The Structure of San Property Relations: Constitutional Issues and Interventionist Politics

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Abstract: Renewed interest in Kalahari San-speaking peoples in the 1950s led to revival of 19th-century concepts of them as nomads without systemic notions of property. Ethnographic and popular literature drew pictures of peoples without fixed ideas about land tenure, as distinct from usufruct rights or personal property, who solved social conflicts by fission of the group. These concepts can no longer be maintained. Nevertheless, transnational organizations have adopted them to challenge current property arrangements, particularly with regard to the Central Kalahari Game Reserve in Botswana, employing a neo-liberal ideology based on their own notion of social justice to justify selection of San peoples as a special target group for empowerment in opposition to other "groups" and in challenge to government policies. In so doing, they create social animosity and increase the economic vulnerability of the targetted people.

Keywords: land tenure, property rights, Botswana, San-speaking people, anthropology, essentialism

Résumé : Dans les années 50, un regain d'intérêt pour les populations sanophones du Kalahari a mené à la résurgence de concepts datant du XIX^{e} siècle les présentant comme des nomades sans notions systémiques de la propriété. La documentation ethnographique et la littérature populaire les ont dépeints comme des populations dépourvues d'idées établies au sujet des modes de faire-valoir des terres, ces derniers étant distincts de l'usufruit et des droits à la propriété personnelle, et comme des populations résolvant les conflits sociaux en scindant le groupe. Ces concepts ne tiennent dorénavant plus, mais des organisations transnationales les ont tout de même adoptés pour remettre en question les arrangements actuels portant sur la propriété. À l'égard de la Réserve faunique du Kalahari central au Botswana, en particulier, ces organisations font appel à une idéologie néolibérale basée sur leur propre concept de justice sociale afin de justifier leur choix de rendre les populations San, érigées en un groupe-cible, plus autonome face à d'autres « groupes » et dans leur contestation des politiques gouvernementales. Ce faisant, ils créent un contexte d'animosité sociale et augmentent la vulnérabilité économique des personnes ciblées.

Mots-clés : modes de faire-valoir des terres, droits de propriété, Botswana, populations sanophones, anthropologie, essentialisme

Introduction

It was common in the 19th century for San-speaking peoples to be described as rootless nomads without systemic notions of property. When such people were observed exercising usufruct rights in land, these rights were assumed to be simply epiphenomena of ecological forces that precluded significant social intervention and certainly not by peoples deemed to be "children of nature." There was an apparent empirical basis for this view in the structure of class relations in the region that had, through a long historical process, intensified in the colonial era and, culminating in the disruptions of 20th-century world wars and economic depression, led to social inequalities in which San-speakers were in most—but, it must be emphasized, not all—cases relegated to an underclass dependent upon low-wage labour and foraging. This situation was deemed to have its origin in incompatible economic systems—foraging, pastoralism, horticulture—which extended into the primordial past. Overlooked was the fact that concepts of property relations had evolved among all the peoples of the region in an integrated social formation and that diversification had taken place in response to innovations in demands for land and its products along with power struggles associated with these changes.

My intention in this article is to counter these common perceptions of San-speaking peoples as lacking systematic notions of property and to illuminate, using two specific cases, how such misperceptions have formed the basis of ill-conceived interventions by some NGOs to the detriment of the very peoples those organizations wish to help. I do so by re-examining the social and cultural specificities of customary San systems of land tenure in Botswana and demonstrating that these systems share fundamental commonalities with other customary systems in the country. Full accounts of the structure of property relations evolved by San-speakers, who call themselves Zhucoasi, may be found in Wilmsen 1989a and

1989b. In this essay, I first review this structure as it pertains to land and then summarize its congruence with that of other San-, Khoe-, and Bantu-speakers.[1] Although transformed in response to colonial interventions and again in accordance with the Botswana constitution, deliberations over rights in land are still couched in terms of this heritage; it is, thus, necessary to revisit the essentials of this heritage here. I then move to an examination of a dispute between the government of Botswana and a group of San who have been resettled from the Central Kalahari Game Reserve (CKGR). A judgment of a case arising from this dispute has been handed down recently by the High Court of Botswana (Republic of Botswana 2006), and I consider some of the ramifications of this decision.

In contrast to the ecological concept of territory generally applied to putative foragers, which focuses on productivity and the means of production, the constitution of land tenure locates people within the social matrix of relations to land where productive activity must take place. As to untangling the issue of San tenure relations to land, Gluckman offers guidance:

> Property law in tribal societies defines not so much rights of persons over things, as obligations owed between persons with respect of things...The crucial rights of such persons are demands on other persons in virtue of control over land and chattels, not any set of persons, but persons related in specific, longstanding ways...To understand the holding of property, we must investigate the system of status relationships. [1971:45-46]

Ownership constrained in this manner cannot be absolute because property acquires its critical role in a specific nexus of relationships. Under these circumstances, there can be no definition of ownership, in a sense of incontestable control, such as inheres in modern capitalist conceptions of property. Rather, being in a property relationship involves being bound within a set of reciprocal obligations among persons and things; everything, and especially land and rights to its use, must be subject to a complex of claims arising from this nexus. More to the point, it is not land itself that is inherited. What actually is inherited is a set of status positions binding an individual to a network of obligations owed between persons among which are those with respect to land. It is through this network that persons become associated with geographic space. Entitlement seems a better gloss than ownership for such a notion of relations to land and I have used this term (Wilmsen 1989a).

