NAMIBIA: San remain landless and marginalized says LAC

WINDHOEK, 12 February 2007 (http://www.irinnews.org/) - Several thousand San, also known as the Bushmen, remain landless and have yet to reap the benefits of democracy in Namibia, a new report has revealed.

"It is a disgrace that 17 years after independence, one group remains extremely marginalised and still lives in extreme poverty," said Clement Daniels, chairman of the Legal Assistance Centre (LAC), a Namibian nongovernmental organisation (NGO) that provides legal aid to the community and has published a comprehensive 60-page report, 'Our land they took - San land rights under threat in Namibia'.

The report not only provides a detailed insight into how the three main San groups in Namibia, the Hai//kom, Ju/hoansi and Khwe, who together comprise about 30,000 people, have lost their land to colonisation, commercial farming and encroachment by other indigenous ethnic groups, but also paints a gloomy picture of their situation today.

LAC researcher Willem Odendaal and US law professor Sidney Harring of the City University of New York, the authors, also cast a critical eye over land legislation passed by the Namibian government since independence in 1990.

According to the authors, the 9,000 Hai//kom, the largest San group, have lived for centuries on land now included in the Etosha National Park in northern Namibia. South African apartheid authorities led the largest eviction of the Hai//kom from the park in the 1960s.

"The Hai//kom lost all their land and some of them live as squatters near the staff quarters in one of the tourism resorts within Etosha; the remainder live on surrounding commercial farms as labourers or in poor townships of towns such as Outjo or Otjiwarongo [outside the park]," the report stated. "The Hai//kom have no benefit from revenue gained from the world famous park."

The report urged the Namibian government to create opportunities in tourism for the Hai//kom, who have a claim to Etosha based on aboriginal title.

"We want Etosha back," said Naftali Soroseb, a Hai//kom board member of the Working Group of Minorities in Southern Africa (WIMSA), an NGO based in the Namibian capital, Windhoek. "We will put in a claim, especially with authorities celebrating Etosha’s centenary as a park this year. But we are left out of those centenary events. We also followed the landmark court victory of our fellow Bushmen in Botswana last December [2006], who won a court order to return to their ancestral land, the Central Kalahari Game Reserve (CKGR)," Soroseb told IRIN.

The LAC report pointed out that the government land policy of 1998 identified the San among the landless people who should be "prime beneficiaries of the land reform", but said subsequent legislation had failed the community.

The Communal Land Reform Act of 2003 failed to secure occupational rights for the San in rural or communal areas. "The stance of government that all communal land belongs to the state, and people need to turn to land boards and recognised traditional authorities for the right to occupy areas, complicates the land rights in Namibia, especially for the San," said the LAC report.
Forty conservancies were established in communal areas to enable residents derive an income from tourism, forestry, trophy-hunting concessions and, to a certain extent, from small-scale farming, helping to strike a healthy balance between the people and the environment.

But not all conservancies have been success stories. According to the report, the 2,000 residents of the San in the N#a Jaqna Conservancy in northeastern Namibia are still awaiting government approval for their conservation management plan, submitted in 2003.

In view of this vacuum, hundreds of cattle herders from other ethnic groups have "brought in thousands of cattle illegally" into the conservancy, encroaching on San land. "The local San Chief is powerless to halt the cattle herders," said the authors, who criticised the inadequate legislation.

According to Namibian law, a community must obtain the permission of the local land board before settling on communal land, and the traditional authority has to ensure that the new residents do not take more than their share of land.

However, the report pointed out that the law was "quite worthless" if the government did not recognise all the traditional authorities, and did not "empower them to enforce communal land laws".

"The Traditional Authority under the officially recognised San Chief [in the N#a Jaqna Conservancy] is weak, and the chief powerless to prevent further encroachments of cattle herders. It is ineffective in negotiating San land rights issues," the authors alleged.

The existing Communal Land Reform Act does not provide for compensation should communal land inhabitants lose their land to other inhabitants. "A commercial farmer can turn to the Land Tribunal should he lose land but this is not the case with people living on communal land," the report noted. "Because the San are both a minority and marginalised people, they are pushed aside in the struggle for scarce land resources in Namibia."

Joram Useb, administrative coordinator of WIMSA, who is a San, told IRIN: "Land is a political power tool and an asset. If we can receive title deeds for the areas we live on, we can develop ... [ourselves] and the land."

The LAC's report warned, "Unless government acts promptly and sets up a statutory and administrative framework for the administration of San communal lands, there is going to be political and legal chaos, with potential to destabilise the government's land reform measures," and recommended that either an ombudsman for the San or a land ombudsman be appointed to help the landless.

Crispin Matongela, a spokesman for the Namibian government's Ministry of Lands, said officials were studying the concerns raised by the report and would respond later.