

**Information from the
Royal Ministry of Foreign Affairs**

The Ministry's Section for Information to the Norwegian Public provides information with regard to current foreign policy, trade policy and development cooperation policy. Informative material can be ordered from fax no. +47 22 24 27 87

Foreign Ministry switchboard,
Tel. +47 22 24 36 00
Fax +47 22 24 95 80 or +47 22 24 95 81

Information is available on Internet at web-server: <http://odin.dep.no/ud>

Office address: 7. juni plassen, Oslo
Mailing address: P.O. Box 8114 DEP,
N-0032 OSLO, Norway

Information to the media:

Each of the Ministry's three Ministers has a Press Spokesman/Senior Information Officer who can be contacted through the Foreign Ministry switchboard

Foreign journalists:

The Norway International Press Centre, NIPS, is the Foreign Ministry's service centre for foreign journalists in Norway, tel. +47 22 83 83 10

In countries outside of Norway, information on the Ministry of Foreign Affairs may be obtained from Norwegian embassies or consulates

Published by: The Royal Ministry of Foreign Affairs

February 1996

Print: GCSM

Circulation: 800

E-512 E

ISBN 82-7177-420-4

NORAD's Support of the Remote Area Development Programme (RADP) in Botswana

An Evaluation Report

A report submitted to the Royal Norwegian Ministry of Foreign Affairs
by the Chr. Michelsen Institute
Development Studies and Human Rights

The Ministry does not accept any responsibility for the information
in this report nor the views expressed, which are solely those of the
Chr. Michelsen Institute

NORAD / Support to the
Remote Area Development
Programme (RADP) in Pakistan

Final Evaluation Report

The Government of Punjab, Pakistan, is pleased to announce the completion of the final evaluation report for the Remote Area Development Programme (RADP) in Pakistan. The report, prepared by the National Institute of Public Health (NIPH), provides a comprehensive overview of the programme's achievements and challenges over the past five years.

The RADP has made significant progress in improving the health and well-being of the people of the remote areas of Punjab. The programme has successfully implemented a range of interventions, including the construction of health centres, the provision of essential medicines, and the training of health workers. These efforts have resulted in a significant increase in the number of people with access to primary health care services.

Contents

Foreword	vi
Abbreviations and acronyms	vii
Summary and main recommendations	ix

PART I

1. Introduction to resources and landuse in the remote areas of Botswana	1
Introduction	1
Botswana's environment	1
Landuse in the Kalahari	6
RADP and the environment	9
RADP and the environment in the future	14
Outlook	17
2. NORAD and the Remote Area Development Programme	18
The ARADP Agreement	18
Objectives	18
Background	20
Priority setting	20
The Target Population	21
Defining the target group in RADP	22
Socio-economic and ethnic criteria	23
The settlement strategy	25
RADP and land rights	27
Alternatives to the settlement strategy	29
The National Development Plan 7	30
The Ghanzi Farms Issue	31
Foreign concern	32
The events of 1992	34
The Second Addendum	37
NORAD's new policy	39
3. The RADP as rural development	41
Introduction	41
Rural development institutions and agencies	41
Structure and process in rural development	43
Rural development policy	43
Rural development strategy	44
Remote area development policy	46
The Accelerated Remote Area Development Programme	46
Evaluation of the ARADP	47
National Development Plan 7 (1991/2-1996/7)	48

Policy on the Remote Area Development Programme	48
Policy commitments and development impact	49
Remote area development strategy	50
Business as usual?	54
The settlement strategy	55
Other rural development programmes	57
Performance of the RADP's infrastructure component	59
Performance of the RADP's income generation component	64
Performance of the RADP as a rural development programme	74
Options for the future	76
4. The organisation and administration of the RADP	80
Status of the RADP within Government and MLGLH	80
Coordination of the RADP by MLGLH	82
The staff of the RADP	84
Financial administration	88
Monitoring and research	93
Non governmental organisations	99
Future roles for the RADP	107
5. Legal aspects	
Introduction	108
Land rights and rights to other natural resources	109
Political participation	115
Law enforcement	118
Other human rights	119
Slavery-like conditions	123
6. Future cooperation between Botswana and Norway	126
Where do we stand now?	126
Preconditions for future cooperation	129
NORAD's future involvement	130
Should we wait?	137
Bibliography	139

PART II

- Annex 1: Terms of reference
- Annex 2: Agreement GOB/GON
 - Addendum 1
 - Addendum 2
- Annex 3: Itinerary and people met
- Annex 4: Participation at Debriefing Workshop
- Annex 5: The legal framework for the assessment of land rights for Basarwa and other marginalized ethnic groups in Botswana
- Annex 6: The Remote Area Development Programme of Botswana: Legal Aspects
- Annex 7: The position of Basarwa organisations in contemporary Botswana

Tables

3.1	LG 127: proposed budget 1991-1995	54
3.2	EPF livestock schemes, Ghanzi district	66
3.3	Experience of EPF production groups at eight RAD settlement	68
3.4	Planned versus 'actual' RADP expenditure 1991/92-1994/95	75
4.1	RADP staffing in District Councils, March 1995	84
4.2	RADP funding allocations, 1994/95	89
4.3	LG 127: proposed capital expenditure, 1994/95	91

Foreword

This evaluation of the Remote Area Development Programme (RADP) in Botswana has been commissioned by the Royal Norwegian Ministry of Foreign Affairs in a contract with Chr. Michelsen Institute.

The evaluation has been carried out by a team consisting of Christina Skarpe from the Norwegian Institute of Nature Research, Stephen D. Turner from Vrije Universiteit Amsterdam, Hanne Sophie Greve from CMI, Samora S. Gaborone from the University of Botswana, with Johan Helland from CMI as the coordinator. Written contributions to the work of this team have been made by Clement N'gon'gola and Bathlhalefi Moeletsi of the University of Botswana and Sidsel Saugestad from the University of Tromsø.

The report is presented in two parts. Part 1 contains the main report which presents the main features of the RADP and addresses the main objectives of the evaluation as these are set out in the Terms of Reference. The penultimate chapter reiterates several of the particulars in an analysis of RADP from a legal point of view. It discusses some of the legal aspects of programme operation, in particular the land rights situation, as well as how RADP relates to the human rights situation of the Basarwa minority in Botswana. The last chapter presents in outline possible areas of continued cooperation between Botswana and Norway. Part 2 comprises a number of annexes, including the two reports commissioned from C. N'gon'gola and B. Moeletsi and from S. Saugestad. The full text of the legal analysis presented in Chapter 5 is included as a separate annex for ease of reference.

We take this opportunity to thank the many people we met in Botswana and elsewhere for the time they took to share their views and insights with us. We have benefited greatly from their opinions, but the responsibility for misunderstandings or misinterpretations rests with us.

Fantoft, November 15, 1995

Abbreviations and acronyms

AD	Agricultural Demonstrator
ALDEP	Arable Lands Development Programme
APO	Assistant Project Officer
ARADP	Accelerated Remote Area Development Programme
ARU	Applied Research Unit
CHA	Controlled Hunting Area
DDC	District Development Committee
DDF	domestic development funds
DDP	District Development Plan
DLUPU	District Land Use Planning Unit
DWNP	Department of Wildlife and National Parks
EPF	Economic Promotion Fund
ESL	Environmental Services Ltd.
FAP	Financial Assistance Policy
GOB	Government of Botswana
GON	Government of Norway
IWGIA	International Work Group on Indigenous People
ILO	International Labour Organisation
IWGIA	International Work Group for Indigenous Affairs
KDT	Kuru Development Trust
LWF	Lutheran World Federation
MFDP	Ministry of Finance and Development Planning
MLGLH	Ministry of Local Government, Lands and Housing
MOA	Ministry of Agriculture
MTC	Maiteko Tshwaraganyo Trust
NDP	National Development Plan
NGO	non governmental organisation
NIR	National Institute of Development Research and Documentation
PAO	Principal Administrative Officer
PM	project memorandum
PRADO	Principal Remote Area Development Officer
RAD	remote area dweller
RADA	Remote Area Development Assistant
RADO	Remote Area Development Officer
RADP	Remote Area Development Programme
RDC	Rural Development Council
RDCD	Rural Development Coordination Division
RECC	Rural Extension Coordinating Committee

RIIC	Rural Industries Innovation Centre
S&CD	Social and Community Development
SIDA	Swedish International Development Agency
SNV	Netherlands Development Organisation
TCC	Tirisanyo Catholic Commission
TEC	total estimated cost
TGLP	Tribal Grazing Land Policy
UB	University of Botswana
ULGS	Unified Local Government Service
VDC	Village Development Committee
VHC	Village Health Committee
WMA	Wildlife Management Area

Summary and main recommendations

Overview

Botswana and Norway have since 1988 cooperated in the implementation of the Remote Area Development Programme (RADP) in Botswana, which aims at improving the standard of living of that part of the rural population which lives outside the established and recognized villages. The funds made available by Norway for this purpose were exhausted in 1994, although some of the funds which were approved for small projects under a facility known as the Economic Promotion Fund (EPF) have not yet been fully disbursed by the District Councils which are responsible for local implementation of the programme.

NORAD, which has maintained a programme of development cooperation with various agencies and ministries in Botswana since the early 1970s, is now in the process of restructuring its activities in Botswana. In general terms this new relationship will involve less money and fewer projects with a large capital investment component, but an increasing emphasis on projects of mutual benefit involving institutional cooperation (eventually not depending on grant funding) between public departments as well as non-government organisations and commercial agencies in the two countries.

The present evaluation has been commissioned to take stock of the achievements and problems of the period covered by Norwegian development assistance to RADP. It will also provide suggestions on future cooperation with regard to RADP in view of NORADs recent strategy for restructuring the relationship between the two countries.

This summary provides an overview of the content of Part One in this report and the main recommendations contained in them.

Summary

Chapter 1: Introduction to resources and landuse in the remote areas of Botswana

This chapter provides a brief introduction to the natural resources and the processes which govern the production of plants and animals in the areas in which RADP is operating. Variations in the two main factors of soil and rainfall are related to the variation in the vegetation communities and the wildlife resources supported. It deals with how the human population depends on the natural

environment and describes past and present landuse patterns, including the impact these have on the resource base. The Kalahari is not a desert in the usual sense. In large parts there is sufficient rainfall to allow plant growth, but the availability of surface water or shallow aquifers is limited. Plants, animals and human communities have adapted to this important feature.

Up to the advent of drilling technology some 50-60 years ago the landuse patterns in the Kalahari were characterised by low-intensity hunting and the gathering of wild food resources, as well as seasonal grazing by livestock from neighbouring societies. The impact of this landuse on the environment was low. As increasing amounts of permanent (often fossil) water became available through drilled tubewells, livestock grazing increased. Several development programmes assisted to establish permanent cattleposts and the subsequent intensified grazing has led to over-utilization of the range resources. This has had a negative impact on the vegetation and on wildlife and has led to changes in landuse. An increasingly large part of the human population depend on working at the cattleposts, partly because of the effects which livestock grazing has had on the plant and wildlife resources on which the gathering and hunting adaptation depends.

The RADP has concentrated parts of the population in settlements, primarily to provide social services like water, health care and education, but it has not been able to offer a viable landuse alternative to the inhabitants of the settlements. Limited land areas are set aside for use by settlement inhabitants, but have poor protection against trespassing. Plant foods and wildlife resources in the vicinity of settlements are quickly exhausted, and although few inhabitants have animals in sufficient numbers to overgraze the surroundings, permanent water in the settlements attracts animals from elsewhere. The permanence of settlements thus has a negative impact on grazing as well as on wild plant foods and wildlife resources, both of which now provide only a limited and supplementary income to the inhabitants who to a large extent depend on famine relief and other Government subsidies.

Suggestions for possible future landuse alternatives stress that the majority of the inhabitants of these areas must depend on utilizing natural resources for the foreseeable future. Some suggestions for arable agriculture, particularly involving cultivation of previously wild plants are discussed. A controlled harvesting of firewood from natural stands is an alternative to planted woodlots which often fail. The scope for continued expansion of livestock grazing is limited, but various forms of game ranching may be explored. Other forms of community-based wildlife management, both for hunting and non-consumptive uses, may also provide some communities with a sufficient income.

It is important that all initiatives to develop economic opportunities in the Kalahari take an ecological perspective fully into account and avoid alternatives which have

a negative impact on the natural resource base on which the major part of the population will depend also in the future.

Chapter 2: NORAD and the Remote Area Development Programme

This chapter describes some background features to the agreement entered into by Botswana and Norway in 1988 to provide financial assistance to the RADP and discusses how this agreement relates to some important issues in the history of the RADP.

The Government of Botswana and foreign donors have spent comparatively modest amounts of money on the RADP since its inception in 1974, and the programme did not enjoy a high priority in the development plans. The planning figure for NDP 6 was boosted ten-fold, however, from Pula 1.5 million to P 15.2 million, in the process leading up to Norwegian support for the programme which for a few years was known as the Accelerated Remote Area Development Programme. A similar level of funding was planned for NDP 7.

The RADP as a development effort has been ongoing since 1974. It was initially called the Bushman Development Programme but was soon renamed to avoid the notion of "separate development" which at the time was associated with the apartheid policies of neighbouring South Africa. The target group which was intended to benefit from the effort was also redefined in response to concerns about "separate development". Hence, the programme was not directed at the various ethnic groups which could be called Bushmen (or Basarwa in Botswana) but rather at a socio-economic category of Remote Area Dwellers (RADs), whose main distinguishing feature was residence outside the recognized villages. There is, however, a large degree of overlap between the two categories, so that most RADs are Basarwa and most Basarwa are also RADs.

Although NORAD throughout has accepted the reasons for using the socio-economic definition (RADs) of the target population, the alternative ethnic definition (Basarwa) seems to have been important within NORAD. The ARADP Agreement actually contains a definition of the target population which draws on both the RAD and the Basarwa definition. The important point about this difference in view is that the respective definitions carry with them different ideas about the problems which the development programme is intended to challenge. Ideally, the interventions of the development programme should address the problems at hand, and the solutions offered would therefore depend on how the problem is perceived. The RAD definition basically sees the problem in terms of degrees of poverty while the Basarwa definition points to problems arising out of the depressed status, in political, economic and social terms, of one or more ethnic groups. Although it has been politically expedient to direct attention towards the RADs for a number of reasons which also NORAD accepted, there is little doubt

that all descriptions of the situation strongly suggest that the main problem at hand is the depressed status of the Basarwa.

The tension between these two positions has been with the RADP since its inception and the main development intervention prescribed for the programme has attempted a compromise between the two, in the sense that it seems to have accepted the RAD definition for the purpose of doing something about the ethnic minority situation of the Basarwa. A settlement strategy was devised, in which social services like water, health care and education, as well as administrative services like a Headman, a tribal court, tribal police and a Village Development Committee would be offered to people living dispersed in the bush. It was assumed that the provision of water in a settlement would confer land rights on the inhabitants of the settlement, who through exclusive use would further consolidate their rights. In the event, however, the amount of land set aside for use by the settlement was not related to the number of inhabitants needing access to the land resources. Furthermore, the inhabitants were unable to exercise exclusive rights to these areas, limited as they were. In consequence, the settlements have not been able to offer any viable economic alternatives to the people who settled in them. The large majority of the inhabitants were surviving on famine relief throughout the 1980's and on other forms of Government subsidy and relief into the 1990's.

When NORAD in 1988 agreed to support RADP, it for all practical purposes accepted the settlement strategy which had been the mainstay of the programme since the beginning. Only two years later, however, a review of the situation of the RADP indicated that the strategy was not working in terms of providing the target population with an improved standard of living. The situation of the target population was described as being characterized by poverty, insecurity, inadequate education and training, weak institutions and leadership and negative public attitudes. The 1990 review therefore suggested that the RADP should shift its attention away from the infrastructure investments of the settlement strategy and rather concentrate on issues like land rights, employment opportunities, institution building, leadership training and changing prevailing negative public attitudes towards the target population.

This alternative strategy, which may be referred to as an "empowerment strategy" was endorsed in the NDP 7 which was being prepared at the time. NORAD was requested to continue its support to the RADP in the new plan period and in 1991 NORAD was actually preparing to extend the 1988 agreement and provide NOK 60 million to NDP 7. But before the agreement was extended, an episode involving 3 farms in Ghanzi District caused some misgivings.

In the 1988 ARADP Agreement, Botswana had undertaken to "provide necessary land areas for the development of employment opportunities and income generating activities" to the settlements in which NORAD would fund investments.

The exact nature of "necessary land areas" has always been a moot point, so when it became known that one of three "farms" (i.e. delimited land areas) which had been allocated to three settlements in Ghanzi District was about to be reallocated to a commercial syndicate, NORAD raised the issue with the Ministry of Local Government, Lands and Housing (MLGLH), which in addition to being responsible for land matters also is the main implementing ministry for RADP. The Ghanzi Farms issue caused a lot of turmoil between the various parties involved and was finally resolved after the intervention of NORADs main host ministry in Botswana, the Ministry of Finance and Development Planning. The incident gave rise to considerable doubts, however, about the ability (and willingness) of MLGLH to provide land rights to the target population. NORAD therefore declined to extend the 1988 Agreement to cover the whole NDP 7, but agreed to fund RADP activities for one additional year only, in anticipation of a policy statement from MLGLH to clarify its position.

In 1992 a number of events in which NORAD was only indirectly involved fuelled the tension which the Ghanzi Farms incident no doubt had created between NORAD and MLGLH. NORAD had provided financial support (outside the ARADP Agreement) for two conferences which became a platform for Basarwa activists who were in the process of forming a Basarwa advocacy and interest group. After a meeting where the MLGLH and the Basarwa representatives clashed, and which was highly publicized in the local press, NORAD (and SIDA) were publicly blamed by a senior officer in the MLGLH for fomenting Basarwa ethno-political sentiments and encouraging the secession of the Basarwa from the republic. Through the intervention of other ministries also this incident was amicably settled, but NORAD seems to have become even more determined to await the policy statement from MLGLH. The ARADP Agreement was extended for another year, but with a greatly curtailed budget (of approximately 10% of the first extension) which in effect ended NORADs involvement in the settlement strategy, at least as far as the large investments in infrastructure projects were concerned.

The level of NORAD funding to RADP in 1993 and 1994 was modest and was specifically directed at "technical assistance, research/studies, training, cultural activities and sponsoring of a regional conference", all activities which are much more closely related to the "empowerment strategy" than to the "settlement strategy" as such. The high point in this respect is no doubt represented by the Second Regional San/Basarwa Conference which was sponsored by the MLGLH in Gaborone in October 1993. The change in atmosphere from the highly confrontational MLGLH - Basarwa meeting in 1992 is truly remarkable. The aftermath has not, however, been equally encouraging.

This last period of NORAD funding coincided with NORADs work to formulate a new policy document of its own concerning continued cooperation with Botswana. Since the agreement expired NORAD has to a large extent cut itself off

from influence in the RADP. The momentum which was built in support of the "empowerment strategy" since 1992 and which perhaps peaked with the Regional Conference in 1993, seems to a large extent to have been lost. There has been no follow-up to the Conference (even the proceedings have yet to be released) and the MLGLH policy document on new directions for the RADP has not yet been finalized. But there is general agreement that the RADP has not yet done the job in terms of improving the standard of living of its target population and that there is a need to examine the RADP and launch a new initiative.

Chapter 3: The RADP as rural development

This chapter places the RADP in the context of rural development in Botswana, and makes the point that the RADP in many ways can be seen as a microcosm of the entire rural development effort since it addresses most dimensions of rural development. A brief outline of Botswana's development bureaucracy and main policy coordinating units is given, to show the many structures which potentially are available to the RADP, as well as to indicate the difficulties a small, understaffed and modestly funded RADP Unit in MLGLH (and, more importantly, in the Districts) must relate to in attempting to direct a complex programme like the RADP.

The general policy direction of the RADP derives from the Government of Botswana's Rural Development Policy which was set out in 1972:

On the basis of democracy, development, self-reliance and unity Botswana should strive for social justice and equality of opportunity. Persuasion rather than compulsion should be used to achieve change. These objectives were to be realised through a rural development programme with the following aims:

- * increasing sustained production from the land, through the introduction of correct landuse and management practices
- * improving marketing and credit facilities in the rural areas
- * creating new employment opportunities
- * improving services in the rural areas (water supplies, education, medical and welfare services etc), leading to healthier, smaller, better educated and better fed families.

In general terms, Botswana has had the greatest success with the fourth of these aims, and has made impressive advances in the provision of services and facilities related to them. The aim of increasing production through correct landuse has fared less well. Schemes like the Tribal Grazing Lands Policy and the Communal

First Development Areas have failed to provide equitable and sustainable development. The rural areas remain (perhaps increasingly) dependent on central government subsidies and remittances from the mining industry and the urban sector.

The RADP is a special case of this general picture. Also here the provision of infrastructure and services is impressive. But the lack of economic alternatives is even more stark in the RAD target population because it is compounded by low social status, lack of security and negative attitudes from the public and Government and Council staff. One of the two main recommendations of the 1990 review of the programme point to how the poor background and training of the RADP staff hampers implementation and strongly recommends a programme to rectify this situation, and the second one urges a strong initiative from the RADP to combat the negative and discriminatory attitudes which the RADs and the Basarwa had to suffer. The NDP 7 endorsed the 1990 review and suggested a policy for RADP which would move it away from services and infrastructure and concentrate on a programme of (political), social and economic empowerment. As indicated above, a policy statement to set out new direction for RADP has been awaited since 1991. Even if this document has yet to appear, the general trend in other statements concerning the remote areas seem to move away from the insistence of the socio-economic and geographical criteria defining the RADP target group, and are becoming increasingly permissive of Basarwa aspirations, recognizing the need and possibility for greater ethnic diversity in Botswana. But so far the RADP has actually done very little to promote the recommendations of the 1990 review.

The main document directing the RADP at present is the technical Project Memorandum prepared for NDP 7 which sets out the various activities which are comprised in the RADP. It includes the following:

- * water supplies, which are fundamental to any settlement
- * land, for which no particular policy guidance is given, focusing attention on land for residential and arable purposes (as well as access to grazing areas governed by the construction of a water supply system). A campaign to combat negative attitudes in land boards and other institutions relevant to the distribution of land rights is mentioned but has seemingly never been implemented.
- * hunting rights will be distributed through the issuance of Special Game Licences and RADs living in the delimited Wildlife Management Areas are to receive first priority in exploiting the wildlife resources of the WMA
- * economic activities are to be promoted through the EPF. Activities should not be directly subsidized by EPF, but the EPF could be used to provide entry tickets into regular (and heavily subsidized) economic programmes like the Arable Lands Development Programme (ALDEP) or the Financial Assistance Policy (FAP). The danger of continued dependence on government subsidies

is recognized and the importance of new ideas for sustainable and practical enterprises is stressed. Great importance is attached to the Business Advisors in the Districts (withdrawn in 1992) and the Assistant Project Officers (APOs) which had been deployed to a number of settlements (without preparation and training).

- * labour-intensive works are included in the RADP to compensate the settlements for the withdrawal of drought relief programmes. The 1990 review had raised this issue as a major concern since so many people in the settlements were directly dependent on famine relief.
- * education and health facilities will continue to be provided, with some adjustment to take account of concerns raised by the 1990 review, in particular the dismal standard of care offered in the RADP-sponsored school hostels
- * cultural activities is a funding item which has been consistently under-utilized and it was hoped that the newly deployed APOs would come up with good ideas to promote cultural pluralism
- * the training budget is intended to support e.g. economic promotion but may cover training activities also beyond simple skills training
- * monitoring and research are items which have been specifically mentioned in the ARADP Agreement and were intended to continue in NDP 7.

The 1991 Project Memorandum takes some of the concerns of the 1990 review into account but directs most of the resources to the traditional RADP activities of infrastructure development. Given the decentralisation efforts in effect at the time the Project Memorandum leaves much of the fine-tuning of actual project design to the District staff. Some additional emphasis is given to the empowerment aspects arising out of the 1990 review, but the general direction of the programme remains the same.

The performance of the RADP with regard to the infrastructure development components of the programme is by and large satisfactory. The various projects are competently planned and executed, but at a high cost. This is particularly noticeable with respect to water development. Once a decision has been made to provide water to a settlement, RADP, the Department of Water Affairs and the Council Water Departments will go to surprising lengths and levels of expenditure to provide this basic service. The alternative of moving settlements, even those with comparatively few fixed assets, to locations where water may be available more cheaply is politically very difficult. It has happened in a few places as a last resort. But as long as the substantial funds required for are available from central government (and NORAD) the policy is to provide water at the locations where people decide to live. One should note, however, that RADP only plays a minor role in the technical implementation of water projects. It is involved in the selection of sites, but beyond that RADP basically serves as a channel for funds to the technical departments. The same basic structure also applies with regard to health services. Once a settlement is approved for investment, the District Health Team, in cooperation with the technical departments of the District Councils, will

take over planning and implementation. RADP provides funds for some of the health facilities in the settlements, but the District Health Teams have also got other sources of funding for the health services.

RADP plays a much more active role when it comes to education. The provision of physical facilities is carried out by the Council technical departments also here. In a transition phase, however, before the Council education department takes over the responsibility for the school, RADP may directly run the school as a private school. RADP is also in running hostels, in addition to finding places for RAD children in secondary schools. This seems to be a major area of concern to the RAD officers, who spend a lot of time transporting school children back and forth, buying books and school uniforms etc. The education component of RADP is, however, much more controversial than the water and health components. In general terms the issues centre on the quality and relevance of the education provided and the level of care provided to RAD children. The situation in the hostels is a recurrent and painful subject. The 1990 review discussed education matters at some length, but none of the important recommendations seems to have been followed up by RADP.

The component of labour intensive works in the settlements was introduced to compensate for the withdrawal of drought relief programmes in 1991/92. The 1990 review pointed out that large parts of the population in the settlements depended on drought relief for their daily subsistence and would suffer unless compensatory schemes were introduced. It is not a major component in RADP and is used to implement various small village construction tasks. Planning and implementation of the actual projects may appear somewhat haphazard, but as a source of income to settlement inhabitants this component seems to make a small contribution.

The Economic Promotion Fund is the largest of the non-infrastructure components of RADP. Funds have not been disbursed very quickly because most RADP Units in the Councils have emphasized skills training courses before investments in productive enterprises are made. Both elements have suffered long delays. In sum, EPF has been mostly successful in promoting enterprises which **both** most RADs and most RADP staff know something about, viz. raising cattle and small stock. It has been largely unsuccessful with the wide range of other less familiar activities which have been tried out, e.g. arable agriculture, horticulture, artisanal enterprises (carpentry, masonry, blacksmith workshops, tanneries and leathercraft, bakeries, sewing groups etc) crafts production (wood and bone carving, basketry, pottery), small commercial ventures (shops, kiosks, food stalls), even wildlife harvesting and the commercialisation of veld products. The failure of the EPF to make an impact in this field must be related to the lack of background and training of the RADP staff. The cadre of expatriate volunteers which was attached to RADP as Business Advisers was withdrawn in 1992 and has not been replaced. At present the task of generating ideas, planning and implementing projects is largely left with the most junior and least qualified staff in RADP, - the Assistant

Project Officers residing in the settlements. The RADP staff know they lack the training for the job of successfully managing the EPF and training was recommended by the 1990 review, but next to nothing has been done by MLGLH to remedy this situation.

EPF has been used to pay for the grantee contributions required for ALDEP or FAP grants. Again a crucial prerequisite will be the type of support, supervision and professional backstopping available to grantees. There are agricultural extension agents in some of the settlements, but in general the conditions for arable agriculture is marginal. Other types of projects will have to rely on RADP staff, who lack the background, training, supervision and support required.

As things stand today, the results do not warrant the money and effort which go into the EPF. Recommendations are made for a substantial review and revision of EPF, but any changes made will be invalidated unless they are closely linked to the training programmes which have been recommended to the MLGLH since 1990.

In sum, RADP seems to a large degree to have lost its sense of direction and purpose. Its decentralised structure has delinked it from the major concerns of Botswana rural development policy and its priorities seem to be determined by the practical expedients of implementation more than anything else. There is thus a strong preference for straightforward and expensive infrastructure projects for which the Districts have an implementation capacity (and where the RADP is only marginally involved) and a lack of attention to the more complex and challenging components such as EPF.

This report argues that there still is a need for a special initiative directed at the particular problems of the remote areas within the general framework of rural development policies in Botswana. There are several options for the vigorous relaunching of RADP. The recommendations of this report is that the responsibility for policy guidance and coordination should be accepted by the Ministry of Finance and Development Planning, where the post of RADP coordinator should be created. This would allow broader strategic better planning and improved coordination with other relevant Government rural development programmes. Operationally the programme should remain within MLGLH and the Councils. A major and absolutely necessary condition, however, for any relaunch of the RADP to succeed, is the training of RADP staff which now must be given the highest priority.

Chapter 4: The organisation and administration of the RADP

This chapter starts by pointing out that there is widespread ambivalence in Government in general and within the MLGLH in particular about RADP. Many

people do not understand or accept that RADP is necessary and the lack of clarity with respect to the goals which RADP actually pursues creates ambivalence about the programme and gives it a low status. The mundane nature of the task where RADP is successful (infrastructure development) and the failure of RADP to achieve much in the more challenging field of income generation, together with the low opinion on the remote areas and the Basarwa which many Batswana officers in central government hold, all contribute to the low status of the programme. Its profile and standing is slightly better in the Districts, primarily for the politically useful funds it makes available.

RADP is a decentralised project which is only loosely coordinated by a one-person unit in MLGLH who issues general guidelines on capital expenditure to the District in accordance with the national project memorandum (PM to LG127). Detailed planning and implementation is left to the Districts which have sufficient autonomy to overspend on the programme categories which are quick-disbursing, i.e. infrastructure, while under-spending on the more difficult ones, e.g. EPF. The coordination provided by MLGLH is low-key, routine and administrative in nature, leaving most of the initiative and fine-tuning of projects to the Districts. This has characterised the relationship between MLGLH and the Districts at least since Egner's evaluation of the programme in 1981. A more vigorous and proactive promotion of policy goals and a more active coordination of the effort is clearly necessary.

RADP staff are managed by the Unified Local Government Service (ULGS) in the MLGLH. In March 1995 the total establishment comprised 73 posts, of which 52 were in the junior 'B' grade. Only 12% of the posts were vacant. It was not possible to locate job descriptions for the RADP staff and for some (junior) grades they clearly had never been prepared. The composition of the RADP staff complement, recruitment, training and promotion did not seem to be well related to the particular challenges of RADP. Particular criticism must be raised on the subject of staff training. Training of RADP staff was identified as a particular and urgent need already in 1990. ULGS has in the intervening period done very little to meet these needs and the training issue remains as critical as it was in 1990. In terms of operational efficiency the situation has been compounded by the departure of the Business Advisers. There is thus an urgent need to do something about the training situation and the following recommendations are made:

- * immediate training courses for the APOs
- * the design and delivery of a special training module on the remote areas
- * structured career planning and supplementary training of all RADOs, SRADOs and PRADOs
- * design and delivery of in-service training for all RADP staff without qualifications for Certificate-level training
- * design and delivery of staff monitoring and in-service refresher training

The financial administration of RADP has been reviewed in detail in a separate report (Sharp, 1994) which concludes that it on the whole has been competent and well documented. Annual audits of Council accounts are carried out as a statutory requirement. The main issue in relation to RADP does not arise at this level but rather in connection with the accepted practice of allowing actual expenditure to deviate considerably from the agreed budgets, according to the problems and pragmatic priorities of the individual districts. Reallocations are accepted as a matter of routine and this has greatly contributed to the steady erosion of funding for the more challenging components of RADP. The RADP Unit in MLGLH appears to simply accept that funds are not spent on cultural activities, information activities, training workshops, monitoring and evaluation and allows the unspent funds to be diverted to activities where they actually will be spent, viz. infrastructure development. Additionally, the practice of allocating funds to the Councils for EPF and labour intensive projects in advance has led to a situation where unutilized funds have been piling up in District accounts due to delays in implementation and disbursement.

The ARADP Agreement of 1988 attached great importance to a component of monitoring and research. The monitoring plan comprised the creation of a data base in which progress on implementation would be recorded, as well as a system of baseline studies and impact assessments to be carried out through the life of the programme. Parallel to this a surveys and studies component would examine various aspects of the programme.

A data base was established, but with serious design faults. When Sharp in 1994 attempted to retrieve data from it he concluded that "it can be categorically stated that the system as it stands is not a functioning system that can keep track of the financial and physical progress of the programme" (Sharp, 1994:6) A monitoring system with these capabilities would be a great advantage to the RADP and a redesign/re-establishment is recommended.

Funds have also been utilized to carry out baseline studies and later, to assess the impact of RADP. A lot of potentially valuable information and case by case comparisons of specific communities have been collected, but it is symptomatic that almost a year after the last draft report was submitted, no comment have been forthcoming from MLGLH. It seems fair to say that this component has had little impact on the operations of RADP.

A number of surveys and studies of specific areas have also been commissioned by RADP, basically for use in the Districts for policy and planning purposes. These, in addition to the considerable amounts of academic research which has been carried out in contexts outside RADP, constitute a considerable body of knowledge on the situation in the remote areas. But it has actually been argued that too much information exists and that the absorptive capacity for this kind of work is steadily decreasing in the Districts as well as in the central ministries. It

is probably too early to say if these reports have had any significant impact. There is a tendency for this work to be disregarded and it is known that in one case a commissioned survey report was flatly rejected by the District Council (in Central District) because it proposed overt action and taxation to improve the situation of cattlepost Basarwa.

The surveys and studies component, which was coordinated and facilitated by a Research Facilitator attached to the University of Botswana, has had the additional effect of establishing a small nucleus of research on Basarwa issues at the university.

Finally, this chapter reviews the relationship between RADP and a number of NGOs in Botswana who have shown an interest in the issues which RADP is dealing with. There has been a tendency, since the Ghanzi Farms incident in 1991 when the NGO consortium which was set up to assist with land use planning and implementation of development activities on the farms was blamed for the debacle. The NGOs and RADP have to a large extent moved on separate tracks and there is no institutional mechanism which allows them to meet except on an informal basis. NGOs assisted greatly with the organisation of the Second Regional San/Basarwa Conference referred to above.

A few of the NGOs operate exclusively in the remote areas, while others have particular programmes for e.g. Basarwa communities. There is an active networking component among the NGOs, however, and there are several projects where two or more NGOs cooperate in a RAD settlement. A distinction may also be made between NGOs who are mainly preoccupied with income-generating projects based on natural resources management or otherwise, and NGOs with a profile more dominated by training, awareness-raising and mobilization. Some NGOs combine the two approaches. The NGOs can potentially contribute in a significant way in both respects, on the one hand generating new ideas and running pilot schemes to try out new interventions, and on the other hand as facilitators and organisers in the "empowerment strategy" which is under way and which will eventually give the Basarwa communities a voice to articulate their own interests.

Chapter 5: Legal aspects

The virtual absence of land rights and rights to other natural resources for the Basarwa in Botswana, is to a large extent a legacy from the British Bechuanaland Protectorate. There is, never the less, an urgent need for the Government of Botswana to stop the withholding of rights which has continued also in independent Botswana.

Although these rights have not been duly recognized in the past, it appears obvious that the Basarwa people had rights to land and other natural resources in their native lands. These were rights of a character which would command legal recognition in any modern, civilized and democratic nation. This can be no less so because the authorities in the Protectorate era chose to neglect or rather disregard these rights to enhance their own power by laying claim to vast areas conveniently labelled as *terra nullius* and proclaimed as Crown lands.

Secondly, it should not be held against the Basarwa that numbers of them have moved or been moved more or less voluntarily to RAD settlements and that they thereby 'deserted' their traditional and historical land titles. In cases where the Basarwa have been moved out of an area to allow others to lay claim to former Basarwa lands, it ought to be considered whether the titles to land given to the newcomers ought to be invalidated in favour of the Basarwa.

There is moreover, an urgent need to have exclusive titles to the land occupied by the RAD settlements and provided to each settlement as such, and to limit access to reside in the settlements to the target groups of the settlements. Otherwise the historical conclusion concerning the entire RADP may be that in actual fact it was a programme which was paid for by the Basarwa themselves since they were seen as renouncing their historical land titles; and that they mainly did not receive anything in return.

The GON should promote affirmative actions to recompense the Basarwa for their previous losses in order to promote also equal rights for the Basarwa in Botswana.

The needs of the Basarwa and other ethnic minority groups for means of subsistence may in part be met by securing them land titles and access to other natural resources. The next requirement in line is to create employment opportunities in the settlements or adjacent areas -e.g. in Wildlife Management Areas - and to help implement income generating schemes for the RADs.

Considering that the marginalization of the Basarwa has taken place in most relations, a wide variety of affirmative actions are desirable to grant the group and other clearly underprivileged groups their equal rights. Both general education as well as education fundamental human rights, and to motivate and prepare for political participation, are other fields that ought to be given some priority.

A revision of the legal system in Botswana to remove all and any concepts and provisions which could be fostering inequality in disregard of the principle of non-discrimination as enshrined in the Constitution (cf. *Annex 6* Chapter 2.1), is also desirable. This will be in line with the amendments made in the Tribal Land Act in 1993, and the forthcoming changes in Sections 77, 78 and 79 of the Constitution.

There is an urgent need to provide the Basarwa and other marginalized ethnic minority groups with access or improved access to legal services. The main problem of the minority groups is not that the legal services as they exist today are not good enough, but that such services basically are out of reach to them - geographically, financially and/or conceptually. The Botswana legal system utilizes para-legals, in addition to fully qualified staff. It should be explored if para-legals could be engaged to bridge the gap between the minorities and the overall legal system of Botswana. Moreover, decisions made by Basarwa customary courts are in need of being given more weight and recognition in Botswana. This is no less so when *e.g.* there is a Basarwa *Kgotla* decision in a settlement which goes against outsiders and intruders. The integrity of these institutions must be respected.

To improve the monitoring of the human rights situation for the minority groups it seems important to support interest groups from within the minorities (such as *Kgeikani Kweni*, The first people of the Kalahari) and local human rights groups (such as *Ditshwanelo*, The Botswana Centre for Human Rights). The mere fact that someone of some authority (through status or numbers) pay attention to the human rights situation, makes it in general more costly for those who violate those rights. What can be done clandestinely is one thing, what has to be answered to in public is a different issue altogether.

It is suggested in the *Memorandum on The Strategy for Development Cooperation between Botswana and Norway, 1994-1996 and Beyond* (p. 6) that there may be new areas of cooperation between the two countries, including institutional cooperation. As example of one of the institutions that may be appropriate for cooperation the Norwegian Parliament's Ombudsman for Public Administration is mentioned. There seems to be little doubt that it would be helpful to have an Ombudsman system to supervise the human rights situation for the Basarwa and other marginalized groups in the period of transition when affirmative actions are needed to secure equal rights for these groups.

Main recommendations

Chapter 6: Future cooperation between Botswana and Norway

This chapter draws some general conclusions from the preceding chapters. It recaps how RADP has been characterised by the "settlement strategy" in which it was assumed that land rights and access to resource would be gained for the RADP target population through a programme of infrastructure investment and how the 1990 review (by Kann *et al.*) recommended that this approach be replaced by an "empowerment strategy" instead. NORAD had initially to a large extent shared the assumptions underlying the "settlement strategy" but has since the Kann review restructured its support to RADP to take the "empowerment strategy" more fully into account. After the tension which arose between MLGLH and NORAD

in 1991 and 1992, NORAD has insisted on waiting for a policy statement on the future direction of RADP before committing itself to further support. This statement has been delayed, but MLGLH initially took some steps to support the "empowerment strategy" when it agreed to sponsor the Second Regional San/Basarwa Conference in October 1993.

One of the main problems RADP has to contend with is the low status it enjoys within the development bureaucracy in Botswana. It has been quite forcefully promoted by various donors since its inception. Donor support expired in 1994 and RADP has operated at a reduced level of activity and funding. Although NORAD in many ways has cut itself off from further influence within RADP with the termination of funding, NORAD interest, both within RADP and outside have contributed to put RAD and Basarwa issues on the political agenda in Botswana. There are now local interest and advocacy groups which will carry these issues forward. One of the main preconditions for a resolution of the difficult issues involved in increased Basarwa access to the natural resources on which they depend is that the question is brought on to the political arena in Botswana, in the sense that Botswana politicians must accept it as an issue which they, not foreign donors must resolve.

NORAD's continued involvement will be shaped on the basis of NORAD's new strategy for development cooperation with Botswana. In the context of this new outlook continued support to a large investment programme is excluded. NORAD must therefore structure future support within the perspective of an "empowerment strategy". Four main areas of interest to future cooperation are outlined.

On the assumption that the "Basarwa issue" can only be solved by the normal political processes of Botswana, NORAD should openly declare that it wishes to support Basarwa interest and advocacy groups in their articulation of Basarwa interests, including land rights and access to resources. NORAD should also declare its interest in assisting the Government in relaunching the RADP on the basis of an improved structure for policy formulation and coordination. A major requirement in this respect is a cadre of staff which is competent to handle the many difficult problems of the remote areas. An overhaul of RADP staff, including training and re-training is suggested as the main areas in which NORAD should be involved. This may include continued technical assistance within the Business Advisor cadre for some time to come.

As far as continued NORAD support to the substantial components of RADP is concerned, the main effort which would support an "empowerment strategy" would be a renewed initiative within education. Education is a controversial issue in the context of Government-Basarwa relations and raises a number of operational as well as policy questions. The issue should be approached with an open mind and a pilot project for Basarwa education, with full professional design and

backstopping, is suggested as a suitable format of cooperation within this important field.

Finally, the one field related to RADP and Basarwa issues in which NORADs henceforth preferred format of institutional cooperation is most advanced is within the field of research cooperation. The University of Botswana, which no doubt will continue to play a role in RADP training and staff development, as well as in educating its own staff, students and the general public, has established a Basarwa research programme. A programme of institutional cooperation in respect of the Basarwa research programme is being discussed by the University of Botswana and the University of Tromsø. This should be encouraged.

NORAD has suspended its support to RADP in anticipation of the new RADP policy statement. This has been delayed for a long time and at present it seems unlikely that it will have a significant impact on the situation. NORAD should not wait for the policy document but rather go ahead and declare its intention of assisting the government in finding a solution to the "Basarwa issue", including Basarwa land rights in accordance with the internationally accepted standards to which Botswana wishes to adhere, in the spirit of cordiality and mutual trust which has been built up over the past 25 years. The areas of cooperation outlined above will contribute towards this end.

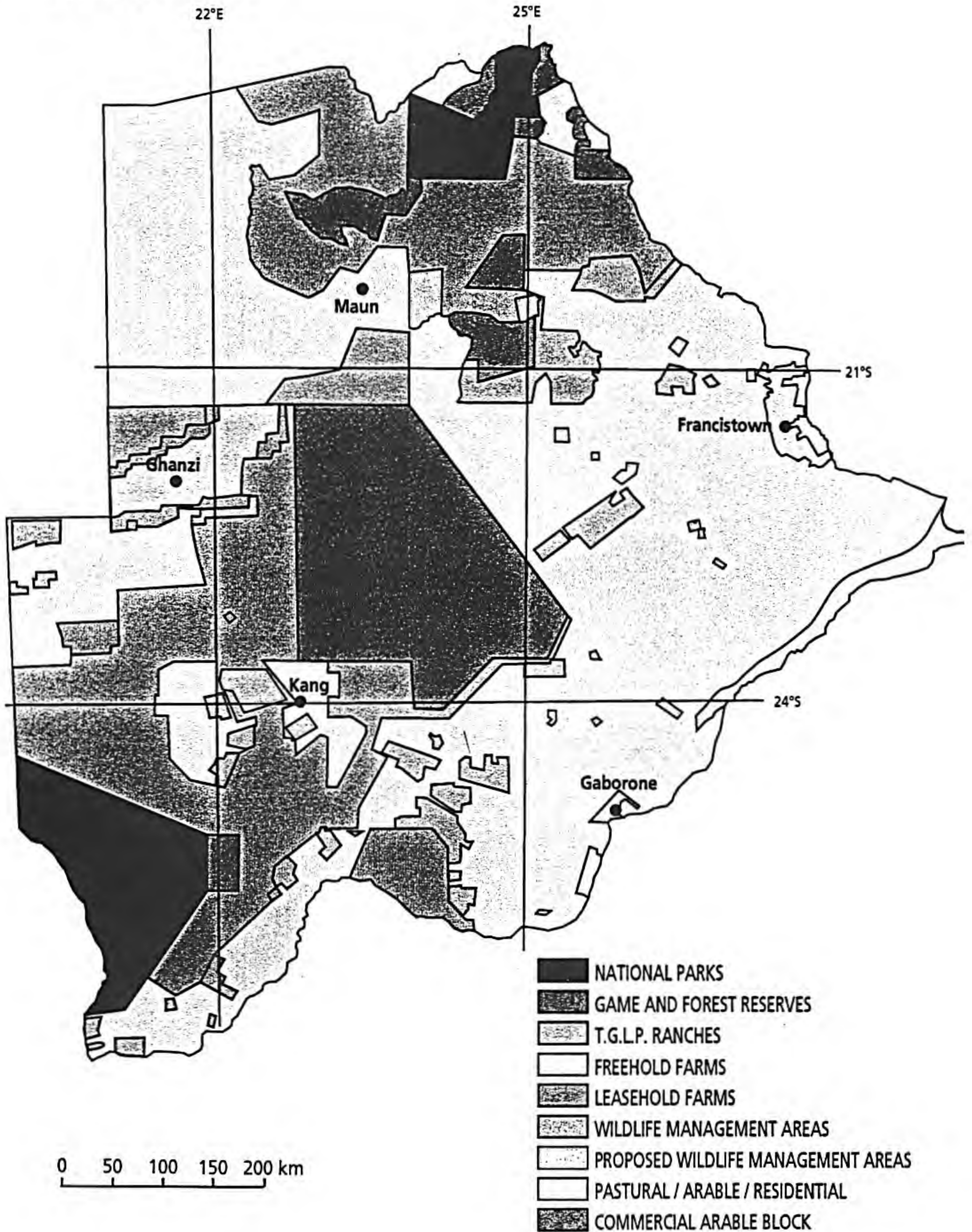
PART I

PART I

NATIONAL LANDUSE MAP

MINISTRY OF LOCAL GOVERNMENT AND LANDS

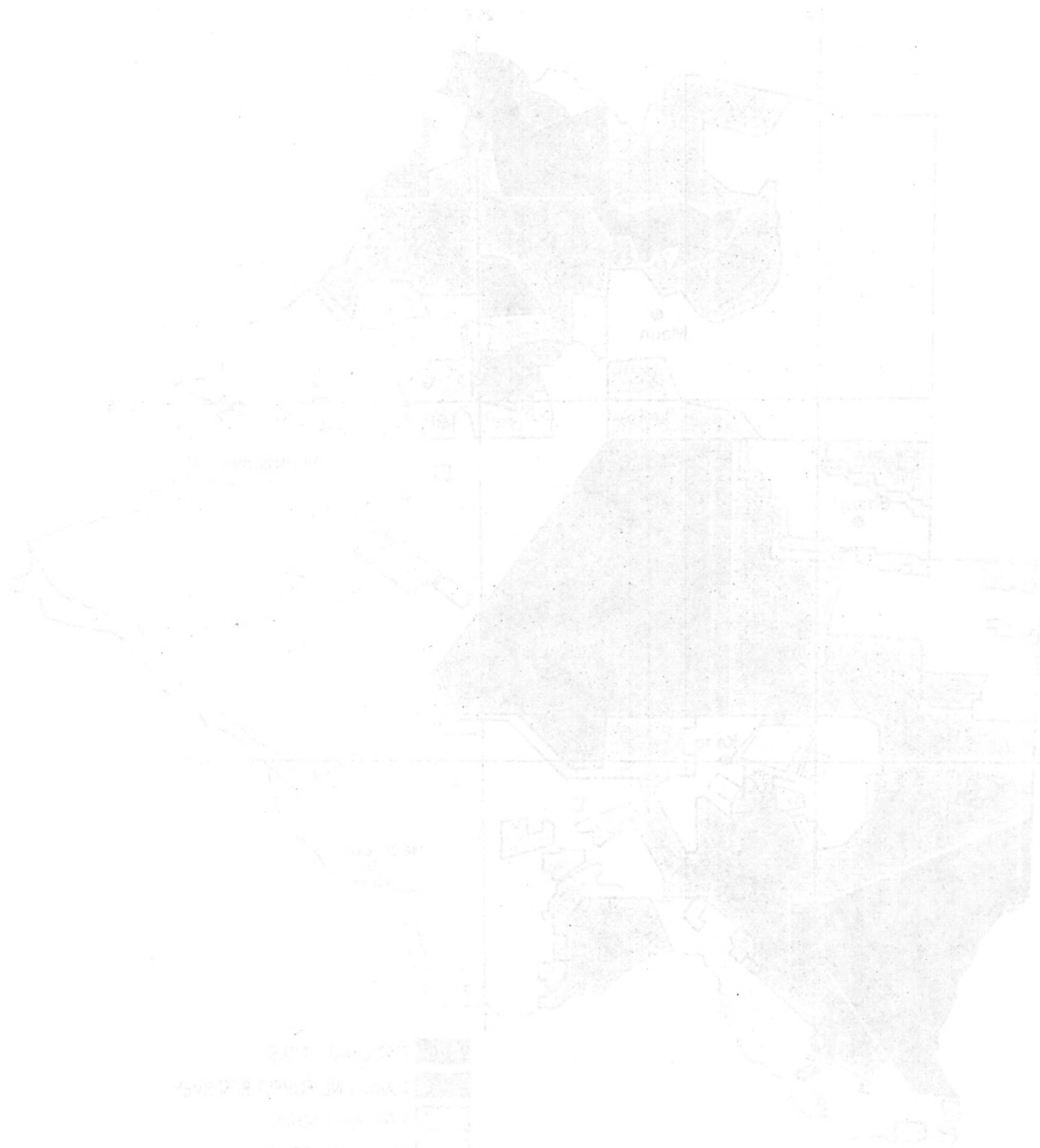
REVISED DECEMBER 1989



NATIONAL LANDUSE MAP

MINISTRY OF LOCAL GOVERNMENT AND LANDS

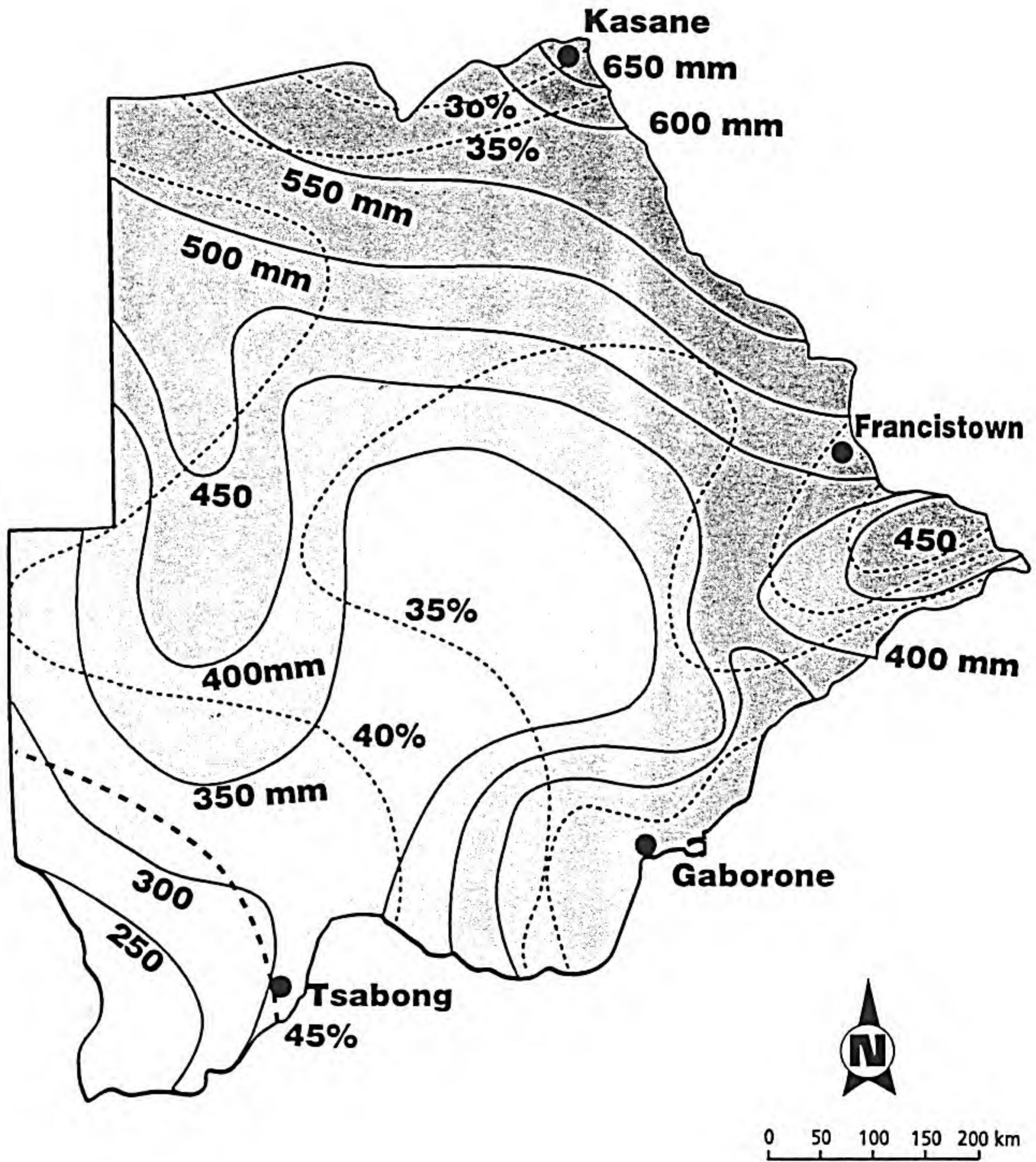
REVISED DECEMBER 1987



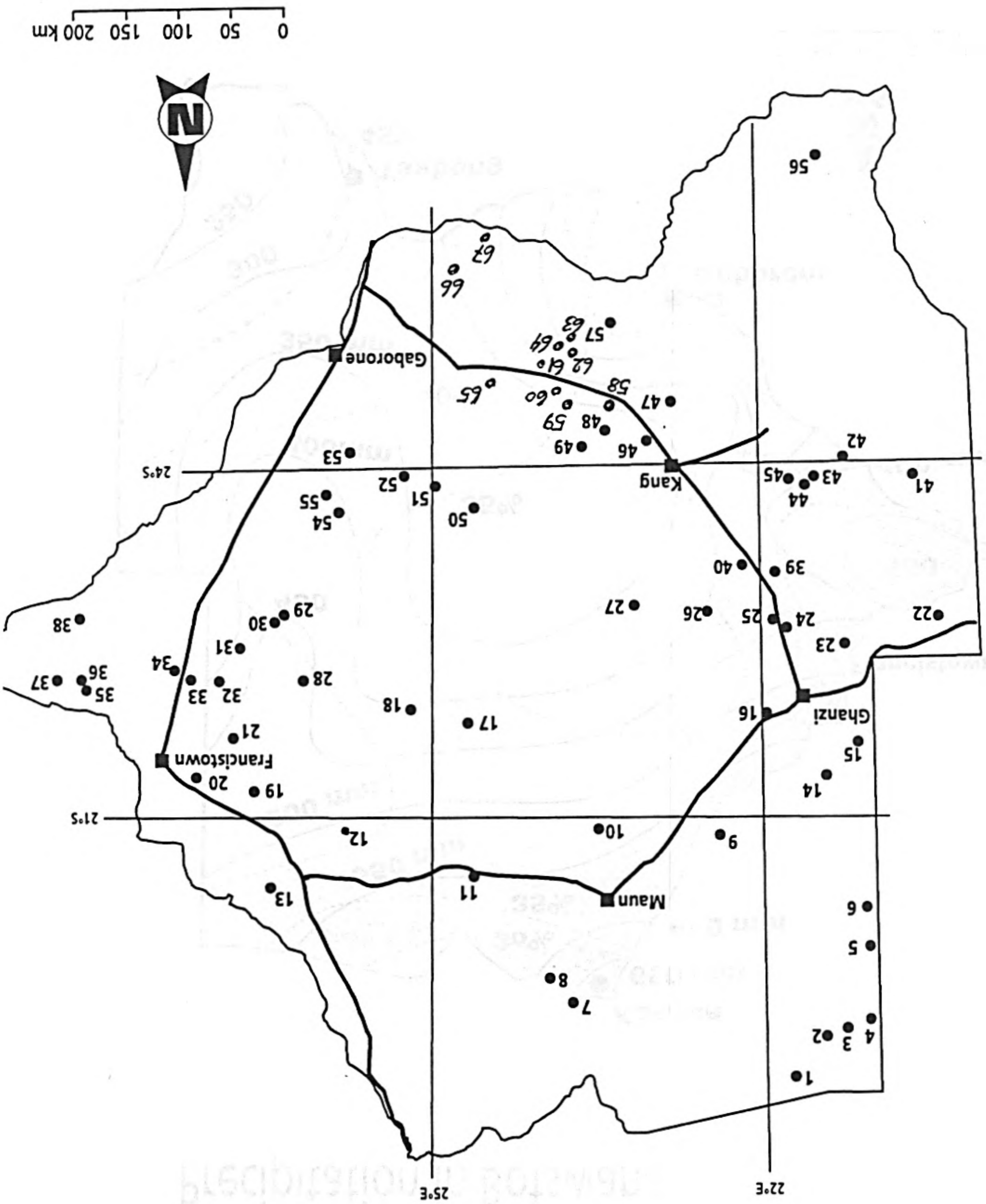
- RESERVED AREAS
- PLANTATION AREAS
- AGRICULTURAL AREAS
- URBAN AREAS
- INDUSTRIAL AREAS
- RECREATION AREAS
- WATER RESOURCES
- UNDEVELOPED AREAS
- ROADS
- RAILWAYS
- COASTAL AREAS

Scale: 1:50,000

Precipitation in Botswana



Some of the settlements in Botswana



Settlements (key to Map 3):

1	Gani	44	Monong
2	Tsodilo Hills	45	Maake
3	Chukumuchu	46	Phuduhudu
4	Nxau Nxau	47	Inalegolo
5	Dobe	48	Khekhenye
6	Qangwa	49	Tswaane
7	Khwai	50	Kutse
8	Mababe	51	Sorilatholo
9	Mmathamagana	52	Diphuduhudu
10	Hainaveld	53	Kweneng
11	Phuduhudu	54	Kgomodiatshaba
12	Thabatshukudu	55	Kurutse
13	Manxotae	56	Khawa
14	Rooi Brak	57	Kokotshaa
15	Groote Laagte	58	Serumolwe
16	D'kar	59	Mathane
17	Kedia	60	Kanaku
18	Khwee	61	Kkurtuku
19	Lepasha	62	Mokgochudi
20	Jamataka	63	Thankana
21	Mabesikwa	64	Lokalaneng
22	New Xanagas	65	Mahotswana
23	Chobokwane	66	Serogwe
24	West Hanahai	67	Sekhutlane
25	East Hanahai		
26	New Xade		
27	Xade		
28	Malatswae		
29	Sehunong		
30	Motshegaletau		
31	Majwana-a-dipitse		
32	Dimajwe		
33	Gojwane		
34	Damochujenaa		
35	Polometse		
36	Tshokwe		
37	Lepokole		
38	Phakwe		
39	Bere		
40	Kagcae		
41	Ukhwi		
42	Ngwatle		
43	Nxaang		

1. Introduction to resources and landuse in the remote areas of Botswana

Introduction

Human subsistence and household economy in the remote areas of Botswana depend to a very large extent directly on the biological productivity of the land, and is based on cultivated and wild plants, domestic and wild animals, on wood for fuel and construction purposes and on numerous other products for consumption or trade. The long term exploitation of these commodities presumes a sustainable use of resources, which means a level of exploitation which does not exceed or in other ways damage the production potential of the land. The risk for overexploitation of renewable natural resources, which implies reduced future availability of the resource, has always been a threat in human cultures. The risk increases with increasing availability of technical solutions and opportunities and with increasing population density. Any discussion of development in the remote areas of Botswana must therefore be based on knowledge of the ecological potential and the constraints of the environment as well as the requirements and prerequisite for different kinds of landuse, and the environmental impact of different forms of landuse.

The present chapter will deal with how the human population in the remote areas utilize the natural environment and with the impact of the different landuse patterns on this environment. The analysis will be related to some general features of the Botswana environment. Past and present types of land use are described with an emphasis on what impact they have had or continue to have on the resource base. Finally, some possibilities, predictions and suggestions for the future are discussed.

Although many reports deal with the RADP, its relation to the natural environment has been little discussed. The present chapter is based on the little information which is available in the various reports, from other relevant literature and from own observations during this mission and from previous work on ecology in Botswana.

Botswana's environment

The potential for biological production in Botswana is closely related to the gradients in average annual precipitation and in soil conditions.

Soils

More than 80% of the area of Botswana is covered by windblown deposits of Kalahari sand, typically between 5 and 200 m deep. Under the sands are grits, sandstones and shales, commonly of the Karroo series, and lava. The sands mainly form arenosols with poor structure and low content of carbon, nitrogen and phosphorus. In the eastern part of the country the geology is more varied with folded and metamorphosed rock. Also the soils vary on a fine scale, and are generally better structured and with a higher content of organic matter, clay and plant nutrients than the sands.

The Kalahari sand has a high infiltration rate of water and, thus, very low run off. The low capillary activity cause little evaporation direct from the soil, and the water remains within the plant root zone. The finer soils in the eastern part of the country have lower infiltration rates, higher run off rates and a higher evaporation rate directly from the soil. The sand, if denuded of vegetation, is sensitive to wind erosion and may form shifting dunes. The structure and chemistry of the soil changes little, however, as a result of erosion. The fine soils in the east are more prone to water erosion, which is further promoted by the steeper topography. These soils have a better developed structure, and erosion implies the loss of the fertile top soil, leaving the nutrient-poor subsoil.

A special feature of the Kalahari is the "pans". These are shallow depressions with water-impermeable clayey bottoms, in some cases surrounded by calcrete outcrops. The pans and the areas immediately surrounding them are richer in salts and plant nutrients than the surrounding sand. The pans hold water for days or weeks, sometimes months after rains.

Under the present climate, recharge of groundwater in the Kalahari only takes place where the sand is less than approximately 6 m deep, i. e., along the Ghanzi ridge and perhaps at some pans and fossil river valleys. Most of the groundwater that is found in the Kalahari, often at several hundred meters below the surface, is fossil water, as is often indicated by its high salinity.

Precipitation

Rainfall over Botswana varies along a gradient, which runs roughly SSW-NNE, from approximately 150 mm average annual rainfall in the Bokspits area to approximately 650 mm at Kasane (Fig. 2). The local variation in rainfall within one season is large also between nearby areas. Rains are mainly controlled by movements of the intertropical convergence zone, and are almost entirely concentrated to one rainy season, which in the east lasts from about September to April or May, and in the west from about November to March. The variation within the rainy season is considerable, and early, middle and/or late rains may fail in any year, with obvious implications for grazing and arable agriculture.

Between-year variation in precipitation shows roughly an inverse relationship to average annual rainfall. The risk of drought, if defined as a year with less than a certain percentage of the average rainfall, increases as average rainfall decreases. The coefficient of variation is approximately 80% in southern and 30% in northern Botswana (Fig. 2). As in most semi-arid and arid regions series of consecutive years with above or below average rainfall are common, meaning that extended drought periods of up to several years are a natural and normal part of the climate.

Vegetation

The Kalahari is often referred to as a desert, but it is far from a desert in the common meaning of the word. There is very little natural perennial surface water in the Kalahari, but there is sufficient moisture in the sand for the vegetation. Most of the Kalahari is savanna with perennial grasses and scattered trees and/or shrubs. In the wettest areas in the north, the savanna turns into woodland or open forest, and in the driest areas in south-west into what may be called a semi-desert.

With regard to floristics, the Kalahari is a transition zone, with affinities to the Karroo-Namib floristic region in the southwest, but further north it is more related to the Sudano-Zambezi region. In the dry Kalahari the vegetation is fine-leaved savanna with mainly acacias, such as *A. erioloba*, *A. luederizii*, *A. mellifera*, and perennial grasses like *Stipagrostis uniplumis*, *Eragrostis lehmanniana*, *E. rigidior* and *Schmidtia pappophoroides*. The most common annual grass is the unpalatable *Schmidtia kalahariense*. Further north broad-leaved trees and shrubs increase, like *Combretum* species, *Coelophospermum mopane* and *Baikiaea plurijuga*. The fine-leaved savannas are generally more nutrient-rich than the broad-leaved ones, but have lower productivity.

The production of grasses in a dry savanna shows a more or less linear relationship to the amount of rainfall. However, the level of production and the rate of increase in the production per unit of rainfall varies between different savannas. These features depend on factors like nutrient availability, species composition of the vegetation, grazing regime and landuse history. In the Kalahari, the potential production is determined primarily by rainfall and nutrient availability in the soil, hence potential production is lower in the dry south-west and higher in the wetter areas in the north and on the better soils in the east. This is reflected in estimations of potential carrying capacity for cattle, ranging from more than 50 ha per livestock unit (LSU; one LSU is a "mature bovine animal weighing 500 kg") to ca. 3 ha per LSU in the best areas (Field 1974). The actual production and carrying capacity is often much lower than the potential, if, for example, vegetation is damaged by overutilization or excessive burning.

Grasses have relatively shallow root systems, and their production is restricted to periods when there is sufficient moisture in the surface soil, i. e., the rainy season.

The nutrient content of grasses varies much during the year, showing the highest values early in the rainy season, before flowering, and the lowest values in the dry season, when mostly dead shoots are left. Perennial grasses constitute the stable component of the grass layer. If they are not grazed away at an early stage, their dry shoots remain and although they are poor in nutrients, they can be grazed in the dry season. Perennial grasses produce some shoot biomass also in a poor rainy season. Annual grasses are often more palatable than perennials, but little of them remains during the dry season, and during a poor wet season their production is very low. The Kalahari savannas are still in most places dominated by perennial grasses. In some areas, however, excessive grazing and burning have contributed to a change of perennial grass vegetation into annual grass and forb vegetation. In other places heavy grazing has resulted in an invasion of unpalatable perennial forbs, like *Gnidia polycephala* and *Elephantorrhiza elephantina*. Heavily grazed land is often invaded by shrubs, so-called "bush encroachment", often with *Acacia mellifera* or *Dichrostachys cinerea*. There is some evidence of a general increase in shrubs, both in formerly more open savannas and in tree savannas, where the trees have been cut.

Trees and shrubs have both shallow and deep roots, and can therefore exploit water that has infiltrated the sand beyond the reach of the grasses. This makes them less dependent than the grasses on the timing of the rainfall. Trees and shrubs often sprout fresh shoots and leaves before the rains start, when the grasses are still scarce and very poor in nutrients. During that period most large herbivores browse the trees, including those species which normally are preferential grazers. During most of the year, leaves or young shoots of trees and shrubs compare favorably with grasses in nutrient content. While grasses survive the dry season virtually without water, woody vegetation needs more water in that period.

Some plant species have the ability to store water often in underground bulbs or tubers and sometimes in leaves, stems or fruits. Some of these plants are of great importance as a source of moisture for both animals and humans in the Kalahari.

Kalahari game

Animals in the Kalahari can either escape the dry cold period, by hibernating, like many amphibians, or by migrating to moister areas, as do some birds and water-dependent game, or they can stay and endure the harsh conditions. The animals which stay active in the Kalahari throughout the year, can all meet their moisture requirement from the food they consume, either directly from the plants or indirectly by eating other animals. The dry vegetation, particularly twigs of woody plants, still contains some moisture and many animals search especially for moist tubers or fruits. Of the large Kalahari game animals springbok, gemsbok and eland are well adapted to the dry conditions. They move over large areas in search of vegetation rich in moisture and nutrients. Red hartebeest and wildebeest are less

well adapted, and often migrate to find water or moisture-rich vegetation, while species like elephant, giraffe, zebra and buffalo must drink water regularly, and venture into the Kalahari only when and where water can be found.

The large herbivores in the Kalahari vary in size from elephants to steenbok, and in feeding habits from being almost exclusive browsers (i.e., eating shoots and leaves from woody species and dicotyledonous forbs) to almost exclusive grazers (eating grass) like the wildebeest. They may be gregarious like springbok or living alone or in small groups like the grey duiker. Species which depend on drinking water have a northern distribution, and tend to concentrate in the vicinity of permanent water during the dry season and spread out during the rainy season. The distribution, feeding habits and population ecology of animals is of great significance for planning any form of management or economic utilization of them.

Table 1. A list of some common large herbivores with average body weight in kg (W), feeding habit (Feed; B - preferential browser or G - preferential grazer; warthog is an omnivore) social pattern (Soc; H - living in herds, S - solitary or in small groups), distribution, (Dist; K - Kalahari, N - northern Botswana)

	Scientific name	W	Feed	Soc	Dist
Buffalo	<i>Syncerus caffer</i>	450	G	H	N
Eland	<i>Taurotragus oryx</i>	350	B G	H	K N
Elephant	<i>Loxodonta africana</i>	2500	B G	H	N
Gemsbok	<i>Oryx gazella</i>	150	G	H	K N
Giraffe	<i>Giraffa camelopardis</i>	750	B	S	N
Duiker	<i>Sylvicapra grimmia</i>	10	B	S	K N
Impala	<i>Aepyceros melampus</i>	40	B G	H	N
Kudu	<i>Tragelaphus strepsicerus</i>	150	B	S	K N
Hartebeest	<i>Alcelaphus buselaphus</i>	130	G	H	K N
Springbok	<i>Antidorcas marsupialis</i>	30	B G	H	K
Steenbok	<i>Raphicerus camelus</i>	10	B G	S	K N
Wildebeest	<i>Connochaetes taurinus</i>	150	G	H	K N
Warthog	<i>Phacochoerus aetiopicum</i>	45	--	S	K N
Zebra	<i>Equus burchelli</i>	200	G	H	N

The pans are key areas in the Kalahari (Parris 1970) both for animals and humans. The pans are essential for the nutrient rich grazing in their surroundings and for their salty bottoms, frequently used as salt licks by wild and domestic animals. A few pans have, until fairly recently, retained small amounts of permanent or semi-permanent water in natural springs. Such areas were in the past used permanently

or on a seasonal basis by water depending wild animals (Campbell and Child, 1971) and also by groups of people who were hunting and gathering in the Kalahari. In a few places permanent water can still be reached through hand dug wells on the edges of pans.

Landuse in the Kalahari

Landuse in the remote areas of Botswana has varied according to opportunities, and has included, hunting, gathering, fishing, livestock herding, arable agriculture and trade. At the time of independence, hunting and gathering was still an important form of land use among RADs in the Kalahari.

Traditional hunting and gathering in the Kalahari

Hunting and gathering cultures are based on the harvesting of wild food resources from both plants and animals without much manipulation of either the environment or the propagation of the resources. To utilize resources in an optimal way in the Kalahari most groups, but not all, have been nomadic, changing their place of residence from two to 18 times a year (Barnard 1992). Where possible, people have assembled at permanent water sources during the dry season, and split up in smaller hunting bands during the wet season. In areas where permanent water was not available, the hunting bands have on the contrary split up, often into single family units, during the dry season, and relied on moisture-rich plants and/or sipwells for their water requirements (Silberbauer 1965).

The land was divided between the different bands in loosely defined territories of substantial extent. In the Central Kalahari Game Reserve (CKGR) in the beginning of the 1960's a band of ca. 80 persons used a territory of about 350 square miles, i. e. about 900 km² (Silberbauer 1965). Barnard (1992) found territories between ca 100 and 2000 km² for bands with between 14 and 88 members. On average ca. 14 km² were required per person. These areas were used both for hunting of game and for gathering of plant food and small animals. In northern Kalahari including CKGR more than half the food eaten came from plants, whereas in the southern Kalahari meat played a more important role.

Food plants were collected for their nutrient content, taste and/or for their moisture content. Different parts of the plants were used, as fruits, seeds, roots or tubers or leaves. Silberbauer (1965) and Story (1958) mention about 50 plant species used for food, both stating that many other plants also were used. The species listed by the two are of widely different importance, with some plant products being staple foods and others only being collected occasionally. Other plants were important for medicine, for making of tools and weapons, for tanning leather or other uses. Most plants were collected on a seasonal basis depending on availability and/or according to particular requirements. Migrations were in most cases governed by

the seasonal availability of different plants in different places, or by plant resources being exhausted after long period of residence at one place. At places where large groups of people gathered for long time, for example where permanent water was available, some plant resources often became sparse or extinct. Hunting and gathering in the same area involved a certain degree of competition, as the plants collected by humans to large extent also are preferred by herbivorous animals.

Gathering also included insects, nestlings of birds and other small animals. Hunting was done with traps and snares, by dogs, dogs and spears, bows and (poisoned) arrows, hooks or sticks for burrowing animals and by running down smaller species. Hunting was mainly for meat. Under some conditions fur bearing animals like foxes, cats, jackals and genets were hunted for their skins which were traded or paid in tribute to "patrons" in neighboring societies. Among animals killed for meat, there was a high bias towards small species like spring hare, steenbok and grey duiker. When larger species were hunted, particularly the gregarious ones, great care was taken not to disturb the animals since that could cause the animals to become shy or move away, in the worst case out of the territory used by the particular band. Therefore, when hunting with poisoned arrows, the hunters would not show themselves to the herd, but leave the wounded animal with the others. It would later drop out of the herd, and could be approached after some time when it was either found dead or in a weakened condition and could easily be killed.

The main impact on the environment from the traditional hunter-gatherer economy was probably the burning of vegetation. Fire was used intentionally to create fresh grazing to attract game in the dry season, as grasses often resprout after a fire even in the dry season. Fire was also used to encourage growth of wild melons. Sometimes fires were set by accident, for example when smoking out bees to collect honey.

Livestock in the Kalahari

Livestock husbandry, mainly involving small stock like sheep and/or goats, has been practiced in Botswana since some 2 thousand years ago (Campbell and Child, 1971). The outskirts of the waterless Kalahari has been to various extent used for "cattle posts" during the rainy season, when there was water in the pans. Livestock was introduced on a permanent basis to the western Kalahari less than 100 years ago (Okihiro 1976). The livestock herders settled at the few places with permanent water or where permanent water could be reached through hand dug wells. These water supplies were used only during the dry season. In the rainy season the livestock was taken by young men and boys to "cattle posts" at temporary water supplies. The livestock was only brought back to the main village when the temporary water supplies had dried out. This seasonal land use was also reflected

in arable agriculture, as fields, "lands", away from the village, were managed by the women during the rainy season. Where enough permanent water was available, as on the Ghanzi Ridge, sedentary cattle ranching was established around the turn of the century.

The permanent water supplies in the Kalahari were usually limited, even if they were improved by the digging of wells. The number of animals was therefore in most cases limited by the availability of drinking water during the dry season. Thus, major changes in the vegetation caused by intense livestock grazing were probably local and concentrated to few places. Still, since the livestock herders occupied the few places with permanent water, the advent of livestock was, together with hunting for ivory, a main reason for the disappearance of the water dependent game like elephant and buffalo from the dry Kalahari.

As new and improved technology for drilling deep tubewells became available, livestock keeping in the Kalahari expanded during the 1940's. Cattle posts became permanent, as water could be obtained all year round from the boreholes, usually by means of a diesel pump. During and after the series of dry years in the 1960's, the drilling of bore holes in the Kalahari was accelerated and livestock numbers increased rapidly. Shortly after this the livestock development schemes, Botswana Livestock Development Programme (BLDP) I and II were launched, and so was the Tribal Grazing Land Policy (TGLP). These led to the establishment of fenced cattle "ranches", each with its own bore hole, in different parts of the country including the Kalahari. As the former main constraint on livestock numbers in the Kalahari was lifted when drinking water became available from bore holes, pasture instead became the limiting factor. Heavy grazing in many areas, fenced or unfenced, has resulted in major changes in plant species composition, generally towards an increase in the proportion of unpalatable species. As grasses declined, woody species often increased, leading to "bush encroachment" changing the savanna into low thicket. Areas with high livestock densities in the Kalahari usually have few wild large herbivores.

Hunter/gatherers and livestock herders

The hunters and gatherers of the Kalahari have for a long time been in contact with the livestock-based economies in the eastern and northern parts of present day Botswana through trade networks and complicated client systems (Okihiro 1976). When livestock-keeping spread into the Kalahari, increasing numbers of hunters and gatherers for various reasons associated with the livestock owners, who in many cases had settled at a key point, for example at permanent water, in the territory of a band. Many of the hunters and gatherers took up jobs, often temporarily, as herdsmen and casual laborers at cattle posts in order to gain access to various commodities, in some areas primarily water during the dry season.

The number of hunters and gatherers working with livestock increased, at the same time as the spreading livestock grazing made hunting and gathering more difficult. In some places naturally occurring permanent water sources dried out following grazing-induced vegetation changes and the digging of wells and later sinking of bore holes for livestock water (interviews in this mission and earlier). Many of the plants eaten by humans, are also eaten by livestock or are destroyed by their trampling, and many species collected for food decreased or disappeared from the heavily grazed areas. Also wildlife decreased due to disturbances like hunting and competition from livestock. Subsequently, the hunters and gatherers in the cattle-keeping areas became increasingly dependent on the cattle posts, while getting more and more alienated from traditional hunting and gathering.

The former hunters and gatherers in the cattle keeping areas of the Kalahari have thus become increasingly dependent of the cattle posts for water and employment, at the same time as they become increasingly alienated from traditional hunting and gathering. Many of the present day remote area dwellers (RADs) still practice some hunting, gathering or in the north, fishing as a supplement to other forms of income (Kann et al. 1990, Campbell 1991, interviews). In the Okavango Delta in North West District, many RADs live primarily as fishermen, gatherers and hunters, but also take temporary employment in the tourist sector or on lands and cattleposts outside the delta. The majority of RADs throughout Botswana live on cattleposts, lands or ranches run by other people. In addition to employment on the farms, the RADs may own a few head of livestock, use some cropland, collect veld food or hunt. Kann et al. (1990) list 48 employment and income generating activities, most of them related to agriculture, livestock keeping, wild animal- or plant resources, in remote areas. Few RADs own enough livestock or have access to sufficient land to be independent.

RADP and the environment

The Remote Area Development Programme (RADP), the Accelerated Remote Area Development Programme (ARADP) and their predecessors have since 1974 worked with the general aim of improving the living conditions for RADs in Botswana. As pointed out by Adams (1994) it is, however, unclear "whether the ultimate purpose of the programme is:

- a) to improve the relative economic status of people who have so far not attained their full and equal rights as citizens, tribesmen and employees; or
- b) to incorporate RADs (i. e. Basarwa) into Botswana society and the mainstream of economic and social development"

The environmental implications of the two aims are not obvious, but the first might include - but not be restricted to - a more diverse utilization of natural resources, while the latter may have the main emphasis on livestock and arable agriculture.