Zhu Property Relations

Among Zhu, a person's primary land of identification is always that person's birthplace; this is that person's *nqore* (analogous to hometown). There is a very high probability that this birthplace will be in at least one parent's nqore. Thus, an individual Zhu's tenure entitlements in land are a dynamic function of a regional kinship net defined initially by ascription through birth into a descent group and later reinforced by marriage. As will become clear, in a preferred marriage a person does not acquire wholly new entitlements but does acquire reinforcement of entitlements already held. Ascription is bilateral with entitlements at birth vested equally in the *nqoresi* of both parents. To make this clear, the kinship matrix in which Zhu land tenures are set must be elucidated, concentrating on the active dialectic among Zhu kinship, marriage and inheritance of land.

In Zhu customary law, any opposite sex, same generation descendant of a person's parent's parent's sibling (PPsCC, second cousin) or parent's parent's parent's sibling (PPPsCCC, third cousin) is called by a term (*trugqa*, older marrying cousin or *trumaa*, younger marrying cousin) connoting persons "belonging to in-laws" and such persons—and only such persons plus their terminological equivalents—are permissible marriage partners and sexual mates. This is, of course, an ideal which often requires manipulation to be put into practice. Nevertheless, it is a strongly held ideal, as the following quotations from an 1980 interview with Ssao Kau, the then Zhu leader at Cae-Cae, emphasize:

> The only people you can marry are people you know, they are family. Or to marry a stranger...we cannot marry a stranger, just any woman who resides in a far off place. We must marry only a woman of our family, or that is, a relative, or a very close [one] like of your father or of begetters of begetters who comes here to this place.

Within this incorporative structure of Zhu kinship, the corporate unity of Zhu land holding devolves from one generation to the next. In response to the question, "Is it good and just to say that people live in a defined country?," Ssao, a Zhu elder, replied:

> If a person stays with his relatives. If a person separates from his relatives it is not right to call that place his. Yes. This I will call my land...this land is mine, the whole of it. That is to say it belongs to everyone, the community. Like when we are here, that is to say where these people stay...my land, it is that of the community.

Property right transfers consequent on marriage are, accordingly, largely matters of reshuffling priorities among latent claims by members of a descent consort. This is because the new married pair will already, as children of their related parents, hold a set of entitlements in common. Any preferred marriage, one between PPsCC or PPPsCCC, will unite two strands of an entitlement—one each through a parent from an ascending sibling set of bride and of groom. A most desirable marriage will unite two strands through each parent—from both sets of ascending sibling sets; this is why marriage between sets of brothers to sets of sisters is said to be ideal (Marshall 1976). Marriage strategy is directed toward bringing about this more desirable condition. To the extent that the strategy is successfully employed by sibling sets from generation to generation, kindred ties are strengthened for individuals and local group solidarity is passed on from grandparental through parental to current sibling sets. It is in the politics of implementing this strategy that relations of production are created. Negotiations for and legitimation of marriage ties are important moments in this creative process; they occupy much of the time and energy of descent group elders.

For Zhu, bride service resolves the question of personal status and locates a marriage union with its offspring within the structure of relations between persons and places. The devolution of property begins with negotiations and prestations between principals to a future marriage, primarily future coparents-in-law. This process may extend over a period of many years as Marshall (1960) and Lee (1979) confirm. Devolution begins to take more concrete form with the establishment of a new household located in association with the woman's parents. The period of bride service is measured in terms of offspring, its conditions having been satisfied when two or more children have been born to the union. Children born during this period in the woman's nqore will have that locality as their primary country. This confers lifelong mutual obligations between persons in the woman's natal group and her children, and, indeed, on the descendants of those children so long as kindred obligations are met. During this time in mother's home nqore, children's devolutionary rights in father's nqore are kept open by visiting his primary kin who reside there and participating with them in production from their mutually possessed land. This is a labour process that revalidates entitlements through production relations; as Lee (1979) notes, visitors who stay for longer than a couple of days are expected to contribute to the food supply. Thus, kinship in Zhu society, rather than being a static straitjacket, is a dynamic keyboard on which individuals play variations on a theme of options.

It is now possible to demonstrate that Zhu kinship and land tenure are stable in space. To begin with, the majority of Zhu marriages take place between people who live in closely contiguous nqoresi; in the 1950s-70s, 53% of all partners were married within 30km of their birthplaces and 78% within 60km. In other words, more than half of all marriage partners were born within the same nqore and more than three-quarters within the same or adjacent nqoresi as were their spouses. At CaeCae, where I did much of my fieldwork, an eight generation continuity of kin-based entitlement can now be documented. This is precisely the result that one would expect under a structural system that incorporates primary relatives into spatial entities and puts collaterals into contiguous units linked through reciprocal, bilateral marriage. Entitlement—in the sense in which I have been speaking—is vested in all members of this group who apply a reflexive set of reciprocal terms to each other and refer to themselves as "those who have each other." It is this group of people who form the stable set of descendant tenure holders; they are the *nqore kausi*, "possessors of a place or country," who have generationally continuous, inherent rights of tenure in their ancestral land. The senior member of this cohort is its hereditary leader (*xaiha*, headman or chief) who is referred to as the "owner of the place or country" (nqore kau); he or she is invested with administrative functions concerning the nqore. Zhu land tenure, far from being an ecological given, is part of a social universe negotiated in day-to-day interactions with others, not only those acknowledged to be co-members of a particular group but those of other peoples who share the same geographic space. Land, and rights to its access and use, is a continually recurring factor in these negotiations. Consequently, it is necessary to examine the comparative systemic similarities of Zhu social relations to land with those of other southern African peoples.

