

# **Negative impacts of wildlife law enforcement in Botswana, Cameroon and India**

How tribal peoples are evicted, arrested and imprisoned in the name of conservation

<b>Gordon Bennett</b>	Barrister, New Square Chambers
<b>Dr Jo Woodman</b>	Senior campaigner, Survival International
<b>Jumanda Gakelebone</b>	Gana Bushman, First People of the Kalahari, Botswana
<b>Sankar Pani</b>	Environmental lawyer, India
<b>Dr Jerome Lewis</b>	Co-director, Extreme Citizen Science Research Group, University College London

## Summary

1. Wildlife law enforcement almost always has a negative impact on tribal communities. It has a negative impact on their personal safety, their health, their culture, their privacy and their family life. Above all it has a negative impact on their relationship with the land and on their ability to sustain themselves.
2. Why is this? It's because the wrong laws are being enforced by the wrong people - against the wrong people.
3. The laws are wrong because they usually fail to distinguish "wildlife crime" from subsistence hunting, and tribal peoples are criminalised without just cause.
4. The laws are wrong because, even where they recognise subsistence rights, they often leave too much power in the hands of Government Ministers – who can and do use their power to overturn tribal rights when it suits them to do so.
5. The law is "enforced" by the wrong people because it is enforced by wildlife scouts or ecoguards who administer justice as they see it, on the spot. There is no due process. Innocence or guilt does not come into it. The more militarised these forces become, the less accountable they are when they overstep the mark.

6. Tribal peoples are often at the sharp end of wildlife law enforcement, not because they themselves pose a serious threat to wildlife but because they are a soft option. They are far less able to defend themselves than the well-resourced and well-connected elite who manipulate them.
7. The results are entirely predictable. Communities do not respect laws which do not respect them. They do not co-operate with authorities which regard them with hostility and suspicion. If they are to be punished whatever they do, some believe they may just as well throw in their lot with the poachers.
8. The London Declaration does not address these issues. It refers in its Preamble to “the importance of reducing human-wildlife conflict and supporting community efforts to advance their rights”, but says nothing more about these rights.
9. A properly drawn Declaration would recognise three or four basic principles:
  - (1) The hunting rights of tribal communities should be fully respected, unless and until they are lawfully extinguished.
  - (2) The power of the State to manage wildlife does not equal state ownership, and does not of itself extinguish tribal rights
  - (3) This power may be exercised only to the extent that it is necessary to protect an overriding conservation interest.
  - (4) The power to “manage” cannot be used to deprive a community of their means of subsistence, which is guaranteed by human rights law; or to coerce tribal peoples into changing their way of life against their will.
10. Botswana, Cameroon and India illustrate in different ways what happens when wildlife laws are “enforced” in defiance of these principles.

## Botswana

11. In Botswana, the law allows those who are “principally dependent” on hunting and gathering to apply for “special game licenses”. Regulations explicitly refer to “persons who can rightly lay claim to hunting rights in the Central Kalahari Game Reserve” (“the CKGR”).
12. But no “special game licences” have been issued for the CKGR since 2002, and since 2014 hunting has been banned almost everywhere in Botswana. The ban was renewed for another year only last month. It pays no heed at all to the rights or needs of the Bushmen of the CKGR.
13. The Minister of Wildlife drew up and signed the ban at his desk, in the exercise of his statutory powers. He did not have to explain his decision to the National Assembly or anyone else. There were no consultations. The Minister acted entirely off his own bat, in the untested belief that “illegal off take” was or might be to blame for a decline in wildlife numbers.
14. Responsibility for the enforcement of the ban rests with a paramilitary force called the Special Support Group. Its members are heavily armed, and in the CKGR have camped close to Bushmen communities. The Bushmen have been made to feel that they are under constant surveillance. They report that they and their homes are searched at random, and that on occasion they have been beaten or threatened.
15. Hunting has become more difficult but persists, because the only alternative is starvation. The Bushmen no longer eat during the day, to reduce the risk of detection, and have had to abandon hunt related customs.
16. Many Bushmen who have a legal right to live in the Reserve are afraid to do so. They worry that if they hunt and are caught, they will be imprisoned or assaulted or both.