The main concern of RADP up to now has been with infrastructure and provision of services like water, health care and education facilities. The programme has been implemented mainly as a settlement scheme, and it is generally agreed that the infrastructure components of the RADP have been reasonably successful, particularly with respect to water supplies and health care. There is also general agreement that there is urgent need for more attention to be given to economic development and income generation (Kann 1990, Botswana National Development Plan 7, 1991).

The Economic Promotion Fund (EPF), which has been financed by NORAD since 1988, aims at promoting a wide variety of economic opportunities for RADs. At present the EPF funds a wide range of activities, including training of manpower and investment in production factors such as small-scale tanneries and leather work, bakeries, sewing workshops, carpentry, masonry, bone carving and other craft, horticulture, arable agriculture, cattle and smallstock schemes, wildlife utilization schemes and collection and marketing of wild plant products. While many of the activities listed have negligible effect on the environment, others are directly based on the production potential of land and on the sustainable use of living resources.

A land area, often a few hundred km², is allocated to most settlements. In most cases there have been no evaluation of land suitability for various purposes when the sites for settlements were decided. Gulbrandsen et al. (1986) stress the need to incorporate ecological considerations into any assessment of future land needs for the RADs. Nor have there in general been any zoning of the land for various purposes, although in some cases land for arable agriculture or horticulture have been fenced, to protect it from livestock. The four important land use patterns are: Agriculture, livestock keeping, hunting (or other forms of wildlife utilization), and gathering of veld products. Only at low intensities may these forms of land use, except arable agriculture, coexist in the same area. With higher intensity, livestock will graze and trample out crops and veld food, and so will wildlife. Wildlife may also spread diseases to livestock, and may include predators on livestock. Vegetation that is heavily grazed by livestock is in most cases avoided by herbivorous game.

The direct environmental impact from the settlements seem mainly to be limited to the immediate surroundings, where there is much bare ground and "weedy" vegetation with *Tribulus terrestris*, *Gisekia* and *Limeum* of different species, and often much shrubs, for example *Acacia mellifera* and *Grewia flava*. In some settlements littering is obvious. The mission had no possibility to study risks for

pollution from, e.g., sewage pits, tanning pits, chemicals in horticulture schemes or pollution of water from livestock dung and urine penetrating defective bore holes casings. Other impacts of the settlements include exhaustion of resources in the immediate surroundings. This is often the case with veld food and hunting and sometimes with firewood. With few exceptions the settlements do not have enough livestock to exhaust the grazing, but in many cases the land was overgrazed already when the settlement was set up. In other cases livestock not owned by the people in the settlement are grazing excessively in the area.

Gathering of veld products

Gathering of plant products and small animals still contributes significantly to the subsistence of many RADs at settlements or cattle posts. Most edible plant species, however, decrease or disappear with heavy livestock grazing. Furthermore, the new situation with (comparatively) large sedentary groups of gatherers leads to over-harvesting of veld products in the vicinity of settlements and cattle posts.

Species where the plant is killed at the harvest, e. g. in most cases when underground parts are used, are sensitive to overharvesting. Among them are 'morama' (*Tylosema esculenta*), 'legapa' (*Coccinia* species), 'leditsa' (*Raphionachme burkei*) and 'moro' (*Scilla* species). For the grapple plant, 'sengaparile' (*Harpagophyton procumbens*), a medical plant that is collected and sold, a method has been developed to harvest the tubers without killing the main root and the plant. Of 'morama' the most important crop is the beans for consumption or sale, but from young individuals also the root is eaten. Intense harvesting of young plants may jeopardize the recruitment of older plants, which provide most of the beans. 'Morama' can tolerate moderate livestock grazing, and is fairly common on many of the freehold farms in Ghanzi, but has disappeared from the heavily grazed cattlepost areas for example at Chobokwane, where it was common 20 years ago.

Species where only the fruit is harvested are less sensitive, and fruits from trees and shrubs are the least vulnerable. 'Moretlwa' (*Grewia flava*), a shrub from which the berries are picked for consumption, making of 'cadi' or for sale, tend to increase, at least initially, in disturbed areas around settlements and cattle posts. The same is the case with some species of *Acacia* and *Terminalia sericea* providing edible gum. Other important fruits from trees and shrubs include 'motlopi' (*Boscia albitrunca*), 'mokgompata' (*Grewia flavescens*), 'motsotsojane' (*Grewia retinervis*) and 'mokgalo' (*Ziziphus mucronata*).

Thatching grass, primarily *Eragrostis pallens* and *Stipagrostis uniplumis*, is collected and sometimes sold. With the increasing market for handicraft as tourist souvenirs, raw materials like cocoons for rattles and palm fibre for baskets have

become important items for gathering. The palm from which the baskets are made, is said to decrease in numbers as a result of wasteful methods for harvesting.

Wildlife utilization

The significance of hunting varies widely between areas and settlements. In the north it is, together with fishing and gathering, of major importance. Hunting is with a "special game license", issued by the Department of Wildlife and National Parks (DWNP). Licenses are for a certain number of specified species. Of course, not all species occur in all areas. In 'kgotla' meetings it was often said that people needed more licenses, while information from the hunters suggested that most quotas were not filled. These statements, of course, do not exclude each other. It seemed as if at least one person in more than half the households in the western settlements was in possession of a license (interviews, ARAP 1991).

The special game license system is intended to regulate wildlife offtake so that hunting can be kept at a sustainable level. Species which are rapidly decreasing in numbers are removed from the license, as happened recently with buffalo and eland; also ostrich was taken off the license. It is, however, admitted by DWNP that the present system gives little possibility to monitor and control the number of animals actually killed. A new license type, better adapted to the local availability of game, providing better feed-back for statistics and at the same time being easier to handle for illiterates with scant knowledge of English, is presently being developed by DWNP.

There are indications that the former patterns of game utilization for subsistence is changing. RADs with access to hunting rights, seem to use a larger proportion of large species than what has been recorded from traditional hunting. Game is scarce close to most settlements, where there is much disturbance from various landuse activities, including hunting. Thus most hunting takes place further away from home. This, in itself, means that less emphasis is put on small species, which would give a comparatively smaller return on the effort than the larger animals. Hunting is often supported with horses and/or donkeys. The use of horses for hunting increases the efficiency considerably. This method is only used for larger antelopes, according to some only for gemsbok, and this may be one reason for the increased proportion of larger species in the kill. The traditional hunting methods are increasingly abandoned. Some methods, like the use of dogs and traps, are banned because they do not allow a selection of the species killed. In other cases the old methods are simply less effective than the new ones, and the old skills are rapidly disappearing. In a number of interviews, when subsistence hunting was discussed, the requirement of modern rifles and 4x4 vehicles was stressed.

RADs are also involved in the wildlife related tourist industry, e. g. game viewing, photography and safari hunting, as trackers, butchers or general helpers both in the Kalahari and in the north. Furthermore, DWNP employs a number of RADs as trackers.

Livestock keeping

The most successful of the economic promotion activities undertaken by RADP is the livestock schemes. These schemes were planned to provide selected households with animals for subsistence. RADP provided usually two, later up to five, heifers or five goats as breeding stock. Originally the intention was that when the animals had multiplied, the number of animals received from RADP should be returned and be given to another family, but this scheme has now been abandoned. The ownership of livestock provides income in kind and/or cash, in the form of milk, draft power and some meat. Many RADs have worked on ranches or cattle posts, and have good knowledge of livestock keeping.

The EPF livestock schemes are not the only source of animals. Many RADs have obtained livestock on the ranches or cattle posts. Still, the number of RAD-owned livestock, particularly cattle, is usually low. A few settlements have large numbers of cattle, but these are usually owned by RADs from ethnic groups with a long tradition as cattle owners. Other herds are owned by people outside the settlements and are grazed and watered at the settlements against payment. These are sometimes claimed to be 'mafisa' cattle, but from the interviews it seemed that, anyhow in the cases concerned, the arrangement only included management of the animals for an agreed salary.

Where livestock numbers are small, the impact on the rangeland is restricted to the immediate surrounding of watering points and kraals. Where large numbers of cattle are kept at the settlement, the range situation is the same as at the numerous cattle posts. There is a limited sacrifice zone immediately surrounding the watering point and the kraals, and beyond that is a zone of different width with heavy impact from grazing. This results in poor cover of herbaceous vegetation and the dominance of unpalatable species and, in many cases, encroaching shrubs. These shrubs are in most cases thorny, not of high palatability for livestock and too weak to provide good fire wood or construction material for any other purposes than brush fences. The most common encroaching species in the Kalahari are black thorn (*Acacia mellifera*), but also sickle bush (*Dichrostachys cinerea*), candle-pod acacia (*Acacia hebeclada*), silver terminalia (*Terminalia sericea*) and in brandybush or 'moretlwa' (*Grewia flava*) may behave as encroachers. The last species is browsed by livestock and produces highly appreciated berries for people. The heavily impacted zone may have a radius of anything from a few kilometers up to more than 10 km.

Cultivation of plants

At most of the settlements there are areas set aside and often fenced to be used for arable agriculture, horticulture or in some places for wood lots. Although some RADs produce some vegetables or maize, the land set aside for the purpose seems generally not to be intensely utilized. The dry Kalahari with its poor soil is also not well suited for cultivation.

RADP and the environment in the future

There seems to be a wide agreement that the emphasis for any continuation of RADP must be on income generation and economic promotion. It is also obvious that even if craft production, tanning of leather, work as a blacksmith etc. may give the persons concerned a reasonable income, the majority of the RADs will for a long time to come continue to live from the land. Most RAD settlements are in the drier parts of Botswana and on the Kalahari sand. These areas are generally not well suited for arable agriculture, and have low carrying capacity for both livestock and game. Thus, large areas are required both for livestock and wildlife related activities, and the land allocated to the settlements may in many cases not be sufficient. It has been suggested that the settlements should be regarded mainly as "service centers", while at least some of the land required would have to be found outside. Furthermore, although the formal situation may not be quite clear, there is a general agreement that the Wildlife Management Areas (WMA) are intended primarily for development of an economically viable utilization of wildlife, and that priority should be given to residents of the WMAs, who are mostly RADs.

Arable agriculture

In spite of largely unsuitable soil and climate, much of the extension work in the remote areas has been concerned with arable agriculture and horticulture, seemingly with limited success. As an adaptation to the highly variable environment, the traditional economic activities of RADs avoid long term fixed investments, like in agriculture (Gulbrandsen et al. 1986). Unless the gains become very high and/or the risk of failure very low, both of which seem unlikely, there is little probability that many RADs will engage in arable agricultural activities.

A less risky form of agriculture is the use of perennial, drought-resistant crops, requiring little care once they are established. A number of indigenous plants, gathered as veld food, could be cultivated in this way. This goes for example, for 'morama' (*Tylosema esculenta*), 'sengaparile' (*Harpagophyton procumbens*), preferably adopting a harvesting technique that does not kill the plant, many trees and shrubs, e. g. the *Grewia* species, 'motlopi' (*Boscia albitrunca*), 'mogose' (*Bauhinia petersiana*) and perhaps, although more complicated, the truffles (*Terfezia* species). Most of these species even endure moderate grazing of the area

by livestock or game. Cultivating is also, probably, the only way to ensure continued access to these traditional food plants, as collecting pressure around the settlements is likely to be too high to be sustainable except, perhaps, for the tree fruits.

Other species that has been suggested for future cultivation include the 'mophane' worm and the wild silk. Cultivation of (spine-less) *Opuntia*, as a multipurpose species, but particularly for infestation with and harvest of cochineal, is being tested.

Woodlots

It may be necessary at some of the settlements to improve the availability of firewood. Planted woodlots, usually with fast growing exotics, have been tried. This may in some cases give good results, but is, generally, a fairly complicated method, requiring secure fencing, the purchase of seedlings, proper planting and regular watering for shorter or longer periods.

An alternative method is to use indigenous trees, for example by management of natural stands (White 1979). These could be cut on a rotational basis and left to coppice, as most species do vigorously. The coppicing shoots would need protection from browsers for a few years, thereafter the area can be grazed. No watering is required. In places without trees, woody seedlings will often sprout by themselves if an area is protected from grazing and browsing. In other cases, planting could be done once with carefully selected, preferably indigenous species, which will later reproduce naturally from seed and/or coppice. Harvesting of coppice shoots is the management alternative which gives the highest production of woody biomass, as the new shoots are supported by the large established root system.

Livestock

It is obvious that livestock will have high priority for many RADs. However, Botswana is already densely populated with cattle, and overgrazing is increasingly recognized as a main threat to a sustainable resource utilization. Within the present land-zoning system, there is little cattle-land that is not already occupied. Some of the land attached to the settlements is likely to be used for livestock, as is already the case, but there will not be enough, and it will also be required for other activities. There are efforts in some places to obtain ranches for RADs, which may give the best opportunities for RADs to engage in livestock production.

Much of the land available to RADs has since long been heavily grazed by cattle, and is often dominated by grasses with low palatability and nutrient content and

frequently has a dense shrub layer. In order to utilize such range in the best way, while reducing the risk for further degradation, cattle herds might be mixed with preferential browsers, e. g. goats and/or game species like kudu and eland.

A number of ranches in Botswana and elsewhere are stocked entirely with game, for production of meat and/or consumptive or non-consumptive tourism. Furthermore, there are possibilities for more specialized enterprises like crocodile or ostrich farming. Some game may in addition be raised on a small scale without much land or investment. For example guinea fowl or ostriches may be kept on a "farm yard scale", to provide supplementary cash income.

Wildlife utilization

Wildlife utilization includes game farming or ranching, culling or cropping of natural populations on a commercial level, subsistence hunting, tourist/safari hunting and non-consumptive tourism, e. g., game viewing or photography.

Commercial offtake of meat from wild game populations requires much infrastructure such as slaughtering, handling and transport facilities, and thus a reasonable high productivity to be economically viable. Most of Botswana is dry, with low carrying capacity and productivity except for some areas in the north. However, in many areas subsistence hunting on a sustainable basis, using modern methods, would provide meat for local consumption, raw material for craft, leatherwork etc. and supply a small-scale market with, e.g. biltong.

As wildlife resources everywhere are getting scarce, their touristic value is increasing. Northern Botswana has a high diversity of game and bird species, and is already well established as a tourist area. The dry Kalahari with aggregations of game around the pans differs from most African tourist areas, and has high potential both for consumptive and non-consumptive tourism. Tourism could be developed in concessions as the Controlled Hunting Areas. Some such areas in Northern Botswana have been allocated to community management, and the "Chobe enclave" is run successfully by RADs under such conditions (Winer 1995).

In many areas, potentially suitable for various game utilization schemes, animal densities may now be too low. In Botswana game has traditionally been seen as a kind of free commodity, that has always been there and will always be there. It is increasingly obvious that this is no longer the case. Most game species are decreasing, some at an alarming rate. The reasons may include habitat changes and fragmentation caused by livestock grazing and cut-off migration routes. It is essential to protect game, to allow numbers to build up. At the same time it is essential to use the resource, to turn wild animals into an asset rather than a cost for local people, and to give them possibilities to manage this resource to their

own advantage. To preserve game and allow numbers to increase, core areas would have to be totally protected from hunting. There must also be possibilities for animals to move between such core areas, for example between the Kalahari Gemsbok Park and the Central Kalahari Game Reserve. In areas outside such core areas, primarily the Wildlife Utilization Areas, game could be utilized in efficient ways, including consumptive and non-consumptive uses. For a sustainable management of the living resources, it is essential that quotas for the different animal species are set according to numbers and productivity within the area concerned, and that local communities are allowed to take responsibility and manage the quotas to their own advantage.

Outlook

This introductory chapter outlines some of the main features of the resources and the landuse patterns found in the areas in which the RADP operates. It shows some of the opportunities for human adaptation and economic development in the Kalahari but also sounds some warnings. Some of the landuse patterns found today, in particular large-scale livestock rearing which is a comparatively recent introduction, have clearly damaged the environment and cannot be sustained over a long period of time unless much greater attention is paid to these destructive effects.

The general lesson to be drawn from this short survey of landuse patterns in the Kalahari, is that hunting, gathering and livestock rearing can only be sustained at low densities. Landuse is extensive and large areas are required to maintain densities at the required low level. One figure cited here indicates that each person in the former hunting and gathering adaptation utilized approximately 15 km². As far as livestock production is concerned, carrying capacities are in places as low as 50 ha per livestock unit. The continued presence of wildlife also requires extensive areas. Competition for land is increasing and a worrisome feature in the remote areas of Botswana is the increasing concentration in settlements of those who lose out in this competition.

The settlements which to date have been promoted by the RADP do not seem to have taken this perspective sufficiently into account. The increased population densities in and around the settlements lead to depletion of the resources and damage to the environment. The population in the settlements, however, subsist to a large extent on famine relief supplies or other Government schemes to support destitute people. This is of course not a satisfactory solution. The RADP has not been able so far to provide an alternative to this situation.

2. NORAD and the Remote Area Development Programme

The ARADP Agreement

In September 1988 an agreement on financial support to the Accelerated Remote Area Development Programme (ARADP) was entered into by the governments of Botswana and Norway. This agreement made available to Botswana development assistance from Norway amounting to NOK 40 million (including NOK 2.5 million for technical assistance personnel), to be disbursed over a 4-year period (1988 - 91).

The ARADP Agreement is based on a general agreement of cooperation between Botswana and Norway (renewed in 1985) which governs all Norwegian bilateral development assistance to Botswana. This particular agreement specifies the terms and conditions with regard to financial support to the ARADP, including mutual obligations and the division of labour between NORAD, Botswana's Ministry of Finance and Development Planning (MFDP) and Ministry of Local Government, Lands and Housing (MLGLH). While NORAD's responsibilities in this agreement mainly are restricted to providing funds for the Programme, the two Botswana ministries are responsible for the planning, administration and implementation of all aspects of the Programme. The agreement furthermore outlines procedures and schedules for disbursements, reporting and accounts. Finally, in a separate article, a monitoring component, to be carried out in accordance with a monitoring plan, is given particular mention.

Objectives

In an annex to the agreement, the main objective of the ARADP is set out: "to contribute to the improvement of the living conditions of the Remote Area Dwellers (RADs) of Botswana. This should be done by ensuring that public services are extended to RADs, that their economic opportunities are promoted and that they are ensured political and legal rights".

The target group of the ARADP are thus the Remote Area Dwellers (RADs). In this annex they are defined as "people living permanently outside established villages"; this, however, is immediately qualified, since "these will mainly be descendants of ethnic minority groups living under poor conditions in remote rural areas".

The general objectives of the agreement are briefly presented in the main text. In this annex they are expanded upon, committing both parties to an understanding of a number of "basic prerequisites for improving the living conditions of RADs". These are:

- securement of land areas to cater for productive employment development in and around settlements
- provision of adequate water supply and water facilities in old and new settlements
- provision of basic infrastructure and staff to enable public services like health care, education, transport, employment promotion, vocational training and extension services to take place in settlements
- promotion and formal recognition of local institutions and leadership to represent target groups
- retainment of RADs cultural integrity

A rough budget showing the distribution of the funds committed by the agreement indicates that the bulk of the money (NOK 28.4 million or 71% of the total) was intended for infrastructure development (water, health education), while less than a tenth of this (NOK 2.4 million) was set aside in an Economic Promotion Fund (EPF). The remaining funds were reserved for vehicles and various equipment (NOK 3.5 million), technical assistance and training (NOK 3 million), surveys, monitoring and special studies (NOK 2 million) and support to cultural activities (NOK 0.3 million)

Finally, this annex underlines that all activities under the ARADP must be "based on the principle of voluntary participation by the target population" and one paragraph specifically mentions that "activities related to the proposed resettlement of the population presently living in the Central Kalahari Game Reserve shall not be part of the Programme covered by this Agreement."

The ARADP Agreement attaches great importance to monitoring. Particular mention is made of the monitoring component in the main text of the agreement and it is further presented in a separate annex. According to this presentation, the monitoring system contains two main elements. First, the system should contain a general schedule of indicators to measure status and progress of the various projects to be financed under the programme. These indicators should be continuously registered by programme staff. In addition, the monitoring system should allow for a number of focused studies to follow up on critical issues if and when these were registered and/or revealed by the indicator system. At the time when the agreement was signed the detailed plans for the monitoring system had not yet been finalized.

Background

The programme which NORAD in 1988 agreed to support was not a new initiative. It started as early as in 1974 as the Bushman Development Programme, but even prior to this date the condition of the Bushman population had been a cause for concern. In addition to inquiries organised by the colonial government on various occasions (including the appointment of a Bushman Survey Officer in 1958), perhaps the most significant initiative was the creation of the Central Kalahari Reserve in 1961. In his report the Survey Officer states that : "...it is not intended to preserve the Bushmen of the Reserve as museum curiosities and pristine primitives but to allow them the right of choice of the life they wish to follow." (Silberbauer, 1965:133)

At its inception in 1974 the Bushman Development Programme was a development programme specifically directed at the difficult situation of a number of people who had been displaced by the development of freehold ranches in Ghanzi District. Its aims were explicitly stated to be "greater self-reliance of the Bushman people" (cf. Wily, 1982:291). Since this beginning, however, the Programme has been renamed several times, partly to reflect various political concerns and other issues. In 1975 it became the Basarwa Development Programme. Since the term "Bushman" was seen as demeaning at the time, it was replaced by the Tswana term for the same groups of people (which a number of observers, however, see as equally demeaning). In 1976 it became the Extra-Rural Development Programme, to distinguish it from the normal rural development programme in the more densely populated areas of eastern Botswana, and then finally the Remote Area Development Programme in 1978. In the course of the negotiations with NORAD it became the Accelerated Remote Area Development Programme, probably reflecting the considerable increase in funding allocated for the programme, but in 1991, at the beginning of the current National Development Plan period (NDP 7), it reverted to its former name of the Remote Area Programme. In more technical terms, the programme had been identified within the implementing ministry (the Ministry of Local Government, Lands and Housing) as plan number LG32 up to 1991, when it was given a new plan number of LG127.

Priority setting

The programme designed to provide development assistance to the Basarwa has been supported by foreign donors from the very beginning, but received only modest funding, perhaps reflecting the priority it enjoyed in the context of Botswana's development plans of the time. SIDA, which was the main donor to the programme from 1979 onwards, only disbursed SEK 6.4 million in support of the Programme up to 1987. When NORAD was first approached with a request to support the Programme (in 1985) the indicative planning figure in the NDP6 (Botswana's National Development Plan No. 6, covering the period from 1985 -

1991) was only Pula 1.5 million for the whole period. But by the time the agreement for the Accelerated Remote Area Development Programme was signed, this figure had been boosted ten-fold, to Pula 15.2 million, for the four years remaining of the plan period, with NORAD contributing approximately 65% of the costs. The government of Botswana agreed to provide some 28% or Pula 4.2 million from its Domestic Development Fund (DDF) while the balance would be made up by a small SIDA contribution. In addition, Botswana committed itself to recurrent costs for operation and maintenance related to the Programme amounting to over Pula 1 million per year.

But in spite of the significant increase in spending since 1988, an observer who has followed the Programme closely since 1974 would sum up the situation as follows: "The programme has not been especially significant in financial terms, with foreign investment probably not exceeding US\$ 10 million since 1974" (Wily, 1994:7).

The target population

The Remote Area Dwellers (RADs) who are the target group of the programme are officially defined as people who live outside established villages, as set out in Annex I to the agreement. This definition was adopted by the authorities in Botswana at an early stage (in 1976) to avoid any connotation of ethnic bias in the programme and to avoid any insinuation that Botswana was in favour of the pernicious "separate development" policies in force in neighbouring South Africa at the time. This definition also provided an officially sanctioned loophole in the general rural development guidelines which restricted public development investments in services like water supply systems, health services and education facilities to recognized villages with at least 500 inhabitants. Nevertheless, in spite of this sociological redefinition of the target group, the programme has, in the minds of most observers and most politicians and bureaucrats involved with it, retained the original character of being a programme particularly for the Basarwa.

As indicated above, Basarwa is the Tswana term for the people who are otherwise and internationally known as the San minority of Botswana. Although there are also other ethnic minorities who live outside established villages (e.g. Herero, Bayei, Balala and to a certain extent Bakgalagadi), there is a large overlap between the sociologically defined category of Remote Area Dwellers and the ethnic category of the Basarwa. Most RADs are Basarwa. It is most probably also true that most Basarwa are RAD's, although it is known that a significant population of Basarwa live in the villages or as squatters on the outskirts of villages in the eastern part of the country.

Current census data in Botswana do not include information on ethnic origin and no precise information on the size of the Basarwa population exists. Estimates

vary quite considerably, from less than 50.000 to well over 100.000. In any case, the San/Basarwa form a small percentage of the total population of Botswana. Furthermore, the San/Basarwa are by no means a homogenous group. Some 10 to 15 distinct San/Basarwa groups can be distinguished, speaking some seven mutually unintelligible languages. There is also considerable variation between these groups with respect to social organisation and economic circumstances. The situation of the various groups also differ, both with respect to their historical experiences as well as current conditions. The significance of small numbers, both within the individual groups as well as within Botswana as a whole, as well as the great variation between the groups in important distinguishing features and characteristics, has been important for the political position of the San/Basarwa in Botswana.

Defining the target group in RADP

In public policy in Botswana it is quite clear that the Remote Area Development Programme is directed at the particular needs of the Remote Area Dwellers, defined as those who live outside the established villages. These need to meet a number of criteria to be eligible for development assistance from the government, most significantly a minimum size of 500 inhabitants. In the Annex to the ARADP Agreement between Botswana and Norway, however, a small concession is made to an alternative view of how to define the target group of the ARADP. As pointed out above, there is a large overlap between the categories "Remote Area Dweller" and "Basarwa", although the two categories are defined by quite different criteria. The authorities of independent Botswana decided at an early stage that ethnic identity would not be made relevant in public policy, thus opposing the ethnic and racial discrimination taking place in neighbouring South Africa. Two features of "apartheid" have in this context remained anathema in Botswana, viz. separate development, in which a particular ethnic group was treated differently from other ethnic groups, and forced translocation, which partly resulted from the first. The shift in emphasis from Bushman/Basarwa to Remote Area Dweller in the 1970's reflects these concerns. It is thus interesting to note that mention of both these issues is made in the ARADP Agreement.

A major feature of the cordial relations between Norway and Botswana has been their unanimity in their opposition to "apartheid" policies. Hence, Norway has steadfastly supported Botswana policies in this respect, including the rejection of separate development and forced translocation. Both issues were of course relevant in the ARADP.

In the period preceding the ARADP Agreement the situation of the Basarwa population in the Central Kalahari Reserve became a political issue. Although the Reserve originally had been created for the Basarwa, and facilities like boreholes had been installed for the Basarwa, continued hunting by the Basarwa in the

Reserve was seen as detrimental to the wildlife resources in the Reserve. The settlement of Xade in particular was seen as incompatible with sound wildlife management and initiatives were made to move the settlement out of the Reserve. This quickly became a contested political issue, in which the main allegation was that international environmentalist lobby groups were pressurising the Botswana government to give higher priority to wildlife management than to the Basarwa. Allegations were also made that the government was contemplating to move Xade, and although the government always has insisted that the move would be voluntary the issue has remained a sensitive one. The specific reservations in the ARADP Agreement against any NORAD involvement in any resettlement of the population in the Reserve is of course an indication of how sensitive this issue was at the time. It has not yet been resolved.

Furthermore, there is no doubt that NORAD throughout the history of the ARADP has accepted the official definition of the target group as the people who live outside the established villages (the RAD definition). But even so, there has also been a strong tendency in both NORAD and in the bureaucracy implementing the ARADP to think and speak about the target group in ethnic terms, as an ethnic minority (the Basarwa definition). In all NORAD documentation, for instance, the ARADP is referred to as a minority programme. Occasionally it is referred to as a programme for the aboriginal or indigenous population of Botswana. The statement in the Annex to the ARADP agreement referred to above, in which the strict RAD definition is modified to accept that RADs "... are mainly descendants of ethnic minority groups living under poor conditions in remote rural areas" must be seen as a concession to NORAD's attachment to the ethnic definition of the target group. In fact, one of the last issues to be settled in the negotiations prior to the signing of the ARADP agreement was NORAD's proposal that the ARADP should also cover Basarwa squatters in or around the established villages in the eastern parts of Botswana. This suggestion would of course only make sense in the context of an ethnic definition of the target group but would have given the ARADP a clear aspect of being an programme of separate development for the Basarwa. Interestingly, another NORAD suggestion, which also was deleted in the final version of the annex, suggested that one of the prerequisites of the programme should be the "establishment of political representation of target group on district and national level". Again, this suggestion only makes sense if an ethnic definition of the target group had been adopted. There thus seems to be little doubt that NORAD at least in this early phase thought of the programme as an effort directed at an ethnically defined target group.

Socio-economic and ethnic criteria

The issue of how the target group is defined is not only a matter of terminology. It carries with it notions about the kinds of problems which the development

programme is meant to do something about. The problems which arise from the ethnic minority situation of the Basarwa are obviously quite different from the problems arising from the dispersed settlement pattern of the RADs. Hence, the solutions provided by a development programme would vary according to what the problem is understood to be.

In connection with the operations of the Economic Promotion Fund, which was set up under the ARADP, the wide RAD definition given above was elaborated upon. The EPF guidelines are concerned with who would be eligible for support from the EPF, and here the RADs are defined as:

- All people who live outside village settlements who
- tend to live in small scattered communities and are sometimes mobile, covering large areas
 - tend to reside far from basic services and facilities
 - tend to fall ... outside the scope of other national development programmes
 - tend to be poor, lack adequate cash income or have the lowest wages
 - tend to rely heavily on hunting and gathering as a source of livelihood
 - tend to lack livestock
 - tend to have no, or inadequate access to land and difficulties in getting land allocated to them
 - tend to have no or inadequate access to water and have few or no water rights
 - tend to be marginalized ecologically since the resource base upon which they depend is deteriorating
 - tend to be culturally and linguistically distinct, with another language than Setswana as their mother tongue
 - tend to have a low level of literacy and little access to formal education
 - tend to have egalitarian political structures
 - tend to be a 'silent' sector politically, with no appointed leaders of their own and no representation in political bodies, including Land Boards"
- (Quoted in Saugestad, 1995:11).

This catalogue of hardships includes a number of features which point to a group which is disadvantaged to the extent that the distinction between RADs and non-RADs clearly involves far more than simply degrees of poverty. This is an important point, because it is frequently argued that although the RADs are poor, there are also a number of poor non-RADs and that it would be unfair to treat the poor RADs differently from the poor non-RADs. Hence, the RADP provides to the RADs the kind of social services which is being provided to the non-RADs in the villages (primarily water, health and education). By organising the effort in a special programme (the RADP) it is possible to provide these services to settlements which are smaller than the normal minimum size of 500 inhabitants.

The services are provided in settlements, however, and as the settlements are formed and grow in size, presumably to become full-fledged villages, the distinction between the RADs and the non-RADs will disappear. The settlements will take on some characteristics of the established villages at an early stage, such as the presence of a settlement headman, with a tribal court and tribal police, a

local development committee, and the presence of extension agents from various ministries (most importantly the Ministry of Health and the Ministry of Agriculture), long before they reach the size of full-fledged villages, primarily because of the investments in basic infrastructure made by the RADP.

The strict insistence that the target group for the RADP are "people living permanently outside the established villages" thus implies a strategy of assimilation, i.e. once people live in recognized settlements/villages they cease to be RADs and they will become more like the rest of the population. So, if the issue had been simply a matter of degree of poverty or degree of social services available, the interventions of the RADP would obviously be appropriate, since they would have been directed at the problem at hand. As it is, however, the interventions will only address some of the features which characterise a RAD (according to the list above).

There are a number of items on this list which point beyond a difference of degree, but rather to a difference which is qualitative. In particular, these are the items which point to a lack of access to vital resources. Most fundamentally this concerns access to natural resources like land and water which are necessary to gain an income and maintain a living anywhere in rural Botswana. Access to natural resources, however, is gained and maintained through access to political resources, however, which in this particular situation seems to depend on features like level of education, linguistic abilities, ethnic identity and economic status. These are not differences simply governed by degree of poverty but differences which grow out of a qualitative difference between the Basarwa and the rest of the population. Although nobody will deny that the Basarwa as a rule are poor, poverty as such may not be the most important issue at hand.

There is by now an overwhelming body of research available which clearly shows how Basarwa poverty is a symptom of underlying causes like poor access to resources. First and foremost, this concerns access to productive resources like land and water (and in Botswana the two are closely linked). Hence, programmes designed to alleviate the poverty of the Basarwa will only be effective to the extent they manage to address these underlying causes.

The settlement strategy

A major problem in the various development programmes devoted to RAD/Basarwa problems since the 1970'ies is the failure to come to grips with the underlying causes of the poverty which the programmes were set up to overcome. Poverty among the RAD/Basarwa population is therefore constantly reproduced and will continue to be reproduced as long as these underlying causes are not affected by the development interventions. In fact, it has been pointed out that some of the efforts, particularly the widespread and long-lasting provision of

famine relief to the RAD settlements, have in effect disguised the nature of the utter poverty of the Basarwa by providing a palliative to a situation which otherwise would have needed quite different solutions.

Writing in 1994 and looking back on the beginning of the Bushman Development Programme, the first Bushman Development Officer observes that:

The launching of an explicit land rights programme was unthinkable. It became clear that the programme could only survive for as long as it did not directly challenge existing land distribution (e.g. seek to redeem lost lands) or challenge the prevailing conception of how Basarwa/RADs should be "developed" - i.e. the desire to settle them down in villages so they could become "Tswana". Hence, the "settlement" strategy and hence, the use of existing channels for land allocation (land boards) building on the fact of Basarwa/RAD citizenship, not ethnicity. (Wily, 1994:16)

Thus, the programme at an early stage adopted an unofficial distinction between the "real" problems faced by the groups of people which the programme was intended to help, and what was politically expedient and feasible under the circumstances at the time:

It would be fair to say that the original strategy of the RBDP/RADP was opportunistic; the system was to be manipulated to the maximum and in ways which could not be challenged - the programme was addressed to the "very poor", who were, the constitution and national policies made clear, citizens with due rights and privileges.

(...)

The idea was to help them acquire formal ownership of their customary held land before what land they still had was lost to cattle-keepers. Their initial stake in that land would be made through the establishment of water points (boreholes mainly), in view of the tenorial practices that ownership of water points gave (and still gives) de facto ownership of the land for the surrounding five kilometres, as no other borehole may be established within ten kilometres of an existing water point.

(...)

In summary, "settlement" developments were to take place in the original territory of the group as far as was possible. Existing social organization would be retained as far as possible. Borehole and land allocations would be made directly to the group ("settlers"). The settlers would represent a registered group of related households, allocated a group title, exclusive to that group. That right would cover as much of their traditional territory as possible. (ibid.)

The subsequent phases of the Programme seem to have, explicitly or by implication, subscribed to the strategic thinking which Wily here claims was built into the programme at an early stage. The dual nature of Programme objectives have been noted and the realism of this strategy has been questioned, however, but not to the extent of offering any clear alternative strategies. An evaluation of the RADP, carried out on behalf of SIDA in 1981, pointed out that:

There is a basic contradiction between the disingenuous presentation of the programme as an uncontentious basic needs/social service measure, and the underlying aim of changing the status quo by improving the relative political and economic status of people who have so far not attained their full and equal rights as citizens (Egner, 1981:4).

Egner also points out that there seemed to be considerable confusion at the time concerning the objectives of the RADP, and that neither the officers in charge of programme implementation nor the ministry (MLGLH) which was responsible for the programme in the national political context were willing to face the issues involved. Egner's perception of the situation has considerable relevance also today:

Until action is taken at the political level in support of staff who have to implement the general social justice objective of national policy, as well as the more specific objectives of the RADP, the political/legal objectives of RADP must be regarded as not feasible for attainment by public servants acting on their own without political or legislative backing" (ibid., p.5).

NORAD's agreement to provide financial assistance to the RADP did not depart in any radical way from the "settlement strategy" which has characterised the programme from the start. In the 1986 review of the programme (which was organised following Botswana's request for support to RADP), the consultants state that:

...it is this team's assessment that such settlement approach is not only in agreement with people's sincere desire to establish a social and material base of life. It is also a useful strategy from a planning point of view (Gulbrandsen et al., 1986:14).

In the ARADP Agreement, however, the need for access to land is specifically mentioned and NORAD reserved the right to withhold funding for infrastructure development in a settlement if land rights for the RADs were not secured. The exact nature of these land rights is not discussed. Furthermore, although the largest parts of the funds were reserved for infrastructure development, in line with the settlement strategy, the ARADP Agreement also made explicit the other ambitions of the settlement strategy by including among the main objectives of the Programme the promotion of economic opportunities as well as political and legal rights for the target group.

RADP and land rights

The issue of land rights in the context of the RADP is complex and far-ranging and will be discussed in greater detail later in this report. At this stage only a few points which have been of great relevance to the period of NORAD funding of the RADP since 1988, will be made:

- * the settlement strategy and the development of infrastructure in settlements have had a more or less clearly expressed ulterior motive of securing land

rights for the Basarwa, partly to allow them to pursue traditional economic activities like hunting and gathering, partly to take up new activities like pastoralism and arable agriculture, and partly to protect the lands made available to the settlement dwellers (Basarwa) from encroachment from competitors.

- * Since the issue of land rights for the Basarwa for all practical purposes has remained a non-issue in whatever policy discussions have taken place within the RADP, the nature of Basarwa land rights and how they relate to household incomes, Basarwa land use practices and the viability of RAD settlements has not been discussed. It is true that Land Boards have generally been willing to allocate land for residential plots and arable farms. The amounts of land needed to pursue the landuse practices which in ecological terms are viable in the parts of the country where the Basarwa now live (viz. cattle rearing, hunting and gathering) have as a rule not been granted.
- * The settlement strategy has in many cases increased competition over resources. The development of infrastructure, in particular water, has made accessible resources, in particular grazing, which previously were inaccessible. This has attracted attention and interest in the settlements also from non-Basarwa and it has been difficult for the inhabitants of the settlements to maintain security of tenure over the resources which have been made available to them.

The issue of Basarwa land rights was not fully discussed in the various reports commissioned by NORAD prior to the signing of the ARADP agreement, but it was brought up as an issue in the text of the agreement and remained an issue in the implementation of the programme. The issue has not been phrased in terms of land rights as such but rather in terms of access to land resources necessary for productive employment, food security and sustainable development. But the programme has never been successful in these terms and the food security and general economic situation of the target group has remained a grave concern. The 1990 review of the ARADP (Kann et al, 1990), for instance, indicates that there were severe problems with the settlement strategy, pointing out that although the provision of physical infrastructure like water points, health posts and schools was a considerable achievement in its own right, the basic problem of poverty remained. The review reports that "according to estimates made by the RAD Programme, up to 90% of all RADs were dependent upon food relief in the period between 1982 and 1990." (Kann et al, 1990:11) This is of course an indirect, but very clear indication that the settlement strategy was not working in terms of improving the living conditions of the target population, which after all is the main and overarching objective of the ARADP agreement.

Hitchcock and Holm discuss the settlement strategy in a paper published in 1993. Here they point out that the strategy has a number of serious flaws, which may be grouped under three headings:

- * the land allocated to the settlements bears no relationship to the number of people in the settlement
- * the residents of the settlements are unable to control access to the land resources and receive little assistance from the government to stop trespassing
- * partly as a result of the two former points, the settlements have no income-generating capacity and the population will stay in them for only as long as they function as distribution centres for famine relief.

Hitchcock and Holm concluded their discussion of the settlement strategy by pointing out that unless some economic productive capacity could be installed in the settlements "... the settlements are refugee camps for those not employed on the farms and cattle posts" (Hitchcock & Holm, 1993:320)

Alternatives to the settlement strategy

The 1990 review by Kann et al. concluded that the RADP is a very long-term, complicated and difficult process. It underlined that in spite of all that had been done under the auspices of the ARADP, a lot remained to be done. The task at hand was described by the 1990 review as "poverty, insecurity, inadequate education and training, weak institutions and leadership and negative public attitudes" (op.cit.:ix).

Interestingly, the 1990 review therefore recommends a departure from the "settlement strategy" which up to this time had been pursued by RADP. The need for access to land resources is in no way denied, but the review recommends that greater attention must be given to the political preconditions for access to resources as well as the ability of the implementing agency to actually achieve its own goals within the development programme. The review found that the low status of the RADs in social, political and economic terms was matched by the low status of the RADP staff in terms of background, training and bureaucratic importance. Thus, the main recommendations include efforts to change negative public attitudes and outright discrimination against the RADs, to boost their general social standing as well as efforts to raise the status, morale and effectiveness of RADP staff. This is of course an approach which is quite different from the "disingenuous presentation of the programme as an uncontentious basic needs/social service measure" which had characterized the RADP up to then.

The alternative to the settlement strategy seems to be a political strategy of empowerment and participation in which the Basarwa somehow must be brought in to play a role in partisan politics and take part in the decision-making process which determines their access to land resources and economic opportunities. This is at least as long-term and complicated as the "settlement strategy". Hitchcock and Holm point out the irony, however, that the settlement strategy actually plays a critically important role in this political strategy, by concentrating the population sufficiently for them to be drawn into partisan politics and actually put a political strategy into motion (op.cit.:332).

Still, one must keep in mind that the total Basarwa population of Botswana is less than 5% of the national population and several observers who have examined their current social and political situation hold a quite sombre view of how feasible a strategy of empowerment actually is. Except in quite local situations the Basarwa vote is unlikely to carry much weight and in the most pessimistic forecasts the Basarwa seem likely to remain at the bottom rung of the ladder of inequality (see e.g. Good, 1993). What has become increasingly clear, however, is that the "Basarwa issue", including Basarwa poverty and Basarwa access to vital resources like land and water can only be resolved by putting them squarely on the national political agenda in Botswana.

The National Development Plan 7

The main recommendations from the 1990 review were taken up in the National Development Plan No. 7 (1991-1997) which was being prepared at the time, so that the main objectives of the new LG 127, the Remote Area Development Programme were modified accordingly. In the new plan period "basic infrastructure development will continue, but with a shift to issues of land rights, employment opportunities, institution building, leadership training and change of negative public attitudes." (NDP 7, Part II:43)

The National Development Plan No. 7 proposed to maintain funding for the Remote Area Development Programme at a level comparable to the Accelerated Remote Area Development Programme, at Pula 24 million, for the 5-year period. Pula 5 million (or 21%) would come from DDF, while NORAD was requested to contribute Pula 18 million, at the time equivalent to NOK 60 million. Although the agreement to support the Programme (which in 1991 was given a new project designation, LG-127 and reverted to the former title of the Remote Area Development Programme) was renewed through an Addendum to the original agreement (in late 1991), NORAD declined to commit itself to funding the project for the whole plan period, restricting its financial contributions to cover activities scheduled for 1992 only. The reasons for this must be related to the public controversy (in the local as well as in the international press) in 1991 over the issue of the Ghanzi Farms.

The Ghanzi Farms issue

The controversy over the Ghanzi Farms concerns three leasehold farms in the Ghanzi Block which in 1989 were allocated by the District Council to nearby RAD settlements. Three other farms had originally been allocated for the displaced Basarwa farm workers which inhabit these settlements as early as 1977, but for various reasons the farms were not developed and were therefore reallocated to other interests. The three farms allocated to the RAD settlements in 1989 were due to receive development support from the RADP. An consortium of interested NGO's was formed to assist in the actual planning and development of the farms and funds were granted from the RADP budget to develop water on the farms. In 1991, however, an initiative was made to withdraw at least one of the farms from the RAD allocation and hand it over to a cattle syndicate for commercial development.

NORAD raised this issue in a letter to MLGLH, in which it was pointed out that such a reallocation would put the credibility of the ARADP in jeopardy. In a later letter it was pointed out that Botswana had an obligation under the ARADP Agreement to "provide necessary land areas for the development of employment opportunities and income generating activities". The issue was also raised in the annual Country Programme consultations (thus involving the MFDP as well). At the same time interest in the matter was increasing in both the local and in international press. The result of the events in 1991 was that the District Council reaffirmed the allocation of the three farms to the RAD settlements (apparently as the result of pressure from Gaborone). In the process the NGO consortium had been asked to withdraw and was implicitly blamed for having proceeded in an incorrect manner (which was not further specified). Development of the farms was left with the RAD unit in Ghanzi. Proper leases for the farms were eventually issued, but with the condition attached that if the farms are not "developed" by 1996, they may be reallocated!

The issue of the Ghanzi Farms thus caused a number of misgivings in NORAD with regard to the ability of the MLGLH to secure land rights for the target group of the RADP, as required in the ARADP agreement. The unfolding of events clearly demonstrated the weaknesses of the "settlement strategy" and the weak linkages which actually existed between investments in infrastructure and the land rights which these investments were indirectly intended to secure.

The Ghanzi Farms issue was also important in terms of NORAD's continued involvement in the RADP. NORAD documentation is quite clear that NORAD in 1991 was prepared to continue funding of the RADP for the whole NDP 7. The events in Ghanzi, however, caused doubts to be raised about some of the most fundamental preconditions for the programme to succeed. NORAD therefore decided that it would prefer to await a clarification from MLGLH with respect to how it intended to secure land and water rights for the target population. The

Addendum therefore only extended the Agreement through Botswana's financial year 1992/93 (which ended on 31 March 1993) and made available NOK 19 million to fund operations under the programme in this interim period.

The Addendum to the Agreement stipulated that the Norwegian funds should cover 70% of the costs of Programme activities, although two particular components, viz. the Studies and Monitoring Programme and Technical Assistance would be funded by NORAD alone. The activities covered by the Addendum include two new components, however, in addition to the ones set out in 1988, viz. "Labour-intensive works" and "Information", both added in response to the 1990 review. The 1990 review raised important concerns about what would happen in the RAD settlements when the government actually stopped famine relief handouts, as was the plan at the time, since a large part of the population in the RAD settlements actually relied on these handouts for their daily subsistence. The labour-intensive works programme was intended to partly compensate the settlements for the removal of this important source of income. The information component was intended to fund the initiatives to combat the discrimination and negative attitudes against the Basarwa, as was recommended in the 1990 review. As for the other main recommendation of improving training and up-grading of RADP staff, funds had been set aside since 1988 for this component. Finally, in line with the change in emphasis from infrastructure development to human resources development which was recommended in the 1990 review and which was reiterated in the National Development Plan, the Addendum put a ceiling of 55% of the total budget on costs for infrastructure development.

The events surrounding the Ghanzi Farms in 1991 caused considerable turmoil and tension between NORAD and the MLGLH as the implementing agency also responsible for land matters. The issue of the Ghanzi Farms, as an isolated event, was eventually resolved, but, it seems, only after the Ministry of Finance and Development Planning intervened. The issue of Basarwa land rights was not resolved and as far as the prolongation of financial support to RADP was concerned, NORAD stated that it would prefer to wait for the policy review of the Remote Area Development which MLGLH had announced that it would undertake and present to the Rural Development Council.

Foreign concerns

As indicated above, the various changes of the title of the Programme, from the Bushman Development Programme to the Remote Area Development Programme, came about in response to political concerns in Botswana. The target population for the Programme, irrespective of terminology, has more or less remained the same. The "settlement strategy" on which the Programme was built also remained more or less unchanged, at least up to the 1990 review. It is clear that NORAD has been committed by its own regulations and policy to support the official view

in Botswana that the RADP was directed at a socio-economic category rather than at an ethnic minority. Still, the perception of the RADP as a programme to assist an ethnic minority has at least co-existed with the official view within NORAD. As indicated above, there is a concession to this view in the definition of the target group as expressed in the annex to the ARADP Agreement. This view has not, however, been given any operational expression as far as the RADP proper is concerned, since the RADP throughout has been implemented by the MLGLH through the RADP staff in the districts. By the time NORAD agreed to fund the programme in 1988 the RADP was of course quite well established in the districts, concentrating on infrastructure development and social welfare projects, most significantly the expansion of education facilities. When NORAD agreed to provide financial assistance to the programme it did so without proposing any major overhaul of the programme or any radical change of direction. Some adjustments and changes were introduced, however.

The most important addition to the RADP portfolio when the ARADP Agreement was signed was the Economic Promotion Fund and the strengthening of implementation capacity in the districts through the advent of expatriate Business Advisors. There were also a number of programme components added which were more of a concern for MLGLH headquarters, such as a monitoring and studies component, a training component and a component for cultural preservation. There is little doubt that these new additions to the programme gave the RADP a considerably higher profile in both the MLGLH and in the districts than had been the case previously. As such, it was also a clear indication of foreign concern and a continuation of foreign interest in the RADP.

The balance which must be struck between concern, interest and the provision of development assistance on the one hand and undue influence and domination on the other hand is a delicate one and an matter which NORAD is well aware of. In the RADP, it has been an important issue ever since the origins of the programme; the "settlement strategy" quite clearly was a compromise between expatriate interests where the land issue was the dominant problem and the local politicians and bureaucracy who preferred to see the problem in quite different terms. A considerable gulf remains between these foreign interests and their perception of the problem as being basically one concerning a subjugated ethnic minority, dispossessed of basic rights and which is discriminated against and kept under the political, economic and cultural domination of the majority on the one hand and on the other hand, the official view that the problem is simply one concerning the degree of economic deprivation. In the words of two researchers who have observed the situation for a long time:

Tswana society has not yet reached the point where it is considered acceptable, even in educated company, to condemn public expression of prejudice toward the San.

(...)

Even the more radical Botswana political activists and radical journals (such as *Clarion Call*) largely fail to recognize the San as a group which has suffered more discrimination than others in Botswana. They view international cultural rights groups as misguided trouble-makers who degrade Tswana society by preventing the modernization of one of its backward groups, or even worse as seeking special privileges for a 'tribal' group. They see the San as just one among a number of economically disadvantaged peoples" (Hitchcock & Holm, 1993:314-15).

The same authors point out that foreign concern has been the driving force behind the programmes to benefit the Basarwa and in particular point to Norway and Sweden as the main sources of funds for the RADP. In addition to funds, however, the Hitchcock and Holm find that

Both these governments have attempted to use their financial influence to give policy direction to the programme, particularly in terms of allocating more funds for employment-generating projects and insisting that more state lands be allocated to the San.

Without this most aggressive outside influence, it is doubtful if much would have been invested in San-oriented projects over the last two decades (op.cit. p. 328).

Describing this foreign concern for the situation of the Basarwa in official development assistance and cooperation projects as "most aggressive outside influence" may be overstating the point. There is no doubt, however, that this foreign concern often appears to be a most annoying nuisance to both politicians and bureaucrats alike, and that even well-intentioned initiatives easily can be misinterpreted as unwarranted interference unless great care is exercised.

The events of 1992

The high profile of the RADP created by the substantially increased funding from NORAD made available through the ARADP Agreement was as much an expression of interest and concern in the situation of the Basarwa as in the Remote Area Dwellers. The funding of RADP, however, was perfectly suited to Norwegian policies because of the overlap between the two categories, but also because RADs, as defined by the socio-economic criteria of poverty could easily be considered a target population. There are no indications that NORAD has not fulfilled its obligations under the RADP agreements. There are of course a number of informal ways in which influence can be exerted, but there are few indications that NORAD as an institution played a more activist role in RADP than it was supposed to. According to official Norwegian policy at the time the responsibility for implementing the ARADP Agreement rested entirely with the Government of Botswana and NORAD would only intervene in operational matters if it saw the terms of the agreement breached, as it indeed did in the case of the Ghanzi farms.

But NORAD's financial support to the ARADP/RADP did of course not preclude support through other channels to further the same interests and concerns as the RADP was dealing with. To a large extent such assistance was channelled to

officially recognized and registered NGO's in Botswana. In 1992, however, there were several events which again seem to have fuelled the uneasy relations between MLGLH and NORAD which initially had been brought about by the issue of the Ghanzi farms. The effect these events had on the relationship between MLGLH and NORAD can only be understood with reference to NORAD's concerns about the situation of the Basarwa and MLGLH's obvious perception of NORAD as a champion of the interests of an ethnic minority.

NORAD had provided support to the Botswana Christian Council as part of its policy to support local NGO's, and in March 1992 the BCC produced a human rights report highly critical of the government, in which the situation of the Basarwa was particularly examined. In the debate and publicity which followed politicians were quoted in the local press as saying that the report, written by a Botswana lawyer, no doubt had been instigated "by foreigners". Since the BCC report described quite serious breaches of the basic rights of the Basarwa, the Norwegian delegation at the annual Country Programme negotiations in 1992 raised the matter as a point of concern. NORAD had not commissioned the BCC human rights report, but since human rights issues are important to all Norwegian development cooperation agreements, and in this case affected a sector in which NORAD had a strong involvement, the matter obviously had to be discussed and clarified.

Furthermore, NORAD had funded a workshop on rural development, organised by the Botswana Society in April 1992. Although the RADP was not a major theme at this conference, "for perhaps the first time Remote Area Dwellers participated in a national meeting and were able publically to express their concerns which are sometimes not appreciated by others".(Botswana Society, 1992:xiii) NORAD had also agreed to provide financial support (jointly with SIDA) to a regional San/Basarwa conference to be organised in Namibia in June, 1992. A group of Basarwa, some of whom had participated in the rural development workshop, requested a meeting with the MLGLH to discuss the setting up of a national council to represent Basarwa interest and indicated that they would like to meet before going off to the conference in Namibia. A meeting did take place and as reported in the local press (under the headline "We were insulted - Basarwa" in the Botswana Gazette, June 3, 1992) the exchanges were quite acrimonious. According to the reports the MLGLH had no intention of letting the Basarwa organise a national council, insisting that the normal political representation in parliament and in the district councils and in the *kgotla* institution were adequate also to represent Basarwa interest. As for the Namibia conference, the government reserved the right to decide who should represent Botswana and there would be no question of the Basarwa selecting their own delegates. The newspaper also reported that the Permanent Secretary in MLGLH, who had just been on a study tour to Norway, "volunteered that it (the idea of a national Basarwa council) probably originated with the Norwegians, as it seemed to conform to what had been organised for the Saami people in Norway, which she had just visited"

(loc.cit.). Other newspaper reports went further, reporting statements from the Permanent Secretary that Norway and Sweden were instigating Basarwa self-rule, meeting with Basarwa groups "behind the back of the Botswana Government" and encouraging secession of the Basarwa from the republic.

These reports of course created great consternation in NORAD and SIDA and in the event both Botswana's Ministry of Foreign Affairs and the Ministry of Finance and Development Planning involved themselves in resolving the matter. A further conflict was averted, however, and in retrospect it seems that this controversy in June 1992 was a turning point. MLGLH after this time seems to have adopted a position which was much more accommodating as far as several of the issues which had caused the discord in the first place were concerned. In August the same year, for instance, MLGLH organised a seminar in Ghanzi to discuss the draft of a policy document on the RADP (which had been promised in the aftermath of the Ghanzi farms events in 1991). The annual RADP consultations between NORAD and representatives from MLGLH and MFDP, which initially were postponed from June to September, evidently took place in a cordial atmosphere. The Agreed Minutes do not reflect any confrontation at all.

MLGLH reported in this meeting that a draft document on the Remote Area Policy would be presented to the Rural Development Council in October 1992. It would then be sent to the districts for comments before the preparation of a White Paper to be tabled before Parliament. MLGLH in this meeting also expressed what may be taken as support for the participatory empowerment strategy which had been offered by the 1990 review as an alternative to the settlement strategy of previous years:

MLGLH mentioned that RADP's impact had been limited mainly due to the traditional approach of doing things for the target group rather than with them. However, a change in this approach has started to take root, as exemplified by the involvement of Remote Area Dwellers (RADs) in seminars to chart their destiny, like the Ghanzi one.

On NORAD's question about arrangements for representation of RADs; PS MLGLH hinted that this was part of the policy review. She emphasised the need to educate RADs so that they can be able to articulate their problems and rights, rather than somebody or other population groups doing this for them (RADs). Through this educational process, she felt that RADs would be able to demand and exercise their right to represent themselves like other population groups" (Agreed Minutes of the Annual Meeting between Botswana and Norway on Remote Area Development Programme, Gaborone, 24 September 1992, para. 6-7).

The issue of programme funding beyond April 1993 (the period covered by the Addendum) was also raised by MLGLH, but NORAD reiterated that the question could not be addressed before the policy review had been completed and new guidelines for the RADP had been worked out. NORAD also signalled in this meeting that it was in the process of reviewing its own policies for future cooperation with Botswana, again emphasising that as far as NORAD was

concerned Botswana had full responsibility for planning and implementing all development efforts.

The issue of the Business Advisers attached to the RADP was also discussed in this meeting. In strictly formal terms all Business Advisers were employed by MLGLH, even if they were on secondment from NORAD. Their function and role in relation to the Economic Promotion Fund and other activities under the Programme, such as the labour-intensive works component, needed review and the Agreed Minutes states that their role was being examined and new job descriptions would be prepared. There were only a few Business Advisers actually posted to the districts at the time and these were withdrawn by the MLGLH later in the year. Partly to compensate for this a number of Assistant Project Officers, to be posted directly in the settlements, were recruited.

The Second Addendum

The funding made available by the Addendum to the ARADP Agreement was intended to cover Programme activities through the Botswana financial year of 1992/93, which ended in March 1993. As indicated above NORAD had declined to commit itself beyond this period and had at several occasions stated that a renewal or prolongation of a funding agreement for RADP would have to await the policy review which the MLGLH had initiated in 1991, in the aftermath of the Ghanzi Farms incident. Draft versions of the policy document had been discussed and were circulated for comments, but a final policy statement was not forthcoming.

NORAD, on its part, was in the process of reformulating its own policy for Norwegian development assistance cooperation with Botswana.

Although the fundamental precondition of a new policy statement on the RADP was not present, it was decided in 1993, in the interest of maintaining the momentum within certain programme activities, to extend the agreement for another year. But NORAD did not want to appear to endorse the existing RADP profile before the policy statement and revised guidelines from MLGLH actually became available, so the amount of money made available through the Addendum was reduced to NOK 2 million, or approximately 10% of the amount agreed to in the first addendum. This Second Addendum makes it quite clear that the agreement was meant as a temporary measure, stating that:

The activities to be covered by the Grant shall mainly consist of ongoing activities, and it is the intention of this Addendum to keep those activities going until the future of the Programme and the future Norwegian support to the Programme has been decided upon (Addendum No. 2, Article 1).

To the extent the Addendum mentions which activities should be covered it makes specific reference to "technical assistance, research/studies, training, cultural activities and sponsoring of a regional conference", and given the modest level of funding, it is clear that the Second Addendum more or less precluded further investment in infrastructure and a continuation of the "settlement strategy".

Perhaps the most significant event in the period covered by the Second Addendum, at least in terms of a departure from the "settlement strategy" with its implicit, unspoken assumption that land rights and economic opportunities for the Basarwa would grow out of infrastructure investments in the remote areas, was the hosting by the MLGLH of the Second San/Basarwa Regional Conference in Gaborone in October 1993. The official sponsorship of this meeting by the MLGLH was at the time seen by many as a significant indication of a change in official policy as far as the Basarwa were concerned. This is particularly so since the Minister for the MLGLH just a few months earlier (March 1993), in response to public questions about how it intended to celebrate the U.N. International Year of Indigenous People had declared that the MLGLH saw no reason to do anything at all. In opening the conference the Minister stated that "Botswana supports the general principles and objectives of the United Nations International Year of the Indigenous Peoples in so far as they relate to the marginalised and disadvantaged sector of the population." (Butale:1993)

There were a number of features relating to this conference which are worth noting. The fact that it took place at all, under the official sponsorship of the MLGLH has been mentioned. The cordial relations and active cooperation between the MLGLH and a number of NGOs in organising the conference and the many meetings between Basarwa representatives which took place before the conference are also noteworthy. The fact that the various Basarwa groupings successfully and without any serious difficulty elected spokesmen and representatives who articulated specific Basarwa interests and freely debated issues of concern to all Basarwa is one measure of success, as is the passing of a number of important resolutions, in which such interests were expressed. Several of the resolutions treated matters which had been brought up in the draft documents for a new RAD policy which had been discussed at earlier occasions (e.g. the Ghanzi seminar in 1992) and took a clear position on issues like mother tongue education in schools, respect for Basarwa cultural practices, Basarwa land rights and land-use practices, Basarwa participation in land-use planning exercises, economic opportunities in Basarwa communities and the creation of Basarwa representative structures to articulate Basarwa interests in the national context. A detailed discussion of the significance of this conference is found in Annex 6 to this report.

Unfortunately, the aftermath and follow-up of this conference have not been equally promising in terms of contribution to a process of mobilisation and political empowerment. The official proceedings and the resolutions from the

conference have not yet (April 1995) been released by the MLGLH. Nor has the long-awaited new RAD policy document been finalized.

Since MLGLH first undertook to review RAD policy in the aftermath of the Ghanzi Farms incident in 1991, several different draft versions of a new policy document have been discussed. The differences between the various versions seem to concern to which extent the views and recommendations inherent in the 1990 RADP review (by Kann et al.) and the formulations in NDP 7 concerning the oppressed status of the RADs actually are accommodated in the proposal for a new RAD policy. These differences may thus be seen as a tension between the former "settlement strategy" and the more recent "empowerment strategy". The current status of the policy document, or which view eventually will be espoused is not known. This is unfortunate, both in terms of the policy environment for continued work by Basarwa interest and advocacy groups (e.g. Kgeikani Kweni - The First People of the Kalahari) and in terms of continued cooperation with NORAD. As a major donor to the Programme NORAD has had a legitimate interest in the matter but has since 1991 insisted that continued cooperation must depend on a clarification of Botswana's policy and guidelines as far as the RADP is concerned. This position has to a certain extent been overtaken by events since NORAD on its part has formulated a new policy for bilateral cooperation with Botswana, but also under these new circumstances it is hard to envisage a new initiative to support the RADP without a clear policy statement from Botswana.

NORAD's new policy

Later in the year, NORAD's own policy document on continued cooperation with Botswana appeared. This document points out that Botswana's strong economic performance and comparative prosperity did not warrant a continued bilateral development assistance programme, but that relations of cooperation between Norway and Botswana rather should be restructured into forms of cooperation which to a much larger extent should be mutually beneficial and eventually be independent of a financial assistance programme and grant funding. The three years from 1994 to 1996 would see the gradual reduction of the traditional bilateral programme. It would be replaced by cooperation between public, non-governmental and commercial institutions in Norway and Botswana, primarily within those fields in which Norwegian development assistance had been concentrated (communications, health and rural development), but also within those fields where Botswana would find Norwegian skills, experiences and competence of interest and relevance to its own situation.

This policy document (Landstrategi - Norges bistandssamarbeid med Botswana 1994 - 96 - Country strategy for Norwegian development cooperation with Botswana 1994 - 96) sees continued Norwegian support to the RADP in the same terms:

Improving the conditions for minority groups in the remote areas is an important challenge for Botswana. Botswana is now in the course of establishing a new national policy which will strengthen minority rights. One should explore whether Norway has institutions with relevant competence in this field and if Botswana would be interested in making use of this competence in the future (Country Strategy, p.2) (our translation from Norwegian).

It seems highly unlikely that these policy statements will be able to accommodate a programme based on a continued "settlement strategy" with high infrastructure investment costs. On the contrary, it seems quite evident that continued cooperation within the framework of a RAD or Basarwa programme must be based on a strategy of participation and political empowerment. It seems a first and quite basic precondition for this "political strategy" is a clear recognition that the problems at hand primarily arise from the ethnic minority situation of the Basarwa, not from the depressed socio-economic status of the RADs! Gradual changes in the direction of a "political strategy" are discernible in NORAD's budgetary allocations to the Programme since 1988, where the amount of money allocated for infrastructure development has been quite severely cut back, but also in the statements to this effect in the NDP 7. NORAD's continued funding inside and outside the RADP of initiatives to facilitate increased awareness of the Basarwa situation and NORAD's insistence on a new policy statement from the MLGLH are also indications of this change in outlook and strategy.

The momentum which this strategy seems to have built up since the events of 1992 and which perhaps peaked with the Second Regional San/Basarwa Conference, unfortunately seems to have been lost during 1994. The remaining funds made available by the Second Addendum were exhausted in 1994 (although there still are undisbursed funds from RADP/NORAD sources in the district councils, earmarked for approved EPF projects) and the new Norwegian development cooperation strategy has not yet been given a concrete and operational content as far as the RADP is concerned. There is general agreement that the problem, or set of problems, which the Bushman Development Programme initially set out to solve, to a large extent remain unresolved. This has probably not been for lack of money, but rather because of a reluctance to come to grips with the "real" problems which determine the situation of the Basarwa in Botswana. It has become quite abundantly clear that the oblique approach of the "settlement strategy" has not worked in terms of providing the Basarwa with secure access to vital resources, although the achievements of this strategy in terms of installing physical infrastructure and providing services in specific settlements are not in doubt. The challenge now is to build sufficient support and momentum for alternative strategies to improve the situation of the Basarwa population to be tried out.

3. The RADP as rural development

Introduction

As its name implies, the RADP is a development programme. In April 1974, the original outline of the Bushmen Development Programme, as it was then known, stressed that the programme was "but one element in the renewed emphasis on rural development generally in this country" (Wily, 1979: 64). 21 years after the programme's inception, we believe it is time to reconsider some of the basic principles involved in Botswana's rural 'development', and to evaluate the RADP in those terms rather than mechanically appraise each of the programme's components in turn.

The uncertain and ill-defined condition of 'development', at which the RADP and other Botswana programmes aim, has several dimensions. It comprises political, social and cultural parameters as well as infrastructural, economic and environmental ones. The RADP differs from most 'development' programmes in that, at least potentially, it addresses most of these parameters. The extent to which the RADP is intended to address political and social issues is a matter of interpretation, but even in the more 'conventional' development fields of infrastructure, income generation and environmental management, the RADP tackles a more ambitious range of sectors than most projects which concentrate on, for example, agricultural development or school construction. In some senses, the RADP can be viewed as a microcosm of Botswana's entire rural development effort. In this chapter, we therefore evaluate it against the background of the nation's overall rural development policy and programmes. Looking to the future, we suggest that it may now be time to ask whether the various components of the broad RADP should be unpacked and reassembled in a different format.

To inform this discussion of the RADP in its broader rural development context, we begin with a quick outline of the main rural development institutions and agencies in Botswana, followed by a summary of the key rural development policies currently in place.

Rural development institutions and agencies

The Rural Development Council

The RDC, established in 1972, controls the design and implementation of rural development policy in Botswana. Chaired by the Minister of Finance and

Development Planning, who is also Vice-President, it comprises the Minister of Local Government, Lands and Housing as vice chair, relevant Permanent Secretaries, and representatives of District Councils, Land Boards, and parastatals. The Coordinator of Rural Development in MFDP is secretary. Besides reviewing overall policy matters, the RDC also gives attention to specific rural development issues. Recently, for example, it has been pressing civil servants to take prompt action on the three farms which are to be developed for RAD use in Ghanzi district.

The Rural Development Coordination Division, Ministry of Finance and Development Planning

As its name implies, MFDP coordinates the development planning and budgeting activities of the various line Ministries. Again, the function of the RDCD, supervised by the Coordinator of Rural Development, is explained by its title. At present, for example, the Division is coordinating the development of revised strategies for communal areas development and rural development in the western districts (see below).

Line Ministries

Botswana has no Ministry of Rural Development. Many of the functions of such a Ministry are performed by the Ministry of Local Government, Lands and Housing (MLGLH). This Ministry, besides coordinating activities in the sectors its title covers, links to the local level functions of District Administrations, District Councils and Land Boards (see below). It also houses the RADP Unit.

Other rural development functions are performed by the Ministry of Agriculture, with its responsibility for developing crop and livestock production, and the Department of Wildlife and National Parks in the Ministry of Commerce and Industry. DWNP has a growing involvement in rural development through its commitment to community based natural resource management. The land use planning functions implicit in the zoning of, for example, Wildlife Management Areas (WMAs) are coordinated by MLGLH in consultation with the various district authorities.

District authorities

MLGLH works with four authorities at district level: the District Administration, the District Council, the Land Board and the Tribal Administration. The District Administration is headed by the District Commissioner, who - along with two key staff, the District Officer (Development) (DO(D)) and the District Officer (Lands) (DO(L)) - is a central MLGLH employee. The District Council is an independent

local authority, partly elected by the people of the district, and responsible through a number of departments (overseen by the Council Secretary) for the provision of primary level services such as water supplies, clinics and primary schools. Since 1977, the RADP has also been implemented by relevant District Councils (seven of the nine). Staff of these Council departments, including the RADP, are centrally employed, and transferred between districts by, the Unified Local Government Service (ULGS), an agency of MLGLH in Gaborone. Land Boards, established under the Tribal Land Act, are responsible for land allocation and zoning on tribal (not State) land in each district.

Key coordination agencies at district level include the District Development Committee, which is responsible for District Development Plans and their implementation; and the District Land Use Planning Unit (DLUPU), in which staff of the Ministry of Agriculture, RADP and DWNP participate along with those of the district authorities mentioned above.

Structure and process in rural development

The above outline of the various central and district level agencies is provided for three reasons. First, it may help the reader navigate Botswana's institutional structure. Secondly, it should show how many channels and tools are potentially available for influencing or implementing a rural development initiative such as the RADP. Thirdly, it indicates the complexity of steering a multifaceted programme like the RADP from a single, small department in one Ministry of central government, linked as it is to a small section in each of the District Councils.

Rural development policy

The Government of Botswana's Rural Development Policy was set out in 1972 and has not officially been revised. The policy calls for total commitment to rural development, based upon national objectives and principles outlined by the then Vice-President in 1970:

Firstly we wish to strive for *social justice*; secondly we are concerned to provide wherever possible *equality of opportunity*; thirdly, we intend to use persuasion rather than compulsion in order to achieve change in a democratic and constructive way. These three objectives are rooted in our four principles of *democracy, development, self-reliance and unity* (GOB, 1972, 3: emphasis in original).

The policy outlines a rural development programme with four main aims:

1. To increase sustained production from the land and from wildlife through research, co-ordinated extension work and conservation planning leading to the introduction of correct land use and management practices;

2. To improve marketing and credit facilities in the rural areas;
3. To create new employment opportunities wherever feasible and thereby reduce the numbers at present without any means of support; in particular to promote industries, services and crafts in rural areas;
4. To improve social services in the rural areas (water supplies, education, medical and welfare services, etc.) leading to healthier, smaller, better educated, better fed families (GOB, 1972: 3).

Significantly, the policy emphasises the need for environmentally sustainable development and enhanced natural resource management to arrest and reverse land degradation. Another important concern, arising from the need to arrest land degradation near major villages, is the need to provide infrastructure for the new villages which must be formed to absorb the increasing population. "At the same time these new settlements should be planned so as to ensure that such services can be provided as conveniently and economically as possible" (GOB, 1972: 3). Concern for "social justice and equality of opportunity" leads the policy document to urge a reduction in income differentials: "social and economic change must not favour the rich or deprive the poor":

Our democratic principles and our concern for national unity both preclude forcing change on a reluctant people. Changes in such vital areas as land tenure can only be achieved by popular consent. But we shall take care not to confuse the vested interests of an articulate minority with the needs and wishes of the majority. Finally, it must be stressed that self-help and self-reliance are principles which apply to all groups and all communities..." (GOB, 1972: 4).

We have quoted this policy at length because it sets out the principles and concerns which officially remain valid for all rural development in Botswana. The RADP should therefore be evaluated in the light of this policy, as well as its own programme description.

Rural development strategy

Not surprisingly, the fourth of the rural development programme's aims - improvements in rural infrastructure and social services - has proved to be the easiest to tackle. Major progress on Botswana's now impressive network of rural roads, clinics, schools and other facilities began to be made during the Accelerated Rural Development Programme in the 1970s and has continued through a series of partly donor funded programmes in the various primary service sectors.

In the rural production sector, the foundations for a succession of area-based initiatives were laid in the 1970s with the emergence of the Tribal Grazing Lands Policy (TGLP). TGLP was originally designed as a communal areas development programme as well as a strategy for commercial livestock development on tribal

land. The well known failure of the first objective need not be documented here; but by 1980 the TGLP parlance of designating first and second commercial development areas on the tribal lands of various districts led to the concept of 'Communal First Development Areas' (CFDAs). Based partly on the experience of the Matsheng Land Use Plan and the Village Area Development Programme in northern Kgalagadi District (Lawry, 1982) and partly on a focused effort to achieve rural development in the Gomare area of western Ngamiland, CFDAs were intended to concentrate communal areas development inputs in limited areas of each district.

By the early 1990s some districts had designated communal second development areas, but the consensus was that little significant economic (as opposed to infrastructural) development had been achieved. The CFDA strategy had failed to solve the intractable problems of development in rural Botswana: unpromising communal crop and livestock production conditions, a poor alternative resource base, small and scattered human populations, remote markets. Through drought relief and other programmes, rural people remained heavily subsidised by central government and the urban and mining sectors. Dependency was more noticeable in rural communities than the self reliance called for in 1972.

A government review of the CFDA strategy in 1993 confirmed this negative evaluation. The Rural Development Council then endorsed the official abandonment of this strategy and a search for a replacement. An interministerial working group is currently developing a strategy which will be community based rather than area based, and will try to revive self reliance while focusing on income generation. It is recognised that the desired processes of social mobilisation and community empowerment take time, and depend on the political will to consult rural people seriously. Whether the resultant strategy will move beyond jargon to effective implementation remains to be seen.

At the same time, Government has recently given special attention to the development problems of the western districts (and some central areas such as Boteti), which never seem to recover from 'drought'. District planning units and the Rural Development Coordination Division of the Ministry of Finance and Development Planning (MFDP) are now implementing a Cabinet decision to design special programmes for these areas, although it is not clear how far they will build on the recommendations of a comprehensive review of the development potential of Ghanzi and Kgalagadi districts carried out for the Ministry of Agriculture (MOA) in 1990. That study (Adams *et al.*, 1990) seems to have been poorly coordinated with MLGLH and the RADP, which do not appear to have been visited by the mission in Gaborone. (MLGLH did submit written comments on the draft report, and two RADOs and one RADP Adviser were interviewed in the field.)

Remote area development policy

The definition and evolution of the 'remote area dweller' (RAD) concept and of remote area development policy over the past two decades have been amply discussed before (see, for example, Wily, 1979; Hitchcock, 1988; and Kann *et al.* 1990). We restrict ourselves here to developments over the last seven years.

The Accelerated Remote Area Development Programme

Having decided in the mid 1980s that the existing RADP was not achieving the desired development impact fast enough, Government resolved through a 1987 Cabinet Memorandum to launch an Accelerated Remote Area Development Programme (ARADP) (GOB, 1987). The main purpose of the ARADP was to:

...promote particularly the productive activities and potentially permanent settlements which will facilitate the provision of the necessary public services and the improvement of the living conditions of the people living in these Remote Areas (GOB, 1987:1).

Responding to the 1986 evaluation of the RADP (Gulbrandsen *et al.*, 1986), Government endorsed, *inter alia*, the following recommendations:

"Wildlife Management Areas should be gazetted after the regulations governing the co-existence of wildlife and the Remote Areas inhabitants owning cattle will have been determined by the relevant authorities."

"The Remote Areas communities should be encouraged and assisted to establish the traditional leadership of their choice in order to facilitate the work of the extension officers."

Not merely the recommended Economic Promotion Fund (EPF), but a whole Accelerated RADP, should be instituted.

RADs should be assured "of their rightful share of the communal land resources".

"Properly planned settlements" should be established "to accommodate all landless inhabitants of the Remote Areas..."

"The principles used in assessing and determining the compensation payable to the inhabitants of the Remote Areas displaced from their traditional territory" should be reconsidered.

Land Boards should be instructed to "tell the inhabitants of the Remote Areas about their land rights and assist them to apply for land allocations".

"As much as practicable settlement areas should be located as close as possible to WMAs."

"Whenever possible hunting and gathering territories should be retained."

Productive activities should be promoted at "suitable centrally situated spots" established for the purpose.

"As much as practicable the necessary public services should be extended to the inhabitants of Remote Areas at an accelerated pace."

"In future, establishment of hostels should be avoided to the extent possible."

As Adams (1994: 17) notes, "'Settlement and services' were thereby consolidated as the aim of the ARADP". But the policy implied in this launching of the accelerated programme also shows a concern for RAD land rights and hunting and gathering territories, while allowing the possibility that RADS will be displaced from their original areas. In these and other ways outlined above, the intention of the RADP appeared more proactive than simple service provision.

This proactive approach was reinforced by the statement of the Botswana and Norwegian governments about "basic prerequisites for improving the living conditions of RADs under the Programme" which was agreed in 1988 when Norway undertook to provide NOK 40m in support of the ARADP:

- securing of land areas to cater for productive employment development in and around settlements
- provision of adequate water supply and water facilities in old and new settlements
- provision of basic infrastructure and staff to enable public services... and extension services to take place in settlements
- promotion and formal recognition of local institutions and local leadership to represent target groups
- retainment of RADs' cultural integrity (GOB/GON, 1988, Annex I).

Evaluation of the ARADP

The 1990 evaluation of the ARADP (Kann *et al.*, 1990) found, like others before it, that the impressive achievements in delivering services and infrastructure to RAD settlements were not matched by progress in developing new modes of income generation, maintaining old ones or ensuring adequate access to land and natural resources for RADs. The evaluators noted the continuing insecurity and low social status of RADs, exacerbated by ignorance and negative attitudes among the broader public and government and District Council staff. They pointed out the low morale of the RADP cadre in the Councils, and the inadequate training provided to these officers. The team considered their two most important recommendations to be:

"that ULGS raises the status, morale and effectiveness of RADP staff by improving their level of training and by creating a module of specialised training for RADP staff..."

and "that the RADP invests time and money in informing and educating the public, including Government officials from other departments, as to what is happening now, and what is planned for the future" (Kann *et al.*, 1990: xv-xvi).

National Development Plan 7 (1991/2 - 1996/7)

The current National Development Plan (NDP) amplified remote area development policy further in the direction of land rights, enhanced social status and meaningful income generation opportunities:

[The RADP] provides funds for physical infrastructure, activities aimed at institution building, promotion of productive rural employment, and acquisition of land rights for RADs.

Infrastructure has been provided in recognised remote settlements, but performance has lagged behind in other areas. RADs continue to face numerous problems, such as poverty, insecurity, inadequate education and training, weak institutions and leadership and negative public attitudes.

During NDP 7, basic infrastructure development will continue, but with a shift to issues of land rights, employment, education opportunities, institution building, leadership training and change of negative public attitudes. Activities which generate income and promote employment opportunities among the RADs will be promoted (GOB, 1991c, Part II: 43).

As Adams (1994: 18) points out, this policy statement clearly reflects the findings and recommendations of the 1990 evaluation. It suggests a further evolution away from services and infrastructure towards a policy of social and economic empowerment. Meanwhile, the 'Accelerated' part of the programme was dropped in 1991 at the end of the first phase of NORAD support (GOB/GON, 1992b: 1).

