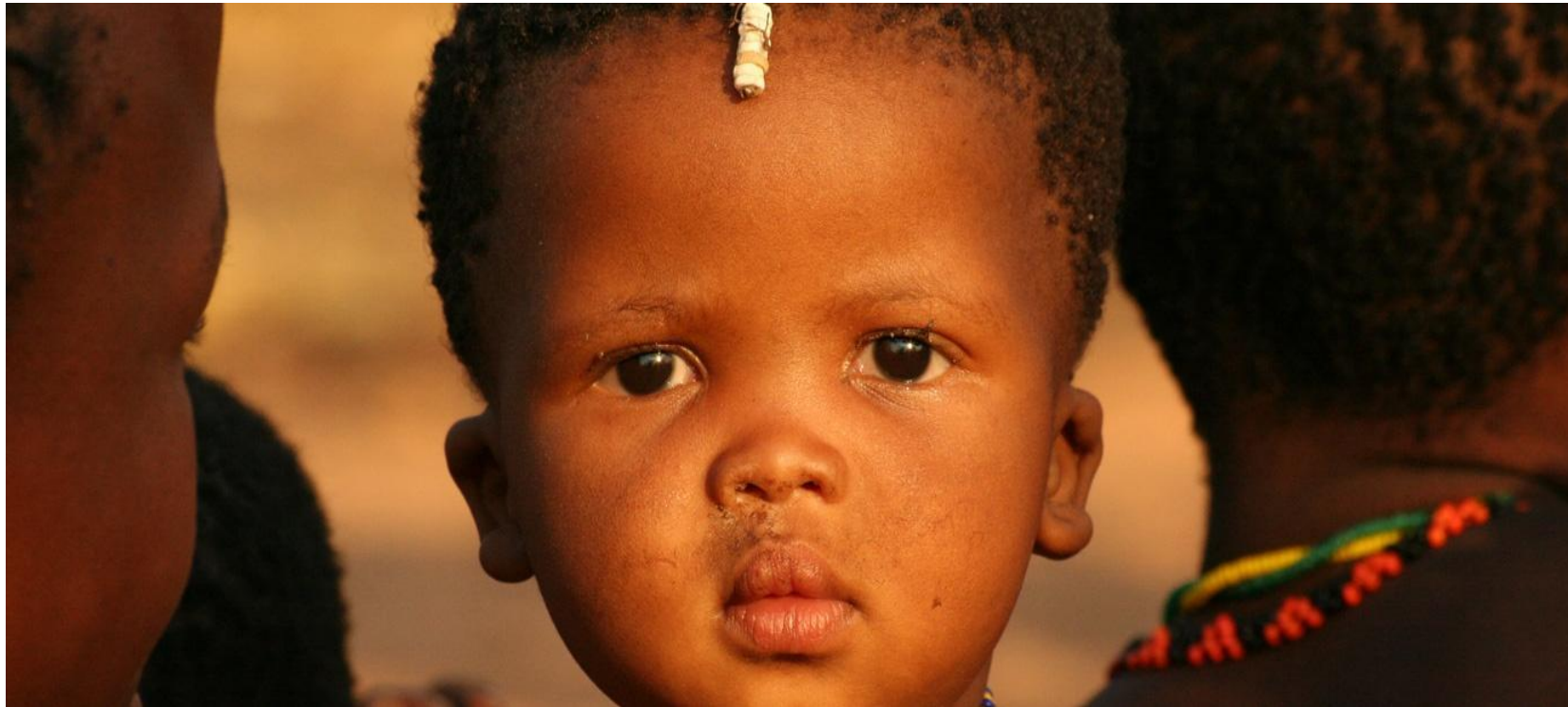




LEGAL ASSISTANCE CENTRE

RIGHTS OF MINORITIES

Toni Hancox



NAMIBIAN HOUSE - NO-ONE SHOULD BE LEFT OUT.



► Khwe dwelling in informal settlement in Katima

Chapter 3 of our Constitution speak to basic human rights. They are peremptory!

- ▶ Article 10 - Equality and Freedom from Discrimination
- ▶ Article 19 - Culture “ Every person shall be entitled to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion subject to the terms of the Constitution.....”
- ▶ Article 8 - Respect for Human Dignity - overarching

ARTICLE 27 OF THE ICCPR

- ▶ In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Namibia signed the **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)** in 2007

thereby signifying its agreement with the main objectives, being

- ▶ the right to self-determination;
- ▶ the right to be recognized as distinct peoples;
- ▶ the right to free, prior and informed consent;
- ▶ the right to be free from discrimination.

POVERTY

- ▶ “After Independence the wages were improved and the farmer could not afford to have a lot of workers on the farm, and they chased away the San people. Before Independence even the young San boys could make some income by opening gates for the farmer when he was visiting the camp posts, and at the end of the month he would buy him clothes and also give him money.”
- ▶ Discussion participant in Epako (informal settlement in Gobabis)

EDUCATION

- ▶ “When children go to school with people from other tribes, they see the other children with cellphones and nice clothes which they don’t have ... this is the main reason for dropping out - the Khwe children are ashamed because they are teased and laughed at.”

Khwe participant at Omega I

- ▶ At Omega I, a San youth suggested that a separate school should be established for Khwe: “Then, we can all be poor together.”

