

6 April 1999

## NAMIBIA'S ANSWERS TO THE JUDGES' QUESTIONS



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**INTERNATIONAL COURT OF JUSTICE**

**CASE CONCERNING KASIKILI/SEDUDU ISLAND  
(BOTSWANA/NAMIBIA)**

**NAMIBIA'S ANSWERS TO THE JUDGES' QUESTIONS**

**6 APRIL 1999**

**Judge Schwebel**  
**President of the Court**

## JUDGE SCHWEBEL, PRESIDENT OF THE COURT

*First: How many vessels and of what tonnage navigated the north channel in 1998; annually, since 1947; in which months?* ..

Namibia has conducted a diligent search for information in relation to this question. The historical documents obtained from the following archives: National Archives of Zimbabwe (Harare), National Archives of Zambia (Lusaka), National Archives of South Africa (Pretoria), National Archives of Namibia (Windhoek) and the Public Record Office (London, Kew Gardens) all discuss the possibility of navigation on the Zambezi River. The Chobe River is only referred to occasionally, but even then in relation to navigation on the Zambezi River. According to these documents, a private entrepreneur, W.C. Ker, in the 1940s proposed a project to bypass several rapids along the Zambezi River with canals. The project also proposed to bypass by canal and locks the Mambova Rapids on the Chobe River near Kasane in Bechuanaland Protectorate. The proposed canal was intended to provide the transportation of timber from Serondela which is about 12 kilometres downstream from Kasikili Island.<sup>1</sup>

The proposed canals were 'to have minimum depth of 3 ft; width at base of 15 ft; Type of craft to use the canal: Draught 1½ ft.<sup>2</sup> Ker was hoping to be awarded a contract to transport timber from Bechuanaland Protectorate to Southern Rhodesia (Zimbabwe). The canal proposal was later considered by the Central African Council based in Southern Rhodesia.<sup>3</sup> Both, Northern Rhodesia and Bechuanaland Protectorate became involved in the proposed canals. The proposals to construct the canals did not get off the ground. The proposed project

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<sup>1</sup> CR 99/7, p. 14.

<sup>2</sup> *Report on Navigation of the Upper Zambezi*, by Professor Debenham, April 1946, p. 6. (Annex 1)

<sup>3</sup> CR 99/11, para. 23.

was rejected by the Bechuanaland Protectorate on 23 April 1946 in the following terms:

2. The High Commissioner has now consulted the Resident Commissioner of the Bechuanaland Protectorate who reports that the Chobe Timber Concession are no longer interested in this project since they now propose to construct a light railway through the concession to Jufuta, on the Rhodesia Railways, to transport timber and such other traffic as offers.
3. It will be appreciated that Mr Ker's proposals were originally made in order that he might undertake a contract from this company to transport timber for them. In the changed circumstances, the Bechuanaland Protectorate authorities feel that need for the locks and canals no longer exists at present. The High Commissioner therefore regrets that he is unable to recommend to the Secretary of State a contribution by the Protectorate Government towards the capital cost of their construction.<sup>4</sup>

The Central African Council, too, rejected the proposed project. "The Chairman told the Committee that the Upper Zambezi Canals Committee had recommended to the Central African Council that the expense of building canals to bypass the Kasane and Katombora rapids was not justified ..."<sup>5</sup>

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<sup>4</sup> Letter by H.E. Priestman, Administrative Secretary to the High Commissioner, Cape Town to the Secretary of the Central African Council: National Archives of Zambia, File Ref.: SEC 3/614 (1945-48). (Annex 2)

<sup>5</sup> Central African Council, Meeting of 23 January 1948: National Archives of Zambia, File Ref.: SEC 1/121 (1946 - 48). (Annex 3)

Apart from the Central African Council and Bechuanaland, the other significant player concerning the proposed canals project was the Witwatersrand Native Labour Association (WNLA) which recruited native labour for South African mines and industries from such countries as Northern Rhodesia (Zambia), Southern Rhodesia (Zimbabwe), Angola, Mozambique, the Caprivi, Bechuanaland and South Africa itself. According to the Central African Council,

[A] canal constructed to by-pass the Katombora rapids would be of no advantage to the Witwatersrand Native Labour Association. ... The proposed canal to by-pass the Kasane rapids might be occasionally used by the Association for river transport between its Kazungula and Kasane camps which are seven miles apart, but their ordinary transport between these points would continue to be by lorry. The canal would not alter the present arrangements under which the Kasane camp, just above the rapids, is the terminus of the lorry and barge service to Katima Mulilo. During any twelve months most of the traffic goes by road across the Caprivi Strip from Kasane to Katima Mulilo.<sup>6</sup>

We have pointed out above in this answer that after a diligent search Namibia has not been able to find any evidence suggesting that any vessels, other than tourist boats, navigated the northern channel in 1998, or annually since 1947. We have also not been able to find any evidence that W.C. Ker ever actually transported timber through the northern channel. The Chobe Concession seems to have been a timber concession operating near Serondela. As we pointed out earlier in this answer, the only documentary evidence that Namibia has been able to find shows

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<sup>6</sup> Note by Secretariat of the Central African Council, Upper Zambezi Canals Committee: *Potential Traffic and Other Economic Factors*, Reference No. 227 (9 December 1947): National Archives of Zambia, File Ref: SEC 1/121 (1946-48). (Annex 4)

that timber was transported from Sorendela by road within Bechuanaland Protectorate to a railhead at Jufuta:

The High Commissioner has now consulted the Resident Commissioner of the Bechuanaland Protectorate who reports that the Chobe Timber Concession are no longer interested in this project since they now propose to construct a light railway through the concession to Jufuta, on the Rhodesia Railways, to transport timber and such other traffic as offers.<sup>7</sup>

Namibia has been unable to find any evidence tending to show that W.C. Ker was ever awarded a concession to transport timber. Indeed, according to a letter dated 27, February 1948 by the Chairman of the Advisory Committee on Industrial Development to W.A.W. Clark of the Central African Council, 'He [Ker] has not yet managed to secure any Chobe Timber traffic.'<sup>8</sup>

The only document Namibia has been able to find concerning navigation in the northern channel is the letter from Trollope to Dickinson dated 4 August 1951, in which he said that Ker used the northern channel 'the whole time he ran a service to Serondela ...'<sup>9</sup>

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<sup>7</sup> *Id.* fn. 4.

<sup>8</sup> Ref. No. 50/41/48 (Annex 6 to Namibia's Submission to the Joint Team of Technical Experts (JTTE)).

<sup>9</sup> MN, Vol. IV, Annex 71.

***Second: How many vessels and of what tonnage navigated the south channel in 1998; annually, since 1947; in which months?***

The answer Namibia has given to the *first* question applies to this question. As to tourist boat traffic, see the answer to the *fourth* question, *supra*.



*Third, did barges that carried timber navigate the northern channel throughout the year, or only in certain months and if the latter, which? Where did the shipments originate and terminate? Did timber shipments cease because of navigational problems, or for other reasons?*

Unfortunately, the available records do not permit a full answer to Judge Schwebel's question. The following facts can be gleaned from the sources Namibia has been able to discover.

It appears that some time toward the end of 1947, William C. Ker of the Zambezi Transport and Trading Company, applied to Resident Magistrate and Native Commissioner Trollope of the Eastern Caprivi for permission to transport timber by barge through the northern channel around Kasikili Island and other waterways in the Caprivi Strip, probably the Kassaia anabranch channel leading from just above the Mambova Rapids at Kasane to the Zambezi River, a few kilometers above its confluence with the Chobe River.<sup>1</sup>

Ker was conducting a river transport service on the Zambezi between Katima Mulilo and Livingstone, transporting passengers and freight, particularly lumber, serving primarily traffic in Northern and Southern Rhodesia. He was "hoping eventually to get a large contract from the Chobe Concession in Bechuanaland, but this depends on whether it proves possible to by-pass the rapids with canals."<sup>2</sup> The Central African Council suggests that the headquarters of his

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<sup>1</sup> Letter of 18 December 1947 from Redman to Trollope, BCM vol. III, Annex 18.

<sup>2</sup> Letter from Central African Council to Colonial Office dated 14 November 1947, Judges' File, Number 6.6a.

timber operations on the Zambezi was at Sesheke. The Council had written earlier to Trollope in support of Ker's application.<sup>3</sup>

Dickinson, writing on 18 December 1947, informs Trollope that Ker has written that Ker "wish[ed] to recommence the transport of timber by river from Serondela but that [he] ha[s] been informed by you that the channel between Kasane and Serondela which they intend to use, is in the Caprivi Strip."<sup>4</sup> There is no indication as to whether or when the earlier transportation activity referred to took place or whether or not it was conducted by Ker or his company.

Trollope replied on 3 January 1948, stating that he had given Ker "permission (subject to certain entirely formal conditions) for six months to use the channel in question. I am quite prepared, on application by him, to renew that permission indefinitely subject to cancellation for good reason."<sup>5</sup>

There is no further information about Ker's activities except that Trollope, in a letter to Dickinson on 4 August 1951, four years later, writing in the past tense, said that Ker had used the northern channel "the whole time he ran a service to Serondela."<sup>6</sup>

Ker's equipment for his Zambezi service was "dumb barges" pulled by surplus World War II landing craft.<sup>7</sup> Apparently he planned to use the same equipment from Serondela. The draught was less than three feet, since he and the Central African Council were contemplating a canal around the Mambova Rapids

<sup>3</sup> Letter from Central African Council to Trollope dated 20 May 1947, Judges' File, No. 6.6b.

<sup>4</sup> Letter of 18 December 1947 from Redman to Trollope, BCM vol. III, Annex 18.

<sup>5</sup> Letter from Trollope to Dickinson dated 3 January 1948, NM, Annex 59.

<sup>6</sup> Letter from Trollope to Dickinson dated 4 August 1951, NM Annex 71.

<sup>7</sup> Letter from Central African Council to Colonial Office dated 14 November 1947, Judges' Folder, Number 6.6a.

with a minimum depth of three feet.<sup>8</sup> As stated in answer to the first question, Bechuanaland Protectorate was not interested in the proposed canal to bypass rapids in the Chobe River. On the Zambezi route, Ker was running a weekly trip in 1947, but there is no information about whether and how frequently he ran the Serondela route.