Other Khoisan Systems

Schapera (1943:5-7) speaks of "this system of land tenure characteristic of Bushmen" in exactly this way; thus, the compatibility of other San tenure systems may be indicated quickly. Barnard (1988:37) highlights the fact that "the deep structure of all the Khoe [Central Khoisan and Nama] kinship systems is essentially the same"; a fact confirmed by cognate terms for locational place and hereditary overseer in six San languages, including Zhu, plus Nama which are derived from common roots referring respectively to a person's or a group's possessed country and to leadership. Other commonalities include bilateral name relations, consanguineal-affinal term transpositions, reciprocal grandrelation and sibling-cohort terms, exten-

sion of relationship terms through namesake equivalence, and marriage to specific cousin categories. Silberbauer (1981) documented this system for Gcwi and Gxana living in what is now central Botswana. Hoernlé (1925:5) had, in the 1920s, noted these factors among Nama and stated further "that the different water holes, or fountains, in the country were always thought of as belonging to certain specific groups." Carstens (1983:65) notes "the communal nature of land among the Nama" held in trust by hereditary leaders that could not be alienated; at the same time, "certain clans seem to have had greater control than others over specified pieces of land and local springs." Identical systems for Khoe-speakers in eastern Botswana are recorded, where Esch (1977:11) notes that kinship groups and their marriage networks are associated with overlapping but separately demarcated land areas and says "this is also true of intermarriage between Basarwa [San] and Bakgalagadi...[where] there are created kin relations between the peoples."

Tswana Property Relations

Despite significant differences in details, the underlying principles of affiliation and legitimization of land tenure among these systems are compatible with Tswana customary institutions. Batswana permit cousin marriage of all types (Kuper 1975; Krige 1981) with preference given by commoners to bilateral cross-cousins (Schapera 1938; Kuper 1982; Griffiths 1997), and with a strong bias among elite overseer classes toward patrilateral parallel cousins (Comaroff and Comaroff 1981; Comaroff and Roberts 1981; Ramsay 1991). Schapera (1941) and Griffiths (1997) describe the sequence of devolutionary payments attending betrothal and marriage, culminating but not ending with the transfer of *bogadi* (bride wealth) cattle or, nowadays, often cash. Bogadi transfer may occur at the wedding itself but more often is extended in installments that frequently mark the birth and even the marriage of children resulting from the union (Griffiths 1997). The main effect of bogadi is to validate the claim of husband's group to children borne in the marriage by the wife. As such, it is, in Schapera's phrase, "a kin obligation, not a private affair."

Schapera (1943) encapsulates the essential determinates of place in Tswana customary law: the location of a Motswana's home is determined primarily by kin affiliation—ascribed at birth into a landholding group or acquired by marriage or adoption into such a group—not by income, occupation or social ambition. Tribal land is apportioned by the *kgosi* (chief) among social units constituted as wards—whose members were, in the past more so than now, conceived to be related to an eponymous founder—under the administration of *dikgosi* (headmen, relatives of the kgosi). The basis for establishing a ward was initially kinship or ethnic identity, although this is no longer usually the case. Areas *mofatshe* (rights to use specific sections of land) are allocated to members of a ward and may be passed to descendants, but the land remains the property of the tribe under the administration of the kgosi and his dikgosi. Entitlement inheres in membership in the tribe—through birth, marriage or adoption—and is activated by application to the headman of the ward to which one belongs (Schapera 1938). Schapera (1943) is clear on the fact that the possessor of land is entitled only to its use and not to its absolute ownership—note the paradox that such usufruct entitlement is a defining feature of the ethnographic nomadic forager model which in southern Africa is said to distinguish San-speaking "Bushmen" from Bantu-speaking agropastoralists.

Herero Property Relations

In Herero customary law, marriage is preferred between bilateral cross-cousins who apply the reciprocal term *omuramwe* (bilateral cross-cousin) to each other, and Gibson (1956) found in Ngamiland during the early 1950s that in nearly half then existing marriages, the wife was from her husband's father's *eanda* (descent group). Although maternal cross-cousins are now preferred, he suggests that Herero rationalization for a former patrilateral marriage bias—that it prevented excessive herd dispersal—may have been valid in the past, since thereby *oruzo* (maternal) and eanda (paternal) herds would have been reunited in alternate generations. That marital bias also restricts fissioning of land rights. Entitlement to land—administered by the *omuhona* (headman or chief)—is vested in the oruzo group (Vedder 1966; Luttig 1933), while children are born preferentially in mother's natal *onganda* (homestead) to affirm the social-spatial solidarity among generations of the eanda group (Luttig 1933). Maternal kinship links are important in negotiating interpersonal relationships, particularly those between MB and ZS.

Compatibility of Systems

Thus, it would appear that before direct colonial intervention San, Herero, Nama and Tswana tenurial systems had as much in common as they now superficially appear to lack. That this should be so is not really surprising given the millennia-long history of associations of peoples whose descendants are now seen as different tribes. We have the testimony of Tshekedi Khama, Ngwato kgosi in the 1920s-30s, that in the early 18th century there was little difference between San and Tswana social-political praxis and their internal economic relations, at least as

was discernable to the members of those entities at the time (Tagart 1935). The important thing to note is that—despite significant differences in specific kinship-marriage arrangements and in status hierarchies—there is an equally fundamental structural commonality underlying these systems of land tenure: bilateral ascription of tenure entitlement and obligations by birth into a set of corporate, tenure-holding groups; cousin marriage as a mechanism for defining and restricting the extent of these groups; ritualized reciprocal uncle-nephew or grandparent-grandchild exchanges (not discussed here but see Wilmsen 1989a); preferential birth within tenurial bounds of mother's family; reinforcement of entitlement through marriage or adoption into a group; reciprocal obligations among members; inalienability of entitlements so long as membership of the kin-affine set is maintained; and inalienability of land. In short, the right possessed natally by anyone to participate in the assets and affairs of any one group is the result of a series of parental natal accumulations and of parental maintenances or losses; continued possession of that right is contingent on the exercise of it.

