result, in April 2008, the United Nations Human Rights Council (UNHRC) criticised the GoB for employing exclusionary tactics by not allowing or permitting certain San to return, as well as denying them the right to hunt in the reserve, despite the group having used the land for hunting and gathering for millennia or for thousands of years without damaging the environment.

The San also made clear demands for access to water. Notwithstanding the San's efforts, on 21 July 2010 the Botswana High Court nevertheless ignored their earlier 'victory' and ruled against the San, barring them from re-opening a vital waterhole in the Kalahari Desert, which is key to their way of life and survival. Thus, this is how the Botswana San lost the court case on water access. In all this, the government indeed wilfully ignored to openly declare access by the San not only to the hunting grounds but also to a critical resource, water. It was not the first time that their demand for access to water was denied. Throughout the series of cases, the High Court of Botswana was kept busy to address the San's water loss.

In the aftermath of the San's loss of water rights, an appeal in the High Court was again imminent against the 2010 ruling and judgement on water access. Thus, in the following year, a number of aggrieved members from the San community brought a new legal suit (action) to force the government to reopen the water borehole that had been closed in the reserve.

Ultimately, in 2011 the High Court of Appeals awarded the San the right to reopen or drill new boreholes to gain access to water for domestic use. It is important to note that prior to the ruling (appeal), the government had banned the San from accessing wells, which prevented them from returning home to the game reserve. The government policy of relocation also continued thereby

prompting the San in 2012 to appeal to the United Nations to compel the government to recognise the San's land and resource rights.

The rights, of course, were incomplete if they were not extended to cover water. Therefore, following the ruling in the appeal case, the government then granted the appropriate permits for workers and machinery to enter the reserve to drill water boreholes. Barrister Gordon Bennett represented the San in court as the judges declared the Botswana government guilty of 'degrading treatment' and described the case brought to the Court by the San as 'a harrowing story of human suffering and despair'. In the end, the Government was ordered to pay the costs of the San's appeal. However, as of 2013 and in spite of losing the appeal, the government was still blocking the San people's access to water in the reserve or conservation area.

According to a case study published in June 2012 by Minority Rights Group International, Gope mine owner, Gem Diamonds, was to work with the residents of the game reserve or conservancy in order for them to benefit from the mine. In that spirit, the company was to drill four new boreholes, hire residents for work, and establish a community trust, but only one waterhole had been drilled by the end of 2012. One obvious ramification of that was the persistence of the conflict through 2012 and 2013. The conflict between the government and the San therefore continued after 2012. As the conflict persisted, in May 2012 the *Basarwa* (San) appealed to the UN Permanent Forum on Indigenous Issues, asking the United Nations to force the government to recognise their land and resource rights. The forum approved a set of nine draft recommendations addressing the impact of land seizures and government disenfranchisement of indigenous people, but despite the recommendations against forced removals government relocations continued during the year in the western settlement of Ranyane prompting the High Court in May 2013 to rule that the government must stop the relocation of families from the Ranyane settlement.

Non-Governmental Organisations (NGOs) reported that the government relocated several families from Ranyane after the High Court ruling and alleged that government officials installed themselves in Ranyane in order to conduct a campaign to induce residents to move from the village, in part by blocking access to the settlement's only water supply. This was in violation of the UN General Assembly resolution of 28 July 2010 which recognised 'the right to water' as a basic human right for the underprivileged San and denounced the lack of water access and dispossession (Morinville & Rodina, 2013).

Despite efforts to have their right to land and water recognised, Survival International (2013) however reported that some San in Ranyane were still scheduled to be evicted from their ancestral land in order to create a wildlife corridor, known as the Western Kgalagadi Conservation Corridor. Although the GoB official, Jeff Ramsay, denied any forced eviction plans, a Survival International campaigner remarked:

*'I don't know how the government can say ... that they are not planning to evict them when the Ranyane [San] are taking the government to court to stop being removed [evicted]'.*

A new case was then filed on behalf of the residents. In response to a complaint filed on behalf of the residents, the court issued a restraining order in June 2013 prohibiting the government from relocating residents from Ranyane and from blocking access to the water pipe, entering any household without the occupants' permission, and removing residents without first notifying the community's lawyers. This sounded like there was some headway in the case.

Consequently, in August 2013 attorneys for the San people, in an attempt to address the never-ending conflict, filed a High Court case in which the original complainants from the 2006 CKGR case appealed to government for unrestricted access to the game reserve for their children and relatives (without permits). The case was, however, dismissed on technical reasons, with permission given by the court to refile with a new application. In a move criticised by civil society organisations and the local media, the government added the San applicants' lawyer, a United Kingdom citizen affiliated with Survival International, to a list of individuals to apply for visas to enter the country.

While the government denied allegations that it planned to bar the lawyer from entering the country, it did not grant his visa on time for him to participate in the August High Court hearing. The lawyer, Gordon Bennett, said:

*The right to a fair trial normally includes the right to be represented by counsel of your choice. Not in Botswana, apparently – or at least not if you sue the Government.*

A GoB Facebook post stated that the Department of Immigration had turned down Bennett's request for a visa, describing it as 'submitted on short notice'. A follow-up Facebook post said that the Minister of Labour and Home Affairs, the Honourable Edwin Batshu, defended this move as being 'in the interest of national security'. What is disconcerting about these conflicts and court hearings is that there is still no end in sight for the San in their quest for land and water. Besides, the greater their number, for example, approximately more than 63,500

San people between 2017 and 2020, the more they faced land hunger and lack of access to water resources in a country that is no stranger to discrimination and selective distribution of water and other resources among indigenous and non-indigenous groups.

## **Conclusion**

**M**ost studies on Botswana water history since the 1880s have predominantly argued that water was selectively distributed between Africans and non-indigenous white minority communities. True, historically water in Botswana was a commodity that was selectively distributed among those touted to be the original indigenous peoples (indigenes), for example, the San, the local African populations residing in the Tswana villages (so-called reserves) and the isolated white population living in the settler enclaves. It continued to be so over many decades since pre-colonial times up to the post-protectorate era.

**W**hile this is true, that argument misses the fact that indigenes such as the San have, and continue to be neglected in the distribution of the finite commodity (water), and indeed other resources such as land. Hence, there is a lack of equitable distribution of water to cover this otherwise important constituency or segment of the Botswana population.

**I**n spite of several litigation efforts, the law has also failed to protect this vulnerable group and, of course, its legitimate claim to water rights and ancestral land thereby creating further animosity and exacerbating the still unresolved conflicts over access to water and land between the San and the government.

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