Policy on the Remote Area Development Programme

The mission's terms of reference require it to review the Government of Botswana's revised policy document for the RADP. Following several drafts and redrafts, this document is still under review by Cabinet. The Permanent Secretary of the Ministry of Local Government, Lands and Housing therefore felt unable to give the draft to us for review, and this part of our terms of reference could not be fulfilled.

Adams (1994: 19 - 22) reviews the history of the RADP policy drafts, which now seem to have been under revision and review for at least two years. He suggests that, up to March 1994, there had been at least three drafts, the second of which (circulated at the second regional San/Basarwa conference in Gaborone in October 1993) built further on the policy commitments of the 1987 ARADP memorandum

quoted above. This draft proposed further attention to the land access and rights concerns raised in 1987, as well as other measures to raise RADs' social status, representation and participation in development decision making, to combat discrimination against them, to promote Sesarwa culture and to introduce mother tongue education for RADs.

Adams goes on to show that the subsequent draft policy (which he reproduces in an appendix) retreats from many of these commitments, and in so doing also abandons some of the policies endorsed in the 1987 memorandum with regard to access to land (especially for hunting and gathering) and the development of leadership and local institutions in RAD communities.

Policy commitments and development impact

Rather than speculate on how or why the final RADP policy document may differ from the many drafts, it may be more useful to review the overall nature of remote area development policy as reflected in the various statements and programme documents of recent years.

All the public statements of remote area development policy since 1987 have continued the earlier tradition of setting out the full spectrum of 'development' objectives: infrastructural, social, legal, political and economic. While there may be doubts about what the next official policy statement will contain, there has been a steady expansion of emphasis in the earlier documents on land rights, combating discrimination and educating the public and public servants about the aims of the programme. Government has remained steadfast in its largely geographical definition of remote area dwellers and has rejected any ethnic reference to Basarwa in the programme. The somewhat disingenuous rejection of any sort of 'separate development', and the corresponding reference to the integration of RADs into mainstream Botswana society through the programme, continue to be heard from civil servants, but are being replaced in official statements by a more confident recognition of social, ethnic and economic diversity.

However, these policy statements have been permissive, rather than prescriptive, in their approach to the social status, human rights and access to resources of Basarwa and other RADs. They say that measures will be taken, but do not specify how. Nor do they alter the broader policy, programme or institutional framework within which such measures must be implemented. They offer a general, rather than a specific commitment to action on the social front. No special action is offered with regard to legislation or practice in such fields as land, education, justice or nature conservation. Furthermore, as will be shown later in this evaluation, the institutional and human resources available to the RADP for implementation of this broad range of general commitments have not been expanded.

In effect, the nature of these RADP policy statements mirrors the nature of much legislation in Botswana and many other developing countries. General principles and major institutions are specified, but specific practice is left to administrative discretion: for example, in regulations to be gazetted by a Minister, or in the budgeting and work plans of individual departments. Evaluation of RADP policy can therefore only take us part of the way in evaluating the impact of the RADP. What matters most is actual practice, both within and beyond the programme. We begin to examine this by reviewing recent remote area development strategy. Then, we look at other government strategies and programmes of particular relevance to the remote areas. Later in this chapter and in the ones that follow, we look at the actual performance and impact of central government and District Councils in implementing the full spectrum of remote area development policy.

Remote area development strategy

LG 127: Remote Area Development Programme

The most factual statement of current remote area development strategy is set out in the current GOB project memorandum (PM) for the programme (recently renumbered LG 127 after many years as LG 32). This PM (GOB, 1991a) covers the period 1991/2 to 1994/5. The technical description of activities to be implemented comprises the following:

Water supply

The PM notes that this is the fundamental requirement for a viable settlement, and will be provided in advance of other infrastructure. If a reliable supply cannot be found where people are living,

...this may require that people move to new areas or other existing settlements. However, any such changes of residence shall be entirely voluntary, and the people concerned shall be duly consulted to find a solution in accordance with their own priority (GOB, 1991a, 6).

Land

The PM acknowledges that RADs "have had their access to land gradually restricted" and says that the main strategy to redress this will be to help them

in acquiring user rights to land for residential use and arable cultivation, and to water for domestic animals (by which access to grazing areas are also secured) on par with other population groups, in accordance with Botswana's general policy for allocation of land and water rights (GOB, 1991a: 6).

The PM emphasises the need to help RADs acquire these rights; for RAD borehole syndicates to be promoted; and for Land Boards to be ready to make the necessary allocations. It also calls for intensified extension campaigns to overcome "the cultural alienness of most RADs to systematic arable cultivation". It states that MLGLH will carry out campaigns to "improve attitudes and knowledge among relevant institutions and people", and issue "clear directives as to procedures and criteria to be used in the land allocation process". The MLGLH Department of Lands told the mission that it had not been consulted about the inclusion of this last statement, but that it might refer to clarifications that were issued about the allocation of land to District Councils for RAD settlements. Individuals living in these settlements, the Ministry said, should still receive their own allocations of residential and arable land within these settlements from the Land Board.

Hunting rights

Recognising the continuing importance of hunting for many RADs, the PM simply notes that

In accordance with the recently adopted wildlife management policy, people presently living in wildlife management areas shall have the first priority to exploitation of the wildlife resource within those areas (GOB, 1991a: 7).

It proposes that RADs' hunting rights may be secured either through the issue of Special Game Licences by the Department of Wildlife and National Parks (DWNP) or, vaguely, "by making the residents of the respective areas general caretakers of the wildlife resource".

Promotion of economic activities

The PM outlines additional emphasis (20% of total project funding, rather than the previous 7%) on the Economic Promotion Fund (EPF) as the main mechanism for promoting economically viable income generating activities by RADs. Long term subsidies are to be avoided. Standard GOB programmes such as the Arable Lands Development Programme (ALDEP) and the Financial Assistance Policy (FAP) should be the primary mechanism for supporting RADs' economic ventures, with the EPF providing additional help where these are insufficient. In particular, EPF can provide the grantee contributions which these two programmes require.

Placing heavy emphasis on the role of the cadre of 13 Business Advisers then being recruited, supported by the 20 Assistant Project Officers (APOs) already in post and by the rest of the RADP cadre at district level, the PM emphasises that

...to utilise and transform new knowledge and data about the resource base into sustainable and practical commercial enterprise... is the core element in transforming the life of the rural poor into the mainstream Botswana society (GOB, 1991a: 9-10).

The PM proposes that, where feasible, each RAD household will be provided with at least one donkey and donkey cart, together with ploughing equipment, and that "where livestock rearing is possible, households could have 6 cattle or 15 goats each". It argues that RADs will be better motivated to engage in economic investment and productive activities as a result of the programme's support for their acquisition of land and water rights. It also stresses the importance of the programme's research and monitoring component (see below) in identifying technically and economically viable investment strategies. It notes several non agricultural types of enterprise, such as handicrafts and tanneries, and plans an intensification of RAD training programmes in these fields.

Labour intensive works

While providing P4m for the EPF's support to supposedly viable economic activities, the PM allocates P3m as interim subsidy to RADs by proposing to employ them on a range of labour intensive public works - largely for the construction of community facilities such as village staff housing, drift fences, roads and kgotla offices. APOs are given the primary responsibility for supervising these activities. It is envisaged that some of the construction funded by this component will be of standard programme facilities, such as health posts or staff housing, which would otherwise be built (perhaps at higher cost) by standard Council contracting procedures.

Cooperatives

Noting the limited activities of the Department of Cooperatives in promoting (mostly consumer) cooperatives at RAD settlements, the PM indicates that limited additional support may be provided by the RADP. No separate budget item is shown for this activity.

Education and health facilities

The PM proposes construction of slightly fewer education facilities in the current phase of the programme than in the previous phase (44 classrooms, 44 teachers' quarters and 22 administration blocks, compared to 77, 73 and 30 respectively). There is a smaller reduction in the pace of health facility construction (health posts, nurses' quarters and supporting vehicles, radios and solar power systems).

Recognising the drawbacks of school hostels, the PM describes them as "a measure of last resort" and states that "every effort will be made to improve the

hostel environment, in due respect of the cultural background of the children..." "Immediate steps" will be taken to recruit women from the children's home areas to work at the hostels. Where parents are still reluctant to send their children to hostels, local facilities to teach children to read and write Setswana will be set up.

Cultural activities

The PM notes that previous funds have been under-used. Without saying what cultural activities will now be supported, it expresses the hope that the districts and the APOs will play a more active role in identifying and implementing them. The current policy concept is described as "cultural pluralism within a politically, socially, and economically unified Botswana" (GOB, 1991a: 33).

Training of target groups

The PM refers to the role of the APOs in organising training of RADs in "societal affairs" and income generating production skills.

Training of RADP staff

Staff are to be trained in the same way as other members of the Social and Community Development (S&CD) category of which the PM says they form part. This implies participation in Certificate and Diploma level courses at the University of Botswana. RADP staff will be nominated in the normal way by District Councils through ULGS.

Monitoring programme

This programme is to comprise an administrative data base for keeping track of the financial and physical progress of the programme; an impact assessment system, using base line studies and follow up surveys; planning studies; case studies; and general research. The data base will be operated by a Business Adviser at the RADP unit in MLGLH; other activities, for which the P2.0m 'Surveys' budget is allocated, will be coordinated by the Research Facilitator to be appointed by NORAD.

Table 3.1: LG 127: proposed budget, 1991-1995 (unescalated 1991 prices)

Item	Pm	%
Indicative construction programme	10.5	46
Surveys	2.0	9
Workshops and leadership training	0.5	2
Economic Promotion Fund	4.0	17
Cultural activities	0.5	2
Technical assistance and training	2.0	9
Labour intensive component	3.0	13
Information	0.5	2
Total	23.0	100
Proposed NORAD contribution	18.0	78
Proposed GOB contribution	5.0	22

Business as usual?

As an overall statement of RADP strategy, the 1991 PM makes thin reading. Rather, it is a statement of how existing activities will be continued and, in some cases, modified. The discussion is most limited for those activities which take the bulk of the budget and which are the most straightforward continuation of the 'conventional' RADP: the provision of water supplies, education and health facilities, and the implementation of labour intensive public works. Together, these activities absorb 59% of the programme budget: down from 80% in the previous phase of the programme, according to the PM. The PM states that the volume of construction has not been decreased, however, as the total real cost of the programme has been increased substantially.

The PM does recognise the shift in commitments set out in NDP 7, and notes the problems RADs face in securing access to land and overcoming negative public attitudes against them. It also acknowledges the inadequacies of support for income generation up to 1991, and goes into more detail explaining how the EPF should operate in future.

It is made clear in the PM that the budget is only indicative:

Rather one must expect re-allocations to take place (between components, and between Districts) as time goes by and as the need for various concrete projects and actions starts to materialise in the Districts... It is proposed that the indicated budget remains as an overall ceiling for the programme, but that intra and inter component reallocations take place as a matter of plan administrative procedures involving Government of Botswana and NORAD (GOB, 1991a: 25).

In fact, the PM states, it is the District Councils which, in the decentralised RADP, determine the phasing, priorities and location of the various projects within the programme. The role of the RAD Unit in MLGLH is described as "administrative project tasks", with the Principal Administration Officer/RAD as Project Manager and the central MLGLH Business Adviser and the Research Facilitator fulfilling the roles described above.

Effectively, therefore, the PM does not go much further than the policy statements in specifying the actual strategy or allocation of funds that will be adopted in implementing the latest phase of the RADP. It amplifies the newer aspects of the approach a little more, but - partly because of the decentralised nature of the programme - remains permissive rather than prescriptive.

The settlement strategy

Implicit throughout recent policy and strategy statements is a continuing emphasis on settlements as the core of the new economic and social system which the programme will develop for RADs. The idea that RADs would need to abandon their previous dispersed settlement pattern for nucleated villages originated most clearly in the drive to provide them with services such as water and clinics, but also related to the dwindling areas of the national map that could in any sense be allocated to RAD use. It is in and around these alien new residential units that the programme provides RADs with services, promotes the emergence of local government and leadership, and expects sustainable income generation to develop.

The concept of settlements as centralised service points for RADs is understandable, and largely inevitable. Recognition of the sparser than average dispersal of RAD populations is implicit in the basic undertaking of the programme to provide village type services to groups smaller than the standard National Settlement Policy minimum of 500. As will be noted below, enormous expense is often incurred in taking these services to small, remote groups of people. Where the standard concept of delivering rural services to settlements (however small) is concerned, money appears to be no object. The dispersed components of the normal Setswana settlement pattern, at lands and cattle posts, do not receive these focused service points, as people there are expected to return to their main villages for them. Meanwhile, some RADs, at cattle posts and in other places where they remain scattered at low densities, are served by mobile health facilities. Despite assorted comments over the years about a more flexible

education service to meet the needs of scattered RADs - and the recommendations in this regard by the last evaluation (Kann *et al.*, 1990: 85), this facility remains nucleated, with hostels for children with an incompatible settlement pattern (see below).

The concept of RAD settlements as the place where, or from which, sustainable income generation will take place is much more dubious. We shall return in the next chapter to the way in which RAD settlements have failed to fulfil their original (only partly articulated) purpose of securing land rights. Instead, as Wily argues convincingly (1994: 18 - 20), the concept has become one of villagisation: settling Basarwa down so that services can be delivered to them. The ill-considered assumption seems to have been that this incorporation into a more conventional 'Setswana' lifestyle would extend to new economic patterns too.

The fact that... this socio-economic pattern might not be appropriate given [RADs'/Basarwa's] circumstances and the nature of the Kalahari lands, or even necessary - are facts not so much discounted as not considered (Wily, 1994: 18).

The idea that RADs could maintain their earlier hunting and gathering economy while living at settlements is obviously impractical, and probably received scant attention in the modernising intentions of the RADP. With the very small numbers of livestock currently owned, there is some viability for stock production by settlement residents. But integration into mainstream Setswana society and adoption of the standard Setswana rural economy - which would mean much larger herds - would require standard Setswana land access and settlement patterns, which are extensive and dispersed in their links between main villages and remote cattle posts. In this regard, settlements as a RAD development strategy are a myopic and temporary expedience.

Settlements as the location for other forms of income generation suffer the usual disadvantages of rural enterprises in Botswana - only more so, as these places are usually even more remote than other communities. In this case, the cart is clearly ahead of the horse: income generating opportunities must be developed for RADs at settlements because that is where the people are. Not surprisingly, the logic of supplies and markets usually dictates otherwise.

Leaving for the next chapter the more fundamental issues of land access and land rights, it is clear that villagisation and service provision have been allowed to dominate RADP strategy, often in defiance of economic logic and at the cost of fundamental social transformations for Basarwa. It is also clear that - like many aspects of the programme - the settlement concept has a slightly stronger rationale in western Botswana than in central and eastern areas. Without suggesting that the strategy is actually viable or appropriate in the west, it can at least be seen that the map in this area permitted the identification of places and areas - even WMAs - where RAD settlement and production might dominate. In central and eastern

areas, where RADs are so intricately mixed into the ranch and cattle post economy, the programme's 'development' focus on settlements has been more directly damaging. It has often helped separate RADs from what little employment they had, and has rarely provided a viable alternative.

Finally, it must be pointed out that, for some local politicians, the concept of a RAD settlement has proved useful. Persuading the RADP and District Council to identify a place as a RAD settlement means that infrastructure such as a school and health post will, in due course, be built there - perhaps to the politician's advantage at the next election.

Other rural development programmes

Wildlife Management Areas and community based natural resource management

The concept of WMAs emerged in the mid 1970s as part of the TGLP zoning process. WMAs are linked in a recent DWNP publication to the 'reserved areas' identified in the original TGLP zoning and described as areas "where residents would be able to manage the natural resources occurring there for their own, and the nation's, benefit... They are designed to be zones, either around or linking protected parks and reserves where wildlife have priority" (DWNP, n.d., n.p.). The Wildlife Conservation and National Parks Act, 1992 (GOB, 1992a) defines the boundaries of nine WMAs, but does not explain what a WMA is. It does state that the Minister (who is not specified, but is presumably the Minister of Commerce and Industry), may control by regulations any residence, cultivation, livestock keeping or hunting in a WMA, as well as the entry of non residents.

There is general consensus that WMAs are meant to give priority to existing residents, who are mostly Basarwa and other RADs, in developing profitable wildlife management and utilisation. So far, the recommendation on these lines by the 1990 evaluation (Kann *et al.*, 1990: 150) has been met. But these are policy commitments rather than legal guarantees, although DWNP claims that "The legislation has been set up to strengthen the foundations of conservation laid by traditional land owners". In practice, and until community management institutions are in place, authority over WMAs is divided rather uncertainly between the Minister, whose power to rule by decree has just been outlined, and - in the case of WMAs on tribal land - the supposedly representative Land Boards, advised by their DLUPUs. The declaration of WMAs is the result of district zoning processes endorsed by Land Boards and the other district authorities.

Management plans are to be drawn up, on a consultative basis, for each WMA, and are intended to build on the principle of existing communities' access and use rights. WMA regulations, issued by the Minister under the Act, will codify the

provisions of the relevant management plan. Areas within and outside WMAs may be declared by the Minister as Controlled Hunting Areas (CHAs), and designated for various types of consumptive or non consumptive wildlife use. Some CHAs, notably in Ngamiland, have been allocated by approved land use plans for community management. With funding from the USAID supported Natural Resources Management Project, consultants are now preparing management plans for these CHAs in consultation with local, mostly RAD, communities.

We review the environmental potential and impact of WMAs and community based wildlife management in more detail in a later chapter. Some people consider WMAs the only significant economic opportunity left for RADs. So far, apart from limited local level consultation during the drafting of WMA/CHA management plans, the RADP has had little contact with the WMA process. The programme's main contact with DWNP is at the field level through liaison between RADP staff and game rangers with regard to hunting by RADs.

The Arable Lands Development Programme

ALDEP has, since 1982, been government's main programme for supporting small scale crop production. A standard package of assistance is available nationwide through Agricultural Demonstrators, some of whom are posted in RAD settlements. Farmers are provided with draft power, equipment and inputs such as donkeys, ploughs, fencing materials and fertilisers, but in most cases are required to make a down payment of 15% of the value of the package requested. Extension staff can waive the down payment requirement if the applicant can show legal title to the land, farming ability and a convincing determination to farm; or, the 15% contribution can be made in kind, for example by cutting fence posts in the veld.

The relevance of ALDEP to RADs depends, of course, on the suitability of the local environment for crop production. There is effective liaison between RADP and ALDEP, however: EPF funds are sometimes used to make the 15% down payment on behalf of RAD applicants.

Fencing of communal rangelands

This controversial policy (GOB, 1991b) has been under discussion for some five years, but has not yet been implemented. Following the implementation of TGLP in the 1970s and 1980s, during which extensive communal areas were allocated as 'ranches' to individuals, but not always developed as such, the new policy proposes further enclosure of communal grazing areas by individuals, groups or 'communities', who will lease the land. In consultation with the Ministry of Agriculture and MLGLH, land allocation for the fencing programme will be made by Land Boards, which will also register 'community' members (who must be stock owners). While RADs or groups of RADs could in theory obtain effective

ownership of land areas through this programme, most observers view it as a further threat to the land rights and subsistence of the poor (Keijsper, 1992). DLUPUs are currently reviewing the potential for the programme in their districts, and expect the review to be a slow and difficult process because of its sensitivity and the many vested interests which may retard the collection of accurate data. The programme thus remains at a pilot stage, and may take some time to move forward; although two areas have already been identified as potential 'community' farms in South East district, and a group of farmers with boreholes have been targeted for fencing in the Kaka area of Central district. The RADP's only interaction with the programme appears to be in DLUPU discussions.

The Financial Assistance Policy

Like ALDEP, the FAP began in 1982. Implemented through the Integrated Field Services of the Ministry of Commerce and Industry, it provides grants at various scales to entrepreneurs who wish to develop businesses. Also like ALDEP, the programme requires grantees to deposit some funds themselves. The RADP's Economic Promotion Fund is effectively an extension of the FAP approach to still poorer, smaller scale entrepreneurs who would not normally qualify for the main programme. Alternatively, EPF money is sometimes used to provide RADs with the deposit they need to benefit from the FAP.

It had been hoped that the recent third evaluation of the FAP would be available to guide this mission in its appraisal of the EPF. In fact, the report is still in draft and we were not able to obtain it. We are informed, however, that its evaluation of small scale FAP enterprises is particularly favourable. There should obviously be close links between the FAP and the RADP's EPF. Sharp (1994: 17) reports that RADP staff do work closely with those of the Integrated Field Services in support to RAD enterprises.

Performance of the RADP's infrastructure component

During the review period, implementation of the RADP's infrastructure component has continued, competently and at high cost. The 1993 monitoring review of eight RAD settlements found that, since baseline data was collected on the settlements in 1990, there had been an expansion of infrastructure and services in all except one (whose permanent status had only recently been confirmed) (Environmental Services Ltd. (ESL), 1994: 2-1). Sharp (1994) assembled data on physical progress and expenditure in advance of the mission, and most of his information is not repeated here.

Water supplies

There is a marked contrast between the painstaking and expensive way in which District Councils use central government money to deliver services, and the often superficial and ineffective way in which broader issues such as access to resources, land rights and income generation are addressed. Nowhere is this contrast more striking than in the water sector. There may be controversy about whether RADs are still entitled to live in a place, or what legal or economic security they may have there; but once their residence is administratively recognised, Councils will go to almost any length to provide them with what is rightly viewed as the most basic service: a potable water supply. Often, water is boused 50 km. or more several times a week to very small RAD populations, for months or even years while a permanent source is sought. Asked by the mission how the enormous expense of this could possibly be justified, RADP and other Council staff almost touchingly replied that, if that was where people chose to live, that was where they must be served; they could not be forced to live somewhere else. Some settlement areas proposed by or for RADs have ultimately been rejected by the authorities after total failure to find adequate water. Residents of East Hanahai told the mission that the unsuitability of the water at Rooibrak was one reason why the District Council persuaded them to settle at East Hanahai instead. More recently, Qabo has been adopted as a new settlement area for people from Kuke and D'kar, following the failure of further extended water exploration efforts in the Rooibrak area. The best known example of high water costs is the desalination system serving the RAD settlement at Zutshwa in Kgalagadi district, where the supply is estimated to cost P50/m³.

Reasons can of course be advanced for this thorough, expensive approach. First, Councils get the funds from central government (and partly, in recent years, from NORAD). They are available on a substantial scale. A second reason is that, as with the other infrastructure components, expenditure on water supply is straightforward for the RADP - which actually has very little to do except prioritise settlements, negotiate approval of the projects with the District Council and the RADP Unit at MLGLH, and then channel the money. The Department of Water Affairs and Council Water Departments do all the technical work. The contribution of the Lutheran World Federation in Ghanzi and Kgalagadi Districts is noteworthy but does not change the basic structure of how the RADP water component is implemented.

Sharp estimates that a total P7.18m (P9.641m in constant March 1994 prices) was spent on the water component from 1987/88 to 1994/95 inclusive. In 1994 prices this was 22% of total programme expenditure. The NORAD contribution was P3.015m actual, or P4.826m in constant 1994 prices. Calculated in the latter terms, NORAD's support for water was 21% of its total programme contribution.

It is accepted policy that RAD settlements should have at least two water sources: one for people and one for livestock (see PM (GOB 1991a): 6). At some places, e.g. East Hanahai, the second supply has not yet been installed. In 1993, ESL found that livestock were watered from domestic supplies at all eight of the settlements reviewed (ESL, 1994: 2-9). The installation of separate human and domestic animals water supplies at all RAD settlements should continue as a matter of priority.

The 1990 RADP evaluation recommended

that MLGL and the Department of Water Affairs give greater priority to a structural solution of water problems experienced by the RAD settlements, thereby aiming at long term provision of potable water in those quantities needed for a further development of the RAD settlements (Kann *et al.*, 1990: 150).

This mission believes that considerable priority is being given to the water problems of RAD settlements, although a more economic disposition of resources would presumably result if Water Affairs had the funds to explore and develop new sources more quickly and the bowing of water (sometimes for years) were restricted. The 1990 evaluation also implies that further development of human and livestock populations at the RAD settlements is desirable. In social, economic and environmental terms, this may not be so.

Health services

The establishment of health services with RADP funds appears to be uncontroversial. The 1990 evaluation made almost no reference to this sector of the programme, and included no recommendations on it. As with water supplies, the cost of these developments is not surprisingly high. An example visited by the mission is the newly completed clinic and nurse's quarters (with vehicle) at Mababe in Ngamiland, which was budgeted at P300,000. Again, the role of the RADP and its staff is simply to arrange and channel funding. Sharp (1994: 11) indicates that most planning of health facilities is done by District Health Teams, and that staffing and operation of the facilities is the responsibility of the District Council as soon as construction is completed.

ESL (1994: 2-5) report that, by the time they made their monitoring visits to eight RAD settlements in 1993, Village Health Committees (VHCs) had been established at seven (Thankane, Kokotsha, Inalegolo, Monong, Groot Laagte, Tshokwe and Diphuduhudu: the one without was Ngwatle, whose status as a permanent settlement had only recently been confirmed.) However, only one, at Diphuduhudu, was fund still to be operating. The others were inactive, for typical institutional reasons: the small communities had too many committees, with overlapping membership and inadequate explanation of what they were all for. In some cases, the consultants also reported a poor relationship between communities

and health workers, as well as ethnic differences and discrimination in the selection of office bearers and members of the VHCs.

Sharp estimates that a total P2.431m of RADP capital funding (P3.681m in constant March 1994 prices) was spent on the health component from 1987/88 to 1994/95 inclusive. In 1994 prices this was 9% of total programme expenditure. The NORAD contribution was P1.065m actual, or P1.996m in constant 1994 prices. Calculated in these constant prices, NORAD's support for health facilities was 9% of its total programme contribution.

Education

Unlike water and health, the education sector takes up a major part of RADP field staff's time. This is not so much because the construction or maintenance of school buildings requires their attention; once again, the programme's role is facilitatory only, with Council works and education departments doing the detailed work. Rather, it is because the actual delivery of school services to RAD children is time consuming and administratively detailed. Where hostels are used, children must often be collected individually from their homes at the beginning of term - which sometimes requires lengthy negotiations with parents. At the end of term, they must be returned. The management of hostel staff and supplies is another important task for some Remote Area Development Officers (RADOs). The mission was also struck in several districts by the detailed efforts staff make to arrange secondary and further education for those few RAD children who graduate from primary school. This sometimes requires arrangements with, and transport to and from, institutions hundreds of kilometres away. Large amounts of recurrent funding (an estimated P1.87m for 1994/95) are also spent on uniforms and (secondary) school fees for RAD children (Sharp, 1994: 12), although the mission observed that not all children at settlement schools have uniforms.

We defer a discussion of the quality, impact and value of education services for RADs to a later chapter. Since 1988, primary school construction has continued, and the network of pre schools has expanded, as was recommended by the 1990 evaluation (Kann *et al.*, 1990: 150). In Ghanzi district, for example, almost all RAD settlements have pre schools with trained teachers; all settlements have normal Council primary schools (with one Mosarwa teacher at each of four of them). Hostels continue to be regarded as an interim, though in places necessary, measure to accommodate RAD children whose homes are far from settlements and villages. Conditions in them remain unsatisfactory, and the 1990 mission's recommendations regarding improved training for hostel staff, and better management of the hostels, appear not to have been implemented. However, the Principal RADO in Central district emphasised the need for hostels to accommodate children from the widely scattered sandveld cattle posts, and urged that more such facilities be provided. Central's programme for 1995/96 includes

a hostel and furniture at Lepasha/Marapong, and a hostel at Mokgenene (where RAD children are currently accommodated in tents); a hostel is currently under construction at Khwee. Private schools (operated by staff directly hired by the RAD Unit in the district) also remain widespread and receive some support from District Councils (for example, supply of books and in service teacher training), but are not actively coordinated from a policy perspective by either the RADP, the Ministry of Education or Council education departments.

The 1990 mission's recommendation that an education officer be attached to the RADP Unit in MLGLH has not been implemented. The Unit reported to us a recent decision in MLGLH, following the 1993 National Commission on Education, that the RADP should no longer have financial or budgetary responsibility for primary education for RADs, which should be organised in future by MLGLH's Primary Education Project. It is not clear what the consequences of this decision will be for the pace of educational facilities provision to RAD communities. It should be noted that the Commission recommends maintenance of the present joint responsibility for primary education by the Ministry of Education and the District Councils, but with an improved coordination structure through a reconstituted Inter-Ministerial Committee on Primary Education (GOB, 1993: 136). **We recommend** that MLGLH, in consultation with the Ministry of Education, maintain special attention for RAD education in the planning, budgeting and implementation of the Primary Education Project. Education should be an explicit agenda item in all policy review and coordination for the RADP.

According to Sharp (1994), a total P10.498m of capital funding (P17.494m in constant March 1994 prices) was devoted to education from 1987/88 to 1994/95 inclusive (including a small amount of SIDA funding up to 1990). In 1994 prices this was 40% of total programme expenditure. The NORAD contribution was P6.176m actual, or P11.711m in constant 1994 prices. Calculated in 1994 prices, NORAD's support for education was 50% of its total programme contribution over the review period - a substantially higher proportion of the total Norwegian assistance to the RADP than was envisaged in either the original agreement between GOB and GON or the addenda thereto.

Labour intensive works

The introduction of RADP support for labour intensive works with effect from the 1991/92 financial year may be in fulfilment of the 1990 evaluation's recommendation that drought relief be withdrawn gently from RAD settlements, since there are so few other sources of subsistence there and EPF supported activities will take time to generate significant amounts of income. In fact, drought relief has remained available in the western districts (and at times nationwide), and the distinction between RADP-funded labour intensive works and drought relief

payments is probably vague or non-existent for most RADs. Many people in the western districts' RAD settlements depend heavily on these forms of subsidy, which is testimony to the lack of other income-generating opportunities. At East Hanahai, this dependence was made particularly clear to the mission during a meeting with the community, which was interrupted several times by people rushing out to make sure they received their payments from the drought relief team that was visiting at the same time.

Labour-intensive works funding is used for a variety of small village construction tasks. Typical examples are teachers' quarters, Village Development Committee (VDC) offices and guest houses. The school hostel at Khwee referred to above is being built on this basis, and hostel renovations at Otse in Mahalapye sub-district are being done by labour-intensive means.

So far, it appears that the labour-intensive works are a minor component of the RADP, somewhat lacking in direction, but offering some flexibility to district RADOs in implementing minor infrastructural developments or repairs. Unlike the major infrastructural installations, labour-intensive works require supervision by the RAD cadre themselves - including the APOs, for whom this is a major task. To the varying extent that VDCs are functional in RAD settlements, the implementation of these works may offer growing scope for these bodies to take responsibility for local planning.

Sharp's data (1994, E-24 - E-25) show that P1.302m of capital funding (P1.77m in constant March 1994 prices) has been spent or budgeted on labour-intensive works since financial 1991/92. In 1994 prices this was 4% of total programme expenditure. The NORAD contribution was P0.902m actual, or P1.285m in constant 1994 prices. Calculated in 1994 prices, this was 5% of NORAD's total programme contribution over the review period.

Performance of the RADP's income generation component

Economic Promotion Fund

Since NORAD funding of the RADP began, there has been steadily increasing emphasis on support to income generation rather than infrastructure provision. Within the RADP itself, the EPF is the primary mechanism for this purpose. Sharp (1994: 16 - 18), in a useful discussion of the EPF that will not be duplicated here, notes that it does not use a large amount of money compared with infrastructure development. At current prices, P3.187m was allocated to the EPF from financial 1987/88 to 1994/95 from three sources: SIDA, NORAD and Domestic Development Funds (DDF). At constant 1994 prices, this converts to P4.796m, or 11.1% of the total. (NORAD's contribution, in 1994 prices, was P1.663m, or 7% of total NORAD funding.) Nevertheless, Sharp argues that the EPF "is a large

component in *per capita* terms no matter what estimate of total RAD adult population as potential beneficiaries is utilised." He also points out that disbursement data on the EPF are misleading. Funds are sent to Councils in advance, to permit quick disbursement by them once applications are approved. In fact, viable investments are taking time to materialise, and many RADOs are emphasising training courses first. So Councils are holding large unspent balances of EPF funds.

Bluntly put, the EPF is largely successful with those enterprises that most RADs, and most RADOs, already know something about: raising cattle and small stock! It is mostly unsuccessful with the wide range of other, less familiar activities that are being tried!

The provision of cattle and small stock to RADs with EPF funding is understandably popular and is proceeding apace in several districts, subject to drought constraints (the programme is currently suspended in Bobirwa sub district of Central) and availability of stock for purchase by the RADP for distribution to beneficiaries. Typical numbers now distributed are five cattle or 15 goats per recipient (Kgalagadi district distributes small stock only). Earlier, recipients were asked to return some stock on a 'revolving fund' basis once the animals had multiplied. This is no longer done, although some households have still been asked to pass goats on to other families once the numbers have increased. RADP monitors the new stock owners in the early years and is technically entitled to repossess the animals if not satisfied with management standards. The programme helps arrange veterinary services and, through related RADP activities, coordinates water supplies and stock handling facilities.

This is a programme component in whose management RADOs are actively involved. In Ngamiland, the mission was taken to one satisfied group of RAD recipients at Kaore. These Basarwa, who used to work on Batawana's cattle posts before being set up at Kaore by the District Council, have formed a syndicate with half a dozen members, each of whom individually owns cattle in the total herd of about 60 beasts. RADP helped with development of a shallow well, which is officially allocated to the syndicate by the local Sub Land Board. The people owned some cattle of their own when they first joined, and were then given three each by the programme. Despite their evident approval of the project, the participants have not yet earned any cash income from it, as no stock have yet been marketed.

In Ghanzi district, the mission met RADP livestock recipients at East Hanahai and Chobokwane. The following summary was provided for the district by the Senior RADO:

Table 3.2: EPF livestock schemes, Ghanzi district

Grootlaagte	1991	100 heifers supplied to 50 beneficiaries (2 each)
Grootlaagte	1991	225 heifers at 5 per beneficiary, 15 per settlement
Chobokwane, W. Hanahai	1991	30 beneficiaries: 5 heifers each
Newkanagas, Chobokwane, Bere, E/W Hanahai, Grootlaagte	1995	10 bulls bought and distributed to these settlements (not stated how)
Bere, Kagcae, E/W Hanahai, Newkanagas, Grootlaagte, Chobokwane	1992	Construction of cattle handling facilities

In Kgalagadi district, the Senior RADO reported that 25 households had been supplied with ten small stock each at Khawa, and another 25 with the same number each at Leinalogolo. 50 households are now being supplied at Kokotshaa. In Central district, cattle and goats were distributed at Tsokatshaa, Mabasikwa, Mokgenene, Malatswae and Khwee in 1992-93, and arrangements are now being made to provide two families in Khwee with the poultry they have requested.

Although there have been some stock losses due to disease and apparent theft, the livestock scheme is successful in local terms. There has been little marketing to date, but milk and other in kind income is derived. The many RADs who are competent stock keepers find the activity attractive, and the many Batswana who think Basarwa should adopt their cattle keeping culture are presumably satisfied also. The land access and environmental implications of the scheme have not been adequately assessed to date, partly because the total numbers of stock are still small (see chapter below).

RADO's and APO's do not have knowledge on how to run projects and even the skills on sewing, carpentry and tannery projects which makes it very difficult to monitor these projects. Therefore, for these projects to be viable, RADP staff should be sent for refresher courses, to keep them abreast with project operations (Modisenyane, 1995: 3).

These comments in a report by the Boteti sub district RADO sum up some of the problems faced with the other types of enterprise being promoted through the EPF.

The Business Advisers

The Business Adviser cadre was a major component in the design of the EPF. Expatriate volunteers were posted to each RADP district and coordinated by a senior adviser at MLGLH headquarters. They were meant to assist field based APOs in the detailed identification and support of RAD enterprises to be funded by the EPF. The withdrawal of the Advisers by MLGLH in 1992 following disagreements over RADP policy with NORAD has left a major gap in EPF implementation capacity, both in terms of the simple numbers of staff available to do this detailed job and also the technical skills needed to tackle the considerable challenge of identifying and nurturing viable enterprises for the remote rural areas of Botswana. The 1990 evaluation recommended that "the Unified Local Government Service give great priority to remedying the staffing weaknesses of the EPF" (Kann *et al.*, 1990: 149). In fact, these weaknesses have since become much worse.

Nevertheless, APOs and RADOs have continued to identify potential entrepreneurs and enterprises; to send people for training courses, often at the Rural Industries Innovation Centre (RIIC) in Kanye; and to try to set them up in their businesses. EPF supported projects are reviewed by district Production Development Committees, whose main task is to guide FAP implementation (GOB, 1994: 4). As Sharp points out, the programme has tended to be 'front loaded' so far, with training courses the predominant activity. Bakeries, bone carving, blacksmiths, clothes making, carpentry and tanneries are common activities. Given their lack of confidence with the task, it is not surprising that RADP staff have fallen back on the standard range of RIIC type activities mentioned above, and have rarely innovated with support to the broader variety of enterprises, such as bee keeping, which were mentioned by the 1990 mission (Kann *et al.*, 1990: 31 - 34).

Predictable problems arise. Some people, such as those the mission spoke to at Mababe and Phuduhudu in Ngamiland, were sent on training courses but have been waiting up to two years for the tools with which to get their enterprises started. Entrepreneurs' management of their new businesses is often inadequate, leading to cash flow problems. These difficulties are often linked to the lack of markets. Very little cash is available in RAD settlements, and what there is may quickly be absorbed in the bottle stores and hawking enterprises set up from outside by non RADs. The general consensus in the mission's interviews with RADP personnel in various districts was that the non livestock activities of the EPF are unsuccessful. Furthermore, they absorb large amounts of staff time, while at the same time frustrating these staff because they know they lack the training for the job. Meanwhile, EPF beneficiaries complain about the lack of follow up support by either RADP or RIIC staff (ESL, 1994, 2-11). Table 3.3 below summarises the situation for EPF production groups at eight settlements reviewed by ESL in 1993.

Table 3.3: Experience of EPF production groups at eight RAD settlements

Settlement	Production group	Training	Problems and remarks
Thankane	Carpentry - inactive Blacksmithing - inactive	Carpentry - 2 trained Blacksmithing - 2 trained	Both projects have not started; waiting for start-up material from Council
Kokotsha	Sewing - active Bakery - active Gardening - not started	Sewing - none, private initiative Baker - 6 trained	Sewing - started with 6, now 3 participants Baker - now only 3 workers producing 6 loaves per day Gardening - planning stage; allocated plot, borehole; seen as elitist
Inalegolo	Leatherwork - inactive Carpentry - inactive Sewing - active Bone carving - inactive	Leatherwork - 3 trained in Tsabong Carpentry - 3 trained at RIIC Sewing - 8 trained at Pelotshetla Bone carving - 2 trained Bee keeping - 3 trained	Leatherwork - lack of materials, business skills, market Carpentry - lack of materials, follow-up training Bee keeping - poor hives, no bees
Monong	Grass thatching - active Sewing - inactive	Thatching - no training Sewing - 4 trained in sewing & knitting	Thatching - grass sold to 'outsiders' Sewing - machines broken, no follow-up training
Ngwatle	Carpentry - inactive	Carpentry - 3 trained at RIIC	Carpentry - shortage of tools, no follow-up
Groot Laagte	Tannery - inactive Sewing - inactive Crafts Group - Active Poultry, Gardening Bee keeping - inactive	Tannery - 6 trained at RIIC Sewing - 8 trained by private individual Crafts - no training P/G - Permaculture Trust trained Bee keeping - 4 trained	Tannery - shortage of tools & materials, no follow-up training, low prices from Gantsi Craft Sewing - no start-up materials, no follow-up training, unsupportive APO Crafts - outlet is Gantsi Craft; low prices, no group organisation Poultry, gardening - local consumption and sales to Ghanzi Bee keeping - no follow-up
Diphuduhudu	Bone carving - inactive Carpentry - inactive Bakery - inactive Leatherwork - active Sewing - active	Bone carving - 2 trained Carpentry - 4 trained Bakery - 2 trained Leatherwork - 2 trained	Bone carving - lack of materials, no market Carpentry - no materials Bakery - management problems Leatherwork - mainly production for own use Sewing - now operates under VHC
Tshokwe	Bakery - active Wood carvers - inactive Sewing & knitting - active Bone carving - inactive Basket making - active	Bakery - 2 trained Wood carvers - 4 trained Sewing 5 trained Bone carving - 3 trained Basket making - none	Bakery - applying for FAP, produces 9 loaves per day Wood carvers - one box of tools and provided with materials Sewing - sells locally and in Selebi-Phikwe Bone carving - waiting for grinding machine but could start Basket making - Council assist with transporting reeds

(Source: ESL, 1994: 2-13).

Sharp notes that many of the enterprises not only receive their EPF grants, but are further subsidised by Councils, notably through transport of inputs to the enterprises and of producers and produce to markets. EPF funds have also been used to establish consumer cooperatives in some RAD settlements. If the shop of this kind which the mission visited at Malatswae in Central district is at all typical, these enterprises receive a substantial ongoing transport subsidy from the programme. Some sewing projects, like those at East Hanahai and D'kar in Ghanzi district have a captive market and are assured of some viability, as the programme has arranged for them to supply school uniforms for RAD children.

Other agricultural activities

As was noted earlier, the EPF is used to fund the construction of handling facilities for the cattle herds that are being built up under the programme at some RAD settlements. EPF money is also used to develop vegetable gardens in some places, although the performance of these gardens is understandably erratic. Natural conditions are usually poor, and markets thin. Only one person was found still working in the large vegetable garden that had been established by the programme at Malatswae.

RADP has also helped set up cropping areas for RAD settlements, often using EPF and labour intensive works funds for the construction of drift fences or fences which fully enclose the lands area. The viability of crop production is of course marginal in western Botswana, and the benefits of the lands areas at places like East and West Hanahai (beyond the employment created while fencing them) must be doubtful. As was noted above, ALDEP support packages are available to RAD farmers. ALDEP sometimes waives its down payment conditions because of RADs' poverty; alternatively, EPF funds can be used to make the down payment. Overall, and despite the assurances of the 1991 PM (GOB, 1991a: 13) liaison between RADP and MOA in support of RAD crop cultivation appears weak. It is only likely to be satisfactory in that minority of settlements where there is a resident Agricultural Demonstrator (AD). With Ads, as with other extension cadres, there has been some progress in meeting the 1990 evaluation's recommendation that more extension workers and their assistants be made resident in RAD communities (Kann *et al.*, 1990: 149). That mission's proposal that a full time agricultural adviser be seconded to the RADP has not been implemented. Government responded that, while extension services for RADs did need to be strengthened, this should be done through the relevant sectoral ministries, with appropriate coordination in Gaborone and the field between them and MLGLH (GOB, 1992b: 4).

A major new challenge - and opportunity - for agricultural production by RADs is emerging in Ghanzi district. The three State Land farms which were set aside for the settlements of Chobokwane, Grootlaagte and West Hanahai have had a

chequered history since their initial identification and allocation to Ghanzi District Council in 1989. Allegations that they would be reallocated to prominent individuals and syndicates were central to the disputes over the RADP between MLGLH, NORAD and other agencies in 1991. Following further controversy over abortive efforts by the District Council to secure planning assistance for the farms from a consortium of NGOs, the Rural Development Council has now taken an active interest and has been pressing for results. This led to the assignment of a DO(D) from Serowe to prepare a project memorandum in October 1994, recommending an investment of P4.2m. The project is now expected to proceed, and P0.8m has already been released for water development by the Department of Water Affairs. The PM proposes full commercial development of the farms, with fencing, infrastructure, the purchase of high quality herds and the employment of four staff to serve in a project unit for the three farms: a coordinator/adviser, a community development/social welfare officer, a livestock officer and an accountant. In fact, water quantities and quality have yet to be assured, and the technical challenges of starting fully fledged enterprises like this from scratch will be considerable. How far the Basarwa beneficiaries in the three communities will be able to participate remains to be seen. Another technical question concerns the RDC's apparent continuing insistence that at least one of the farms be developed for game ranching. Originally, Basarwa at Grootlaagte had wanted to do this on their farm, but changed their minds and reverted to cattle ranching after DWNP advised against the game option.

We recommend caution in the implementation of the 'three farms' project as currently designed. A technical redesign should be undertaken to come up with a phased implementation and investment programme, ensuring that the pace of technical development (fencing, vehicles, high value stock etc.) does not exceed the pace of participatory institutional development.

Although the high tech strategy ultimately adopted for these Ghanzi farms may be inappropriate, the confirmation that Basarwa in these communities are being allocated farms is a significant step towards what many RADs want, and provides opportunities that were previously unavailable. The challenge, however, is to adopt a farm development strategy that is technically viable and fully participatory. The Kuru Development Trust has been able to go one step further. Its original land is a freehold farm, and in 1994 it received funds to purchase a second farm, of 7,000 ha., nearby. This land, too, is freehold. A consultative land use planning exercise for the new farm is now being undertaken, and a much less expensive development strategy than that of the 'three farms' project memorandum is likely to emerge. Relations between the Trust and the Ghanzi District Council, and between it and the RADP, are better than they were two or three years ago. **We recommend** close cooperation between these parties in developing ideas for these four new farms in the district. So far, this cooperation and consultation have been lacking. The PM for the 'three farms' mentions that each will have a Board of Trustees to safeguard community interests and advise on implementation. A donor

agency or NGO is to be a member of each Board. **We recommend** that the Kuru Development Trust play this role in each case.

Other natural resource based enterprises

A number of other natural resource based enterprises have been developed to support RADs, although the involvement of the RADP in these activities is often tangential. Thusano Lefatsheng continues to collect grapple plant (*sengaparile*) from large numbers of gatherers in the Kalahari. However, the eight RAD settlements reviewed by ESL in 1994 mostly reported a significant decline in *sengaparile* income, owing to declining availability of the resource, controls on harvesting, and failure of the Agricultural Resources Board to issue permits in time (ESL, 1994: 2-17).

Gantsi Craft and other agencies make a major contribution to RAD incomes in many parts of western Botswana by regularly purchasing handicrafts. The Kuru Development Trust at D'kar provides employment for several dozen locally resident RADs in a range of enterprises: the conventional ones such as leather work, sewing and baking, and most famously with its art project. This now markets oil paintings, prints and other work by Basarwa. Successful exhibitions have been held in Europe and North America.

The RADP is involved in a pilot *morama* bean project at Grootlaagte, which is reported to be making slow progress. The Kuru Trust is involved in a larger scale initiative, with which it has been experimenting at D'kar for some years: the production of cochineal dye from beetles raised on cactus leaves. A major extension and production programme is now starting, with 150 families in eight settlements identified and organised through Farmers' Associations. Kuru's attempts to work through existing VDCs were largely unsuccessful, which is why these separate bodies have been set up. The Trust at D'kar will handle marketing of the dye. Although Kuru has had technical and marketing failures with a number of other innovative enterprises in the past, there is currently great confidence in cochineal. Considering the tiny size of each beetle, the enthusiastic assertion of the Trust's public relations officer that the South African market wants 'tons' of the product is sobering.

Commercial wildlife utilisation projects in the fields of game products and tourism are a major hope for future RAD income generation (see above), but have yielded very little so far. The earlier generation of these projects failed. The Kedia Game Harvesting Project, for example, on which the 1990 RADP evaluation sounded warnings (Kann *et al.*, 1990: 59), has since been abandoned. This project began in 1987, with the objective of providing RADs in the Kedia WMA with income from game hunting. During the two year pilot phase, P95,000 was paid as salaries to the project manager and extension officer (Central District Development

Committee, 1994: 3). However, there appears to have been little consultation or participation, with RADs employed only on a casual basis to do the hunting and project management controlling all marketing.

In 1991, it was concluded by KGHP steering committee that the project and its equipment had been grossly abused to the extent that very little of the assets could be retrieved from the project. The project manager had deserted with the trophy dealer's licence, leaving behind run down vehicles and other hunting equipment... The only functioning project vehicle was inherited by the chief for his personal use. CDC [Central District Council] remained blank and seemed to be in darkness despite the commitment made to donors to take the project over at the end of donor funds (Central District Development Committee, 1994: 3).

A hybrid project has recently been developed for Khwee, in Boteti sub district. Following a participatory assessment of local development priorities by the Permaculture Trust of Botswana in 1994, a PM was drawn up for a Khwee Integrated Development Project to run during 1995 and 1996. The P143,741 cost would be funded by MLGLH's LG 109 programme for village development projects. The most recent RADP Boteti report available to the mission (Modisenyane, 1995) indicates that project start up is now anticipated for April 1995. The project would focus initially on training in house construction skills and the construction of 20 houses by and for people at Khwee. Later, training would be provided in horticulture and gardening. Implementation would be primarily by the Permaculture Trust, in consultation with a Khwee Working Group on which the RADP would be represented. The APO resident at Khwee would also have a major role in the implementation.

Overall, the impact of the RADP's efforts to promote income generation has been very limited. RADs remain the poorest of Botswana's poor. Drought relief remains an essential source of income (ESL, 1994: 2-14), as it was at the time of the last programme review (Kann *et al.*, 1990: 20). In the eight RAD settlements reviewed by ESL in 1993, 16% of the adult population (over 16) were registered by District Councils as able bodied destitutes, with a further 20% registered as elderly or disabled destitutes (ESL, 1994: 2-10). ESL concluded, and we concur, that

Economic opportunities are few, poverty is acute, households rely on drought relief for survival, and there is still a strong sense of dependency on government, council and development organisations (ESL, 1994: 2-23).

We recommend that, under the coordination of the Rural Development Co-ordination Division in MFDP, explicit efforts be made to review and redress the poverty, destitution and dependency that are increasingly evident among RADs. Some recent and current initiatives should be combined to this end:

- the 1990 recommendations to MOA on the development of Ghanzi and Kgalagadi districts (Adams *et al.*, 1990).
- current reappraisal of development strategies for the communal areas (see page above), which should specifically refer to strategy for remote areas.
- implementation of the recent Cabinet decision to design special development programmes for 'drought' prone areas (see section on 'Rural Development Strategy' above).
- preparation of the fifth series of District Development Plans.

In the course of this review, the roles of labour intensive public works and drought relief should be compared and reviewed in an effort to rationalise the two activities and counteract the dependency that they are currently creating.

It is clear that the EPF should not be allowed to go on as it is. It needs to be reappraised and reinforced, as ESL recommended a year ago to MLGLH in a report on which it still awaits the ministry's response. **We endorse ESL's recommendation** that such a review should consider:

- developing a more flexible approach to the programme to ensure that where there are locally initiated, viable production activities they can be given appropriate training and financial support;
- developing more systematic follow-up and monitoring procedures to ensure that skills learnt in training can be successfully applied in an entrepreneurial environment;
- extending the programme to include more agricultural activities, and;
- providing marketing support for those activities that are already outlined (ESL, 1994: 2-12).

Further, **we recommend** that:

- explicit agreement should be reached with MCI about the links between the EPF and the FAP, making the field resources of MCI available to support all aspects of implementation, monitoring and follow up of EPF enterprises. This should become a standard task for MCI's Integrated Field Services.
- a new central Business Adviser should be recruited to coordinate and support the EPF. However, s/he should be posted to MCI, rather than MLGLH.

- the cadre of district level Business Advisers should be reinstated and redeployed. If domestic funds and/or personnel are not available for this purpose, GOB should negotiate with NORAD or other agencies for support.

Any such reappraisal and restructuring of the EPF, which is central to the design and intent of the whole RADP, must be carried out within the broader framework of the RADP as a rural development programme. As we recommend below, this implies more fundamental changes. Furthermore, the proposals made above on the EPF are worthless if they are not linked to the often recommended training programmes for RADP staff on which MLGLH has been inactive for so long.

Performance of the RADP as a rural development programme

The RADP, if it is to exist as a special programme addressing the problems of RADs, needs to be an integrated, cross-sectoral effort tackling these most difficult of rural development issues on the basis of a coherent, cross-sectoral strategy which links logically and functionally to Botswana's general policies for the rural areas. Instead, it is a decentralised programme with a series of disjointed components that receive little central direction and, as was shown above, are only weakly linked by the design of the project memorandum. As was noted earlier, the budgetary provisions of the PM are meant only to be indicative. Actual expenditure is expected to respond to priorities determined by District Councils and by the practical expediencies of implementation. **The predictable result of this has been a steady operational preference for the more straightforward but expensive infrastructural activities, as opposed to the more complex and challenging components, such as the EPF, cultural activities, monitoring and research.** As the 1994/95 financial year came to an end, for example, a proposal was made and approved in MLGLH for the reallocation of an unspent total of P865,000 from the Information Activities, Cultural Activities, Consultation and Monitoring, and Workshops components to pay for water and school developments in Ghanzi and Kweneng districts. The MLGLH RADP Unit informed the mission that these funds have in fact been carried over, unspent, for several years in a row. The new project memorandum covering RADP funds to be spent in financial 1995/96 (see chapter below) states that

No funds are being requested for the Information Activities and the Cultural Activities as there are carry-overs still to be utilised, capacity for the implementation of these components is proving wanting, and it would be advisable to base the kinds of activities that can be undertaken on the forthcoming Remote Area Development Policy (GOB, 1994: 6).

This statement was prepared in December 1994, three months before the reallocation decision approved at the end of financial 1994/95.

The table below compares the proportions of expenditure budgeted for different categories (see table above) with actual proportions (based on current prices) for

financial 1991/92 to 1994/95, as calculated by Sharp (1994, E-24). It should be noted, bearing in mind the example just quoted, that Sharp was only able to obtain estimates, not actual expenditure, for financial 1993/94 and 1994/95.

Table 3.4: Planned versus 'actual' RADP expenditure, 1991/92 - 1994/95

Item	Proportion of total in PM, 1991 (%)	Proportion in 'actual' expenditure (%)
Indicative construction programme ¹	46	72
Surveys ²	9	4
Workshops and leadership training	2	2
Economic Promotion Fund	17	10
Cultural activities	2	2
Technical assistance and training	9	2
Labour intensive component	13	7
Information	2	1

¹ 'Education', 'Health', 'Water' and 'Inventory and Equipment' in Sharp's table.

² 'Consultancies and Monitoring' in Sharp's table.

Money itself has not been a problem for the RADP. As Sharp points out (1994: 19), DDF funding has been increased in recent years as NORAD funding (increased in 1991 and 1993 to a total NOK61m) fell away. The GOB project review of September 1994 changed the NDP 7 Total Estimated Cost (TEC) for the RADP from P31m to P34m. The original budget ceiling for financial 1994/95 was P3.5m, but this was increased to permit actual spending of P6.8m. The estimate for 1995/96 (not approved by Parliament at the time of the mission's visit) was P10m.

However, as one planning officer put it to the mission, within MLGLH the RADP is just one of the Ministry's 24 projects - albeit one that, like some of the others, has a special coordinating unit. The primary concern is how effectively the funds are disbursed. Not enough attention is given to policy matters, or how the components of the programme tie together to form a strategy. Despite MLGLH's supposedly central role in the Rural Development Council, its strategic consultations and coordination with MOA, DWNP and the Rural Development Coordination Division of MFDP with regard to the remote areas are inadequate. The current reappraisal of communal areas development strategy, which is coordinated by MFDP and to which MLGLH is making an important contribution,

offers an opportunity to reconsider the best ways of helping RADs, and whether these can be built into an RADP. This opportunity has not yet been grasped.

Options for the future

We present our consolidated conclusions and recommendations on the future of the RADP, and of NORAD support for remote area dwellers, in the final chapter of this report. The ideas presented here are restricted mainly to the infrastructural and economic components of the RADP as a rural development programme.

We asked many people in central and district government whether they thought the RADP would be continued into the NDP 8 planning period, particularly if donor support were no longer to be available on the same scale. NDP 8 preparation is only just starting, so nobody could offer a definitive answer. But all respondents felt that the programme was certain to continue. It is part of the institutional structure, and whatever some people may say about 'separate development', there is near unanimity in government that there is still a serious 'RAD problem' to be solved.

Given that further action is needed and likely, we believe that the challenge - posed at the start of this chapter - is to reconsider the various necessary components of the programme and, perhaps, repackage them in a different format, with responsibilities differently allocated. Whether or how this should be done is of course a matter for domestic decision making. Here, we outline some (overlapping) options.

- One common suggestion is that the infrastructure building task of the RADP is largely - though by no means completely - accomplished. This component of the RADP could be removed, and merged with the standard infrastructural programmes of MLGLH, implemented through the District Councils. Existing criteria for serving RADs and RAD settlements could be transferred to these programmes, so that RAD needs are met by a sub-programme of each. Given that RADOs have little to do in the current RADP arrangements for delivering infrastructure, this would in effect be a minor alteration. However, some suggest that RADs and their settlements would lose out if the special RADP packaging and responsibility for servicing them are removed. Even if the special criteria are maintained, RADs would be less protected in the general competition for Council budgets - which are likely to start dwindling significantly over the next NDP period. And, since existing arrangements do not use much of the RADP staff's time, the status quo may not impose much of a cost on those components of the programme that many people now think more urgent: income generation, cultural and training activities.

- A related idea, urged by some RADP field staff, is that the whole programme now focus on the EPF, and that all other activities be handed over as soon as possible. The argument of these staff is that income generation is the major shortfall in programme performance so far, while the infrastructural job is mostly done. They are probably less concerned with the cultural, status and security aspects of the RADP, for which (for varying reasons) they may consider the programme less effective or suitable.
- Conversely, it could be argued that the EPF also should be removed from the RADP, and made a special component of the FAP. Particularly since the departure of the Business Advisers, the RADP has no special skills or structures to offer with regard to RADs' income generation. Again, however, some people point out that the existence of a separate EPF, whatever its imperfections, does ensure some additional attention for the income generation problems of RADs.
- One suggestion could be that all the 'conventional rural development' components of the RADP should be merged into the mainstream programmes of the responsible Ministries, where special criteria or sub programmes for remote areas and RADs could be maintained along existing lines. The only components retained in an RADP would then be the most challenging and sensitive ones dealing with culture, security and status - which might best be tackled by a reformulated programme based in MLGLH, but with strong interministerial and extra governmental links.
- A more radical suggestion, however, would be based on the generally accepted conclusion that government has done reasonably well with the infrastructural components of the RADP, and rather badly with all the rest of it. Given the undoubted difficulty for a government bureaucracy of achieving an improvement in these other sectors by reformulating strategy, restructuring responsibilities or retraining staff, it might be simplest just to close the whole programme and urge action at different social and political levels - through NGOs and community based organisations, for instance. We believe most civil servants and government decision makers would share our view that this would be an undue abdication of government responsibility.
- The most straightforward option is to leave the structure and functions of the RADP as they are, recognising that the infrastructure task is not yet complete and that there are important benefits for RADs in retaining the programme as a separate channel for support to them. However, the various rural development strategy challenges posed by the programme should then be tackled much more aggressively by MLGLH, in a series of dedicated review processes and coordination structures with MFDP, MOA and DWNP. As was noted, building a special remote areas component into the current review of communal areas development strategy would be a way to start.

This more proactive approach to the rural development problems of remote areas, and to interministerial coordination in tackling them, should be linked explicitly to the work of District Development Committees. The mission was told in Serowe, for instance, that the Central DDC receives very few reports on the RADP, and gives it correspondingly little attention. At the same meeting, the district's Chief Community Development Officer said that he had last attended a discussion of the RADP when he was serving in Ghanzi in 1992. Again, an immediate opportunity arises as preparations for the fifth series of District Development Plans begin. Districts should attempt a more substantive review of local development problems - including those of remote areas - and replace current DDPs' mechanical response to national development projects with more locally relevant, area specific strategies. This, too, should lead to a more thorough analysis of how rural development strategies and structures can best address the widely varying problems of RADs in different parts of the country.

Whether any of these changes will be accomplished depends on the political and administrative will of government and Councils. In the phases of the RADP to date, this combination of forces has been distinctly lacking. We see little evidence that it is more likely to emerge now, particularly if the programme remains the responsibility of MLGLH. The observations and recommendations made by this mission are broadly similar to those made in the past. Unless something fundamental is done to reinforce political commitment to the RADP and give it more forceful direction and leadership, the only honest analysis is that the programme will, once again, grind on unchanged. This report, like others before it, would then mainly be useful to the next team of consultants.

- Our **recommended** option is therefore significantly different than the one just outlined. We believe that, for conventional rural development purposes as well as broader ones, the RADP should continue. The job is not done. There is an existing cadre of staff, some of them dedicated - although almost all in urgent need of major additional (or re-) training. There is significant added value, from the perspective of RAD interests, in maintaining a separate RADP. And there is further additional value in maintaining international support for the programme. However, because of the complexity and breadth of the rural development challenge it poses, we recommend that the RADP be coordinated from MFDP.

Existing management, funding and delivery structures in MLGLH and District Councils could be retained; but overall coordination, and policy responsibility, should pass to a specially appointed officer in the Rural Development Coordination Division of MFDP. There is a precedent for this, in the creation some 15 years ago of a post in that Division to coordinate communal areas development (now called the Principal Communal Resources Coordinator).

From MFDP, a remote areas coordinator should have the authority and the initiative to focus strategic thinking on such sectoral problems as livestock production, land access and the EPF. S/he should also be better able to enhance interaction between MLGLH and other Ministries in the implementation and local adjustment of these sectoral initiatives: linking the EPF's livestock grants with MOA's Services to Livestock Owners in the Communal Areas, for example, and bringing more of the expertise of the FAP's Integrated Field Services (in the Ministry of Commerce and Industry) to bear on the implementation of the EPF.

A policy person in this position should also be better able than the current implementation coordinator in the MLGLH RADP Unit to link the RADP to research capacity and to the stronger ability of NGOs to think up and pilot innovations for remote areas development. Although the performance of NGOs can be erratic and their broader implementation capacity often dubious, they tend to be better at bright ideas than governments. Since bright ideas are what rural development - and especially remote area development - in Botswana badly needs, it is important that the RADP and its coordinators build better communications with agencies like the Kuru Development Trust, Thusano Lefatsheng and the Maiteko Tshwaraganyo Development Trust.

The current timing may be propitious for the recommended change, with the drafting of new DDPs and NDP 8 just beginning. Although many rural development structures and strategies are now in their third decade, we believe that institutional inertia in the Government of Botswana is presumably not yet total. Retaining the RADP as it is would cast doubt on that judgement.

If our recommended option were implemented, the RADP might remain project LG 127 of MLGLH. MFDP does not implement projects directly. At the same time, however, the RADP would take on a broader identity as a national programme, coordinated at national and interministerial level by MFDP. This offers the strongest prospect of political will and imaginative policy to enhance government's strategy for remote area dwellers. But it does not relieve MLGLH of direct responsibility for significant initiatives of its own. The most urgent, as recommended by other missions before us, is training for RADP staff (see chapter 4 below). Many readers, seeing us report that since the 1990 review there has still been no significant action on this score, will conclude that to repeat the recommendation is a waste of paper and ink. It is up to MLGLH to prove otherwise.

4. The organisation and administration of the RADP

Status of the RADP within Government and MLGLH

In Government generally and within MLGLH specifically, the status of the RADP is low. This low status is partly due to widespread ambivalence about the programme. The RADP has always meant different things to different people. Some (although few of them work for government or District Councils) explicitly say that the RADP should be raising the socio-economic status and promoting the rights of Basarwa. A larger group, including many civil servants, explicitly reject any such broader social, political or cultural function and say that the programme is about modernisation, integration and the provision of services. Then, there are at least two types of dual agenda. Some people, including the early planners of the Bushmen Development Programme and RADP, focused on geographical remoteness, the establishment of settlements and provision of services as an indirect way of achieving more fundamental social targets (Wily, 1994: 18). Others, it must be feared, pay lip service to the broader social, cultural and information functions of the RADP in order to show the world that something is being done about minority groups in the outlying districts. At the same time, they are inwardly confident that the programme will do little or nothing to alter the socio-economic status quo.

Hence, for much of the time and for many people - not least to RADs themselves - the RADP thus seems to say one thing and do something else. In effect it seems not to be clear at all about how much it is trying to achieve. This ambivalence does not inspire confidence, and partly explains the low status of the programme. Moreover, those opposed to any wider agenda, i.e. one which goes beyond the "settlement strategy" which has characterised the RADP, only have to point at this confusion to reinforce their argument that the wider agenda is ineffective. 14 years ago, in his evaluation of the RADP, Egner argued that

"There are influential people in any society who benefit from the *status quo* and are consequently prepared to resist the introduction of radical aims. There are many others of a conservative tendency who will thwart effective action by arguing for a more gradual approach, for more time to consider their position, etc. Its radical objectives are the only ones which are unique to the RADP, and the only ones which justify its existence as a distinct development programme within the national development plan. Yet there is no unanimity about the validity of these objectives and the programme has to date had little or no impact upon its intended beneficiaries in this respect, because it has not yet secured substantial and coherent political support at the national level" (Egner, 1981: 38).

While the RADP has by now achieved some impact for its beneficiaries with regard to the broader agenda, these results remain limited. Egner's analysis still rings true.

What most people do see the RADP achieving is the delivery of primary services to remote area communities. This is a mundane function: an appendage of the general primary function of District Councils in providing such services. While the RADP's service task may be logistically difficult and expensive, it has a very low profile as far as policy interest is concerned - particularly in the luxurious financial climate of Botswana, where the very high costs of RADP service provision have yet to become a significant issue.

When the RADP does attempt more challenging development functions - notably the stimulation of income generating enterprises for RADs - it is commonly perceived to fail, partly because these efforts are made by Council staff who are manifestly ill prepared for the task. Once again, this poor performance lowers the status of the programme.

Finally, the RADP suffers from the attitude of most Botswana civil servants to remote areas and Basarwa. Very few people take the problems of these places and people seriously enough to contemplate working on them personally in the field. Most prefer to keep the cultural and personal hardships of working on the RADP at arm's length. The common view seems to be that it is a good thing the RADP is there, as long as somebody else implements it and it poses no serious policy problems.

In 1981, Egner concluded that the programme had a higher profile and status in the District Councils than in central government:

"The RADOs have achieved acceptance of their programme's less contentious aims and as a consequence receive positive support from councillors, council secretaries and other council department heads. No comparable acceptance or even understanding of the programme's aims has been achieved in central government ministries and departments. This is partly because of the low-key approach adopted by the Assistant Secretary (RAD) but also because of the low priority and lukewarm support the programme has been accorded at all levels in MLGL" (Egner, 1981: 37).

This assessment is still accurate today. Although their support is far from unanimous, local politicians and District Council officers often see the practical need for the RADP and support it accordingly. As was noted in chapter 3 above, the programme's resources can also sometimes be used to political advantage in servicing small (not necessarily Basarwa) communities that would not otherwise receive Council support. Central District Council, however, is believed by local RADP staff to be indifferent or hostile to the programme (its rejection of the Campbell and Main (1991) report on the Western Sandveld is indicative). They

hope that the new Chairman of the Council, with his rural development background, will help change this attitude.

The rarest perception of the RADP is the one promoted by this mission: that it is a broad and challenging rural development programme, epitomising all that is most difficult and most important in the process of achieving significant social progress and economic growth in Botswana's rural areas. If this were the dominant view, the RADP would have the high status we believe it needs, as an interministerial development effort, attracting serious policy analysis and coordinated by MFDP.

Coordination of the RADP by MLGLH

Like various other MLGLH projects, the RADP (LG 127) is a decentralised activity which is meant to be planned and implemented at district level according to the guidelines set out in the national project memorandum. The role of the Ministry is overall coordination. This function is performed by the RADP Unit in MLGLH, comprising one staff member: a Principal Administrative Officer (RADP). The Business Adviser attached to the Unit left in 1993 and has not been replaced.

The PAO reports to the Director of the Ministry's Department of Local Government and Development, who in turn reports to the Deputy Permanent Secretary for Local Government and Development. As with other MLGLH projects, basic financial planning and overall financial monitoring are undertaken by one of the Planning Officers in the Ministry's Planning Unit. In the case of the RADP, she performs this function in consultation with the PAO (RADP). The RADP Unit is also charged with monitoring functions that will be assessed below. Programme staff, being officers of the District Councils, are coordinated by the central Unified Local Government Service of MLGLH in Gaborone.

Current coordination of the Programme by MLGLH follows a long established pattern. Districts are left largely to their own devices, although they must coordinate their capital expenditure with headquarters according to annual budgetary allocations from the Programme. The guidelines of the PM are precisely that: as we have reported elsewhere in this evaluation, this tends to lead to overspending on the straightforward categories of the Programme (e.g. physical infrastructure) and under-expenditure on the more challenging ones (e.g. promotion of income-generating activities or culture). These reallocations appear to be accommodated without comment by the RADP Unit, with budgetary adjustments made accordingly. Although the Unit has had to give attention to the successive redrafts of the RADP policy document, its coordination function is largely administrative and financial.

This MLGL coordination is largely Gaborone based. The PAO (RADP) does visit the districts, but these visits are irregular and infrequent. Part of the reason for this, the PAO explains, is the policy issues that have recently demanded attention and tend to lead to sudden calls for prompt action from his superiors: for example, the long saga of the as yet unpublished RADP policy paper; and the equally protracted issue of the three RAD farms in Ghanzi, on which the Rural Development Council (RDC) is now pushing for action.

Although MLGLH is an important member of the RDC and is probably the key line ministry for implementation of policies emerging from the Rural Development Coordination Division of MFDP, its interministerial coordination with regard to the RADP is limited. Consultation takes place with such ministries as Health and Education with regard to general primary services administered by District Councils under the supervision of MLGLH. There are far fewer contacts with specific reference to the RADP. Once again, the mission concludes that the challenge of coordinating the RADP as an interministerial rural development programme is not being met.

Successive RADP evaluations, including this one, have confirmed Egner's 1981 description of MLGLH's "hands off" approach to RADP coordination since the programme was decentralised in 1977. Egner went as far as saying that "MLGLH has taken such a low profile as to be practically invisible" (Egner, 1981: 10). That would not be fair today, although there is little doubt that more vigorous coordination from the centre is needed. Opinions have differed over the years as to whether a more active approach by MLGLH would be seen as interference by the District Councils. Our view is that it would not. Some field staff suggested to us that the administrative capacity at the RADP Unit needed to be complemented by more practical field experience, pointing to the former Business Adviser as a good example. Various recommendations have also been made about whether the RADP Unit needed additional staff. Certainly, its various functions are incompletely performed at present. Some, like maintenance of the programme data base (see below), are not done at all. As noted above, the strength of the Unit was halved, from two to one, in 1993. In addition, the RADP Research Facilitator, who was based at the UB's National Institute of Development Research and Documentation (NIR) in 1992 and 1993 was not replaced.

However, the strategy we recommend would retain just a single officer in the MLGLH RADP Unit, while adding a policy coordinator in the Rural Development Coordination Division of MFDP. Coordination of the EPF by some 'Business Adviser' type capacity is urgently needed, but should be arranged by such an MFDP RADP coordinator in consultation with the Ministry of Commerce and Industry. Properly organised and executed, the administrative and data monitoring functions of the MLGLH RADP Unit can then be performed by a single officer, in consultation with the ministry's Planning Unit.

The staff of the RADP

Staff grades and numbers

There have been two developments with regard to RADP staffing since the 1990 evaluation of the programme. These are the introduction of the Principal Remote Area Development Officer (PRADO) grade, and the employment of Assistant Project Officers (APOs) at the bottom of the scale. The APO position was created in 1992, the same year that the expatriate volunteer Business Advisers were withdrawn from the districts. The intention was that this junior cadre would be recruited wherever possible from RAD school leavers, so that government could help educated members of RAD communities work through the programme for local development. Another main concern was the presence of the RAD Unit in the settlements. APOs were intended to, and actually do, live in the settlements. In many cases, however, such local candidates were not available and other young people were recruited instead.

The PRADO grade appears to have been an administrative adjustment to allow for promotion of senior RADP staff, on par with the top grade in other Council cadres. The following total staff complement was reported to the mission by ULGS:

Table 4.1: RADP staffing in District Councils, March 1995

Position	Grade	No. of posts	Posts filled	Vacancies	% vacant
Principal RADO	C1	3	1	2	67
Senior RADO	C2	5	5	0	0
RADO	C3/4	13	13	0	0
Assistant RADO	B1	9	8	1	11
Senior RAD Assistant	B3/4	8	4	4	50
APO	B5	35	33	2	6

(Source: ULGS)

With the substantial addition of the APO cadre, the total establishment as reported above is 73 officers, compared with 53 reported to the 1990 evaluation of the RADP. At that time, Hostel Caretakers, Assistant Hostel Caretakers, Remote Area Development Assistants (RADAs) and Senior Administration Assistants were also included in the establishment. The RADA cadre appears to have been merged with the APO group. While Hostel Caretakers are still employed, their current status,

and that of the Senior Administration Assistants, is unclear. (In Ghanzi district, one SRADA was reported to be acting as a Hostel Caretaker.)

The mission found some confusion in ULGS with regard to RADP job descriptions. The Acting Establishment Secretary reported that job descriptions for APOs could not be located recently when they were requested by the sub committee of the Rural Extension Coordinating Committee (RECC) which deals with training. A 1992 consultancy report on the reorganisation and restructuring of District Councils was rejected by MLGLH, and resources are currently being sought to repeat the exercise. This could lead to revision (or discovery!) of RADP job descriptions. We recommend that review and restatement of the job descriptions be undertaken by ULGS urgently, in consultation with the RADP Unit and RADP field staff.

The 1990 evaluation found a vacancy rate of 23%, with an additional 6% of posts occupied by expatriate officers. This situation has improved, with only 12% of the enlarged establishment vacant. All the key SRADO and RADO posts are filled. The fact that two of the three established PRADO posts are vacant probably reflects the current seniority and entitlement to promotion of the individuals in the SRADO group.

Council staff, including those of the RADP, are transferred from district to district, and can be transferred laterally from cadre to cadre, by ULGS in Gaborone. Promotions are also the responsibility of ULGS. Not surprisingly, given the confusion about job descriptions reported above, inadequate consideration is given to the qualities, experience or training required to make a good RADP officer. Promotions sometimes take place just to reflect length of service rather than actual achievements in implementing the programme, or training relevant to it. In both cases, the lack of specific training programmes for RADP staff (discussed below) is clearly a contributing factor. Nevertheless, the mission was impressed by the practical experience and dedication to the job demonstrated by some of the programme staff it met in the districts. Conversely, there are some who appear ill suited by temperament, background or training to the task. ULGS appears to be too blunt an instrument with which to sift people for work on the RADP, which is probably the most sensitive and demanding assignment in the District Council service.

Overall, the RADP cadre remains very small when compared with other Council services. Leaving aside the APOs who are assigned to individual settlements, such major programme districts as Ghanzi, Ngamiland and Central only have five, four and nine RADP staff respectively, of whom one, two and eight respectively are posted to sub-districts. Thus, the Central district programme is coordinated at Serowe by a single officer, the PRADO, with all other staff operating from sub-district headquarters or based as APOs at villages and settlements. Some Tirelo

Sechaba participants are also posted to RAD settlements or to work with the Programme at district headquarters.

Staff training

Training of the RAD cadre has been a matter of serious concern for some years. The 1990 evaluation of the programme recommended

"that ULGS raises the status, morale and effectiveness of RADP staff by improving their level of training and by creating a module of specialised training for RADP staff..." (Kann *et al.*, 1990: 151).

The 1990 mission considered this to be one of their two most important recommendations. **It has not been implemented.** Five years later, there is still no special induction or training programme for RADP staff. The Acting Establishment Secretary told the mission that she was not aware of any discussions to date with the RADP about setting up such a programme. Although the formal integration of the RADP personnel with the Social and Community Development cadre has not taken place, ULGS tends to treat the two groups together for training purposes, with the smaller RADP group having access to the training programmes offered to S&CD. When staff are assigned to a District Council, either as first time employees or from elsewhere in the ULGS system, it is up to the Council to provide induction courses, if any. No special RADP induction course exists. Any subsequent on the job training is also the responsibility of individual Councils, but again there are no special provisions for RADP staff.

ULGS arranges formal courses for S&CD staff (and, by implication RADP personnel). It can direct Councils to release staff for these courses, which are offered at Certificate, Diploma and degree level at the University of Botswana (UB) and elsewhere. Courses in Social Work and in Adult Education are particularly relevant, although neither offers material specific to the RADP or the problems of RADs. The UB courses in Adult Education are meant for extension workers in all fields. The Certificate may be taken part time as well as full time, whereas the Diploma and degree courses are full time only. ULGS has a training unit, but the UB Centre for Continuing Education (which is responsible for the above programmes along with the Department of Adult Education) reports few contacts with it. The Centre is represented on the RECC and on its sub-committee for training, and has been stimulating efforts there to develop special courses for RADP staff.

Throughout our field visits, we met RADP staff who said they had received little or no training since joining the programme. The situation is particularly serious for APOs, most of whom joined the programme two to three years ago as totally unqualified school leavers and have since had to cope with a variety of administrative and technical problems, almost single handed, in the RAD

settlements to which they have been posted. ESL report that four of the seven APOs they interviewed in 1993 had attended a six week training course at the start of their appointment (ESL, 1994, 2-3). All APOs interviewed report promises of training which have not been fulfilled. ESL reports them asking for training on "basic project planning and management, agriculture, rural development and adult education/community mobilisation" (ESL, 1994, 2-4).

In the circumstances, it is remarkable (and highly laudable) that so many APOs have remained in post and, in many cases, are doing competent and responsible work. The plan reported by the then Permanent Secretary of MLGLH in September 1992 for the original group of APOs to be enrolled on a Certificate course at UB in 1993 did not materialise (GOB/GON, 1992a,p.5). More recently, new efforts have been made by the RECC training sub-committee to develop a training programme for the APOs, although final details remain to be worked out with ULGS and it is not yet clear when or how the programme will be offered. Domestic funds are available to run such training programmes through ULGS, and the Acting Establishment Secretary assured the mission that special training programmes for the RADP cadre would be welcomed.

The fact that nobody actually have got around to doing anything about training programmes for the RAD cadre during the five years since they were so strongly recommended by the previous evaluation is another strong indication of the low status and priority accorded to the RADP in MLGLH.

The RADP training issue thus remains as critical as it was in 1990. We have shown in this evaluation that the RADP is the most complex and challenging rural development programme being implemented by government at any level in Botswana. Yet the staff responsible for it have probably the weakest educational and training background of any programme cadre in the country. Long experience and personal commitment have - in some cases - carried individual officers to substantial achievements in the RADP. Overall, however, the cadre's training and qualifications for the job at hand are utterly inadequate. While the Government of Botswana may successfully deflect some of the accusations it receives about its commitment to the RADP by pointing to e.g. the increased funding from domestic sources, its continuing failure to train the programme's staff is a clear indictment.