Multitiered ownership of places and things has characterized the remembered and recorded past. Space associated with one particular group was layered upon that of other groups. This was possible, not because of some altruistic urge for accommodation, but because the tenure systems of the different competing peoples were intelligible to each other and ecological requirements were, to some extent, complimentary rather than conflicting.

These customary systems no longer function fully in themselves. It is crucial, however, to recognize that the fundamental structural principles of customary land tenure within Botswana have been constitutionally transferred to the state and all land within the country is *lefatshe wa lerona* (communal land of the nation).[2] The particular customary law transferred is, it is true, derived almost entirely from *mekgwa le melao ya Setswana* (Tswana law and custom) but, as is evident from the above presentation, this is congruent with, and thus transparent to, the other customary systems of the country. Thus, all citizens are notionally able to understand the principles of tenure which establish their rights in land. Constitutionally, these rights include the entitlement to use, but not own, a parcel of land on which to live and make a living. In the 1970s, authority for land distribution was removed from chiefs and delegated to Land Boards in the various administrative divisions of the country. Regardless of the fact that constitutional rights are not uniformly administered, and that marginalized minorities such as San are more likely to be unjustly deprived, this is the framework within which adjudication of particular claims to land must now lawfully take place.

Current Misconceptions

It is not, however, the framework chosen by some transnational organizations for their intersession on behalf of San peoples, particularly Survival International (SI) with regard to the Central Kalahari Game Reserve in Botswana and the NyaeNyae Nature Conservancy (NNNC) in Namibia. In the first case, SI put massive pressure on the Botswana government to reverse the resettlement from 1997 to 2002 of some 1,100 people then residing in the CKGR to locations outside the reserve; to further this end, SI spared no effort to malign the Botswana government in world media and funded drawn out litigation against it. Roughly two-thirds of resettled people were San and the rest Bakgalagadi. In its intervention, SI was interested only in the San, arguing that these people were the sole remaining "pure" foragers and as such should be returned to the reserve to follow their traditional hunting life. SI was able to intervene in this way largely because of the untimely death of John Hardbattle, the founder of the First People of the Kalahari organization. Hardbattle was the only articulate, conscientious public voice Botswana San have thus far had; he did seek alliances with oppressed minorities in other places and accepted help from donor agencies, but he remained firmly in control. His successor, Roy Sesana, has proven to be devious, vacillating and manipulable.

In the second case, NNNC wanted to dissuade Zhu from developing viable farms, which they were then doing, and to establish instead their land as a wildlife reserve in which they could maintain their "natural" hunting life and play "Bushman" with bows and arrows for tourists whose money would flow in (Wilmsen 2003). Despite the fact that revived 19th-century concepts of San-speaking peoples as foragers with no systemic notions of property can no longer be maintained, these transnationals have resurrected those concepts to challenge current property arrangements in the CKGR and NNNC. At the same time, in a confused contradiction, they argue that San-speakers have exclusive aboriginal ownership of those sections of land. Aside from the fact that this also contradicts the Botswana constitution under which, as noted above, all land is communal property of citizens through the agency of the state, this neo-liberal conception of property is irreconcilable with SI's professed communitarian conception of identity and culture, which logically is amenable to the customary system of land tenure just described. Nevertheless, SI and NNNC employ a neo-liberal ideology based on their own notion of social justice to justify selection of a fraction of

San peoples as a special target "group" for empowerment in opposition to other "groups" and in challenge to government policies. In so doing, they create social animosity and increase the political and economic vulnerability of the targetted people. It must not, however, be overlooked that these organizations draw their inspiration for selecting San for singular concern from ethnographic representations that have become deeply entrenched in popular and academic imagination; it was, after all, modern ethnographers who placed San peoples on "the threshold of the Neolithic" (Lee 1972:342) thus offering a "window to the Pleistocene" (Yellen 1984:54) where a purely hunting-gathering life did take place.

Before turning to the CKGR case, a brief look at the precepts on which NNNC actions were predicated will illuminate the discredited anthropological thinking that animates SI in Botswana. In the 1990s, Biesele (2002) revived the "child of nature" trope to provide an ideological framework for the creation of segregated conditions of pseudo-primitivity in a NyaeNyae wildlife reserve that would force resident Zhu (San) people, who had achieved a degree of farming success before the conservancy was established, into roles of puppet subsistence foragers whose strings would be pulled by the whims of culture tourists—the customers of heritage who consume a prepackaged frozen past (Parsons 2006)—eager to see lots of wild animals pursued by "Bushmen." She said:

> Let me first make clear a basic distinction between hunting-gathering motivation structures and agricultural motivation structures. Typical hunting-gathering economic activity is something which is not planned...it is not highly organized...there is little social hierarchy. Agriculture on the other hand involves a great deal of pre-planning, a great deal of organization, a great deal of delayed gratification. So there needs to be a completely different understanding of cooperation, of collaboration. [2002, Part 4; 4:00:47:37]

This is the language of essentialist antithesis, of racialist discourse (Wilmsen 2002a).[3] It is a blood relation to Lauren van der Post's (1958) view of Bushman thought "not as rational concepts or organized dogma, but as feelings derived from the most vivid of instincts of which a human being is capable." Biesele's misguided judgment is fully congenial with van der Post's ideas about "Bushman" instinctual irrationality and fits precisely Lévy-Bruhl's (1912) notions about prelogical mentality.