According to Lord Hailey, the Chobe Timber Concession Co., received a concession in 1935 covering "120 square miles in the Zambezi riverain near Kazangula."<sup>9</sup> Its principal product was "Rhodesian teak." The exact location of the company's concession is not known, but it seems to be the company to which reference was made in the letter quoted above. Namibia has shown in answer to the first question that the transport route of timber by the Chobe Timber Concession was by road from Sorendela within Bechuanaland Protectorate to a railhead at Jafuta.<sup>10</sup> Operations were apparently interrupted during the World War II years. According to Hailey, the Concession seems to have been still doing business in 1950. It is believed that the Chobe Concession ceased operations in the early 1950s, but whether because the timber ran out or because of financial difficulties is not known. As Namibia has explained in its answer to the first question, it has been unable to obtain any evidence tending to show that W.C. Ker was awarded a contract to transport timber through the Chobe River for the Chobe Timber Concession.

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<sup>8</sup> Letter from Central African Council to Trollope dated 20 May 1947, Judges' Folder Number 6.6b.

<sup>9</sup> The information in this paragraph is from W.M. Hailey, *Native administration in the British African territories* (H.M. Stationery Office 1950-1953), vol. V, pp. 229-230.

<sup>10</sup> *Supra*, fn.4.

*Fourth, how many tourist boats were in use in the waters of Kasikili/Sedudu Island in 1998 and in which months? What is their home port? What routes do tourist boats follow?*

- (a) There are three tourist lodges situate in Namibia, near Kasikili Island. According to information obtained from the World Wildlife Fund (WWF),<sup>1</sup> these three lodges operate: 20 tourist boats, namely Impalila Lodge: 8; Inchingo Lodge: 6; and Kings Den (Cabins):6. All these privately Namibian-owned tourist boats have been registered in Botswana. The principal reason for this arrangement is that since Botswana militarily occupied Kasikili Island, it does not allow tourist boats which are not registered in Botswana to operate in the southern channel around Kasikili Island. This situation was confirmed by Botswana during the oral proceedings.<sup>2</sup> As was stated by Namibia during the oral proceedings, almost all the tourist traffic on the Chobe River in the vicinity of Kasikili Island uses the southern channel from which game can easily be viewed.<sup>3</sup> This fact is corroborated by the video presentation by Namibia during the oral proceedings on 16 February 1999. Thus the Namibia tourist boat operators have no choice but to register their boats in Botswana. Any tourist operator who does not ply on the southern Channel can suffer heavy financial loss. From information available to Namibia, in 1998 there were 62 tourist boats plying the waters of Kasikili/Sedudu Island.<sup>4</sup> As mentioned above in this answer, the privately Namibian-owned tourist boats are 20. Botswana-owned tourist boats are: Chobe Game Lodge: 9; Africa Expeditions: 15; Moana Lodge: 4; Chobe Safari River Safaris: 2; Chadwick: 1; Chobe

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<sup>1</sup> World Wild Fund, *Tourism Information: Chobe River*. (Annex 5)

<sup>2</sup> CR 99/6, p. 21, second para.

<sup>3</sup> CR 99/1, para. 33.

<sup>4</sup> *Supra*, fn.14.

Chilweve: 2; Pombaserv: 1. Thus the percentage of Namibian-owned tourist boats is 32% as against Botswana's of 68%.

- (b) In the dry-season months of August, September, October, November and December tourist boats use mainly the southern channel. During the flood-season months of January, February, March, April, May, June and July, Kasikili Island is inundated. Therefore tourist boats use waters of Kasikili Island that are at the base of the Chobe Ridge so as to view game in the Chobe National Park which is to the south of Kasikili Island.
- (c) The home port of the 42 tourist boats belonging to Botswana operators is at the lodges located in Botswana, and that of the 20 boats belonging to Namibian operators is at lodges located in Namibia.<sup>5</sup>
- (d) Namibia has stated in answer to this question and in its written and oral pleadings that an overwhelming number of tourist boats use the southern channel. The boats travel as far as the vicinity of Sorondela which is about 12 kilometres upstream of Kasikili Island. Only a few of these boats ply the northern channel on their return trip.

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<sup>5</sup> *supra*, fn. 11.

***Fifth: What were the navigational routes followed by the Zambezi Queen since it went into service in Kasikili/Sedudu waters?***

In answering this question, Namibia wishes to draw the Court's attention to Annex 22 in Namibia's Reply, the affidavit of Mr G.J. Visagie, the owner of the King's Den Lodge and the *Zambezi Queen*. Page 2 of the affidavit states:

The *Zambezi Queen* was built in Katima Mulilo (Caprivi Region) in 1990. It draws about 2.3 feet of water. Because the *Zambezi Queen* is too large to navigate the northern channel, it could only be brought to the King's Den (via the Kassaia channel, an anabranch channel of the Zambezi River) by first travelling down the Zambezi River from Katima Mulilo, during the height of the flood season. During the early 1990s, the *Zambezi Queen* navigated from Katima Mulilo to King's Den only on three occasions but because of the difficulties in navigating the Kassai channel, I abandoned the venture.

Since then, it has been moored at its present location adjacent to the King's Den lodge. This location was chosen for the convenience of using the ship for additional guest accommodation in connection with the business of the land-based hotel. The mooring is in the spur channel and not in the northern channel.

The *Zambezi Queen* sailed through the Kassaia channel into the Chobe just above the Mambova Rapids, opposite Kasane, thence it proceeded upstream to the confluence with the northern channel, thence through the eastern limb of the northern channel and then to its berth at Kabuta. It never passed through the northern channel even on the three occasions when it came down from Katima

Mulilo. The berth of the *Zambezi Queen* is in the spur channel, not in the northern channel.

*Sixth, Namibia contends that the depth of the northern channel at one point is so shallow that it significantly limits navigation in the northern channel. Where is that point and what is the depth of the northern channel at that point? When and by what means was this depth established? How does the depth at that point compare with the shallowest point of the southern channel?*

The position of the shallowest observed point along the thalweg of the northern channel is located near the centre of the red line across the northern channel in Fig. 12 after page 34 of Professor Alexander's Second Supplementary Report (NR, vol. II). The channel at this point was less than one and a half metres deep. This was determined as follows:

The average shoulder height of adult elephants in the Chobe National Park is 3.20 metres. Fig. 13 after page 39 of Professor Alexander's Second Supplementary Report (NR, vol II) shows a series of photographs of a herd of elephants crossing the two channels at the position of the red line in Fig. 12. The photographs were taken on 19 July 1996. The elephant on the left of photograph E3 in Fig. 13 is an adult. Photographs E4 to E6 show the same pair of elephants crossing the northern channel. The deepest point is at the point occupied by the pair of elephants in Photograph E4. When this is compared with photograph E3 it is clear that the depth of the water is about the same as the height of the belly of the adult elephant. This is somewhat less than half the shoulder height of the elephant, i.e. 1.5 metres at most. This is the maximum possible draft of any vessel that may ply the northern channel.



Applying the same method to photograph E2 it is clear that the shallowest point in the southern channel is more than half the shoulder height of the last elephant, i.e. at least 1.7 metres.

The minimum depths of the among the cross-sections measured by the 1985 Joint Survey were 2.6 metres in the northern channel and 1.5 metres in the southern channel. As Namibia stated in its written pleadings, the points at which the measurements were taken were randomly selected by the survey team. The team did not take depth measurements throughout the course of the northern channel and the southern channel which would have shown the shallowest points in both channels.

*Botswana's counsel today reiterated its position that the Joint Survey Report of 1985 and the intergovernmental transaction of 1984 and 1985 relating to it constitute an international agreement. Was that international agreement registered with the Secretariat of the United Nations under Article 102 of the Charter? If not, may that agreement be invoked before any organ of the United Nations including this Court, the principal judicial organ of the United Nations?*

No agreement or purported agreement resulting from the political discussions between Botswana and South Africa was registered with the Secretariat of the United Nations under Article 102(1) of the UN Charter. This is confirmed by a note from the United Nations Office of Legal Affairs dated 19 March 1999.<sup>1</sup> Further, in a diplomatic note dated 31 March 1999, South Africa informed the Government of Namibia that 'there is NO RECORD [sic] of an alleged "intergovernmental Agreement" between the Government of South Africa and Botswana regarding the Kasikili/Sedudu island in the Chobe River.'<sup>2</sup> According to Article 102(2) of the United Nations Charter, no party to an international agreement 'which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.'

In any event, as Namibia has shown in its Counter-Memorial, Reply and at the Oral Hearings, at the time of the Pretoria meeting, neither Botswana nor South Africa had the legal capacity to enter into any form of treaty relation in respect of Namibia or Namibia's boundaries. The lack of competence on the part of South Africa and

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<sup>1</sup> Note of the Office of Legal Affairs of the United Nations, 19 March 1999. (Annex 6) The fact that there was no agreement between Botswana and South Africa is confirmed by a letter from Honourable "Pik" Botha, Minister of Foreign Affairs of South Africa (NM, vol. IV, Annex 88).(See Annex 7)

<sup>2</sup> Diplomatic Note No. 017/99 (Pol.), 31 March 1999. (See Annex 8)

Botswana to enter into agreement with respect to Namibia is confirmed by Resolutions of two principal organs of the United Nations, namely the General Assembly (G.A. Resolution 2145 (XXI), 27 October 1966) and the Security Council (Resolution 276, 30 January 1970) as well as the 1971 Opinion of this Court,<sup>3</sup> the principal judicial organ of the United Nations. It must be pointed out that Resolutions of the Security Council bind not only member states of the United Nations but also non-members, and all organs of the United Nations. The binding character of the UN Security Council Resolution was confirmed by the aforementioned legal Opinion of this Court in 1971. Botswana should therefore not be allowed to invoke the so-called intergovernmental agreement before this Court. Thus Namibia respectfully submits that even if South Africa had purported to enter into an international agreement in respect of Namibia's boundaries, such agreement would have been void *ab initio*.

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<sup>3</sup> *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p.58*

**ANNEXES 1 - 8**

ANNEX 1



GOVERNMENT HOUSE,  
NORTHERN RHODESIA.

23rd April 1946

To His Excellency  
The Governor Of N.Rhodesia

Your Excellency

I beg to submit herewith my Report on the  
Navigation problems of the Upper Zambesi.

I should like to thank you and your officers for the very  
pleasant four days up the River.

I am now having the opportunity to read files from the  
Secretariat on the former projects but I think it better not  
to delay sending in my report.

I have the honour to be Sir

Your obedient servant

*Frank Debenham.*

29/11

25/1

REPORT  
on  
NAVIGATION OF THE UPPER ZAMBESI

by Professor Debennam

April 1946

Report on the Navigation Possibilities on the Zambezi  
above the Falls.

