

## **Botswana Bushmen Win Eviction Case**

Brigitte Weidlich, *The Namibian*, 14 December 2006

**THE High Court in Botswana has ruled that more than 1 000 San Bushmen were wrongly evicted from their ancestral hunting grounds in the Central Kalahari Game Reserve (CKGR) and should be allowed to return.**

Two of three judges yesterday ruled in the San's favour in a case seen as a wider test of whether governments can legally remove people from ancestral lands.

"It's about the right of the applicants to live inside the reserve as long as they want and that's a marvellous victory," the Bushmen's lawyer, Gordon Bennett, said after the verdict.

Crowds of San people had trekked overland to the court in Lobatse to wait for the verdict.

The case was the longest and most expensive in Botswana's history.

Presiding Judge Maruping Dibotelo told the court: "Prior to January 31 2002, the applicants were in possession of the land which they lawfully occupied in the Central Kalahari Game Reserve.

The applicants were deprived of such possessions forcibly or wrongly and without their consent."

The government's subsequent refusal to allow the Bushmen a permit to return to their land was "unlawful and unconstitutional," he added.

The Botswana government is now considering whether to appeal the judgment, the BBC reported late yesterday.

A group of around 200 indigenous Bushmen first filed an application in April 2002 challenging their eviction from the Central Kalahari Game Reserve, their ancestral homeland for some 20,000 years.

The case was thrown out on a technicality but the high court agreed in 2004 to hear the complaint.

The Bushmen maintain they were driven out of the Kalahari to make way for diamond mining, a claim the world's top diamond producer, De Beers, has denied.

Government attorneys argued that the San people no longer belonged to the Kalahari as their lifestyle had changed, and their presence interfered with conservation.

The reserve was a poverty trap that denied them access to health and education, they said, arguing that the San "were better off in the settlements," where they had clinics and schools along with better access to food and water.

Phil ya Nangoloh, Executive Director of Namibia's National Society for Human Rights, said the ruling was a victory for Botswana's indigenous people.

"The judiciary of Botswana has proven that judicial systems are there for the weak and not for the strong," Ya Nangoloh told *The Namibian*.

Additional Reporting from AFP and BBC

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