San children at Farm 6



SOCIAL EXCLUSION / DISCRIMINATION

- ▶ “We went to the school asking for the forms to apply. Then the answer from the people came, you are a bushman; how can you clean up your place, how can you become a cleaner of the school. You are dirty and you want to clean up the school?”

ACCESS TO HEALTH

Pipe smoking is one of the little “pleasures” . The pipe is shared causing the spread of infectious diseases.



LAND RIGHTS / LIVELIHOODS



Ancestral land rights

Okaukuejo waterhole - #Huiop



CULTURAL PRACTICES

“So it is very difficult to teach the children, maybe the few things that are around [sic]. In 10 years, it will just have disappeared because of the fences. Because people just come and grab our land where our food is.”

An elder from Luhebo



Concluding Observations of the Committee included a reference to the rights of indigenous peoples as follows:

- ▶ “ The State party should consider recognising communities such as the San, Himba, Ovaherero, Ovambo and Ovazemba as indigenous peoples with concomitant rights recognized in international standards such as the United Nations Declaration on the Rights of Indigenous Peoples”
- ▶ Namibia prefers to refer to the San as “marginalised” thereby circumventing rights specific to Indigenous peoples.

NO ONE PROTECTS A THING BETTER THAN ITS OWNER.

- ▶ Ensuring *meaningful participation* and engagement of local communities is essential for addressing their concerns, safeguarding their rights, and maximising the benefits of the sector.
- ▶ Why is meaningful participation necessary?
- ▶ *If a community feels protected, it will protect its project.*

FREE, PRIOR AND INFORMED CONSULTATION

- ▶ No coercion
- ▶ Not an afterthought

- ▶ Informed ?
- ▶ Many communities do not have daily access to newspapers; or
- ▶ may not be adequately familiar with the language of the accessible newspapers; and
- ▶ do not necessarily have the expert knowledge to understand the information provided.

COMMUNITY INVOLVEMENT IN DECISION MAKING

- ▶ **Is important** because it:
 - ▶ fosters transparency, accountability and legitimacy in the sector; and
 - ▶ helps to address social and environmental concerns and ensure equitable distribution.

- ▶ **Is currently flawed** because:
 - ▶ sufficient information about a project is not forthcoming;
 - ▶ a once-off “consultative” meeting does not allow for meaningful dialogue; and
 - ▶ Traditional Authorities, who *do not* constitute community members, are consulted in place of community members, and benefit to the exclusion of community members.

- ▶ **REMEMBER CULTURAL NUANCES!!!!**

BASIC INCOME GRANT

- ▶ POSITIVES
- ▶ Universal
- ▶ No administrative burdens - who “qualifies”
- ▶ Oshivelo experiment

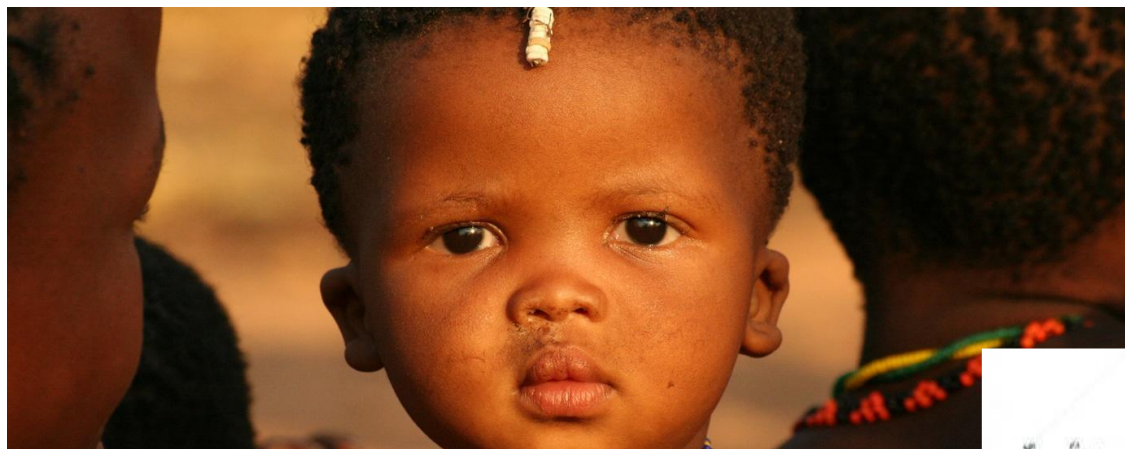
- ▶ CONCERNS - why everyone
- ▶ Taxable income must be declared i.e. there should be minimal tax evasion i.e. Government needs to get their house in order.
- ▶ Public consultations necessary - EXPLAIN the underlying concept; SHOW that is feasible; PROVIDE substantiated facts.

“An Assessment of the Status of the San in Namibia.”

- ▶ *“A decade after independence, San stand out due to their dependency, extreme poverty, political alienation and a variety of social, educational and health problems. Of course, these problems are not unique to San, and many other Namibians are just as poor and marginalised as they are. However, what makes San conspicuous among Namibia’s poor is the fact that while only a proportion of the members of each other language group are extremely poor, San are almost universally extremely poor.” (Suzman 2001:143)*

HAS ANYTHING CHANGED?

“We can be poor together”



PAYBACK