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My visit from April 16th to the 21st was made in company with Mr. T. Longridge, Water engineer <sup>to the P.W.D.</sup> and as far as the engineering problems are concerned this is a joint report with him. *check out*

We had as guide Mr. W. Ker, the original proposer of this particular scheme, from whom we had great assistance over local arrangements and he was able to state his scheme on the sites which was very useful. Mr. Giblin of Katombora was very useful with his local knowledge.

Mr. Longridge and I have only altered Ker's original layout in details and we think that Mr. Ker should have full credit for his very strenuous preliminary work in investigating and rough levelling the different sites, as well as his plans in themselves.

This report is divided as follows:

1. The General Engineering *problem*
2. The Canal Schemes; Kasane, Katambora.
3. Recommendations
4. The Economic Problem
5. Political Aspects
6. Possibilities for Irrigation.

Joint Report

The Engineering Problem - J. B. G.

Passing upwards from the Victoria Falls the first navigable water is the stretch between the Pumping Station to somewhat above the Boat Club House, about 5 miles.

From that point there is fast water, with occasional short navigable stretches as far as Kamujomas, on a significant bend towards the North, a distance of 6 miles. Thence there is a moderately smooth water route for 5 miles to a point above Constantia.

Above this there is difficult or fast water to the Kacholi Rapids which are close to the Trig. Station C 158, above which there is smooth water to the base of the Katombora Rapids, a distance of ~~about 10~~ <sup>about 13</sup> miles by river.

From here there is easily navigable water, to the base of the Kasane Rapids on the Chobe or the Mambova <sup>Rapids</sup> on the Zambezi, about 20 miles. *The Mambova Rapids would be difficult to bypass.*

From these twin rapids there is 80 miles of navigable water on the Zambezi to Katima Mulilo, and some 12 to 20 miles on the Chobe, according to the state of the water in that slow running stream, most of it being a backwater from the Zambezi itself.

In the whole distance of some 55 miles from the Pumping Station to the head of the Kasane Rapids there are four stretches of quite <sup>UK-</sup> navigable water of very fast water as follows



Kasane Rapids	1 mile	} 22 river miles navigable
Katombora Rapids	2 miles	
Kacholi Rapids & race	9 miles	
Kamayomas to Long Island	6 miles	} 16 miles navigable

The significance of these two short stretches of rapids as compared to the greater lengths of bad water in the lower section is very apparent. We therefore concentrated our attention on means of by-passing the Kasane and Katombora Rapids.

These we found to be fairly easy from the engineering point of view, and there were but few alternatives to Mr. Ker's routes, and choice of lock-sites. These sites are described and costs estimated in the two following sections.

As to the navigable stretches we went by boat from Katombora to the base of the Kasane Rapids. The only part of the channels that really needs marking is the last mile or so below the Kasane.

We were unable to get a boat to see the navigation of the 16 miles immediately below the Katombora and must rely on the statements of others. It is often passed by paddled canoes and we accept it as navigable for powered barges even with tows.

The construction of these two canals would therefore permit barge navigation from point C158, which is about 20 miles from Livingstone up to Katuma Molilo, a total distance of about 110 miles, and up the Chobe to beyond Serondellas, a total distance of some 45 miles.

A ruling consideration in the extent of the navigable stretch to be provided is the nature of the break of bulk or transshipment at the lower end. If it can be put on rail at that point the economic possibilities of these two canals first suggested may be said to be assured. If all goods have to be carried to Livingstone by road then the double break of bulk would limit the prospects, not seriously but quite definitely.

We therefore strongly recommend that a project for building a branch line to the starting point of navigation, about 22 miles from Livingstone, should be regarded as an almost integral part of the whole scheme.

Without a much more prolonged examination of the river below the starting point now recommended we could not compare the cost of constructing the canals required, at least 9 miles in length & the laying of a rail line. Since there has been a timber railway in the past it is likely that the railway would be considerably cheaper;

For the approximate estimates in the next two sections the following general specifications were taken as a basis for the calculations!

Locks to be 60 ft long by 15 ft broad.

Canals to have Minimum depth of 3 ft.

width at base of 15 ft.

type of craft; Draught  $1\frac{1}{2}$  ft.

Length up to 50 ft

Breadth up to 12 ft

[Take in Kasano Rapids]

The Kasane Rapids — J. R. L.

These are situated about 5 miles up river from the W.N.E.A. Kazungula station, and about 2 miles downstream from Kasane. From smooth water above to smooth water below the rapids the fall is 9 feet 4 inches and the distance along a suitable line for a canal is a little under 1,400 yards.

With the alignment suggested by Mr. Ker and approved by us use would be made of a basalt bluff at the upper end, which with a small amount of reinforcement would make an excellent foundation for the upper lock or flood-gates.

We learned at Serondellas about 15 miles up stream (by river) the range of flood may be as much as 13 feet. At the Rapids the river is very wide and there could not be such a range there. Nevertheless we would recommend 18 foot flood-gates, the sill being <sup>three</sup> 3 feet below low-water level.

The course of the canal would follow the line of the abrupt side of the valley which is an amygdaloidal basalt, much decomposed in places and with many cleavage lines.

For the first 400 yards the basalt would have to be excavated to a depth from 10 feet to zero, for which we may allow, conservatively 3,000 cubic yards of excavation. The canal would then make partial use of a former flood channel which has cut into, and to a small extent has rotted the basalt. The amount of excavation would therefore be planned to be only sufficient to

to build the outer bank of the canal on the " rapids" side, which at the lower end would have to be <sup>20 ft</sup> 6 feet high. It is not easy to estimate the excavation without cross-sections but we judge it would not be more than 3000 cubic yards.

The dimensions and structure of the retaining bank would depend on the suitability of the material. We are inclined to think that the lower 200 yards would have to be lined with masonry work unless any clay pockets are found in the near vicinity. The work would consist of straight forward cut and fill, with some blasting and we think that it may be estimated to cost 5/- per cubic yard.

Our rough assessment of cost therefore comes out as follows.

2 locks at £1,000	£	2000
Total excavation 6000 yds @ 5/-		1500
Retaining bank or wall, say		<u>500</u>
		4000

To this must be added items which are

less easy to estimate as:

Charges for transport to site, say	£	300
Due proportion of cost of equipment		1000
( compressors, drills, etc), say		<u>700</u>
Contingencies		<u>2000</u>
Total assessment		6000/-

[Take in Katumbora map.]

The Katombora Rapids — J

These are situated about 36 miles (by road) from Livingstone and about 22 miles (by river) from the Kasane Rapids.

The fall from smooth water to smooth water is about 30 ft. and the approximate line for a canal is from 3500 to 4000 yds.

There is at present an irrigation furrow about 6 ft. wide which takes off at the right angle bend of the northern shore near the house. This gives an indication of the direction a navigation canal would follow but otherwise would not be of much value; the excavation being of small amount and the gradient being too steep. Except for the first 400 yds which is through friable basalt, this furrow runs, for some 1300 yds through a light alluvium with black-soil patches. The aim would be to use this alluvium as much as possible for the canal. Some proportion of the basaltic ground could also be dealt with harrowing followed by bulldozers.

The plan suggested by us would be to have a double lift (of approximately 10 feet in each lock) at the lower end, situated near the 20 ft contour above the lower smooth water level. The canal would then be excavated through the alluvium approximately along the contour as far as the late Polish Refugee Camp when it would enter basaltic ground in which there would be approximately 500 yards of excavation to the next lift which would be slightly above the present irrigation furrow intake,

near the right angled turn of the northern bank.

This lift would again be of approximately 10 feet bringing the canal water up to the level of a landing basin which would have to be made about 150 yards beyond the present landing stage. From these midway locks the embankment and cut would have to be made in basaltic ground but helped to some extent by the existence of an old flood water channel. This portion is densely wooded and small clearing costs would have to be included.

Estimation of the amount of cut and embankment is difficult in the absence of any levelling as a guide. The distance for this section of the canal would be a little over 1,750 yards, and we are assuming that the total excavation in this portion would be in the neighbourhood of 5000 cubic yards, having regard to the assistance of the old channel.

On this portion there are at least two storm channels coming from the higher ground which would require treatment, possibly by silt traps above the canal.

It is difficult to make anything like a close assessment of the amount or cost of excavation that will be required, but allowing for the extreme ease with which the alluvial portion can be dealt ~~with~~ we think that an all-in-cost for excavation is conservative at £1 per yard run for the outside length of 4000 yards. The extreme range of flood level at the intake appears

appears to be not more than 7 feet, never-the-less an 18 foot flood gate would be advisable.

The rough estimate of cost therefore runs as follows:-

4 locks @ £1,000	£	4000	
Excavation @ £1 per yard run		4000	
Control works for storm channels		<u>500</u>	
			8500

To which should be added some such amounts as -

Clearing costs, say		100	
Transport charges to site, say		500	
Due proportion <sup>of</sup> cost of equipment ( bulldozers, tractors, compressor etc)		3000	
Add for contingencies		<u>900</u>	
			<u>4500</u>
			13000

We have considered the question of maintenance costs and are of opinion that the following is a reasonable estimate.

Care and repair of locks	£	100
Clearance and repair of canal		100
Incidentals		<u>100</u>

300 per annum.



### Recommendations

As far as the engineering operations are concerned Mr. Longridge and I agree that the first thing to be done is to have some surveying done on the two sites.

This would consist of a longitudinal section of levelling with less accurate cross sections at every hundred yards or where otherwise advisable. These cross-sections should be from 10 to 30 yards on either side of the line according to whether slightly alternative routes are available or not.

In addition it would be advisable to have trial holes sunk whenever the material is not obvious on the surface.

Such a survey would enable a contracting engineer to take out his quantities and send in a tender without any prolonged inspection of the sites.

In absence of any such survey by us or indeed any pegging of the approximate line by us we think it advisable that the survey party should be in close touch with Mr Ker whose general route is fully approved by us.

We do not think it necessary to seek the advice of an Inland Water Transport Engineer from England. After the above survey is available the general specifications could be drawn up by the Territory's own engineers and sent out for tenders

to contract.

We are of opinion that the lock gates could be made largely of local timber and that the steel and Iron work for sluice mechanism, hinges, etc, could probably be made in Southern Rhodesia except when they are obtainable from stock in England.

The rate of construction would naturally depend on the amount of labour employed, but it should not exceed the period of one dry season, the most favourable time for such excavation, and a clause might be included in the contract to that effect.

The method of financing the scheme is hardly in our terms of reference, but it is suggested that public ownership, whether by means of a public utility company or via commissioners or otherwise, would be a suitable and natural development for a waterway which should be a permanent asset to the countries concerned. This body would then own and operate the canals paying off its capital charges in an agreed number of years besides making some profit to the exchequer of those countries.