Essentialist Consequences

This perception is in urgent need of cleansing from our minds (cf. Wilmsen 1996). In 1996, Festus Mogae, then Vice-President of Botswana, was quoted about removals of "Bushmen" from the Central Kalahari Game Reserve in the British newspaper the *Guardian* as saying, "how can you have a Stone Age creature continuing to exist in the age of computers? If the Bushmen want to survive, they must change, or otherwise, like the dodo, they will perish" (Daley 1996). This stricture was not applied to the Bantu-speaking Kgalagadi segment of the removed community, only to ethnogracized "Bushmen," a clear instance of racial compartmentalization, abetted—unintentionally, but none the less tellingly—by ethnographic authority as well as by media authority. John Simpson (2005:37), world affairs editor for the BBC, wrote that as Stone Age creatures "the superbly interesting and admirable Bushmen are one of the glories of Africa." Simpson's purpose was to counter the notion of living human primitives, but his unconscious essentialism runs as deep as, and is here clearly derived from, the ethnographic image. He identifies the reason "Bushmen" are interesting: they are "human treasures of a culture lasting 10 millennia or more" (2002). What other African glories and treasures come to mind? Elephants? Gorillas? Landscapes? Diamonds? Gold? Not, it seems, other peoples; certainly not Bakgalagadi, who have shared the same land and its vicissitudes with "Bushmen" for centuries and now share the same fate of removal from that land (recall Esch's [1997] documentation of generations of San-Kgalagadi intermarriage in the CKGR).

It should by now be beyond question that poised, celebratory atavism expressed by ethnographic or media authority normalizes xenophobic notions of ontological difference because it makes these notions seem familiar—more subtle but still compatible with strident idioms of racial or religious bigotry. At the level of consciousness on which individuals compartmentalize their knowledge of the world, "at that level [where] people are most vulnerable to the pitfalls of a usually well-hidden discrepancy between professed beliefs and inner reactions" (Blommaert and Verschueren 1996:106), these representations are "weaving the ethnographic curtain between us and them" (Wilmsen 1999:132). They offer, thereby, logical links to scientific racism and thus reinforce alienating categorizations of human diversity. Such representations legitimate partitive ideologies wherever found and however based, which, in turn, may be invoked as authority for racial discrimination, religious intolerance, ethnic cleansing and sectarian war. So Solid Crew gangsta rapper, Ashley Walters, came to realize this. He recounts how a meeting with a schoolboy traumatized by taunts of "nigger" made him realize that in his performances he "was giving racism more longevity by helping to make the N-word

seem like a cool, hip word" (Hill 2005)—an epiphany everyone should seek.

The "Stone Age" attitude was affirmed by the Director of the Department of Wildlife and Natural Resources: "There is no future for the Basarwa [San]. They must join the modern world now." The government gave households removed from the CKGR substantial compensation in cash and kind and initially offered two heifers, gradually rising to five (or 15 goats) to each household head; as for "Bushmen" in this program, one official's view was that they were to prove they would not eat the cows—that is, that their inherent "hunter instinct" dragged through to this side of the Pleistocene could be domesticated—before being entrusted with more (Wilmsen 2002b).[4] "The exploitative relations that are hidden behind ethnicizied customary rights are at the heart of this system" (Sichone 2001:374). As Ramsay (2002) points out, however, "the colonial creation of the CKGR has fuelled ongoing neocolonial and local conflict" that can take on ugly ethnic cum racial dimensions in contestations over land and scarce resources. We must keep this in mind when judging statements made in the heat of these contestations.

In precolonial times, Khoisan-speakers occupied all socio-economic levels—in some places subservient, in others dominant—of southern African society (Wilmsen 1989a). Seventeenth-century Europeans coined the term "Bushmen" shortly after they came to the subcontinent and proceeded to generate the circumstances in which peoples so labelled could exist; but this term was a socio-economic marker, not one that marked a natural state of general difference of being. It was not until the 1950s-60s that ethnographers placed this being on the threshold of the Neolithic, thus generating the circumstances in which peoples so labelled can be thought of as Stone Age creatures. Balibar (1991) argues persuasively that, at the present postcolonial juncture, racism infiltrates discursive practices which, themselves, deny the existence of race and of racial or cultural hierarchies. Racism itself assumes subtle and elusive forms reconfigured without "race" as a classificatory device for demarcating difference (Harrison 1998). Owen White (2000:517) does not absolve "anthropology which, in seeking out the 'true essence' of the cultures it encountered, tended to inscribe cultural differences in stone...which, in isolating differences between communities, could easily play into the hands of racists."

The triumph of anti-racism (to the limited extent it has occurred), in which many anthropologists played a sterling role, has not been so complete that readers of ethnographies are not free to locate odious racialist meanings even where anthropological authors deny them. Anthropologists must confront this painful fact, rather than "continue to teach dichotomous thinking—traditional/modern; civilized/primitive—and hierarchical arrangements ... ranked according to 'developmental level'" (Shanklin 1998:674). Too many, however, continue to teach dichotomous thinking; Barnard reveals how far this is true: he now joins Lee in consigning San to a Neolithic threshold by proposing that they "are comparable in many ways to north-west European Mesolithic populations" (2002:5-24, 2005). He goes further: "The surrounding agropastoralist populations are similarly comparable to the European Neolithic peoples" (2007:5). As one might expect, the former have a foraging mode of thought that inhibits much forethought, the latter an accumulation mode of thought that induces forethought (2005:3). In the Mesolithic mode of thought, social equality is "natural," in the Neolithic and thereafter, social equality is "unnatural" (2007:12, Fig. 5). Apparently Barnard has not read the French or American constitutions (and now, many others, including that of Botswana) or the Enlightenment "mode of thought" which engendered them.