This mission recommends the continuation of the RADP with many of the existing structures and personnel - but with much stronger interministerial support and coordination, both at the policy level and also in various technical fields such as the promotion of rural enterprises. This recommendation can only be valid, however, if urgent action is at last taken to develop and implement training programmes. Specifically, we recommend:

- the early finalisation and delivery of an in-service training programme for APOs, to be coordinated by the UB Centre for Continuing Education;

- the design and delivery of a special training module on the remote areas, including introductions to RADs and the RADP which can be offered to programme staff on first posting to the RADP, and to all extension personnel studying for the Certificate or Diploma in Adult Education at UB;
- immediate arrangements by the ULGS Training Unit for a structured sequence of Certificate and Diploma level training in Adult Education at UB for all eligible PRADOs, SRADOs and RADOs not already qualified at this or higher levels;
- commissioning the UB Centre for Continuing Education, in consultation with the RECC training sub-committee, to design an in-service training programme for any RADP staff whose educational background does not qualify them for a Certificate course;
- similar arrangements with UB, RECC, the ULGS Training Unit and the MLGLH RADP Unit to design and execute a follow-up staff monitoring and in-service refresher training programme for the RADP;
- urgent review (together with NORAD) of possible technical assistance or financial support to the RADP training programme, should additional resources be required.

Financial administration

The financial administration of the RADP is reviewed in detail by Sharp (1994), who concludes that it has on the whole been competent and well documented. Neither he nor this mission was able to undertake anything like an audit, which is of course undertaken annually for all District Council expenditures as a statutory requirement. We focus in this section on the loose way in which funds are budgeted for the different components of the programme, and often reallocated from one activity to another as a financial year progresses. In part, as was noted in chapter 3 above, this is because the budget allocations issued from MLGLH are only guidelines. It is accepted practice that actual expenditure in the different categories may deviate considerably from the original plans, according to the priorities and problems of the individual districts.

Since NORAD funding for the programme was substantially exhausted in the financial year 1993/94, there appears to have been some confusion in DDF funding arrangements for the RADP. Annual budget allocations from MFDP to the RADP are made on the basis of project memoranda which are submitted to MFDP for approval. The PAO (RADP) explained to the mission that the PM for financial 1994/95 was prepared late, apparently because there were substantial unspent balances from 1993/4. When the 1994/95 budget was drawn up, about P10m

remained unspent from the original LG 127 Total Estimated Cost (TEC) of P31m. Then, however, P4.2m was allocated to the proposed development of the three RAD farms in Ghanzi district, and MLGLH prepared a separate 1994/95 RADP estimate of P10m. MFDP objected, indicating that the TEC set out in NDP 7 would be exceeded. Negotiations ensued, as a result of which P3m was added to the TEC and the cost of primary schools provision was transferred from RADP to MLGLH's standard primary education project budget. The final adjusted PM for 1994/95 was only approved in March 1995, when that financial year had just a few weeks to run. The unspent 1993/94 funds in fact carried the programme right through 1994/95 as well, which may be why the mission was told by various districts that very little capital funding had been received during the last financial year.

Table 4.2: RADP funding allocations, 1994/95 (using funds carried over from 1993/94)

	P
<u>Water</u>	
Funds available	1,402,189
Amount spent: water supplies at Chobokwane (Ghanzi), Mababe (Ngamiland), Lepokole, Dimajwe, Polometsi (Central), Lokalaneng (Southern)	1,119,173
Balance	283,016
<u>Education</u>	
Funds available	561,030
Sorilatholo school (Kweneng)	292,100
Chobokwane school (Ghanzi)	268,930
Balance	-
<u>Health</u>	
Funds available	569,000
Central district (unspecified)	269,000
Ngamiland district (unspecified)	188,642
Balance	111,358
<u>Consultancies and monitoring</u>	
Funds available	382,130
Monitoring studies	162,130
Balance	220,000
<u>Cultural activities</u>	
Funds available	300,000
Kgatleng district (unspecified)	8,325
Balance	291,675

<u>Information activities</u>	
Funds available	100,000
Disbursements	-
Balance	100,000
<u>Inventory and equipment</u>	
Funds available	769,000
School furniture, Kweneng	30,600
One vehicle per district	738,563
Balance	-163
<u>Total</u>	
Funds available	4,083,349
Disbursements	3,077,463
Balance	1,005,886

(Source: RADP Unit, MLGLH)

The table supplied by the MLGLH RADP Unit, as shown above, may be incomplete: it does not indicate any allocation for 'training and workshops'. This category is among those which in another recent MLGLH document appear as providing an unspent balance from the 1993/94 allocation, still unused in 1994/95, which will now be reallocated to pay for extra water and school building costs in Ghanzi and Kweneng districts (see chapter 3 above). On the other hand, the unspent training funds may be among the monies which the PAO (RADP) believes to have been carried over for several consecutive financial years without being used, in which case they would not appear in the 1994/95 budget.

Effectively, programme expenditure has been stretched so that it is now running a year late. The PM for 1994/95, approved in March 1995, will now provide the funds for 1995/96. No separate PM will be prepared for 1995/96. The approved budget for 1994/95, to be used in 1995/96, is shown below. The source of these funds is shown in the PM as DDF. In fact, if the figures provided to the mission are added together, total capital expenditure for LG 127 under NDP 7 appears to be only P30.4m, below the original ceiling of P31m. The extra P3m now negotiated will presumably be used in the last financial year of the current Plan, i.e. 1996/97.

Table 4.3: LG 127: proposed capital expenditure, 1994/95 (to be used in 1995/96)

	P
<u>Water</u>	
Tshokwe/Polometsi (Central)	629,000
Godigwa (Ngamiland)	90,000
Qangwa Well (Ngamiland)	25,000
Khekhenye (Kweneng)	300,000
Tshwaane reticulation (Kweneng)	75,000
Qabo (outstanding payments) (Ghanzi)	225,609
Water survey: 3 RAD farms (Ghanzi)	800,000
 Sub total	 2,144,609
<u>Education</u>	
Chobokwane school (Ghanzi)	320,000
 <u>Health</u>	
Chobokwane health post (Ghanzi)	385,000
Qabo health post (Ghanzi)	385,000
Phuduhudu health post (Ngamiland)	300,000
Sorilatholo health post (Kweneng)	247,000
Polometsi health post (Central)	295,000
Tshokwe staff quarters (Central)	180,000
 Sub total	 1,792,000
<u>Economic Promotion Fund</u>	
(To be allocated pro rata according to districts' share of total RAD population)	300,000
 <u>Labour intensive works</u>	
(To be allocated pro rata according to districts' share of total RAD population)	200,000
 Total requested	 4,756,661
10% contingency	475,661
 Grand total	 5,232,270

(Source: GOB (1994), 5 - 6.)

As noted in Chapter 3 above the PM for '1994/95' states that no funds are being requested for information activities and cultural activities because of existing

unspent funds, lack of implementation capacity and the alleged need to await the new Remote Area Development Policy (GOB, 1994: 6)

Although the PM proposes that funds for "Workshops and Technical Assistance Training" be allocated between districts according to their share of the RAD population (as with the EPF and labour intensive works), it does not actually budget any funds under these categories. It makes no reference at all to expenditure on monitoring or survey activities. There is no allocation either for inventory and equipment. Although RAD primary education is no longer to be funded from LG 127, expenditure on Chobokwane school is still included: this is to make up for a shortfall in earlier funding.

The financial planning applied to the RADP over recent years could charitably be described as flexible. Some flexibility is, of course, necessary and appropriate. A more significant aspect of recent budgets is that capital expenditure appears to have slowed down, even though the full NDP 7 TEC has been used up and an extra 10% has been made available. Most noteworthy is the way in which various reallocations and other budget exigencies have steadily eroded funding for the more challenging components of the programme: cultural activities, information, workshops and training, monitoring and evaluation. The RADP Unit in MLGLH appears simply to accept that districts are not spending the money under these categories, and to conclude that there is no point in allocating any more, and the unspent balances might as well be diverted to activities on which they can actually be used.

In fact, the budgeting and financial management system operated by MLGLH and the District Councils is so flexible as to be almost totally permissive. This is not to suggest any impropriety. But there appears to be very little effort to keep spending within the sub-ceilings implied by each category in the multi-annual, or even annual, LG 127 budgets. Furthermore, the practice of allocating funds for the EPF and labour intensive works to Councils at the beginning of the financial year - to allow speedy local disbursement as soon as appropriate activities are identified - means that the central RADP Unit subsequently loses track of whether or how the money has actually been used, and only gradually comes to learn of under-expenditure as the unused funds pile up in District Council accounts.

In terms of total expenditure, DDF has been used to make up the remaining TEC of the RADP, following the exhaustion of NORAD funds. But the balance of funding has swung further towards infrastructural activities. Government appears willing and able to fund an infrastructural RADP; not the broader RADP as designed. Although the PM motivating the '1994/95' budget is an annual summary document and not a full programme design, it is worth quoting its description of the purpose of the programme:

"The Government of Botswana is committed towards raising the standards of living of Remote Area Dwellers by providing them with basic services. To this end a programme came into being in 1974 in order to provide funds for physical infrastructure and income generating activities... This programme mainly aims at integrating the Remote Area Dwellers into the mainstream of national development. This will in turn enable them to participate more in societal and national affairs and thereby contribute to national development... this programme will substantially reduce the material poverty of Remote Area Dwellers. It will also increase their ability to sustain themselves through subsistence production" (GOB, 1994: 2-7).

Monitoring and research

There is little doubt that, as Saugestad (1993: 18) argues, the RADP suffers from an information overload. Reviews of the programme overall include Wily's analysis of the early years (1979); the reviews by Egner (1981), Gulbrandsen *et al.* (1986), Gulbrandsen (1990), Kann *et al.* (1990) and Karlsen (1992); and the current evaluation, to which are linked the studies by Adams (1994) and Sharp (1994). Since 1988, periodic evaluations have overlapped with a more structured Monitoring and Study Programme, first outlined in the GOB/GON agreement for NORAD support to the ARADP (GOB/GON, 1988, Annex II). As then agreed, NORAD and MLGLH proceeded to elaborate a complete programme. Based on the monumental (597 page) tome on monitoring, research and development in the remote areas of Botswana which Hitchcock (1988) had already submitted, another consultant produced a Plan for Implementation of Monitoring System, Surveys and Studies (Eidhammer, 1989). As Saugestad (1993: 6-7) explains, this Plan comprised:

- A Monitoring Plan, in turn made up of:
 - implementation monitoring: gathering, filing and reporting data on the progress of MLGLH and Councils in implementing the RADP;
 - impact assessment, beginning with baseline studies which would subsequently be revisited in periodic reviews.
- A Surveys and Study programme, comprising (as Hitchcock (1988) had recommended):
 - population and land use studies;
 - settlement and land access studies;
 - studies of human resources and institutions;
 - reviews of economic opportunities;

- land capability and resource assessment studies.

Under the supervision of a variously titled Task Group or Reference Group, most components of this programme have since been (at least partially) implemented. The central MLGLH Business Adviser took responsibility for the RADP data base in Gaborone in 1990 and was able to take some initiatives on commissioning some of the studies. As recommended by the 1990 evaluation (Kann *et al.*, 1990, 145 a RADP Research Facilitator (Saugestad) was posted to the NIR in 1992.

Implementation monitoring

This activity was based on the data base established in 1989 and reviewed by Sharp (1994: 5-6). This data base built up information on 63 RAD settlements (sometimes known in the districts as 'NORAD' or 'database' settlements). These were places for which NORAD funding had been endorsed, or for which funding was being discussed, according to the review procedure laid down in the GOB/GON programme agreement. To summarise Sharp's analysis, the data base has had the following problems:

- It was not institutionalised into standard MLGLH/Council procedures. No routine system developed for the transfer of implementation data from the field to the data base in Gaborone. Unlike the data base itself, most of the information systems on which such a transfer would depend are not computerised.
- The data base is now moribund. Sharp could not find any hard copy of the data later than August 1992. It has not been updated in the last two years, and the MLGLH RADP Unit now reports hardware problems and probable loss of data from the computer hard disc.
- The data base is not cumulative. New data wipes out old, so that trends cannot be discerned. Indeed, the data do not show when they were entered, so that it is never clear whether information for a particular place all dates from the same time.
- Much of the information on the data base is inaccurate, as well as out of date. Location data on settlements, for example, can be very misleading.
- Even in 1989, the 'Framework' software used for the data base was outdated and not widely used. Very few people who might want to use the system now have ever used, or even heard of, 'Framework'.
- The data base was not set up to include any financial information.

Sharp concludes that "it can be categorically stated that the system as it stands is *not* 'a functioning system that can keep track of the financial and physical progress of the programme'" (1994: 6; his emphasis). There is little to add. This component of the Monitoring Plan has failed and is defunct. That is the main reason why Sharp had to be commissioned to undertake a separate review of facts and figures about the RADP in preparation for the current mission.

We recommend that an operational monitoring system, based on widely known and GOB approved software, be designed and installed as a matter of urgency. The PAO (RADP) should be provided with any necessary training required to operate the system. The new system should maintain time series data, so that previous conditions can be compared with current ones. It should include data on programme expenditures. Operating systems should be established within MLGLH and with Councils to ensure standard feeding of financial and physical data into the system.

Impact assessment

There have been two achievements in this field. First, baseline studies of eight RAD settlements in Central, Kgalagadi, Kweneng, Ngamiland and Southern districts were undertaken in 1990 (Economic Consultancies *et al.*, 1991; Mazonde, 1992; Sekhwela *et al.*, 1992). Socio-economic and environmental profiles were prepared for each settlement. Secondly, in 1993, monitoring studies were undertaken in all eight settlements (ESL, 1994), in order to assess socio economic status and changes since 1990; assess present natural resource status, recent trends and impacts of RADP activities; and make recommendations for the future policy and strategy of the programme.

Voluminous amounts of data have been collected through these two sets of surveys. In a way, the two exercises are the most important achievement of the overall monitoring and research plan, since they constitute a case by case comparison of conditions in the same places at two different dates. Despite the enormous volume of RADP related literature, such specific contrasts are rare. On the other hand, it is not clear how much practical use has been made of all this detailed work. It is safe to say that the 1993 monitoring studies have had little impact so far. Almost a year after submitting a draft final report (in May 1994), the authors were still waiting for comments from MLGLH.

Surveys and studies

Referring to the five categories of investigation proposed by Hitchcock for the surveys and studies programme, Saugestad (1993: 9) says that "The main type of studies undertaken can broadly be defined as 'socio-economic' or 'population and land- use' studies". She points out that although no specific 'settlement and land

access' studies have been done, some of these issues have been dealt with in the other categories of study, and in the baseline and monitoring surveys. One 'economic opportunity' study was undertaken, and nothing specifically on 'human resources' or 'land capability and resource assessment' was done. In addition to the programme reviews and the baseline and monitoring studies already quoted above, Saugestad (1993:3-5) lists the following:

- *Central Ngwaketse remote area dwellers: socio-economic survey* (Campbell, 1989).
- *A socio-economic survey of selected Central district remote area settlements: Kedia, Khwee, Mmakgama and Mmiya* (Ndozi and Toteng, 1989).
- *Socio-economic survey, remote area development: region south of Lake Ngami*. (Campbell and Main, 1991).
- *Socio-economic survey, remote area development: Western Sandveld remote area dwellers* (Campbell, Main and Associates, 1991).
- *Socio-economic population and land-use survey: Kweneng district and Central Kalahari Game Reserve* (Toteng, 1991).
- *A socio-economic, population and land-use survey for Ncojane ranches: Ghanzi district* (Ndozi, 1991).
- *Handicraft production, training and marketing in remote areas: Ngamiland, Ghanzi and Kgalagadi districts* (Terry, 1991).
- *Zone 6. Socio-economic baseline survey of Ngamiland's remote zone* (Smit and Kappe, 1992).

We are not aware of other studies having been published since Saugestad's review (apart from ESL's 1994 work, which remains 'draft final'). However, the Applied Research Unit (ARU) of MLGLH, which was responsible for the studies by Ndozi and Toteng shown above, has been working on a review of progress, or lack of it, at West Hanahai and Kacgae settlements in Ghanzi district. The ARU has also been working on RADP issues in the Hainaveld area of Ngamiland.

Other research

There is little doubt that the early anthropological interest in Basarwa made an important, if indirect, contribution to the emergence and design of the initial Bushmen Development Project and subsequent RADP. In his evaluation of the

RADP, Egner noted RADOs' appreciation of the contribution made by researchers and

"recommended that MLGL should recognise that there is a continuing need for development-oriented anthropological research in connection with the RADP..." (Egner, 1981: 11).

The 1990 RADP evaluators, too, urged the continuing promotion of private, academic research (Kann *et al.*, 1990: 148). However, much of the vast corpus of academic work on Basarwa and other RAD groups has been produced by non-resident academics from the northern hemisphere (Saugestad, 1995: 28). Some (by no means all) of it is available on university library shelves in Botswana; but the international research community has little direct involvement in the RADP or related debate and policy making within Botswana - except when individual academics are invited to do consultancy work. In any event, the heyday of expatriate research interest in the Basarwa, when the apocryphal herds of wandering anthropologists roamed the Kalahari in search of the last un-interviewed Bushman, appears to be over.

A major step forward was taken in September 1993, when the RADP Research Facilitator and colleagues at UB organised a workshop at NIR on 'Developing Basarwa research and research for Basarwa development'. This workshop was attended by South African and Namibian researchers and development workers as well as UB staff and many Botswana government officers, NGO personnel and local consultants. It laid the foundations for a community of academic and applied researchers concerned with Basarwa, primarily but not exclusively in Botswana. As such, it brought the task of Basarwa research coordination home to Botswana, reasserted national ownership of this important research field, and effectively challenged foreign researchers to reorientate themselves within this nationally asserted framework. Papers presented at the workshop covered such topics as linguistics, human rights, land law and education, with active inputs from MLGLH on applied research needs.

One result of the meeting was the creation of a Steering Committee for the Promotion of Basarwa Research. This comprises 12 UB academics. The frequency of its activities and meetings has fluctuated over the last few years, but it was clear to the mission that there is a core of committed researchers on Basarwa issues at UB. Some of these academics have been continuing their work in such fields as linguistics and law since the 1993 workshop. They link to a continuing commitment to applied research for the RADP at the MLGLH Applied Research Unit (now absorbed by the Ministry's Planning, Statistics and Research Division). The Steering Committee is now supported by the newly appointed part time Basarwa research coordinator at NIR. It is considering a second research workshop for August, 1995.

Oceans of prose

Enormous volumes of information and analysis have been produced about RADs and the RADP during the review period, keeping up the prolific tradition of the past. Consultants and researchers have kept themselves busy. The question is what positive or negative impact, if any, all this work has had. While individual studies have certainly produced pieces of relevant information for planners and policy makers in Gaborone and the districts - Saugestad cites the Ngamiland remote zone study (Smit and Kappe, 1992) as the best example - we conclude that the absorptive capacity for this type of work is steadily decreasing. This is especially true in Gaborone. In the districts, RADOs and other planners, particularly in District Land Use Planning Units (DLUPUs), can make use of the case study approach. But the ability and inclination of staff at MLGLH or MFDP headquarters to plough through or use the endless reports is strictly limited. In 1993, for example, Saugestad reported that "Nor has data from the Monitoring and Study Programme been used as input to the [still!] ongoing RAD programme policy review" (Saugestad, 1993: 18).

Not all the individual studies produced as part of the surveys and studies programme have had a happy history. As Saugestad noted, the three studies by Campbell and Main on the Western Sandveld of Central district, the area south of Lake Ngami in Ngamiland and on the RADs of central Ngwaketse (Southern district) had not been approved by 1992 (see also GOB, 1992b: 11). It is not clear whether they ever were. When their report on the Western Sandveld was presented to Central District Council, the Council overwhelmingly **rejected** it because of its proposals for overt action and taxation to better the lot of cattle post Basarwa.

Saugestad (1993) noted two main problems with the output of the RADP's monitoring, surveys and studies programme. First, the studies are not cumulative. They do not refer back enough to previous studies, or offer adequate comparative analysis. Not surprisingly, being mostly the work of rushed consultants with deadlines and budgets to beat, they tend to be descriptive and to drown their main findings in detail. Secondly, this body of applied work makes very little reference to the extensive academic literature. The ships sail past each other in the night!

"When I was looking at the research challenges from this perspective, being based in Gaborone and seeking local researchers with whom I could join forces, the myth of the 'over-researched Basarwa' seemed distinctly exaggerated. What seemed wrong was not the scope of research, but the lack of links between international and local research institutions" (Saugestad, 1995, 20).

In other words, an enormous amount has been done, but far too little has been achieved in terms of use of the studies and data to promote RAD welfare. On the positive side, appropriate applied research capacity exists within Botswana. It is growing and becoming stronger. Several high quality consultants are available on the commercial market. At UB, the new Steering Committee has laid important

foundations. The challenge, however, is for Government to use this capacity effectively. This means not only commissioning surveys and studies, but also responding to and acting upon them. The only solution to this, as we recommend elsewhere in this report, is for the RADP to be treated as a complex policy problem, tackled aggressively and interministerially under the auspices of MFDP, rather than a routine infrastructure programme.

Meanwhile, the coordination capacity seems to have been weakened. The agreement concerning NORAD financing of the RADP Research Facilitator at NIR was not renewed and the structures emerging at UB are primarily concerned with academic research. Although there are strong arguments in favour of a clear division of labour, academics should accept the challenge of feeding at least some of their work directly to the implementation of the RADP. The best basis for doing so would be an active and vibrant research programme at UB which would offer researchers its own (academic) rewards. There is a need, however, to link up researchers and consultants with each other and with the RADP. We therefore recommend that the concept of a RADP monitoring and studies reference group be revived, with participation from the UB based Steering Committee. Government should indicate its willingness to work side by side with researchers by appointing policy makers from MLGLH and MFDP (and possibly MOA and MCI) to the expanded group. The primary obligation should be a proactive response to the Basarwa complaint reported by Mogwe (1992: 49) that "many people have come and gone with our words... they never return and nothing ever happens" (quoted by Saugestad, 1993: 24).

Non governmental organisations

Since the last RADP evaluation, NGOs have played an increasing role in support to RADs, in varying degrees of coordination with the Programme. The most active link between the NGO community and the RADP seems to have been formed in connection with the development of the three RAD farms in Ghanzi. Initially, a consortium of NGOs was formed to take on responsibility for planning the various developments of the farms (such as land-use planning, water development, various income-generating activities), but in the turbulence created in 1991 the consortium was dissolved. There is no doubt that the NGOs were important in making public the move to reallocate one of the farms for commercial development. When the crisis between MLGLH and NORAD finally was resolved (see chapter 1), the irregular procedures of the NGOs were made part of the explanation and the NGO consortium more or less became the official scapegoat for the affair. The relationship between the RADP and the various NGOs with an interest in the remote areas has remained quite cool, but received a (temporary) boost in connection with the Second Regional San/Basarwa Conference hosted by the MLGLH in Gaborone in October 1993. The NGO's were here instrumental in

actually mobilizing the various Basarwa representatives which took part in the conference.

Kuru Development Trust (KDT)

The KDT is based at D'kar in Ghanzi district, on a freehold farm which its 12 member (all Basarwa) Board leases from the Dutch Reformed Church. In 1994, the Trust was given a second freehold farm nearby, purchased by a grant provided by the Netherlands Government. Access to freehold land for Basarwa who are otherwise notoriously separated from land rights has been a striking feature of KDT's activities.

Some of the KDT's activities have been described in chapter 2 above. It promotes sustainable agriculture and other natural resource use, for example through its current land use planning for livestock production by Basarwa on the new farm; its ostrich farming project; and its cochineal project, implemented through Farmers' Associations in a number of RAD settlements in the district. The Trust also works with pre-school education at Kuru and a number of settlements, as well as supporting a Naro language and literacy project. A variety of small enterprises such as silk-screen printing, a tailoring workshop, leather work and a bakery are supported, as well as cultural enterprises which include the famous art project.

Strongly supported by the international donor community and with a strikingly high number of expatriate staff, the KDT has for many years been a beacon of hope and a source of innovative ideas for Basarwa and remote area development. It has strong links with the First People of the Kalahari advocacy organisation, and has sometimes been unpopular with government, which almost deported its coordinator in 1993.

Lutheran World Federation (LWF)

LWF has made a major contribution to the development of water supplies for RAD settlements, particularly in Kgalagadi and Ghanzi districts. Over the years LWF has installed water supply system in 19 settlements in Botswana. LWF has cooperated closely with the Councils in the design and siting of the water projects, and several of the projects have been co-financed by the Department of Water Affairs. According to information from the LWF Representative in Gaborone, government has actually paid 33% of the costs of LWF's water project since 1986. The project was scheduled to be phased out in 1994. (LWF Annual Report 1993)

On the basis of its experiences in the RAD settlements, LWF has recently launched an Integrated Rural Development Project, with an emphasis on activities in Kgalagadi district. LWF cooperates with local churches and a NGO working group which has been set up to strengthen relations between NGOs, government

departments and the District Council. In Kgalagadi the main operational partner of LWF is the Evangelical Lutheran Church in Botswana. The Integrated Rural Development activities include the not unusual range of rural development activities like sensitizing and mobilization in self-help groups and cooperatives, skills training in various subjects, public hygiene projects, tree-planting and small-scale agricultural projects (beekeeping, poultry, goat-breeding, arable farming of tree-crops).

As a major international NGO, LWF is subject to some of the same pressures as the bilateral donors with regard to maintaining a continued involvement in Botswana. LWF has decided to scale down its activities in Botswana and will most likely withdraw from most development work over the next few years. The rural development project in Kgalagadi District will be fully handed over to the Evangelical Church in 1996.

Maiteko Tshwaraganyo Trust (MTC)

This organisation's work is concentrated at Zutshwa in northern Kgalagadi district, where it has helped develop a salt works, a consumer cooperative and other local cooperatives. It is one of the few NGOs which may be able to help implement the Natural Resource Management Project for community based wildlife utilisation, being based at a community in a Wildlife Management Area. The two expatriate staff of the Trust at Zutshwa are currently funded by SNV (the Netherlands Development Organisation), having previously been employed by RIIC. They are healthily aware of the potential distortions that may be caused by the presence of two full time expatriate staff in such a small community, and the dependency this may create. Relations between the Trust and the RADP are not always smooth. The Trust workers at Zutshwa fear that current infrastructural developments may lead to the local Basarwa being overrun by immigrants. Some reportedly, are already speaking of leaving the settlement and returning to the bush.

Netherlands Development Organisation (SNV)

SNV's original function was to provide and coordinate Dutch professional volunteers in developing countries. While it continues to do this, it also funds some activities (such as the MTC staff at Zutshwa and the coordinator of Gantsi Craft) directly. In the organisation's 1994 - 1998 strategy, Basarwa and poor rural women constitute the main target groups (SNV, 1994: 8). The sub-objectives of SNV's Remote Area Core Programme Strategy are:

- to strengthen the economic position of Basarwa, for example by providing business advisers to cooperatives in small settlements; assisting small scale enterprises; helping Brigades' extension and training activities; providing natural resource management advisers; providing planning staff for

community based natural resource management activities at DWNP; undertaking consultancies on land use planning; purchasing and developing freehold farms; and assisting in agricultural research and extension;

- to strengthen Basarwa's cultural vitality and to aid in identity building, for example by support to pre school, non formal adult and vocational education; assisting cultural organisations, museums, craft centres and art production; and supporting Sesarwa language training and research;
- to strengthen social emancipation and political mobilisation of Basarwa through awareness raising and enhancement of their campaigning capacity, for example by support to political education, information dissemination and national and international networking;
- special support for the self reliance of women, in order to gain control over crucial resources.

The organisation's Remote Area Core Programme is implemented in Ghanzi, Kgalagadi and Ngamiland districts and in Boteti sub district.

Permaculture Trust

This organisation actively promotes small scale farming and horticultural activities by RADs, notably in Ghanzi district (where it has projects at five settlements) and in Central, where it plans to implement a house building and back yard production project in collaboration with the RADP at Khwee (see chapter 3 above).

Thusano Lefatsheng

Thusano Lefatsheng's main interaction with the RADP is through its grapple plant (*sengaparile*) purchasing, processing and marketing scheme, which has provided some income for many RADs in western Botswana. It has also tried to commercialise several other veld products, like *mophane* worms, *morula* jam, *morama* beans, but grapple remains the mainstay of its operations. Commercial operations only contribute 35% of the total turn-over of the organisation, however, and donor grants are still important to continued operations, the economics of which have sometimes been questioned.

Partly on the basis of a recent two year research exercise in collaboration with NIR, the organisation has recently been revising its extension and rural development strategy, whose aim "is to help rural communities identify the potential for community based natural resources management institutions which can facilitate sustainable utilisation of veld products and other related natural resources in the rural and remote areas" (Thusano Lefatsheng, 1995, 10).

Tirisanyo Catholic Commission (TCC)

TCC is the local representation of Caritas and is closely related to the Catholic Church in Botswana. TCC's RAD related work is restricted to Kgalagadi district, where it operates a community development project and has helped the programme develop consumer cooperatives at several settlements. Less directly related to the RADP the TCC operates a pre-school programme in cooperation with local parish churches. This programme also includes a series of courses and workshops for the PTAs (Parent-Teacher Associations) in the settlements.

Cooperation for Research, Development and Education (CORDE)

CORDE is a local NGO, established in 1986. It was one of the NGOs taking part in the Ghanzi consortium but has not maintained a high profile in a RAD context since then. Only a small part of its activities is located outside the eastern part of Botswana. CORDE is a membership organisation comprised of community organisations like cooperative groups and local development trusts. Membership fees are collected but for all practical purposes activities and projects are donor funded. In the RAD areas these are concentrated on community mobilization and training, as well as natural resources management and other income-generating activities.

CORDE cooperates closely with MTC in Zutswa (see above). It sees its involvement in this particular community as a pilot project with respect to gaining insights in the RAD situations as well as a testing ground for new ideas and new technologies. How closely the developments at Zutswa actually are monitored and how this monitoring information is translated into lessons for future work is not clear.

Botswana Christian Council (BCC)

BCC has been involved in the RAD areas since the late 1980'ies. It is involved through its member churches in a range of rural development of activities as well as the distribution of famine relief.

Its most significant contribution to date, however, is probably the research report on the human rights situation of the Basarwa which was commissioned by the BCC in 1991. Given a situation in Botswana where issues related to the Basarwa to a large extent are perceived as being promoted by foreigners (and to a large extent this is a correct perception), the BCC report was an exception. The report was written by a Botswana lawyer and although there were public reactions reported in the press that the author probably was inspired by foreigners anyway, the report managed to bring Basarwa issues to the attention of Botswana's political system (and the bureaucracy) in an unprecedented way. In this respect it follows up on the recommendations by Kann *et al.*, which call on campaigns to inform the

general public about the plight of the Basarwa and to combat discrimination against them.

The report brought up a whole range of human rights issues, from the commonly understood civil and judicial rights to the more difficult social, economic and political rights, including the issue of Basarwa land rights, the situation of women and the economic situation of farm workers. These are all controversial issues, and although they have by no means been resolved, the BCC report has put them on the political agenda in Botswana. BCC has continued to play a role in what may be termed the "empowerment strategy" recommended by Kann *et.al.* and was one of the main NGO's taking part in the logistics and other work which preceded the 1993 Second Regional San/Basarwa Conference in Gaborone.

Ditshwanelo - Botswana Centre for Human Rights

The Botswana Centre for Human Rights was established in 1993, following a study of the need for and feasibility of establishing a centre to coordinate a range of human rights activities in Botswana, as well as to take part in a Southern African regional network of human rights institutions. The major objectives of the Centre are:

- * to increase the awareness and knowledge of human rights and legal matters
- * to improve access to affordable legal assistance

These objectives are pursued through training para-legal staff, initiating and/or supporting research on specific human rights issues, providing information and documentation on legal matters and human rights issues and participating in international human rights networks. The Centre cooperates closely with the Legal Clinic at the University of Botswana, with a number of local NGOs as well as with human rights centres abroad.

The Botswana Centre for Human Rights was coordinating the activities of the NGO *ad hoc* committee which was responsible for the pre-conference organising, mobilising and preparation which preceded the Second Regional San/Basarwa Conference. It has maintained an interest in the human rights situation of the Basarwa since its inception (the current director, Ms. Alice Mogwe, wrote the 1992 human rights report for the BCC referred to above) and is at present engaged in two specific research projects which are of great relevance to the situation of the Basarwa, although not restricted to Basarwa issues. These are

- * a study of the social and economic conditions and legal situation of domestic workers and agricultural labourers in Botswana

- * a study on torture in Botswana, with a specific focus on Basarwa encounters with the police and DWNP game wardens.

The Botswana Centre for Human Rights has a board which is composed of representatives from other NGOs which active in human rights issues, as well as individuals who are selected on the basis of their interest and involvement.

Kgeika Kwena - The First People of the Kalahari

The First People of the Kalahari is a Basarwa interest and advocacy organisation which was formed in 1992 following the participation of a number of Basarwa spokespersons at a national seminar organised by the Botswana Society and the encounter with the MLGLH referred to in chapter 2. In formal terms it is now organised as a Trust, with the following objectives:

- * to advocate the rights of the Bushman-Ncoakwe people vis-a-vis the Botswana Government authorities and the Botswana public;
- * to organise and coordinate activities and expressions of opinion aimed at enhancing the social, cultural and economic position of the Ncoakwe in Botswana
- * to ensure the correct information about issues which concern the Ncoakwe shall be made available to the public
- * to improve the general population's access to affordable legal assistance according to their needs
- * to strengthen on-going activities and facilitate new initiatives in the field of human rights
- * to improve and expand facilities for legal assistance to the general public
- * to create a representative (duly elected) National council as a negotiating partner with Botswana Government (Para. 3, Deed of Trust of Kgeika Kwena)

The First People of the Kalahari are still in a formative stage. Some support to the newly established organisation has been received from DANIDA through the International Work Group on Indigenous Affairs (IWGIA) and an office was opened in Ghanzi in March 1994. The activities pursued by the First People seem to follow the two-pronged strategy of creating awareness and expanding the organisation among the diverse Basarwa groups in various parts of Botswana, and building support for the organisation in international networks extending to other indigenous peoples organisations in Scandinavia, Greenland and Canada. A more detailed account of the emergence of the First People of the Kalahari and an analysis of its position in Botswana today is given in Annex 6 to this report.

NGOs and the RADP

During the review period, as we noted above, NGOs have been playing a stronger role than before in remote area development. NGOs have many strengths to offer, as well as some weaknesses. They offer the capacity to innovate, to take up pilot activities in difficult conditions, to adopt unconventional structures and solutions, and to work more closely with rural people than is usually the case for government or Council agencies. At the same time, NGO operations seem to constantly run the risks of inconsistency, financial and budgetary incoherence and lacking institutional sustainability. This is particularly so when they expand from the pilot stage where innovations are tested to larger scale implementation where solutions and technologies are to be replicated in a much wider context.

One should keep in mind that there in general terms are two different kinds of NGOs operating in the RAD environment. The least controversial ones are primarily concerned with economic development and the improvement of material conditions, e.g. Permaculture and Tushano Lefatsheng. More controversial, but probably also more important, are the NGO's which operate within the "political strategy" involving conscientization, articulation of interests, institution building and the building of political support inside and outside Botswana. Most NGOs involved with the RADs cover both aspects, although few do it as consciously and systematically as Kuru. But most NGOs seem to have their strength within either one or the other of these two fields of activity.

On balance, the advantages which NGOs offer to the RADP far outweigh their failings. The cursory and incomplete review presented above shows just some of the ways their work contributes to the goals of the RADP. The mission was struck, however, by the lack of contact between most NGO efforts and the RADP, particularly at central government level. Individual agencies have strong links with individual Councils and their RADP activities, but as far as MLGLH is concerned two particular items stand out. One was the NGO consortium which was formed to develop the three RAD farms in Ghanzi. In retrospect this exercise probably highlights some of the weaknesses of the NGO effort in the remote areas. The other main event was the fruitful cooperation between the MLGLH and the NGOs in calling and organising the Second Regional San/Basarwa Conference, which probably demonstrated some of the stronger points of the NGOs as well.

This mission argues for a multi-faceted, broad and strong coalition to tackle the problems of RADs. This means that the formal RADP at MLGLH (or, as we recommend, MFDP) should consult more carefully and more often with the NGO community. There are many opportunities for developing joint programmes, for example by linking innovations at Kuru or Thusano Lefatsheng with the facilities of the EPF; or by structuring joint support to pre-schools and private schools between the RADP and those NGOs involved in the same activities. But as with the research component discussed above, MLGLH must let the NGOs contribute

to the effort in their own way. There is little to be gained by turning the NGOs into semi-official public agencies.

Future roles for the RADP

Building on our proposals at the end of chapter 3 above, we summarise our recommendations on the future organisation and administration of the RADP as follows.

- Overall policy development, planning, budgeting and coordination for the programme should be undertaken by MFDP, which should appoint a special officer for the purpose in its Rural Development Coordination Division.
- MLGLH and its RADP Unit should continue to supervise the RADP field services and staff, and (in consultation, as usual, with MFDP) budget and channel funds to District Councils for the implementation of the programme.
- MFDP should create and coordinate a broad Remote Area Development Forum, under the auspices of and with a chairperson from the Rural Development Council, which is explicitly assigned to debate and develop remote area development policy and programmes. This forum should include:
 - representatives of District Councils serving RAD populations;
 - representatives of Basarwa advocacy groups;
 - NGOs active in service to RADs;
 - representatives of the research community;
 - representatives of RADP field staff;
 - MFDP and all Ministries involved in service to RADs, including MLGLH, MOA, MCI, and the Ministries of Education and Health.
- The Training Sub Committee of the RECC has a clear mandate to develop training programmes for RADP staff, in consultation with MLGLH and its ULGS. The Rural Development Council, MFDP and the forum just proposed should ensure that this task actually is expedited.
- As recommended above, the remote areas research coordination function of government, currently inactive, should link up with the newly formed Steering Committee for Basarwa Research at UB. This research network should consult actively with, and report to, the proposed Remote Area Development Forum to ensure that research and survey needs are met as well as to stimulate further independent academic research on the issues which are major development challenges in the remote areas.

5. Legal aspects

Introduction

In this chapter the scope of the evaluation has been slightly reformulated to cover the main concerns relevant to an analysis of the legal rights of the Remote Area Dwellers - in particular the Basarwa people. In the context of legal aspects - human rights issues included - special attention will thus be given to:

- Land rights and rights to other natural resources
- Political participation
- Law enforcement
- Human rights in general
- Slavery-like conditions

The analysis will focus on the development since 1988 (when the Agreement between Botswana and Norway was signed) and compare the situation prior to and after that date considering the impact and non-impact of the RADP on these legal rights *de facto* and *de lege*.

Legal rights are dynamic, changing over time within the same areas, and with variations from area to area at the same time. This evaluation is intended to give an overall understanding of the legal context within which the RADP has been designed to function and within which it has been and still is unfolding.

The evaluation is supplemented by an analysis of information available from project documentation, minutes from annual meetings, research reports, evaluation reports, reviews, monitoring data reports, and relevant material provided by other organizations and donor agencies.

The full text of *The Remote Area Development Programme of Botswana: Legal Aspects* is added as an *Annex 6* to this main report. It *inter alia* contains background information to the conclusions reached and their contextual framework in terms of actual legislation.

Land rights and rights to other natural resources

The de facto situation

A 1978 legal opinion attributed to a litigation consultant for the Attorney General's Chambers expresses that,

As far as I have been able to ascertain *the Masarwa have always been true nomads, owing no allegiance to any chief or tribe, but have ranged far and wide for a very long time over large areas of the Kalahari in which they have always had unlimited hunting rights* [emphasis added], which they enjoy even today despite the Fauna Conservation Act. *The right of the Masarwa to hunt is, of course, very important and valuable as hunting is their main source of sustenance* [emphasis added] ... Without much clearer information it is impossible to give a confirmed opinion about the Masarwa. Tentatively, however, it appears to me that (a) the true nomad Basarwa can have no rights of any kind except rights to hunting.

This legal opinion reportedly was sought as the implementation of the TGLP raised the issue of Basarwa land rights.

Clement Ng'ong'ola and Batlhalefhi Moeletsi, *The legal framework for the assessment of land rights for Basarwa and other marginalized ethnic groups in Botswana*, p. 2 argue that,

the opinion erred in the legal assessment of the land rights as well as the hunting rights of the Basarwa. The opinion was apparently withdrawn by the Attorney General, not because of these errors, but because of the suggestion that Basarwa could conceivably acquire by prescription land rights protectable under the Constitution.

Legislation governing a person's right to access to land, primarily the Tribal Land Act, has been interpreted as to deny the supposedly 'nomadic' Basarwas exclusive rights to land. It is alleged that under the Tribal Land Act the interests of the Basarwa people have been disregarded to a greater extent than those of other minority tribes. Some Basarwa have reported that they have had no problems in obtaining land under the Tribal Land Act, but the opposite seems however to be the general situation. The general Botswana government policy is otherwise reportedly predicated upon the stance that 'every Motswana has a right to as much land as he or she needs'. There may thus be a need for educating the Basarwa on their land rights under the Tribal Land Act as amended.

The impact of the Tribal Grazing Land Policy has been felt very sharply by the Basarwa. Their traditional rights to land and resources usage were directly affected as large tracts of land were allocated for commercial purposes, to those people who could afford the necessary commercial investments. It is suggested *inter alia* by the revised TLGP policy guidelines and supported by Tswana customary law that community rights cannot be removed 'without just compensation'. Those people who are eligible for compensation 'included tribespeople, individuals or groups

with vested rights in specific areas, and those whose claims to land are based on equity or social justice rather than law'. The Basarwa were not compensated as they were not considered to have vested rights in specific areas. This may be in contravention also of Section 8 (1) of the Constitution.

The demarcation of ranches under the TGLP still continues.

In 1986 the status of the Central Kalahari Game Reserve was altered. Following especially international pressure it was enacted that the area thence would be a game reserve exclusively. It is still unresolved whether the Basarwa can continue to live in the Central Kalahari Game Reserve. But the situation for the Basarwa living there has become increasingly difficult since the change. Even so, the changed status of the Reserve has not prevented large-scale commercial activities - with camps and roads being constructed - as part of exploration for minerals, primarily diamonds.

Land ownership will normally entail full control of the resources on the land owned, and provide for extended influence also of a more political character.

Thus it is argued that the lack of recognition of the Basarwa land rights and land use has resulted in the land on which they hunted and gathered being sliced up and zoned for commercial cattle ranching or wildlife conservation without consulting the Basarwa or at least considering the impact which the cattle industry or game reserve would have on their lives.

In this context attention ought also to be paid to the ongoing so called 'negotiations' between people authorized as consultants to negotiate on behalf of the Government of Botswana with Basarwa communities in the Okavango region. The aim is to have the Basarwas move out of their present habitats. From a legal point of view 'agreements' entered into on the basis of these 'negotiations' ought to be invalidated, particularly in case any such agreement possibly is interpreted as the Basarwa having forfeited any of their rights in existence at the time when the 'agreement' was concluded. This because the people who negotiate or were negotiating with the Basarwa, themselves had no knowledge or understanding of the legal implications of their work. Conversely, a senior representative of the non-Basarwa negotiators tried to explain at great length to this author *that there were and could be no legal implications for the Basarwa arising from the 'agreements' which they were likely to conclude.*

It is recalled that already in 1893, the British organized a 'Concessions Court', which was to investigate and validate land claims and concessions secured from Native Chiefs before the 5th of May, 1891. Before granting approbation the Court would consider *whether the native chief or ruler had consulted his council before conceding the land, whether the nature of the transaction was properly explained to and understood by the chief or ruler, and whether the consideration given was*

adequate or sufficient; cf. *Annex 6* Chapter 3.3. Obviously a modern state like Botswana can have no standard inferior to this, and there is no way the Basarwa can have any proper and sufficient understanding of the issues under negotiation if the GOB representatives themselves lack such basic understanding.

According to the Prescriptions Act (Proclamation 76 of 1959) Section 3, squatters who have possessed land or had the use of a servitude 'continuously for 30 years *nec vi, nec clam, nec precario* [without force, openly, and without permission]', may gain legally recognized ownership of the property or the servitude.

In 1991, the GOB reported (cf. *National Development Plan VII (1991-1997)*, p. 239) that of the country's land surface approximately:

- 5 per cent was freehold land,
- 25 per cent was State land, and
- 70 per cent was tribal land.

Of the State land approximately:

- 16 per cent was game reserves and national parks
- 8 per cent was wildlife management areas, and
- 1 per cent was forest reserve.

Of the Tribal land about 15 per cent was wildlife management areas.

In other words, it is estimated that some 39 per cent of the territory of Botswana is reserved primarily for wildlife utilization.

Under these circumstances the Basarwa's rights to other natural resources - water and wildlife and wild foods (hunting and gathering) - is highly limited both by private property rights of others and the wildlife conservation areas. They need a licence to hunt, and may only search and gather in areas where their movement has not been restricted. Basarwa are heard complaining about their state of landlessness in territories that are theirs by traditional occupation. Access to land remains a main concern for the Basarwa.

The Basarwa are alienated from their lifestyle which was based on a close relationship with the land, its wildlife and products. With the creation of settled communities, the Basarwa are being fitted into an hitherto alien mode of existence. The limited access to land directly affects the Basarwa's access to wildlife and to veld products. There is said to be an increasing urge among Basarwas towards cattle ownership as a possible means of subsistence and of social recognition.

The areas currently occupied by the Basarwas ought to be kept as wildlife areas in which the Basarwa continue to live. By allocating the Basarwas the

responsibility for the wildlife management, the wildlife can be protected and the Basarwas gainfully employed.

The land right issue has one aspect related to the Basarwas' rights at present and in the future, but it may as well have one retroactive perspective concerning a need to rectify past mistakes or injustice.

In October 1993, the Minister of Local Government, Lands and Housing in Botswana, Mr Chapson J. Butale, in his *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* - with reference to the ongoing revision of the RADP policy - affirmed that,

Access to land

My Government is committed to the equitable distribution of land and to resource allocation based on long term habitation and land use patterns. ...

Resource management

My Government aims at ensuring environmental consciousness in development programmes by encouraging the local communities to take part in conservation through community-based natural resource management programmes. This strategy is based on the belief that the best way to conserve the environment is to have community-based natural resource management programmes based on the people's participation.

The main conflicting interests

In summary, at present the main interests conflicting with the needs of the Basarwa are those represented by private farms/cattle ranches and an increased need for grazing areas on the one hand, and wildlife protection/commercial tourism on the other. These interests are promoted by people and corporate entities who are financially strong and who, even on the international scene, are vociferous.

There is in a sense a rapidly changing climate concerning the demand for land in Botswana. So far the Basarwa and other ethnic minority groups have been marginalized by the 'principal tribes' of the Tswana people and by the white colonialists. Already, but even more so in the future, there is a likelihood of the privileged few, sometimes with support from outside Botswana, will marginalize the poor people of the county, not only the ethnic minorities. In a way the rights of the Basarwa are a testing case in terms of anyone being able stand up against these forces. Today it is alleged that the upper 20 per cent of the population in Botswana have 40 times the income of the bottom 20 per cent.

The impact of the RADP

The most crucial objective of the RADP is to assist the RAD communities to obtain land rights. To assist the remote area dwellers to participate in the general development of the country *inter alia* by obtaining access to public services like water, is one other primary concern.

To understand the complexity of these issues, attention needs to be paid both to the historical context in which the programme has come into existence, and the actual way in which the programme has been implemented. The historical point of departure for the RADP was the marginalization of the Basarwa communities which gained considerable momentum with the commencement of the Bechuanaland Protectorate, and later had continued for almost a century. Land - and ever more marginal land - was a treasured resource. The Basarwa were in the way of those who wanted modern legal titles to land. No attempt was made to understand Basarwa conceptualizations of justice and equity with reference to their existence as hunters and gatherers.

Under these circumstances there was a need to assist already deprived Basarwas. It was considered appropriate to have them gather in settlements, and each settlement needed a population large enough to defend the allocation of social services to the settlement - somehow in line with the criteria for such services in the society at large. The settlements, even when they barely provided any services, became sanctuaries for Basarwa who already had been pushed out of their native land. At the same time however, settlements became a pull-factor for an ethnic minority group in the midst of a difficult period of transition in which many of those who wanted the native Basarwa territories, did not hesitate to put pressure on the Basarwa to move to the settlements. The settlements as such had the intrinsic characteristic of a blessing-*cum*-threat. There was the obvious danger that the fact that the Basarwas had moved into settlements, could be held against them in legal disputes over land - now they had even in whole or in part 'abandoned' their native lands. A lot would depend on how the settlements would be operated and what legal provisions would be made for the settlers in terms of their already existing and new legal rights.

For Basarwa who resist to move into settlements or who refuse to continue to live in the settlements, there are not many options. They may hide in the bush - which is highly difficult with all the restrictions presently placed on their traditional way of life as hunter-gatherers. Or, which hardly is more attractive, they may shift to cardboard homes and urban squatting, or seek whatever subsistence they can find on farms and at cattle-posts or as domestic staff (cf. sections on farm labourers and domestic staff below).

In 1988, to relate one example of how the RADP was operated, in the Ghanzi district there were seven settlements for Basarwas who previously had lived on

and around expanding freehold farms. With three exceptions, the settlements averaged twenty square kilometres in size and were located in either Communal Grazing Areas or Wildlife Management Areas, and on what was marginal, fragile and infertile land. The inhabitants had limited or no access to productive resources even for subsistence activities. There was a constant danger of the settlements being rezoned and their inhabitants relocated in the interest of large-scale cattle production or environmentalism. In quantitative terms the Basarwas and other ethnic minority groups who counted for some 42 per cent of the Ghanzi district population had access to approximately 2,400 square kilometres, representing about 1.7 per cent of the land in the district.

It is a general characteristic of the RADP settlements that their inhabitants have neither exclusive rights to the land they live on nor adequate control over the same territory. In most cases a settlement and all people living there may be relocated to a new area. In the best cases there may be a land lease agreement that may postpone an unattractive relocation.

The evaluation team did not come across any information about the relocation of a RAD settlement which was perceived as a betterment for the settlers at large. Conversely, the Basarwa related that once their location became attractive in terms of having adequate water supply and/or other services or advantages the settlement was either moved or it was encroached on by numerous outsiders which tended to marginalize the Basarwa.

Any citizen of Botswana may decide to take up residence in a settlement - the principle of 'freedom of movement' is provided for in the Constitution Section 14 (1); cf. *Annex 6* Chapter 4.1. Restrictions placed on private use of communal Basarwa boreholes could be strictly applied by the GOB to reduce the pressure on these facilities. There are already, in general, too many Basarwa allocated to a single borehole. It is frequently referred to as a problem that outside cattle-owners appropriate the meagre grazing and water resources of settlements. The allegation that the policy of relocation takes its direction also from ecologists and international conservation organizations who pay limited if any attention to the native human population, is not unfounded.

Employment - the basics to sustain a living - is the main concern in almost every remote area settlement. It is estimated that many of the RADs now are dependent on outsiders for as much as 90 per cent of their food, primarily GOB famine relief or other emergency programmes. As late as in the 1970s, the Basarwa themselves provided almost all their own food.

On the other hand, Batlhalefhi Moeletsi, *The San of Botswana: Legal Status, Access to Land, Development and Natural Resources*, p. 49 writes,

The Remote Area Development Policy appears to be doing the best in the circumstances to bring development to the targeted groups most of which are Basarwa. One wonders what the Government [of Botswana] would have done if NORAD had not assisted.

Political participation

The aspirations of the GOB

It may be ascertained that the aspiration of the Government of Botswana is to secure *de facto* equal opportunities to all citizens of Botswana in a situation of a *de jure* equal opportunity society in terms of political participation,

For effective political involvement, the Basarwa need to create institutions and establish roles which the Republic of Botswana recognizes as legitimate, and to participate in existing entities and structures which are politically influential and/or relevant. One specific objectives of the RADP is to assist the RAD communities 'to form administrative structures such as headmanship and Village Development Committees so that these communities gradually are fully integrated into the Botswana society'; cf. *Annex 6* Chapter 1.1. All in line with the generally declared political ambitions of advancing democracy, transparency and popular participation.

In the villages and the settlements

The formation of administrative structures such as headmanship and Village Development Committees (VDCs) in RAD communities is an important achievement. These communities hence have a recognized channel of communication with other GOB authorities - that is, the gazetted headmen and the VDCs are themselves part of the overall structure of authority in Botswana.

Without these organisational structures the RADs will cut themselves off from the opportunity of determining or at least influencing their own future. The presence of these institutions, however, does not in itself ensure influence.

There are some basic problems. Because these institutions have a potential for real influence, they are attractive to people also from outside the group of genuine remote area dwellers - people who want to formally represent the RADs for whatever advantages are involved. If the administrative structures in the RAD settlements are taken over, in whole or in part, by outsiders, these structures could themselves serve as a cloak for abuses.

Second, there is a need to balance the new organizational patterns against traditional Basarwa (and other ethnic minority) systems of decision making in

communal affairs. The foremost objective is for the minority groups to gain influence on their own situation without giving up their identity.

The creation of formal structures needs, moreover, to be followed by real influence for such structures. Otherwise there is a risk that nominal political participation will be perceived as hostage-like by the participants and their communities. The latter situation is generally demoralizing and undermines the confidence which every group needs to have in its leaders.

Beyond the villages and the settlements

Kenneth Good, *Inequalities and the San in Botswana today*, p.13 asserts that,

In May 1992 a San delegation led by John Hardbattle held an unprecedented but brief meeting with government officials in Gaborone. They explained that they needed strong representation at both local government and chieftainship levels, their own chief in the country's House of Chiefs, and a Basarwa national council. The government's response was one of strong, even intense resistance. The Permanent Secretary in the Ministry of local Governments, Pelonomi Venson, claimed that the government was being asked to 'give Basarwa self-government', and she re-affirmed the commitment to the existing policies: 'there was no country in the world that has stopped development in order to develop a specific people.' An Assistant Minister of Local Government put perhaps the established position more sharply: 'Botswana owns the Basarwa, it was reportedly said, and it will own Basarwa until it ceases to be a country.'

There is an urgent need both for the Basarwa and other ethnic minority groups to take up political positions on all levels. This can not be achieved unless they prepare themselves to do so and are assisted in this endeavour. Literacy, language skills and general political training are among the basics required. Furthermore, there is a need for the Basarwa and others to have their own interest groups *inter alia* to promote affirmative actions necessary to overcome the inequalities from which they now suffer. There is a strong need to break the vicious circle of being economically and socially deprived and without a voice in political terms.

In relation to wildlife and other natural resources, many argue that there ought to be provisions as a matter of law and not merely as a matter of administrative policy, for local participation in their protection, the determination of conservation areas, the preparation of management plans, and the economic benefits derived from these resources. Local people should also be permitted controlled access to natural resources within such areas, or defined buffer zones, consistent with their traditional harvesting practices, it is proposed. Environmental 'group' rights are a political issue of vital interest to the Basarwa and other ethnic minority groups.

The impact of the RADP

In summary, the RADP has made some headway in helping the RAD communities to form administrative structures such as headmanship and Village Development Committees. Not enough attention has been given, however, to the difficulties inherent in the process. There are several reports that government officials have sought to dominate the embryonic political organizations created by or for the Basarwa not the least by trying bring in outside leaders. Where indigenous leadership has been able to emerge and begin to become established, a main problem has been to obtain official recognition.

It has not been a direct objective of the RADP to promote due representation of the ethnic minorities, like the Basarwa, in all relevant decision-making fora in the society at large. Education at all levels is none the less pivotal to advance political participation for all citizens of Botswana; the issue of education is addressed separately below.

Initiatives like the formation of the *Kgeikani Kweni* (The first people of the Kalahari), a Basarwa interest group, ought to be welcomed and assisted. It requires support and assistance, as all newcomers do, to find ways and means of being representative. It is a voice - with a great potential for being recognized - for people who urgently need spokespersons not the least from within their own ranks.

Still, a lot remains to be done to promote community participation, and to build and strengthen the RAD community and leadership structures to enable the Basarwa and other ethnic minorities to mobilize and to articulate their own views, to identify their needs and to participate in the structuring of their future. This will, moreover, have to happen in tandem with changes towards a climate more conducive to meet the special material needs of the Basarwa. Time, however, is not on the side of the Basarwa and the other minorities.

The Minister of Local Government, Lands and Housing in Botswana, Mr Chapson J. Butale, *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* (1993) articulates this view as strongly as indicated below:

Remote Area Dwellers should actively participate in defining their concept of development from the standpoint of their values and norms. We [the Government of Botswana] strongly believe that the solutions to the development problems of the Basarwa are finally going to have to come from the Basarwa communities themselves [emphasis added].

Law enforcement

The de facto situation

The ethnic minority groups seem to have not much to say about the work of the courts of law. The main question for these groups as far as the courts are concerned, is their need to have equal access to legal services.

The main complaints of the Basarwa and other ethnic minority groups concerning law enforcement, relates to the behaviour of law enforcement personnel outside of the courts. The police has a better reputation than the wildlife officials - who have an very negative reputation.

The misuse of power by these government officials allegedly includes the physical ill-treatment also torture of suspects and prisoners, including women and children.

According to the *Amnesty International Report 1993*,

Government officials allegedly tortured members of the Basarwa (Bushmen) ethnic group who were detained unlawfully for poaching.

...

In March the Botswana Christian Council reported that Basarwa men who were alleged to have poached wild animals had been victims of widespread torture by officials of the Department of Wildlife and National Parks (DWNP). The officials were said to have routinely placed a rubber ring tightly around each prisoners testicles and a plastic bag over the head. The pain would cause the victim to excrete involuntarily and the prisoner would then be beaten. It was alleged that Basarwa arrested by DWNP officials were detained without charge, unlawfully for periods of up to two weeks, before being brought before a magistrate and charged with poaching.

... The government replied [Amnesty International] in November, saying that an investigation had been held but had found no evidence of discrimination or torture against Basarwa.

A difficult situation is made even more difficult when complaints are belittled. There is said to be a tendency that serious problems are described by superior authorities as small administrative malfeasances committed by unruly officials somewhere - *i.e.* that charges demand no general action or even prosecution of the alleged perpetrators. Thus, for a victim to file a complaint is in itself often very intimidating.

In *Country Report on Human Rights Practices for 1993*, pp.13-14, it is stated,

One man died while in police custody in November 1992 after allegedly being tortured; five police detectives were convicted of manslaughter and sentenced to 5 years in prison (of which 3 years were suspended) for causing the man's death. There were credible reports that occasional mistreatment of suspects continued in 1993.

...

... Game scouts (wardens) accused of mistreating suspects in 1992 were suspended and prosecuted during 1993 but were acquitted of assault due to lack of evidence. A former policeman alleged that torture of suspects in murder cases is 'common' and not reported or stopped by higher authorities. Annually, a handful of game scouts and police found to have abused suspects have been subject to disciplinary actions (transfer, suspension pending investigation, and reprimands), but police are reluctant to punish abuse of authority in their ranks and even more reluctant to have it publicized, so many abusers have not been disciplined. ... Such punishments do not appear to have been an adequate deterrent, for credible allegations of mistreatment continue.

The impact of the RADP

General law enforcement issues seem to have been given limited attention under the RADP. To the extent that the RADP has improved the standing of individuals and groups, this may have translated into the same people having less problems concerning law enforcement at all levels. To the extent that the programme has *de facto* marginalized people further, it may have had the opposite effect.

Other human rights

Fundamental human rights

The most important human rights problems with which the Basarwa and other marginalized ethnic groups are faced, have already been addressed in previous sections (see also the *Annex 6*). Here mention will be made only of some additional rights which are included in the terms of reference for this evaluation.

Every citizen of Botswana is entitled to full protection of his or her fundamental human rights according to the Bill of Rights incorporated in the Constitution of Botswana. Discrimination on the grounds of race, tribe, place of origin, political opinions, colour or creed is explicitly proscribed; cf. *Annex 6* Chapter 2.1. In general it may be ascertained that the Constitution of Botswana meets with all the basic requirements concerning fundamental human rights as provided for in customary international law and the Universal Declaration of Human Rights. Both civil, political, social and economic rights are reasonably provided for.

Concerning the freedom of movement it may be argued that restrictions placed on travel between Botswana and Namibia ought to be alleviated in order to facilitate travel for the Basarwa - as a people they are divided by the border.

Infrastructural development

Probably infrastructural development is the field in which the by far most significant achievements have been made by the RADP. These achievements may eventually prove highly important to the RADs themselves and to their

neighbouring communities as well. Poor people are the first to suffer from the absence of infrastructure. Water, health clinics and roads are all social services needed in themselves, and are also needed to bring other social services to the people. But, it is as part and parcel of an overall development structure that the provided infrastructure will come to its prime use.

Employment and the Economic Promotion Fund

Projects with a potential for generating income and employment in the RAD settlements have been a neglected field. The Economic Promotion Fund has not made much of a difference in this respect although the intentions have been good. There is virtually no RAD settlement which is self-supporting. For a number of years already many of the RADs have mainly survived on drought relief of some kind - in drought periods and post-drought periods. When people have to live from handouts a demoralizing dependency syndrome will eventually develop. Neither old nor new means of subsistence are generally available to the RADs. The lack of effective economic development, income generation and employment is like a disease that takes a constant toll of the integrity of the people. These economic conditions are demoralizing and make it possible for outsiders to uphold even slavery-like conditions for some of the poorest and most marginalized people; (see also the *Annex 6*).

One of the most serious consequences of the entire RADP has been to make self-sufficient people sacrifice this crucial core of freedom for their present status as destitutes dependent on relief provisions. The good intentions behind organizing projects like veld product utilization, handicraft production based on access to raw material such as animal hides and ostrich eggs, arable land management and live-stock development, have not translated into many concrete projects so far. When such projects have been started, they typically have been impeded by lack of land rights and severe restrictions on hunting and gathering. There are however, no good reasons why *e.g.* the management of wildlife and veld products, and tourism should not be main sources of income for the Basarwa.

According to the Minister of Local Government, Lands and Housing in Botswana, Mr Chanson J. Butale, *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* (1993),

Its [the Economic Promotion Fund's] aim is to promote the utilization of local resources with a view to strengthening the subsistence base of the Basarwa settlements as well as to promote their viability. However, Mr Chairman, the intended objectives of this fund have not been fully realized due to socio-economic and cultural factors.

Education and training

General education for Basarwa and other minority group children are being provided, as well as other types of training for some of the adults. Clear achievements have been made in terms of developing human resources.

In the revised RADP the GOB will aim at enhancing access to education for the RADs through the provision of schools in remote settlements and through the provision of vocational and technical training, according to the Minister of Local Government, Lands and Housing in Botswana, Mr Chanson J. Butale, *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* (1993).

To improve the educational programmes further, it should be considered if at least the youngest Basarwa children could have their instruction in Sesarwa, their mother tongue. Educated RADs ought moreover, to be given priority for employment in the RAD settlements - their knowledge of Sesarwa and conditions in the community will facilitate their professional work and improve the services to the RADs. Education in organizational skills and basic human rights, ought probably to be upgraded.

One serious problem which is repeatedly reported does not derive from the education or training as such, but from the lack of respect for the personal integrity of members of the minority groups. In some areas parents refuse to send their daughters of fertile age to school any more, in other cases as many as between one fourth and one fifth of the girls in this age group have returned pregnant from a year in school. Most of the babies are said to be of mixed descent. When young female students have to go to boarding schools and stay at hostels, they need guidance and supervision beyond what they are given today. Male adults should not be permitted general access to the hostels. In cases of abuse the perpetrators have to be brought to justice.

A number of small children have run away from their boarding schools to return to their villages. One may question if it would not be better to let at least the youngest age groups be educated in the settlements.

Culture and public awareness

The Basarwa cultural practices are said to be more or less under siege, some - such as their burial practices - are out of usage. The RADP has to some extent aimed at raising the self esteem and self-confidence of the Basarwa, and to strengthen their cultural identity. The encouragement of cultural traditions and expressions is, however, still urgently required.

There continues to be limited understanding of the Basarwa and other ethnic minority groups in Botswana. Still many Tswana - being from the 'principal tribes' - seem to consider themselves as superior to the other parts of the population; cf. *Annex 6* Chapter 5.1. It will take both legal reforms (amendments of the provisions which promote this kind of thinking), and public awareness campaigns to foster a better understanding of the minority groups and their situation in the general population, to change this trend. Furthermore, and not of the least importance, the RADP itself has to be implemented in a manner conducive to respect for and understanding of the RADs. If the inhabitants in the settlements are seen as destitutes who contribute little if anything to their own situation and the society at large, there is little chance of augmenting or even securing whatever existing public respect for the marginalized minorities.

Gender issues

In the traditional Basarwa communities women reportedly had more of an equal status than in the Tswana culture. Whether the RADP has brought some Tswana influence in this respect to the RADs is unclear. The RADP as such seems to have been balanced in terms of gender issues.

Women are however, among the first to suffer in a situation of deprivation and demoralization - when codes of ethics disintegrate and responsibilities for dependents are no longer properly shared.

Interest and human rights groups

The RADP as such has not fostered interest or human rights groups among the RADs. The idea of having such groups is conceptually new to the RADs. Under the changing circumstances it will never the less be of value to kindle interest in such groups and to assist initiatives in that direction. This will be vital both to promote human rights work and to prepare for equal rights for the minorities in terms of political participation.

Both the *Kgeikani Kweni*, The first people of the Kalahari, and *Ditshwanelo*, The Botswana Centre for Human Rights, deserve attention. *Kgeikani Kweni* is a rather new interest group which within a remarkably short period of time has managed to make itself heard. Still the group may benefit considerably from general organizational assistance. Support ought to be provided to communicate that an initiative like this is important. It is not thereby said that this ought to be the only or main interest group among the Basarwa - an issue which is obviously not for outsiders to decide. *Ditshwanelo* is already quite advanced as a human rights entity, and its work seems to merit support. The centre is *inter alia* planning to initiate studies of the working conditions for farm labourers and domestic staff

respectively and will also focus on gender related questions. It has moreover, taken up a number of educational challenges in the human rights field.

The impact of the RADP

The RADP has been designed to solve concrete practical problems rather than to promote human rights as such. There are no indications that the programme has been planned or implemented in direct disregard of human rights. Conversely, there is reason to believe that the RADP itself has been organized to honour the human rights principles specifically encountered. Criticism on this level cannot be raised against the programme.

The main problem seems to be that the programme is too technical in the sense that the demanding context in which it is implemented is not fully appreciated. Most of the challenges described in previous chapters may be attributed to this.

In retrospect it would have been desirable if the assistance had been provided with more attention paid to the contextual frame of the problems of the Basarwa and the other minority groups.

Slavery-like conditions

Farm labourers

In some areas the Basarwa are employed as farm labourers - herding cattle especially. Some live on the farms, others are stationed at cattle-posts. The worker's entire family may live together with him on the farm or at the cattle-post. Many farm labourers are treated properly and also provided for beyond what the employers are under legal obligation to do.

The farms are however in a sense small worlds unto themselves where the conditions for the workers may vary considerably from one farm to the other, and over time at the same farms. The Basarwa and other ethnic minority farm workers live to a large extent at the mercy of the farmers. Even 'justice' relating to farm workers may by and large be enforced on a farm level - by the farmers themselves or their superintendents.

Some farm labourers toil under slavery-like conditions. Their payment may not be much more than a right to drink the milk from the cattle, some additional food and sometimes a calf after a year or more.

These practices do not - as long as the person in case is free to change his or her status - live in serfdom as this is defined in the 1956 United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and

Institutions and Practices Similar to Slavery, Article 1 (b) or in slavery as defined in the 1926 Slavery Convention. Nor do they have the immediate protection derived from the prohibition of 'debt bondage' and the ban on slavery-like institutions and practices involving women and persons under the age of 18 years. It is however, the obligation of every State to prevent - within its powers- that people *de facto* live like slaves because they are deprived of other means of subsistence. This is so even if the basic causes for such deprivation were 'inherited' from an alien administration such as protectorate authorities.

In 1993 Botswana's Deputy Attorney General, O. T. Mapitse, at the Second Regional Conference on Development Programmes for Africa's San Population, in his speech addressing legal status, land issues, access to development and natural resources, stated,

... Much as I am informed by speeches that Slavery may exist.

Botswana's Constitution proscribes slavery and forced labour in terms of section 6 of the Constitution. Therefore no person can force any person to work for him if the person does not wish to work for that person. If a person is working for another wages are expected to be paid. Rations are not wages and should not be made a form of payment. They could form part of a package. In Botswana payment of wages is enforced under the Employment Act. It is a criminal offence not to pay wages. Three or four years ago, a Minister failed to pay wages when due and the Attorney General threatened prosecution. the wages were paid. *This is a refutation that slavery is thriving in Botswana* [emphasis added] and further that there is no equality before the law.

According to the Employment Act, 60 per cent of the wages has to be paid in cash, a maximum of 40 per cent may be paid in kind. Legislation governing farm labour, however, is in general more or less non-existent.

The problem thus is not that the GOB endorses slavery-like conditions of any kind, but the lack of good enough mechanisms to supervise and prevent abuses in segregated farm communities. It adds to the problem that *e.g.* in the Ghanzi district some white farmers reportedly even refuse to give the local police access to their farms.

Domestic staff

Domestic staff is another group of special concern. Secluded as domestic workers in many ways are from the society at large, their working conditions are not easily observed by outsiders and the group is heterogenous and not a united force in terms of asking proper regulation of their employment. Their working conditions

reportedly vary from excellent or ordinary, to grossly substandard - underpaid and abusive. Much of the domestic staff do not have an opportunity to stay together with their own families.

Minors

When adults are not properly protected against gross violations of their basic rights, even less so are some minors. Occasionally young children are taken to work both on farms and in private households - regardless of them being under age for employment, and without the child workers being secured acceptable minimum working conditions.

Both adoption against the will of the child's biological family, and young children - females in particular - being lured or taken into prostitution are other related fields of concern.

The impact of the RADP

Already in the 1920s the League of Nations looked into allegations that the Basarwa were being held in slavery by the Batswana. This conceivable problem is in other words known since long.

Everyone needs to sustain a living - be it in a RAD settlement or elsewhere. By moving or being moved to settlements people like the Basarwa are *de facto* leaving the habitat which previously or hitherto provided their very means of survival. They are not only moving house or changing their residential facilities from one area to another. It was in essence their only known way of life which they were invited or pushed to give up. An absolute precondition for the RADP to be morally acceptable under these circumstances, is that the settlers are provided means of subsistence in their new environment.

If the latter is not done, the settlements will serve as recruitment pools for substandard employment on farms and in domestic service. The only other alternative is often cardboard cities of mainly jobless squatters around urban areas where many women are lured into prostitution. This lack of humane alternatives makes it difficult for severely abused workers - even those who may live under slavery-like conditions - to voice their rights. And, if they manage to speak up, they may find it even more difficult to be heard.

Deprivation of means of subsistence will moreover, often be conducive to the abuse of children by outsiders. Settlements with no hopes of people being able to provide for themselves are generally demoralizing.

6. Future cooperation between Botswana and Norway

Where do we stand now?

The RADP has been an on-going project since 1974, - under different names and at different levels of intensity. It has been characterized by what in this report is termed the "settlement strategy", a strategy which aimed at creating settlements for nomadic groups and displaced persons in the remote areas. Additionally, the strategy has also involved assisting those settlements which were too small to qualify for regular Government assistance in the provision of fundamental social services, in particular water, health and education, in addition to basic administrative services in the form of a Headman, a tribal court and the ubiquitous Village Development Committee. Since 1988, when NORAD became the main foreign donor to the programme, the RADP has given increased attention to economic development, with the Economic Promotion Fund as the main means of practical intervention and support of activities.

The "settlement strategy" quite clearly had ambitions and purposes beyond the simple construction of physical infrastructure and creation of settlements. Its more fundamental objective was to gain for its beneficiaries, or the RADP target population, access to vital resources like land and water and to provide them with secure rights to these resources. A major assumption, which has been questioned in evaluations but which has not been reflected in any fundamental redesign of the RADP, was the belief that investments in infrastructure, in particular the construction of water supply systems, would bestow exclusive rights to the land areas serviced by the water point on whoever controlled it. In principle this reflects landuse patterns and the distribution of rights to water and land in the communal areas of Botswana. Access to land is for all practical purposes governed by access to water. But there are also a number of additional factors which influence the situation, and this is particularly so with respect to group management of the resources. The precise nature and security of the rights attached to water development and landuse in the remote areas have never been sufficiently clarified.

Initially, the intention clearly was to secure rights to the resources which would allow the target population to pursue the type of landuse which they were accustomed to. But the extensive land areas needed for a hunting and gathering adaptation soon became incompatible with the land needs of the expanding livestock industry on the one hand and the wildlife conservation objectives of

strong environmentalist lobbies on the other. The land rights objectives of the settlement strategy have had to give way to these other considerations. The situation today is that the settlement strategy has not been able to offer an adequate substitute for the hunting and gathering adaptation. At the same time, the basic preconditions for continued hunting and gathering have changed quite significantly. Today, hardly anybody subsist from hunting and gathering alone, even if these activities still are important supplements to household incomes. This is not to say that the hunting and gathering adaptation should be upheld at all costs, - on the contrary, it can only sustain a limited number of people under quite difficult circumstances. The point is rather that the former hunters and gatherers as the result of a number of different developments to a large extent have been dispossessed of the access to the land on which they depended, without any adequate alternative being offered. Although hunting and gathering still plays an important role, not the least in cultural terms, people do not necessarily want to go back to the hardships of this existence. What they do want, however, is a viable alternative and a release from the well-documented poverty and squalor in which they now find themselves.

The 1990 review of the RADP by Kann *et al.* suggested very strongly that the RADP had not managed to come to grips with the real issues of poverty, insecurity, lack of leadership, lack of education and lack of institutions which was, and to a large extent still is characteristic of the situation of the RADP target population. The Kann report therefore suggested that rather than the technical approach of the "settlement strategy" emphasis should be put on a political approach involving an "empowerment strategy" for the RADP target population, to allow them to break out of the processes which lie at the root of the problems listed above. This "empowerment strategy" was accepted in principle by Government which in the National Development Plan 7 (1991) declared a shift in priority as far as the RADP was concerned, away from the provision of physical infrastructure to activities concerned with land rights, education, institution building and leadership training. This shift in policy has been reiterated also at later occasions. e.g. in Minister Butale's speech to the Second Regional San/Basarwa Conference in October 1993.

This evaluation points out that it is hard to see how these declarations of intent have been followed up in practical terms. The main impression is that very little has been done within the RADP to take the recommendations of the Kann report into account. The main requirement and fundamental precondition for a concerted and active effort by the RADP to accept the challenges involved in the "empowerment strategy" is a clear policy statement from the Government on the fundamental issues involved. This policy statement has not yet been made. There have been several (at least four) draft proposals for a new policy document since 1991, but the policy document has not yet (in May 1995) been finalized. In the absence of this new policy, the RADP now seems to be losing momentum quite rapidly.

This may partly be so because the external development assistance agreements which contributed to the financing of RADP have expired. The agreement entered into by NORAD in 1988 was extended twice, with consecutively reduced levels of funding, but in 1994 it finally elapsed. In purely financial terms the expiry of this agreement may not really have been very significant, partly because the level of funding, particularly towards the end of the period, was quite modest. NORAD's role as the main donor to the RADP, however, with a legitimate interest in all aspects of the programme, was probably much more important. It is quite noticeable how the loss of momentum within RADP seems to coincide with the shrinking interest in the RADP from NORAD.

One of the main arguments of this report is that NORAD throughout its involvement with the RADP has been considerably more interested in the policy aspects of the RAD situation than in the mere funding of the "settlement strategy" and that it originally subscribed to the "settlement strategy" as an expedient to achieve the subsidiary policy objectives of the strategy rather than the overt infrastructure goals as such. There has been a realisation that infrastructure development is valuable in its own right, but that the real issue of development in the remote areas involve all the non-material factors summed up in the Kann *et al.* report. NORAD was quick to endorse this aspect of the report and used its influence in the negotiations of the extensions of the funding agreement to limit investments in infrastructure and direct more attention to the non-material objectives of an "empowerment strategy", in addition to whatever efforts were being made under the Economic Promotion Fund. The tension between NORAD and MLGLH in 1991 and 1992 is probably best understood as tension between the "settlement strategy" and the "empowerment strategy".

NORAD's insistence that MLGLH must clarify its policy position on a development in the remote areas before NORAD would commit itself to continued support to RADP seems to be closely related to the policy issues implied in the two different approaches. Although the MLGLH has been working on this policy statement since 1991, it has yet to appear. NORAD has, however, extended the 1988 agreement twice, in spite of its own insistence on the importance of the policy document. But it is highly unlikely at this time that any new agreement between MLGLH and NORAD can be concluded before a new RAD policy document has been presented by the Government of Botswana.

NORAD has shown a consistent and strong interest in the RADP since 1988 and the new policy guidelines for continued Norwegian cooperation with Botswana do not in any way preclude a continued effort to help solve the problems of the remote areas. There is a clear realisation both within NORAD and the MLGLH (and a view which we in this report would strongly endorse) that the problems are not yet solved, that the job is not done and that it is too early to terminate the RADP. But it seems equally clear that the RADP cannot continue the way it is currently operating.

Preconditions for future cooperation

One of the problems with the RADP and its predecessor projects seems to be that the interest and the political priorities on which the projects have been predicated to a significant extent have been those of donors and other external interests. Botswana's own development bureaucracy and political establishment have tolerated the effort, and even deployed national resources in terms of manpower and funds in its support, but without much enthusiasm or determination. Hitchcock and Holm, both of whom have followed the RADP and the situation of the minority populations in the remote areas for a number of years, make the point about the role played by SIDA and NORAD (the two main donors to the programme) that "(w)ithout this most aggressive outside influence, it is doubtful if much would have been invested in San-oriented projects over the last two decades." (Hitchcock & Holm, 1993:38) This "most aggressive outside influence" may be an overstatement of the situation. It would have been directly contrary to both Swedish and Norwegian development cooperation policies, but the active support to the "empowerment" strategy may of course have been perceived in these terms. The fact remains that foreign donors have been considerably more interested in development projects in favour of the RADs than have Botswana's own politicians. A number of well-publicized episodes, particularly in connection with the publication of BCC's human rights report in 1992 and the meeting between MLGLH and a delegation of Basarwa representatives in May the same year, bear ample evidence that this is so. The "settlement strategy" with its dual objectives of obtaining controversial land rights for the Basarwa by promoting the establishment of uncontroversial settlements must also be understood in this light.

At least since the Kann *et al.* (1990) report it has been clear that RADP has not managed to come to grips with the real problems of the remote areas, and that the "settlement strategy" must be replaced by a strategy of empowerment and political participation. This of course involves firmly placing problems like poverty, landlessness and insecurity on the political agenda in Botswana, first in local and partisan contexts, but later in general national political contexts. This must be done by those directly concerned, and the formation of advocacy and interest groups like the First People of the Kalahari, who mobilize in terms of ethnic identity and political rights can be seen as the beginnings of this process. It seems quite safe to predict that the emergence of active interest groups will eventually have a profound influence on how the problems of the remote areas are conceptualised and handled by the political establishment and the bureaucracy. Eventually the problems of the remote areas will be brought quite forcefully home to where they belong, viz. in the domestic political processes of Botswana. At this point in time it seems quite obvious that the problems of the remote areas cannot be solved by foreign agencies and foreign interests in the context of development assistance schemes, particularly if these schemes are not firmly rooted in national political priorities in Botswana.