I think that the operation of transport up and down the river might properly be left to one or more companies who would be subject to such charges as might from time to time be fixed

In this connection I feel bound to put forward the claim of Mr. Ker for priority of some kind. As far as I am aware he was the first promoter of this actual scheme and I know he has spent a good deal of his capital in his own surveys and investigations. He was, before the war, a road transport contractor in Southern Rhodesia and seems to have a good grasp of transport problems. He would certainly be an energetic manager.

## The Economic Problem

Without going into detail about the freight charges to be levied, which will ultimately depend on the market price for foods carried, we may consider the possible and probable tonnages to pass the canals in the near future.

It must be realised from the outset that the commodity which will pay for the canals and in fact prompts most of the recent proposals is timber.

The present world shortage, and the long haulage from the sea-ports to parts of the Union and Southern Rhodesia have created a demand which cannot at the moment be supplied. Moreover the prices permit the heavy costs of road haulage to railhead to be economic. The duration of that demand is not easy to estimate depending amongst other things on the shipping position for competitive timbers and the housing shortage in Southern Africa. But it is quite certain that the demand will be prolonged if the haulage costs can be reduced.

With regard to the quantity I can only mention one figure, arising from a conversation with people concerned with the Chobe Timber Concession, namely that they would like to ship 2000 tons a month from Serondellas instead of the 200-500 tons they send by lorry to Japuta at present.

25 The figures for timber available within easy reach of the

Chobe and Upper Zambezi can be assessed in round figures as a further guide to the timber traffic which would be likely to avail itself of water transport.

The return traffic up river would be small in comparison being of the order of 200 tons a month, with an increase likely consequent upon an increase of timber-getting and general development.

From the quantity available the timber industry appears to have a life of from 10 to 30 years according to the demand and rate of cutting, though the increase of haulage to river-side as cutting proceeds may seriously affect the price and therefore the output.

This assured traffic in the early period is a matter for considerable satisfaction to any promoters and is possibly the best reason for early decisions and action since while demand is high the freight rates can be high.

The future long term traffic for the waterway clearly depends on the development of Barotseland, The Caprivi Strip and Bechuanaland Protectorate, but it is certain that the products will be mainly agricultural and therefore bulky, demanding cheap transport. To a large extent therefore it may be said that the natural development of these areas depends upon the provision of water transport.

There would be a small but steady use of the waterway for passenger traffic, both by labour recruiting organisations and possibly by tourist agencies in due course. The effect of such personal traffic on the rate of development of the bank areas must not be underestimated,

The economic and social effect on the natives would no doubt be slow but sure. For tribes already inclined to trade to some extent, such as the Barotse the effect might be immediate. For the Batawana it is bound to be much slower. Nevertheless it is, I take it, the declared policy of these territories to develop by and for the natives, and transport of this kind is a sure way.

Political Aspects

Navigation Facilities on the Upper Zambesi affect at least four territories:

Northern Rhodesia

Southern Rhodesia

Bechuanaland Protectorate, and

The Caprivi Strip.

as far as riparian ownership is concerned, and the three first mentioned might be said to be the most actively concerned.

The Zambesi is by convention an international waterway but this part of it does not touch territory outside the British Commonwealth.

It may be accepted that the three countries above mentioned would all support any projects for the improvement of navigation and would be likely to be participants in any public utility company, owning shares according to their contribution of capital.

In this particular project, one canal, the Kasane or upper one will be cut through Bechuanaland Protectorate land while the other will pass through Northern Rhodesia.

I heard from Mr Ker that when he originally proposed to seek powers to cut the canals himself he obtained a provisional or conditional charter from the High Commissioner to do so. I am unable to say how far the discussion went.

Should negotiations for a public utility company, in which all three territories participate, break down, I would recommend that Northern Rhodesia consider proceeding with her own resources.

She will, under ordinary development, benefit most from the scheme.



Possibilities for irrigation: the Katombora Site

Naturally every section of rapids on a river is an invitation for cheap irrigation provided there is land available and suitable.

My visit was much too brief to enable me to pay close attention to the engineering aspects of such works nor am I qualified to pronounce upon the value of the land which would be irrigable. On the other hand I was able to walk over a great part of the land originally served by the irrigation furrow at Katombora, and have collected a small amount of local information about it.

The furrow is dug for about a mile from its intake, but at present it only serves a small part of the land, planted with 600 hundred citrus trees, of bearing age. The further end of the furrow would require clearing, at small cost, to make it again serviceable.

The area of land irrigable would then be from 300 acres to upwards of 500 acres according to how far the furrow were taken. Except for one or two small patches with bad drainage the soil is a free working one of silt with a proportion of black soil. The gradient to the lower river is very convenient and some 100 acres or so are cleared with small growth on the remainder till the neighbourhood of the river itself is reached. There is a reparable barbed wire fence cutting the large triangle off from ordinary game inland.

This history of this venture by Mr. Sutherland is not fully known but apparently its only partial success was due mainly to transport difficulties to Livingstone.

The capital sunk in the irrigation scheme could not have been much less than £ 2000 and was probably more. I gather that the whole of the holding was purchased by the Government for the Polish Refugee Camp.

The future development of the Zambezi Valley seems to be mainly agricultural, timber being a gradually vanishing asset. This agriculture will find its best market in out of season crops grown by irrigation, probably supported in time by dairy products. Some of this irrigation cultivation will be done by Europeans, and in time some will be done by natives. Both, but especially the natives, will require advice as to methods, lay-out, crops etc and there will be experimental work required for the latter.

It appears to me that this half- completed irrigation scheme, already in the possession of Government, would be an ideal site in many ways for such an experimental and demonstration farm. Apart from agricultural machinery there would be very little initial outlay over buildings, fencing etc, and a small immediate offset to that in the citrus orchard, which is in fair order at present.

I would strongly recommend some such scheme for the consideration of your agricultural officers. -

[Take in sketch map for  
Place names]

Copy for Secretariat File

Government House

22nd April 1946

Lusaka

27

Dear Lord Trenchard

Following our conversation the other night about improvement of navigation on the Upper Zambesi and the important part the Rhodesian Railways might play in the scheme, I enclose a map to illustrate the points we discussed.

It is a tracing from the 1/250,000 map and is as correct as any other map available.

It shows the point at which Barge navigation would start, the river below that point being intractable, or at least difficult to canalise.

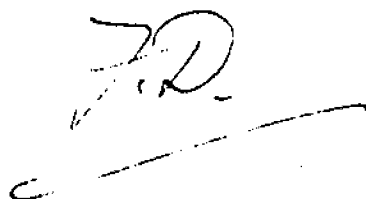
The Zambesi Sawmills Light railway ran formerly within a mile of this starting point, to the pontoon ferry. That was lifted in about 1933 and transferred to its north western extension but ofcourse the gradients and embankments remain. the bridges are probably unserviceable.

What is required to "round off" the navigation scheme is that this line should be relaid to the starting point of navigation. This would appear to mean about seven miles of relaid line and one or two miles of new construction.

The freight to be carried would be chiefly timber in the earlier years, its destination being to Northern and Southern Rhodesia, and the Union so that the line should be laid for the timber carrying class of rolling stock. In due course the freight would include food products from Barotseland, which in my view is the ultimate raison detre for the whole scheme. At the same time I believe that there is no reason why the branch line should not very soon begin to pay its way, considering the small capital cost involved.

I am sorry that the lateness of my Rhodesian Railway train on Sunday night prevented me from having a longer talk with you on the development of Southern Africa but I trust that if you are not too frantically busy we may resume at some time, in England, where I expect to arrive early in September.

Yours sincerely



Upper Zambesi Canals.

Reference No. 227.

## CENTRAL AFRICAN COUNCIL

## UPPER ZAMBESI CANALS COMMITTEE

## Potential Traffic and other Economic Factors

Note by Secretariat.

At the first meeting of the Committee held in Salisbury on the 24th December, it was agreed that the Chief Secretary should make enquiries of the Northern Rhodesia Government regarding the extent of Government and traders' traffic, and of the Southern Rhodesia Government and W.N.L.A. regarding the extent of their potential traffic along the Zambesi route. The result of these enquiries and other economic information received is summarised below.

- \* 2. A canal constructed to by-pass the Katombora rapids would be of no advantage to the Witwatersrand Native Labour Association. Their railhead is not Livingstone but Jafuta, at which point they have established a camp. The whole of their traffic for the Zambesi area is sent by road from Jafuta to Kazungula except some heavy goods for Katima Mulilo northwards which are carried by the Saw Mills Railway from Livingstone to Masaso. The Association has made a road between Jafuta and Kazungula which is adequate for its own traffic. The proposed canal to by-pass the Kasane rapids might be occasionally used by the Association for river transport between its Kazungula and Kasane camps which are seven miles apart, but their ordinary transport between these points would continue to be by lorry. The canal would not alter the present arrangements under which the Kasane camp, just above the rapids, is the terminus of the lorry and barge service to Katima Mulilo. During any twelve months most of the traffic goes by road across the Caprivi Strip from Kasane to Katima Mulilo. However the construction of a canal at Kasane, if it caused the Chobe Timber Concessions to use water instead of road transport, would be of advantage in eliminating the heavy timber lorries from the Kazungula/Jafuta road. The Association considers, as far as general traffic up the Zambesi is concerned, that a canal by-passing the Kambova rapids would be of most use for river traffic to and from Livingstone. (The Association's attitude may alter radically once canals are constructed; and the question of capital cost has been disposed of.)

The Association is at present using 20 passenger trucks, 2 large motor launches carrying 50 natives each, 15 paddle barges and two pontoons.

3. The Commissioner for Native Labour in Southern Rhodesia states that Southern Rhodesia does not obtain a great amount of labour along the river route from Barotseland and the present expenditure is out of all proportion to the benefits received. The number of migrants carried by the Southern Rhodesia free transport service from Barotseland in 1946 was 1,318 and the number carried on the return journey about half this figure.

From/...

From Katima Mulilo the migrants are carried to Namipi by barge and launch, changing boats at the Mambovu rapids. From Namipi the journey to the Falls is by lorry. A canal by-passing the Mambovu rapids would be of assistance.

4. The Northern Rhodesia Government is believed to be in negotiation with two concerns interested in cutting Rhodesian teak in the Mukusi forests in the Sesheke district and plywood logs in the Katima Mulilo area. The two concerns are :-

- (a) Rhodesian Wood Industries, Ltd., who have a plywood plant at Livingstone, and
- (b) Ker and Kazoroti.