Baxi identifies exactly the proper response:

> Human rights logic and rhetoric, fashioned by historic struggles, simply and starkly assert that such imposition of primordial identities is morally wrong and legally prohibited...It is the mission of human rights logics and paralogics to dislodge primordial identities that legitimate orders of imposed suffering. [2002:84]

Yet even when the primordial myth is questioned it retains its power to misshape ethnographic images and to influence policy based on these distortions. The myth retains this power in large part because it is endorsed not only by the words but also the actions of "experts" like Biesele who are pursuing their own agendas. Her aim was to lend credence to a "bid to have [NyaeNyae] land managed as a [wildlife] conservancy under emerging Namibian laws" (Biesele and Hitchcock 1999); "Bushmen" were to be part of the wildlife, while other peoples—primarily Herero—were to be excluded. The consequences are articulated by Neil Powell:

> outside interests [the conservancy] see it necessary to stabilize a [Zhu] culture...to revive, strengthen, and develop forms of existence that are assumed to have shaped human-nature relationships prior to the point when the system began to "degrade"...In a social sense, the institution-building that is associated with the effort is serving to erode a once resilient local economy...by closing their system from the potential of forming [the kinds of] reciprocal relationships Zhu once had with

> Hereros...what has historically been welcomed as acts of reciprocation, today are being articulated "by the Zhu" as acts infringing on their resource tenure. [1998:135-138]

In placing quotation marks around "by the Zhu" Powell signals that the production of an indigenous NyaeNyae Zhu "self" is now orchestrated by extraneous interests. Agencies with professed humanitarian motives such as SI and the NNNC, by rooting their concern—and persuading their clients—to preserve "Bushman" culture in false essentialist premises, a process Mullings (2004:4) calls "racialization from below," subvert efforts to address issues of San inequality and poverty in realistic political terms. These agencies have adopted self-defeating agendas which do little other than compromise the position of the people they wish to help (cf. Saugestad 2001).

To some, the recent Botswana High Court judgment partially in favour of San rights to remain in the CKGR validates SI's agenda. It was, however, a pyrrhic victory. As Solway (N.d.), in a scathing criticism of SI's obstructive tactics, remarks, "after the initial celebration over the judgment, the harsher reality of the interpretation began to set in." A look at the major elements of the judgment reveals why:

> ¶155. ...in view of the decisions reached by each of us [the three judges], the court makes the following Order:
>
> 1. The termination in 2002 by the Government of the provision of basic and essential services to the Applicants in the CKGR was neither unlawful nor unconstitutional.
>
> 2. The Government is not obliged to restore the provision of such services to the Applicants in the CKGR.
>
> 3. Prior to 31 Jan 2002, the Applicants were in possession of the land, which they lawfully occupied in their settlements in the CKGR.
>
> 4. The Applicants were deprived of such possession by the Government forcibly or wrongly and without their consent.
>
> 5. The Government refusal to issue special game licenses to the Appellants is unlawful.
>
> 6. The Government refusal to allow the Applicants to enter the CKGR unless they are issued with permits is unlawful and unconstitutional. [Botswana 2006:121-122]

Additionally, each party was ordered to pay their own costs. The reason for this is revealed in one judge's stand alone judgment:

> ¶169. On the issue of costs, I have considered whether they should follow the event but decided against it because:
>
> 1. I realised that this judgment does not finally resolve the dispute between the parties but merely refers them back to the negotiating table.
>
> 2. The Respondent has already incurred considerable costs in financing the two inspections-in-loco conducted by this Court in the CKGR.
>
> 3. Roy Sesana who is the main litigant elected not to participate in the trial of a cause he initiated, but resorted to litigating through the media while the matter was still sub judice. This he persisted in despite advice from his Counsel.
>
> ¶170. In the circumstances I am of the view that the Court should express its displeasure by denying the Applicants the costs on the four issues in which I found for them. I therefore order that each party shall pay its own costs. [Botswana 2006:397-398]

On the surface this looks pretty good. The Applicants won their claim to possession—not ownership—of certain parts of CKGR land and the right to return there without restriction and also to receive special licenses for hunting in the reserve. On closer inspection, however, the harsher reality asserts itself: the judgment refers solely to "the Applicants," of whom there were only 189. It does not mention the 700-800 odd other San resettled from the CKGR; and, as Solway (N.d.) notes, the government interpreted the court's ruling in the narrowest manner, allowing only those 189 applicants and their dependent children to return to the reserve—others would need permits, as do all other Botswana citizens and foreign visitors. The 189 could not bring in to the CKGR the domestic animals which were given to them on resettlement nor any that they may have had prior to that or acquired since. Furthermore, hunting could only be done with bow-and-arrows, spears, and snares as "they have always done" (in the ironic words of the applicants dictated by Survival International); this could not yield an adequate food supply under present conditions. The most difficult ruling, thus, was that government was within its rights to withdraw "basic and essential services"—boreholes and pumps for water, supplementary food (almost always needed, but especially during frequent droughts),[5] schools, clinics, law enforcement—from the CKGR in 2002 and is not obliged to restore the provision of such services now. Having predicated their case on a retention of "pure" foraging traditions, the applicants, now part-time returnees to the CKGR, argue that they cannot live without their livestock and the basic and essential services formerly provided by government. They are correct. Nobody has lived independently in that part of the CKGR since present climatic conditions were established some centuries ago; this land was used only in favourable seasons as hunting and plant

collecting grounds. In this regard, the contested part of the CKGR is like other areas of the Kalahari that lack secure permanent water.

