



LAND, ENVIRONMENT AND DEVELOPMENT PROJECT

The Parliamentary Standing Committee on Constitutional and Legal Affairs (PSCCLA) will undertake a fact-finding visit to Bwabwata National Park in Kavango East from 14 to 16 March 2022. This is in response to a petition submitted by the Mbukushu Traditional Authority during October last year. Among other things, the petition seeks the setting aside of the Bwabwata area as a National Park so as to primarily uplift restrictions on land use and cattle farming. However, crucially the five-page submissions of the Mbukushu Traditional Authority remain pertinently silent on the presence and rights of the minority indigenous Khwe San community who have originally occupied the area since time immemorial.

The proposed itinerary for PSCCLA sets aside time to consult with, among others, the Governor, the Mbukushu Fumu and Councillors of Mukwe Constituency, Mbukushu Traditional Authority, various Mbukushu headmen and then a gathering of the members of the Mbukushu Traditional Community. In addition, the Kyramacan Association and a gathering at Omega 3 will be consulted for a few hours in an area remote from many other village representatives of the Khwe people.

Although some further time is devoted to a tour of the Bwabwata National Park and Mahango Game Reserve, little space or opportunity is reserved for the mission to properly consult with the indigenous Khwe people as a critical pre-condition for any decision making processes.

The Khwe are a distinct ethnic group in the Kavango East and Zambezi Regions, descendants of the first people living in the area but have repeatedly had their status both as a traditional community and indigenous peoples denied by the Namibian Government.

For the Khwe, as for other indigenous people worldwide, their connection to the land is a deep-rooted and an essential part of their identity and have been inhabitants of the Caprivi since time immemorial. What is today's **Bwabwata National Park is effectively the centre of Khwe ancestral lands.**

No reference at all is made to the Khwe in the Mbukushu petition.

The Mbukushu Traditional Authority was recognized by the Namibian Government, whereas the Khwe Traditional Authority was not. Mbukushu Chief Erwin Mbambo subsequently claimed authority over Khwe ancestral land and asserted that the Khwe People were Mbukushu subjects. He also gave permission to Mbukushu to settle on the land, despite any statutory powers to do so and in the face of Khwe presence and protests. To date, the Government, repeatedly reinforces the Mbukushu's claim and do not intervene at the behest of the Khwe Community. Since the Mbukushu Traditional Authority regards the Khwe as a subservient subgroup that is entitled only to headmen that report to the Mbukushu Chief, such Mbukushu-appointed headmen are generally perceived by the Khwe as illegitimate representatives who do not truly speak for the Khwe People.

Currently, the Khwe can only be involved in decision-making through the Kyaramacan Association as the primary body through which Khwe People can engage in negotiations and discussions over the management of resources and benefit-sharing from activities such as trophy hunting within Bwabwata National Park. However, the Association is not an exclusively Khwe body and therefore cannot fully represent the unique needs and interests of the Khwe People as a whole.

The claims put forward appear do not justify the intrusion of Mbukushu settlers and cattle farmers into the area. There is no indication of respecting the cultural and other rights of the Khwe People, as the Mbukushu Traditional Authority is obliged to do in terms of the Traditional Authorities Act. The PSCCLC is thus urged to be mindful of the need for proper free, prior informed consent for any decision made regarding the Khwe People in respect to their ancestral lands, natural resources, culture, status and identity.

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LEGAL ASSISTANCE CENTRE

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