17. They are stranded in resettlement camps outside the Reserve, where alcoholism and HIV/Aids are widespread and there is little or no work. Their previous, largely self-sufficient existence has given way to a dependence on government handouts, and an inevitable decline in their sense of identity and self-worth.
18. There is no evidence that the Bushmen of the CKGR hunt in any systematic way for sale, or use guns or vehicles, or hunt endangered species, or that their hunting is unsustainable. In the name of conservation they have had to pay a price out of all proportion to any threat that their subsistence hunting might pose.

### Cameroon

19. In Cameroon too, many Baka communities have been evicted from their traditional territories to make way for national parks. They are now forced to spend much of their time in roadside villages that skirt the park's edge. With minor exceptions they are forbidden to hunt or forage in the parks; and to ensure that they do not, are forbidden even to enter them. They are entitled to hunt elsewhere only if they use so-called "traditional" methods.
20. Rather than reform the law to recognise the Baka's dependence on the forest for their food, medicine and incomes, the Government has focussed on the war against poachers, and the Baka have inevitably been caught in the cross-fire.
21. "Enforcement" is left to ecoguards who are employed by the Ministry of Forestry and Wildlife, but who depend on WWF and other donors for their salaries and logistical support. No or virtually no Baka have been recruited to their ranks. When they raid Baka villages - in so-called "punch operations" in which huts are searched, property is seized and suspects may be beaten - they are often joined by a military unit called the BIR (the Bataillon d'Intervention Rapide).

22. The ecoguards act with total impunity. The Baka do not lodge complaints against them because they are not properly investigated. They have become alienated not only from the forces of law and order but from conservationists like WWF. Many Baka regard the two as indistinguishable.
23. Their personal safety has not been the only casualty of wildlife law enforcement. The health of the Baka has also suffered, because they are no longer able to reach many of the medicinal and other forest plants on which they have traditionally depended. Mothers can no longer retreat into the forest for childbirth. All are at risk of the malaria, HIV/AIDS and other epidemics that affect the roadside villages.
24. Parents are no longer able to pass their forest skills and values on to their children. Since they cannot now barter meat and other forest produce to buy essentials, many Baka work for others on starvation wages. Some are “paid” with fermented sugar cane, and alcoholism has become endemic.

#### India

25. In India, efforts to save the tiger from both poachers and habitat loss have seen a rapid expansion of tiger reserves. In the past few years the law has also come to recognise the forest rights of scheduled tribes, but where the two interests clash it is the community that comes off worst.
26. The law says that tribes people may only be removed from tiger reserves on certain conditions. One is that they are shown to cause “irreversible damage” to the tiger habitat and to “threaten their existence”, and another is that there is no “reasonable option of co-existence.”
27. These conditions are ignored. The authorities prefer to operate on the basis that tiger habitats may be more easily protected if tribal communities are removed, and this in itself is a sufficient reason to move them.

28. In order to avoid their statutory duties they offer the community a “rehabilitation package”. Usually the offer is refused, because the community has co-existed with tigers for generations and sees no reason it should not continue to do so. But the authorities do not take “no” for an answer, and eventually wear down the resistance of communities which have no one to speak on their behalf. The legal niceties are trumped by the supposed needs of tiger conservation.
29. The impact of this process could hardly be more “negative”. In one recent example, two tribal communities in the Similipal Tiger Reserve eventually “agreed” a package which involved their removal to a camp outside the Reserve. There they have had to live under polythene sheets which leak when it rains and scorch in the sun. Child malnutrition is rife. There is no proper immunisation programme and medical help is infrequent. Once again, alcohol abuse is common. Over the coming months, other communities still in the Reserve are like to experience a similar fate.

### Conclusion

30. Whatever effect it may have on the IWT, the new emphasis on law enforcement will undoubtedly require more money, at least some of which will come from the conservation movement.
31. The conservationists could use the extended influence that this will give them to insist that tribal communities are protected against the worst excesses of the paramilitaries. Policing efforts to control the IWT will gain far more from a positive relationship with the ‘ears and eyes’ of the land than from the current abusive and alienating approach.
32. The introduction of simple grievance mechanisms would be an obvious first step. If “enforcement” is to be the new creed, ought not the law to protect tribal peoples be enforced with at least as much vigour as the law to protect wildlife?

February 2015