Perhaps one of the major achievements of NORAD in the period since 1988 may be the contribution it has made to the process of putting the RAD issues on the political agenda. The high point to date in this respect is no doubt the realisation of the Second Regional San/Basarwa Conference in Gaborone in October, 1993, where Government met with Basarwa representatives for two days in an officially sanctioned setting and actually engaged in discussion and dialogue on issue of fundamental concern to the Basarwa community. But with the lapse of the RADP aid agreement NORAD has to a certain extent cut itself off from continued influence and the other organisations involved (NGOs and Basarwa advocacy and interest groups) have not yet developed the political significance necessary to maintain the momentum needed to carry the process forward, e.g. to prod Government into finalizing the long awaited RADP policy document. But irrespective of what this document will contain when it appears, the policy document will bring "ownership" of the problems of the remote areas home to Botswana. Although the policy document in the short term may be of importance to e.g. continued cooperation with NORAD, the main constituency for the policy is now the Basarwa community and their advocacy and interest groups. The policy document will primarily concern them and will by necessity become the basis of future dialogue and discussion with the Government.

NORAD's future involvement

NORAD has fulfilled its obligations under the agreement it signed in 1988 to assist the RADP. The job, however, in terms of an improved standard of living for the target population, is not done. It is now realized that the job probably could not be done given the weaknesses inherent in the "settlement strategy", particularly as concerns the assumed linkages between infrastructure investments and land rights. The alternative approach of an "empowerment strategy" has been suggested, and in principle accepted by everybody involved, but must now be tried out in earnest.

There are no guarantees that the "empowerment strategy" immediately will bestow secure rights to resources on the Basarwa and improve the welfare beyond what the settlement strategy has achieved. The point is rather that it will bring the residents of the settlements into the political process and the political debate and it will eventually give the Basarwa a voice and a means to articulate their interests. A main precondition for any real change to take place, however, is the willingness of the other parties to the political process to listen. One must keep in mind that the Basarwa only are a small part of the population in Botswana, and that the Basarwa vote is unlikely to be important, except in strictly local settings. The issues at hand will not be resolved through power politics but with reference to the principles and values of equality and social justice.

NORAD has for a long time been concerned about the situation of the Basarwa and there seem to be no good reasons to stop now. On the other hand, the format of cooperation will change. The new Norwegian policy on continued cooperation with Botswana precludes continued support to the massive infrastructure investments of the "settlement strategy", but new modes of cooperation involving commitment and support to the "empowerment strategy" have not yet evolved. In our opinion this will be the main challenge in the time to come. Hence, we recommend that future cooperation between Botswana and Norway within the general field of remote area development should be concentrated within the four following areas of interest:

Political participation

Any involvement in this area of interest must be based on a clear realisation that the problem of remote area development belongs to the Botswana political system and must be resolved in the political context of Botswana. The main engine driving Government concern and policies on remote area issues will be Basarwa interest groups and the political support they are able to mobilize in Botswana and abroad. Foreign donor organisation will only have a limited role to play. These interest groups are still few and probably not very well established, but the significant fact is that they actually exist at all. Annex 6 to this report discusses the significance of these groups and the processes related to their emergence in greater detail.

Efforts should be made to stimulate and assist the work of such advocacy groups. NORAD does not have a clear policy on indigenous people and whatever assistance which has been offered to date has treated advocacy groups like Kuru Development Trust and First People of the Kalahari as regular NGOs. This may not be the most suitable format, particularly with regard to the effort involving awareness-raising, mobilisation and institution-building. Furthermore, careful thought must be given to the feasibility of placing such supporting a bilateral relationship between Norway and Botswana. Support to an effort which by its very nature is clearly political can easily be seen as subversive unless it is based on a very clear understanding of the value of pluralism in political participation. The value in purely technical terms to the Government of having representative institutions to deal with in a highly contentious and difficult area, where policy initiatives and fine-tuning of efforts will depend on intimate knowledge and a relationship of trust, must also be stressed.

Although there should be absolutely no need for NORAD to disguise or under-communicate assistance to Basarwa interest and advocacy groups, such support probably needs to be organised quite carefully and in a format with which NORAD is not familiar. NORADs policy of supporting institutional cooperation should be applied to support the relationship between IWGIA (International Work

Group for Indigenous Affairs) and the Basarwa interest groups. Great caution should be exercised, however, to avoid a situation where the Basarwa interest groups are smothered and dominated by foreign interests.

In addition to the Basarwa interest groups, which primarily involve the First People of the Kalahari, there are several NGOs with an active interest in the issues of political participation although this interest often is combined in some holistic approach which also involves e.g. economic development and spiritual concerns, primarily Kuru Development Trust and Botswana Christian Council. NORAD has already established working relations with these. The Botswana Centre for Human Rights has played an important role in mediating the relationship between the Basarwa community and the Government in connection with the 1993 conference and has since maintained an active interest in a number of issues concerning the Basarwa. The kinds of alliance building and networking going on between the NGOs with an interest in the situation of the Basarwa are potentially of great importance to the success of an "empowerment strategy", which involves gaining acceptance and support for new political priority settings.

Under the same heading of political participation, the idea of institutional cooperation with regard to the creation of an "ombudsman" institution in Botswana should be extended to cover the particular situation of the ethnic minorities. The idea has been mentioned in general terms in the strategy document outlining future cooperation between Botswana and Norway and is supported in this report. An "ombudsman" institution would give the Government the means to resolve a number of issues related to the administration of the remote areas, including the overt and covert discrimination which the NDP 7 set out to combat.

RADP

The process of political mobilisation of the Basarwa and the articulation of political interests will generate new demands for Government action in the remote areas. If (or more likely, when) the Government wants to meet the aspirations formulated through the political system, it must be able to respond. It will need instruments in the form of policies, institutions and staff to help solve the problems as these are articulated and brought forward.

The RADP as it stands today is not an adequate instrument for these purposes. This report argues that there is an urgent need to overhaul all major aspects of the RADP to meet the many remaining problems in the remote areas. Only a small part of these problems can be solved by direct and straight-forward infrastructure investments. Some problems will no doubt require new conceptual models, new policy initiatives and fresh legislation. But equally important will be the continuous provision of services (e.g. health, education) and the fine-tuning of Government policy to fit the particular circumstances of the remote areas.

Government assistance to income-generating activities and economic promotion in general will continue to be important for the foreseeable future.

In this context a well-trained and well-motivated professional cadre of Remote Area Development staff are needed. This report has endorsed the urgent recommendation of the Kann *et al.* report from 1990 that staff training and development is required. This report also points out that this recommendation has not yet been translated into any concrete action. Furthermore, it is pointed out that at present one of the most complex and intractable development problems in Botswana has been left to a cadre of staff which (with some very noteworthy exceptions) is not trained, not properly equipped and not properly supervised to the job. Recruitment, induction, training, promotion and career development for virtually all Remote Area Development Officers leave a lot to be desired. They have, to a large extent, been let down by the ULGS which has not been able to take the extraordinarily difficult and complex conditions under which the RADOs serve into account. Although these deficiencies characterise the whole RADP cadre, particular mention is made in the report of the Assistant Project Officers (APOs) who represent the first line of the RADP to the inhabitants of settlements. The APOs are meant to supervise the implementation of local projects and to report back on problems and developments, to take initiatives and to mobilise the community on the one hand and the RADP organisation on the other to solve local problems. The APOs have received next to no training and have no security of employment. They do not even have proper job descriptions.

Irrespective of the role played now and in the future by other agencies in the remote areas (interest groups, NGOs, other Government or Council departments, commercial agents) there will be a continued need for a service like the RADP. The RADP cadre will need to find its new role and adjust to the "empowerment strategy" which presumably will increase in importance in the years to come. In this process, which basically involves staff development and institution building, NORAD could probably play a most useful role. Recommendations have been made in earlier sections of this report that the ULGS Training Unit and the RECC Training sub-committee as a matter of urgency should organise the effort to develop new training schedules and courses for RADP staff. Training modules on particular aspects of the situation in the remote areas should also be made available for other GOB and Council staff with assignments in the remote areas. NORAD may put consultancy funds and/or services at the disposal of the ULGS for this purpose.

This report (and reports before it) has pointed that the monitoring system and the RADP data base in the MLGLH has ceased to function since 1992 and that the useful information which can be obtained from the system at this time is strictly limited. In our view, the types of information which the monitoring system was set up to collect will be equally important in the future and NORAD should consider initiatives to help redesign and commission a functional monitoring

system and data base in the RADP Unit in the MLGLH. In addition to the procurement of data processing equipment and suitable computer software, particular attention must be given to data collection procedures at the District and Sub-district level and training for those who collect and collate the data in the Districts as well as those who are involved in data processing, retrieval and interpretation.

The most important area of interest where RADP has failed to show significant progress is in the promotion of economic opportunities in the remote areas and in the encouragement of income-generation projects in the settlements. The main instrument which has been available to the RADP in this respect has been the Economic Promotion Fund, but we have pointed out in earlier sections that the EPF in isolation seems to achieve very little. We have endorsed a recommendation made earlier that the structure and function of EPF should be thoroughly reviewed, particularly now that the results of the FAP review are available and we recommend that NORAD should offer to fund this exercise.

We have earlier in this report recommended that the task of economic promotion in the future should not be left as the sole responsibility of RADP and the EPF, but that the full resources of the Ministry of Commerce and Industry, including its field service staff and the facilities of the FAP, should be brought to bear on the problem. A successor to the central Business Adviser (to be placed in the MCI rather than in the MLGLH) should be recruited to coordinate the effort, including opening up lines of communication and projects of cooperations with the various NGOs. Careful attention should be given to the situation in the Districts and Sub-Districts as well, and a combination of redeployment, training and recruitment should be applied to recreate the cadre of district-level Business Advisors as well.

The Business Advisor cadre was one of the main contributions made to the RADP when NORAD became the a main funding partner in 1988. The Business Advisors were most probably withdrawn too early and it is suggested here that this is an area of interest where NORAD can make a contribution to a revitalisation of the RADP.

Finally, we have recommended that the rural development purposes of RADP must be considered in relation to the forthcoming reviews of rural development policies in general in Botswana. It is suggested that the main responsibility for coordination of the RADP as an inter-ministerial programme should be placed in the Ministry of Finance and Development Planning and that the post of RADP Coordinator in the MFDP should be created. This is one area where NORAD, on GOB request, could make available a technical assistance post to serve as counterpart to a less experienced Motswana officer.

Education

A significant part of the investments made and the operational expenses incurred by the RADP have been spent on education facilities for children in the RAD settlements. The provision of water, health and education facilities and administrative services is in and by itself not controversial and a major area of Government responsibility. The modalities of how these services are provided, however, are controversial. This seems in particular to concern the way education is provided.

Education in the context of the RADP is not seen as an unquestionable good. One of the main resolutions passed at the Second Regional San/Basarwa Conference states that education "is recognised as a very important component of the development process. However, it does not in its current form take into account cultural norms and practices of Basarwa/San communities".

In addition to its unquestionable importance in terms of allowing individual self-expression and development, education is also a highly emotive field in terms of personal relations, political participation, social integration and assimilation and cultural survival. It seems reasonable to predict that education, its content, quality and relevance to the Basarwa social conditions will become an increasingly important topic in Basarwa politics. There are a number of contentious and difficult issues involved in this field, e.g. permanent versus nomadic schools, multi-grade schools, the background and training of teachers, the standard and operation of hostels and dormitories, the general level of care and concern in the hostels including basics like proper feeding and the protection of children from abuse, the language of instruction, particularly in the lower standards, the corporal punishment of children from a culture which abhors violence, respect for cultural events and expressions (e.g. initiation rites and other seasonal events), the relevance of curricula and syllabi to the local situation, integration of local and national considerations in education policy and the careers of school leavers.

The 1990 review of the RADP by Kann *et al.* recommended that greater attention should be paid to how education services were provided and strongly suggested that an Education Officer should be attached to the RADP Unit in MLGLH. This has not been implemented. As reported earlier, however, it seems that following the 1993 National Commission on Education the RADP will no longer have budgetary or financial responsibility for primary education, which in the future will be the responsibility of MLGLH's Primary Education Project. The National Commission recommends, however, that the present joint responsibility for primary education by the Ministry of Education and the District Councils should be kept, but with an improved coordination structure through a reconstituted Inter-Ministerial Committee on Primary Education (GOB, 1993: 136).

Primary education in a multi-cultural context is a particularly difficult subject, both in terms of professional education issues and in terms of the political issues involved. Some of these issues have been articulated already (at the Second Regional San/Basarwa Conference) and new issues are likely to be raised. The concerns raised by the 1990 review have not been put to rest and the situation as far as the education of RAD/Basarwa children is concerned remains more or less as described in that report. There is an urgent need to rethink some of the issues and to experiment with alternative modes of providing the education services which the Government is under some obligation to provide. These must of course be related to national education policy issues but there seems to be a need to try out alternatives. Alternative models for primary education in multi-cultural contexts as well as concrete experiences are available from elsewhere, e.g. Norway and Canada.

It is therefore suggested that NORAD should take an initiative to suggest a pilot project in education, which should be operated by the Government with support from NORAD, to look for and experiment with alternative ways of providing primary education to the Basarwa children.

Research

Finally, the area of interest related to the RADP in which institutional cooperation between Norwegian and Botswana institutions seems most advanced at this stage is within research. NORAD provided funds for two years under the auspices of the RADP for a Research Facilitator to be attached to the NIR at the University of Botswana. Although that particular position now has been discontinued the University of Botswana has established a Basarwa Research Programme and discussion are under way to conclude an agreement of research cooperation with the University of Tromsø in Norway.

It is pointed out in earlier sections of this report that public interest in Botswana in the particular issues of the remote areas to a large extent has been articulated by foreigners, and that foreign researchers have played an important role in this respect. It is also pointed out that this foreign domination, by researchers as well as by donor organisations, may be seen as part of the problem at hand. The initiative at UB has brought the task of Basarwa research coordination home to Botswana, reasserted national ownership of this important research field, and effectively challenged foreign researchers to re-orientate themselves within this nationally asserted framework. There is now a core of committed researchers on Basarwa issues at UB. Their interests and their work is not directly related to the RADP, and there are many good arguments why academic research should be allowed to pursue its own interests rather than serving directly as a source of information in a development project. An on-going and vibrant research programme at UB will in the longer term contribute in many other ways, including

the training of manpower for development. Although the political articulation of Basarwa interests must be left to Basarwa advocacy and interest groups, the research and training offered at UB in respect of Basarwa issues will no doubt help carry the dialogue between Government and the Basarwa forward.

The institutional cooperation between UB and the University of Tromsø on the Basarwa research programme should therefore definitively be included as an important area of interest in any future cooperation between Botswana and Norway on the issue concerning the remote areas of Botswana and the people who live in them. Funds for this purpose should be made available by NORAD.

Should we wait?

NORAD has since 1992 consistently stated that it would not enter into any long-term commitment of support to the RADP before the Government's new policy on remote area development was announced. The most contentious issue concerns land rights and access to resources. The population in the remote areas will have to find ways of living off the land also in the foreseeable future and they will have to do so under the ecological conditions prevailing in these areas. That means extensive landuse and low human population densities. The livestock industry has achieved this at the expense of former hunters-gatherers who have been dominated and subjugated politically and then simply moved off the land, on the assumption that hunters and gatherers do not hold land rights. From a legal point of view this does not seem to be a valid assumption and if social justice is to hold any meaning to those who have lost their rights to the land it is necessary to redress this wrong. It seems unlikely, however that this can actually be done without considerable political support. Although the long awaited policy document is still not out, clear-cut support to the losers in the competition over land from the Government would be quite surprising at this stage.

There are many influential and conflicting interests influencing the competition over land in Botswana. As far as the remote areas are concerned, the two most powerful interests are the livestock industry and the international wildlife conservation lobbies. The hunters and gatherers have been the losers. Since there are ethnic dimensions and questions of political dominance and subservience attached to the question of land rights, this issue which concerns the very basis of livelihood and survival of the Basarwa communities in Botswana has for a long time been disguised as a matter of socio-economic status and degrees of poverty. The issue is gradually being brought out in the open, however, partly through the macro-political changes taking place in the region and partly due to the emergence of local interest groups with the capability to articulate their own interests and concerns. The issue of Basarwa land rights are being put on the political agenda in Botswana. In this process NORAD cannot remain neutral, because there does not seem to be any neutral position to take. NORAD has announced its interest in

and intention of maintaining links of cooperation with Botswana also in the future. It should do so also in the case of the RADP, because there is very little to be gained from escaping from the problem. NORAD should not wait for the RADP policy document, partly because it is delayed and partly because it is unlikely to bring significant changes as far as the crucial issue is concerned. NORAD should rather go ahead and declare its intention of assisting the government in finding a solution to the issue of Basarwa land rights in accordance with the internationally accepted standards to which Botswana wishes to adhere, in the spirit of cordiality and mutual trust which has been built up over the past 25 years. The areas of cooperation outlined above will contribute towards this end.

Bibliography

- Adams, Martin et al. 1990. *Western Region Study; A review of the development potential of Kgalagadi & Ghanzi Districts*. Report prepared for the Ministry of Agriculture, Botswana
- Adams, Martin et al. 1994. *Botswana: RADP Evaluation preparatory mission*. Consultancy report to Royal Norwegian ministry of foreign affairs (18.03.94). Mokoro Ltd.
- Anon. 1981. *Remote Area Development Workshop, 10-14 November, 1980*. Conference proceedings, Botswana Ministry of Local Government and Lands. MLGL, Gaborone.
- Anon. 1992. *Memorandum on meeting between MLGLH - Basarwa on May 18, 1992*. Gaborone
- Barnard, Alan. 1992. *Hunters and herders of Sothern Africa; A comparative ethnography of the Khoisan peoples*. Cambridge: Cambridge University Press
- Barnes, Jonathan. 1994. "Alternative uses for natural resources in Botswana: Wildlife utilisation". In: *Botswana in the 21st Century*. Gaborone: Botswana Society
- Botswana Orientation Centre. 1995. *Handbook, participatory rural appraisal*. Gaborone
- Botswana Orientation Centre. 1994. *Development through partnership in Lepokole. Report of a Participatory Rural Appraisal (PRA) conducted with the Bobirwa Sub-District Extension Team*, (Published by Ministry of Finance and Development Planning), Gaborone
- Botswana Society: *Sustainable Rural Development*, Proceedings of a Workshop held by the Botswana Society in Gaborone, Botswana, 13-15 April, 1992
- Butale, C.J. 1993. *Official opening speech of the Second Regional Conference on Development Programmes for Africa's San Populations (11.10.93)*. Official speech by the Minister for Local Government, Lands and Housing
- Børhaug, Kjetil. 1992. *Politics, administration and agricultural development; the case of Botswana's Accelerated Rainfed Arable Programme*. CMI Report R 1992: 2. Bergen, CMI
- Børhaug, Kjetil. 1993. *From policy guidelines to problem solving: A critical assessment of the National Conservation Strategies of Botswana and Zambia*. Working Paper WP 1993: 3. Bergen, CMI.
- Campbell, Alec. 1989. *Central Ngwaketse Remote Area Dwellers: Socio-economic survey*. Kanye: Southern District Council
- Campbell, Alec. 1991. *Western Sandveld Remote Area Dwellers*. Report submitted to Ministry of Local Government and Lands and NORAD. Gaborone
- Campbell, Alec. 1994. Social justice for the Khwe. In: *Botswana; striving for balance*, Vol 2, August 1994, Gaborone

- Campbell, A. & Child, G. 1971. *The impact of man on the environment of Botswana*. Botswana Notes and Records 3:91-110
- Campbell, A & Main, M. 1991. *Socio-economic survey, remote area Development: Region south of Lake Ngami*. Gaborone
- Central District Development Committee, 1994. *Minutes of DDC Meeting held 8th December 1994*. Serowe: District Administration
- CORDE. 1994. *CORDE Annual Report 1993 - 94*, Gaborone
- Danevad, Andreas. 1993. *Development planning and the importance of democratic institutions in Botswana*. CMI Report R 1993: 7. Bergen, CMI
- DWNP, n.d. *Wildlife Management Areas*. Document produced as part of the Natural Resource Management Project (USAID Project # 690-0251-33)
- Economic Consultancies (Pty.) Ltd., Environmental Services (Pty.) Ltd., Data Handle (Pty.) Ltd. and (Maendeleo (Botswana) (Pty.) Ltd., 1991. *A monitoring programme for the settlements at Thankane, Kokotsha, Inalegolo, Monong, Ngwatlhe and Groot Laagte*. Gaborone.
- Egner, E.B., 1981. *The Remote Area Development Programme: An evaluation*. Gaborone: Economic Consultancies (Pty.) Ltd.
- Eidhammer, Asbjørn. 1989. *Frå buskmenn til RADs: Urfolket i Kalahari og norsk stønad til minoriteter i utkantstrøk i Botswana*. NORAD Pamphlet ISBN 82-7123177-4, NORAD, Oslo.
- Eidhammer, Endresen, Gunnerød. 1988. *Reiserapport. Programmet for støtte til minoritetsgrupper i utkantstrøk i Botswana, januar-mars, 1988*. Report to NORAD, Oslo.
- Environmental Services (Pty) Ltd. 1994. *Remote Area Development Programme monitoring studies* (Study draft final report, May 1994), Gaborone
- Fair, T.J.D. 1992. *African rural development: Policy and practice in six countries*. Africa Institute of South Africa, Johannesburg
- Field, D.I. 1974 *Potential carrying capacity of rangeland in Botswana*. Botswana Ministry of Agriculture, pp 16.
- Gaborone, Samora S. 1994. *Report on the Second Annual Conference on the Development Programmes for Africa's San Populations, October 11-13, 1993*.
- Gaup, Nils Ole. 1992. *RADP seminar in Ghanzi, Botswana, 31 August-04 September, 1992, Report*. Report from Saami representatives
- GOB, 1972. *Rural development in Botswana*. Government Paper 1. Gaborone: Government Printer.
- GOB, 1987. *Implementation of the Accelerated Remote [Area] Development Plan*. Circular Savingram, ref. SLG 15/8, from Permanent Secretary, Ministry of Local Government and Lands, 29 September 1987.
- GOB, 1991a. *Republic of Botswana: Project Memorandum: LG 127: Remote Area Development Programme*. Gaborone: Ministry of Local Government and Lands, (12 July 1991)
- GOB, 1991b. *National policy on agricultural development*. Gaborone: Government Printer.

- GOB, 1991c. *National Development Plan 7, 1991-1997*. Gaborone: Government Printer.
- GOB, 1992a. *Wildlife Conservation and National Parks Act*. Act 28 of 1992. Gaborone: Government Printer
- GOB, 1992b. *The Accelerated Remote Area Development Programme (LG 127 Remote Area Development Programme) (Bot 022). Reviews and project proposals to be discussed: the Annual Botswana - Norway meeting, 1992*. Gaborone: RAD Unit/BA and Planning Unit/PO III, MLGLH, 6 April, 1992.
- GOB, 1993. *Report of the National Commission on Education 1993*. Gaborone: Government Printer.
- GOB, 1994. *Republic of Botswana. Project Memorandum. (16th December, 1994.) LG 127, Remote Area Development Programme*. Gaborone: MLGLH.
- GOB, 1994b. *Mid-term review of NDP 7*, Gaborone, MFDP
- GOB/GON, 1988a. *Agreement between the Government of the Kingdom of Norway and the Government of the Republic of Botswana on support to the Accelerated Remote Area Development Programme*. Gaborone, 6 September 1988
- GOB/GON. 1988b. *Agreed Minutes of the Annual Consultation between Botswana and Norway on the cooperation in the Remote Area Development Programme*, Gaborone 1-2 December 1988. Gaborone
- GOB/GON. 1989. *Agreed Minutes of the Annual Consultation between Botswana and Norway regarding the cooperation on the Remote Area Development Programme*, Gaborone 25-29 September 1989. Gaborone
- GOB/GON. 1990. *Agreed Minutes of the Annual Consultations between Botswana and Norway on the Cooperation on the Remote Area Development Programme*, Gaborone 19-23 November, 1990. Gaborone
- GOB/GON. 1991. *Addendum to the Agreement between the Government of the Kingdom of Norway and the Government of the Republic of Botswana regarding financial assistance to the Remote Area Development Programme (03.12.91)*. Official Agreement. Gaborone
- GOB/GON, 1992a. *Minutes: preparatory meeting NORAD - Botswana on Remote Area Development Programme, 1st June 1992 in MLGL&H*. Gaborone.
- GOB/GON, 1992b. *Agreed minutes of the annual meeting between Botswana and Norway on Remote Area Development Programme*. Gaborone: 24 September, 1992.
- GOB/GON. 1993. *Addendum No. 2 to Agreement between the Government of the Kingdom of Norway and the Government of the Republic of Botswana regarding financial assistance to the Remote Area Development Programme (15.07.93)*. Official Agreement. Gaborone
- Good, Kenneth. 1992. Interpreting the exceptionality of Botswana. *Journal of Modern African Studies*, Vol.30 (1992) No.1, pp.69-95
- Good, Kenneth. 1993. At the ends of the ladder: Radical inequalities in Botswana. *Journal of Modern African Studies*, Vol.31 (1993) No.2, pp.203-230
- Good, Kenneth. 1994. Corruption and mismanagement in Botswana: a best-case example? *Journal of Modern African Studies*, Vol. 32 (1994) No.3, pp.499-521

- Good, Kenneth. 1994. *Inequalities and the San in Botswana today*. Seminar paper, Rock Art Research Unit, University of the Witwatersrand, Johannesburg 4-7 August 1994
- Granberg, P & J.Parkinson. 1988. *Botswana: Country study and Norwegian aid review*. DERAP Publication No. 235. Bergen, CMI
- Gulbrandsen, Karlsten & Lexow. 1986. *Botswana Remote Area Development Programme; Report submitted to the Royal Norwegian Ministry of Development Cooperation*. Consultancy report
- Gulbrandsen, Ø. 1990. *Report to NORAD on Botswana's Accelerated Remote Area Development Programme*. Report to Norad, May-June, 1990
- Gulbrandsen, Ø. 1991. On the problem of egalitarianism; The Kalahari San in transition. *The Ecology of Choice and Symbol; Essays in Honour of Fredrik Barth*. Alma Mater, Oslo
- Herder, Siegraut. n.d. *Pharmacological actions of Harpagophytum procumbens (Kalahari Devils Claw, Sengaparile or Grapple)*. Report prepared for Tushano Lefatsheng, Gaborone
- Hitchcock, Robert K. 1988. *A critical assessment of the Accelerated Remote Area Development Programme: A confidential report to NORAD*. NORAD Report. Unpublished Report, NORAD, September 1988
- Hitchcock, Robert K. 1988: *Monitoring, research and development in the remote areas of Botswana, Part I (Recommendations, Chapters 1,2,3,4)*. Report to RADP/MLGL Gaborone
- Hitchcock, Robert K. 1988. *Monitoring, research and development in the remote areas of Botswana, Part II (Chapter 5)*. Report to RADP/MLGL, Gaborone
- Hitchcock, Robert, K. 1988. *Monitoring, research and development in the remote area of Botswana, Part III (Chapters 6,7,8; Appendix 1-7)*. Report to RADP/MLGL, Gaborone
- Hitchcock, Robert K. 1988. *The future of Remote Area Development in Botswana*. NIR Seminar Presentation, Gaborone (15.07.88)
- Hitchcock, R.K & J.D. Holm. 1993. Bureaucratic domination of Hunter-Gatherer Societies: A study of San in Botswana. *Development and Change*, Vol.24 (1993) pp. 305-338
- Hitchcock, Robert K. 1993. *Indigenous peoples, the state and resource rights in southern Africa*. Veber et al. (eds.): ... *Never drink from the same cup; Proceedings of the conference on Indigenous Peoples in Africa*. Tune, Denmark, 1993 (IWGIA Document No. 74). Copenhagen, IWGIA
- ILO. 1989. *Convention concerning indigenous and tribal peoples in independent countries*. ILO Convention No. 169. ILO, Geneva
- IWGIA. 1993. ...*Never drink from the same cup; Proceedings of the conference on Indigenous Peoples in Africa*, Tune, Denmark 1993, Copenhagen, IWGIA
- Kann, Hitchcock & Mbere. 1990. *Let them talk. A review of the Accelerated Remote Area Development Programme*. Report to MLGL and NORAD, Gaborone

- Karlsen, Marit L. 1992. *BOT 022/LG 127 Remote Area Development Programme - Focus on NORAD Expenditure*. Consultancy Report to NORAD, Gaborone (26.02.1992)
- Karlsen, Marit L. 1992b. *Oppsummering av saken om 3 farmer for RADs i Ghanzi*. Internal Memorandum, NORAD Gaborone (29.02.92)
- Keijsper, V.J., 1992. *The Tribal Grazing Lands Policy at the crossroads: fencing by individuals in the communal areas of Botswana? A position paper*. Castricum
- Kenny, Leo. 1993. *Working Document. Second regional conference on development programmes for Africa's San populations (Oct. 11-13, 1993) to be hosted by the Government of Botswana in Gaborone*. Gaborone
- Kulseng, S. 1993. *Avsluttende arbeidsrapport*. Report to NORAD/Gaborone
- Kulseng, S. 1993. *Situasjonsbeskrivelse av RAD programmet*. Report to NORAD/Gaborone
- KURU Development Trust. 1994. *Progress Report, 1992/1993*. NGO Report
- Lawry, S. 1982. *The Matsheng Land Use Plan: a case study in settlement and agricultural development planning in Kgalagadi District*. In: *Botswana Society, Settlement in Botswana*, p. 341-352. Gaborone: The Botswana Society and Heinemann Ltd.
- Lutheran World Federation. 1994. *LWF/World Service, Botswana: 1993 Annual Report*, Gaborone
- Matambo, O.K. 1987. *Accelerated Remote Area Development Programme. Cover letter from Ministry of Finance and Planning to NORAD (29.04.87) concerning Project Memorandum fro LG 32 Remote Area Development (30.03.87)*. Project Memorandum. Gaborone
- Matambo, O.K. 1988. *Remote Area Development Programme. Letter FDP 90/2/3 XII (72) to NORAD from Ministry of Finance and Planning (09.08.88)*. Gaborone
- Matome, M.P. 1994. *Comments to the RADP Evaluation Preparatory Report*. Letter MLGL&H to NORAD/Gaborone (20.06.94)
- Ministry of Local Government, Lands and Housing. 1992. *LG 127 Remote Area Development Programme; Reviews and Project Proposals to be discussed. The Annual Botswana - Norway Meeting 1992*. (06.04.92). Gaborone
- Ministry of Local Government, Lands and Housing. 1994. *Implementation of the Tribal Land (Amendment) Act, 1993*. Savingram LG2/1/4 II (6), Gaborone
- Modisenyane, G. 1995. *Boteti Sub District. Remote Areas Development Programme*. Report to Principal RADO, Central district. Letlhakane
- Moeletsi, B. 1993. *The San of Botswana: Legal status, access to land, development and natural resources*. Paper presented at the Second Regional Conference on Development Programmes for Africa's San Populations, Gaborone, 11-13 October 1993
- Mogwe, Alice. 1992. *Who was (t)here first? An assessment of the human rights situation of Basarwa in selected communities in the Gantsi district, Botswana*.

- Report commissioned by the Botswana Christian Council, BCC Occasional Paper No.10, Gaborone
- Molosi, P.O. 1989. *Implementation of the Accelerated Remote Development Programme. Circular Savingram from Ministry of Local Government and Lands (29.09.89). Includes Guidelines for the implementation of the Remote Area Development Programme Evaluation Report of 1986.* Gaborone
- Ndozi, C., 1991. *A socio-economic, population and land-use survey for Ncojane ranches: Ghanzi district.* Gaborone: ARU.
- Ndozi, C. and Toteng, E.N., 1989. *A socio-economic survey of selected Central district remote area settlements: Kedia, Khwee, Mmakgama and Mmiya.* Gaborone: ARU
- Ng'ong'ola, C and B. Moeletsi, 1995. *The legal framework for the assessment of land rights for Basarwa and other marginalized ethnic groups in Botswana.* Report prepared for the Chr. Michelsen Institute. Gaborone/Bergen
- NRMP. 1994. *Briefing Notes, the Natural Resources Management Project.* NRMP/DWNP, Ministry of Commerce and Industry, Gaborone
- NORAD. 1985. *Prosjektskisse vedrørende bistand til utsatte minoritetsgrupper (09.01.85).* Gaborone
- NORAD. 1987. *BOT 022 Minoritetsgrupper i Utkantstrøk. Notat til direksjonsmøte 09.10.87.* Internal memorandum, NORAD/Oslo. Oslo
- NORAD. 1987. *BOT 022 Direksjonsbehandling (12.10.87).* Internal memorandum from NORAD/Oslo to NORAD/ Gaborone. Oslo
- NORAD. 1988. *BOT 022 Minoritetsgrupper i utkantstrøk (RAD). Direksjonsdokument for årlig møte. (11.11.88).* Internal memorandum, NORAD. Oslo
- NORAD. 1989. *BOT 022. Støtte til Minoritetsgrupper i Utkantstrøk. Dokumentasjon og Forslag til Instruks for det Årlige Møtet 25-29 September 1989.* Internal memorandum NORAD/Gaborone to NORAD/Oslo. Gaborone
- NORAD. 1989. *BOT 022. Støtte til minoritetsgrupper i utkantstrøk. Dokumentasjon og forslag til årlig møte 1989.* Internal memorandum, NORAD/ Gaborone to NORAD/Oslo. Gaborone
- NORAD. 1989. *Plan for implementation of monitoring system, surveys and studies.* Internal memorandum, NORAD Gaborone (19.06.89)
- NORAD. 1990. *BOT 022. Støtte til minoritetsgrupper i utkantstrøk. Beslutningsnotat for årlig møte 19-23 november, 1990.* Internal memorandum NORAD/ Oslo. Oslo
- NORAD. 1992. *BOT 022. Remote Area Development. Instructions to the NORAD Delegation to the Annual Meeting 29-30 June, 1992.* Internal memorandum, NORAD/ Gaborone. Gaborone
- NORAD. 1992. *Central Kalahari - problematikken. Synspunkter presentert av Nigel Hunter, Dept. of Wildlife i møte 30.06.92.* Internal memorandum, NORAD/ Oslo. Oslo
- Okiihiro, G. Y. 1976. *Hunters, herders, cultivators and traders: Interaction and change in the Kgalagdi, Nineteenth century.* University of California, Los Angeles

- Otlhogile, Bojosi. 1993. *Criminal justice and the problems of a dual legal system in Botswana*. Criminal Law Forum, Vol 4, No. 3
- Parris, R. 1970. *Important role of the Kalahari pans*. African Wild Life, 24: 234-237
- Rozemeijer, Nico. 1993. *Remote Area Core Programme Volume 1: Regional Work Plan for Ghanzi*". SNV/Botswana Publications (21.09.93). SNV, Gaborone
- Saugestad, Sidsel. 1992a. *Comparative perspectives on minority groups*. National Seminar. Review of the Remote Area Development Policy, Ghanzi 31.08.92 - 04.09.92
- Saugestad, Sidsel. 1992b. *Current status with regard to Basarwa as a minority group in Botswana and the future prospects*. Seminar Paper, Dept. of Environmental Sciences, University of Botswana (12.11.92)
- Saugestad, Sidsel. 1992c. *Plans for research and monitoring studies 1992/93 and 1993/94*. Proposal to MLGL&H, Gaborone (04.12.92)
- Saugestad, Sidsel. 1992d. *Proposal for a repetition of baseline studies for impact assessment, 1993*. Project proposal (to NORAD?) (03.11.92)
- Saugestad, Sidsel. 1993. Botswana: The inconvenient indigenous peoples. *IWGIA Newsletter* No. 2 (May/June) 1993. IWGIA, Copenhagen
- Saugestad, Sidsel. 1993b. *Main trends in remote area development studies, 1989 - 1992*. Report to the RADP Reference Group, MLGL
- Saugestad, Sidsel. 1994. *"To corner the Bushman market". Research paradigms and use of research on the indigenous peoples of Botswana*. Workshop paper, Årskonferanse Norsk Forening for Utviklingsforskning, 1994.
- Saugestad, Sidsel. 1995. *Research and its relevance: Notes on the history of research on the Bushmen/San/Basarwa/N/oakwe of Botswana*. Conference paper Khoisan Studies: Multidisciplinary Perspectives, Tutzing (1994), (Draft; quoted with permission of the author
- Saugestad & Tsonope (eds.). 1994. *Developing Basarwa research and research for Basarwa development: Report from a Workshop held at the University of Botswana, 17-18 September, 1993*. NIR, University of Botswana. Gaborone
- Sekhwela, M. et al. 1992. *Remote Area Development Programme: baseline studies of environmental impacts, Diphuduhudu and Tshokwe settlements*. Gaborone: NIR
- Sharma, K.C. & E.G.M. Mhlauli. 1993. Botswana: Confronting the realities of capacity building. Picard & Garrity (eds.): *Policy reform for sustainable development in Africa: The institutional imperative*. London, Lynne Rienner Publishers.
- Sharp, C. 1994. *RADP pre-evaluation study: Assessment of district level expenditure record & data base 1988/89 to 1993/94*. Economic Consultancies (Pty) Ltd report to NORAD & MLGL&H, July 1994
- Silberbauer, George B. 1965. *Report to the Government of Bechuanaland on the Bushman Survey*, Gaborone
- Smit and Kappe, 1992. *Zone 6. Socio-economic baseline survey of Ngamiland's remote zone*. Gomare: Sub District Land Use Planning Unit

- SNV. 1994. *SNV/Botswana Policy Papers Volume 1: Country Policy Plan 1994 - 1998*. SNV/Botswana Publications, March 1994. Gaborone
- SNV. 1994. *SNV Botswana Policy Papers Volume 2: Country Analysis*. SNV /Botswana Publications, March 1994. Gaborone
- Story 1958. *Some plants used by bushmen in obtaining food and water*. Botanical Survey of South Africa, Botanical Survey Memoir 30.
- Terry, E. 1991. *Handicraft production, training and marketing in remote areas: Ngamiland, Ghanzi and Kgalagadi districts*. Gaborone: Botswana Christian Council Occasional Paper 6
- Thipe, G.N.. 1988. *Remote Area Development Programme*. Letter FDP 90/2/3 to NORAD from Ministry of Finance and Planning (05.07.88) Gaborone
- Thusano Lefatsheng. 1995. National workshop on community-based natural resources management institutional building. Held in Kang-Kgalagadi district, 29th November-1st December, 1994. Gaborone
- Tordoff, William. 1988. Local administration in Botswana. *Public Administration and Development*, Vol.8 (1988) pp. 183-202
- Toteng, E.N. 1991. *Socio-economic population and land-use survey: Kweneng district and Central Kalahari Game Reserve*. Gaborone: ARU.
- Trydell, Anders. 1985. *1984/85 "Mini" Annual Review of District Development Support*. SIDA Field Trip Report (18.02.85)
- Vigtel, Terje. 1992. *Urbefolkningen i Botswana - NORADs rolle i RAD-programmet*. Internal memorandum, NORAD Gaborone (04.06.92)
- Vigtel, Terje. 1992. *Møte med utenriksminister Dr. Chiepe vedr. NORADs rolle i RAD-programmet*. Internal memorandum, NORAD Gaborone (09.06.92)
- Vigtel, Terje. 1992. *Norsk støtte til RAD-programmet*. Internal memorandum, NORAD Gaborone (16.06.92)
- Vigtel, Terje. 1992. *Norsk støtte til RAD-programmet (II)*. Internal memorandum, NORAD Gaborone (23.06.92)
- Wathne, Vigdis. 1994. *BOT 022 - Kommentarer til forstudien*. Letter NORAD/ Gaborone to NORAD/Oslo (17.06.94)
- Wilmsen, Edwin N. 1989. *Land filled with flies. A political economy of the Kalahari*, University of Chicago Press, Chicago
- Wily, Liz. 1979. *Official policy towards San (Bushmen) hunter-gatherers in modern Botswana: 1966-1978*. NIR, Gaborone
- Wily, Liz. 1982. A strategy of self-determination for the Kalahari San (The Botswana Government's Programme of Action in the Ghanzi Farms). *Development and Change*, Vol.13 (1982) pp. 291-308
- Wily, Liz. 1994. Hunter Gatherers in Botswana and the Land Issue. *Indigenous Affairs*, No.2 (April/May) 1994. IWGIA, Copenhagen
- Wily, E., 1994. *The land issue*. Annex 1 (Briefing Paper) to Adams, 1994
- Winer, N. 1995. *Conservation through community action - the Chobe enclave (A Botswana Case Study)*, Natural Resources Management Project, Dept. of Wildlife and National Parks, Ministry of Commerce and Industry, Gaborone

PART II

1978

Annex 1:

TERMS OF REFERENCE FOR THE EVALUATION OF THE REMOTE AREA DEVELOPMENT PROGRAMME(RADP) -

1. INTRODUCTION

1.1 The Remote Area Development Programme(RADP) of Botswana was established in 1974 as a centralized programme with the aim of providing basic services to people living in extreme remote areas. It was decentralized and extended to 7 districts in 1977: Gantsi, Central, Kweneng, Kgatleng, Kgalagadi, Southern and North West. In 1988 a 4 year Agreement amounting to NOK 40 mill. was signed between Botswana and Norway.

The overall objective of the Agreement, as set out in Article 1, is to assist the Government of Botswana in improving the general living conditions of dwellers in the remote areas. The specific objectives of the RADP are:

- assist the RAD communities to obtain landrights and to form administrative structures such as headmanship and Village Development Committees so that these communities gradually are fully integrated into Botswana society

- assist poor people staying in remote settlements to participate in the general development of the country. This includes obtaining access to public services like water, school and health facilities, as well as diversifying and expanding the subsistence base for RADs by introducing new economic activities in the communities.

- offer training and education possibilities for the people to meet the rapid changing socio-economic conditions in those areas. Cultural awareness was seen as an important element in this process.

The Agreement includes:

- development of infrastructure in the settlements (health, water and school-facilities)
- training of programme staff and of the remote area dwellers,
- funds for economic promotion for RADs,
- funds to preserve traditions and strengthen cultural identity,
- equipment and transport material for the programme

The RADP is monitored by an extensive study- and monitoring plan which was agreed upon in 1989. Several of the studies are implemented and the districts are responsible for the follow up of the monitoring system. A major programme review was undertaken in 1990.

The Agreement has been extended up to 31 March 1993. According to the Addendum, NORAD shall provide an additional grant not exceeding 19 mill. NOK. The grant shall be used exclusively to finance RADP-projects as set out in the Project Memorandum submitted by Ministry of Local Government, Lands & Housing(MLGLH) 12 July 1991, approved by Ministry of Finance

and Development Planning(MFDP) 9 October 1991.

According to the Addendum, Botswana shall pay 30% and Norway 70% of the cost of construction (incl. water development, workshops/leadership training, Economic Promotion Fund(EPF), cultural activities, labour intensive works, training and information). However, not more than 55% of the total grant may be used for construction projects.

1.2 The cooperation between the governments of Norway and Botswana has lasted since 1972 and has mainly included rural development, health, roads and the RAD-programme. The justification for the assistance to Botswana during the period following independence was the poverty situation in the country. Its exposed situation in relation to the Republic of South Africa has gradually come to be the main motive.

Due to the positive political development in the region and the improved economic performance of Botswana, a gradual reduction has taken place in Norway's official development assistance to the country. A Country Strategy for Norway's Development Cooperation with Botswana has been prepared and agreed by both parties in November 1993. The strategy proposes a further, gradual reduction of traditional Norwegian development assistance during the coming 3 years. Promotion of institutional cooperation will be the crucial challenge during the coming three years, e.g. business joint ventures and partnership between non-governmental organisations.

1.3 The continued Norwegian support to the RAD-programme has against this new policy background (1.2) been questioned. Botswana has forwarded a request for further support, but is not dependent on Norwegian financial support in order to carry on with the activities. A future Norwegian involvement could however contribute to secure results already achieved and continue to facilitate a process towards greater acceptance of RADs and improvement of their living conditions. In order to establish a better basis for assessing achievements and future strategies and support priorities, it has been agreed to undertake an evaluation of the whole programme.

1.4 GOB's future policies and activities towards the people living in the remote areas of the country is outlined as follows in National Development Plan 7 (NDP 7), p.391:

- priority will be shifted from basic infrastructure development (primary education, health and water) to land rights issues, employment opportunities, institution building and leadership training
- a campaign will be launched aimed at changing negative public attitudes towards the target groups, through information on language, culture, lifestyle and traditions
- infrastructure development will continue to concentrate on providing water, education and health facilities to the remaining RAD settlements. Through the EPF, and by giving RADs priority in the Labour Intensive Schemes, income generation

and employment opportunities will be enhanced. The intention is to improve both the settlement infrastructure and the revenue base thus strengthening the security of the RAD households.

2. OBJECTIVES OF THE EVALUATION

The objectives of the evaluation will be to:

2.1 Sum up the results and experience of the RADP since 1988 in relation to the general and specific objectives stated above and as specified in the programme agreement. It will include a general review of the socio-economic and human rights situation of the remote area dwellers, with particular emphasis on the situation of the basarwa peoples.

2.2 Analyse the follow-up by the Governments of Botswana (GOB) and Norway (GON) of recommendations made in the programme review of August 1990 with particular emphasis on reviewing the appropriateness of programme design to meet the development requirements of RADs.

2.3 Review the strategies, efforts and capacity of the NGO sector in relation to the target group with particular emphasis on their advocacy role.

2.4 Review the revised GOB-policy document and assess the extent to which it will encourage and support the human rights and development of RADs, and, as necessary, identify the conditions which would need to be met in order to further promote the development of RADs.

2.5 Appraise, on the basis of past performance and above requirements, the future need for institutional cooperation and research in relation to RADP/RADs.

2.6 Identify key features of future programmes to remote area dwellers in terms of priorities, objectives, targets and approaches.

3. THE SCOPE OF THE EVALUATION

The evaluation shall approach the objectives set out above through appraisals of information made available through the RADP studies and monitoring component in addition to financial and administrative reports, research reports and other available materials, including field interviews with concerned parties. The evaluation shall not initiate separate studies and investigations but may point out where additional information is required. To the extent relevant information can be made available the evaluation shall address, but not necessarily be limited to the following issues:

3.1 Organization, Management and Expenditure

3.1.1 the performance and relevance of the programme's organizational structure, management, staffing of the RADP

3.1.2 the opportunity and viability of integrating programme activities into regular council programmes and with other departments at district level as well as other MLGLH programmes (LG 17, LG 23, LG 20) and the various labour intensive public work and drought relief programmes.

3.1.3 the results and experience of the programmes' institution/competency building activities with focus on the programmes efforts to strengthening headmanship and Village Development Committees in order to promote the further integration of RADs into Botswana society.

3.1.4 the delivery approach of the programme in planning and implementation and the possible attitudes that this approach promotes.

3.2 Infrastructural development

3.2.1 the quality, relevance and impact of the programme's infrastructural activities in health, school and water facilities.

3.2.2 the cost efficiency, economic and managerial sustainability, ecological impact and coverage of the infrastructural programme.

3.2.3 the environmental effects of concentrating people and animals in settlements with particular attention to questions of socio-spatial design and size of settlements.

3.3 Employment, Economic Promotion Fund (EPF)

3.3.1 the potential for economic activities in RAD-settlements and surrounding areas

3.3.2 the effects of the programme in terms of providing or promoting employment of RADs.

3.3.3 the achievements and impact of the EPF in terms of transferring skills, promoting employment and self employment

3.3.4 the management of the EPF programme, with particular reference to staffing, range of skills, approaches, overall organization

3.4 Land and Water

3.4.1 the operational policies and strategies of the programme in regard to RADs securing water and land and the overall effect of the programme upon RAD access to and ownership of land and water resources

3.4.2 the nature of RAD rights over land and other resources in settlements, the extent of security, the manner in which title or other mechanisms of security have been awarded, and constraints and limitations upon securing of title or security

3.4.3 the effect of the RADP upon hunting and gathering land use

3.4.4 whether, and in which manner relocation to settlements has occurred as a result of the programme and the impact this has had upon traditional land and resource use rights in original areas

3.4.5 the extent to which land use within settlements areas is planned and managed

3.4.6 the relationship of RADs to Wildlife Management Areas(WMA) and National Reserves in terms of traditional rights of ownership and use and current planned and actual access rights

3.4.7 the implications for rights and usage when settlements are designated villages

3.4.8 the manner and extent to which RADs have been involved in decision-making as regards relocation, establishment of settlements, land and water rights and usage

3.4.9 the role of RADs and their representatives in the management of water and land resources in settlements.

3.5 Education and Training

3.5.1 the achievements, failures and impact of the RADP in extending educational and training opportunities to remote area dwellers, and identification of factors which have constrained assistance in this area.

3.5.2 shifts in RADP policy and expenditure affecting education and training.

3.5.3 the extent to which the concerns and aspirations of RADs in the area of education and training are being met by the programme, with special attention to issues surrounding hostels, instruction in the mother-tongue, concessions to the cultural practices, availability of pre-schools, access to vocational training

3.5.4 the extent to which the programme has facilitated post-training employment/self-employment.

3.6 Research and Monitoring

3.6.1 the extent to which the monitoring programme of the RADP has been effective in keeping track of developments and influencing decision-making

3.6.2 the organization and institutional arrangements of the monitoring programme

3.6.3 the effectiveness of the methodologies of monitoring adopted

3.6.4 emerging developments in research coordination and identification of strategies which could improve the impact of research upon development

3.7 Culture

3.7.1 the extent and manner in which the RADP has addressed cultural issues and the impact the programme has had upon the cultural identity of the Basarwa RADs in particular

3.7.2 steps that should be taken to safeguard cultural rights

3.8 Human Rights, Public Awareness

3.8.1 the overall effect of the programme in improving the status of remote area dwellers and Basarwa in particular, in reducing discrimination against them, in promoting their full exercise of fundamental rights and freedoms without hindrance or discrimination.

3.8.2 the roles the Governments of Botswana and Norway have played, and action they have taken/not taken to facilitate the exercise of human rights by Basarwa in particular and to end negative attitudes and discrimination against them.

3.8.3 the extent to which the programme has directly assisted remote area dwellers and Basarwa in particular to know of their rights and to take action on their own behalf to secure these.

3.8.4 key developments over the programme period which have bearing upon the capacity of Basarwa to exercise their fundamental human rights and freedoms.

3.8.5 the nature of the current socio-political environment in terms of promoting and honouring basic human rights and freedoms of RADs and Basarwa in particular.

3.9 Gender Issues

3.9.1 how far the programme has affected the role and position of women in settlements

3.9.2 how far, and in what manner, has the programme explicitly addressed the gender needs of the target group

3.10 Institutional

3.10.1 the extent to which Government is capable and/or constrained to improve approaches, policies and programmes in accordance with changing demands and requirements relating to remote area dwellers

3.10.2 the role which non-government organizations and entities are playing, or could play, in promoting the sound and secure future of remote area dwellers

3.10.3 the role which donor organizations have played and could play in supporting remote area development

3.11 Approaches

3.11.1 the extent to which the programme has worked in ways which have encouraged and facilitated the self-reliance of remote area dwellers and their capacity to determine, control and manage their own development.

4 IMPLEMENTATION

4.1 Work Method

The implementation of the evaluation project will include comprehensive deskstudies as well as field studies. The desk studies will be based on available information such as

- project documentation, minutes from annual meetings etc
- research reports, evaluation reports, reviews, monitoring data/reports.
- relevant material provided by other organisations and donor agencies
- interviews with GOB/GON staff and other resource persons

The field studies will include visits to all 4-5 districts and include discussions with i.a

- relevant district/settlement authorities
- beneficiaries and users
- project staff
- NGOs
- researchers

4.2 Work Programme

The work will be organized in one comprehensive phase. The complete duration of the exercise is estimated to eight weeks.

4.3 Evaluation team

The evaluation exercise will be commissioned to an interdisciplinary team of 4-5 resource persons together covering the competence and experience required for professional execution of the work.

The competence requirements of the team will i.a be as follows:

- social organization with special knowledge of the socio-economic structure of RAD-communities
- local community institution building and local government
- land tenure
- ecological adaption in arid tropical areas
- law, human rights

The disciplines involved shall include rural economy, sociology, socialantropology, law/human rights etc.

4.4 Language

All reports and documentation shall be presented in English.

ebg/15.10.93/Gaborone

ebg/revised version/Oslo/24.11.93

ebg/revised version/Oslo 3.11.94

ebg/revised version/Oslo 27.01.95

Annex 2:

AGREEMENT

between

THE GOVERNMENT OF THE KINGDOM OF NORWAY

and

THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA

on

support to

THE ACCELERATED REMOTE AREA DEVELOPMENT PROGRAMME

The Government of the Kingdom of Norway (hereinafter referred to as "Norway") and the Government of the Republic of Botswana (hereinafter referred to as "Botswana"),

in pursuance of the Agreement between the Government of the Kingdom of Norway and the Government of the Republic of Botswana regarding cooperation for the promotion of the economic and social development of Botswana, dated 15 May 1985 (hereinafter referred to as "the Main Agreement"),

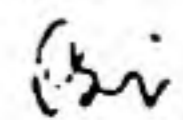
and with reference to the provisions therein relating to Specific Agreements,

have reached the following understanding which shall constitute a Specific Agreement (hereinafter referred to as "the Agreement"):

Article I

Scope and general Objective

1. The scope and general objective of this Agreement is to assist in the improvement of the living conditions of Remote Area Dwellers (RADs) of Botswana.
2. This Agreement sets forth the terms and procedures for the provision of Norwegian assistance for the implementation of the activities referred to in the Schedule attached hereto as Annex I (hereinafter referred to as "the Programme").
3. Activities to be included in the Programme shall be in accordance with the principles set forth in the report from the appraisal of the Remote Area Development Programme, conducted by the Norwegian Ministry of Development Cooperation in 1985/86 and the Project Memorandum of 30 March 1987 from the Government of Botswana. The main principles from this report and the Project Memorandum are summarized in Annex I to this Agreement.



Article II
Cooperation - Representation

1. Norway and Botswana shall cooperate fully to ensure that the purpose of this Agreement is accomplished. To that end each Party shall furnish to the other all such information as may reasonably be required pertaining to the Programme.
2. In matters relating to the implementation of the Programme the Norwegian Ministry of Development Cooperation, represented by the Norwegian Agency for International Development (NORAD) shall be competent to represent Norway. The Ministry of Finance and Development Planning (the Ministry) shall be competent to represent Botswana. The Ministry of Local Government and Lands shall be the executing agency.
3. NORAD, the Ministry and the relevant Botswana authorities shall meet each year in June in order to:
 - discuss and agree upon annual work plans and budgets for the subsequent year of the Programme. Such work plans and budgets, including as far as possible proposals referred to in Article V, 1 below, shall be submitted to NORAD at least 2 months prior to the meeting,
 - review the development and progress of the Programme, on the basis of progress reports,
 - discuss and agree upon possible changes in the Programme.

All recommendations and decisions shall be recorded in Agreed Minutes from the meeting.

Article III
Contributions and Obligations of Norway

Norway shall:

- subject to Parliamentary appropriations, make available to Botswana a financial grant not exceeding Norwegian kroner 40 000 000 (fortymillion) (hereinafter referred to as "the Grant") to be utilized to finance the Programme as outlined in Annex I,
- in accordance with Article V, 1 of the Main Agreement, provide technical assistance to the Programme within the limit of NOK 2 500 000 (twomillionfivehundredthousand) to be covered within the abovementioned Grant.

A. M. C

M.


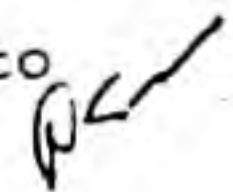
Article IV
Contributions and Obligations of Botswana

Botswana shall:

1. Be responsible for the planning, administration and implementation of the Programme, including all categories of works, purchases, transportation, control and other necessary services, hereunder provision of necessary personnel and land;
2. provide necessary land areas for development of employment opportunities and income generating activities. Documentation of available land must be submitted to NORAD before the Grant is used for infrastructure development;
3. bear all expenses that may be required over and above the Grant for a successful implementation of the activities to be undertaken under this Agreement, hereunder all recurrent costs for operation and maintenance, and ensure that adequate maintenance is provided;
4. promptly inform Norway of any condition which interferes with or threatens to interfere with the successful implementation of the Programme;
5. permit representatives of Norway to visit any part of Botswana for purposes related to this Agreement and to examine any relevant records and documents related to the Programme;
6. promptly grant free of charge all necessary permits, licenses and foreign exchange permissions that may be required in connection with the implementation of the Programme;
7. with respect to the expatriate personnel undertake the obligations stated in the Main Agreement Article V and Annex I;
8. work out rules and regulations for the Economic Promotion Fund. Norway shall be given an opportunity to comment on these rules and regulations, and the views expressed by Norway will be considered in finalizing them.

Article V
Disbursements - Reports

Botswana shall submit to Norway:

1. Proposals for activities to be funded under this Agreement. The proposals shall as far as possible contain a specification of objectives, justification, target groups, time schedules and cost estimates. The proposals shall be agreed upon by the Parties, and must be submitted to NORAD at least 2 months prior to the annual meeting.
- 
- 

2. As per 1 April and 1 October each year:
- a. Semi-annual requests for reimbursement of expenditures for goods and services to be financed by the Grant. Each request shall contain a statement of expenditures incurred;
- Reimbursement shall be effected upon approval by Norway of the request and the below mentioned progress reports.
- The first request may include expenditures incurred during the financial year 1987/88.
- b. Semi-annual progress reports. Such progress reports shall set out, inter alia:
 - i) The progress in relation to the established time schedules
 - ii) amendments, if any, of these schedules and of the cost estimates.
3. Audited accounts of the Programme within fifteen months after the closing of the accounts for each Botswana financial year.

Article VI
Monitoring - Evaluation - Reviews

In accordance with Article IX of the Main Agreement the Parties shall agree upon measures for evaluation reviews, and monitoring of the Programme activities. A joint Botswana - Norway field review of the Programme shall take place every second year, the first in 1990. The monitoring shall take place according to the Monitoring Plan, outlined in Annex II to this Agreement. The plan includes recording of development indicators by field staff, surveys and special studies.

Article VII
Disputes - Entry into force - Termination

1. If any dispute arises relating to the implementation or interpretation of the present Agreement, there shall be mutual consultations between the Parties with a view to securing a successful implementation of the Programme.
2. This Agreement shall enter into force on the date of its signature and shall remain in force until both Parties have fulfilled all obligations arising from it.
3. Notwithstanding the previous paragraph both Parties may terminate this Agreement by giving three months' written notice to the other Party.

SCHEDULE

1. The Agreement on support to the Accelerated Remote Area Development Programme is based on the request from the Government of Botswana in letter of 29 April 1987 from the Ministry of Finance and Development Planning to the Norwegian Ministry of Development Cooperation, and the Project Memorandum of 30 March 1987.
2. The main objective of the Programme is to contribute to the improvement of the living conditions of the Remote Area Dwellers, (RADs) of Botswana. This should be done by ensuring that public services are extended to RADs, that their economic opportunities are promoted and that they are ensured political and legal rights.

RADs are under this Agreement understood to be people living permanently outside established villages. They will mainly be descendants of ethnic minority groups living under poor conditions in remote rural areas.

3. The basic prerequisites for improving the living conditions of RADs under the Programme are recognized by the Parties to be:
 - securement of land areas to cater for productive employment development in and around settlements
 - provision of adequate water supply and water facilities in old and new settlements
 - provision of basic infrastructure and staff to enable public services like health care, education, transport, employment promotion, vocational training and extension services to take place in settlements
 - promotion and formal recognition of local institutions and local leadership to represent target groups
 - retainment of RADs cultural integrity.
4. The Programme includes activities in the following districts: Kgalagadi, Ghanzi, Central, Kgatleng, Southern, North West, Kweneng.

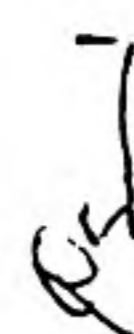
The Parties recognize that activities related to the proposed resettlement of the population presently living in the Central Kalahari Game Reserve shall not be a part of the Programme covered by this Agreement.

5. The Grant is envisaged to be allocated to Programme components as follows:

Education	NOK 11,8 mill
- classrooms	
- teacher quarters	
- offices	
- school-kitchens	
- hostels	
Health facilities	NOK 4,0 mill
Water development	NOK 13,0 mill
Vehicles	NOK 2,0 mill
Surveys, monitoring/special studies/ reviews	NOK 2,0 mill
Inventory/equipment	NOK 1,5 mill
Economic Promotion Fund	NOK 2,4 mill
Support to cultural activities	NOK 0,3 mill
Technical Assistance and Training	<u>NOK 3,0 mill</u>
	NOK 40,0 mill

Infrastructure development shall be implemented with reference to Project Memorandum of 30 March 1987.

6. The Economic Promotion Fund shall not be restricted to settlements identified for infrastructural development but be made available to all Remote Area Dwellers.
7. Reallocation of the Grant between the components listed under clause 5 may be agreed upon by the Parties.
8. All activities under the Programme shall be based on the principle of voluntary participation by the target population.




OUTLINE OF MONITORING PLAN FOR THE REMOTE AREA DEVELOPMENT PROGRAMME

1. General

The purpose of the Monitoring System is to provide a continuous assessment of the development of the Programme in relation to the Programme objectives, thereby making possible intervention if undesired consequences of Programme activities are exposed. The system shall also enable NORAD to follow up on the financial assistance granted to the Programme and to monitor whether the progress is in accordance with agreed Programme objectives.

The monitoring system will consist of two major functions:

- a general system of indicators for continuous registration by the Programme staff
- focused studies of critical issues to follow up information registered in the indicator system.

2. Main Areas of Monitoring

The main areas for monitoring of progress and development trends will be:

- progress of demographic and socioeconomic surveys
- establishment of settlement areas and allocation of land rights
- development of productive activities and economic selfreliance
- progress in infrastructure development and provision of public services
- progress in establishment of local institutions, leadership and political representation of target group.

3. Complete Monitoring Plan

A complete plan for the monitoring of the Programme activities will be prepared in cooperation between NORAD and the Ministry of Local Government and Lands.

A D D E N D U M

to

AGREEMENT

between

THE GOVERNMENT OF THE KINGDOM OF NORWAY

and

THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA

Regarding financial assistance to the Remote Area Development Programme

WHEREAS the Government of the Kingdom of Norway ("Norway") and the Government of the Republic of Botswana ("Botswana") entered into an agreement dated 6th September 1988 regarding financial assistance to the Accelerated Remote Area Development Programme ("the Agreement"), and

WHEREAS Norway has declared its willingness to provide further financial assistance to the Remote Area Development Programme.

THE FOLLOWING, therefore, which shall constitute an addendum to the Agreement, has been agreed between the Parties:

- Norway shall, subject to Parliamentary appropriations and the terms and conditions herein and the Agreement, provide an additional grant not exceeding NOK 19 million (nineteen million) ("the Grant"). The Grant shall be used exclusively to finance the Remote Area Development Programme during the period 1991-April 1993 and set out in the Agreement and specified in the Project Memorandum on LG 127 signed 12th July 1991 by the Ministry of Local Government, Lands and Housing, with such adjustments and further specifications as may be agreed upon at the Annual Meeting between Norway and Botswana in early 1992.

Botswana shall pay 30% and Norway 70% of the costs of the following components:

Construction (including Water Development)

Workshops and Leadership Training

Economic Promotion Fund

Cultural Activities

Labour Intensive Component

Information

Training

Not more than 55% of the total allocation for these components shall be used for Construction (including Water Development).

Norway shall cover the full costs of:

The Study and Monitoring Programme, budgeted at NOK 1.5 million.

Technical Assistance, budgeted at NOK 0.9 million.

This Addendum shall enter into force upon its signature by both Parties and shall remain in force until both Parties have fulfilled all obligations arising from it.

In witness whereof, the undersigned, acting on behalf of their respective Governments, have signed this Addendum in two originals in the English language.

Done at Gaborone this 3rd day of December 1991

For the Government of
the Kingdom of Norway

For the Government of the
Republic of Botswana

ADDENDUM NO. 2

to

AGREEMENT

between

THE GOVERNMENT OF THE KINGDOM OF NORWAY

and

THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA

regarding

Financial Assistance to the Remote Area Development Programme

WHEREAS the Government of the Kingdom of Norway ("Norway") and the Government of the Republic of Botswana ("Botswana") entered into an agreement dated 6 September 1988 regarding financial assistance to the Accelerated Remote Area Development Programme (the Agreement").

WHEREAS Norway and Botswana on 3 December 1991 agreed upon a 1st addendum to the Agreement ("Addendum No. 1"), and

WHEREAS Norway has decided to provide additional funds for an extension of the Programme until April 1994.

NOW THEREFORE Norway and Botswana have reached the following understanding which shall constitute Addendum No. 2 to the Agreement.

ARTICLE I

Norway shall, subject to Parliamentary appropriations, on terms and conditions set out or referred to in the Agreement, Addendum No. 1 and this Addendum, provide an additional grant not exceeding NOK 2 000 000 (twomillion) ("the Grant"), to be used together with remaining grants under Addendum No. 1 for financing of activities under the Programme, hereunder technical assistance personnel, research/studies, training, cultural activities and sponsoring of a regional conference.

The activities to be covered by the Grant shall mainly consist of ongoing activities under the Programme, and it is the intention of this Addendum to keep those activities going until the future of the Programme and the future Norwegian support to the Programme has been decided upon.

The allocation of the Grant to the different activities shall be agreed upon between Norway and Botswana in writing.

ARTICLE II

The Addendum shall enter into force on the date of its signature and shall remain in force until both Parties have fulfilled all obligations arising from it.

Notwithstanding the preceding paragraph, either Party may terminate this Addendum by giving three months written notice to the other.

In witness whereof the undersigned, acting on behalf of their respective Governments, have signed the present Addendum in two originals in the English language.

Done at Gaborone this 15th day of July 1993

For the Government of
the Kingdom of Norway

For the Government of the
Republic of Botswana

Annex 3:

Itinerery and People Met:

27 February
GABORONE

- Mr. O.O. Pitso, Permanent Secretary, MLGL&H
- Mr. B. Dintwa, Director of Local Government and Development, MLGL&H
- Mr. Kenosi, Sr. Planning Officer, MLGL&H
- Mr. M. Matome, RADP Coordinator, MLGL&H
- Mr. J.A. Munkeby, NORAD

28 February
GABORONE

- Mr. R. Jansen, Botswana Christian Council
- Mr. A. Campbell
- Mr. B. Moeletsi, University of Botswana
- Dr. C. Ng'ong'ola, University of Botswana
- Mr. Howard K. Sikwele, Ministry of Agriculture
- Mr. C. Sharp, Economic Consultancies
- Mrs. Alice Mogwe,

01 March
KANG

- Mr. N. Molepolole, SRADO

02 March
HUKUNTSI

- Mr. S.R. Malatsi, Asst. Council Secretary, Kgalagadi District
- Mr. E.S. Bojosi, ARADO
- Ms B. Gareitsanye, Sr. Education Secretary
- Mr I. Ghani, Sr. Accountant
- Mr. E. van Walsum, DO-D
- Mr. G. Sebela, Drought Relief Coordinator

ZUTSWA

- Mr. S. Peterson, SNV
- Mrs. J. Peterson, SNV

03 March
GHANZI

- Mr. M. Nakedi, RADO
- Mr. K.Kgorothle, ARADO
- Ms. Keoneetse Nagafela, Asst. Project Officer
- Mr.L. Masutlhe, Ag. Council Secretary
- Mr. A. Sebeo, Principal Personnel Officer

04 March

XADE

- Mr. Tuelo Sekalabwe, Headman
- Mr. Tshekelo Mogoladito, Deputy Headman
- Mr. Sekupa Motshabi, VDC Vice-Chairman
- Mr. Leleka Sekere, VDC Secretary
- Mrs. Gabomphiwe Lobelo, VDC Member
- Mr. Moeti Gaoberekwe, Councillor

05 March

GHANZI

- Mr. Hans Schmidt, Manager, Ghanzi Craft
- Ms. Liv Steimoeggen, Vol. teacher

06 March

GHANZI

- Mr. L. T. Matlhare, SRADO
- Mr. G.G. Sentsima, Land Board Secretary
- Mrs. M. Ngwenya, DO-D
- Mr. F. van Bussel, DO-L
- Mr. D. Nkete, P.Education Secretary

06 March

EAST HANAHAI

- Mr. Basiamo Gosiamo, Headman
- Mr. Johannes Kgomoatete, Councillor
- Mr. Segerese Katjiora, VDC
- Mr. Pele Tabate, VDC
- Mr. Fansel Xihara, VDC
- Mr. Agos Xukuri, VDC
- Mr. Xhegae Qabate, VDC
- Mr. Xihare Tshabu, VDC
- Mr. Thamku Qabate, VDC
- Mrs. Tshekelo Kgomoatete, VDC
- Mrs. Khoxo Thamae, VDC

07 March

CHOBOKWANE

- Mr. Moelenyane, Headman
- Mr. J.K.Mosaise, Councillor
- Mr. Tete Class, Chairman, VDC
- Mr. Kaoga Qamm, Vice-chairman, VDC
- Mr. Steve Class, Secretary, VDC
- Mr. Thamku Xau, VDC
- Mrs. Sarah Katsikanje, VDC
- Mrs. Elise Madumane, VDC
- Mr. Qnyao France, VDC
- Mr. Richard Banda, RADO, Charles Hill sub-district.

08 March

GHANZI

- Mr. Roy Sesana, First People of the Kalahari

D'KAR

- Mr. Hunter Sixpence, Kuru Development TRust
- Mr. Cees Otto, Kuru Development Trusr
- Mr. Braam Le Roux, Kuru Development Trust
- Mr. Kamana Phetso, Kuru Development Trust

09 March

MAUN

- Mr. O.D. Lefhoko, PRADO
- Mr. W. Machao, SRADO

KHWAI

- Kwere Serere, Headman
- Lesie Kwere, Chairman VDC
- Kiteretse Kwere, VDC
- Kerautsi Brown, VDC

MABABE

- Kgosietsile Kebuelemang, Headman
- Kajiso Xauwe, Teacher
- Passwell Ndobe, Asst. Project Officer

10 March

KAURE

- Boei Xomtsai, spokesman

MAUN

- Mr. M.C. Kabelo, Secretary to Council
- Mr. Mothibedi, Land Board Secretary
- Mr P. Smith

11 March

PHUDUHUDU

- Mr. Bobata Yokwe, Headman
- Mr. Trego Sankhawa, Chairman, VDC
- Ms. Boronamang Bobota, VDC
- Ms. Galeutwe Kure, VDC
- Mr.K. Gaolathe, VDC
- Mr. L.V. Ndjaiakana, tribal court clerk
- Mr. Pelotshweu Baeng, Asst. Project Officer

13 March

SEROWE

- Mr. A. Masalila, Chairman of District Council
- Mrs. M.Kabelo, PRADO
- Mrs. B. Coyne, DO-L
- Mr. G. Serebolo, DO-D
- Mr. S.A. Chilwa, Chief Community Development Officer
- Mr. K. Morakanyane, Senior Community Development Officer

- Mr. J. Broekhuis, DO-L
- Mr. M. Mogome, Land Board Secretary

14 March

MALATSWAE

- Mr. M. Thila, Asst. Project Officer

SEHUNONG

- Ms S.D. Bakgobi, Hostel Caretaker

15 March

GABORONE

- Mr. Nigel Hunter, MLGL&H
- Ms L. Molamu, Planning, Statistics and Research Division, MLGLH
- Mr C. Brown, Planning Officer, MLGLH
- Ms S. Mokgatlhe, Planning Officer, MLGLH

16 March

GABORONE

- Mrs. Ketsile Rathedi, Ag. Establishment Secretary, ULGS
- Mr. N. Winer, NRPM-DWNP, Ministry of Commerce & Industry
- Mr. C. Ntwaghae, NCS
- Ms. Marianne Jensen, IWGIA
- Ms B. Machacha, Director, Dept. of Lands, MLGLH
- Mr V. Rantshabeng, Dept. of Lands, MLGLH
- Mr B. Mannathoko, Principal Communal Resources Coordinator, Rural Development Coordination Division, MFDP

17 March

GABORONE

- Debriefing workshop

20 March

GABORONE

- Mr. Gaogakwe Phorano, Thusano Lefatsheng
- Mr. B. van Nieuwenhuizen, Botswana Orientation Centre
- Mrs. P. Mofolo, Botswana Orientation Centre
- Mr. Seth Sekate, CORDE
- Mr. P. Makgalemele, CORDE
- Mrs. K. Molokome, CORDE
- Mr. Mark Murray

21 March

GABORONE

- Sr. Bernadette Masekamela, Tirisanyo Catholic Commission
- Dr. E.K.Meena, Lutheran World Federation
- Mrs. G. T. Mosinyi, Botswana Christian Council
- Mr. L. Kucas, Botswana Christian Council

Annex 4:

List of those attending RADP Evaluation Seminar
17th March, 1995, at Oasis Hotel, Gaborone

Alec Campbell	Box 306, Gaborone
Clement Ngongola	UB, P/Bag 0022, Gaborone
S. Kebakile	MFDP, P/Bag 008, Gaborone
M. Kenosi	MLGLH, P/Bag 006, Gaborone
M. Ngidi	MFDP, P/Bag 008, Gaborone
Morris Nyathi	MFDP, P/Bag 008, Gaborone
Alice Mogwe	Ditshwanelo Centre, P/Bag 00416
J.A. Munkeby	NORAD, Box 879, Gaborone
K. Masetlhe	SNV, Box 617, Gaborone
B.P. Peloewetse	MCI, P/Bag 0014, Gaborone
M.P. Matome (Chair)	MLGLH, P/Bag 006, Gaborone
S.S. Lesejane	Dept. Culture & Social Welfare, P/Bag 00185, Gaborone
Eric Molale	Chief Economist (Rural), MFDP
Ansu Datta	Director, NIR,UB
Mark Murray	Box 802, Gaborone
Samora Gaborone	UB/DAE/CCE
Kenneth Good	Public Admin., UB
Staff Mokgatle	MLGLH, P/Bag 006, Gaborone
Gerard Prinsen	MFDP, P/Bag 008, Gaborone
Lungie L. Molamu	MLGLH, P/Bag 006, Gaborone
Chris Sharp	Box 924, Gaborone
Sam Mapulelo	Lutheran World Federation, Box 1645, Gaborone

Team Members

Johan Helland
Christina Skarpe
Stephen Turner

Logistics Consultancy

Doreen Nteta Box 114, Gaborone
Janet Hermans Fox 202406, Gaborone

SAVINGRAM

From: Director, Department of Local _____
Government and Development B. Dintwa

Tel.No.: 354338

To: Ministry of Finance and Development Planning
Attention: Principal Planning Officer III and Planning Officer I
Coordinator of Rural Development
Permanent Secretary, Ministry of Agriculture
Permanent Secretary, Ministry of Commerce and Industry
Director of Wildlife and National Parks
Permanent Secretary, Ministry of Labour and Home Affairs
Director of Lands
Principal R.A.D. Officers (Kgalagadi, Ghanzi, North West, Central Districts)

REF NO: LGD 1/3/1 1(2) 3 March 1995

RAD PROGRAMME EVALUATION SEMINAR, 17th MARCH, 1995

The Ministry of Local Government, Lands and Housing has engaged a Team to evaluate the RAD Programme. On Friday March 17th they will give a seminar in which they will present their findings and entertain questions, comments, and discussions. You are being invited to this seminar which will be held at the Oasis Motel on March 17th, 1995 from 9 a.m. to 4.30 p.m.

Please make an effort to attend and make your valued contribution to this very important Programme which we hope can be improved to better the lives of the unfortunate members of our society.

Please call Mrs. Doreen Nteta at 374114 or Mrs. Janet Hermans at 302798 to confirm your attendance in order that logistical arrangements can be made.

Annex 5:

**THE LEGAL FRAMEWORK FOR THE ASSESSMENT OF LAND RIGHTS FOR
BASARWA AND OTHER MARGINALIZED ETHNIC GROUPS IN
BOTSWANA.**

REPORT PREPARED FOR THE CHR. MICHELSON INSTITUTE BY:

1. C. NG'ONG'OLA

AND

2. B. MOELETSI

**LAW DEPARTMENT,
UNIVERSITY OF BOTSWANA,
GABORONE
MARCH 1995**

CONTENTS

I	Introduction	1
II	Aspects of Basarwa territoriality	4
III	Land rights in a historical context	10
IV	The Constitution and land rights	23
V	Reform of tribal land tenure	28
VI	Legal strategies for securing land for Basarwa	41
VII	Notes	46
VIII	Bibliography	59

CONTENTS

i	Introduction
ii	Aspects of Japanese territoriality
iii	Land rights in a historical context
iv	The connection with land rights
v	Reform of original land tenure
vi	Legal alternatives for securing land for business
vii	VI. M. 1911
viii	VIII. Bibliography

I INTRODUCTION

Although, as the name of the country suggests, Botswana is significantly populated by Tswana-speaking peoples, it is acknowledged that the most indigenous and aboriginal inhabitants of the country are the San or Basarwa, identified and described in some of the early literature as Bushmen.¹ Basarwa also have less admirable distinction of being perceived and depicted as the most marginalised of all the ethnic groups in the country.² Concern about the status, and the political and economic position of Basarwa in Botswana has been expressed in numerous reports and writings, official and unofficial,³ and lately at various conferences, seminars and gatherings, national or international.⁴ On some of these occasions the question of land, or "securing land rights for the Basarwa", has been identified as a most critical component in programmes for the upliftment and improvement of the position of Basarwa. This issue is probably attracting greater attention now because of recent global activism on the rights of indigenous peoples and the legal developments on aboriginal land rights in Australia and other parts of the world.⁵ As far as Botswana is concerned, however, this is not so recent an issue. In 1978, for example, a litigation consultant for the Attorney General's Chambers is alleged to have advised thus:

"As far as I have been able to ascertain the Masarwa (sic) have always been true nomads, owing no allegiance to any chief or tribe, but have ranged far and wide for a very long time over large areas of the Kalahari in which they have always had unlimited hunting rights, which they enjoy even today despite the Fauna Conservation Act. The right of the Masarwa

(sic) to hunt is, of course, very important and valuable as hunting is their main source of sustenance. . . . Without much clearer information it is impossible to give a confirmed opinion about the Masarwa (sic). Tentatively, however, it appears to me that the true nomad Masarwa (sic) can have no rights of any kind except rights to hunting."⁶

As will be confirmed in relevant sections of the ensuing discussion, the opinion erred in the legal assessment of the land rights as well as the hunting rights of Basarwa. The opinion was apparently in fact withdrawn by the Attorney General, not because of these errors, but because of the suggestion that Basarwa could conceivably acquire by prescription land rights protectable under the Constitution.⁷ Although the opinion was withdrawn for its favourable suggestions on Basarwa land rights, and thus, officially, not allowed to influence policy formulation, it has ever since attracted furious reaction from concerned researchers because of the erroneous portions. As if to ensure that Government shall not ever be misinformed again, anthropological descriptions began to emphasize, to the point of harping, the concept of "Basarwa territoriality". Under this concept Basarwa were not depicted as "true nomads", foraging and hunting over the entire and wide expanse of the Kalahari. On the contrary, it was suggested that specific groups and communities could be identified and associated with particular areas in such a way that they could be described as "owners" of their land.⁸

In some accounts, the identification and description of "territories" was pursued to the point of concluding that Basarwa conceptions of land tenure and land ownership in fact have never been that radically different from similar ideas and conceptions of their Bantu neighbours. One forceful submission of this

nature contended:

"... The only conclusion that can be reached is that San tenure has been, and continues to attempt to be, generationally stable and sanctioned by traditional native rules that are congruent with other Southern African systems ..." ⁹

According to this "revisionist" school of Basarwa territoriality, earlier accounts of Basarwa as pristine human foragers and hunters who lived *in tandem* with their ecological environment were not only historically inaccurate, but they also encouraged the legal disenfranchisement and dispossession of their land.