This has landed the CKGR applicants in a serious predicament: they cannot viably exercise the land use-rights they have won in court, nor is it likely that government will endow them with a second round of compensation should they decide—as I think inevitable—to reside in their ex-reserve locations exercising their hunting rights in favourable seasons. Note also that "this judgment does not finally resolve the dispute between the parties but merely refers them back to the negotiating table"—the terms on which those hunting rights can be put into practice are on that table. SI has threatened to intensify its inflammatory campaign rather than negotiate, insisting that it will destroy Botswana's economy if necessary to achieve its aims. It seems the damage all parties to the dispute have suffered is not yet over. That damage extends to a second and ultimately graver consequence of this entire sordid affair. The main San association, First People of the Kalahari, under the leadership of Roy Sesana manipulated by the CKGR-focused militance of SI, has become obsessed with the CKGR to the detriment of issues concerning the greater population of San in Botswana (Parsons 2006), who number some tens of thousands. This has allowed the drive for minority rights in Botswana to be so narrowed that international concern is fixated on one small place and one small community at the expense of so many impoverished, powerless others—only a fraction of whom are San—living in different parts of the country (Grant 2006).

Recall that Sesana, by refusing to appear in court in the litigation he initiated, while at the same time presiding over another trial in the media, brought down the court's displeasure upon all his fellow litigants and thereby placed a heavy financial burden on them. As the only public voice of CKGR San, Sesana had previously played his constituency false. In 2005, when the case was in recess because the litigants ran out of money and prospects for a favourable decision seemed slim, he published in the newspaper *Mmegi* an open letter to the Vice-President of Botswana, Ian Khama:

> Your Honour...we, the CKGR community, the people affected by the issue are available. We have got mouths, ears and brains like each and every human being. Nowadays we do not want people to speak on our behalf. We want to speak for ourselves...Your Honour, I think this issue could have been long resolved. The problems came only because people come and put themselves in front of us and started fighting for power to represent us even though we are there and ready to talk for ourselves. People like that now have to go back and give us a chance to direct our words to any concerned and responsible person in any CKGR negotiations...Your Honour, my chief, I Roy Sesana expect a good response from you. [Republic of Botswana 2005]

By asserting that he and members of his community have normal human attributes, Sesana appeared to reject essentialist rhetoric and seemed to claim responsibility for his own ability to negotiate on behalf of that community. By addressing Khama as "my chief," Sesana also appeared to assert his common citizenship of the country and claim his common rights thereof. In his response, Khama indicated Government's availability to discuss an amicable settlement and invited proposals from Sesana on a possible way forward (Republic of Botswana 2005). But Sesana's rhetoric proved to be merely an opportunistic charade; when SI returned with new donor cash to resume litigation, he dropped all pretense of negotiation.

SI will lift the burden with more cash from gullible international organizations and celebrities too absorbed in their own agendas to verify the false accusations it levies against Botswana. Among the more absurd accusations is that government practices ethnic cleansing and genocide against "Bushmen" (SI spokespersons insist on using this discredited term); this appears to be another transposition from the colonial era, when appalling atrocities—but not genocide—were commonly committed against San-speaking individuals in what is now Botswana. Another absurd accusation is that Botswana produces "blood diamonds." On the contrary, Botswana has been a leading member of the Kimberly Process since its inception in 2002, ensuring that its diamonds are conflict free (itself an oxymoron—there are no armed conflicts in Botswana). Indeed, in September 2006, the Wall Street Journal carried an article titled "Peace Diamonds" in which it was stated that in Africa Botswana had the

> lowest level of corruption, faring better on that score than Italy and most of the European Union's 2004 accession countries. More than one quarter of Botswana's budget is spent on education, providing free schooling for all citizens under 18. In addition, Botswana was one of the first countries in Africa to establish a free national antiretroviral therapy program for HIV/AIDS. [Mazimhaka 2006:20-21]

In time, when SI's accusations are shown to be the fabrications that they are, the international media gaze will turn elsewhere and the donor money that might have helped alleviate the poverty of the many will have been

squandered on, not even the few, but on nothing of substance. Indeed, SI's gaze will turn elsewhere; for as Bob (2006:7, 2005) spells out, NGOs must choose carefully what constitutes a creditable issue and where they devote their scarce resources, "pleasing funders while sustaining and expanding their organizations." In this regard it is noteworthy that SI's income from donations in 2002, the year after it opened its CKGR campaign was £701,480 (about US$1,200,000) which jumped to £999,454 (about US$1,800,000) in 2004 as its campaign became more strident and a boycott of Botswana's diamonds was instituted.[6]