Were river transport available at reasonable rates it is thought that from 500 to 750 tons of timber a month would be sent to Livingstone by this route.

5. The Northern Rhodesia Government runs a river transport service to Mongu from Livingstone. The first stage of the journey is by the Saw Mills Railway to Masese, then by lorry 159 miles to Namwashi and from there to Mongu by barge. The trip from Livingstone to Mongu takes about 19 days. In three months October to December 1946, approximately 250 short tons were carried.

6. To summarise the above information, it appears likely that the following traffic might be expected to use the canal route :-

N.H.L.A.	Nil at present
N.R. Timber	500/750 tons per month
Goods to Barotse	80/90 tons per month
S.R. Labour	160 passengers per month.

The above figures do not take into account the possible transport of timber from the Chobe Timber Concessions, which might amount to between 1,000 and 2,000 tons a month downstream and a further 200 tons upstream. Nor do they take into account the development of exports other than timber from Barotseland arising from the provision of cheap transport. It is not possible to give even a rough estimate of what this traffic might amount to, except to say that under favourable circumstances it would be considerable.

7. The Barotse Province has a population of over a quarter of a million and its natural resources are almost wholly undeveloped. Apart from the possible use of air transport, on which it is as yet too early to rely, and the opening up of the Zambezi river route, which is under consideration by the Committee, there are only two other feasible routes. These are the Mongu to Lusaka and the Kalovale to Copperbelt roads. The Mongu/Lusaka road was abandoned in 1944 on account of the excessive cost of maintenance. The distance was 440 miles, of which over 100 miles was over extremely volatile sandy soil on which it was impossible to form a firm surface. Very large sums of money would be required to overcome the difficulties of terrain. The distance between Kalovale and the Copperbelt is just under 400 miles, with Mongu a further 120 miles away. The length of this road precludes its use as a main link between the Province and the Line of Rail. Should the development of the river route prove possible, there is little doubt that it would carry the bulk of the produce and passengers to and from the Barotse Province. The distance between Mongu and Livingstone by this route is 340 miles and between Katima Mulilo and Mongu there is only one stretch of between 70-80 miles which is not at present navigable.

A solution/...

3.

A solution to the navigation problems of the first 135 miles from Livingstone to Katime Mulilo would thus go far towards the establishment of the river route as the main line of communication to and from Barotseland.

8. Grinaker's report on the by-passing of the rapids at KATAMBORA and at KASANE gives three alternatives in each case. These are :-

KATAMBORA.

(1) Canal Construction	£37,000
(2) Road construction, 36 miles all weather	£100,000
(3) Railway portage	£19,000.

KASANE.

(1) Canal construction. Scheme A.	£44,700
(2) Canal construction. Scheme B.	£31,500
(3) Railway portage	£12,000.

9. From what is known of the present and potential river traffic, it would seem that the high cost of canalisation could not be justified in either case.

10. The estimate for the construction of an all weather road from Livingstone to Katambora is probably on the high side. Figures obtained from the Southern Rhodesia Roads Department give present day costs as follows :-

<u>Strip Roads.</u>	Foundation per mile	£ 300
	Surface per mile	£ 650
	TOTAL	£ 950

<u>Eleven foot tar carpet.</u>	Foundation per mile	£ 300
(gravel surface, not compacted)	Surface per mile	£ 750
	TOTAL	£1050

Maintenance of the tar carpet road is considerably less than of the strip road and according to Southern Rhodesian experience fully justifies the extra cost. On the basis of £1050 per mile, the cost of construction of 36 miles of tar carpet road from Livingstone to Katambora would be only £37,000, not allowing for the cost of such bridges as might be necessary. An estimate of £50,000 should be more than adequate. As 22 miles of this road would have to be made in any event, the cost of this alternative must be considered on the basis of 14 miles, say £16,000. Maintenance costs would be about £40 per mile per year, but this does not allow for resurfacing every eight to ten years. Maintenance would therefore cost about £600 per mile/year on the 14 miles of road in question.

11. On these figures there would seem to be nothing to choose between the cost and maintenance of an all weather road and the railway portage scheme in so far as the Katambora rapids are concerned. The road would however be a permanent asset to the area.



12. As regards the Kasane Rapids, the cost of the railway portage scheme would appear to be justified. The General Manager of Rhodesia Railways is able to supply scrap rails at 1/6d. per foot. At this figure the cost of the rails, estimated in the report at £3,200, would be £300, say £500 delivered, and the total cost of the scheme would therefore be reduced to £3,300.

13. A final point to be considered concerns the operating costs of the river craft. In this connection the following facts have been given by Mr. Ker. The trip from the Mtwala rapids near Kasane to Katima Mulilo is over 100 miles. With a landing craft towing four barges upstream empty and returning downstream loaded to between 40 and 50 tons, the cost including petrol, labour, maintenance and overheads, amounts to £37.10. 0. This gives a ton mile cost of two pence farthing. If a further three farthings is added to cover depreciation, the total ton mile cost is threepence. This figure would be reduced if a pay load were carried upstream and if larger barges were used. The landing craft are at present powered by petrol marine engines. If diesel engines were fitted, costs could be still more reduced. A figure of 4d./ton mile should adequately cover costs (including portage fees) and profit on the assumption that some reduction of the present costs could be made.

14. In order to avoid wasteful competition the Committee might consider recommending that, in the event of the river route becoming established, a system of licensing on the lines of the Public Service License regulations for motor vehicles should be introduced. At present the Northern Rhodesia Government transport service travels loaded to Mongu and empty downstream, Ker travels empty upstream and loaded downstream, and the Southern Rhodesia Labour Transport Service travels regularly with half loads upstream and full loads downstream. This wasteful competition is not in the interests of the area. One transport concern running all the transport on the river, including that of W.N.L.A., would be able to effect appreciable economies.

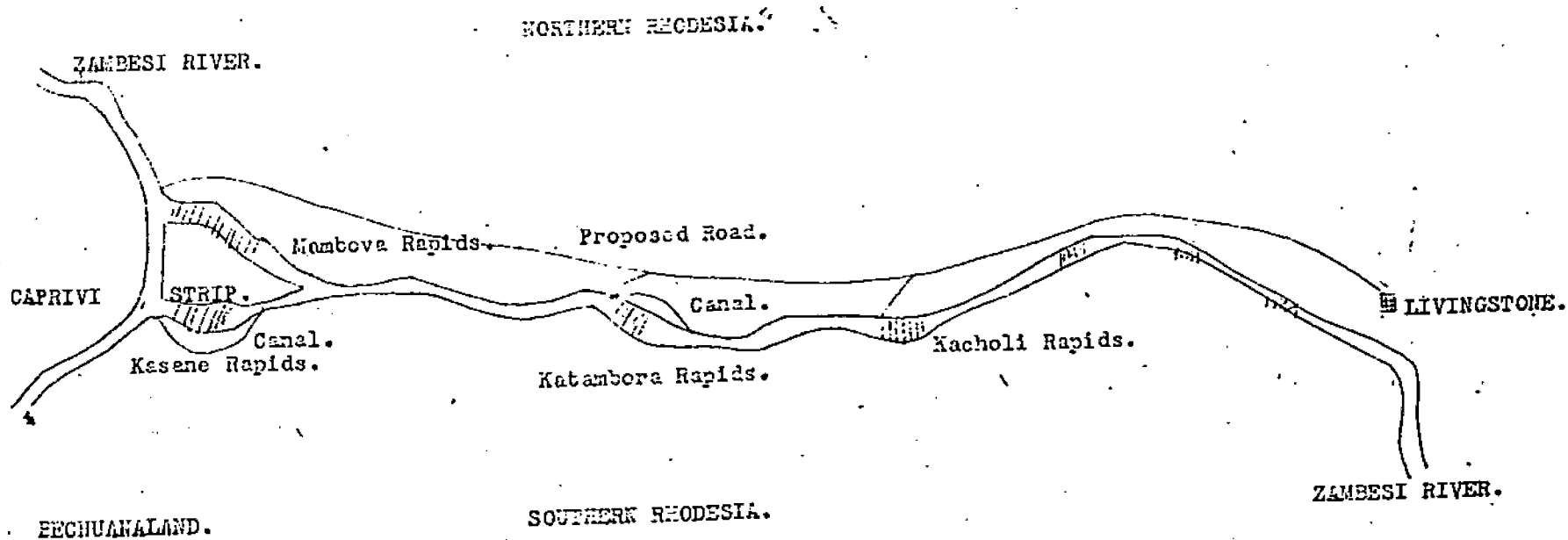
H. NIGEL PARRY.

for : CHIEF SECRETARY.

Central African Council Secretariat,  
SALISBURY. 3th December, 1947.

(5)  
SKETCH MAP TO SHOW PLACES NAMED IN REPORT.

TO  
KATIMA  
MULILO.



Scale. Approximately seven miles to one inch.

# ANNEX 5

## TOURISM INFORMATION: CHOBE RIVER

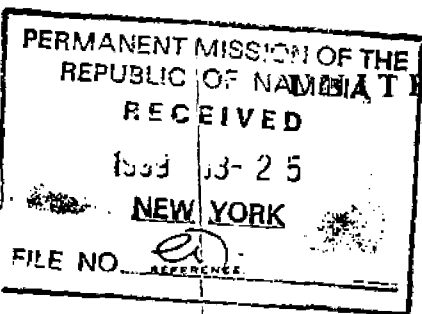
The following information was provided by Steve Griesel of the Chobe Conservation Trust in relation to tourist operators, boat numbers and tourists using the Chobe River for game viewing expeditions:

OPERATORS	NO. BOATS/CAPACITY	CAPACITY/YEAR/ BOAT	TOTAL OPERATOR CAPACITY
<b>BOTSWANA OPERATORS</b>			
Chobe Game Lodge	2 16 seaters 1 25 seater 6 5 seaters	11680 9125 10950	31755
Africa Expeditions	3 16 seaters 1 10 seater 11 5 seaters	17520 3650 20075	41245
Moana Lodge	1 35 seater 1 16 seater 2 10 seaters	12775 5840 7300	25915
Chobe Safari Lodge	2 25 seaters 1 12 seater 3 8 seaters	18250 4380 8760	31390
Safari Excellence	2 16 seaters	11680	11680
Chobe River Safaris	1 25 seater 1 12 seater	9125 4380	13505
Chadwick	1 25 seater	9125	9125
Chobe Chilwere	1 10 seater 1 6 seater	3650 2190	5840
Pombaserv	1 10 seater	3650	3650
<b>BOTSWANA BOATING TOURIST CAPACITY:</b>			174105
<b>NAMIBIA OPERATORS:</b>			
Impalila Island Lodge	CH 055* 6 seater CH 212* 6 seater Ch 347 6 seater CH 137 4 seater CH 138 4 seater CH 139 4 seater CH 141** 4 seater CH 357** 3 seater	10950	4380*

Inchingo Lodge	CH 316 6 seater	4380	10220
	CH 317 6 seater		
	CH 353 4 seater	5840	
	CH 358 4 seater		
	CH 173 4 seater		
	CH 145 4 seater		
Kings Cabins	CH 271 8 seater	11680	20805
	CH 272 8 seater		
	CH 273 8 seater		
	CH 305 8 seater		
	CH 370 25 seater	9125	
	CH 010 (supply boat)		
NAMIBIA BOATING TOURIST CAPACITY			35405
TOTAL CHOBE BOAT CAPACITY			209,510

\* Boats used by Impalila Island Lodge for game viewing on Chobe River.