These sophisticated polemical arguments, accusations and suggestions on Basarwa territoriality are now confounding the issue which animated the discussions in the first place. This paper proposes to take the debate back to the basic issue of Basarwa land rights under the contemporary legal framework of Botswana. For a better appreciation of the contemporary position, it is necessary to revisit the historical aspects. This might also reveal the true genesis of the problem and assist in apportioning blame, if blame must be apportioned on this matter. For the polemicists, a quick riposte on the congruency of aspects of Basarwa territoriality and Tswana land tenure cannot be resisted. This issue provides the opportunity for suggesting that in the search for a better legal, political and economic order for marginalized communities in Botswana, forced comparisons and generalizations about traditional land tenure systems may be just as unhelpful as impugned romantic descriptions of pristine Basarwa communities in their Kalahari environment.

II ASPECTS OF BASARWA TERRITORIALITY AND TSWANA LAND TENURE

One of the ironies of Basarwa research in Botswana is that although much has been written and Basarwa are truly an over-researched people, much more still needs to be known and there is ample scope for further research.¹⁰ On Basarwa territories, there is copious and detailed literature on some of the groups and communities, but it is difficult to locate reliable comparative information on basic and general issues like the total population of Basarwa; possible "tribal" classifications; the spread and location of such "tribes" or groups within Botswana; and the extent or sizes of territories controlled by such "tribes", communities or other social units.¹¹

Although Basarwa communities were at some point in time located in most parts of the country, the bulk of the literature is on the communities and groups in or around the Kalahari desert region, most notably the *!Kung*, (or *Ju/'hoan*), of North Western Kalahari; the *Nharo* and other groups of Ghanzi and Western Kalahari; the *G/Wi* and *G//ana* of Central Kalahari; and the *!Xo*, (or *!Ko*) of South Western Kalahari.¹²

The Kalahari environment obviously shaped and influenced the tenurial concepts and practices of these communities. The perceptible environmental features of the region include sandy plains, in parts covered with tree and bush savannah, and interspaced with dry fossil river valleys and depressions called pans. The area is also semi arid and severely lacking in surface water, especially after the comparatively short rainy season,

between November and April. The rainfall is also generally low, averaging between 300 and 400 mm per annum, and droughts are a frequent phenomena.¹³

This environment was not conducive to a more sedentary mode of existence. The Basarwa inhabitants were thus described as "hunters and gatherers", people who "roamed about in search of game and wild vegetable foods upon which they depended for their existence".¹⁴ Hunting and gathering could not be pursued in large communities. The literature thus depicts Basarwa as organized in small communities or "bands" which controlled and exploited resources over definable ranges or territories, in patterns which were dictated by the availability of water, game and other food resources of the particular range.

Some of the ethnographic literature has produced interesting but perhaps sterile correlations of some of these variables. It has been noted, for example, that the !Kung of Dobe, an area of comparatively better rainfall and some permanent water resources, foraged in more fluidly composed groups, over territories which were less exclusively claimed, and in a pattern which led to the convergence of two or more groups over a permanent water source during the dry season and dispersal during the wet season. The G/Wi in the Central kalahari, an area possessing no permanent water holes and less abundant food resources, also lived in fluidly composed groups and in territories fairly accessible to non-members. But they apparently followed a pattern of foraging in larger groups during the wet season and dispersing into smaller units during the dry season in order to maximize the utilization of the food and water resources in the various parts

of the territory. The !Xo, in the harshest environment, with no surface water and the least abundant food resources, foraged in larger territories, in more compact groups which appeared to be constantly dispersed, and were more conscious of their territories and less tolerant of strangers or non-members.¹⁵

In all these Kalahari communities "a band" was depicted as the principal unit of the social structure. Within a band the core unit was a family, nuclear or extended, and a band was composed of clusters of families, their visitors and friends. Band membership, and with it the right to exploit the resources of band territory, was acquired by birth or marriage or through other admission processes. Bands were more than simple patrilocal or matrilocal resident groups. Their composition could be complex and fluid. There was constant interchange of members for a variety of reasons including marriage, competition over food resources, and the resolution of conflicts and other social tensions.

It would also appear that bands generally were not led by leaders in the mould of chiefs or headmen of, for example, the Bantu neighbours. The harsh mode of existence militated against the emergence of large, permanent units under centralized political leadership. This, however, did not deter some analysts from identifying core band members who appeared to occupy positions of leadership and could be described as "owners" or controllers of particular band territories. A mark of band leadership or "ownership of territory" was the ability to give permission, leave or licence to non-members wishing to have access to water and other resources of the territory.¹⁶ Given

the vagaries of the environment, the sharing of resources across bands was imperative. No band or community could be assured of all its food and water requirements at all times within its own area or territory. The need to share resources was also accentuated by the flexible and fluid composition of most of the bands and the considerable degree of fuzziness in the delineation of territory boundaries.

Most of these descriptions of Basarwa territories were of course ahistorical and timeless, frozen at the time of study by the particular anthropologist. This is one of the irrefutable arguments of those who contend that the theme of ecological determinism was overemphasized in the earlier ethnographic literature on the Kalahari Basarwa. As suggested by the "revisionists" in this debate, indeed there might have been a better appreciation of the position of Basarwa if greater emphasis was given to evidence of interaction and contacts between Basarwa and their neighbours.¹⁷ However, evidence of interaction and historical contacts between Basarwa and their neighbours might not support the conclusion that even the Basarwa communities which were not incorporated into Tswana polities eventually adopted tenurial rules and practices which were congruent with the rules and practices of their Tswana or Bantu neighbours.

There were obvious differences in social organization and social structure which cannot be accounted for by such a conclusion. One of the distinctive features of the Tswana system which can be cited here was the political, social and spatial organization of communities into "tribes" led by powerful rulers

or chiefs. The other feature was the more sedentary occupation and utilization of land in distinct zones involving permanent location of villages in one zone, arable lands and fields in a second zone, and cattle posts and grazing fields in a third outer zone.¹⁸

A superficial analysis of these aspects of Tswana land tenure can indeed create the illusion of similarity with Basarwa territoriality. A Tswana chief, for example, rather like a band leader, could and was often described as the "owner" of the land. It was also clearly appreciated that the land was held or controlled by the chief for the general benefit of his tribe, group or community. The tribes or communities, furthermore, were not closed social units. Possibilities existed for the co-option and admission of new members who would be entitled to share in the resources of the group. It was also apparent that some resources like grazing areas could be shared by members of distinct core groups, and they were not always precisely defined and demarcated. This also contributed to rivalries and conflicts over particular territories.

Such resemblances should not suggest congruency of tenurial rules. These are similarities which may be detected in most African tenurial systems which are otherwise vastly different. This is partly due to misuse of words and concepts which are frequently employed in these discussions like "owner", "trustee", "usufruct" or "communal land tenure".¹⁹ Unthoughtful use of these words and concepts can distort and obfuscate the true tenurial position, so too forced comparisons and generalisations. In the Botswana context, it is not certain that obfuscating the

differences between Basarwa territoriality and Tswana land tenure would substantially promote the cause of Basarwa. A review of contemporary laws below will in fact suggest that more harm is being done by the failure to acknowledge and accommodate unique aspects Basarwa land tenure and use.

III LAND RIGHTS IN THE HISTORICAL CONTEXT

The dispossession and displacement of Basarwa from their lands and territories was already under way by the time colonial rule was imposed over the peoples of Bechuanaland towards the end of the 19th century, but the cut-off period for this historical excursion will still be the imposition of colonial rule. In Botswana, as elsewhere in Africa, colonial rule brought new tenurial concepts and problems with an everlasting imprint. It will be appreciated in subsequent sections of the discussion that some of the intractable contemporary land problems, including the legal justifications for expropriation of Basarwa land rights, have their roots in this period.

Recognition of Settler Land Claims and "Freehold" Titles.

The proclamation of a British Protectorate over parts of Bechuanaland in 1885 was in some circles partly justified by the apparent need to check the activities of "filibusters and freebooters" who were allegedly running amok, grabbing land and all sorts of mining and commercial concessions from real and putative native chiefs and rulers.²⁰ In the northern part of the protected area, the investigation of these claims and concessions did not begin until after the emplacement of the necessary instruments of governance in 1891.²¹

In 1893, a "Concessions Court" was established by Proclamation to investigate and validate land claims and concessions secured from Native Chiefs before 5 May 1891.²² The

Court was mandated to assess the land claims in reference to pre-determined criteria which included considering whether the granting chief or ruler consulted his council before conceding the land; whether the nature of the transaction was properly explained to and understood by the granting chief or ruler; and whether the consideration given was adequate or sufficient. Although hardly any of the claims for exotic land titles like quit rent, leasehold or freehold could have completely satisfied the criteria set,²³ the court approved several claims which led to the registration of some of the well known freehold or private land farms of Botswana under quaint names like Hildaville, Ramatlabama Kuil or Panyani, Crocodile Pools, Forest Hill and Tracquair.

The work of the Court did not, however, yield significant amounts of freehold or private land.²⁴ The bulk of the land in this category came from government grants and direct government recognition of the claims of two commercial concerns, the Tati Concessions Ltd and the British South Africa (B.S.A.) company of Cecil Rhodes. The processes involved also left a greater imprint on the land rights of the indigenous peoples. The less expansive claims of the Tati company can be taken up first.

The Tati Concessions Ltd claimed 'considerable mining commercial and land rights in the entire Tati district by virtue of concessions secured by agents of its predecessor in title from Lobengula, the Matebele chief.'²⁵ There were at least two legal difficulties with this claim. First, the sovereignty of Lobengula over the area was not beyond dispute. It was indeed hotly contested by Khama of the Bamangwato. Secondly, it could

not have been the intention of Lobengula, or any other tribal leader, to cede rights to land which was under occupation by the indigenous inhabitants. The colonial administration was also willing to concede that the company was only entitled to "waste lands" and that it was not entitled to interfere with pre-existing rights.²⁶ However, perhaps partly as a result of difficulties in identifying such land, the company eventually received land in the entire area "in full and undisturbed possession" and as "owners" thereof.²⁷ For the indigenous and other African inhabitants of the area, a native reserve was created within which they were to be compacted as rent paying tenants. The government initially agreed to pay the company a sum of money in lieu of rentals from the tenants, but it eventually redeemed the obligation.²⁸

As can be gathered from most accounts on the early history of the Protectorate, the land claims of the B.S.A. company were linked to the future governance of the Protectorate. The administration of the Protectorate imposed an unwanted financial burden which the colonial administration was anxious to pass on to Cecil Rhodes, the *quid pro quo* being the extension of his company's sphere of influence to the Protectorate.²⁹ Cecil Rhodes conceived several projects in anticipation of the transfer of the protectorate to his company. One of these was the extension of the Mafeking to Bulawayo railway through the protectorate. This project was partly to be financed by grants of land which, unfortunately, the Protectorate administration was not in a position to make because the Crown was not yet a significant owner of land in the Protectorate.³⁰ The

Concessions Court of 1893 had been expressly mandated not to approve claims and concession obtained after the granting of the B.S.A. company charter in 1889 which were likely interfere with existing and potential interests of the company. This approach did not however yield much for the company.³¹

As is well known, land for the railway project was secured from three chiefs of some of the principal Tswana tribes, who ironically went to London on their famous 1895 trip to protest about the prospect of company rule. Secretary of State Chamberlain secured the land without any cast-iron guarantees as to the future of their Protected status.³² The prospect of company rule remained imminent, at least until the infamous Jamieson raid in late 1895 confirmed the argument of the chiefs that the company was an ill-suited repository of the "trust" of Protectorate administration.³³

The land was eventually demarcated along almost the entire eastern boundary of the country with the Transvaal, following the line of rail, in blocks which were called the Lobatse, Gaberones and Tuli blocks. The blocks were declared as Crown lands "abandoned" by the chiefs and then passed over to the company "absolutely" in a manner which was later replicated for the Tati lands described above.³⁴ Save for the right of the government to resume possession of some pieces for public works, there were no other qualifications to the titles granted. The two companies were also entitled and empowered to alienate or grant such lands or portions thereof "for terms of years or in perpetuity, and either absolutely or by way of mortgage or otherwise ..."³⁵ This is why the allocations to the two companies were regarded

as "freehold" grants, and the companies in turn became the major sources of "freehold" land in the Protectorate.

The second land project conceived by Cecil Rhodes which also survived the demise in the political fortunes of his company after the Jamieson raid involved the settlement of a column of Boer and English pioneers on the Ghanzi ridge, in the Western part of the country, to act as buffer against German expansion from South West Africa. The plan was formulated on the basis of untenable concessions secured from Sekgoma, chief of the Tawana of Ngami. Sekgoma's sovereignty over the area was questionable, but the administration was not overly concerned. Although territories of several Basarwa communities were located within the area, it was regarded as *terra incognita*, with "no legal owner", or vacant land which would have passed to the B.S.A. company anyway.³⁶ After the Jamieson raid, the Protectorate administration was presumably not averse to some form of European settlement in this remote part of the country anyway.

So, by 1898, about 37 families of Boer Trekkers were settled on the Ghanzi ridge and allocated farms averaging about 5,000 morgen in size.³⁷ The settlers received "Certificates of Occupation" which were supposed to confirm occupation of vacant land by the settlers and, at the same time, provide some government guarantee as to non-disturbance. The nature of the interest disclosed by the certificates however contradicted the fiction of occupation of vacant land. Land was granted in exchange of payment of a "quit rent" of one Pound per 1,000 morgen to the Protectorate administration. This was not a lease, because the grant was for an indefinite period. It was a

perpetual interest which could be sold or alienated by the grantee. But it was not a freehold grant of the type allocated to the B.S.A company or the Tati company because of the obligation to pay rent and the government's right to repossess for non-payment of rent.³⁸ This confirmed that the Crown or the Government was the source of the grants.

The obligation of the grantees to pay rent was eventually abolished in 1940, but the conversion of the anomalous quit-rent interest into freehold grants was completed only towards the end of colonial rule.³⁹ This process was partly held up by the need for proper surveys and precise demarcation of the farms and the Ghanzi settlement area. Although the original certificates contained a survey clause, the government was not able to enforce the condition, and the precise extent of the farms and the settlement area remained unknown for a long time.⁴⁰ When proper surveys were eventually conducted at government expense, it was in the context of laying out more freehold farms for further European settlements.⁴¹ And even at this late stage, in the twilight of Colonial rule, the Protectorate administration was not overly concerned with the rights of the dispossessed Basarwa communities.

Creation of Native or Tribal Reserves

The creation of private or freehold land titles involved the dispossession of some indigenous communities, like the Basarwa of Ghanzi, as well as the legal recognition of some of the claims of some of the leaders of the other ethnic groups who gave away land. It was part of Secretary Chamberlain's bargain with the

three Tswana chiefs, for example, that identification of land for the railway project would also involve definitive demarcation and delineation of tribal territories which would then become exclusive tribal reserves.⁴² This complicated exercise, entrusted to a Major Goold Adams, took several years to complete. The first Proclamation to formally identify "Native Reserves" for the Ngwato, Ngwaketse, Kwenana, as well as for the Tawana and Kgatla, was dated 29 March 1899.⁴³

Four other reserves were incrementally added to the original list over a period of three decades. First, the Maletse, who in 1899 were denied a reserve on account of the small size of the tribe and their land,⁴⁴ eventually got it in 1909.⁴⁵ In 1911, as noted above, the proclamation of the Tati area as freehold land belonging to the Tati company also involved the creation of a reserve for the dispossessed ethnic groups.⁴⁶ The next reserve to be proclaimed was for the Tlokwa of Gaborone in 1933.⁴⁷ The reserve was proclaimed on land transferred by means of a deed of grant from the B.S.A company to the Protectorate administration. Batlokwa land had been earmarked for transfer to the B.S.A. company as part of the railway-land scheme but it was not feasible to relocate the tribe to a different tribal area. The administration eventually negotiated the transfer of title from the company to the Crown in exchange for the settlement of the claims of the company to mineral concessions in the Ngwato territory.⁴⁸

The last reserve to be proclaimed was for the Barolong in the South-Eastern corner of the Protectorate. This was another special case of a reserve.⁴⁹ The land in question had by 1895

been surveyed and demarcated into 41 farms of approximately 3000 morgen each which were allocated to senior tribesmen and relations of Chief Montshiwa of the Barolong. The intention was to have the allocations registered in the Deeds Registry as freehold titles. They were registered in 1896 under "Certificates of Occupation" which conferred a life occupancy in return for a rental payment of 1 Pound 10 shillings to the Chief. Over the years, the administration consistently refused to upgrade the certificates into freehold titles. The farms were thus neither freehold nor typical tribal holdings. They were simply formally regarded as part of tribal land or reserves for administrative purposes as from 1935.⁵⁰

It should be apparent from the manner in which the reserves were created that the various inhabitants were not accorded the same status under the law. In the Tlokwa reserve the inhabitants did not have legal title to the land. They were effectively "tenants at will", living under the sufferance of the Crown, the legal holder of title, although perhaps this may not have been too obvious from the continuing customary use and occupation of the land. The inhabitants of the Tati reserve were also tenants, either of the legal holder title, or of the administration which by agreement was initially obliged to meet their rental obligations. In this case, however, the administration was empowered to prevent the title holder from interfering "with occupation of the land by the natives",⁵¹ and to issue regulations on use and occupation of the land by the native inhabitants.

The legal position as regards the Barolong farms was even

more confused. The certificates were presumably in the nature of the quit rent certificates subsequently granted to the Ghanzi settlers. But the rental was payable to the chief, not to the administration. There was no suggestion that the chief was thereby constituted the legal owner or holder of title. He presumably retained his customary role as tribal guardian or trustee. The recipients, as noted above, avidly sought freehold titles, without much success. In the absence of such titles the land could not be classified as freehold or private land and the recipients were not in the legal position of other holders of private land. The certificates and the obligation to pay rent however somewhat transformed the holdings from the normal or traditional customary interest. There were also other traditional occupiers or users of the land who by virtue of the certificates had been converted into tenants at will of the certificate holders but presumably continued to exercise their customary rights.

In the other six, archetypal, tribal reserves, legislation merely described or adjusted the boundaries without touching on issues of rights and title of the inhabitants. The position taken by the colonial administration was generally that land in those areas belonged to the chief and tribe occupying the area. Customary law, which in these areas was predominantly Tswana law, continued to govern tenorial arrangements, subject to such modifications as were required for purposes of maintaining "order and good government". This, to some extent, was a unique arrangement. In other colonial possessions the demarcation of tribal reserves was subsequently followed by the transfer of

title and ownership to the Crown, to be held and administered by colonial officers in trust for the indigenous peoples.⁵² This was not the type of trust which could be legally supervised in the Courts.⁵³ If, therefore, the responsible officer decided to alienate or otherwise deal with reserved land for extraneous purposes, there were hardly any prospects of legal intercession. In Bechuanaland, on the other hand, tribal leaders retained considerable autonomy over their land. It is notable, for example, that the administration did not even have the power to expropriate for public purposes.⁵⁴ Tribal land required for such purposes had to be secured through negotiations. And when the administration sought more effective legislative powers for the expropriation of property generally, tribal land was carefully and consciously left out of the ambit of the law.

Appropriation of Crown Lands

When the decision to identify and demarcate reserves for the principal Tswana tribes was taken in 1895, the other objective of the exercise was to identify land which could be retained by the administration or given to the B.S.A. company as the putative heir to the Protectorate. This is the land which became Crown lands *de facto* and *de jure* after the B.S.A. company was disinherited from taking over the Protectorate.

As can be imagined, this process too was surrounded by legal uncertainties and confusion. First, there was no constitutional basis or legal justification for making over to the B.S.A. company land which it had not itself secured by means of concessions and treaties. For this reason, even the legal status

of the land which the three Tswana chiefs had agreed to cede for the railway project was uncertain, at least until the enactment of the Order in Council of 1904 which declared as Crown lands "the lands abandoned by the Chiefs Khama, Sebele and Bathoen" before title was passed, in freehold, to the B.S.A. company.⁵⁵

The definition of Crown lands under the 1904 Order was also too narrow, and could not justify the claims of the administration to the so called "vacant" or "waste lands" of the Protectorate. It was this "deficiency" in the law which the Bechuanaland Protectorate (Lands) Order in Council of 1910 sought to rectify. The Order redefined Crown lands as:

"all other land situate within the limits of the ... Protectorate elsewhere than in the Tati District ..., with the exception of
 (1) Such land as is either
 a) included in any native reserve duly set apart by Proclamation or
 b) the subject of any grant duly made by or on behalf of His Majesty; and
 (2) the forty - one farms known as the Barolong ..."⁵⁶

Crown lands so defined were "in addition to the Crown lands defined by the [1904] Order". This was inelegant drafting because, as noted above, some of the Crown lands mentioned in the 1904 Order had already been converted or were destined for conversion into freehold or private land. Furthermore, included within the new definition were lands or areas which were not waste, vacant or abandoned by their "owners", and which the Crown had not acquired by treaty, cession or conquest. This definition had the effect of vesting in the His Majesty's High Commissioner vast expanses of territory which had not been secured for the Crown in the required legal manner. Since the reserves excepted from the definition were delineated mainly for the Tswana

speaking tribes or communities, the Crown effectively claimed title to land belonging to Basarwa, Kgalagadi and other voiceless minority ethnic groups who were not incorporated into the recognized Tswana tribes or territories. The 1910 Order can thus truly be regarded as the first legal instrument to legitimize the dispossession of minority ethnic groups.

In contrast to the situation in the tribal reserves, the indigenous inhabitants of Crown lands in various parts of the Protectorate were accorded uniform status under the law. They were all regarded as tenants at will of the Crown who could be moved or removed as the colonial administrators saw fit. The Crown did not demand rent for the use and occupation of the land, and in some districts tribal modes of occupation and use continued without significant, perceptible changes. However, the precarious existence of the indigenous inhabitants on Crown lands was always apparent when the land had to be disposed off for settler occupation or other purposes. The administration was not legally obliged to consult or compensate the affected groups or communities.

The evolution and implementation of fauna conservation laws also confirmed the precarious status and legal position of the indigenous inhabitants of Crown lands.⁵⁷ Although the protectorate administration regarded it as its prerogative to control and regulate the hunting and exploitation of wild animals in all parts of the protectorate, it was also expedient to allow chiefs in the tribal areas complete autonomy over the formulation and implementation of rules and regulations applicable in their respective areas. The administration did not even insist on

harmonization and uniformity of rules and regulations applicable in the various tribal territories. No such autonomy was enjoyed by the inhabitants of Crown lands. Yet, for some of these communities, the right to hunt was an extremely important proprietary right, linking the group to the particular territory or area. Furthermore, throughout the colonial period and beyond, numerous and complicated rules and regulations whose effect was to abridge traditional hunting and gathering rights were formulated and implemented without consultation, and without sufficient regard the importance of hunting and gathering to the affected communities.⁵⁸

IV THE CONSTITUTION AND LAND RIGHTS

The system of land classification and the forms of tenure which emerged after the proclamation of Crown lands and demarcation of the reserves survived with minimal modifications until the attainment of independence in 1966.⁵⁹ Botswana attained independence under a Constitution which incorporated a fairly comprehensive and typical "Bill of Rights". Several provisions of the Bill which directly or indirectly refer to land rights may have a bearing on the minority land rights issue.

The first such provision is section 8(1) which seeks to provide some form of "protection from deprivation of property". The provision begins with the emphatic words :

"No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied ..."

And the principal conditions require that the taking or acquisition must be necessary or expedient in the interests of certain specified public purposes; provision must be made for the "prompt payment" of "adequate compensation", and for the remission of compensation paid to any country of choice outside Botswana; and there must be a right of access to the High Court for the determination of disputes pertaining to the legality of the acquisition or the amount of compensation payable.

In several African countries this type of protection of property was included in constitutional instruments for the attainment of independence with the principal aim of assuring

settler or European communities that land titles acquired during the colonial era would not be arbitrarily repossessed by the new African rulers.⁶⁰ The ample drafting of the provision, however, could literally secure the protection of "property of any description" or any "interest in or right over property of any description". If the issue arose, for example, it could be contended that if the right of a particular group or community to hunt or forage within a particular area or territory is not "property", it must be "an interest in or right over property of any description". If such a right was to be abridged or taken away, the constitutional safeguards would have to be complied with. In the post-colonial era, therefore, the type of dispossession or non-recognition of minority land use rights which occurred during the colonial era should not recur without strict compliance with the stipulated constitutional requirements and safeguards.

The second provision in the Bill of Rights which refers to land rights of a particular minority group is section 14. This provision generally seeks to guarantee or secure, primarily for citizens of Botswana, "protection of freedom of movement". In the context of the provision this refers to "the right to move freely throughout Botswana, the right to reside in any part of Botswana, the right to enter Botswana and immunity from expulsion from Botswana."⁶¹ As is to be expected, there must necessarily be derogations from freedom of movement. The Constitution accepts that it might necessary to impose restrictions "in the interests of defence, public safety, public order, public morality or public health ..."⁶² It is also acknowledged that

restrictions "reasonably justifiable in a democratic society" might be imposed "on the acquisition or use by any person of land or other property in Botswana".⁶³ These are not untypical qualifications in a Constitution of this nature.

A peculiar and unique qualification from the protection of freedom of movement is however to be found in section 14(3)(c) which permits "the imposition of restrictions on entry into or residence within defined areas of Botswana of persons who are not Bushmen to the extent that such restrictions are reasonably required for the protection or well-being of Bushmen". This is probably the only provision in the Constitution which specifically acknowledges the special needs of Bushmen. As will be amplified below, another provision in the Bill, section 15, attempts to outlaw discrimination and differential treatment of persons on the basis of race, tribe, place of origin, colour, creed and other factors. However, a special qualification is included in section 15 to legitimize the type of discrimination likely to result from the curtailment of the freedom of movement for the sake of protecting Bushmen.

The question which arises is whether section 14(3)(c) was intended to be a belated recognition of the exclusive title of Bushmen communities to certain areas of the country. If so, can this provision be invoked to secure exclusive land titles for particular communities?⁶⁴ The motives behind the provision can perhaps be located in the background to the establishment of the Central Kalahari Game Reserve in 1961.⁶⁵ The creation of the reserve was recommended by a "Bushman Survey Officer" who thought that it would be a sanctuary for the faunal species of the

Kalahari as well as for between three and five thousand Bushmen who had apparently expressed the "wish to remain ... in their ... environment, ... and to continue to follow their present life of hunter-food gatherers without interference or encroachment by other peoples ..."⁶⁶

The Officer was apparently concerned with securing land for the Bushman inhabitants of the area, but he feared that a proposal to establish a tribal reserve would attract fatal opposition from powerful groups like the Ghanzi settlers and the Tswana overlords. He strategized that the proclamation of a game reserve with full hunting and occupation rights for the Bushman inhabitants would achieve the desired ends without much opposition. The Officer drafted appropriate regulations which also sought to restrict entry of unauthorised persons into the reserve for a variety of reasons. One of these was unreasonable intrusion by anthropologists, researchers, tourists and others fascinated by the Bushman way of life.⁶⁷ When the law and relevant regulations were eventually promulgated, the restrictions on entry into the reserve were sanctioned but not the hunting and occupation rights for the Bushmen.⁶⁸ The only concession given to the Bushmen inhabitants was the right to enter the Reserve without first obtaining the permission from the District Commissioner for Ghanzi.⁶⁹

One can detect in section 14(3)(c) this reluctance to fully acknowledge the land rights of Bushmen while, at the same time, restricting access to their habitat for more than one reason. If the issue arose, therefore, the provision is likely to be interpreted in a literal sense,⁷⁰ as suggesting that certain

bushman habitats are "out of bounds" for various persons. It could not have been the intention of the framers of the Constitution to affirm Bushman land rights through a derogation from the protection of freedom of movement. It would have been done differently, in a more direct manner. As will be confirmed below, there are several more direct ways of securing land for Basarwa under the existing legal framework.

The third pertinent provision of the Bill Rights on land matters is the controversial section 15 which, as noted above, seeks to render unconstitutional discriminatory provisions of any law. The utility of this constitutional guarantee in the minority land rights debate is however curtailed by the numerous qualifications and derogations permitted. In addition to protection and differential treatment of Bushmen in terms of section 14(3)(c), the qualifications notably permit enactment and implementation of laws which discriminate against persons who are not citizens; differential treatment in matters of personal law such as marriage, divorce, and devolution of property on death; or differential application of customary law to members of a particular race, community or tribe.⁷¹ It is also generally permissible to differentiate or accord privileges or advantages which, having regard to the special circumstances, can be said to be "reasonably justifiable in a democratic society."⁷² There is thus ample scope for the justification of legislation which may appear to confer or acknowledge varying land rights and privileges for different communities.

V **REFORM OF TRIBAL LAND TENURE AND ACCOMMODATION OF THE RIGHTS
OF MINORITY ETHNIC GROUPS**

Barely two years after independence, the Tribal Land Act of 1968 proposed the transformation of the land tenure system which had been left intact after the demarcation of the Native Reserves in the 1930's. In parliament it was suggested that the tribal system of land was in need of modernization as it could not readily accommodate "modern concepts and practices in land use".⁷³ Other underlying and understated considerations and concerns included the perception that the system could no longer assure all Batswana of access to land, and that there was also a need for the "democratization" of land administration in a young democracy. On the part of the new rulers, perhaps the need to exert greater control over land administration was also an imperative for purposes of strengthening the hand of government.

Establishment of Land Boards

The first major aspect of the reforms was the establishment of land boards to take over the land administration functions and powers of chiefs and tribal leaders in scheduled tribal areas. Provision was made for the constitution of a "main board" for each "tribal area" and as many subordinate land boards as the President could establish.⁷⁴ Nine land boards were originally established to operate in areas roughly coinciding with the former tribal reserves.⁷⁵ It should be recalled that eight of the reserves were for the so-called principal Tswana tribes. In

1976 three more boards were established for Chobe, Ghanzi and Kgalagadi tribal areas which were excised from State land and redesignated as Tribal Territories.⁷⁶ There have been no further additions to the total number of main land boards, but some of the tribal areas have been redefined several times.⁷⁷ More than 33 subordinate land boards have been established since the first Order constituting subordinate land boards was published in 1973.⁷⁸

For Basarwa, Bakgalagadi and other minority ethnic communities, the redesignation of their areas as tribal territories, amounted to a significant improvement in their tenurial position and legal status. Their incongruous position as tenants at will of the Crown or the State belatedly came to an end. They were now entitled to the same status and rights accorded by the Act to all the inhabitants of the tribal territories. This, however, did not amount to a completely satisfactory accommodation of the interests of the affected groups. Some of the key provisions of the Tribal Land Act should have been amended to accommodate their different tenurial practises and experiences. On the constitution of the land boards, for example, perhaps more than one "main board" was required for some of the areas which did not have the experience of strong, centralised tribal arrangements. This also called for built-in flexibility in the rules on board composition which were far too rigid and generally unsuitable for the new tribal areas.⁷⁹

Basic Powers and Functions

Section 9 of the Act conferred upon each main land board corporate status and the ability to sue and be sued in its own name, and the general power "to do anything or enter into any transaction" which in its opinion could facilitate the discharge of its statutory functions. In the original version of the Act, the principal reason for the establishment of land boards was indicated thus in section 10(1):

"All the rights and title to land in each tribal area ... shall vest in the land board set out in relation to it ... in trust for the benefit and advantage of the tribesmen of that area and for the purpose of promoting the economic and social development of all the peoples of Botswana."

Section 10(2) then attempted to clarify that the vesting in the land board of rights and title to land did not include "any land or right to water held by any person in his personal and private capacity."

These provisions echoed two widely held perceptions of customary land tenure.⁸⁰ Section 10(1) reflected the perception that land belongs to the community or tribe and is held by the chief, not as an owner, but as a trustee or guardian. The land board was constituted as a trustee in place of the chief, but perhaps, now, with a more concrete legal title, given its corporate status, basic powers and other statutory functions. Section 10(2) also probably purported to reflect the security of tenure which an allocatee of land rights enjoyed under customary law. Such rights could not be taken away or interfered with by the chief or other trustee or guardian without good cause.

The language used to convey these ideas in statute form however left room for serious controversies. In section 10(1)

the reference to a "tribesman" as the beneficiary of the trust posed several problems. Section 2 of the Act defined a "tribesman" as "a citizen of Botswana who is a member of the tribe occupying the tribal area." This suggested that the trusteeship of each board was primarily for the benefit of members a particular tribe in the area. This was indeed confirmed by section 20 which prohibited land boards from granting customary land rights to any person who was not a tribesman, unless he or the class to which he belonged received special Ministerial exemption. This restriction was not workable in some peri-urban areas where members of different tribes congregated. It also meant that contrary to the spirit of section 10(1), the trust of the land boards could not be administered for "the economic and social development of all the peoples of Botswana."⁸¹

The second problem was that neither the Tribal Land Act, nor any other statute *in pari materia*, provided the criteria for the determination of "membership of a tribe". In the Constitution and other statutes on tribal administration the word "tribe" is used in reference to the eight principal Tswana tribes and the words "tribal community" refer to other ethnic groups.⁸² But even this usage does not suggest that other ethnic minorities cannot be members of the Tswana "tribes". Any suggestion that members of minority ethnic groups in the Tswana tribal areas were not members and therefore not entitled to land allocations from the land Boards was misconceived.⁸³ The Tribal Land Act did not so suggest. Indeed, according to Schapera, the doyen of Tswana tribal law, minority ethnic groups were also members of some of

the principal Tswana tribes.⁸⁴

As for section 10(2), the High Court in the celebrated case of *Kweneng Land Board v Kabelo Matlho and others*⁸⁵ took the view that its true import was to exclude from the right and title of the boards, and from the entire system of land board administration, any land or water rights held by any person by the time the system started operating in 1970. The Court held that this provision effectively recognized that the ownership of such rights was reposed in the particular holder, and he had the right to dispose off the land without intervention from the relevant land Board. He could even sale the land if such a transaction was comprehended by the evolving customary law of the area. The Court suggested that any person who acquired tribal land before the land boards were constituted and held it in a personal or private capacity effectively possessed an unregistered freehold title.

The Court of Appeal refused to demur at this astonishing conclusion.⁸⁶ It fell to Parliament to attempt to clarify the position. The Tribal Land (Amendment) Act of 1993, which also substantially revised the law, deleted the beguiling section 10(2). Among the other important changes effected was the substitution of the words "tribesmen of that area" in section 10(1) with the words "citizens of Botswana", and a similar substitution of the word "tribesman" where it occurs with the word "citizen". It is now clear from these amendments that citizenship, not tribal affiliation, is the primary qualification for entitlement to land in any tribal area. All other parameters being equal, any citizen from any part of the country or from any

ethnic community should have the same access to land in a tribal area as a citizen who could be described as indigenous to the particular area.

The simple deletion of section 10(2), however, has left a number of issues uncertain. It is clear that Parliament disagreed with the Courts over the interpretation of the provision, but it is not certain that the decisions of the Courts have, *ipso facto*, been overruled. It has also been clarified that land boards have the jurisdiction to supervise and control all tribal land dealings in the particular tribal area, but the right and title of the Boards to land held or occupied by individuals or groups before the establishment of the boards has not been clarified. The form and security of tenure enjoyed by land holders is also not legally certain. We can surmise that such rights are in the nature of "customary rights of user" which even the land boards may not cancel or take away without due legal process as required by the Constitution and the Act.

Grant of Customary Land Rights

The specific functions of the land boards were described in distinct parts of the Act dealing with grant of customary land rights and grant of land rights under the common law. Section 13(1) in Part III, on grant of customary rights, reinforced the description in section 10(1) of the land boards as the new custodians of tribal land. In its original form it stipulated that "All the powers vested in a chief under customary law in relation to land ... shall be vested in and performed by a land board." This specifically included powers pertaining to granting

of rights to use any land; cancellation of such grants; resolution of disputes; and imposition of restrictions on the use of tribal land. Other additional functions which the boards were mandated to discharge in connection with customary grants were policy formulation, planning and the zoning of areas for exclusive use as grazing areas or as commonages.⁸⁷

These specific duties of land boards were substantially revised by the 1993 amendment Act. Section 13, the linchpin provision, was redrafted to confirm and clarify that land Boards held all the powers "previously vested in a chief and subordinate land authorities under customary law in relation to land." This included "authorizing" any "transfer of tribal land" or "change of user". Section 15 on grounds for cancellation of grants added a new ground permitting cancellation where the land in the opinion of the Board had not been satisfactorily used, cultivated or developed without sufficient excuse.⁸⁸ On dispute resolution, a new provision was formulated to provide for the establishment of land tribunals to which appeals from land board decisions could be taken.⁸⁹ And sections 17 and 18 on "zoning" were rewritten and combined so as to clarify and emphasize that this function applied to planning and zoning for all categories of land use. These were all well considered and necessary revisions.⁹⁰ But if there must be criticism of the amended law, it is that the regulations on allocation of land were not revised at the same time to correct known, serious short-comings, and to accommodate "customary rights of user" of other minority ethnic groups who were now also the beneficiaries of the trusteeship of land boards in the various tribal areas.⁹¹

Grant of Land Rights under Common Law

The description of the functions of land boards in Part IV of the Act reflected the modernization objective of the law. It was envisaged that tribal land tenure could be modernized by granting of common law rights of ownership and leasehold rights. Although it was permissible under the Act, it would appear that land boards were not too keen to grant rights of ownership to individuals.⁹² The 1993 amendments have now clarified that this common law right may only be granted to the State.⁹³

Two types of leasehold grants were envisaged. In terms of section 23, a "short leases", determinable upon one month's notice, could be granted in respect of land not exceeding five acres in extent. Such leases were presumably devised for short term industrial, commercial, agricultural or horticultural ventures by non-tribesmen. In terms of section 24, land boards could also grant "long leases", to tribesmen or non-tribesmen, and for such purposes and upon such terms and conditions as would be determined by the board. These leases were registrable under the Deeds Registry Act and, in the language of the law of property at common law, this conferred upon the lessee "real rights" in land. Perhaps because of the fundamental transformation of tenure involved, Ministerial consent was a prerequisite for such a grant regardless of status of the applicant as a tribesman or non-tribesman, citizen or alien.⁹⁴

The 1993 amendments removed the requirement for Ministerial consent for citizen applicants under the guise of facilitating the allocation process and encouraging further modernization and commercialization land tenure.⁹⁵ The amendments also removed the

"sensible"? requirement for the consent of the board, the owner and lessor of the land, in the following situations: where the land has been developed to the satisfaction of the board; in the case of a sale in execution to a citizen; a hypothecation by a citizen; or the devolution of such land on inheritance.⁹⁶ These "improvements" in the law need not be queried in respect of long leases for industrial, commercial or residential lots in peri-urban areas.

As for agricultural leases, especially those granted under the Tribal Grazing Land Policy, (TGLP), the case for relaxation of the acquisition or cession requirements was not that strong. Launched in 1975, the TGLP was the manifestation of Government's desire to modernize tribal land tenure.⁹⁷ The policy was informed by the classical modernization argument that "communal" land tenure systems do not provide sufficient incentives for individual efforts to develop land resources. In the context of pastoral, rural Botswana, "communal use" of tribal grazing areas was blamed for overstocking and serious denudation of resources. It was assumed that the allocation under leasehold titles of private or exclusive ranches would reduce overstocking and ameliorate the problem of land degradation. These arguments and assumptions behind the policy would suggest that continued official monitoring of the allocation of the leases and of the observance development covenants and title conditions would still be necessary, and greater commercialization of the interest would not be so desirable.

The TGLP leases are also of importance as regards the theme of this discussion. The implementation of the policy brought to

the fore the question of Basarwa land rights.⁹⁸ One other assumption behind the policy was that there were vast stretches of cattle-post land in tribal areas which could be zoned as commercial areas for allocation of the exclusive ranches. Preparatory work revealed that designated commercial areas in some of the tribal areas contained significant numbers of Basarwa communities.⁹⁹ Exclusive ranches could not be allocated in these areas without the displacement of the communities.

At least two legal opinions were sought in the matter, the second being the one quoted at the beginning of this paper. According to the first legal opinion, the Tribal Land Regulations provided some indication of the solution to the problem.¹⁰⁰ Regulation 21(4) required of each land board, when submitting a draft agreement for Ministerial consideration, to examine its register for certificates of customary land grants and certify whether or not customary rights subsist in respect of the land, and state whether or not the owner of such rights had been informed of the proposed lease and consented to it. Regulation 21(5) stated that "As long as customary rights in respect of a piece of land subsist no grant of that land shall be made which would conflict with such rights without the consent of their owner".¹⁰¹ Although the regulation did not expressly so state, if consent was not obtained, or was improperly obtained, any resulting registration could be invalidated.

Regulation 21(5), read independently, can be interpreted as capable of protecting all subsisting customary rights. When read in conjunction with regulation 21(4), it would appear that the intention was to protect the customary rights registered under

section 16(2) of the Tribal Land Act. The customary rights of Basarwa in land targeted for the allocation of TGLP ranches were obviously not so registered. This did not mean that Basarwa in those areas had no land rights recognizable in law. It was inaccurate for the second legal opinion cited above to so suggest, and wrong for some of the government officers and land board officials responsible for the programme to act in that belief. As noted earlier on, section 8(1) of the Constitution covered "property of any kind" or "rights or interests in or over property of any kind". Basarwa "rights of user" are rights in or over property and should not have been extinguished without due process as required by the Constitution.

A second argument could be advanced. Existing customary rights in property were not, *ipso facto*, extinguished by the enactment of the Tribal Land Act. On the contrary, as shown above, one interpretation of the repealed section 10(2) was that such rights were not only preserved, but they were also placed beyond the administrative powers of the land boards. This interpretation of section 10(2) was probably wrong, but land boards as successors in title of tribal authorities, were nevertheless not empowered, either by the Act or customary law, to arbitrarily cancel or extinguish such rights. The Act gave the land boards the power to cancel grants, including those "made prior to the coming into operation of [the] Act",¹⁰² but only on very specific grounds enumerated in section 15. These grounds did not include requirement of the land for TGLP leases. It was therefore unlawful for land boards to make TGLP grants of land with subsisting Basarwa rights, or to claim, as some land Boards

still do, that the allocation of exclusive rights to the lease will extinguish "all customary rights in the area".¹⁰³

Other Notable Aspects of the 1993 Amendments

Two other aspects of 1993 amendments to the Tribal Land Act deserve brief mention although they may be somewhat removed from the principal theme of this discussion. One aspect is the measure of compensation for "privately owned customary rights" taken over or extinguished for public purposes. Under the original Section 33(1), the land board was mandated to grant the deprived occupier "a right to use land elsewhere of equivalent value to the land" taken over by the State. Section 33(2) further stipulated that the deprived occupier would additionally be to compensation for the value of standing crops and for the value of unexhausted improvements effected to the land. The problem with the principal measure of compensation was that the allocation of land of "equivalent value" by the land board could not always be assured, especially where the resources of the board were finite.¹⁰⁴ This also raised the moot point as to whether the deprived occupier was thereby assured of "prompt payment of adequate compensation" as required by section 8 of the constitution which, as hinted above, draws no distinction between expropriation of private land and tribal land in the prescription of the Constitutional requirements.¹⁰⁵

The new section 33 introduced by the 1993 amendments attempts to clear these ambiguities by stipulating that the deprived occupier "may be granted the right to use other land, if available, and shall be entitled to adequate compensation from

the State", where applicable, for the value of standing crops taken over; the value of improvements, the cost of resettlement, and "for the loss of right of user of such land". The Constitutionality of this new measure may not now be in doubt, but the outstanding issue here is whether adequate compensation will be assessed in reference to parameters used in expropriation of private land which refer to the "market value" of the land.¹⁰⁶

The second notable aspect of the amended law is the description of offenses and penalties in a new section 39. It is an offence for any person to: (a) acquire or take occupation of tribal land without an appropriate certificate or lease from the relevant land board; (b) change the user of land without prior approval; (c) transfer land to any person otherwise than under or in accordance with the provisions of the Act; (d) make any false or untrue statements for the purpose of obtaining a grant or any compensation or benefit under the Act. The penalty for these offenses is a hefty fine of P10,000 and imprisonment for one year for individuals, or P20,000 for corporate offenders. The convicting court is also entitled to order the eviction of the offender from the tribal land which he occupies and in respect of which the offence is committed. The mischief which brought about these offenses and penalties is the prevalence of unauthorised transfers and acquisitions of tribal land especially for residential purposes in peri-urban setting.¹⁰⁷ It remains to be seen whether these penalties will help to control the problem.

VI LEGAL STRATEGIES FOR SECURING LAND FOR BASARWA AND OTHER MARGINALIZED COMMUNITIES

It should be apparent from the preceding discussion that the rights which can be claimed in or over land in Botswana still depend on the threefold classification of land evolved during the colonial era. The strategies which can be suggested for "securing land" must also vary with each existing land category. An important consideration in the assessment of the strategies is the fact that freehold land is now about 5 per cent of the country's land surface. State land now constitutes about 25 per cent, and the rest is Tribal land, (about 70 per cent). About 16 per cent of State land is taken up by game reserves and national parks; 1 per cent is forest reserves, and 8 per cent is for wild life management areas. 15 per cent of Tribal land is also classified as wild life management areas.¹⁰⁸

The legal position of Basarwa and other indigenous communities in reference to freehold land remains invidious and precarious. As noted in the historical discussion the essence of a freehold title was that the grantee received an "absolute" title which did not acknowledge any other superior title. Existing indigenous rights or title to the land were dispensed with. On the Ghanzi farms, indigenous inhabitants became squatters, who could be expelled at the will of the owner.

One exception to this invidious position is that squatters may now acquire real rights in the property under the Prescriptions Act.¹⁰⁹ Section 3 of this Act indicates that possession of land, or the use of a servitude, "continuously for 30 years *nec vi, nec clam, nec precario*," (without force, openly,

and without permission), can mature into ownership of the property or servitude. But the internal elements and requirements of "acquisitive prescription" are controversial and uncertain, and real rights may be acquired in this manner only against a very slack and careless owner who does not attempt to defend his property against encroachment for such a long period.¹¹⁰ This method of securing land does not therefore offer much hope for Basarwa or other squatters of on freehold land. It may generally be more expedient for the government to resolve any "squatter problem", if it exists, by compulsory acquisition of the affected land. But this can also be an exceedingly expensive process because of the constitutional requirement for the "prompt payment of adequate compensation",¹¹¹ and it is not likely to be the preferred approach of the Botswana government to the solution of the problem.

The indigenous communities on State land may be in a marginally better position, although rights may not be acquired by prescription over State land.¹¹² This is because, as a matter of policy, the State as the holder of legal title can choose to ignore the "illegality" of any occupation of State land. This is what the Protectorate administration did when Crown lands were originally appropriated. The State can also choose to legitimize the position of indigenous occupiers, as it has done in the past, through the conversion of State land into Tribal land. This may indeed be regarded as a more direct and effective strategy for securing land for Basarwa than reliance upon the derogation from the protection of freedom of movement in section 14(3)(c) of the Constitution. The main constraint here, however, is that State land is a finite resource, and the priorities of

Government sadly seem to suggest that precedence must be given to environmental concerns in the utilisation of this resource.

113

The precarious position of indigenous communities on State land raises the question whether the State may not be compelled by law to take cognizance of the priority of their rights when dealing with the land. This, in essence, would be an invocation of the doctrine of aboriginal title which has taken root elsewhere, especially in Australia, Canada and New Zealand.¹¹⁴ The first point to note about this doctrine is that it has emerged in reference to colonial law of the so-called settled colonies, not the protectorates of Africa. Secondly, demands for the recognition and protection of aboriginal rights in some of these countries is reinforced by Treaty provisions, agreements and, lately, by legislation.¹¹⁵ No such treaties or agreements were struck with the non-Tswana speaking indigenous communities in the Bechuanaland Protectorate and there is no applicable legislation. As noted in the historical discussion, Crown lands in Bechuanaland were appropriated on the basis of the fiction of *terra nullius*, or vacant or waste lands, which the major ethnic communities did not claim. It was also probably the view of the colonial masters that the other indigenous communities were too low on the scale of civilization to be acknowledged as entitled to land rights. In Australia, it has been held that these notions are no longer part of the common law of that country and that the law must acknowledge aboriginal rights even in the absence of an agreement or treaty.¹¹⁶ It has also been held that it is within the powers of the Crown to abridge or extinguish "common law native title" as long as clear intention

is manifested through an Executive act or legislation.

If these arguments were relayed to a Court in Botswana, it is likely that the fiction of *terra nullius* would be equally banished, but the implications of the other aspects of the doctrine of aboriginal title would be that deliberate acts of the Crown in the cancellation or restriction of Basarwa rights would be beyond the purview of the Courts. The history of dispossession may not be revisited and past injustices corrected by the Courts.¹¹⁷ The potential of the doctrine of aboriginal title as a strategy for securing Basarwa rights is thus limited. The surviving rights of Basarwa on State land would be clearly acknowledged in law, but past injustices would not be corrected, and the principal constraint on future State action would be the requirements of the Constitution.

The precarious position of Basarwa on freehold farms and State land would suggest that strategies for securing land must inevitably focus on Tribal land and the governing legislation, the Tribal Land Act. First, it has been noted that citizenship, not tribal affiliation, is now the primary qualification for entitlement to land. Basarwa like all other citizens are also entitled to land allocations from land Boards. But the Act must be amended to make it "Basarwa friendly", to accommodate the allocation of "territories" and of other rights of user which are not comprehended by the Tswana model of land tenure underlying the Act. Such reforms should also consider further decentralization of the land control functions especially in tribal areas predominantly occupied by Basarwa communities.

It has been suggested in one perceptive analysis of the problem that the replacement of tribesman with citizen in the law

might in fact put pressure on Basarwa land by making it more accessible to other citizens.¹¹⁸ This is a distinct possibility, but the problem will not be so acute if land boards are made to appreciate that the law did not, and still does not, provide for the automatic extinction of indigenous or existing rights by virtue of the constitution of a land board and the vesting of title in it. Land boards must respect existing rights. They may be extinguished or abridged only in strict compliance with the provisions of the Act and the Constitution. An allocation which ignores subsisting rights can be challenged and set aside.

This, finally, invites the question whether past, unlawful allocations, especially in the implementation of the TGLP,¹¹⁹ can be revisited and lost rights redeemed. In contrast to the position as regards State land, there is no obvious legal principle can be readily invoked to shield or excuse unlawful action by the land boards in these circumstances. It would seem that the main consideration weighing against this strategy for securing lost rights would be political. It is not difficult to imagine that serious opposition would be encountered from the cattle-owning interests allied to the ruling class. It is principally because of the conflicting interests of this group that the question of securing land for Basarwa has been talked about for a long time without concrete action. Ultimately, therefore, no legal strategy will succeed without an accommodating political milieu.

NOTES

1. R. Hitchcock, "Socioeconomic change among the Basarwa: an ethnohistorical analysis", 34, 3 (1987) *Ethnohistory*, p 219.
2. See, for example, K. Good, "At the ends of the ladder: Radical inequalities in Botswana" 31,2 (1993) *Journal of Modern African Studies*, p 203
3. See, for example, A. Mogwe, *Who was (t)here first?* Botswana Christian Council, Occasional paper no 10, 1992, pp 5-10 and U. Kahn, et al, *Let them talk: a review of the Accelerated Remote Area Development Programme*, Gaborone, 1990, pp xii-xiii.
4. There have been at least two regional conferences on Sarwa/Basarwa issues in the recent past, one held in Windhoek, Namibia, between 16 and 18 June 1992, and the other in Gaborone, Botswana, in October 1993.
5. The literature on the subject is immense. For a sample see G. Cant, J. Overton, and E. Pawson, (eds) *Indigenous Land Rights in Commonwealth Countries*, Christchurch, New Zealand, 1993.
6. Opinion on "Re common law leases", 23 January 1978, as quoted by R. Hitchcock, *Kalahari Cattle Posts*, Ministry of Local Government and Lands, October 1978, vol 1, p 242.
7. Liz Wily, *The TGLP and Hunter-Gatherers: A case study in land politics*, NIR Working Paper no 33, January 1981, p 66. This aspect of the opinion was also erroneous because

Section 15 the Prescriptions Act, Cap 13:01, stipulated that acquisitive prescription would not run against immovable property in tribal areas. As will be confirmed later, however, the opinion correctly assessed that Basarwa could have proprietary rights which section 8 of the Constitution seeks to protect.

8. The literature on this concept is again immense and overwhelming. Notable books and monographs include R. Lee, *The Kung San: Men, women and work in a foraging society*, Cambridge University Press, 1979; M. Guenther, *The Farm Bushmen of the Ghanzi District of Botswana*, Stuttgart, 1979; J. Tanaka, *The San hunter-gatherers of the Kalahari*, University of Tokyo press, 1980; G. Silberbauer, *Hunter and Habitat in the Central Kalahari Desert*, Cambridge University Press, 1981; and A. Barnard, *Hunters and Herders of Southern Africa, Comparative ethnography of Khoisan peoples*, Cambridge University Press, 1992. The following chapters and articles are also worthy citing: A. Barnard, "Kalahari Bushman settlement patterns", in P. Burnham and R. Ellens, (eds), *Social and Ecological Systems*, Academic Press, London, 1979, pp 134-144; E. Cashdan, "Territoriality among human foragers: Ecological models and an application to four Bushmen groups", 24,1 (1983) *Current Anthropology*, pp 47-66; and E. Wilmsen and J. Denbow, "Paradigmatic history of San speaking peoples and current attempts at revision" 31, 5 (1990) *Current Anthropology*, pp 489-524.

9. E. Wilmsen, "Those who have each other: San relations to land", in E. Wilmsen (ed), *We Are Here, Politics of aboriginal land tenure*, University of California Press, 1989, p 65.
10. Sidsel Saugestad, "To corner the Bushman market, Research paradigms and use of research on the indigenous people of Botswana", paper presented to the Norwegian Association for Development Research annual conference, Tromso, May 1994, and "Developing Basarwa research and research for Basarwa development", Report from a workshop on Basarwa research held at the University of Botswana, September 1993.
11. R. Hitchcock, *Monitoring Research and Development in the Remote Areas of Botswana*, Report to the Remote Area Development Programme, Ministry of Local Government and Lands, July 1988, pp 3-37 to 3-38 and p 4-39 makes an admirable effort to collate and present such information, but he too cannot vouch for the accuracy or reliability of the information.
12. See note 8 above.
13. See Hitchcock, *Monitoring Research and Development*, Appendix 4, p 30 for basic description of these features of the region.
14. I. Schapera, *Khoisan Peoples of Southern Africa*, London, 1930, p 75.
15. See E. Cashdan, "Territoriality among human foragers", pp 52-53; R. Lee "!Kung spatial organization: an ecological and historical perspective", 1, 2 (1972) *Human Ecology*, pp 125-147; G. Silberbauer, *Hunter and Habitat in the Central*

- Kalahari Desert*, ch 4-5; and H. Heinz, "Territoriality among the Bushmen in general and the !Ko in particular", 67 (1972) *Anthropos*, pp 405-415.
16. The literature is on the !Kung of Dobe is more specific on this issue. Band leaders, identified as owners of water holes, were apparently called *K'ausi*. The territory within which one or more water holes were located was called a *n'ore*. See R. Lee, "!Kung spatial organization", pp 125-147; and *Men, Women and work in a Foraging Society*, ch 12; and Wilmsen, "Those who have each other: San relations to land", pp 51-61.
 17. See R. Hitchcock, "Socioeconomic economic change among the Basarwa", pp 219-244; E. Wilmsen, "Those who have each other" pp 43-66 and E. Wilmsen and J. Denbow, "Paradigmatic history of San-speaking people", pp 489-507.
 18. The standard works on Tswana land tenure which even today are relied upon for a detailed description are Schapera, *Native Land Tenure in the Bechuanaland Protectorate*, Lovedale Press, 1943, and *A Handbook of Tswana Law and Custom*, Frank Cass and Co, London 1984.
 19. See C. Ng'ong'ola, "Land problems in some peri-urban villages in Botswana and problems of conception, description and transformation of tribal land tenure", 36, 2 (1992) *Journal of African Law*, pp 144-148.
 20. Botswana National Archives (BNA), file HC 2/7/1 *Report of settlement in Bechuanaland*, 1885, by Sir Charles Warren.
 21. The Bechuanaland Protectorate Order in Council of 1891 gave the High Commissioner for South Africa the necessary power

to exercise jurisdiction within the Protectorate and to provide, by Proclamation, for the administration of justice and for "the order and good governance of all persons".

22. This Proclamation of 1 February 1893 was preceded by an earlier Proclamation of 10 June 1891 which declared that claims to land by persons of European descent would not be recognized as valid until approved in such manner as the High Commissioner would determine.
23. O. Selolwane, "Colonizing by Concession, Capitalist expansion in the Bechuanaland Protectorate 1885-1950", 2, 1 (1980) *Pula*, pp 85-91, for example, makes the point that there was no consensus in the granting of such exotic land rights. Indeed some of the claims were recognized notwithstanding subsequent protestations by some of the chiefs that they never intended to alienate land in that manner. See BNA, file HC 119, Assistant Commissioner to Resident Commissioner, Mafeking, 31 December 1898.
24. BNA files S 295/1 and S 291/1 give the total estimate of the land so alienated as covering 96 square miles.
25. see Lord Hailey, *Native Administration in the British African Territories, Part V*, London, H.M.S.O., 1953, pp 230-234.
26. *Ibid*, p. 232
27. Art. 1 of Proclamation No. 2 of 1911.
28. See R. Werbner, "Land and chiefship in the Tati Concession" *Botswana Notes and Records*, Vol 2, 1969 pp 6-8; Hailey, *op cit*, pp 233-234. The land ceded to the Company was estimated at 1700 square Miles and the Reserve was

estimated at 344 square Miles.

29. Hailey, *op cit*, p 197.
30. *British Parliamentary Papers (BPP), Colonies Africa*, 45, Marquess of Rippon to Sir H.B Lock, 20 December 1892.
31. *BPP, Colonies General*, c.7962, B.S.A. company to Colonial Office, 21 August 1895, and Colonial Office to B.S.A. company, 30 August 1895.
32. See BNA files RC 2/8/1, RC 2/8/2 and RC 2/8/5.
33. Hailey, *op cit.*, p 200.
34. Bechuanaland Protectorate (Lands) Orders in Council of 1904 and 1910, and Proclamations No.s 4, 12 and 13 of 1905. The land so alienated was in 1932 estimated as extending over 1355 Square Miles.
35. Art 2 of Proclamation No 4 of 1905 and Art 4 of Proclamation No 2 of 1911.
36. BNA file HC 147, Resident Commissioner, Mafeking to High Commissioner, Cape Town, 16 March 1899. See also M. Guenther, *The Farm Bushman of the Ghanzi District*, pp 54-57.
37. See, generally, BNA file HC 147 for the Ghanzi settlements. Different figures are given in some accounts as to the number of families or farmers allocated land or the number of farms actually laid out. 1 morgen was equal to 2.1165 English acres.
38. BNA file S 462/8/2 confirms that some of the farms were repossessed for non payment of rent.
39. BNA file S 462/8/1.

40. BNA file S 295/1, Report on land in Bechuanaland Protectorate, November 1932, estimated that about 657 square miles of land had been granted to the Trekkers.
41. Guenther, *op cit*, p 107.
42. BNA file RC 2/8/1.
43. Proclamation No 9 of 1899.
44. Hailey, *op cit*, p 241
45. Proclamation No 28 of 1909.
46. Art 1 of Proclamation No 2 of 1911.
47. Proclamation No 44 of 1933.
48. Hailey, *op cit*, pp 238-239.
49. See Hailey, *op cit*, pp 255-258, and J. Comarrof, Class and culture in a peasant economy, the transformation of land tenure in Barolong", in R. Werbner (ed), *Land Reform in the Making*, Rex Collins, London, 1982, pp 85-113.
50. Proclamation No 77 of 1935.
51. Art 1(1) of Proclamation No 2 of 1911.
52. See Hailey, *op cit*, p 311; and C. Ng'ong'ola, "The State, settlers and indigenes in the evolution of land law and policy in colonial Malawi, 23, 1 (1990) *The International Journal of African Historical Studies*, p 50.
53. *Tito v Waddell* No 2 [1977] CH 106, 210-226 and *Town Investments Ltd v Department of Environment* [1978] AC 359-382.
54. See Ng'ong'ola, "Compulsory acquisition of private land in Botswana: the Bonnington Farm case," (1989) *CILSA*, pp 299-301.

55. Art 1 of the Bechuanaland Protectorate (Lands) Order in Council of 16 May 1904. See note 34 above.
56. Art 1
57. Clive Spilage, *History and Evolution of Fauna Conservation Laws of Botswana*, Botswana Society, Gaborone, 1991, especially pp 26-46.
58. Spilage, p 30 observes in reference to the legal opinion cited above that Basarwa did not have "unlimited hunting rights" which they enjoyed despite the enactment of the Fauna Conservation Act. Under both the colonial and post-colonial legal regimes the underlying premise is that no one has an inherent right to hunt, or to own wild animals, unless they are in licensed captivity. The traditional rights of Basarwa are thus only indirectly acknowledged, through exemptions to some rules and regulations.
59. At independence Crown land became State land. The reserves had been renamed Tribal territories before independence. The estimates of the three land categories were freehold land, 6%; State land, 47%; and tribal land 48%. See Arntzen, Ngcongco and Turner (eds), *Land Policy and Agriculture in Eastern and Southern Africa*, Tokyo, 1986, p 39.
60. See Ng'ong'ola, "The post-colonial era in relation to land expropriation laws in Botswana, Malawi, Zambia and Zimbabwe," 41 (1992), *International and Comparative Law Quarterly*, pp 117-136.
61. S. 14(1).
62. S. 14(3)(a)

63. *Ibid.*
64. B. Moeletsi, "The San of Botswana: legal status, access to land, development and natural resources", paper presented at the Second Regional conference on Development Programmes for the San People of Southern Africa, Gaborone, October 1993, p 7.
65. See Hitchcock, *Monitoring Research and Development in the Remote Areas of Botswana*, Appendix 4.
66. G. Silberbauer, *Report to the Government of Bechuanaland on the Bushman Survey*, Gaborone, 1965, p 132.
67. Hitchcock, *Monitoring Research and Development*, Appendix 4, pp 37-38.
68. Fauna Conservation Proclamation, No 22 of 1961, and Central Kalahari Game Reserve (Control of Entry) Regulations, GN 38 of 1963.
69. Spillage, *op cit*, pp 59-60
70. This is notwithstanding judicial pronouncements suggesting that the Constitution and the Bill of Rights in particular should, where appropriate, be interpreted in a generous manner. See *Attorney General v Moagi* 1981 BLR 1; *Petrus and Another v The State* 1984 BLR 14; *Dow v Attorney General*, High Court MISCA 124/90; and *Attorney General v Dow*, Court of Appeal, Civ App 4/91.
71. S. 15(4)
72. S. 15(4)(e)
73. See Sir Seretse Khama, *National Assembly, Official Report, Hansard 23*, 2nd Session, 1st Meeting, 8-17 January 1968, p 14, and debates on the Second Reading of the Tribal Land

- Bill in *Hansard* 25, 2nd Session, 3rd Meeting, 6-9 August 1968, pp 68-69
74. Ss. 3(1) and 19(1). Section 3 of the Tribal Land (Amendment) Act, No 14 of 1993 transferred to the Minister the power to constitute Subordinate land boards and to confer upon them any of the functions of the main board for the tribal area.
75. First Schedule to Act No 54 of 1968
76. Tribal Land (Amendment) Act No 21 of 1976.
77. Tribal Land (Amendment) Acts No.s 4 of 1979, 26 of 1982, 3 of 1983, 3 and 24 of 1984, 16 of 1985, and 15 of 1987
78. SI 47 of 1973.
79. See the first Schedule to the Act which fixes the same composition for all main land boards without regard to the fact the structure of tribal authority was different in some the areas not populated by the Tswana tribes.
80. Ng'ong'ola, "Land problems in some peri-urban villages in Botswana," pp 151-152.
81. *Ibid*, p 154.
82. Ss 77-78 of the Constitution, on the composition of the House of Chiefs, and the Common Law and Customary Law Act, No 51 of 1969, and the Chieftainship Act, Cap 41:01. Also see A. Sanders, "The Bushmen of Botswana - From desert dwellers to world citizens," 4 (1989) *Law and Anthropology*, pp 118-119.
83. Liz Wily, *The TGLP and Hunter-gatherers*, p 67.
84. I. Schapera, *The Tswana*, International African Institute monograph, London, 1953, pp 34-35, and *Handbook of Tswana*

- Law and Custom*, p 4.
85. MISCA 137/1990, unreported.
 86. Civ. App. 10/91. For a review of this case, see Ng'ong'ola, "Ownership of Tribal Land in Botswana", 37, 2 (1993) *Journal of African Law*, pp 193-198.
 87. Ss. 17-18.
 88. S. 15(e).
 89. S. 40
 90. Most of the amendments implemented the recommendations of the *Report on the Review of the Tribal Land Act, Land Policies and Related Issues*, Ministry of Local Government and Lands, Gaborone 1989.
 91. See *Report of the Review of the Tribal Land Act*, pp 71-72, and pp 80-92, and Republic of Botswana, *Report of the Commission of Enquiry into Land Problems in Mogoditshane and other Peri-urban Villages*, Gaborone, 1991, p 104.
 92. *Report of the Review of the Tribal Land Act*, p 22.
 93. S. 15, amending s. 24(1) of the Tribal Land Act.
 94. S. 24(2)
 95. S. 15(b), and Republic of Botswana, *Report of the Presidential Commission on Land Tenure*, Gaborone, 1983, pp 7-9, and *Report of the Commission into Land Problems in Peri-urban Villages*, p 107.
 96. S. 38(1), introduced under s. 19 of the amendment.
 97. Republic of Botswana, *National Policy on the Tribal Grazing Land Policy*, Government Paper No 2 of 1975, and R. Hitchcock, "Tradition, social justice and land reform in Central Botswana", in R. Werbner, *Land Reform in the*

- Making*, pp 1-28.
98. See, generally, Liz Wily, *The TGLP and Hunter-Gatherers*, NIR Working paper No 33, 1981.
 99. Hitchcock, *Monitoring Research in the Remote Areas of Botswana*, pp 2-13 to 2-20.
 100. *Ibid* p. 52
 101. These regulations are now numbered as regulations 20(3) and 20(4).
 102. S. 13(b)
 103. Notices published by the Tawana Land Board on the allocation of TGLP ranches in the Haina Veld area so claimed in 1990.
 104. *Report on the Review of the Tribal Land Act*, pp 22-23.
 105. *Report of the Presidential Commission into Land Problems in Peri-urban villages*, pp 88-89.
 106. Ng'ong'ola, "Compulsory acquisition of private land in Botswana", pp 302-308.
 107. Ng'ong'ola, "Land problems in some peri-urban villages in Botswana", pp 158-167.
 108. Republic of Botswana, *National Development Plan 7 1991-1997*, Ministry of Finance and Development Planning, Gaborone, December 1991, p 239.
 109. Proclamation 76 of 1959, Cap 13:01.
 110. See Silberberg and Schoeman's *Law of Property*, 3rd ed Butterwoths, Durban, 1992, pp 223-237.
 111. Ng'ong'ola, "Compulsory acquisition of private land in Botswana", pp 308-315
 112. S. 14(3) of the Prescriptions Act.

113. Spinage, *op cit*, p 30.
114. P. Usher, "Aboriginal property systems in land and resources," in G. Cant et al (eds), *Indigenous Land Rights in Commonwealth Countries*, pp 38-44; and E. Pawson and G. Cant, "Land rights in a historical and contemporary context", 12 (1992) *Applied Geography*, pp 95-108.
115. See E. Stokes, "The Treaty of Waitangi and the Waitangi Tribunal: Maori claims in New Zealand", in *Indigenous Land Rights in Commonwealth Countries*, pp 66-80; L. R. Hiatt, "Aboriginal land tenure and contemporary claims in Australia, in E. Wilmsen (ed), *We Are Here*, pp 99-117; and E. Young, "Aboriginal land rights in Australia: expectations, achievements and implications," 12 (1992) *Applied Geography*, pp 146-161.
116. *Mabo v Queensland*, (1992) 107 ALR 1; 175 CLR 1, summarised in 19, 1 (1993) *Commonwealth Law Bulletin*, p 45.
117. In *Nyali v Attorney General* [1952] 1 Q.B. 15, the Colonial Courts propounded the "act of State" doctrine which in any event excused and protected Colonial Officers from the consequences of failure to carry out their duties properly, in accordance with the law, in the African Colonies and Protectorates.
118. Liz Wily, "Hunter-Gatherers in Botswana and the land issue", 2 (1994) *Indigenous Affairs*, p 12.
119. Liz Wily, *ibid*, refers to "upwards of 20,000 RADs" being dispossessed and evicted for this purpose and crammed into "service centre settlements".

BIBLIOGRAPHY

Books, Articles, Reports and Monographs

Arntzen, Ngcongco and Turner, (eds).

1986 *Land Policy and Agriculture in Eastern and Southern Africa*, Tokyo.

Barnard, A.

1992 *Hunters and Herders of Southern Africa, Comparative ethnography of Khoisan peoples*, Cambridge University Press.

Burnham, P. and Ellens, R., (eds).

1979 *Social and Ecological Systems*, Academic Press, London.

Cant, G. et al (eds).

1993 *Indigenous Land Rights in Commonwealth Countries*, Christchurch, New Zealand.

Cashdan, E.

1983 "Territoriality among human foragers: Ecological models and an application to four Bushmen groups", 24, 1, *Current Anthropology*, pp 47-66.

Clark, J.D. and Brandt, S.A., (eds).

1984 *From Hunters to Farmers, The causes and consequences of food production in Africa*, University of California Press.

Good, K.

1993 "At the ends of the ladder: Radical inequalities in Botswana", 31, 2, *Journal of Modern African Studies*, pp 203-230.

Guenther, M.

1979 *The Farm Bushmen of the Ghanzi District of Botswana*, Stuttgart.

Hailey, Lord.

1953 *Native Administration in the British African Territories, Part V*, H.M.S.O., London.

Heinz, H.

1972 "Territoriality among the Bushmen in general and the !Ko in particular", *Anthropos*, pp 405-415.

Hitchcock, R.

1978 *Kalahari Cattle Posts, vol 1*, Ministry of Local Government lands.

1987 "Socioeconomic change among the Basarwa: an ethnohistorical analysis", 34, 3, *Ethnohistory*, pp 219-253.

1988 *Monitoring Research and Development in the Remote Areas of Botswana*, Ministry of Local government and Lands.

Kahn, U., et al.

1990 *Let them talk: a review of the Accelerated Remote Area Development Programme*, Gaborone.

Lee, R.

1972 "!Kung spatial organization: an ecological and historical perspective", 1, 2, *Human Ecology* pp 125-147.

1979 *The !Kung San: Men, women and work in a foraging society*, Cambridge University Press.

Lee, R. and De Vore, I., (eds).

1976 *Kalahari Hunter-Gatherers*, Havard University Press.

Moeletsi, B.

1993 "The San of Botswana: legal status, access to land, development and natural resources", paper presented at the Second Regional Conference on Development Programmes for the San People of southern Africa, Gaborone.

Mogwe, A.

1992 *Who was (t)here first?* Botswana Christian Council, Occasional paper No 10, Gaborone.

Ng'ong'ola, C.

1989 "Compulsory acquisition of private land in Botswana: the Bonnington Farm Case", *XXII CILSA*, pp 298-319.

1990 "The State, settlers and indigenes in the evolution of land law and policy in colonial Malawi", 23, 1, *The International Journal of African Historical Studies*, pp 27-58.

1992 "Land problems in some peri-urban villages in Botswana

and problems of description and transformation of "Tribal" land tenure", 36, 2, *Journal of African Law*, pp 140-167.

1992 "The post-colonial era in relation to land expropriation laws in Botswana, Malawi, Zambia and Zimbabwe", 41, *International and Comparative Law Quarterly*, pp 117-136.

1993 "Ownership of Tribal Land in Botswana", 37, 2, *Journal of African Law*, pp 193-198.

Pawson, E. and Cant, G.

1992 "Land rights in a historical and contemporary context 12 *Applied Geography*, pp 95-108.

Republic of Botswana.

1968 *Hansard, National Assembly, Official Report, Vols 23 and 25*, Gaborone.

1975 *National Policy on the Tribal Grazing Land Policy*, Government Paper No 2, Gaborone.

1983 *Report of the Presidential Commission on Land Tenure*, Gaborone.

1989 *Report of the Review of the Tribal Land Act, Land Policies and Related Issues*, Ministry of Local Government and Lands, Gaborone.

1991 *Report of the Commission of Enquiry into Land Problems in Mogoditshane and other Peri-Urban Villages in Botswana*, Gaborone.

1991 *National Development Plan 7, 1991-1997*, Ministry of Finance and Development Planning, Gaborone.

Sanders, A.

1989 "The Bushmen of Botswana - From desert dwellers to world citizens, 4, *Law and Anthropology*, pp 118-119.

Saugestad, Sidsel.

1993 "Developing Basarwa research and research for Basarwa development", Report from a workshop on Basarwa research held at the University of Botswana, Gaborone.

1994 "To corner the Bushman market, Research paradigms and use of research on the indigenous people of Botswana", paper presented to the Norwegian Association for

Development Research Annual Conference, Tromso.

Schapera, I.

1930 *Khoisan Peoples of Southern Africa*, London.

1943 *Native Land Tenure in Bechuanaland Protectorate*, Lovedale Press.

1953 *The Tswana*, International African Institute, London.

1984 *A Handbook of Tswana Law and Custom*, Frank Cass & Co, London.

Selolwane, O.

1980 "Colonizing by Concession, capitalist expansion in the Bechuanaland Protectorate 1885-1950", 2,1, *Pula*, pp 85-91.

Silberbauer, G.

1965 *Report to the Government of Bechuanaland on the Bushman Survey*, Gaborone.

1981 *Hunter and Habitat in the Central Kalahari Desert*, Cambridge University Press.

Silberberg and Schoeman.

1992 *Law of Property*, 3rd ed., Butterworths, Durban.

Spinage, Clive.

1991 *History and Evolution of Fauna Conservation Laws of Botswana*, Botswana Society, Gaborone.

Tanaka, J.

1980 *The San hunter-gatherers of the Kalahari*, Tokyo.

Werbner, R.

1969 "Land and chiefship in the Tati Concession", 2, *Botswana Notes and Records*, pp 6-13.

Werbner, R., (ed).

1982 *Land Reform in the Making*, Rex Collins, London.

Wilmsen, E., (ed).

1989 *We Are Here, Politics of aboriginal land tenure*, University of California Press.

Wilmsen, E and Denbow, J.

1990 "Paradigmatic history of the San speaking peoples and current attempts at revision, 31, 5 *Current Anthropology*, pp 489-524.

Wily, Liz.

- 1979 *Settlement as a strategy for securing land for Nomads*, ODI, Pastoral Network Paper, 7c, London.
- 1981 *The TGLP and Hunter-Gatherers: A case study in land politics*, NIR Working paper No 33.
- 1994 "Hunter-Gatherers in Botswana and the Land Issue", 2 *Indigenous Affairs*, pp 6-19.

Young, E.

- 1992 "Aboriginal land rights in Australia: expectations, achievements and implications", 12, *Applied Geography*, pp 146-1161.