It is, of course, not possible to say how the CKGR dispute may have been resolved had SI not intervened. There are, however, precedents which imply that a less confrontational process and more equitable outcome were possible. Organizations within Botswana such as *Emang Basadi* (Stand Up Women), a women's rights group, *Reteng* (We Are Here), an umbrella organization for minority associations, and the *Ditshwanelo* (Duty) Centre for Human Rights rigorously pursue rights issues within the country and have advanced the standing of women and minorities substantially. Ditshwanelo was a member of the team engaged in years-long negotiations on the CKGR issue with the Department of Wildlife and National Parks that appeared to be reaching a resolution on which both San and government could agree.[7] Then attitudes in government hardened when, in May 2001, SI launched its campaign; its methods revealed little regard for Botswana's lawful processes of dispute resolution. SI constantly sought to bypass these processes in hopes of achieving its aims through international media pressure and negative publicity conflating rhetoric-as-persuasion and rhetoric-as-trope to contend that beyond both is where oppressed subjects speak and act for themselves. This is the essentialist, utopian politics that Spivak (1988) warns leads to the asymmetrical obliteration of just those oppressed subjects whom international interventionists like SI profess to wish to save. Alice Mogwe, a Motswana working with Ditshwanelo, remarks that inevitably San "unfortunately tend to be the casualties" (Solway N.d.). As a consequence, these people find themselves ossified as "Bushmen," constructed in a hegemonic meta-narrative to which they increasingly themselves subscribe. For, as Bob (2006:7) demonstrates, international organizations "must reframe their claims, tactics and even their identities for foreign audiences." As a consequence, SI has made CKGR San more dependent on this vicious interventionist cycle. Essentialist and racialist representations of "primitive" peoples, of our original ancestors, of living human fossils, of "Bushmen," serve to confine peoples so stigmatized to subordinate positions and defeat attempts to alleviate conditions of poverty in which most of them live, as the CKGR judgment so starkly testifies. This substitution of tradition for history "victimizes by representation those whose continued subordination the telling of the traditional narrative exists to secure" (Barker 1993:104).

Peter Brosius considers the rhetoric of a parallel campaign in the ethnographic context of Penan people in threatened Malaysian rainforests; he dissects the strategy by which their knowledge of the forest is "transformed into an obscurantist, essentializing discourse which elides the substantive features of that knowledge...in an effort to make a people narratable and create value" in them as "forest people" (1997:60-66). Brosius observes that this Euroamerican meta-narrative has pernicious effects: it imposes arbitrary meanings on a people, and paradoxically makes generic precisely the diversity it wishes to advance. There is an ethical element in this, the true qualities of a people's culture and social life are lost, their existential being becomes defined by others, and they become dependent on foreign protectors as never before.[8]

Neil Parsons long ago recognized that

> the challenge of writing Kalahari history is to break the conventional stereotyping of Khoisan people...by questioning the conventional view of their helplessness in the face of oppressors—which is also used to justify their dependency on outside guardians to advance their interests. [1988:75]

Rural Batswana of whatever identity, many of whom share the same degree of poverty with their San-speaking neighbours (Hudson 1976; Kerven 1982; Wilmsen 1989a), see this myopic interventionist attention as privileging a favoured few who are thus perceived to infringe on their own access to resources and land. To paraphrase Powell, relationships within the overall polity which were once resilient and reciprocal are thereby eroded. In response, the Botswana government adopted a defensive, at times self-justifying, stance that deflects human energy and material resources from productive policies aimed at alleviating poverty. Other than the CKGR peoples themselves, this has been perhaps the most serious casualty of this unfortunate affair. For, as Radipati observes with reference to, among others, the CKGR case, "the struggle for human dignity is a dialectical process that serves two different but interrelated functions: of sensitizing others about a plight, while simultaneously encouraging them to be other-regarding" (2006:169).

At the beginning of this essay, I made the case that in Botswana, land acquires its critical role in a nexus of rela-

tionships drawn from pre-colonial concepts of social affiliation through which persons become associated with geographic space. This principle has been incorporated into the Botswana constitution which defines a set of reciprocal obligations among citizens and the state with regard to land and rights to its use. Unless and until the constitution is amended in this respect, interventions on behalf of San claims that state, or citizen, obligations with regard to land rights are not being met must take this principle into full consideration. Perhaps the protracted, acrimonious CKGR experience may lead in the future to more balanced approaches to San land problems which, we may then hope, will result in more satisfactory outcomes.[9]

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Notes

1 In this essay, I shall not address the question of Zhu notions of personal property but merely assert that such notions are fully formed and refer readers to Wilmsen 1989a.

2 Only a small fraction, less than 10%, of land in what became Botswana was alienated as private property during the 1890s; in Namibia, a much higher proportion is privately owned as a legacy of colonial settler policy.

3 Schrire (1980) dissected the essentialist rhetoric of the hunter-gatherer model more than a quarter century ago.

4 Most households did, nevertheless, receive the full quota of livestock.

5 By 1993, 53% of CKGR residents were dependent on destitute food relief (Republic of Botswana 2006).

6 Donation figures are from www.survival-international.org.

7 Mazonde (1997) gives a balanced account of the state of negotiations as of 1996; he concludes that all parties—San, NGOs, and government—had realized both gains and losses.

8 I thank my son, Carl Wilmsen, for drawing my attention to Brosius.

9 A suggestion that this may now be possible was reported in the *Tautona Times* (Republic of Botswana 2008) which stated that on June 12, 2008, on the initiative of now President Khama, a meeting with Sesana and representatives of communities living in the CKGR and surrounding settlements took place at the Office of the President, attended by the Ministers of Local Government and of Environment, Wildlife and Tourism and the Attorney General. It was agreed that there is a need to recognize the commitment by Government to provide these communities, along with other Batswana, with development in education, employment, health and other socio-economic amenities that will improve their quality of life. It was also acknowledged that such developments are not necessarily inconsistent with the rich culture of these communities, and that these can coexist in a manner that is mutually beneficial. The President reiterated the commitment of Government to improving the quality of life of all Batswana, and its preparedness to engage in constructive dialogue with the affected communities to ensure the sustainable future of the CKGR. Both sides were unanimous in their conviction that the CKGR and its unique natural heritage are an important national resource that should be preserved for the benefit of present and future generations. Sesana and his colleagues undertook to identify two representatives from each of the communities in the CKGR and surrounding settlements to engage in consultations with Government in the development of a sustainable management plan for the CKGR. Both sides committed themselves to expediting the consultation process, and pledged that this would be conducted in a spirit of openness, good faith and mutual trust.

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