\*\* Boats used only to transport tourists from airstrip to Impalilia Island Lodge.



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TELEGRAPHIC ADDRESS—ADRESSE TELEGRAPHIQUE: UNATIONS NEWYORK

**ANNEX 6**

The Office of Legal Affairs of the United Nations presents its compliments to the Permanent Mission of the Republic of Namibia to the United Nations and has the honour to refer to the note verbale of the Mission dated 9 March 1999.

By that note the Mission informed the Office of Legal Affairs that at the oral hearings of the International Court of Justice in the case concerning Kasikili/Sedudu Island (Botswana/Namibia), the Court took note of Botswana's position that the Joint Survey Report of 1985 and the intergovernmental transaction of 1984 and 1985 relating to it constitute an international agreement, and in this connection addressed the following questions to the both Parties:

“Was that international agreement registered with the Secretariat of the United Nations under Article 102 of the Charter? If not, may that agreement be invoked before any organ of the United Nations including this Court, the principal judicial organ of the United Nations?”

With reference to the first question please be advised that after a careful search the Treaty Section of this Office has concluded that the Joint Survey Report of 1985 and the intergovernmental transaction of 1984 and 1985 has not been registered with the United Nations Secretariat under Article 102 of the United Nations Charter.

As to the second question, we are not in a position to advise you on it because it would require us to pass judgement on the question which is debated by the Parties before the Court and that may be interpreted as interference in the proceedings of the Court. It will be ultimately for the Court, in the light of the arguments presented by the Parties and the past practice of the Court, to determine whether the documents in question could be evoked before the Court in this case.

The Office of Legal Affairs of the United Nations avails itself of this opportunity to renew to the Permanent Mission of the Republic of Namibia the assurances of its highest consideration.

19 March 1999

# ANNEX 7



MINISTER VAN BUITELANDSE SAKE  
MINISTER OF FOREIGN AFFAIRS

26 April 1992

Honourable Minister

I refer to your letter of 19 March 1992 and must inform you that the Republic of South Africa has at no time "given encouragement to and acquiesced in Botswana's" claim to Sidudu island.

The joint survey you refer to in your letter, a copy of which I attach, did come to certain conclusions, but according to legal opinion in South Africa at that time, did not prove conclusively that Sidudu island belongs to Botswana. The South African authorities have therefore suggested to Botswana in a telex dated 17 November 1986 that the matter be taken up with the Government of an independent Namibia. This was not acceptable to Botswana as they considered the joint survey's report to be conclusive and in fact expressed the opinion that "no further discussion of the matter is necessary".

The matter has therefore not been resolved as South Africa has never officially recognized Botswana's claim to Sidudu island.

I trust that the aforementioned will put matters into perspective and would assist you in your negotiations with the Botswana Government.

Please accept, Mr Minister, the assurance of my highest consideration.

A handwritten signature in dark ink, appearing to read 'R F Botha'.

R F BOTHA

Mr Theo-Ben Gurirab  
Minister of Foreign Affairs  
Private Bag 13347  
Windhoek  
REPUBLIC OF NAMIBIA

## ANNEX 8

**URGENT**

Note No 017/99 (POL)

The High Commission of the Republic of South Africa presents its compliments to the Ministry of Foreign Affairs of the Republic of Namibia and with reference to the Ministry's Note 1/1/19/7 dated 9 March 1999 regarding the Kasikili/Sedudu case, has the honour to inform the Ministry that there is NO RECORD of an alleged "Intergovernmental Agreement" between the Governments of South Africa and Botswana regarding the Kasikili/Sedudu island in the Chobe River.

Nothing has been signed or registered at the United Nations, with reference to the 1985 Joint Survey Report and the intergovernmental transaction of 1984-1985.

The High Commission of the Republic of South Africa avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Republic of Namibia, the assurance of its highest consideration.

WINDHOEK

31 March 1999



**Judge Oda**



**Judge Oda:**

Although I have closely followed the explanation by both Parties regarding the factual situation of the region in the vicinity of Kaisikili/Sedudu Island on both sides of the Chobe River, I still find it difficult to visualize the social conditions that prevailed in the region late in the last century. I would like to put to both Parties the following questions which concern the social conditions and the natural situation *at the time when the 1890 Treaty was negotiated*. I would be most grateful if the parties could answer the questions as far as they can.

1. *What was the population count in the region both north and south of the Chobe River late in the last century?*

Namibia has found no official or unofficial estimate of the population of the Eastern Caprivi in 1890. The earliest available official estimates of the population of the Eastern Caprivi is found in the Report of the Resident Commissioner (Bechuanaland Protectorate) on the Administration of the

Caprivi for the period 1914-1922. According to this Report, in 1921 the population of the Caprivi was 4,249 people.<sup>1</sup>

This figure must be taken with some caution. Indeed, according to the Reports filed by South Africa with the League of Nations between 1925 and 1927 the population in the Caprivi remained static at 4,249.<sup>2</sup> South Africa naturally had an interest in underestimating the population of the Caprivi and of the whole of South-West Africa in order to escape the League of Nations' criticism of its social policies, particularly regarding the provision of schools, hospitals and other amenities. According to information Namibia has been able to find, the population of the Masubia of Eastern Caprivi was given in 1946 as 5,548,<sup>3</sup> and that of the Masubia of the Bechuanaland Protectorate as 2,500.<sup>4</sup>

In any event, what is beyond doubt is that, in 1890 the Masubia were already established in the Eastern Caprivi and that the area south of Kasikili Island was uninhabited. This is confirmed by the accounts of travellers and explorers cited

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<sup>1</sup> NM Annex 52, p. 205.

<sup>2</sup> Union of South Africa, *Report of the Government of South Africa on South-West Africa for the Year 1925*, Cape Town, Government Printers, 1926, p. 115 (Annex 9); Union of South Africa, *Report of the Government of South Africa on South-West Africa for the Year 1926*, Cape Town, Government Printers, 1927, p. 101; (Annex 10) Union of South Africa, *Report of the Government of South Africa on South-West Africa for the Year 1927*, Cape Town, Government Printers, 1928, p. 123. (Annex 11)

<sup>3</sup> *Population Census, Eastern Caprivi Zipfel*, 31 May 1946, in BAO 16-21/7253, National Archives, Pretoria (South Africa). (Annex 12)

<sup>4</sup> A. Sillery, *The Bechuanaland Protectorate* (1952) London, p. 218. (Annex 13)

in Namibia's Memorial.<sup>5</sup> An additional source that confirms this fact is found in an article by Percy C. Reid published in 1901. According to Reid,

[T]he country from Kazungula westwards, along the north side of the river, is inhabited by Basubia as far as a point slightly west of Marneli's [village].<sup>6</sup>

Describing the situation to the south of the river, Reid states:

[R]oughly speaking, the whole of the right bank of the river from Maheni's to Kazungula may be said to be uninhabited.<sup>7</sup>

That the land to the south of Kasikili Island was uninhabited is further confirmed by the fact that in 1948, when Trollope and Redman investigated the boundary around Kasikili Island, they also reported that the area to the south of Kasikili Island was uninhabited.<sup>8</sup>

We record, however, the fact that the country on the Bechuanaland side of the boundary is for all practical purposes not tribally occupied by Africans.

**2(a) *Did the people both north and south of the river belong to the same tribe or race of people?***

<sup>5</sup> NM, paras. 209-217.

<sup>6</sup> Percy C. Reid, "Journeys in the Linyanti Region", *The Geographical Journal*, Vol. XVII, No. 6, p. 580. (Annex 14)

<sup>7</sup> *Id.*, p. 581. (Annex 15)

<sup>8</sup> NM Annex 60.

Before the 1890 Treaty the traditional land of the Masubia straddled over the Chobe River (CR 99/4, para. 3). But the heartland of the Masubia people is in Eastern Caprivi where, since at least the mid-18<sup>th</sup> Century, the Royal House of the Masubia chiefs (*Munitenge*) is situate.

The people living to the north of Kasikili Island belonged to the Masubia community. In the area to the south of the Island, there were no tribes since that part of the Bechuanaland Protectorate was not tribally occupied. This is the area which was established by the Bechuanaland authorities first as the Chobe Crown Lands in May 1904,<sup>9</sup> then as the Chobe Game Reserve<sup>10</sup> in 1960 and thereafter as the Chobe National Park.

*2(b). Were the Masubia people spread over a somewhat wider area north of the Chobe River, namely Eastern Caprivi, or were they settled on both sides of the river in the last century?*

Upstream of Kasikili Island, south of the Chobe River, there were a few Masubia communities living alongside people belonging to other communities of the Bechuanaland Protectorate, mainly the Batawana. The Masubia living

<sup>9</sup> W.M. Hailey, *Native Administration in the British African Territories*, H.M. Stationery Office, 1950-53, vol. V, p. 206.