Bechuanaland Protectorate Legislation

- 1891 Order in Council of 9 May 1891
- 1891 Proclamation of 10 June 1891
- 1893 Proclamation of 1 February 1893
- 1899 Proclamation No 9
- 1904 Bechuanaland Protectorate (Lands) Order in Council
- 1905 Proclamations No's 4, 12, and 13
- 1909 Proclamation No 28
- 1910 Bechuanaland Protectorate (Lands) Order in Council
- 1911 Proclamation No 2
- 1933 Proclamation No 44
- 1935 Proclamation No 77
- 1959 Prescriptions Act, Proclamation No 76
- 1961 Fauna Conservation, Proclamation no 22
- 1963 Central Kalahari Game Reserve (Control of Entry) Regulations, GN 38

Republic of Botswana Legislation

- 1966 Constitution of Botswana
- 1966 State Land Act, Law 29
- 1968 Tribal Land Act, No 54
- 1969 Common Law and Customary Law Act, No 51
- 1970 Tribal Land Regulations, SI No 7
- 1973 Tribal Land (Subordinate Land Board) Regulations, SI No 48
- 1976 Tribal Land (Amendment) Act, No 21

1987 Chieftainship Act, No 19, Cap 41:01

1993 Tribal Land (Amendment) Act No 14

Cases

1952 *Nyali v Attorney General* [1952] 1 Q.B. 15

1977 *Tito v Waddell No 2*, {1977} CH 106

1978 *Town Investments Ltd Department of Environment* 1978 AC 359

1981 *Attorney General v Moagi*, 1981 BLR 1

1984 *Petrus and Another v The State*, 1984 BLR 14

1990 *Dow v Attorney General* MISCA, 124/90

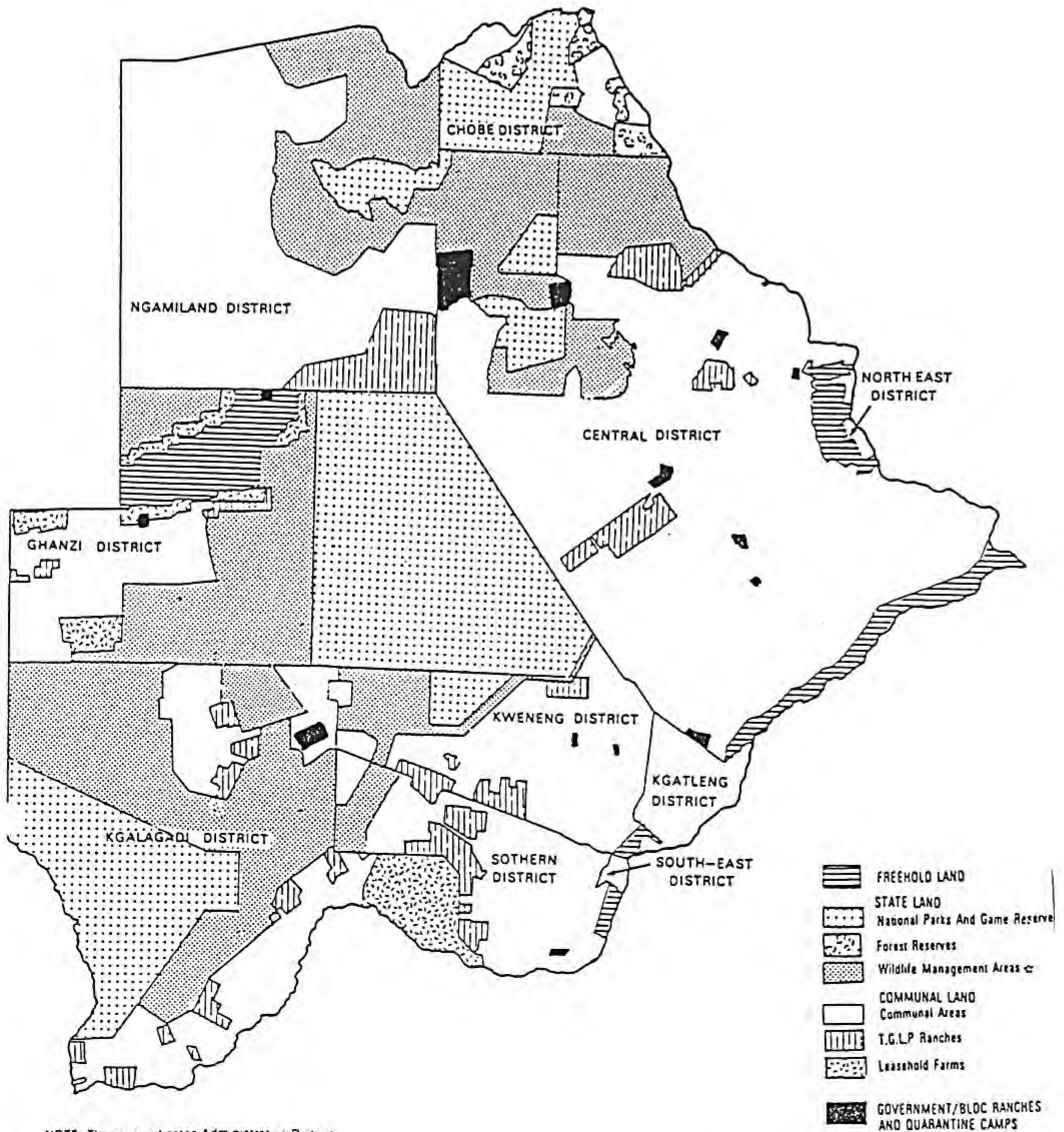
1990 *Kweneng Land Board v Kabelo Matlho and others*, MISCA 137/90

1991 *Attorney General v Dow*, Civ App 4/91

1991 *Kweneng Land Board v Kabelo Matlho*, Civ App 10/91

1992 *Mabo v Queensland* 107 ALR 1; 175 CLR 1

Land Tenure in Botswana



NOTE: The map indicates Administrative District Boundaries, not Agricultural Districts

Reduced from a Local Government And Lands National Land Use Map by Cartographic Section, D.L.U., MOA

☆ Areas 1/3 WMA land falls on State Land in N. Botswana
The remainder lies on Communal Land

SOURCE : REPUBLIC OF BOTSWANA,
NATIONAL DEVELOPMENT PLAN 7
1991 - 1997, p. 241

Constitution of Botswana

emergency or calamity, for the purpose of dealing with that situation; or

- (e) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

Protection from
inhuman
treatment

7. (1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorizes the infliction of any description of punishment that was lawful in the country immediately before the coming into operation of this Constitution.

Protection from
deprivation of
property

8. (1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

(a) the taking of possession or acquisition is necessary or expedient—

(i) in the interests of defence, public safety, public order, public morality, public health, town and country planning or land settlement;

(ii) in order to secure the development or utilization of that, or other, property for a purpose beneficial to the community; or

(iii) in order to secure the development or utilization of the mineral resources of Botswana; and

(b) provision is made by a law applicable to that taking of possession or acquisition—

(i) for the prompt payment of adequate compensation; and

(ii) securing to any person having an interest in or right over the property a right of access to the High Court, either direct or on appeal from any other authority, for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation.

(2) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Botswana.

(3) Subsection (1)(b)(i) of this section shall be deemed to be satisfied in relation to any law applicable to the taking of possession of minerals or the acquisition of rights to minerals if that law makes provision for the payment at reasonable intervals of adequate royalties. 30 of 1969

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (2) of this section to the extent that the law in question authorizes—

- (a) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party; or
- (b) the imposition of reasonable restrictions on the manner in which any amount of compensation is to be remitted.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section—

- (a) to the extent that the law in question makes provision for the taking of possession or acquisition of any property—
 - (i) in satisfaction of any tax, rate or due;
 - (ii) by way of penalty for breach of the law whether under civil process or after conviction of a criminal offence under the law in force in Botswana;
 - (iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;
 - (iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;
 - (v) in circumstances where it is reasonably necessary to do so because the property is in a dangerous state or injurious to the health of human beings, animals or plants;
 - (vi) in consequence of any law with respect to the limitation of actions; or
 - (vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out), and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

- (b) to the extent that the law in question makes provision for the taking of possession or acquisition of—
- (i) enemy property;
 - (ii) property of a deceased person, a person of unsound mind, a person who has not attained the age of 21 years, a prodigal, or a person who is absent from Botswana, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
 - (iii) property of a person declared to be insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
 - (iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court, or by order of a court, for the purpose of giving effect to the trust.

(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that the law in question makes provision for the compulsory taking of possession in the public interest of any property, or the compulsory acquisition in the public interest in or right over property, where that property, interest or right is held by a body corporate established by law for public purposes in which no moneys have been invested other than moneys provided by Parliament.

Protection for
privacy of
home and other
property

9. (1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilization of mineral resources, for the purpose of any census or in order to secure the development or utilization of any property for a purpose beneficial to the community;
- (b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;
- (c) that authorizes an officer or agent of the Government of Botswana, a local government authority or a body corporate

of the interests in respect of which registration of a trade union or association of trade unions is sought, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of
freedom of
movement

14. (1) No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout Botswana, the right to reside in any part of Botswana, the right to enter Botswana and immunity from expulsion from Botswana.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

- (a) for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality or public health or the imposition of restrictions on the acquisition or use by any person of land or other property in Botswana and except so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in a democratic society;
- (b) for the imposition of restrictions on the freedom of movement of any person who is not a citizen of Botswana;
- (c) for the imposition of restrictions on the entry into or residence within defined areas of Botswana of persons who are not Bushmen to the extent that such restrictions are reasonably required for the protection or well-being of Bushmen;
- (d) for the imposition of restrictions upon the movement or residence within Botswana of public officers; or
- (e) for the removal of a person from Botswana to be tried outside Botswana for a criminal offence or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law in force in Botswana of which he has been convicted.

(4) If any person whose freedom of movement has been restricted by order under such a provision as is referred to in subsection (3)(a) of this section (other than a restriction which is applicable to persons generally or to general classes of persons) so requests at any time during the period of that restriction not earlier than six months after the order was made or six months

after he last made such request, as the case may be, his case shall be reviewed by an independent and impartial tribunal presided over by a person, qualified to be enrolled as an advocate in Botswana, appointed by the Chief Justice.

(5) On any review by a tribunal in pursuance of this section of the case of a person whose freedom of movement has been restricted, the tribunal may make recommendations, concerning the necessity or expediency of continuing the restriction to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

15. (1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

Protection from
discrimination
on the grounds
of race, etc.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression "discriminatory" means affording different treatment to different persons, attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision—

- (a) for the appropriation of public revenues or other public funds;
- (b) with respect to persons who are not citizens of Botswana;
- (c) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
- (d) for the application in the case of members of a particular race, community or tribe of customary law with respect to any matter whether to the exclusion of any law in respect to that matter which is applicable in the case of other persons or not; or
- (e) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes reasonable provision with respect to qualifications for service as a public officer or as a member of a disciplined force or for the service of a local government authority or a body corporate established directly by any law.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorized to be done by any such provision of law as is referred to in subsection (4) or (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 9, 11, 12, 13 and 14 of this Constitution, being such a restriction as is authorized by section 9(2), 11(5), 12(2), 13(2), or 14(3), as the case may be.

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

(9) Nothing contained in or done under the authority of any law shall be held to be inconsistent with the provisions of this section—

- (a) if that law was in force immediately before the coming into operation of this Constitution and has continued in force at all times since the coming into operation of this Constitution; or
- (b) to the extent that the law repeals and re-enacts any provision which has been contained in any written law at all times since immediately before the coming into operation of this Constitution.

Derogation
from
fundamental
rights and
freedoms

16. (1) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of section 5 or 15 of this Constitution to the extent that the law authorizes the taking during any period when Botswana is at war or any period when a declaration under section 17 of this Constitution is in force, of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period.

(2) Where a person is detained by virtue of such an authorization as is referred to in subsection (1) of this section the following provisions shall apply—

- (a) he shall, as soon as reasonably practicable and in any case

TRIBAL LAND (AMENDMENT) ACT, 1993

No. 14



of 1993

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of section 2 Cap 32:02
3. Replacement of section 3
4. Amendment of section 6
5. Amendment of section 7
6. Replacement of section 8
7. Amendment of section 10
8. Replacement of section 13
9. Amendment of section 14
10. Amendment of section 15
11. Replacement of sections 17 and 18
12. Amendment of section 19
13. Amendment of section 20
14. Amendment of section 21
15. Amendment of section 24
16. Deletion of section 26
17. Amendment of section 28
18. Amendment of section 33
19. Insertion of new sections 38, 39 and 40
20. Interim measure

An Act to amend the Tribal Land Act

Date of Assent: 30th August, 1993.

Date of Commencement: To be notified.

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Tribal Land (Amendment) Act, 1993, and shall come into operation on such date or dates as the Minister may, by notice in the Gazette, appoint.

Short title
and commen-
cement

2. Section 2 of the Tribal Land Act, hereinafter referred to as "the Act", is amended —

Amendment
of section 2
Cap. 32:02

(a) by inserting in its correct alphabetical order the following definition —

"develop" in respect of the grant of an area of tribal land means to introduce or carry out works or improvements in accordance with the purpose for which the grant was made, and "development" shall be construed accordingly;

- (b) by substituting for the definition of "diagram" the following definition —
 "diagram" means a document containing geometrical, numerical and verbal representations of a piece of land, which has been signed by a land surveyor and which has been approved or certified by the Director of Surveys and Lands or other officer empowered under the Land Survey Act so to approve or certify a diagram, and includes a diagram or copy thereof prepared in the Director's office and approved or certified as aforesaid, or a document which has, at any time prior to the commencement of the Land Survey Act, been accepted as a diagram in the Deeds Registry;"
- (c) by substituting for the definition of "land board" the following definition —
 "'land board" means a land board established under section 3, and "the land board" in relation to any area of land means the land board for the area in which that area of land is situated;" and
- (d) by deleting the definitions of "subordinate land authority" and "tribesman" therefrom.

Replacement
of section 3

3. The Act is amended by substituting for section 3 thereof the following new section —

"Establish-
ment
of land
boards

3. (1) There is hereby established in respect of every tribal area set out in the first column of the First Schedule a land board having the name or title set out in relation thereto in the second column thereof.

(2) Subject to the provisions of this section, the membership of each land board and the period of office of members elected or appointed thereto shall be as provided in the third column of the First Schedule in relation thereto.

(3) A person shall be disqualified from being appointed as a member of a land board or from continuing as a member on the following grounds —

- (a) he has been declared insolvent or adjudged or otherwise declared bankrupt under any law in force in Botswana or elsewhere, and has not been discharged, or has made a composition with his creditors and has not paid his debts in full;
- (b) he has been sentenced to imprisonment without the option of a fine for any offence, whether in Botswana or elsewhere;
- (c) he is certified to be insane or otherwise adjudged or declared to be of unsound mind under any law for the time being in force in Botswana;
- (d) he is a member of the National Assembly or the House of Chiefs;

(e) he holds any public office, or is acting in any public office by virtue of a contract of service expressed to continue for a period exceeding six months.

(4) A land board may perform the functions vested in it under this Act or under any other law, notwithstanding any vacancy in its membership.

(5) The Minister may, by order published in the Gazette, amend any of the entries set out in the third column of the First Schedule in order to vary the membership of any land board or the period of office of members thereof."

4. Section 6 (3) of the Act is amended by substituting for paragraph (a) thereof the following new paragraph — Amendment of section 6 (3)

"(a) has been absent from three consecutive meetings of the land board without leave of absence granted by the board;"

5. Section 7 of the Act is amended by substituting for subsection (2) thereof the following new subsection — Amendment of section 7

"(2) Half of the number of members of a land board shall constitute a quorum thereof, but where the number of members is uneven, a majority of that number of members shall constitute a quorum."

6. The Act is amended by substituting for section 8 thereof the following new section — Replacement of section 8

"Secretary of board 8. The Minister shall appoint a secretary for each land board."

7. Section 10 of the Act is amended —

(a) in subsection (1) thereof, by substituting for the words "tribesmen of that area" the words "citizens of Botswana"; and

(b) by deleting subsection (2) thereof. Amendment of section 10

8. The Act is amended by substituting for section 13 thereof the following new section — Replacement of section 13

"Functions of land boards in relation to customary tenure 13. (1) All the powers previously vested in a Chief and a subordinate land authority under customary law in relation to land, including —

(a) the granting of rights to use land;

(b) the cancellation of the grant of any rights to use any land;

(c) the imposition of restrictions on the use of tribal land;

(d) authorizing any change of user of tribal land; or

(e) authorizing any transfer of tribal land,

shall vest in and be performed by a land board acting in accordance with powers conferred on it by or under this Act.

(2) A land board may hear an appeal from any decision of a subordinate land board in respect of any of its functions conferred on such subordinate land board."

9. Section 14 of the Act is amended by substituting for the word "six" the word "four". Amendment of section 14

Amendment
of section 15

10. (1) Section 15(c) of the Act is amended by substituting for the word "tribesmen entitled thereto" the words "citizens of Botswana".

(2) Section 15 of the Act is amended by substituting for paragraph (e) thereof the following new paragraph —

"(e) that, without sufficient excuse, the land has not been cultivated, used or developed to the satisfaction of the land board for such period as may be prescribed in respect of that land, or has not been cultivated, used or developed in accordance with the purpose for which the grant was made; or".

Replacement
of sections
17 and 18

11. The Act is amended by substituting for sections 17 and 18 thereof the following new section —

"Land use
zones

17. (1) A land board shall, after due consultation with the district council, determine and define land use zones within the tribal area, and may from time to time make amendments thereto.

(2) The land board shall furnish the Minister with details of all determinations, definitions or amendments thereto made under subsection (1), and if the Minister is satisfied therewith, that the descriptions of the land concerned are satisfactory and that the land use zoning is in accordance with any regulations made under section 37 in respect of the types of land use for which the land may be zoned, he shall give notice thereof in the Gazette.

(3) The land board shall not make grants of land under this Part for any land use which is in conflict with the use for which the land is zoned.

(4) After consultations with the district council, village development committees, tribal authorities and any other interested institutions, the land board may determine management plans, and their revision from time to time, for the purpose of assisting or giving guidance on the use and development of each land use zone within a tribal area."

Amendment
of section 19

12. Section 19 of the Act is amended by substituting for subsection (1) thereof the following new subsection —

"(1) The Minister may, by order published in the Gazette —

(a) establish a subordinate land board for any area within a tribal area;

(b) confer on any such subordinate land board any of the functions of the land board in respect of that area; or

(c) transfer any of the functions of a subordinate land board to any other subordinate land board."

Amendment
of section 20

13. Section 20 of the Act is amended by substituting for the word "authority" wherever it occurs the word "board" in each case and by substituting for the word "tribesman" the words "citizen of Botswana".

Amendment
of section 21

14. Section 21 of the Act is amended by deleting therefrom paragraph (ii) of the proviso, and by substituting for the word "tribesman" wherever it appears the words "citizen of Botswana" in each case.

15. Section 24 of the Act is amended —
- (a) in subsection (1) thereof —
- (i) by deleting the words “with the permission of the Minister” appearing in the marginal note; and
 - (ii) by deleting the comma and word “either” in line 2, and by substituting for all the words after “section 23,” the words “but may only grant land in ownership to the State”;
- (b) in subsection (2) thereof by inserting immediately after the word “section” the words “to a person who is not a citizen of Botswana”; and
- (c) in subsection (8) thereof by substituting for the number “26” the number “38”.
16. The Act is amended by deleting section 26 thereof.
17. Section 28 of the Act is amended by deleting the proviso thereto.
18. Section 33 of the Act is amended by substituting for subsections (1) and (2) thereof the following new subsections —
- “(1) Where land is granted to the State under section 32, and there subsists over such land a right to use such land under a customary form of tenure, the land board shall require the occupier to vacate the land, and on such vacation the provisions of subsection (2) shall have effect.
- (2) Any person who is required to vacate land under the provisions of subsection (1) may be granted the right to use other land, if available, and shall be entitled to adequate compensation from the State for the following, if applicable —
- (a) the value of any standing crops taken over by the State;
 - (b) the value of any improvements effected to such land, including the value of any clearing or preparation of land for agricultural or other purposes;
 - (c) the costs of resettlement; and
 - (d) the loss of right of user of such land.”.

19. The Act is amended by inserting after section 37 thereof the following new sections —

“Transfer of rights 38. (1) The rights conferred upon any person in respect of any grant or lease of any tribal land, whether made under or in accordance with Part III or Part IV, or made prior to the coming into operation of this Act, shall not be transferred, whether by sale or otherwise, to any other person without the consent of the land board concerned:

Provided that the provisions of this subsection shall not apply in the case of —

 - (i) land which has been developed to the satisfaction of the land board concerned;
 - (ii) a sale in execution to a citizen of Botswana;
 - (iii) a hypothecation by a citizen of Botswana; or
 - (iv) the devolution of such land on inheritance.

Amendment
of section 24Deletion
of section 26Amendment
of section 28Amendment
of section 33Insertion of
new sections
38, 39 and
40

(2) The Registrar of Deeds shall not register any conveyance of tribal land or rights to such land unless supported by a certificate issued by the appropriate land board or by written lease, and, where relevant, he is satisfied that one of the conditions set out in the proviso to subsection (1) applies.

Cap 33:02

(3) For the avoidance of doubt, it is hereby declared that the provisions of section 17 of the Deeds Registry Act shall have effect in relation to the transfer of real rights of land under the provisions of this section as it has in relation to the transfer of any other real rights in land.

Offences and penalties

39. (1) Any person who —

- (a) acquires or takes occupation of any tribal land without having an appropriate lease or a certificate issued by the land board concerned;
- (b) changes the user of any such land without the prior approval of the appropriate land board;
- (c) transfers any such land to any other person otherwise than under and in accordance with the provisions of this Act;
- (d) makes any statement or representation, whether explicit or implied, which he knows or reasonably ought to have known was untrue, for the purpose of obtaining a grant of land, or for the purpose of obtaining any benefit or compensation under the provisions of this Act,

shall be guilty of an offence and shall be liable to a fine of P 10 000 and to imprisonment for one year, or if the offender is a corporate body, to a fine of P20 000.

(2) A court convicting a person of an offence under subsection (1) may order the eviction of the offender from the tribal land which he occupies and in respect of which the offence was committed.

Establishment of land tribunals

40. (1) The Minister may, by order, establish a land tribunal, or land tribunals for the purposes of this Act.

(2) The composition, terms of reference, jurisdiction and powers of any such tribunal, and the period of office of members thereof, shall be as may be specified in the order establishing the tribunal.

(3) Where the Minister has established a land tribunal for any area —

- (a) any appeal which is said to lie to the Minister under sections 14 or 27(2) of this Act shall be referred to the land tribunal for the area concerned for settlement;

(3) The Registrar of Deeds shall register any instrument of title or right in land unless the instrument is in the form of a deed or is in the form of a deed as defined in section 14 of the Deeds Act and unless the instrument is in the form of a deed as defined in section 14 of the Deeds Act and unless the instrument is in the form of a deed as defined in section 14 of the Deeds Act.

(4) For the avoidance of doubt, this section shall not apply to the provisions of section 14 of the Deeds Act which relate to the registration of instruments of title or right in land.

(5) This section shall not apply to any instrument of title or right in land which is a deed as defined in section 14 of the Deeds Act.

(6) This section shall not apply to any instrument of title or right in land which is a deed as defined in section 14 of the Deeds Act.

(7) This section shall not apply to any instrument of title or right in land which is a deed as defined in section 14 of the Deeds Act.

(8) This section shall not apply to any instrument of title or right in land which is a deed as defined in section 14 of the Deeds Act.

(9) This section shall not apply to any instrument of title or right in land which is a deed as defined in section 14 of the Deeds Act.

Cap 330B

Deeds and
Registers

Deeds and
Registers

Annex 6:

THE REMOTE AREA DEVELOPMENT PROGRAMME

OF

BOTSWANA

LEGAL ASPECTS

by Hanne Sophie Greve

* * *

12th May 1995 ♦

CONTENTS

	Page:
<i>Abbreviations</i>	iii
1 ♦ THE EVALUATION PROJECT	1
1♦1 Introduction	1
1♦2 Objectives of the evaluation	3
1♦3 The scope of the evaluation	4
1♦4 The evaluation of legal aspects summarized	4
1♦5 Methodology	5
2 ♦ THE REMOTE AREA DWELLERS	6
2♦1 The paramount principle of equality	6
2♦2 The Remote Area Dwellers	7
2♦3 The Basarwa	8
2♦4 The Tswana	10
2♦5 The question of indigenous people	11
3 ♦ THE LEGACY OF THE BECHUANALAND PROTECTORATE	13
3♦1 The Bechuanaland Protectorate	13
3♦2 The recognition of the peoples of Botswana	13
3♦3 The land distribution system	14
3♦4 The legal system	16
4 ♦ LAND RIGHTS AND RIGHTS TO OTHER NATURAL RESOURCES	18
4♦1 The Constitution	18
4♦2 The Tribal Land Act	19
4♦3 The Tribal Grazing Land Policy	21
4♦4 Fauna Conservation Laws	23
4♦5 International instruments	23
4♦6 The <i>de facto</i> situation	24
4♦7 The main conflicting interests	27
4♦8 The impact of the RADP	27
5 ♦ POLITICAL PARTICIPATION	30
5♦1 The Constitution	30
5♦2 The Chieftainship Act	31
5♦3 International instruments	31
5♦4 The aspirations of the GOB	31
5♦5 In the villages and settlements	32
5♦6 Beyond the villages and settlements	32
5♦7 The impact of the RADP	33
6 ♦ LAW ENFORCEMENT	35
6♦1 The Constitution	35
6♦2 International instruments	35

	Page:	
6♦3	The <i>Kgotla</i> system	35
6♦4	The ordinary court system	37
6♦5	The law enforcement personnel	37
6♦6	The <i>de facto</i> situation	38
6♦7	The impact of the RADP	39
7 ♦	HUMAN RIGHTS IN GENERAL	40
7♦1	Fundamental human rights	40
7♦2	Infrastructural development	40
7♦3	Employment and the Economic Promotion Fund	40
7♦4	Education and training	41
7♦5	Culture and public awareness	42
7♦6	Gender issues	42
7♦7	Interest and human rights groups	42
7♦8	The impact of the RADP	43
8 ♦	SLAVERY-LIKE CONDITIONS	44
8♦1	The Constitution	44
8♦2	International instruments	44
8♦3	Farm labourers	44
8♦4	Domestic staff	45
8♦5	Minors	46
8♦6	The impact of the RADP	46
9 ♦	CONCLUSIONS AND RECOMMENDATIONS	47
9♦1	Land rights and rights to other natural resources	47
9♦2	Affirmative actions	47
9♦3	Improved legal protection and monitoring	48
9♦4	An Ombudsman system?	48
	<i>Bibliography</i>	49



ABBREVIATIONS

DWNP	Department of Wildlife and National Parks
EPF	Economic Promotion Fund
GOB	Government of Botswana
GON	Government of Norway
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organization
IWGIA	International Working Group for Indigenous Affairs
MLGLH	Ministry of Local Government, Lands & Housing
NDP	National Development Plan
NGO	Non-Governmental Organization
RAD	Remote Area Dwellers
RADP	Remote Area Development Programme
TGLP	Tribal Grazing Land Policy
UDHR	Universal Declaration of Human Rights
WMA	Wildlife Management Areas



ABBREVIATIONS

Department of Wildlife and National Parks	DWNP
Economic Promotion Board	EPB
Government of Botswana	GOB
Government of Norway	GON
International Covenant on Economic, Social and Cultural Rights	ICESCR
International Covenant on Civil and Political Rights	ICCPR
International Labour Organisation	ILO
International Working Group for Indigenous Affairs	IWGIA
Ministry of Local Government, Lands & Housing	MLGLH
National Development Plan	NDP
Non-Governmental Organisation	NGO
Remote Area Districts	RAD
Remote Area Development Programme	RADP
Tribal Grazing Land Board	TGLB
Universal Declaration of Human Rights	UDHR
Wildlife Management Areas	WMA

1 ♦ THE EVALUATION PROJECT

1.1 INTRODUCTION

According to the Minister of Local Government, Lands and Housing in Botswana, Mr Chapson J. Butale, *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations*,

in recognition of the problem that the Basarwa people in Botswana have been hindered from fully exercising their rights as citizens due to their nomadic tendencies, the government instituted a special programme called the Bushmen Development Programme in 1974. The objective of the programme was, and still [October 1993] is:

- (i) to facilitate the social integration of the marginalized section of the population into the mainstream society;
- (ii) to develop rural settlements to a level that is comparable to that of other rural villages in the country by providing the necessary social services to improve the living conditions in those settlements.

A re-definition of the remote area programme in 1978 was initiated upon the realisation that there were other communities apart from Basarwa who were equally marginalized from mainstream society and were without access to basic social services.

... The programme, thus, forms part of [the] government's overall strategy for the integration of the marginalized and disadvantaged sections of the population, irrespective of their ethnic background, into the social and economic mainstream of society in pursuit of the national objective of social justice.

It was reportedly European officers in charge of the Bushmen Development Programme who suggested that its scope was broadened to include all persons living outside villages. They believed that the Tswana politicians were less likely to curtail the programme at an early time if it benefitted not only the Bushmen but also other minority groups like the Bakgalagadi, Herero and Bayei. Cf. Robert K. Hitchcock and John D. Holm, *Bureaucratic Domination of Hunter-Gatherer Societies: A Study of the San in Botswana*, p. 316.

The Bushmen Development Programme also had its name changed when it was extended to other minorities as well, thence it has been entitled the Remote Area Development Programme (RADP). In Norway the RADP is known as the programme for *Stønad til minoritetsgrupper i utkantsstrøk* which translates as *Support to minority groups in remote areas*.

In 1988, an Agreement was signed between the Government of Botswana (GOB) and the Government of Norway (GON) where the GON committed itself to participate in and support the RADP.

The overall objective (cf. Article 1) is,

To assist the Government of Botswana in improving the general living conditions of dwellers in the remote areas.

The specific objectives are,

To assist the Remote Area Dwellers (RAD) communities to obtain land rights and to form administrative structures such as headmanship and Village Development Committees so that these communities gradually are fully integrated into the Botswana society.

To assist poor people staying in remote settlements to participate in the general development of the country. This includes obtaining access to public services like water, school and health facilities, as well as diversifying and expanding the subsistence base for the RADs by introducing new economic activities in the communities.

To offer training and education possibilities for the people to meet the rapid changing socio-economic conditions in those areas. Cultural awareness was seen as an important element in this process.

The programme includes:

- development of infrastructure in the settlements (health, water and school-facilities),
- training of programme staff and of the Remote Area Dwellers,
- funds for economic promotion of RADs,
- funds to preserve traditions and strengthen cultural identity, and
- equipment and transport material for the programme.

In order to establish a better basis for assessing achievements and future strategies and support priorities, an evaluation of the whole programme has been agreed upon.

The Government of Botswana's future policies and activities towards the people living in the remote areas of the country is outlined as follows in the National Development Plan (NDP) VII (1991-1997), p. 391,

Priority will be shifted from basic infrastructure development (primary education, health and water) to land right issues (emphasis added), employment opportunities, institution building and leadership training.

A campaign will be launched aimed at changing negative public attitudes towards the target groups, through information on language, culture, lifestyle and traditions.

Infrastructure development will continue to concentrate on providing water, education and health facilities to the remaining RAD settlements. Through the Economic Promotion Fund (EPF), and by giving RADs priority in the Labour Intensive Schemes, income generation and employment opportunities will be

enhanced. The intention is to improve both the settlement infrastructure and the revenue base thus strengthening the security of the RAD households.

In October 1993, the Minister of Local Government, Lands and Housing in Botswana, Mr Chapson J. Butale, *op. cit.*, summarized as follows,

In its almost twenty years of existence, the Remote Area Development Programme has succeeded in providing both infrastructural and social services to the target group far better than they were when the programme was initiated.

Much of the achievement has been particularly in the provision of schools, health posts and water supplies. This reality, Mr Chairman, is not cause for complacency. Much has been achieved but we do acknowledge that even more remains to be done more efficiently.

... We have specifically come to the realisation that to-date, we have tended to place more emphasis on the development of infrastructure and less attention to the social, economic and political development relating to the rights of the Basarwa.

1.2 OBJECTIVES OF THE EVALUATION

The objectives of the evaluation are as follows:

To sum up the results of the experiences of the RADP since 1988 in relation to the overall and the specific objectives of the programme. This will include a general review of the socio-economic and human rights situation of the Remote Area Dwellers, with particular emphasis on the situation of the Basarwa peoples.

To analyze the follow-up by the Government of Botswana and the Government of Norway (GON) of recommendations made in the programme review of August 1990 with particular emphasis on reviewing the appropriateness of the programme design to meet the development requirements of RADs.

To review the strategies, efforts and capacity of the Non-Governmental Organization (NGO) sector in relation to the target group with particular emphasis on their advocacy role.

Review the revised GOB-policy document and assess the extent to which it will encourage and support the human rights and development of RADs, and, as necessary, identify the conditions which would need to be met in order to further promote the development of the RADs.

To appraise, on the basis of past performance and above requirements, the future need for institutional co-operation and research in relation to the RADP/the RADs.

To identify key features of future programmes to Remote Area Dwellers in terms of priorities, objectives, targets and approaches.

1.3 THE SCOPE OF THE EVALUATION

The evaluation shall include, but not necessarily be limited to identification and assessment of and recommendations concerning the following specifically listed subjects.

- ◆ Organization, Management and Expenditure
- ◆ Infrastructural development
- ◆ Employment, Economic Promotion Fund (EPF)
- ◆ Land and Water
- ◆ Education and Training
- ◆ Research and Monitoring
- ◆ Culture
- ◆ Human Rights, Public Awareness
- ◆ Gender Issues
- ◆ Institutional
- ◆ Approaches

1.4 THE EVALUATION OF LEGAL ASPECTS SUMMARIZED

The approach by this researcher will be the relevant legal questions, human rights issues included.

The in Chapter 1.3 *supra* outlined subjects of evaluation have consequently been slightly reformulated to cover the main concerns relevant to an analysis of the legal rights of the Remote Area Dwellers - in particular the Basarwa people. In the context of legal aspects special attention will thus be given to:

- ◆ Land rights and rights to other natural resources
- ◆ Political participation
- ◆ Law enforcement
- ◆ Human rights in general
- ◆ Slavery-like conditions

The analysis will focus on the development since 1988 (when the Agreement between Botswana and Norway was signed) and compare the situation prior to and after that date considering the impact and non-impact of the RADP on these legal rights *de facto* and *de lege*.

As a point of departure it ought to be emphasized that legal rights are a dynamic entity changing over time within the same areas, and with variations from area to area at the same time. This evaluation is intended to give an overall understanding of the basics and, not the least, of the legal context within which the RADP has been designed to function and has been and still is unfolding.

As a general observation, it may already at this early point be communicated, that it seems as if very limited attention if any has been given by Norwegian representatives to the legal framework for the RADP. As a result there has been misunderstandings concerning and unintended consequences of certain aspects of the RADP.

1.5 METHODOLOGY

The legal part of the evaluation is based on this researcher having participated in the evaluation team's field work until 10th March 1995 (this day included). The field visit included interviews with government officials from Botswana and Norway, and other resource persons in Gaborone. In the visited districts interviews were made with relevant district and settlement authorities, beneficiaries and users, project staff, members of NGOs and researchers.

Moreover, the evaluation is supplemented by an analysis of information available from project documentation, minutes from annual meetings, research reports, evaluation reports, reviews, monitoring data reports, and relevant material provided by other organizations and donor agencies.



2 ♦ THE REMOTE AREA DWELLERS

2.1 THE PARAMOUNT PRINCIPLE OF EQUALITY

The Constitution of Botswana contains a Bill of Rights for the protection and enforcement of basic individual rights for all citizens of Botswana. It is a paramount principle that among all peoples of Botswana *every human being as such* is entitled to equal treatment.

In Section 15 the Constitution addresses the issue of discrimination. It is affirmed that no law shall make any provision that is discriminatory either of itself or in its effect; cf. subsection (1). Furthermore, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority; cf. subsection (2). According to subsection (3), in Section 15,

the expression 'discriminatory' means affording different treatment to different persons, attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

Section 15, when it comes to listing exemptions, *inter alia* defines to what extent it may be discriminated in favour of the Basarwa (like in Section 14 (3) (c) of the Constitution, cf. Chapter 4.1 *infra*, the so-called affirmative action approach). Regardless of there being a number of circumstances under which discrimination is specifically permitted, the actual discrimination will none the less have to be of a character reasonably justifiable in a democratic society. There is a presumption that the Bill of Rights in the Constitution of Botswana fully satisfies internationally recognized democratic standards.

In the words of the Minister of Local Government, Lands and Housing in Botswana, Mr Chapson J. Butale, *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations*,

The constitution of Botswana guarantees and protects the rights and freedoms of all citizens irrespective of race, colour, creed, ethnic origin or social standing. This holds true for the Basarwa community as well. Basarwa have as much right as any other ethnic group to exercise their fundamental rights and freedoms which are guaranteed by the Constitution of Botswana. We therefore urge Basarwa to be assertive in the exercise of their legitimate rights.

Botswana was a long-time front line State to the ominous rule of *apartheid* in the Republic of South Africa. *Apartheid* being a principle not merely promoting *de facto* deprivation and poverty, was more than anything else rooted in an inhumane ethical attitude defining people as superior and inferior respectively on the basis of the colour of their skin. It was injustice brought about by white people. Also the peoples of Botswana suffered under this. It suffice to remind that the first President of Botswana, Sir Seretse Khama, was exiled from his native Botswana by the British between 1950 and 1956 due to his marriage to a white woman - which could negatively influence the 'morale' in neighbouring Southern Rhodesia and the Republic of South Africa, States then governed according to racially divisive systems.

It needs to be appreciated that under these circumstances it is pivotal not to jump to conclusions of anything more seriously wrong than *de facto* discrimination when social injustice or *de facto* inequality is identified. The connotation of discrimination is painful and perceived as profoundly immoral. Thus in the southern African context it may be advisable not to use the word discrimination least a situation is characterized by all the negative aspects of discrimination - including an underlying immoral attitude. Discrimination thus being something quite different from someone taking advantage of an impaired position of someone else, even when this happens in a most repulsive way.

The main purpose of this evaluation will consequently be to consider if the equal opportunities principle as enshrined in the Constitution of Botswana - which provides a fully sufficient moral basis for striving for that goal - has been achieved, promoted or hampered by the RADP as it has functioned in contemporary Botswana which is influenced also by the legacy of the past. It is emphasized that the RADP (cf. Chapter 1.1 *supra*) was conceived as affirmative action to rectify a disadvantaged position for the Basarwa.

2.2 THE REMOTE AREA DWELLERS

Initially the RADP was designed as a Bushmen Development Programme, which emphasizes that the main target group of the programme have been and still are the Botswana Basarwa. According to its objectives this evaluation will, as mentioned in Chapter 1.2 *supra*, focus on the Remote Area Dwellers - *with particular emphasis on the Basarwa peoples*.

The previous Bushmen Development Office (established in 1974), which is located within the Ministry of Local Government and Lands in Botswana, has been renamed the Remote Area Development Unit. According to this Office the definition of the *Remote Area Dwellers* should be 'all people living outside organized village settlements'. Remote Area Dwellers - RADs - are however, often equated with Basarwa.

The one advantage of changing the name of the programme was that the name reflected that the programme had been redesigned not to be exclusively for the Basarwa. There is a variety also of other poor and small ethnic groups living in remote areas. Obviously, it was advisable not to exclude others of the poorest of the poor from the social and economic assistance which was part of the programme. But, the change should not hide the fact that the Basarwa are not just very poor people like other poor people in Botswana and elsewhere. The problem of the Basarwa is not essentially a poverty problem.

The denomination 'Remote Area Dwellers' highlights where people live, and seems to indicate that their remote dwellings are their main problem. One might even think that the RADP essentially had been designed to overcome whatever problems are derived from the remoteness of where the people live. This would however, be to diffuse the underlying and much more complex issues.

The core of the problems for the waste majority of the 'Remote Area Dwellers' are that they belong to minority groups of the lowest socio-economic standing in Botswana. The Basarwa people are at the very bottom of the country's social and economic ladder, and it is essentially the treatment they have received as a minority group which has brought them there.

Although this is an evaluation of the Remote Area Development Programme, it needs to be appreciated to understand the situation of the Basarwa, that it is an increasing problem that marginalized members of their ethnic group live not at all in remote areas, but are squatting and establishing themselves in cardboard housing in outskirts of towns and townships and seeking shelter at farms and cattle-posts where a majority of them toil under far from desirable conditions (cf. Chapter 8.3 *infra*). Some having employment as domestic staff may fare not much better than those on the farms and at the cattle-posts (cf. Chapter 8.4 *infra*).

2.3 THE BASARWA

The Basarwa of Botswana are referred to under a variety of names - such as Bushmen, San, Basarwa, Remote Area Dwellers, Batho ba Tengnyanateng, Mosarwa and others. The Basarwa are moreover, subdivided in numerous different groups.

The Constitution of Botswana refers to the Basarwa people as Bushmen; cf. Section 14 (3) (c). Alice Mogwe, *Who was (t)here first? An Assessment of the human rights situation of Basarwa in selected communities in the Gantsi district Botswana*, p. 4, writes,

Bushmen as a term has been used in negative and positive ways. As a form of insult, it connotes backwardness, simplicity and 'non-civilization'. However, in recent times, the Basarwa has embraced this term as being one which most accurately describes their relationship with the environment in which they belong. The area named 'Bushmanland' in Namibia now serves as a source of inspiration for those Basarwa in Botswana. They applaud the fact that a piece of land has been named after them. This naming of land signifies an acknowledgement of their right to exist as an identifiable group, rather than as an anonymous part of the Batswana.

The term San is used primarily by non-Batswana anthropologists, it is occasionally viewed as too academic and technical. A related reference is that to the San-speaking peoples.

The origin of the name *Basarwa* is said to be *ba-sa-rua dikgomo* meaning 'those who do not rear cattle'. It apparently was used initially by the Batswana to describe the Basarwa communities - with the understatement that the norm was to rear cattle.

Batho ba Tengnyanateng translates along the vein 'people who are deep inside the deep' and is strongly disapproved by the Basarwa - it is used as a Setswana equivalent to Remote Area Dwellers.

The name and denomination Mosarwa has a dual meaning, that of a San and of a person who is in a servile position. (Similarly the word Mokgalagadi is used to refer to a member of an ethnic group called Bakgaladi and to a servant or serf.)

The Basarwa describes themselves as *red people*, and the other natives in Botswana as *black people*. This is said to be one reason why the Basarwa are not in favour of being referred to as just Batswana (a common denominator for the peoples of Botswana).

That the Basarwa both by themselves and by outsiders - other peoples in Botswana in particular - are referred to with distinctive names linking them to their ethnic group testifies to them being indeed one specific ethnic group.

It is not clear whether the Basarwa may be classified as a race - any of the great divisions of mankind with certain inherited physical characteristics in common (e.g. colour of skin and hair, shape of eyes and nose) - distinct from the 'black people'. The Basarwa do however, differ from the other Batswana in terms of features, language, culture, religion and general world-view. The present-day Basarwa are said to be descendants of the original populations residing in the area now known as Botswana. An indicator of lengthy residence or familiarity with an area is old names of places. As original inhabitants or aboriginal peoples of the Southern African region, the San satisfy the requirements of an indigenous people ; cf. Chapter 2.5 *infra*.

The language of the Basarwa are called Sesarwa, it differs from the Setswana language to the extent that people from these to linguistic groups cannot mutually understand one another.

The last census along ethnic lines was held in Botswana, then the Bechuanaland Protectorate, in 1946. The estimated number of Basarwa varied between some 41,000 and 60,000 in the mid-1980s, it is said. Some would however, place the number of Basarwa people considerably higher. The estimated total population of Botswana in the mid-1980s was approximately 1,2 million people.

Clement Ng'ong'ola and Batlhalefhi Moeletsi, *The legal framework for the assessment of land rights for Basarwa and other marginalized ethnic groups in Botswana*, pp. 4-5 assert that,

The Kalahari environment obviously shaped and influenced the tenurial concepts and practices of these [Basarwa] communities. The perceptible environmental features of the region include sandy plains, in parts covered with trees and bush savannah, and interspaced with dry fossil river valleys and depressions called pans. The area is also semi arid and severely lacking in surface water, especially after the comparatively short rainy season, between November and April. The rainfall is also generally low, averaging between 300 and 400 mm per annum, and droughts are a frequent phenomenon.

In the past, the Basarwa were predominantly hunter-gatherers. The Basarwa across the Kalahari are said moreover, to have engaged in production of salt and ceramics, metal and ivory ornaments and in long-distance trade to the Indian Ocean. As pastoralists there have been times when they have controlled large herds of big-horned cattle. More recently anthropologists have catalogued details of 'Basarwa territories', occupied and utilized by particular groups and communities. They have been arguing that the Basarwa have never been 'true nomads', foraging and hunting over the entire wide space of the Kalahari. On the contrary, specific groups and communities have always identified and been associated with particular areas, in such a way that most of the researchers would not hesitate to describe them as 'owners' of their land. It is pointed out that the Basarwa communities made seasonal changes of their habitat. Normally however, they returned to the very same territorial localities in a cyclical manner - when it was season to be in the particular habitat to take maximum advantage of the often extremely scarce resources generally available. Earlier accounts mainly emphasized that the Basarwa were pristine human foragers and hunters who always lived in tandem with their ecological environment.

At one point in time anthropologists argued that the 'Bushmen had no territories', but they agreed however that there were lands which the Basarwa had occupied for generations not to say centuries and millenniums.

As late as in 1992, *Oxford Illustrated Encyclopedia of Peoples and Cultures* asserts that,

!Kung-San (Kalahari bushmen), a dwindling group of nomadic hunter-gatherers, living in the southern African Kalahari desert and speaking one of the Khoisan languages. Their traditional social unit is the camp, consisting of a group of siblings and cousins, who move around in territory surrounding water holes, often sheltering in caves. Many rock surfaces still bear witness to the !Kung-San's rich mythology and skill in drawing. *The groups do not regard their territories as property in the strict sense, nor are there any organized political structures: a camp leader may be a man or a woman whose skills and judgement are respected, but decisions are made by consensus.* [Emphasis added.] The !Kung-San depend for their livelihood on fruits, berries, and nuts gathered by the women and on animals hunted by the men. This traditional way of life is rapidly disappearing, however; recent settlement by migrating farmers has introduced property relations and wage labour to !Kung society.

These kind of statements encouraged the legal disenfranchisement of land from the Basarwa.

Some of the ethnographic literature reportedly (cf. Clement Ng'ong'ola and Batlhalefhi Moeletsi, *op. cit.*, pp. 5-6) describe a '*band*' as the principal unit of the social structure of the Basarwa communities in the Kalahari area. A *band* comprised of clusters of families their visitors and friends. A *band* had its territory where its members had the right to exploit the natural resources (water, game and plants, in particular). The *band* could moreover, grant outsiders access to resources on its territory. The *band* structure was adaptable and could vary somehow from group to group, and from time to time - even within a group.

That the concept of 'private ownership' of land as it is understood in terms of the general law of present-day Botswana, did probably not exist among the Basarwas of the past, is of no decisive legal interest today. Also the Tswana legal concepts as related to land has obviously undergone major changes over the last century and even the past few decades.

The main occupation of the Basarwa today is no longer being hunter-gatherers, but that of landless rural labourers.

In 1993, according to the Minister of Local Government, Lands and Housing in Botswana, Mr Chapson J. Butale, *op. cit.*,

Basarwa people in Africa share common problems. All of them are at the lowest socio-economic stratum, and they have the least access to development.

2.4 THE TSWANA

The members of the ethnic majority group in Botswana have long since been settled agriculturalists. They belong to the Bantu group of peoples, and are known as Tswana. The Tswana people are moreover, referred to as Motswana. The Tswana tribes at an early time established permanent villages, and allocated special areas for agriculture and others for cattle-posts and grazing.

The Constitution of Botswana, cf. Sections 77, 78 and 79, proclaims that there are eight 'principal tribes' in Botswana. The rest of the native population - the other ethnic groups - are regarded as minor tribes or tribal communities. The 'principal tribes' are Batawana,

Bakgatla, Ba(ma)ngwato, Bakwena, Bangwaketse, Ba(ma)lete, Batlokwa and Barolong. The eight 'principal tribes' all belong to the Tswana ethnic group.

In terms of political participation the Constitution makes a distinction between the eight Tswana tribes and the ethnic groups who are not Tswana. The eight Tswana tribes, appreciated as 'principal tribes', are the only ones accorded automatic representation in the House of Chiefs, an important political body; cf. Chapter 5.1 *infra*. The other groups - those who are not Tswana - are not afforded direct representation. According to the Chieftainship Act only the Tswana groups have chiefs, the rest have sub-chiefs; cf. Chapter 5.1 *infra*.

The language of the Tswana groups are Tswana, it is also called Setswana. This language - which is the national language of Botswana (English is the only official language of the country) - is not understood by the Sesarwa speakers, the Basarwa.

2.5 THE QUESTION OF INDIGENOUS PEOPLE

The United Nations proclaimed 1993 the International Year of the Indigenous People. The idea behind the proclamation being to draw the attention of the world towards the special problems that some nationalities or ethnic groups have suffered as they are descendants of original inhabitants of areas taken over by other peoples. As collectivities the indigenous people have that in common that they are marginalized in their native lands. They are distinct from their country's dominant group in language, culture or religion. Many are hunter-gatherers with a tradition of a collective management of natural resources. A number of States are reluctant to designate a group as indigenous and may rather refer to the same people using designations like *e.g.* 'small nationalities' or 'mountain peasants'.

It is argued (Clifford Meyer, *Don't celebrate year of indigenous, say Indigenous Minister*, Mmegi, 12th March 1993) that,

Indigenous peoples' veneration for the natural world has its parallel in their peerless ecological knowledge. Native peoples commonly know as much about ecological processes that affect the availability of natural resources as they do about those resources' diverse uses. Specialists trained in western science often fail to recognize indigenous knowledge because of the cultural and religious forms in which indigenous peoples record and transmit it.

When the indigenous people come under pressure from forces such as cash economy, modern technologies and encroaching populations they are likely to find their traditional approaches to management collapsing.

The GOB did not plan any special programmes or activities to celebrate the International Year of the Indigenous People. The Minister of Local Government, Lands and Housing, Mr. Chapson J. Butale, reportedly said in Parliament that this was because all Batswana are indigenous to the country, except those who may have acquired citizenship by registration. He added that the Government's development programmes and assistance schemes do not draw any distinction among the country's citizens.

The Minister did however, reportedly inform that local authorities were addressing *Kgotla* meetings (cf. Chapter 6.3 *infra*) to increase the awareness in the population of Botswana at large about the special needs of the Remote Area Dwellers. Moreover, the fact that the GOB in 1993 was in the process of revising the policy for the RADP, could in his opinion be seen as a GOB contribution to the International Year of the Indigenous People. Cf. *Botswana not to commemorate year of the indigenous people*, [Botswana] Daily News, 5th March 1993.

In October 1993, the same Minister in his *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* elaborated on the issue as follows,

Botswana supports the general principle and objectives of the United Nations International Year of the Indigenous People in so far as they relate to the marginalized and disadvantaged sections of the population.

By our definition, these include Basarwa and other ethnic groups of similar socio-economic standing. We have pointed out that in our context, all Batswana are indigenous to the country, except those who have acquired the country's citizenship through naturalisation. The fact that Basarwa are believed to be among the first inhabitants of this country does not, in our view, make them more indigenous than the other ethnic groups in the country.

Our position on this matter is unfortunately viewed in some quarters as a deliberate attempt to avoid admitting that the Basarwa are the indigenous people of this country. We would like to assure you all that *this position will not in any way undermine the use of the concept to explain and to justify policy measures that are meant to address the problem as described, nor will it frustrate the legitimisation of policies and programmes which are effective, progressive and are socially and politically acceptable* [emphasis added].

With this being a commitment on the part of the Government of Botswana, the Basarwa have an added reason to have confidence that the GOB in principle is supportive of the special needs of the Basarwa for affirmative action to have them gain equality with their fellow citizens.

3 ♦ THE LEGACY OF THE BECHUANALAND PROTECTORATE

3.1 THE BECHUANALAND PROTECTORATE

In 1884, present-day Botswana became the main part of the British Bechuanaland Protectorate. The next year, the area south of the Molopo River became a crown colony and was annexed by the Cape Colony a decade later. Bechuanaland itself remained a British protectorate until 1966.

3.2 THE RECOGNITION OF THE PEOPLES OF BOTSWANA

The British appreciated possibly the potential of using the institution of chieftainship as a tool for incorporating the native populations into their protectorate framework. This was probably predominantly so in the case of the most numerous and more or less permanently settled agriculturalist Tswana tribes.

Of all the tribes inhabiting the territory of Botswana, the British Protectorate Administration recognized only eight tribes - the Bamangwato, Bangwaketse, Bakwena, Batawana, Bakgatla, Batlokwa, Bamalete and Barolong - as having titles to land. The common denominator of these groups were that they all belonged to the Tswana ethnic group, and were Tswana-speaking peoples of Botswana. The eight tribes recognized officially by the British Protectorate Administration, are the same tribes which later have been identified in the Constitution of Botswana as the only 'principal tribes' of the country; cf. Chapter 2.4 *supra* and Chapters 5.1 and 5.2 *infra*.

The other peoples of the land - who were not ethnic Tswana, and not speaking Tswana - the British Protectorate Administration did not pay any official attention to. Why this was so, is not clear. One explanation could be that the British considered these non-Tswana peoples as incorporated in or subsumed under the eight 'principal tribes'. Another reason why the non-Tswana groups were ignored officially, may have been that at the time their presence in the most attractive parts of the country was relatively marginal or at least less visible - the need to have these groups consent to British overrule thus being of limited if any political significance from a British point of view.

When in a legal context the non-recognition is considered or interpreted, it needs to be recollected that the non-recognition was made by an alien colonial power with incomplete knowledge of the local conditions, an alien power proceeding to advance its own interests.

More interesting from a legal point of view, is it that the British basically considered waste stretches of Basarwa territory - such as on the Ghanzi ridge - *terra nullius* which the British could appropriate for themselves in disregard of any native population and its legal rights. As special agreements were made with each of the 'principal tribes', the Tswana population of the Bechuanaland, it can at least be assumed that neither the British nor the eight 'principal tribes' were of the opinion that the latter held titles to land in the so-called *terra nullius*. Said differently, if there were legal rights for any native population in the so-called *terra nullius* these rights did not belong to the Tswana peoples.

3.3 THE LAND DISTRIBUTION SYSTEM

In the period of the British Bechuanaland Protectorate, it appears that the British failed to appreciate significant variations in the regional African tenurial practices. As summarized by Clement Ng'ong'ola, *Legal recognition of Traditional Land Rights: Research Notes and Agenda*, pp. 3-4,

When the legal instruments for recognition of land control and land use were evolved and formulated at the turn of the century, the convenient and ready assumption was that the 'native' inhabitants of the protectorate lived under similar tribal patterns of governance, under the control of dominant or strong 'Tswana' chiefs. The first concern of the colonizers was to identify and demarcate the territories of these chiefs as Tribal reserves and territories. The second concern was to validate land acquisition and concessions which European settlers had extorted from the chiefs and tribal authorities. This was the beginning of the acknowledgement of the existence of freehold titles or 'private rights of ownership' in land, and land in this category came to be classified as private or freehold land. The rest of the land became Crown lands, or lands appropriated to the Crown by virtue of it being the 'protecting power'. Not much thought was given to the position of the territories of the Basarwa and other minority ethnic groups in this scheme of things. Their territories and land rights were henceforth subsumed and submerged under the *invented new land categories* [emphasis added]. The rights of those who came into contact with freehold land were obliterated. Those who continued to live in areas designated as Crown lands became, in legal theory, tenants at will of the Crown who could be dispossessed or deprived of their rights at a moment's notice. The rest of [the] communities in the Tribal reserves were confirmed as subject peoples of their Tswana masters, with no distinct tribal rights of their own.

The three-fold classification of land and the resulting disenfranchisement of Basarwa and others was substantially carried over from the colonial to the post-colonial era. After independence Crown lands became State Land, and Tribal reserves were renamed Tribal land or territories. The size of these categories were also appreciably adjusted in favour of Tribal land. But the legal instruments remained substantially unchanged until the enactment of the Tribal Land Act in 1969. As is well known, the act sought to revolutionize tribal land tenure, although it was hardly so claimed at the time. First, it sought to transfer powers of administration and control from the chiefs and tribal authorities to land boards. Secondly it sought to provide opportunities for the allocation of non-tribal interests in land such as 'thee common law lease' of the Tribal Grazing Land Policy. For the Basarwa, however, the underlying assumption that their land rights are exercised within the overreaching framework of Tswana tribal land tenure does not appear to have been changed. They were, of course, now to be subjected to the jurisdiction of the boards, and in the process of creating the new 'private land' titles, their unrecognized rights could continue to be obliterated or subsumed.

When the Bechuanaland Protectorate was established in 1885, there were apparently a number of white immigrants who had already been seizing land and a variety of mining and commercial rights in its territory. These colonists had not necessarily or normally paid any attention or due attention to the rights of the native population.

On 10th June 1891, the British authorities decreed that claims to land by persons of European extraction would not be recognized as valid least approved by the British administration. In 1893, the British organized a 'Concessions Court', which was to investigate and validate land claims and concessions secured from Native Chiefs before 5th May 1891. Before granting approbation the Court would consider whether the native chief or ruler had consulted his council before conceding the land, whether the nature of the transaction was properly explained to and understood by the chief or ruler, and whether the consideration given was adequate or sufficient. Cf. Clement Ng'ong'ola and Bathalefhi Moeletsi, *The legal*

framework for the assessment of land rights for Basarwa and other marginalized ethnic groups in Botswana, pp. 10-11. It is officially recorded that transactions involving an estimated total of only 96 square miles of land, were validated by the Court.

The main changes originated from new admissions by the British authorities *inter alia* to such major enterprises as the Tati Concessions Ltd. and the British South Africa company of Cecil Rhodes. The land was handed over 'in full and undisturbed possession'. For the original inhabitants living in the concession area at the time, a native reserve was created within which they were allowed to live as rent paying tenants. The land transferred to the Tati Concessions Ltd. was estimated at 1,700 square miles, and the reserve was estimated at 344 square miles. Later, more land was ceded by the British authorities, some of it after it had been classified as land 'abandoned' by the native chiefs. A number of Boer and English immigrants received land rights on the Ghanzi ridge - to act, reportedly, as a buffer against German expansion from South West Africa. In the latter area the land was considered as a *terra nullius*, in the sense that it had 'no legal owner' despite the fact that there were Basarwa communities long since living on the land. On the Ghanzi ridge the land thus was not 'vacant', none the less 'vacant' was another term utilized by the British in the context. For the first decades the new land owners paid some kind of an annual recompense to the British Protectorate Administration, this practice was discontinued in 1940.

In the midst of the redistribution of land under the auspices of the protectorate, a number of 'Tribal Reserves' (later referred to also as 'Native Reserves') were demarcated for the main Tswana tribes. Based on previous Proclamations the Tribal Territories Act, was promulgated and entered into force on 4th August 1933.

The legal status of the inhabitants of the Tribal Reserves differed - some had legal rights to their land, some did not and was residing in the reserves under a variety of regulations. It was considered in general, that the land in the Tribal Reserves belonged to the chief and the tribe occupying it - their customary law was enforced *mutatis mutandis* not to be in conflict with 'order and good government'.

Land not classified for 'Tribal Reserves' or granted to private individuals or private corporate entities, was identified as 'Crown land'. A Bechuanaland Protectorate (Lands) Order in Council of 16th May 1904 proclaimed as Crown land 'the lands abandoned by the chiefs Khama, Sebele, and Bathoen'; cf. Article 1. Crown land thence could be and was, in part, passed on to private entities. A second Bechuanaland Protectorate (Lands) Order in Council of 1910 generated more Crown land 'in addition to the Crown lands defined by the [1904] Order'. It pronounced as Crown land,

all other land situated within the limits of the ... Protectorate elsewhere than in the Tati District ..., with the exception of

- (1) Such land as is either
 - (a) included in any native reserve set apart by Proclamation or
 - (b) the subject of any grant duly made by or on behalf of His Majesty; and
- (2) the forty-one farms known as the Barolong [*de facto* an abberation of tribal land or a tribal reserve] ...

Thus included as Crown, land was land neither waste nor vacant or abandoned by its owners, or acquired by the Protectorate by treaty, concession or conquest. Said differently, all the land which was not designated for the main Tswana tribes, was appropriated by the Crown irrespective and in direct violation of the rights of the native population, the ethnic minority groups - the Basarwa, Kgalagadi and others. After being deprived in this manner, the members of the ethnic minority groups were accorded a uniform status under the law in so far as they were all regarded as tenants at will of the Crown. These tenants could be moved at the whim even of the Protectorate authorities. There was no legal obligation to consult the tenants before they were moved, or compensate them when they were moved.

In the 1960s the British authorities appointed George Silberbauer to research the situation for the Basarwa. Following his *Bushmen Survey Report* the Central Kalahari Game Reserve covering some 52,000 square kilometres was designated in 1961 not merely as a game reserve, but to secure the livelihood of the Basarwa who were inhabiting the area. Silberbauer envisaged the Central Kalahari Game Reserve as a sanctuary for faunal species as well as for some 3,000-5,000 Basarwa who wished 'to remain ... in their ... environment, ... and to continue to follow their present life as hunter-food gatherers without interference or encroachment by other peoples ...'; cf. George Silberbauer, *Report to the Government of Bechuanaland on the Bushman Survey*, p. 132. The local Basarwa then were entitled to enter the Central Kalahari Game Reserve without seeking prior permission from the local authorities (*i.e.* the District Commissioner for Ghanzi); cf. Fauna Conservation, Proclamation No. 22 of 1961, and Central Kalahari Game Reserve (Control of Entry) Regulations, GN 38 of 1963.

3.4 THE LEGAL SYSTEM

As explains Bojosi Otlhogile, *Criminal Justice and the Problems of a Dual Legal System in Botswana* (p. 521),

At the broadest level, almost everything about the contemporary African scene may be viewed as a manifestation of the historical conditioning of the colonial period. Chieftainship, legal system, army - none of these institutions can be understood without reference to this background. Those who inherited the state are still dependent upon institutions crafted and developed by the metropolis, and Botswana is no exception. In Botswana this legacy is perhaps most prominent in the field of criminal justice, which still reflects the duality of legal systems developed during the colonial era - customary law existing side by side with general law [cf. Chapters 6.3 and 6.4 *infra*].

The British did not introduce English common law in their Bechuanaland Protectorate. Roman-Dutch law was already in force in the British Colony of the Cape of Good Hope. Consequently, to facilitate the expected incorporation of the Bechuanaland Protectorate into a future Union of South Africa, the British High Commissioner for southern Africa introduced Roman-Dutch law also in the Bechuanaland Protectorate.

Roman-Dutch law was enforced in the courts, but the courts had also to respect 'native law and custom' to the extent that the latter was not repugnant to natural justice and humanity. In disputes involving the native people their customary law would be applied both in their customary courts and in the new general law courts as set up by the British. The general law courts were to supplement the customary courts and in many cases to retry *ad novo* the

decisions by the customary courts. Roman-Dutch law was applied in the general law courts if one or more party was not a native. In a case where the customary laws differed in the areas from which the litigants originated, the general law courts were to utilize Roman-Dutch law.

The reference by the British to 'native law and custom' was not limited *de jure* to Tswana legal tradition. Nevertheless, the customary courts would *de facto* be those developed within the *Kgotla* system (cf. Chapter 6.3 *infra*). The *Kgotla* was the courtyard of a Tswana Chief. It seems as if - outside the respective native groups themselves - anthropologists were the only ones to take any serious interest in the administration of justice and conflict resolution among the Basarwa and other non-Tswana ethnic groups. The reasons may have been the same as for the lack of recognition of land rights for others than the Tswana peoples (cf. Chapters 3.2 and 3.3 *supra*), or the land rights issue may have had implications concerning the recognition of traditions of a legal character among the different native groups (cf. also Chapter 4.2 *infra*).

After Botswana achieved independence in 1966, English common law formally replaced Roman-Dutch law in criminal matters. The previous dual legal system which by then had been codified for large parts, continued however, to be recognized as well. The nexus between the different legal systems in operation is complex and not uncomplicated. Cf. Bojosi Otlhogile, *op. cit.*, pp. 521-533.



4 ♦ LAND RIGHTS AND RIGHTS TO OTHER NATURAL RESOURCES

4.1 THE CONSTITUTION

The Constitution of Botswana contains a Bill of Rights for the protection and enforcement of basic human rights and fundamental freedoms for all citizens of Botswana. In this respect every person in the country is as such entitled to equal treatment.

The Constitution Section 8 (1) proclaims that,

No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, ...

The acquisition may only take place when needed in the interest of certain specified public purposes and only with prompt payment of adequate compensation. Hunting and gathering *per se* can obviously not be disqualified as such protected interests or rights.

Some exceptions from Section 8 (1) are included in subsections (3), (5) and (6) of the same Section. These provisions are of no major interest in the context of this evaluation.

Section 8 makes no distinction between expropriation of private land and tribal land. Or rather, it does not differentiate between any 'interest in or right over property of any description' based on whether it is held by an individual, a specific group or a juridical person/corporate.

The Constitution has the status of *lex superior*. Nothing contained in or done under the authority of any law shall be inconsistent with or in contravention of the Constitution. The provision in Section 8 (1) thus prohibits also later enactment to the effect that any 'interest in or right over property of any description' is extinguished or abridged in disregard of the requirements in the Constitution. If later legislation fails to recognize an 'interest in or right over property of any description', that interest or right is not thereby *ipso facto* deprived of its legal recognition and protection.

The Constitution Section 14 (1) establishes the 'freedom of movement' of any citizen of Botswana. The right to freedom of movement entails 'the right to move freely throughout Botswana, the right to reside in any part of Botswana, the right to enter Botswana and immunity from expulsion from Botswana'. Restrictions may be imposed 'in the interest of defence, public safety, public order, public morality or public health' and restrictions 'reasonably justifiable in a democratic society' can be imposed 'on the acquisition or use by any person of land or other property in Botswana'; cf. Section 14 (3) (a).

Section 14 (3) (c) allows for certain restrictions on the freedom of movement of a different character as it provides that,

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision -

- (c) for the imposition of restrictions on the entry into or residence within defined areas of Botswana of persons who are not Bushmen to the extent that such restrictions are reasonably required for the protection or well-being of Bushmen;

There is no definition of 'defined areas'. The Parliament of Botswana is however, empowered to make laws defining certain areas for Basarwa and keep these areas closed to people who are not Basarwa. Obviously this provision in the Constitution is a recognition of the unique and vulnerable position of the Basarwa who could easily be subjected to further deprivation of land and dispossession by the non-nomadic tribes and farmers in general - especially those farmers engaged in large-scale and industrialized farming. The provision was included in the Constitution also to placate international concern for the situation of the Basarwa, as voiced by *e.g.* the Anti-Slavery Society.

Section 14 (3) (c) does not provide a formal land title for the Basarwa. There is no reason to believe that the Remote Area Development Settlements were what the legislators had in mind when they enacted this provision. The question of whether Section 14 (3) (c) alone can be invoked to secure exclusive land titles for specific communities of Basarwa, for example, in the Kalahari, is unlikely to be answered in the affirmative. (Cf. in this context *e.g.* the reasoning of Clement Ng'ong'ola and Batlhalefhi Moeletsi, *The legal framework for the assessment of land rights for Basarwa and other marginalized ethnic groups in Botswana*, pp. 25-27.) The provision in the Constitution contributes however, a justification for enactment of one or several other provisions whereby affirmative action is utilized in favour of the Basarwa to promote their equal rights by having delineated territories reserved for them.

4.2 THE TRIBAL LAND ACT

The Tribal Land Act was enacted in 1968 to govern and regulate the distribution, allocation and administration of land in tribal areas, formerly the Native or Tribal Reserves. Many Basarwa lived traditionally and are, in part, still to be found in these tribal areas.

Traditionally the Tswana Chiefs had acted essentially as trustees of the land on behalf of their people, and in this capacity they were responsible for allocating land and deciding how it would be used. Prior to the enactment and entry into force of the Tribal Land Act these powers in the Native or Tribal Reserves were held by the Chief of the tribe occupying the reserve. The Chief was entrusted to exercise these powers for the benefit of his tribe. The new Land Boards set up under the Tribal Land Act were to take over all the powers and functions of the Chiefs concerning land rights.

The Legislature assumed a Tswana model of land tenure and land use when the Tribal Land Act was conceived. Section 13 (1) of the Act read,

- All the powers vested in a Chief under customary law in relation to land, including -
- (a) the granting of rights to use any land;
 - (b) the cancellation of the grant of any rights to use any land including a grant made prior to the coming into operation of this Act;

- (c) hearing of appeals from, confirming or setting aside any decision of any subordinate land authority;
 - (d) the Imposition of Restrictions on the use of any Tribal Land;
- shall be vested in and performed by a land board acting in accordance with the provisions of this Act.

(In the amendment of 1993, see below, the Section was expanded to add other duties.)

'Customary law' in relation to any land 'means the customary law of the place where the land is situated' according to the definition in Section 2 - which is to be applied 'unless the context otherwise requires'. The Tribal Land, previously the Native and Tribal Reserves (cf. Chapter 3.3 *supra*), are land which had been demarcated for the main Tswana tribes. Now the Tswana customary law concerning land rights was given general recognition through the Tribal Land Act (cf. Chapter 3.3 *supra*).

According to Tswana customary land tenure, land can be used generally speaking only for residential, grazing, arable and commercial purposes. Occasionally land could be used for hunting purposes. This leaves limited leverage at best for the Basarwa's traditional way of organizing their lives and communities. Nowhere does the Tribal Land Act recognize hunting and gathering as ways by which land could be utilized and thus as a means of requiring land titles.

The Tribal Land Act restricted the grants of customary land rights to members of the tribe occupying the tribal area. Section 10 proclaimed that,

- (1) All the right and title of the Chief and tribe to land in each tribal area listed in the first column of the First Schedule shall vest in the land board set opposite thereto in the second column of the First Schedule in trust for the benefit and advantage of the tribesmen of that area and for the purpose of promoting the economic and social development of all the peoples of Botswana.
- (2) Nothing in this section shall have the effect of vesting in a land board any land or right to water held by any chief or other person in his personal and private capacity.

The definition in Section 2 of a 'tribesman' which is to be applied 'unless the context otherwise requires' read,

'tribesman' in relation to any tribal area means a citizen of Botswana who is a member of the tribe occupying the tribal area.

Furthermore the Act in Section 20 (1) had an additional limitation,

No land board or subordinate land authority shall grant any land under this Part [Part III 'Grant of Customary Land Rights'] to any person who is not a tribesman, unless that person has been specifically exempted, or is a member of any class of persons who have been specifically exempted, by the Minister in writing from the provisions of this section.

The Tribal Land Act does not define a tribe or what it means to be a member of a tribe. The word 'tribe' is defined elsewhere as one of the eight principle Tswana tribes. Cf. Chapters 5.1 and 5.2 *infra*. Already the British Protectorate Administration had *de facto* only recognized the Tswana-speaking peoples of Botswana as tribes, and as subdivided in eight tribes; cf. Chapter 3.2 *supra*.

This still influences the interpretation of the concept 'tribe' - also in relation to the Tribal Land Act. If the definition was to be followed *stricto sensu*, then all minority tribes would not qualify as tribesmen and they would be denied the right to be granted land under the customary land regime of the Tribal Land Act.

Some scholars argued that according to Tswana tribal law, minority ethnic groups were also members of some of the principal Tswana tribes; cf. Clement Ng'ong'ola and Batlhalefhi Moeletsi, *op. cit.*, pp. 31-32. Others contended that the Basarwa, like any other group in Botswana, are entitled to be granted land in a tribal area if they happen to be inhabitants of that area. This is so, they asserted, because the Tribal Land Act was not enacted for any particular ethnic group but for ethnic groups occupying a tribal area.

In reality it was the eight 'principal tribes', the Tswana people, who were the more or less exclusive beneficiaries of the regime of the Tribal Land Act.

According to the *EIU Country Profile Botswana, Lesotho 1994-95*, p.6,

The sensitivity of access to and allocation of land, highlighted by a series of scandals in 1992, has led the government [of Botswana] to bring forward proposals to amend the Tribal Land Act to allow citizens to acquire land anywhere in the country, irrespective of ethnic group allegiance.

On 30th August 1993, the Tribal Land Act was amended. The word 'tribesman' was replaced by the term 'citizen'. This means that the Basarwa can no longer be denied land under the customary land right regime of the Tribal Land Act under the pretext that they are not 'tribesmen'.

The institutions that have power over land allocation were not changed. The latter may continue to be dominated by persons who are not Basarwa; cf. Chapter 5.6 *infra*. This may not be conducive to accommodate the needs of the Basarwa. The amendment did moreover, not include any explicit reference to 'customary rights of user' which could have been of particular significance for the Basarwa and other ethnic minority groups.

Obviously, there will be increased pressure on land - an unquestionably limited resource - after the amendment. Now, rich citizens from across the country may seek land in new areas - also in the remote regions.

4.3 THE TRIBAL GRAZING LAND POLICY

The Tribal Grazing Land Policy (TGLP) was launched in 1975. It was aimed at better management of the country's land resources - a country in which the cattle industry is a primary source of income and by far the productive activity engaging the largest segment of the population. At the time when the TGLP was introduced, the number of cattle in Botswana was more than double that of the human population, and the cattle industry was growing.

As explained in the *Speech by His Excellency the President, Sir Seretse Khama, K.B.E. - Launching the Grazing Land Policy 14th July, 1975*,

under our system of uncontrolled grazing too often the result of having more and more animals is severe overgrazing. In turn we get soil erosion, bush encroachment and steady reduction in the good grazing land available. ...

... If one man moves his cattle off a piece of land someone else moves his cattle on. The problem cannot be solved unless livestock numbers are somehow tied to specific grazing. ...

... As overgrazing in the communal village areas becomes increasingly common richer people are drilling more and more boreholes in the sandveld areas that used to be empty. More and more land - which belongs to the tribe as a whole - is being taken up by a few wealthy cattle owners. While these peoples enjoy virtually exclusive use of large tracts of land around their boreholes the majority, those who own only a few livestock, remain in the overcrowded village areas with little hope for improvement. This trend is totally against our national principle of social justice. If development does not benefit all of Botswana it is not the kind of development we want.

The President continued by adding that 'Whatever is done must be (a) ecologically sound; (b) economically sound; and (c) socially just.'

According to the TGLP the former tribal grazing land would be subdivided in three categories. There would be communal grazing areas where the traditional system of all the people sharing the grazing would not be changed, and no rent would be paid. These areas would mainly be the then communal grazing areas near the villages. As a second category there would be commercial farming areas where single people would be given complete control of their own sections of grazing land. A user would have to get a lease and pay rent to the local authority in return for the exclusive right which the lease would give him. Finally, there would be reserved areas which would be kept for future use.

Reportedly (cf. Clement Ng'ong'ola and Bathalefhi Moeletsi, *op. cit.*, pp. 36-38) preparatory work already revealed that there were significant numbers of Basarwa communities living in prospective commercial farming areas. Basarwa communities who have been displaced by the TGLP may however, not thereby have lost whatever users rights they had in the areas. Commercial farming areas are, for one, formally leased to their users and, secondly, the Constitution of Botswana provides for compensation in cases of expropriation (cf. Chapter 4.1 *supra*).

The TGLP guidelines specify that people should be compensated with land if their land is taken over for other purposes. The Tribal Lands Act, Sec. 18 (1) allows for Land Boards to gazette lands in the name of the communities.

The GON has, as a matter of principle, not wanted to become involved in assisting RAD settlements made to compensate people who have been evicted under the implementation of the TGLP.

It is claimed that the TGLP has not materialized according to its objectives. More than 50,000 square kilometres of land had already in 1989 been privatized under the programme. The GOB has not followed up on collecting the pay for the leases - money which were earmarked for developing the remaining tribal grazing land. The farmers on the leased farms have moreover, moved their herds of cattle into tribal grazing land when there have been little food for the cattle left on the farms. There are no formal restriction to prevent the latter.

4.4 FAUNA CONSERVATION LAWS

Botswana with her exceptionally varied and rich wildlife - a last Eden in this respect, as many say - has a strong incentive to protect and manage this unique heritage in the interest of her own peoples and humankind at large. The country is moreover, under strong international pressure to do so.

Botswana has legislated accordingly. The main relevant Acts are:

- ◆ Fauna Conservation Act - an Act to make further and better provision for the conservation and control of the wild animal life in Botswana and to give effect to the International Convention of 1933, as amended, for the protection of the fauna and flora.
- ◆ Wildlife Conservation and National Parks Act, Act No. 28 of 1992 - an Act to make further and better provisions for the conservation and management of the wildlife of Botswana, giving effects to CITES and any other international convention for the protection of fauna and flora to which Botswana is, from time to time, a party, to provide for the establishment, control and management of national parks and game reserves, and for matters incidental thereto or connected therewith.

Under the wildlife conservation acts it is understood that no one has an inherent right to hunt or own wild animals least the animals be in licensed captivity. The Basarwa in particular, as traditionally hunter-gathers find their ways of life strongly influenced by these acts. This even though the traditional rights of the Basarwa are indirectly recognized to a limited extent as the Basarwa are exempted from some of the rules and regulations. To hunt they still need special licences which often are difficult to obtain. The special licences for hunting are moreover, written in English which most Basarwas do not understand.

The special licences with which the Basarwas are provided, require that they hunt using traditional methods, such as bow and arrow. Hunting with bow and arrow - poisonous arrows that is - is however, a dangerous engagement for anyone but the very skilled and experienced ones; and with limited hunting taking place, such skills are difficult to keep up not to say to transfer to new generations. Basarwas who have been relocated to new areas, may moreover, lack the exceptionally intimate knowledge of their present environment needed to hunt in a traditional manner in that area.

Finally there has been a not so easy relationship between the Basarwas and many of the people given policing powers under these acts - game officers, game scouts and game guards in particular; cf. Chapter 6.5 *infra*.

4.5 INTERNATIONAL INSTRUMENTS

There is a basic principle in international law that the peoples of an area are those primarily entitled to take advantage of the local natural resources. A just arrangement - it is held. This

priority regulation is definitely needed also to avert large-scale displacements even of entire peoples.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) in Article 1 (2) proclaims,

All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Article 2 of the ICESCR elaborates,

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in this Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

4.6 THE *DE FACTO* SITUATION

A 1978 legal opinion attributed to a litigation consultant for the Attorney General's Chambers expresses that,

As far as I have been able to ascertain *the Masarwa have always been true nomads, owing no allegiance to any chief or tribe, but have ranged far and wide for a very long time over large areas of the Kalahari in which they have always had unlimited hunting rights* [emphasis added], which they enjoy even today despite the Fauna Conservation Act. *The right of the Masarwa to hunt is, of course, very important and valuable as hunting is their main source of sustenance* [emphasis added] ... Without much clearer information it is impossible to give a confirmed opinion about the Masarwa. Tentatively, however, it appears to me that (a) the true nomad Basarwa can have no rights of any kind except rights to hunting.

This legal opinion reportedly was sought as the implementation of the TGLP raised the issue of Basarwa land rights.

Clement Ng'ong'ola and Batlhalefhi Moeletsi, *op. cit.*, p. 2 argue that,

the opinion erred in the legal assessment of the land rights as well as the hunting rights of the Basarwa. The opinion was apparently withdrawn by the Attorney General, not because of these errors, but because of the suggestion that Basarwa could conceivably acquire by prescription land rights protectable under the Constitution.

Legislation governing a person's right to access to land, primarily the Tribal Land Act, has been interpreted as to deny the supposedly 'nomadic' Basarwas exclusive rights to land. It is alleged that under the Tribal Land Act the interests of the Basarwa people have been disregarded to a greater extent than those of other minority tribes. Under the Tribal Land Act

some Basarwas have reported that they have had no problems with in obtaining land, the opposite seems however, to be the general situation. The general Botswana government policy is otherwise reportedly predicated upon the stance that 'every Motswana has a right to as much land as he or she needs'. There may be a need for educating the Basarwa on their land rights under the Tribal Land Act as amended.

The impact of the Tribal Grazing Land Policy has been felt very sharply by the Basarwa. Their traditional rights to land and resources usage were directly affected as large tracts of land were allocated for commercial purposes, to those people who could afford them. It is suggest *inter alia* by the revised TLGP policy guidelines and supported by Tswana customary law that community rights cannot be removed 'without just compensation'. Those people who are eligible for compensation 'included tribespeople, individuals or groups with vested rights in specific areas, and those whose claims to land are based on equity or social justice rather than law'. The Basarwa were not compensated as they were not considered to have vested rights in specific areas. This may be in contravention also of Section 8 (1) of the Constitution; cf. chapter 4.1 *supra*.

The demarcation of ranches under the TGLP still continues.