<sup>10</sup> BM, Vol. III, p. 302.

south of the river are found mainly in the upper Chobe in the area of Munga and Kachikau.<sup>11</sup> There are also Masubia people living in Botswana, but not close to the Chobe River. They are found some 300 kilometres south west of Kasane. Their presence in Botswana dates back to the 1830s when the Lozi from Barotseland invaded and occupied the land of the Masubia in the Eastern Caprivi. In the 1870s, after a section of the Masubia rebelled against the Lozi, there followed a succession squabble within the Masubia. As a consequence some Masubia fled to Botswana, some 300 kilometres south of Kasane.<sup>12</sup>

In any event, the Masubia living in the Bechuanaland Protectorate were not recognized by their colonial masters as an autonomous community. Accordingly, in the early 1900s when tribal reserves were created in the Protectorate, the Masubia were not allocated a reserve.<sup>13</sup>

In his discussion of 'subordinate tribes' of Botswana, Sillery stated that during the whole colonial period the Masubia lived as part of "subordinate tribes", that is ethnic groups 'relegated to a minor role in the conduct of affairs in the

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<sup>11</sup> D. M. Shamukuni, 'The baSubiya' *Botswana Records*, pp. 178-180. (Botswana Supplementary Documents)

<sup>12</sup> A. Sillery, *The Bechuanaland Protectorate*, Oxford University Press, 1952, pp. 190-192. (Annex 16)

<sup>13</sup> Lord Hailey, *Native Administration of the British African Territories*, Part V, London, Her Majesty's Stationery Office, 1953, pp. 229-230.

[Native Administration]<sup>14</sup> in terms of the Native Administration Proclamation.<sup>15</sup>

Attempts were made by the Masubia communities of Botswana to encroach on the Chobe Crown Lands west of Ngoma Bridge in 1949 but was met with a decisive response by the Bechuanaland Authorities:

Since 1949 Basubia and Batawana have steadily encroached on Crownland along the Chobe River north-east beyond Kavimba which has always been regarded as the easterly limit of land by these small African populations. It is proposed that between August and October of this year an Administrative Officer, assisted by agriculture, police and veterinary representatives should move the 28 odd families back west of Kavimba <sup>16</sup> [that is, far southwest of Ngoma Bridge].

*3. What kind of lifestyle was enjoyed by the native peoples living both north and south of the River Chobe or how was their society structured?*

<sup>14</sup> Sillerey, *ibid.*, p.212. (Annex 17)

<sup>15</sup> NM, Vol. V, p.118.

<sup>16</sup> Government Secretary's communication of June 1955 to the Police Commissioner, the Director of Agriculture and the Director of Veterinary Services quoted in D.M. Shamukuni, *The baSubiya*, Botswana Society (1972): *Botswana Notes and Records*, Vol. 4, 1972, p. 180 (Botswana's Supplementary Documents to the International Court of Justice).

There were no people living south of the River Chobe at Kasikili Island.

The people living north of the Chobe River at Kasikili Island, the Masubia, lived in the Kasika District. Their economy was based on subsistence agriculture. They fished, grew maize and millet, and had cattle. The use of the islands on the Chobe River by the people from the Eastern Caprivi was recorded thus by Richard Rothe, a German explorer who visited the area in 1904.<sup>17</sup>

On the islands coming after Mpalera, [sic] although much smaller than Mpalera, there was lively activity; on each island there were approximately 100... [Africans] with women and children. These islands are extremely fertile, and each is approximately 4 kilometres long and 700 meters wide, in contrast to Mpalera, which is 14 kilometres long and 2 kilometres wide.

Kasikil Island, the first island to the west of Impalila Island on the Chobe River, was cultivated by the Masubia from the Kasika District.

The traditional structures of authority of the Masubia community comprised the following: a hereditary chief; a principal adviser to the chief, called *ngambela*; and district headmen and village headmen, called *indunas*. The chief administered his territory through the *indunas*. The chief and district headmen formed the *khuta*. The *khuta* was the main legislative and judicial organ.

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<sup>17</sup> NM Annex 33 pp. 20-21.

*4(a) Did several families constitute a community or were communities much bigger?*

The Masubia of the Caprivi lived in small villages, each consisting of about 30 units.<sup>18</sup> People in each village were usually members of the same extended family. Groups of villages formed districts and each district was represented within the traditional structures of authority.

*4(b) Was there any inter-relation between the communities to the north and south of the river?*

Since the land to the south of Kasikili Island was uninhabited, the only people in the area around Kasikili Island were the Masubia from the Kasika District. In other stretches of the river, however, there was trade between the communities living on either side of the river bank. Initially, people from the Kasika District conducted some trade in Kazungula to the east of Kasikili Island. Later on, after 1915, people from Kasika went to the fish market at Kasane.

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<sup>18</sup> NM para. 231; NM, Annex 132, pp. 27-28.



***4(c) Did the chiefs of the tribes have really effective control over the larger community?***

The Masubia chiefs had effective control over their people. For example, when Hauptmann Kurt Streitwolf, the first German Imperial Resident, established his administration in the Caprivi he made use of the structures of the Masubia traditional authority.<sup>19</sup> Moreover, South Africa's Annual Reports to the League of Nations contain several references to the fact that colonial administrators relied on the authorities of the Masubia for important administrative functions, such as administration of justice, allocation of communal land and veterinary controls.<sup>20</sup>

***5. In the period before or just after the Anglo-German Treaty of 1890 did the Chobe River physically prevent the northern and southern people from crossing and did the Chobe River form a natural barrier?***

No, the River Chobe did not form an insurmountable barrier. It was crossed by the Masubia using *mokoros* or dug-out canoes in those areas where both banks

<sup>19</sup> NM para. 235; NM Annexes, 58, p. 8; and 141, p.111.

<sup>20</sup> Union of South Africa, *Report of the Government of South Africa on South-West Africa for the Year 1925*, Cape Town, Government Printers, 1926, p. 115. (fn. 2, *supra*)

of the Chobe River were tribally occupied. The people could walk across the river where it was dry or shallow.

*6(a) Was transportation by boat along the Chobe River the main method of connecting the villages and communities at the time? 6(b) If so, between which points of the river did the boats travel?*

In the area around Kasikili Island the Masubia from the Kasika District used *mokoros* or dug-out canoes to go across to Kasane in the Bechuanaland Protectorate. Upstream from Kasikili Island, where the River Chobe dries up completely during part of the year, people could cross the river bed on foot.

*6(c) Were the German settlers in South West Africa in the last century interested - potentially or actually - in using the river for transportation to the Zambezi River?*

There is no evidence of the German colonial authorities ever having used the Chobe River during the nineteenth century. With the exception of Streitwolf who used a dug-out canoe to travel from Ngoma to the Mambova Rapids when he entered the Caprivi in 1909, the German colonial authorities showed no interest in using the River Chobe either for transportation or for any other

purpose.<sup>21</sup> The British realized that even the Zambezi River was not navigable in the sense of the concept of navigability as understood in Europe at the time. In the result, in 1907 the British considered the exchange of the Caprivi Strip for a corresponding territory in the Bechuanaland Protectorate. In a confidential letter to the Secretary of State in London, the British High Commissioner in Johannesburg stated:

I have always understood that the reason why His Imperial Majesty the German Emperor laid on the possession of this strip, was his desire not to be excluded from the navigation of the Zambesi, about which, at that time, very little was known. But what are the facts of the case now that they are known? From the point of view of access to the Zambesi as a road to the sea, the German strip is wholly valueless. The Zambesi becomes wholly unnavigable, even to small cannoes, close to Kazingula, which is over 50 miles from the Victorial Falls. Between it and the Falls, therefore, there is no possibility, and never can be any possibility of navigation. Nor, again, can there ever be any possibility of navigation in that deep and intricate gorge, through which the river so fiercely forces its way for may miles below the Victorial Falls. So far as the Governments for which I am responsible are

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<sup>21</sup> NM, para. 223 and NM Annex, 141.

concerned, the German strip could be exchanged for a corresponding portion of British territory taken from Bechuanaland Protectorate. I will revert to this subject when I answer your confidential despatch of May 4<sup>th</sup>, 1907. The Resident Commissioner of the Bechuanaland Protectorate and Sir Hamilton Goold-Adams both earnestly advocate the proposal I have adumbrated, and I am only waiting for certain information from the Magistrate in the Batawana Reserve to reply to your despatch. The British South Africa Company would have to be consulted in respect of any surrender of territory from the Bechuanaland Protectorate, but if as I should recommend the Barotse portion of the German strip was added to North-Western Rhodesia, there is no likelihood of the directors being otherwise than entirely favourable to the scheme.<sup>22</sup>

Then in 1908, Britain proposed to Germany to exchange the Caprivi Strip for land in the Bechuanaland Protectorate, near the Nosop River. As explained by the British Foreign Secretary in a letter to the British Ambassador in Germany in 1908,<sup>23</sup>

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<sup>22</sup> Public Record Office, FO 367/79. (Annex 18)

<sup>23</sup> Draft Letter of June, 1908, from Sir E. Grey, British Foreign Secretary, to Sir F. Lascelles, British Ambassador to Germany, Public Record Office, CO 879/98. (Annex 19)

[T]he strip in question appears to be of no value either intrinsically or as a highway to the navigable waters of the Zambesi, which is closed by the Katima Rapids at the west while the Victoria Falls prevent vessels from descending to the portion of the river running through Rhodesian territory.'

*7(a) How did the communities sustain themselves?*

As explained in response to question No. 3, the economy of the Masubia was a subsistence economy based mainly on farming, fishing, hunting and animal husbandry.

*7(b) Did they cultivate crops (and if so what kind), or did the people depend on hunting/fishing for their subsistence?*

The Masubia of the Kasika District fished, grew maize and millet and had cattle. During the dry season they cultivated on Kasikili Island.

*8. In the society that then existed, was there any concept of privately-owned land or did the land belong to the community or some other, larger, group?*

In the Eastern Caprivi land was communally owned by the Masubia. For the Masubia people both in the past as well as today, land belongs to the whole community and was and is entrusted to the chief. Since land is communally owned, there cannot be any individual title to land as it is the case with privately-owned land. Its use, restricted to dwellers of Masubia villages, was allocated by Masubia authorities through an elaborate procedure. C.E. Kruger, a former Magistrate for the Eastern Caprivi provides the following description of the process of land allocation:<sup>24</sup>

New villages and fields are established with the permission of the chief after the village head and his men have sought out a place and approached the local headman, who in turn introduces the matter to the Kuta. The member having jurisdiction makes an inspection and demarcates if other people already established are in close proximity. Once the area set apart for fields has been fixed all the village inmates go with the head for each to get what he wants. There is no fixed limit and no payment. A newcomer to the village would also have his field allocated by the village head without reference to higher authority, once permission has been given for entry to the headman's area.

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<sup>24</sup> NM, Annex 126.

In the area of the Bechuanaland Protectorate there was no privately or communally owned land. Land there was owned by the Crown. The area was declared a Crown (or State) Land in 1904.<sup>25</sup>

**9(a) *Were there white-settlers in the area around 1890?***

There were no white settlers in the area around Kasikili Island in the 1890s.