In 1986 the status of the Central Kalahari Game Reserve was altered. Following especially international pressure it was enacted that the area thence would be a game reserve exclusively. It may still be unresolved whether the Basarwa can continue to live in the Central Kalahari Game Reserve. But, in the wake of the change the situation for the Basarwas living there has become increasingly difficult. The changed status for the Reserve has not prevented large-scale commercial activities - with camps and roads being constructed - as part of exploration for minerals, primarily diamonds.

Land ownership will normally entail full control of the resources on the land owned, and provide for extended influence also of a more political character.

Thus it is argued that this non-recognition of the Basarwa land rights and uses has resulted in the land on which they hunted and gathered being sliced and zoned for commercial cattle ranching or wildlife conservation without consulting the Basarwa or at least considering the impact which the cattle industry or game reserve could have on their lives.

In this context attention ought also to be paid to the ongoing so called 'negotiations' between people authorized as consultants to negotiate on behalf of the Government of Botswana with Basarwa communities in the Okavango region. The aim is to have the Basarwas move out of their present habitats. From a legal point of view 'agreements' entered into on the basis of these 'negotiations' ought to be invalidated. At least in case any such agreement could possibly be interpreted as the Basarwa having forfeited any of their rights in existence at the time when the 'agreement' was concluded. This because the people who negotiate or were negotiating with the Basarwa, themselves had no knowledge or understanding of the legal implications of their work. Conversely, a senior representative of the non-Basarwa negotiators tried to explain at great length to this author *that there were and could be no legal implications for the Basarwa of the 'agreements' which they were likely to conclude.*

It is recalled that already in 1893, the British organized a 'Concessions Court', which was to investigate and validate land claims and concessions secured from Native Chiefs before 5th May 1891. Before granting approbation the Court would consider *whether the native chief or ruler had consulted his council before conceding the land, whether the nature of the transaction was properly explained to and understood by the chief or ruler, and whether the consideration given was adequate or sufficient*; cf. Chapter 3.3 *supra*. Obviously a modern civilized State as Botswana can have no standard inferior to this, and there is no way the Basarwas can have any proper and sufficient understanding of the issues negotiated if the GOB representatives themselves lack such basic comprehension.

According to the Prescriptions Act (Proclamation 76 of 1959) Section 3, squatters who have possessed land or had the use of a servitude 'continuously for 30 years *nec vi, nec clam, nec precario* [without force, openly, and without permission]', may gain legally recognized ownership of the property or the servitude.

In 1991, the GOB reported (cf. *National Development Plan VII (1991-1997)*, p. 239) that of the country's land surface approximately:

- ♦ 5 per cent was freehold land,
- ♦ 25 per cent was State land, and
- ♦ 70 per cent was tribal land.

Of the State land approximately:

- ♦ 16 per cent was game reserves and national parks
- ♦ 8 per cent was wildlife management areas, and
- ♦ 1 per cent was forest reserve.

Of the Tribal land about 15 per cent was wildlife management areas.

In other words, it is estimated that some 39 per cent of the territory of Botswana is reserved primarily for wildlife utilization.

Under these circumstances the Basarwa's rights to other natural resources - water and wildlife and wild foods (hunting and gathering) - is highly limited both by private property rights of others and the wildlife conservation areas. They need a licence to hunt, and may only search and gather in areas where their movement has not been restricted. Basarwa are heard complaining about their state of landlessness in territories that are theirs by traditional occupation. Access to land remains a main concern for the Basarwa.

The Basarwa are alienated from their lifestyle which was based on a close relationship with the land, its wildlife and products. With the creation of settled communities, the Basarwa are being fitted into an hitherto alien mode of existence. The limited access to land directly affects the Basarwa's access to wildlife and to veld products - in South Africa veld or veldt means open grassy country, with few bushes and almost no trees; grassland. There is said to be an increasing urge among Basarwas towards cattle ownership as a possible means of subsistence and of social recognition.

The areas currently occupied by the Basarwas ought to be kept as wildlife areas in which they continue to live. By allocating the Basarwas the responsibility for the wildlife management, the wildlife can be protected and the Basarwas gainfully employed.

The land right issue has one aspect related to the Basarwas' rights at present and in the future, but it may as well have one retroactive perspective concerning a need to rectify past mistakes or injustice.

In October 1993, the Minister of Local Government, Lands and Housing in Botswana, Mr Chapson J. Butale, in his *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* - with reference to the ongoing revision of the RADP policy - affirmed that,

Access to land

My Government is committed to the equitable distribution of land and to resource allocation based on long term habitation and land use patterns. ...

Resource management

My Government aims at ensuring environmental consciousness in development programmes by encouraging the local communities to take part in conservation through community-based natural resource management programmes. This strategy is based on the belief that the best way to conserve the environment is to have community-based natural resource management programmes based on the people's participation.

4.7 THE MAIN CONFLICTING INTERESTS

It may be summarized that at present the main interests conflicting with the needs of the Basarwas are those represented by private farms and an increased need for grazing areas on the one hand, and wildlife protection and commercialized tourism on the other. These interests are promoted by people and corporate entities who are financially strong and who, even on the international scene, are voiceferocious.

It is in a sense a rapidly changing climate concerning the demand for land. So far the Basarwa and other ethnic minority groups have been marginalized by the 'principal tribes', the Tswana peoples, and the white colonialists. Already, but even more so tomorrow there is a likelihood of the privileged few from inside and also from outside Botswana representing the marginalizing powers against all the poor people of the county. In a way the rights and the needs of the Basarwa and other ethnic minority groups are a testing case in terms of anyone being able stand up against these forces. Today it is alleged that the upper 20 per cent of the population in Botswana have 40 times the income of the bottom 20 per cent.

4.8 THE IMPACT OF THE RADP

The in actual facts most crucial objective of the RADP is to assist the RAD communities to obtain land rights. To assist the remote area dwellers to participate in the general development of the country *inter alia* by obtaining access to public services like water, is one other primary concern.

To understand the complexity of these issues, attention needs to be paid both to the historical context in which the programme has come into existence, and the actual way in which the programme has been implemented. As a general observation, it ought to be emphasized that the fact that a programme may not have worked out well does not implicate that this consequence was premeditated. It is always easy to be wiser in retrospect; and every plan will, when translated into real life, be influenced by a variety of more or less unpredictable overt and surreptitious forces.

The historical point of departure for the RADP was the marginalization of the Basarwa communities which gained considerable momentum with the commencement of the Bechuanaland Protectorate, and later had continued for almost a century. Land - and ever more marginal land - was a treasured resource. The Basarwa were in the way of those who wanted modern legal titles to land. As the Basarwa ethnic groups spoke a unique language of justice and equity - refined as to their needs as hunter-gatherers - their in the broad sense legal conceptualization was neither understood nor attempted understood by their competitors in the race for land titles.

Under these circumstances there was a need to assist already deprived Basarwas. It was considered appropriate to have them gather in settlements, and each settlement needed a population large enough to defend the allocation of social services to the settlement - somehow in line with the criteria for such services in the society at large. The settlements, even when they barely provided any services, became sanctuaries for Basarwa who already had been pushed out of their native land. At the same time however, settlements became a pull-factor for an ethnic minority group in the midst of a difficult period of transition in which many of those who wanted the native Basarwa territories, did not hesitate to put pressure on the Basarwa to move to the settlements. The settlements as such had the intrinsic characteristic of a blessing-cum-threat. There was the obvious danger that the fact that the Basarwas had moved into settlements, could be held against them in legal disputes over land - now they had even in whole or in part 'abandoned' their native lands. A lot would depend on how the settlements would be operated and what legal provisions would be made for the settlers in terms of their already existing and new legal rights.

For Basarwas who resist to move into settlements or who refuses to continue to live in the settlements, there are not many options. They may hide in the bushes - which is highly difficult with all the restrictions presently placed on their traditional way of life as hunter-gatherers. Or, which is no more attractive, they may shift to cardboard homes and urban squatting, or seek whatever subsistence they can find on farms and at cattle-posts or as domestic staff (cf. Chapters 8.3 and 8.4 *infra*).

In 1988, to relate one example of how the RADP was operated, in the Ghanzi district there were seven settlements for Basarwas who previously had lived on and around expanding freehold farms. With three exceptions, the settlements averaged twenty square kilometres in size and were located in either Communal Grazing Areas or Wildlife Management Areas, and on what was marginal, fragile and infertile land. The inhabitants had limited or no access to productive resources even for subsistence activities. There was a constant danger of the settlements being rezoned and their inhabitants relocated in the interest of large-scale cattle production or environmentalism. In quantitative terms the Basarwas and other ethnic minority groups who counted for some 42 per cent of the Ghanzi district population had access to

approximately 2,400 square kilometres, representing about 1.7 per cent of the land in the district.

It is a general characteristic of the RADP settlements that their inhabitants have neither exclusive rights to the land they live on nor adequate control over the same territory. In most cases a settlement and all people living there may be relocated to a new area. In the best cases there may be a land lease agreement that may postpone an unattractive relocation.

The evaluation team on its mission did not come across any information about the relocation of a RAD settlement which was perceived as a betterment for the settlers at large. Conversely, the Basarwas related that if their location became attractive in terms of having adequate water supply and/or other services or advantages the settlement was either moved or the population was encroached on by numerous outsiders tending to marginalize the Basarwas.

Any citizen of Botswana may decide to take up residence in a settlement - the principle of 'freedom of movement' is provided for in the Constitution Section 14 (1); cf. Chapter 4.1 *supra*. Restrictions placed on private use of communal Basarwa boreholes could be strictly applied by the GOB to reduce the pressure on these facilities. There are already, in general, too many Basarwas allocated to a single borehole. It is frequently referred to as a problem that outside cattle-owners appropriate the meagre grazing and water resources of settlements. The allegation that the policy of relocation takes its direction also from ecologists and international conservation organizations who pay limited if any attention to the native human population, is not unfounded.

Employment - the basics to sustain a living - is the main concern in almost every remote area settlement; cf. Chapter 7.3 *infra*. It is estimated that many of the RADs now are dependent on as much as 90 per cent of their food to be provided from outsiders, primarily the GOB. As late as in the 1970s, the Basarwas provided almost all their food themselves from hunting and gathering.

On the other hand, Batlhalefhi Moeletsi, *The San of Botswana: Legal Status, Access to Land, Development and Natural Resources*, p. 49 writes,

The Remote Area Development Policy appears to be doing the best in the circumstances to bring development to the targeted groups most of which are Basarwa. One wonders what the Government [of Botswana] would have done if NORAD had not assisted.



5 ♦ POLITICAL PARTICIPATION

5.1 THE CONSTITUTION

As related in *The New Encyclopædia Britannica* (1987),

Botswana is a republic with a parliamentary government. Its 1966 [The Republic of Botswana was proclaimed as independent on 30th September 1966] constitution vests legislative authority in the unicameral National Assembly, consisting of 32 directly elected members, 4 specially elected members, and the attorney general. Members serve a five-year term. The House of Chiefs, an elected body representing the principal tribes, serves as an advisory body to the government; legislation affecting tribal affairs must be referred to the House before passage in the National Assembly.

With an exception for the House of Chiefs, all citizens of Botswana are *de jure* equal in terms of the right to political participation.

The Constitution of Botswana, cf. Sections 77, 78 and 79, proclaims that there are eight principal tribes in Botswana - the other ethnic groups are regarded as minor tribes. The 'principal tribes' are Batawana, Bakgatla, Ba(ma)ngwato, Bakwena, Bangwaketse, Ba(ma)lete, Batlokwa and Barolong. The eight tribes all are Tswana, which belong to the Bantu group of people.

In terms of political participation the Constitution makes a distinction between the eight Tswana tribes on the one hand and the ethnic groups who are not Tswana on the other. According to Sec. 77 of the Constitution the House of Chiefs is established. The eight Tswana tribes, appreciated as 'principal tribes', are the only ones accorded automatic representation in this political body. The other groups - those who are not Tswana - are not afforded direct representation, and are thus already *de jure* being provided an inferior political status. Through the House of Chiefs the Tswana tribes are granted political superiority as their political participation is formalized and granted by law to a greater degree than that of the other citizens of Botswana. The House of Chiefs has advisory powers, is not involved in the regular scrutiny of bills passed by the National Assembly. This division of the population in two political classes - with unequal status - may reflect not only on the different groups abilities to promote their political interests, but it may as well be decisive to the rights of the individuals who belong to the inferior political class, as this may stigmatize them.

This inferiority is commented upon in *Country Report on Human Rights Practices for 1993*, p.13, where it is stated,

Dwellers in remote areas and groups not numbered among the eight 'principal tribes' identified in the Constitution do not enjoy full political rights or full access to social services.

In late February 1995, a motion calling on the GOB to amend the Sections 77, 78 and 79 was tabled in the Parliament. Botswana is a republic and that means that all people are equal irrespective of whether somebody comes from one of the 'principal tribes', it was argued. It was moreover, stated that some people might believe that they are superior to others because they belong to one of the main tribes. In short, the Parliament passed the motion unanimously as the members felt that the Sections encouraged tribalism and could also

animate members of the 'principal tribes' to despise those who come from the so-called minor tribes. It was reminded that the GOB had changed the Tribal Land Act (cf. Chapter 4.2 *supra*) *inter alia* replacing the word 'tribesman' by 'citizen of Botswana' as the reference to tribe was believed to foster tribalism. When people asked for residential plots they were asked if they belonged to the ethnic group found in that village, it was reported. Cf. *Inside Parliament: Government Moves to Curb Effects of Tribalism*, The Okavango Observer, 3rd March 1995.

The freedom of assembly and association is endorsed in Botswana. Also labour has the right to organize freely (but trade unions continue reportedly to face certain legal restrictions; cf. *Country Report on Human Rights Practices for 1993*, p.13).

5.2 THE CHIEFTAINSHIP ACT

The Chieftainship Act derives its validity from the Constitution. According to the Chieftainship Act only the Tswana groups are tribes, the rest of the native population are tribal communities - a differentiation fully in line with the one promulgated in the Constitution. Only the Tswana groups moreover, have chieftainship and Chiefs, the other ethnic groups have sub-chiefs; cf. Section 2 of the Chieftainship Act.

5.3 INTERNATIONAL INSTRUMENTS

The main relevant basic international principles concerning political participation and its auxiliary, the freedom of assembly and association, are proclaimed in the Universal Declaration of Human Rights (UDHR), and reads,

Article 21

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right to equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 20

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

5.4 THE ASPIRATIONS OF THE GOB

It may be ascertained that the aspiration of the Government of Botswana is to follow up a *de jure* equal opportunity society in terms of political participation, to secure that the country also *de facto* provides such equal opportunities to all citizens of Botswana.

For effective political involvement, the Basarwa need to create institutions and establish roles which the Republic of Botswana recognizes as legitimate, and to participate in existing

entities and structures which are politically influential and/or relevant. One specific objectives of the RADP is to assist the RAD communities 'to form administrative structures such as headmanship and Village Development Committees so that these communities gradually are fully integrated into the Botswana society'; cf. Chapter 1.1 *supra*. All in line with the generally declared political ambitions of advancing democracy, transparency and popular participation.

5.5 IN THE VILLAGES AND SETTLEMENTS

It is an achievement when the RAD communities get organized also in a manner recognized and sought for by the GOB through the formation of administrative structures such as headmanship and Village Development Committees (VDCs). By so doing these communities have a recognized channel of communication with other GOB authorities - that is, the gazetted headmen and the VDCs are themselves part of the overall structure of authority in Botswana.

Without getting organized - also in a generally recognized manner - the RADs lose out on one important possible strategy for determining or at least influencing their own future. It is however, not uncomplicated.

There are some basic problems. Because these institutions have a potential for real influence, they are attractive to people also from outside the group of genuine remote area dwellers - people who want to formally represent the RADs for whatever advantages that may bring. If the formation of administrative structures in the RAD settlements are taken control over, in whole or in part, by outsiders, the structures themselves could serve as a cloak for abuses.

Second, there is a need to balance the new organizational patterns against traditional Basarwa (and other ethnic minority) systems of decision making in communal affairs. The main objective is for the minority groups to gain influence on their own situation without giving up their identity.

The creation of formal structures needs moreover, to be followed by real influence for such structures. Otherwise there is a risk of the nominal political participation being twisted into a situation which is perceived as hostage-like by the participants and their communities. The latter situation is generally demoralizing and undermines the confidence which every group needs to have in its leaders.

5.6 BEYOND THE VILLAGES AND SETTLEMENTS

Kenneth Good, *Inequalities and the San in Botswana today*, p.13 asserts that,

In May 1992 a San delegation led by John Hardbattle held an unprecedented but brief meeting with government officials in Gaborone. They explained that they needed strong representation at both local government and chieftainship levels, their own chief in the country's House of Chiefs, and a Basarwa national council. The government's response was one of strong, even intense resistance. The Permanent Secretary in the Ministry of local Governments, Pelonomi Venson, claimed that the government was being asked to 'give Basarwa self-government', and she re-affirmed the

commitment to the existing policies: 'there was no country in the world that has stopped development in order to develop a specific people.' An Assistant Minister of Local Government put perhaps the established position more sharply: 'Botswana owns the Basarwa, it was reportedly said, and it will own Basarwa until it ceases to be a country.'

At all events, there is an urgent need both for the Basarwa and other ethnic minority groups to take up political positions on all levels. This can not be achieved lest they prepare themselves to do so and are assisted in this endeavour. Literacy, language skills and general political training are among the basics required. Furthermore, there is a need for the Basarwa and others to have their own interest groups *inter alia* to promote affirmative actions necessary to overcome the inequalities from which they now suffer. There is a strong need to break the vicious circle of being deprived and virtually voiceless politically.

In relation to wildlife and other natural resources, many argue that there ought to be provisions, as a matter of law and not merely as a matter of administrative policy, for local participation in their protection, the determination of conservation areas, the preparation of management plans, and the economic benefits derived from these resources. Local people should also be permitted controlled access to natural resources within such areas, or defined buffer zones, consistent with their traditional harvesting practices, it is proposed. Environmental 'group' rights are a political issue of vital interest to the Basarwa and other ethnic minority groups.

5.7 THE IMPACT OF THE RADP

It may be summarized that the RADP has made some headway in helping the RAD communities to form administrative structures such as headmanship and Village Development Committees. Enough attention have however, not been given to the difficulties inherent in the process; cf. Chapter 5.5 *supra*. There are several reports that government officials have sought to dominate the embryonic political organizations created by or for the Basarwa not the least by trying bring in outside leaders. Where indigenous leadership has been able to emerge and begin to become established, a main problem has been to obtain official recognition. Actual failures encouraged *e.g.* by the RADP are disheartening.

It has not been a direct objective of the RADP to secure that the ethnic minorities, like the Basarwa, are granted the right to be duly represented in all the relevant decision-making fora in the society at large. Education at all levels is none the less pivotal to advance the chance for political participation for all citizens of Botswana; the issue of education is addressed separately in Chapter 7.4 *infra*.

Initiatives like the inauguration of the *Kgeikani Kweni* (The first people of the Kalahari), a Basarwa interest group, ought to be welcomed and assisted. As all newcomers and one of the very first if not the first Basarwa group, it requires support and assistance to find its ways and means of being representational. It is a voice - with a potential for being recognized - for people who urgently needs spokespeople not the least from within their own ranks.

Still it remains a long way to go to promote community participation, and to build and strengthen the RAD community and leadership structures to enable the Basarwa and other

ethnic minorities to mobilize and to articulate their views, to identify their needs and to participate in the structuring of their future. It will moreover, have to happen in tandem with the general climate being made more conducive to meet their special material needs. Time however, is not on the side of the Basarwa and the other minorities.

The Minister of Local Government, Lands and Housing in Botswana, Mr Chapson J. Butale, *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* (1993) articulates it this strongly,

Remote Area Dwellers should actively participate in defining their concept of development from the standpoint of their values and norms. We [the Government of Botswana] strongly believe that the solutions to the development problems of the Basarwa are finally going to have to come from the Basarwa communities themselves [emphasis added].



5.7 THE IMPACT OF THE RADP

It is summarized that the RADP has made significant progress in the field of development to form administrative structures such as local councils and village development committees. Although attention has been given to the development of the rural areas, there are some areas where the government has not yet been able to reach. The RADP has also been instrumental in the development of the rural areas. It has been instrumental in the development of the rural areas. It has been instrumental in the development of the rural areas. It has been instrumental in the development of the rural areas.

It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed.

It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed.

It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed. It has been a direct result of the RADP to ensure that the rural areas are developed.

6 ♦ LAW ENFORCEMENT

6♦1 THE CONSTITUTION

The Constitution of Botswana provides for independent and impartial courts. The Constitution's Bill of Rights dictates, in Section 7 (1), that,

No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

Botswana has capital punishment for the most serious crimes. Corporal punishment in terms of flogging is sanctioned by national law.

6♦2 INTERNATIONAL INSTRUMENTS

The UDHR epitomizes the core principles - which also are part of customary international law - as follows,

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

6♦3 THE KGOTLA SYSTEM

As explains Bojosi Otlhogile, *Criminal Justice and the Problems of a Dual Legal System in Botswana*, p. 521,

this legacy [of the Protectorate] is perhaps most prominent in the field of criminal justice, which still reflects the duality of legal systems developed during the colonial era - customary law existing side by side with general law [cf. Chapter 3.4 *supra*].

The *Kgotla* was the courtyard of a Tswana Chief. Information was disseminated, matters of general interest discussed and justice administered - the *Kgotla* thus was the central part of the community's moral life, it may be said. The *Kgotla* was used for public announcements, and it was even the duty of the Chief's *Kgotla* to announce when it was time for ploughing.

Moreover there were *Kgotlas* on a lower level. Each village had at least one *Kgotla*. If the village was large, there was one *Kgotla* for each ward in which the village was divided and a superior *Kgotla* for the village at large. If a case was not settled on a lower level, it was referred to a higher level. Women were traditionally not admitted to the Tswana *Kgotla*.

Peaceful assembly is integral to traditional village life all over Botswana. The village meeting - the *Kgotla* (a designation utilized also for the council place as such) - functions *inter alia* as a court, in customary law cases in particular. The village chief or leader with his advisers then act as court president and judges respectively. In urban or peri-urban areas the court officials may now be government appointees.

Concerning the *Kgotla*'s administration of justice, Bessie Head, *Serowe, Village of the Rain Wind*, p. 40, quotes a village elder saying that,

People brought to *kgotla* are not necessarily criminals as we think of it in a court of law. They are brought there by people who want their grievances redressed. These grievances arise over the sharing of property between relatives, the use of impolite words to somebody, a loan of money to somebody who is taking a long time to repay the loan or trespassing on a man's home or land ...

... the complaints are redressed with a fine or some strong words from all present.

At present, in the *Kgotla* - also when it functions as a court - all those concerned and interested in the case gather. The judges face all the other people who are free to group together indiscriminately as long as they allow room in front to the persons involved. The president of the court introduces the case, calls on the plaintiff, the defendant or accused and the witnesses who are heard and questioned in that order. Subsequently the case is thrown open for general discussion. Everyone present are free to express opinions or ask further questions.

Knowledge of a person's character helps to determine the value placed on that person's evidence. The extensive questioning likely to follow when a statement is doubted, is pertinent to clarify whether the person is telling the truth. (About the *Kgotla*-system in the time of the Protectorate see e.g. I. Schaapera and John L. Comaroff, *The Tswana*, pp. 50-51.)

Among the Basarwa - where rule by consensus used to be the guiding social and political principle - the *Kgotla* has also been introduced as the primary or local court. Among the Basarwa the female adults participate on an equal or almost equal status with their male counterparts. The Basarwa may resolve their cases according to their own traditional concepts of justice and equity. But, there is an increasing pressure for them to adapt to Tswana customary law as the normative customary law. Legal reasoning in Botswana seems to have

internalized a general presumption that Tswana customary law is representative for customary law as such. Moreover, a Basarwa *Kgotla* decision tried *ad novo* in the ordinary court system will be adjudicated within a Tswana-oriented tradition.

According to the Customary Courts Act Section 31 (a) lawyers are not allowed to appear in that capacity in the *Kgotlas*. Legal representation was not part of the traditional customary system. The *Kgotlas* are still presided over by people more often than not having no formal training in the substantial or procedural law that a council would argue. Defendants may however, seek their cases transferred to an ordinary magistrate's court; cf. the Customary Courts Act Section 32. There legal representation is permitted 'with the special permission of the [magistrate's] court'; cf. the Customary Courts Act Section 31 (b).

Before the amendment of the Customary Courts Act in 1986, it was reported that of 5,715 persons sent to prison in 1985, 185 were sentenced by the High Court, 1,759 by the magistrate's courts, and 3,771 by customary courts; cf. Bojosi Otlhogile, *op. cit.*, p.530 with reference. No information as to the present situation is available for this evaluation.

6.4 THE ORDINARY COURT SYSTEM

The administration of justice in Botswana is organized under the auspices of the Office of the President. The ordinary court system consists of the magistrate's courts, the High Courts and the Court of Appeals. There is no law association in Botswana.

In the courts only English and Setswana are used. In cases where there is a criminal charge against a Basarwa who does not speak any of these languages, a Sesarwa-speaking translator is required and provided for.

6.5 THE LAW ENFORCEMENT PERSONNEL

It is a general problem that most of the law enforcement personnel in Botswana do neither speak nor understand Sesarwa. In the courts the problem is somewhat overcome with the assistance of translators. The use of translators is more difficult to secure in the context of the work of the police and wildlife officials.

In Botswana, like in most other countries the police force is the main law enforcement entity. In Botswana the work of the police is however, supplemented when it comes to the implementation of the fauna conservation laws (cf. Chapter 4.4 *supra*), by wildlife officials on different levels. In contradistinction to the police force, the wildlife guardians have hardly and law enforcement training. The wildlife officials may, in general, have a limited understanding of the restrictions to which law enforcement is subjected, and of their own obligations in this respect. Most often it is the wildlife enforcement people the Basarwa have to relate to.

Reportedly there are numerous long-term vacancies in law enforcement posts in many areas.

6.6 THE DE FACTO SITUATION

As for the work of the courts, the ethnic minority groups seems to have not much to say. The main question for these groups related to the courts, is their need to have equal access to legal services.

The main complaints of the Basarwa and other ethnic minority groups concerning law enforcement, relates to the behaviour of law enforcement personnel outside of the courts. The police has a better reputation than the wildlife officials - who have an very negative reputation.

The misuse of power by these government officials allegedly includes the physical ill-treatment also torture of suspects and prisoners - women and children among them.

According to the *Amnesty International Report 1993*,

Government officials allegedly tortured members of the Basarwa (Bushmen) ethnic group who were detained unlawfully for poaching.

...

In March the Botswana Christian Council reported that Basarwa men who were alleged to have poached wild animals had been victims of widespread torture by officials of the Department of Wildlife and National Parks (DWNP). The officials were said to have routinely placed a rubber ring tightly around each prisoners testicles and a plastic bag over the head. The pain would cause the victim to excrete involuntarily and the prisoner would then be beaten. It was alleged that Basarwa arrested by DWNP officials were detained without charge, unlawfully for periods of up to two weeks, before being brought before a magistrate and charged with poaching.

... The government replied [Amnesty International] in November, saying that an investigation had been held but had found no evidence of discrimination or torture against Basarwa.

It adds to the difficult situation when complaints are belittled. There is said to be a tendency that serious problems are described by superior authorities as small administrative malfeasance committed by some unruly officials somewhere - *i.e.* charges demanding no general action or even prosecution of the alleged perpetrators. For a victim to file a complaint is in itself often very intimidating, it is argued.

In *Country Report on Human Rights Practices for 1993*, pp.13-14, it is stated,

One man died while in police custody in November 1992 after allegedly being tortured; five police detectives were convicted of manslaughter and sentenced to 5 years in prison (of which 3 years were suspended) for causing the man's death. There were credible reports that occasional mistreatment of suspects continued in 1993.

...

... Game scouts (wardens) accused of mistreating suspects in 1992 were suspended and prosecuted during 1993 but were acquitted of assault due to lack of evidence. A former policeman alleged that torture of suspects in murder cases is 'common' and not reported or stopped by higher authorities. Annually, a handful of game scouts and police found to have abused suspects have been subject to disciplinary actions (transfer, suspension pending investigation, and reprimands), but police are reluctant to punish abuse of authority in their ranks and even more reluctant to have it publicized, so many abusers have not been disciplined. ... Such punishments do not appear to have been an adequate deterrent, for credible allegations of mistreatment continue.

6.7 THE IMPACT OF THE RADP

General law enforcement issues seem to have been given limited attention under the RADP. To the extent that the RADP has improved the standing of individuals and groups, this may have translated into the same people having less problems concerning law enforcement at all levels. To the extent that the programme has *de facto* marginalized people further, it may have had the opposite effect.



7 ♦ OTHER HUMAN RIGHTS

7♦1 FUNDAMENTAL HUMAN RIGHTS

The most important human rights problems with which the Basarwa and other marginalized ethnic groups are faced, have already been addressed in previous Chapters. Here mention will be made only of some additional rights which are terms of reference for this evaluation.

Every citizen of Botswana is entitled to full protection of his or her fundamental human rights according to the Bill of Rights incorporated in the Constitution of Botswana. Discrimination on the grounds of race, tribe, place of origin, political opinions, colour or creed is explicitly proscribed; cf. Chapter 2.1 *supra*. In general it may be ascertained that the Constitution of Botswana meets with all the basic requirements concerning fundamental human rights as provided for in customary international law and the UDHR. Both civil and political, and social and economic rights are reasonably provided for.

Concerning the freedom of movement it may be argued that restrictions placed on travel between Botswana and Namibia ought to be alleviated in order to facilitate travel for the Basarwa - as a people they are divided by the border.

7♦2 INFRASTRUCTURAL DEVELOPMENT

Probably infrastructural development is the field in which the by far most significant achievements have been made by the RADP. These achievements may eventually prove highly important to the RADs themselves and to their neighbouring communities as well. Poor people are the first to suffer from the absence of infrastructure. Water, health clinics and roads are all needed social services in themselves, and are also needed to bring other social services to the people. But, it is as part and parcel of an overall development structure that the provided infrastructure will come to its prime use.

7♦3 EMPLOYMENT AND THE ECONOMIC PROMOTION FUND

Projects with a potential for generating income and employment in the RAD settlements have been a neglected field. The Economic Promotion Fund has not made much of a difference in this respect although the intentions have been good. There is virtually no RAD settlement which is self-supporting. For a number of years already many of the RADs have mainly survived on drought relief of some kind - in drought periods and post-drought periods. When people have to live from handouts a demoralizing dependency syndrome will eventually develop. Neither old nor new means of subsistence are generally available to the RADs. The lack of effective economic development, income generation and employment is like a disease that takes a constant toll of integrity from the people. It is demoralizing and makes it possible for outsiders to uphold even slavery-like conditions for some of the poorest and most marginalized peoples; cf. Chapter 8 *infra*.

One of the most serious consequences of the entire RADP has been to make self-sufficient people sacrifice this crucial core of freedom for their present status as social clients dependent on relief provisions. Good intentions of organizing projects like veld product utilization, handicraft production based on access to raw materiel such as animal hides and ostrich eggs, arable land management and livestock development, have not translated into many concrete projects so far. When such projects have been started, they have been impeded by lack of land rights and severe restrictions on hunting and gathering. There are however, no good reasons why *e.g.* the management of wildlife and veld products, and tourism should not be main sources of income for the Basarwa.

According to the Minister of Local Government, Lands and Housing in Botswana, Mr Chanson J. Butale, *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* (1993),

Its [the Economic Promotion Fund's] aim is to promote the utilization of local resources with a view to strengthening the subsistence base of the Basarwa settlements as well as to promote their viability. However, Mr Chairman, the intended objectives of this fund have not been fully realized due to socio-economic and cultural factors.

7.4 EDUCATION AND TRAINING

General education for Basarwa and other minority group children are being provided and more advanced training for some of the adults. Clear achievements have been made in terms of developing human resources.

In the revised RADP the GOB will aim at enhancing access to education for the RADs through the provision of schools in remote settlements and through the provision of vocational and technical training, according to the Minister of Local Government, Lands and Housing in Botswana, Mr Chanson J. Butale, *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations* (1993).

To improve the educational programmes further, it may be considered if at least the youngest Basarwa children may be entitled to have their instruction in Sesarwa, their mother tongue. Educated RADs ought moreover, to be given priority for employment in the RAD settlements - their knowledge of Sesarwa and the peoples mentality will facilitate their professional work and improve the services to the RADs. Education in organizational skills and basic human rights, ought probably to be upgraded.

One serious problem is not derived from the education or training as such, but from the lack of respect for the personal integrity of members of the minority groups. In some areas parents refuses to send their daughters of fertile age to school any more, in other cases as many as on fourth or one fifth of the girls in this age group have returned pregnant from a year at school. Most of the babies are said to be of mixed descent. When the young female student have to go to boarding schools and stay at hostels, they need guidance and supervision beyond what they are given today. Male adults should not be permitted general access to the hostels. In cases of abuses the perpetrators have to be brought to justice. There are

numerous reports of rape cases where the alleged perpetrators are said to range from white farmers to teachers at the schools.

A number of small children have run away from their boarding schools to return to their villages. One may question if it would not be better to have at least the youngest age groups be educated in the settlements.

7.5 CULTURE AND PUBLIC AWARENESS

The Sesarwa cultural practices are said to be more or less under siege, some - such as their burial practices - are out of usage. The RADP has to some extent aimed at raising the self esteem and self-confidence of the Basarwa, and to strengthen their cultural identity. The encouragement of cultural traditions and expressions are however, still urgently required.

There continues to be limited understanding of the Basarwa and other ethnic minority groups in Botswana. Still many Tswana - being from the 'principal tribes' - seem to consider themselves as superior to the other parts of the native population; cf. Chapter 5.1 *supra*. It will take both legal reforms (amendments of provisions promoting this kind of thinking), and public awareness campaigns to foster a better understanding of the minority groups and their situation in the general population, to change this trend. Furthermore, and not of the least importance, the RADP itself has to be implemented in a manner conducive to respect for and understanding of the RADs. If the inhabitants in the settlements are seen as social clients who contribute little if anything to their own situation and the society at large - and possibly even demoralized - there is little chance of augmenting or even securing whatever existing public respect for the marginalized minorities.

7.6 GENDER ISSUES

In the traditional Basarwa communities women reportedly had more of an equal status than in the Tswana culture. Whether the RADP has brought some Tswana influence in this respect to the RADs is unclear. The RADP as such seems to have been balanced in terms of gender issues.

Women are however, among the first to suffer under severe deprivation and demoralization - when codes of ethics disintegrate and responsibilities for dependents are no longer properly shared.

7.7 INTEREST AND HUMAN RIGHTS GROUPS

The RADP as such has not fostered interest or human rights groups among the RADs. The idea of having such groups is conceptually new to the RADs. Under the changing circumstances it will never the less be of value to kindle interest in such groups and to assist initiatives in that direction. This will be vital both to promote human rights work and to prepare for equal rights for the minorities in terms of political participation.

Both the *Kgeikani Kweni*, The first people of the Kalahari, and *Ditshwanelo*, The Botswana Centre for Human Rights, deserves attention. *Kgeikani Kweni* is a rather new interest group which within a remarkably short period of time has managed to make itself heard. Still the group may benefit considerably from general organizational assistance. Support ought to be provided to communicate that an initiative like this is important. It is not thereby said that this ought to be the only or main interest group among the Basarwa - which is obviously not for outsiders to decide. *Ditshwanelo* is already quite advanced as a human rights entity, and its work seems to merit support. The centre is *inter alia* to initiate studies of the working conditions for farm labourers and domestic staff respectively (cf. Chapters 8.3 and 8.4 *infra*) and will also focus on gender related questions. It has moreover, taken up a number of educational challenges in the human rights field.

7.8 THE IMPACT OF THE RADP

The RADP have been designed more to solve concrete practical problems than to promote human rights as such. There are no indications that the programme has been planned or implemented in direct disregard of human rights. Conversely, there is reason to believe that the RADP itself has been organized to honour the human rights principals specifically encountered. It is not criticism on this level which is raised against the programme.

The main problem seems to be that the programme is too technical in the sense that the demanding context in which it is implemented is not fully appreciated. Most of the challenges described in previous chapters may be attributed to this.

In retrospect it would have been desirable if the assistance had been provided with more attention paid to the contextual frame of the problems of the Basarwa and the other minority groups.



8 ♦ SLAVERY-LIKE CONDITIONS

8.1 THE CONSTITUTION

The Constitution of Botswana Section 6 proscribes slavery and forced labour.

8.2 INTERNATIONAL INSTRUMENTS

The UDHR Article 4 affirms that,

No one shall be held in slavery or servitude, slavery and the slave trade shall be prohibited *in all their forms* [emphasis added].

The United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 7th September 1956 (which reinforces the United Nations Slavery Convention of 25th September 1926) adds definitions of 'debt bondage', 'serfdom' and related institutions and practices relating to women and persons under the age of 18 years - whether or not the institutions and practices described are covered by the definition of slavery contained in Article 1 of the Slavery Convention. The Supplementary Convention Article 1 reads,

- (a) Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined;
- (b) Serfdom, that is to say, the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status;

The International Labour Organization (ILO) Convention No. 107 to protect minorities of 1957 elaborates on the issue. Botswana is not a party to this Convention. The Convention does however, reflect, in part, what is now recognized as customary international law. The latter is the case also for ILO Conventions No. 29 and 105 relating to forced labour and the abolition of forced labour respectively.

8.3 FARM LABOURERS

In some areas the Basarwa are employed as farm labour - herding the cattle especially. Some live on the farms, others are stationed at cattle-posts. The workers entire family may live together with him on the farm or at the cattle-post. Many farm labourers are treated properly and also provided for beyond what the employers are obliged to do.

The farms are however in a sense small worlds unto themselves where the conditions for the workers may vary considerably from one farm to the other, and over time at the same farms. The Basarwa and other ethnic minority farm workers live to a large extent at the mercy of

the farmers. Even 'justice' relating to farm workers may by and large be enforced on a farm level - by the farmers themselves or their superintendents.

Some farm labourers toil under slavery-like conditions. Their payment may not be much more than a right to drink the milk from the cattle, some additional food and sometimes a calf after a year or more.

These practices do - as long as the person in case is free to change his or her status - not live in serfdom as this is defined in the 1956 United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, Article 1 (b) or in slavery as defined in the 1926 Slavery Convention. Nor do they have the immediate protection derived from the prohibition of 'debt bondage' and the ban on slavery-like institutions and practices involving women and persons under the age of 18 years. It is however, the obligation of every State to - within its powers - prevent that people *de facto* live like slaves because they are deprived of other means of subsistence. This is so even if the basic causes for such deprivation were 'inherited' from an alien administration such as protectorate authorities.

In 1993 Botswana's Deputy Attorney General, O. T. Mapitse, at the Second Regional Conference on Development Programmes for Africa's San Population, in his speech addressing legal status, land, access to development and natural resources, stated,

... Much as I am informed by speeches that Slavery may exist.

Botswana's Constitution proscribes slavery and forced labour in terms of section 6 of the Constitution. Therefore no person can force any person to work for him if the person does not wish to work for that person. If a person is working for another wages are expected to be paid. Rations are not wages and should not be made a form of payment. They could form part of a package. In Botswana payment of wages is enforced under the Employment Act. It is a criminal offence not to pay wages. Three or four years ago, a Minister failed to pay wages when due and the Attorney General threatened prosecution. the wages were paid. *This is a refutation that slavery is thriving in Botswana* [emphasis added] and further that there is no equality before the law.

According to the Employment Act, 60 per cent of the wages has to be paid in cash, a maximum of 40 per cent may be paid in kind. Legislation governing farm labour in general is more or less non existent.

The problem thus is not that the GOB endorses slavery-like conditions of any kind, but that there are not good enough mechanisms to supervise and prevent abuses in segregated farm communities. It adds to the problem that *e.g.* in the Ghanzi district some white farmers reportedly even refuse to give the local police access.

8.4 DOMESTIC STAFF

Domestic staff is another group of special concern. Secluded as domestic workers in many ways are from the society at large, their working conditions are not easily observed by outsiders and the group is heterogenous and not a united force in terms of asking proper

regulation of their employment. Their working conditions reportedly vary from excellent or ordinary, to grossly substandard - underpaid and abusive. Much of the domestic staff do not have an opportunity to stay together with their own families.

8.5 MINORS

When adults are not properly protected against gross violations of their basic rights, even less so are some minors. Occasionally young children are taken to work both on farms and in private households - regardless of them being under age for employment, and without the child workers being secured acceptable minimum working conditions.

Both adoption against the will of the child's biological family, and young children - females in particular - being lured or taken into prostitution are other related fields of concern.

8.6 THE IMPACT OF THE RADP

15

Already in the 1920s the League of Nations looked into allegations of the Basarwa being held in slavery by the Batswana. This conceivable problem is in other words known since long.

Everyone needs to sustain a living - be it in a RAD settlement or elsewhere. By moving or being moved to settlements people like the Basarwa are *de facto* leaving the habitat which previously or hitherto provided their very means of survival. They are not only moving house or changing their residential facilities from one area to another. It was in essence their only known way of life they were invited or pushed to give up. An absolute precondition for the RADP to be morally acceptable under these circumstances, is that the settlers are provided means of subsistence in their new environment; cf. Chapter 7.5 *supra*.

If the latter is not the case, the settlements will serve as recruitment pools for substandard employment on farms and in domestic service. The only other alternative is often cardboard cities of mainly jobless squatters around urban areas where many women are lured into prostitution. This lack of humane alternatives makes it difficult for severely abused workers - even those who may live under slavery-like conditions - to voice their rights. And, if they manage to speak up, they may find it even more difficult to be heard.

Deprivation of means of subsistence will moreover, often be conducive to the abuse of children by outsiders. Settlements with no hopes of people being able to provide for themselves are generally demoralizing.



9 ♦ CONCLUSIONS AND RECOMMENDATIONS

As stated in Chapter 1.2 *supra*, the evaluation team is asked in addition to provide *inter alia* a general review of the 'human rights situation of the Remote Area Dwellers, with particular emphasis on the situation of the Basarwa peoples' to 'identify key feature programmes to Remote Area Dwellers in terms of priorities, objectives, targets and approaches'.

9♦1 LAND RIGHTS AND RIGHTS TO OTHER NATURAL RESOURCES

Next to no land rights and rights to other natural resources for the Basarwa in Botswana, is to a large extent a legacy from the British Bechuanaland Protectorate. There is, never the less, an urgent need for the Government of Botswana to stop the deprivation which has continued also in independent Botswana.

Although these rights have not been duly recognized in the past, it appears obvious that the Basarwa people had rights to land and other natural resources in their native lands. These were rights of a character which would command legal recognition in any modern, civilized and democratic nation. This can be no less so because the authorities in the Protectorate era chose to neglect or rather disregard these rights to enhance their own power by laying claim to waste areas conveniently labelled as *terra nullius* and proclaimed as Crown lands.

Secondly, it should not be held against the Basarwa that numbers of them have moved or been moved more or less voluntarily to RAD settlements and thereby 'deserted' their traditional and historical land titles. Even when the moving out of Basarwa from an area have opened up to others laying claim to the expanse (or part of it) of the former Basarwa habitat, it ought to be considered whether the titles to land given to the newcomers ought to be invalidated in favour of the Basarwa.

There is moreover, an urgent need to have exclusive titles to the land occupied by the RAD settlements provided to each settlement as such, and limit access to reside in the settlements to the target groups of the settlements. Otherwise the historical conclusion concerning the entire RADP may be that in actual facts it was a programme which was paid essentially by the Basarwa themselves as they by accepting it was seen as renouncing their historical land titles; and, what they paid for, they did mainly not receive.

The GON would probably be well advised to recommend affirmative actions to recompense the Basarwa for their previous losses in order to promote also equal rights for the Basarwa in Botswana.

9♦2 AFFIRMATIVE ACTIONS

The need of the Basarwa and other ethnic minority groups for means of subsistence may in part be met by securing them land titles and access to other natural resources. The next requirement in line is to create employment opportunities in the settlements or adjacent areas - *e.g.* in Wildlife Management Areas - and to help implement income generating schemes for the RADs.

Considering that the marginalization of the Basarwa has taken place in most relations, a wide variety of affirmative actions are desirable to grant the group and other clearly underprivileged groups their equal rights. Education - general, as to the peoples' fundamental human rights, and to motivate and prepare for political participation - are other fields that probably ought to be given some priority.

9.3 IMPROVED LEGAL PROTECTION AND MONITORING

A revision of the legal system to remove all and any concepts and provisions which could be fostering inequality in disregard of the principle of non-discrimination as enshrined in the Constitution (cf. Chapter 2.1 *supra*), is also desirable. This will be in line with the amendments made in the Tribal Land Act in 1993, and the forthcoming changes in Sections 77, 78 and 79 of the Constitution.

There is an urgent need to provide the Basarwa and other marginalized ethnic minority groups with access or improved access to legal services. The main problem of the minority groups is not that the legal services as they exist today are not good enough, but that such services basically are out of reach to them - geographically, financially and/or conceptually. The Botswana legal system utilizes also para-legals. It could possibly be explored if para-legals could be engaged to bridge the gap between the minorities and the overall legal system of Botswana. Moreover, decisions made by Basarwa customary courts are in need of being given more weight and recognition in Botswana. This is no less so when *e.g.* there is a Basarwa *Kgotla* decision to have an intruder from outside a settlement compensate for damage made in the settlement.

To improve the monitoring of the human rights situation for the minority groups it seems important to support interest groups from within the minorities (such as *Kgeikani Kweni*, The first people of the Kalahari) and local human rights groups (such as *Ditshwanelo*, The Botswana Centre for Human Rights). The mere fact that someone of some authority (through status or numbers) pay attention to the human rights situation, makes it in general more costly for those who violate those rights. What can be done clandestinely is one thing, what has to be answered to in public is a different issue altogether.

9.4 AN OMBUDSMAN SYSTEM?

It is suggested in the *Memorandum on The Strategy for Development Cooperation between Botswana and Norway, 1994-1996 and Beyond* (p. 6) that there may be new areas of cooperation between the two countries, including institutional cooperation. As example of one of the institutions that may be appropriate for cooperation the Norwegian Parliament's Ombudsman for Public Administration is mentioned. It may be questioned if it could be helpful to have an Ombudsman system to supervise the human rights situation for the Basarwa and other marginalized groups in the period of transition when affirmative actions are needed to secure equal rights for these groups in their country.

BIBLIOGRAPHY

Adams, Martin, *Botswana: RADP Evaluation Preparatory Mission*, Final Report for Royal Norwegian Ministry of Foreign Affairs, Oxford, 18th March 1994

Amnesty International Report 1993

Butale, Chapson J. [Minister of Local Government, Lands and Housing, Republic of Botswana], *Official Opening Speech of the Second Regional Conference on Development Programmes for Africa's San Populations*, Gaborone, 11th October 1993

Country Report on Human Rights Practices for 1993, Report submitted to the Committee on Foreign Affairs U.S. House of Representatives and the Committee on Foreign Relations U.S. Senate by the Department of State, Washington, February 1994.

ECU [the Economist Intelligence Unit] *Country Profile Botswana, Lesotho 1994-95*, London, 1995

Good, Kenneth, *Inequalities and the San in Botswana today*, Seminar paper, Rock Art Research Unit, University of the Witwatersrand & Johannesburg Art Gallery, Johannesburg, 4-7 August 1994

Head, Bessie, *Serowe, Village of the Rain Wind*, 1981

Kann, Ulla, Hitchcock, Robert and Mberere, Nomtuse, *Let Them Talk: A Review of the Accelerated Remote Area Development Programme*, Report submitted to the Ministry of Local Government and Lands and to the Norwegian Agency for Development Cooperation (NORAD), Gaborone, August 1990

Memorandum on The Strategy for Development Cooperation between Botswana and Norway, 1994-1996 and Beyond

Moeletsi, Batlhalefhi, *The San of Botswana: Legal Status, Access to Land, Development and Natural Resources*, Paper, The Second Regional Conference on Development Programmes for Africa's San Populations, Gaborone, 11-13 October 1993

Moeletsi, Batlhalefhi, *The Tribal Land Act of Botswana: Does It Have a Place for Basarwa*, Paper, Workshop for the Promotion of Basarwa Research and Studies, University of Botswana, Gaborone, 17-18 September 1993

Mogwe, Alice, *Who was (t)here first? An Assessment of the human rights situation of Basarwa in selected communities in the Gantsi district Botswana*, Botswana Christian Council Occasional Paper No 10, Gaborone, March 1992

Motumise, O. M., *The Constitution and Minority Rights*, Paper, Workshop for the Promotion of Basarwa Research and Studies, University of Botswana, Gaborone, 17-18 September 1993

- National Development Plan VII 1991-1997*, Ministry of Finance and Development Planning, Republic of Botswana, Gaborone, December 1991
- Ng'ong'ola, Clement, *Legal recognition of Traditional Land Rights: Research Notes and Agenda*, Paper, Workshop for the Promotion of Basarwa Research and Studies, University of Botswana, Gaborone, 17-18 September 1993
- Ng'ong'ola, Clement and Moeletsi, Batlhalefhi, *The legal framework for the assessment of land rights for Basarwa and other marginalized ethnic groups in Botswana*, Report prepared for The Christian Michelsen Institute (Law Department, University of Botswana, Gaborone, March 1995)
- Otlhogile, Bojosi, *Criminal Justice and the Problems of a Dual Legal System in Botswana*, Criminal Law Forum, Volume 4 No. 3 (1993)
- Our Land: The report on the Botswana Government's Public Consultation on its policy proposals on Tribal Grazing Land*, Ministry of Local Government and Lands, Gaborone, September 1977
- Oxford Illustrated Encyclopedia of Peoples and Cultures*, Oxford University Press, Oxford, 1992
- Popular Version of the Tribal Grazing Land Policy*, Republic of Botswana
- Project Memorandum of National Development Plan Project No. LG 32 (1974)*, Gaborone
- Schaapera, I. and Comaroff, John L., *The Tswana*, Revised edition, London and New York, 19??
- Silberbauer, George, *Report to the Government of Bechuanaland on the Bushman Survey*, Gaborone, 1965
- Speech by His Excellency the President, Sir Seretse Khama, K.B.E. - Launching the Grazing Land Policy 14th July, 1975*
- The New Encyclopædia Britannica*, Volume 2, Micropædia 1, Fifteenth Edition, 1987
- Wily, Elizabeth, *A Strategy of Self-Determination for the Kalahari San (The Botswana Government's Programme of Action in the Ghanzi Farms)*, Development and Change, SAGE, London and Beverly Hills, Vol. 13 (1982)
- Wily, Elizabeth, *Land Allocation and Hunter-Gatherer Land Rights in Botswana: The Impact of the Tribal Grazing Land Policy*, Anti-Slavery Society, London, 1980

Annex 7:

THE POSITION OF BASARWA ORGANISATIONS IN CONTEMPORARY BOTSWANA

By

Sidsel Saugestad, University of Tromsø, Norway.

This annex traces the emergence of Basarwa-based organisations and activities in Botswana, gives an outline their objectives and tries to assess their representativity. The perspective adopted is that the presence of representative organisations and the articulation of political interests are necessary components in the process leading towards full participation of the Basarwa in society.

The importance of organisations and interest groups

In Africa, and indeed globally, there is a growing recognition of the importance of civil society for 'good governance'. The role that a vigorous civil society, including NGOs may play in strengthening democracy was taken up at the Botswana Society Conference in 1993, observing that "the existence of non-government organisations...should not be viewed as reflecting a weakness in the multi-party democratic system, but rather part of its strength". Voluntary organisations enhance participatory democracy, as they extend peoples' participation in the development of their society and communities. (Olsen 1994:39).

So far there has been a weak tradition for this kind of pluralism in Botswana. Government has not encouraged the rise of interest groups of any kind. At the same Botswana Society Conference, Molutsi observed: "The organs of civil society including the media, trade unions, church organisations, environmental groups, women's organisations and many others find that their actions are unwelcome by government" (Molutsi 1994:31). The argument is usually that consultations are taken care of through the representative political system in place, and the institution of the *Kgotla*.

Thus there is now in Botswana both a growing appreciation of the contribution which associations and organisations can make, and a recognition that so far this process has not been actively encouraged by government, (although this annex notes some encouraging new developments).

The challenges as well as the achievements of the emerging Basarwa organisations should be seen in this perspective. When Basarwa representatives argue that their voice is not adequately heard through the regular political system, and in the *Kgotla*, part of their problem is this general reluctance and a lack of routines structuring the relationship between the GOB and organised interest groups.

In addition, they face problems and challenges that are specific to the Basarwa:

- * Basarwa representatives must address the internal problems of mobilising some kind of representative organisation across vast geographical distance and language differences, on behalf of a disillusioned, often discouraged and desperately poor 'constituency'.
- * Basarwa representatives must also address the explicit non-racial policy of the GOB and their painstaking concern not to appear to single out any one particular group for special treatment. There are some very good arguments for GOBs insistence to define the RAD programme as a social welfare programme that aims to reach all poor citizens living in remote areas, irrespective of cultural/ethnic background. There are, however, also very good reasons for identifying the Basarwa as the main component of the target group, as they are *de facto*. No exact numbers are available, but based on Hitchcock's (1992) estimate, some 70% - 80% of the remote area dwellers are Basarwa.

It is therefore pertinent to an evaluation of the RAD programme, to assess the actual and potential input from Basarwa organisations, in view of the overall possibilities for the Basarwa to exercise influence in society. The experience from other democratic countries where minorities live in similar circumstances appears to be that once reasonably representative indigenous organisations are in place, with leaders that can enter into some sort of dialogue with government, a valuable contribution to the democratic process has been added. (Saugestad 1993a)

To find a voice

In spite of good intentions, the legacy from the colonial past has not quite been overcome in Botswana. A broad analysis of human rights in Southern Africa notes that "...the disadvantaged position of the Basarwa (Bushmen) and other non-Tswana minorities reflects a legacy of discriminatory clientage not wholly remedied" (Weisfelder 1984:95). The integration of the Basarwa into the stratified and well organised Tswana chiefdoms took place at the bottom of society, and did not always include a right to speak at the *Kgotla*. Internal organisation of the Basarwa bands was based on entirely different processes of leadership, and their 'first among equals' type of leadership competed badly with Tswana chiefs, in fact it was hardly noticed.

Communicative conventions in Basarwa/Tswana relations included and still include a low voice and lack of assertiveness, and a preference for stating a fact by the use of imagery and metaphors, rather than according to protocol and bureaucratic procedures. Low key statements are often overheard, and administrators often complain that 'These people have not brought forward a clearly stated case'.

For members of a minority to find ways of expressing themselves that 1) is being heard, and 2) has an impact, is a learning process. The way traditional leadership is exercised has been recorded by anthropologists in different areas. (See Biesele et al. 1989 for the Ju/'hoansi, Naro, !Xóo, Nata River Basarwa, also Hitchcock and Holm 1993). Unfortunately, the ample examples of internal organisation and representation that appear in the literature, are not easily being transformed into relevant roles of participation in the greater society.

The process of transforming traditional leadership roles into positions that can articulate with the modern political and administrative structure in Botswana, has probably come further in the Ghanzi area than elsewhere, for a number of reasons. Gross appropriation of land by European settlers from the turn of the century contributed to demolishing social relations among the Basarwa and created a growing squatter population. Spiritual leaders emerged among the Naro in situations of considerable social and economic hardship. Guenther (1986:289) noted the links between Shamanism and leadership, indicating that "in the area of ritual, especially the trance dance,... the potentially revolutionary, transforming changes of Nharo social organisation can be noted". Contemporary Naro organisations have emerged against this background.

The longest and most sustained effort to mobilize Basarwa has been in the work of Kuru Development Trust in D'Kar. They can now look back to some 20 years of activities including missionary work, skills training, language instruction and income generating projects. By the early 1990s these activities had contributed to bringing forward an *avant garde* (my term) of politically conscious and comparatively well-trained Basarwa, mainly Naro.

First encounters: Speaking up at Gaborone Sun and meeting MLGL&H.

From this milieu came the initiative and core for a modern Basarwa-based, ethno-political organisation: **The First People of the Kalahari** (*Kgeikani Kweni*). The organisation started up in 1992, and gained some notoriety after speaking up in Naro at a prestigious Botswana Society workshop (on Sustainable Rural Development), and in a subsequent meeting with the Botswana Government, by presenting a statement outlining their problems.

The statement (which is appended as Appendix 1 to this report) notes that the basic problem of the Basarwa is that "Government has not been able to identify

representatives with whom they can work in order to adapt the development programmes of the Botswana Government to meet the special needs of the N/oakwe". The statement goes on to propose that new ways are tried out to create representative structures, and that they "therefore propose to set up a national council, and ask the Government to recognize this council as a legitimate negotiating partner".

Seen from outside (e.g. by this writer), the statement appears as a reasonably balanced document, describing some real and well documented problems, and suggesting some constructive steps towards a solution. The fact that the proposal of a representative structure may be similar to models tried out in other countries did, however, trigger off an initial negative reaction from Government, asserting that this whole idea was a foreign import and not a genuine Basarwa claim. This is a spurious contradiction, as indigenous organisations often emerge as organised attempts to solve problems in the relationship between nation-states and indigenous peoples, and to the extent that these problems are structurally similar from one country to the next, the solutions suggested may easily show some similarity.

Another point, however, which came up in the press debate that followed, deserve some further consideration. To what extent could this small group of people who went to Gaborone, calling themselves the First People of the Kalahari, be seen as representative of the Basarwa community, if such a 'community' indeed exists? We will return to this discussion, after we have considered another process that has a bearing on the issue of representativity, namely the events leading up to the Second Regional Conference on Africa's San population.

The Second Regional Conference on Development Programmes for Africa's San Population, Gaborone October 1993.

The very fact that this conference was held at all was an important event in itself. We will concentrate on one aspect: the participation of the Basarwa.

The conference was unprecedented in that for the first time in Botswana, delegates selected as representatives for the Basarwa met with the government in a formalised setting, debated and passed resolutions. There were many steps leading up to this event, and the following is a brief outline:

- * The First Regional Conference on Development Programmes for Africa's San Populations was held in Windhoek in June, 1992. At this conference, Namibia had come across as a leading advocate for San/Basarwa emancipation, and GoB had suffered criticism in the press after the rather dismissive treatment of the Basarwa delegation which had met with MLGL&H, and the alleged 'hand picking' by Government of the representatives which went to the Windhoek

conference. When GoB accepted the responsibility for convening the second conference, care was taken to avoid further criticism of this kind.

- * When planning for the second conference started in June/July 1993, the Government (MLGL&H) realised that they would not be able to carry out a mobilisation process solely through the regular RAD extension network. Planning meetings were held between GoB, NGOs and donors and an NGO Ad Hoc Committee was formed, with representatives from the Human Rights Centre, Botswana Christian Council (BCC) and the Centre for Continuing Education, University of Botswana (CCE/UB) at the core. The objective of the pre-conference activities was set out to be: to assist in making the voice of the Basarwa heard, and to establish a lasting dialogue between GoB and the Basarwa.(MLGL&H Working Document, 1993)
- * A workshop in D'Kar in July set the agenda for subsequent social mobilisation in the district. A number of topics were suggested for discussion, and were taken up in meetings at various venues across the country, facilitated by relevant NGOs working in an area, RAD officers, volunteers, and people from Kuru.
- * The district-based consultative process then culminated in a three-day seminar in Palapye in September 1993. The purpose of the Palapye seminar was twofold:

1) To come up with both common and district-specific concerns to be presented to the Regional Conference to follow, and

2) to nominate delegates to the conference.

The district discussions were reported and national Basarwa issues were formulated. The outcome of the process was a list of issues/concerns and recommendations.

The following issues were debated: 1) Land, 2) Leadership, (traditional and political) 3) Development, 4) Natural resources (wildlife and veld products), 5) An appropriate name, 6) Language, 7) Education, 8) Women, 9) Children (sexual abuse and exploitation), 10) Discrimination and racism) 11) Unemployment, 12) Economic opportunities and marketing, 13) Culture, 14) Harassment, and 15) Public attitudes.

- * Five or six representatives from eight districts were elected to the Regional San Conference. These delegates met in Gaborone the day before the Conference, discussed the resolutions and prepared their inputs.
- * The delegates participated in the debates, and in the passing of resolutions of the Regional San Conference (Included as Appendix 2 to this report). In his

opening address Aron Johannes gave credit to the organisations who had facilitated the pre-conference process, and he gave an account of the issues/concerns that had been debated: 'these are what our tears are about, over the whole country'.

Representatives and representativity

In order to address the question of representativity of Basarwa activities and organisations, it may be useful to see the events of recent years as two important processes, that now may be merging:

The one is the pre-conference activities and the Second Regional San Conference. Although the meetings held often were improvised on short notice, and depended on whatever local contacts were available, the mobilisation process covered a fair part of the country and afforded opportunities for a fair number of people to participate. In fact, the level of activities, covering eight districts was impressive, considering the vast distances and the short notice. As far as has been possible to judge, the debates and the selection of the 40 or so representatives took place with no evident disagreements or problematic debates about defining who is a Basarwa. Also the government deserves credit for convening the Conference and for facilitating an open atmosphere for debate.

The second process is the emergence of a pan-Basarwa organisation, the First People of the Kalahari. In retrospect it may be hard to assess to what extent the organisations as such was involved in the pre-conference process. But this question is largely academic, as most core members of the First People participated in all stages of the mobilisation from the D'Kar workshop through meetings in the districts, the seminar in Palapye and the conference in Gaborone, setting the initial agenda and drafting the resolutions. A fair number of them also work for or are affiliated with Kuru. There is therefore a consistency in views on issues taken up which, by implication, suggest that this organisation represent attitudes widely shared among the Basarwa.

The First People of the Kalahari

The First People of the Kalahari was officially registered as a trust, with a board of trustees, in October 1993. Among the main objectives of the organisation are

- 1) to work for the recognition of the N/oakwe as one people, and to advocate the rights of the N/oakwe people vis-a-vis the Botswana Government and the public.

2) to create a National Council for the N/oakwe through duly elected representatives, and to work for the recognition of land rights, and

3) to invigorate the culture as well as the individual identification with the culture of the N/oakwe

In April 1994 First People opened an office in Ghanzi. Funding for basic office and travel expenses for a three-year period has been granted from DANIDA in Denmark through IWGIA. There is also contact with Plenty of Canada/Six Nations, as well as Saami and Inuit organisations.

Many of the people active in meetings and mobilisation work were affiliated both with Kuru and First People. Gradually these two organisations have developed different but complementary profiles. While Kuru Development Trust is a driving force in local activities, coordinating a number of income-generating and training projects, the First People of the Kalahari is aiming to become a national pan-Basarwa organisation, and to inform the public debate about Basarwa issues. Its board of trustees include Naro, Ju/'hoan and G//anna representatives, in other words covering Ghanzi, the Central Kalahari Game Reserve (CKGR) and western Ngamiland.

Follow up

The Regional San Conference in Gaborone has been hailed as a success from many perspectives. A report prepared by Samora Gaborone lists among the major achievements that

- * the Government acknowledged that there had been mistakes in the past with respect to the development of the Basarwa, using a development approach which was top down and patronising
- * an empowering environment was created, enabling Basarwa to take part of pre-conference activities, deciding on the content of the process, and presenting their views,
- * and a new partnership in development was created between GoB and NGOs. (Gaborone n.d.)

For some time (since the Ghanzi Farm episodes in 1991) the involvement of NGOs in matters related to the Basarwa had been low key and not much encouraged by Government. This new initiative towards cooperation thus developed new links, and some mutual respect and tolerance between the two camps. Minister Butale identified these trends in his opening speech to the Regional San Conference:

"This form of collaboration between government and NGOs conforms to our development objectives of diversification and self-reliance. Government cannot do everything for everybody and, indeed, NGOs are more efficient than government at doing certain things" (Butale, 1993).

In assessing the impact of the Conference, observers stress the significance of the pre-conference activities, which were indeed considerable. While the GoB deserve credit for facilitating a very open atmosphere that invited different points of views to be expressed, and the donors deserve credit for funding and support, there has been a regrettable failure to follow up. The report from the conference is still not out, which means that the resolutions which were (unanimously) passed have not yet been submitted to the appropriate parties for further action.

This is also, unfortunately, part of the learning process for the Basarwa who participated. It is not an entirely new experience, as indicated by one of the spokesmen, Aron Johannes, who concluded his opening statement with the following remarks:

"We have come to this conference, we have been received well and we have been treated nicely. It should not be that after the conference we go back to our tears and to the dust. We left the hunger behind us, here we are well fed. We should not go back to the way it was before".

Since 1992 some 41 resolutions were passed by the First Regional Conference in Windhoek; 20 recommendations were made at the Policy Review Seminar on Remote Area Development held in Ghanzi in September, 1992; then there are 14 recommendations from the Palapye meeting and 11 resolutions from the Second Regional Conference, many of them very similar or identical. A good case could now be made for more attention to be given to a follow-up process.

Voices of the N/oakwe

Many of the resolutions have in common a strong plea to Government to do or provide something. This is natural, as they were drafted on occasions where Basarwa met with Government representatives. Indeed, one of the main objectives of Basarwa-based organisations has been to establish a dialogue with Government.

Moreover, most of the recommendations concern changes within areas that are recognised as Government responsibilities, such as economic development, infrastructure, education and health. However, in the context of a perspective stressing the potential contribution voluntary association can make to the public good, it may be useful to distinguish between sectors which are and should be Government responsibilities, and sectors where NGOs can make a contribution. Once this distinction is made, the argument takes on a new dimension. It moves

from pleading with Government to analysis and initiatives over a much broader spectrum.

In fact, there are indications that this change already is taking place in many of the statements made at meetings which now are held in a variety of settings, ranging from three workshops convened by the Botswana Christian Council in 1994, (which is the only follow-up so far of the Regional San Conferences), to participation in international contexts (in Copenhagen in 1993 and 1995, in Canada in 1994 and 1995). For similar examples from Namibia, see Biesele 1994.

Although not formally recognised by Government as a body entitled to comment on the RADP, the First People of the Kalahari have increasingly voiced opinions on the various issues arising from the Programme. Aron Johannes argues that the social needs that a development programme like the RADP is set up to alleviate, have their roots in the lack of access to land from which the N/oakwe (Basarwa) can make their living. Johannes points to the unfortunate consequences of development being "given" to people. This turns the Basarwa into beggars who must ask for assistance. Thus government development programmes by implication maintain social stratification, as the unequal relationships are continuously reproduced in interactions. "When you ask, you make the person from whom you are asking great - and it makes you feel small" (Johannes 1994).

The alternatives, as Aron Johannes, John Hardbattle and others voice them, lies precisely in the mobilisation of N/oakwe through (nationwide and local) organisations that can define and promote their own interests, to stop being 'beggars' and to enter into dialogue with Government and others. In the process that will follow supportive national NGOs such as The Centre for Human Rights and the Botswana Christian Council, and other national institutions, such as the University of Botswana may play an important role. The objective from the Regional San Conference is still a valid one: to make the voice of the Basarwa heard!

REFERENCES

Biesele, M. 1994:

To Whom it May Concern: Or, Is Anyone Concerned?

Paper read to the Conference on Khoisan Studies: Multidisciplinary Perspectives, Tutzing, Germany July 1994.

Biesele, Megan, Mathias Guenther, Robert Hitchcock, Richard Lee, and Jean MacGregor 1989:

"Hunters, Clients and Squatters: The Contemporary Socioeconomic Status of Botswana Basarwa". *African Study Monographs* 9(3):109-151

- Butale, C.J. 1993:
 "Official Opening", Second Regional Conference on Development Programmes for Africa's San Population, Gaborone, Botswana, 11-13 Sept. 1993. MS.
- Gaborone, Samora n.d.
 Dialogue Between Government and Basarwa. Report of the Second Annual Conference on the Development Programmes for Africa's San Populations, October 11-13 1993. Gaborone; prepared with the support of UNDP.
- Guenther, Mathias 1986:
The Nharo Bushmen of Botswana. Tradition and Change. Hamburg; Helmut Buske Verlag.
- Hardbattle, John 1993:
 "Statement on Behalf of The First People of the Kalahari", in IWGIA Document no.74, 141-148.
- Hardbattle, John, 1994:
 "First People of the Kalahari" in *Contact*, Plenty Canada, 3(4): 4-7
- Hitchcock, Robert 1992:
 "The Rural Population Living Outside of Recognised Villages." in D. Nteta and J. Hermans (eds) *Sustainable Rural Development*. Proceedings of a Workshop held by the Botswana Society 13-15 April 1992. Gaborone; Botswana Society, 6-21.
- Hitchcock, Robert and J. Holm 1993:
 "Bureaucratic Domination of Hunter-Gatherer Societies: A Study of the San in Botswana". *Development and Change* 24(2),305-338
- Johannes, Aron 1993:
 Overview of preliminary meetings in Namibia and Botswana. Second Regional Conference on Development Programmes for Africa's San population. October 11-13. Fieldnotes.
- Johannes, Aron 1994:
 Keynote Address. Workshop for Basarwa of North West and Ghanzi District, Maun April 1994. Fieldnotes.
- Molutsi, Patrick, 1994b:
 "Botswana's Democratic Institutions: Their Strengths and Prospects". in Sue Brothers et al. (eds) *Botswana in the 21st Century*. Proceedings of a Symposium Organised by Botswana Society October 18-21 1993. Gaborone; Botswana Society. 21-37

MLGL&H 1993a:

Working Document. Second Regional Conference on Development Programmes for Africa's San Populations. Prepared by the Ministry of Local Government, Lands, and Housing, Botswana, in consultation with the Ministry of Lands, Resettlement and Rehabilitation, Namibia. July 1993.

Olsen, Clara 1994:

"The Role of Non-Government Organisations in Promoting Democracy in Botswana" in Sue Brothers et al. (eds) *Botswana in the 21st Century*. Proceedings of a Symposium Organised by The Botswana Society October 18-21, 1993. Gaborone; The Botswana Society. 39-48

Republic of Namibia, Ministry of Lands, Resettlement and Rehabilitation, 1992: Regional Conference on Development Programmes for Africa's San Populations. Windhoek, Namibia June 16-18, 1992. Report.

Saugestad, S 1993 (a):

Indigenous Peoples, National Models and Recent International Trends. Working Paper No. 64, NIR, University of Botswana, 1993

Saugestad, S. 1993 (b):

"Botswana: The Inconvenient Indigenous Peoples". In *Newsletter for International Work Group for Indigenous Affairs*, No. 2, 1993, 36-41.

Weisfelder, Richard 1984:

"Human Rights in Southern Africa: The Mote in Thy Brother's Eye" in Claude E. Welch and Ronald I. Meltzer (eds) *Human Rights and Development in Africa*. Albany; State University of New York Press.

Appendix 1:

*The First People
Of The Kalahari*

May 17, 1992

The Honourable Minister
Ministry of Local
Government, Lands &
Housing
Mr. C. Butale

26 years of independence has brought Botswana forwards and us, the first people of the Kalahari, backwards.

The problem is that the Government has not been able to identify representatives with whom they can work in order to adapt the development programmes of the Botswana Government to meet the special needs of the N/oakhwe (the Ju/twasi), who have been consistently marginalized.

We now feel the need for the Government to acknowledge us as One People, recognizing the diversity in terms of language and territorial ownership.

When we had control of our territories there was a network, a constant interaction and contact amongst us. Territorial rights were recognized, whilst sharing resources with neighbouring groups.

We propose in order to meet the development objectives of the Botswana Government that new ways are tried out to create representative structures.

To meet these objectives we therefore propose to set up a national council and ask the Government to recognize this council as a legitimate negotiating partner.

We suggest a vote be set aside to cover consultations amongst us in order to establish this council.

We also strongly ask that ongoing or further alienation of land be halted, either through resettlement or fencing, until the council has been established.

We therefore ask you to bring our words to the Government so these words can be considered. And we would like a meeting so we can negotiate and settle this before we attend the conference in Namibia on June 16-18, 1992.

Komtsa Komtsa
of the Nharo

KOMTSHA

Tsao
of the Ju/twasi

+

Roy Sesana
of the G/annakwe

ROY

Gomme Kgao
of the Ju/twasi

GOMME

Saikuta
of the G/wikwe

+

Aaron Johannis
of the Nharo
A. Johannes.

translated by John Hardbattle
contact adress: First People of the Kalahari, P.O.Box 173,
Ghanzi.

**RESOLUTIONS OF THE SECOND REGIONAL
CONFERENCE ON
DEVELOPMENT PROGRAMMES FOR AFRICA'S
SAN POPULATIONS
Gaborone Sun, 11-13 October 1993.**

1. The national constitutions of Botswana and Namibia call for equality before the law of all citizens including Basarwa/San communities. But, not all public servants apply the law equally to all citizens/people. The conference therefore, calls on both respective governments to implement a programme of affirmative action by way of;
 - a) inform Basarwa/San of their legal rights,
 - b) to facilitate awareness building among and training of civil servants to ensure correct interpretation and application of the law.
2. There is need for effective monitoring of human rights and the establishment of free legal assistance centre.
3. Current legislation in both Namibia and Botswana does not adequately protect Basarwa/San land-use rights/practices. National governments are thus called upon to recognise hunting and gathering as a legitimate form of land-use.
4. Education is recognised as a very important component of the development process. However, it does not in its current form take into account cultural norms and practices of Basarwa/San communities. It is resolved that mother tongue teaching be encouraged or introduced for the first three primary school grades.

Furthermore, the conference calls for '*equal education for all*'. This will call for affirmative action in the following areas;

- a) policy recognition of pre-school programmes,
- b) improved adult / non-formal education programmes,
- c) increased access to vocational training.

The conference re-iterates the principle that nobody should be excluded from education and training on account of economic inability to pay necessary fees. In such cases, governments are called upon to provide the necessary assistance.

5. Teenage pregnancy in schools is recognised as a serious social problem among Basarwa/San communities. The conference resolves that teenage mothers be accorded the opportunity to continue with their education at any school of their choice (including their original school).

Furthermore, Sesarwa/San culture must be taught and respected. Cultural practices such as puberty rites should be accommodated by the education system

by granting students leave of absence to observe such cultural rites.

6. The conference recognises the need for Sesarwa/San language development. Thus, there is need for more consultation and research in this area.
7. The conference re-iterates the importance of land as a basic resource for people's subsistence and sustenance. All communities (Basarwa/San included), need ownership, control over, and access to land to;
 - a) preserve cultural identity and foster survival through agriculture, hunting, and gathering,
 - b) ensure ownership of identifiable areas,
 - c) secure inheritance for future generations.
8. The conference resolves that appropriate community based land-use planning should be ensured through consultation, participation, and affirmative action through the following;
 - a) that the remaining land should be reserved for communal use and priority regarding allocation be given to dispossessed communities/people.
 - b) following a) above, syndicates and/or group allocation for boreholes and other land related development should take priority over individual applications.
 - c) that Basarwa/San people be adequately represented in land allocation bodies (Land Boards).
 - d) that Basarwa/San people be trained in resource management.
9. Given the existence of unexplored and/or restrictions placed on some economic opportunities, the conference calls for national governments to establish community based income generation activities through;
 - a) provision of financial support packages,
 - b) provision of effective extension services,
 - c) ensuring access to and rights to use of natural resources.
10. In light of the prevailing mis-representation and communication gap so prevalent in decision making structures, the conference calls on national governments to support the formation of Basarwa national fora through which community needs and problems can be articulated and discussed.
11. In summary, it is recommended that a process be initiated by government, Basarwa/San people and NGO's through which country strategies can be developed and crystallised.

EVALUATION REPORTS

- 2.86 Mali - matforsyning og katastrofebistand
- 3.86 Multi-bilateral Programme under UNESCO
- 4.86 Mbegani Fisheries Development Centre, Tanzania
- 5.86 Four Norwegian Consultancy Funds, Central America
- 6.86 Virkninger for kvinner av norske bistandstiltak
- 7.86 Commodity Assistance and Import Support to Bangladesh

- 1.87 The Water Supply Programme in Western Province, Zambia
- 2.87 Sosio-kulturelle forhold i bistanden
- 3.87 Summary Findings of 23 Evaluation Reports
- 4.87 NORAD's Provisions for Investment Support
- 5.87 Multilateral bistand gjennom FN-systemet
- 6.87 Promoting Imports from Developing Countries

- 1.88 UNIFEM - United Nations Development Fund for Women
- 2.88 The Norwegian Multi-Bilateral Programme under UNFPA
- 3.88 Rural Roads Maintenance, Mbeya and Tanga Regions, Tanzania
- 4.88 Import Support, Tanzania
- 5.88 Nordic Technical Assistance Personnel to Eastern Africa
- 6.88 Good Aid for Women?
- 7.88 Soil Science Fellowship Course in Norway

- 1.89 Parallel Financing and Mixed Credits
- 2.89 The Women's Grant. Desk Study Review
- 3.89 The Norwegian Volunteer Service
- 4.89 Fisheries Research Vessel - "Dr. Fridtjof Nansen"
- 5.89 Institute of Development Management, Tanzania
- 6.89 DUHs forskningsprogrammer
- 7.89 Rural Water Supply, Zimbabwe
- 8.89 Commodity Import Programme, Zimbabwe
- 9.89 Dairy Sector Support, Zimbabwe

- 1.90 Mini-Hydropower Plants, Lesotho
- 2.90 Operation and Maintenance in Development Assistance
- 3.90 Telecommunications in SADCC Countries
- 4.90 Energy support in SADCC Countries
- 5.90 International Research and Training Institute for Advancement of Women (INSTRAW)
- 6.90 Socio-cultural Conditions in Development Assistance
- 7.90 Non-Project Financial Assistance to Mozambique

- 1.91 Hjelp til selvhjelp og levedyktig utvikling
- 2.91 Diploma Courses at the Norwegian Institute of Technology
- 3.91 The Women's Grant in Bilateral Assistance
- 4.91 Hambantota Integrated Rural Development Programme, Sri Lanka
- 5.91 The Special Grant for Environment and Development

- 1.92 NGOs as partners in health care, Zambia
- 2.92 The Sahel-Sudan-Ethiopia Programme
- 3.92 De private organisasjonene som kanal for norsk bistand, Fase I

- 1.93 Internal learning from evaluation and reviews
- 2.93 Macroeconomic impacts of import support to Tanzania
- 3.93 Garantiordning for investeringer i og eksport til utviklingsland
- 4.93 Capacity-Building in Development Cooperation Towards integration and recipient responsibility

- 1.94 Evaluation of World Food Programme
- 2.94 Evaluation of the Norwegian Junior Expert Programme with UN Organisations

- 1.95 Technical Cooperation in Transition
- 2.95 Evaluering av FN-sambandet i Norge
- 3.95 NGOs as a channel in development aid
- 3A.95 Rapport fra presentasjonsmøte av "Evalueringen av de frivillige organisasjoner"
- 4.95 Rural Development and Local Government in Tanzania
- 5.95 Integration of Environmental Concerns into Norwegian Bilateral Development Assistance: Policies and Performance

- 1.96 NORAD's Support of the Remote Area Development Programme (RADP) in Botswana