**9(b) *If so, did there exist any control or administration over the land and the native peoples by these white settlers?***

In the Eastern Caprivi there were a handful of colonial officials and later on, in the 1920s, two or three European traders. These traders were not allowed to own land because the Caprivi region was declared a native reserve. They had to obtain a special licence and their names and activities were closely monitored and reported to the League of Nations.<sup>26</sup>

<sup>25</sup> A. Sillery, *The Bechuanaland Protectorate*, Oxford University Press, 1952, pp. 84. (Annex 20)

<sup>26</sup> Union of South Africa, *Report of the Government of South Africa on South-West Africa for the Year 1925*, Cape Town, Government Printers, 1926, p. 114; Union of South Africa, *Report of the Government of South Africa on South-West Africa for the Year 1926*, Cape Town, Government Printers, 1927, p. 100; Union of South Africa, *Report of the Government of South Africa on South-West Africa for the Year 1927*, Cape Town, Government Printers, 1928, p. 122. (fn. 2, *supra*)

10. *Did the towns which are now known as Kasika on the northern bank of the Chobe River and Kasane on the southern bank of the river already exist at that time, namely, in 1890?*

*Kasika:* Records of European explorers show that in the 1850's Impalila Island that was then the seat of the Masubia royal family had a big and flourishing community<sup>27</sup>. It is, thus only likely that Kasika with its fertile and high lands in the Zambezi floodplain and which is only some four kilometres from Impalila Island was inhabited. It is, however an established fact that by 1900 Kasika had a big community and members of the Masubia nobility such as Chikamatondo and Liswaninyana, who later became chiefs, lived there.

*Kasane:* At the time of the conclusion of the 1890 Anglo-German Treaty the whole area south of the River in the Lower Chobe was a "thick forest" that "was the resort of elephants and buffaloes"<sup>28</sup>. In 1915 a police station was established at Kasane<sup>29</sup> as part of preemptive measures on the part of British Authorities in World War I against German interests in the area. Even long after the establishment of the police station, no rural communities emerged there. The few families that might have been at Kasane were close relatives of civil servants such as police and immigration officials.

<sup>27</sup> See report on Livingstone's activities concerning 11 November 1853 in D. Livingstone: *Missionary Travels and Research in South Africa*, London 1857, Chapter 7.

<sup>28</sup> NM, Vol. V, p. 120: B. F. Bradshaw: *Notes on Chobe River* (1881).

<sup>29</sup> Letter (17/15/2-5) by Major Trollope, Magistrate and Native Commissioner of Eastern Caprivi, dated 21 January 1948. (Annex 21)



**11 (a) *If the use of Kasikili/Sedudu Island had started already before 1890, what incentive did the people, whether those living north or south of the river, have to come to this small island for such a short period in the dry season each year in order to cultivate crops?***

Since the area to the south of Kasikili Island was uninhabited this and the following answer only applies to the Masubia from the Kasika District. Kasikili Island is inundated during at least five months of the year. When the floods recede, the land on the Island is very fertile. Thus, during the dry season, it was natural for people living in the Kasika District to cultivate on Kasikili Island which was their winter garden. As a consequence of the annual floods, winter and summer gardens are a characteristic feature of the subsistence economy of the Masubia of the Eastern Caprivi.

**11(b) *If they did cultivate crops on Kasikili/Sedudu Island in the growing season, did they leave their own land unattended?***

At Kasikili Island the Masubia had their winter gardens which they cultivated during the dry season. When the rainy season began, they moved to higher grounds where they had their summer gardens. They returned to Kasikili Island during the dry season. The Masubia's annual migration between their winter

and summer gardens is a characteristic feature of life in the Caprivi. It was noted by the early explorers, by the colonial administrators and by the eyewitness testimony at the JTTE.<sup>30</sup> It was also vividly described, in relation to Impalila Island, by Dr. Emil Holub, a German explorer who visited the area in 1881. Holub wrote as follows:<sup>31</sup>

Before leaving Impalera [sic] I took several walks about the village, and found that it was divided into three groups of homesteads; the nearest to the river contained 135 huts; another, where the natives took refuge during the floods, contained twenty-five huts; the third, made up of thirty-two huts, lay farther to the west.

The structure of the village at Impalila Island, as described by Holub, is typical of Masubia villages in the Eastern Caprivi. Kasikili Island, the winter garden of the Masubia, was thus an integral part of Kasika. It was the communal land of the people from the Kasika District.

***12(a) Did the people cultivate crops on Kasikili/Sedudu Island mainly to protect those crops from wild animals?***

The Masubia people did not cultivate crops on Kasikili Island with the aim of

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<sup>30</sup> NM Annex 2, p. 55 (Testimony of A.K. Javanika). On the use of Kaskili by the Masubia of the Kasika District, see, NM, paras. 209-217.

<sup>31</sup> Emil Holub, *Seven Years in South Africa*, Volume 2, (Boston, Houghton, Mifflin, and Company, 1881) (reprinted by Johnson Reprint Corporation, New York, London, 1971) p. 124. (Annex 22)

protecting them from wild animals of the area (e.g. elephants, buffaloes, zebras, baboons, etc.) that are in general also good swimmers. The Masubia used the Island because it is their ancestral land and because the annual inundation leaves fertile soil on it.

*(b) If so, during the dry season, could the animals also not easily cross the dry river bed?*

Although the Chobe River is dry in most of its course upstream of Kasikili Island during the dry season, there is no record that the area around the Island was ever completely dry in any season of the year.

*12(c) If there were wild animals, what kind were they?*

The animals found in the area include elephants, hippopotami, baboons, buffaloes, bucks and zebras.

*13. Did people remain on Kasikili/Sedudu Island during the growing season or did they travel every day to and from their homes located on the banks of each side of the Chobe River?*

As already explained, the people cultivating on Kasikili Island were the Masubia from the Kasika District in Eastern Caprivi. The southern bank opposite Kasikili Island was not inhabited. Kasikili Island is only a few meters away from Kasika. Thus, during the dry season, when people from Kasika cultivated on the Island it was natural for them to set up their winter homes on the Island. This aspect of the life of the Masubia of Eastern Caprivi was described graphically by Trollope in a letter to Secretary for Native Affairs, Pretoria:<sup>32</sup>

(3) ... When the Island is cultivated the Caprivi tribesmen who cultivate it make temporary huts there and stay there until the crops are reaped. Herdboys in charge of the cattle of Caprivi tribesmen depasturing on the land have similarly built temporary huts. There were no taxes in German times but Caprivi tribesmen cultivating land on Kasikili, and depasturing cattle there have paid rates in respect of trust funds established under Proclamation 27 of 1930.

... No Caprivi tribesmen, making use of Kasikili, have ever been called on to pay Bechuanaland Protectorate taxes - nor is there any record of Protectorate objection to the use of Kasikili by Caprivi tribesmen.

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<sup>32</sup> *Supra*, fn. 29.

These facts are corroborated by the oral evidence presented by members of the Masubia community of Eastern Caprivi in 1994 before the JTTE.<sup>33</sup>

*14. If the local population at that time had no need for any division or border at the Chobe River, was the barrier to free movement created in an administrative manner by the 1890 Treaty which was intended to divide the respective spheres of influence of Germany and Britain?*

The Anglo-German Treaty of 1890 was a major episode in the so-called scramble for Africa. As such, it created many artificial divisions between the people directly affected by the Treaty. At Kasikili Island, however, the Treaty defined a boundary - the centre of the main channel of the Chobe River - that left the Masubia people of the Kasika District (including Kasikili Island) of the Eastern Caprivi intact and in full possession of their traditional homeland. As there were no inhabitants on the southern bank of the Chobe River, within the vicinity of Kasikili Island, the Treaty did not divide the Masubia community in that particular area. In other sectors of the Caprivi boundary, the 1890 Treaty

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<sup>33</sup> NM, Vol. III, pp. 173-174; 205-206, *passim*.

did, however, create a barrier that divided communities into different colonial territories.<sup>34</sup>

*15. Could the administrative bar on free movement created by the 1890 Treaty really have been effective in such a region during the decades following the conclusion of the Treaty?*

The colonial administrations on both sides of the Chobe River had an interest and did in fact ensure that the boundary was respected, as it was done in other parts of Africa where colonial boundaries divided tribal and ethnic groups into different colonial territories. Even in central Africa where the British administered the three territories of Nyasaland (Malawi), Southern Rhodesia (Zimbabwe) and Northern Rhodesia (Zambia), the natives were restricted to their respective colonial territories. In the early 1900s British officials in the Bechuanaland Protectorate were concerned about occasional poaching and other illegal activities carried out by Europeans in the Caprivi. They were therefore pleased when in 1909 Germany established its colonial administration in the Caprivi.<sup>35</sup> After perfecting their spheres of influence created by the 1890

<sup>34</sup> This was the case of the Batawana of north-western Botswana. See, NM annex 30.

<sup>35</sup> See generally, Public Record Office, CO 417/454, especially letter of 16 November, 1908, from the High Commissioner to the Colonial Office announcing the forthcoming establishment of German administration in the Caprivi. The High Commissioner mentions, approvingly, Germany's intention to exclude from the Caprivi 'undesirable characters'. (Annex 23)

Anglo-German Treaty through effective occupation,<sup>36</sup> the colonial authorities on both sides of the Chobe River had very strict rules aimed at restricting the indigenous population to their respective areas in colonial territories administered by the colonial authorities. Natives could not use land and other natural resources in another colonial territory without obtaining a permit from that colonial territory. During the years immediately after the occupation of the Caprivi Strip by Germany, the two colonial administrations became intensely involved in negotiations over the land portion of the southern boundary of the Caprivi. The issue there concerned the impact that the implementation of the provisions of the 1890 Treaty would have on the boundary of the tribal reserve of the Batawana.<sup>37</sup> The available evidence shows that the colonial authorities on both sides of the boundary made every effort to ensure that the people living in that area became aware of and respected the recently established colonial boundaries.<sup>38</sup>

British colonial authorities in the area had a special interest in enforcing the colonial boundary since the people in the Bechuanaland Protectorate were taxed, while the people in the Caprivi were not. The efforts to prevent the

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<sup>36</sup> Effective occupation in terms of Chapter VI of the General Act of the Berlin (Africa) Conference of 1884/5.

<sup>37</sup> NM, Annex 30.

<sup>38</sup> In 1913, for example, there developed a diplomatic incident caused by the hunting by people from the Bechuanaland Protectorate in the Caprivi Strip. See, Public record Office, CO 417/524. (Annex 24)

spread of cattle disease provided one more incentive to ensure respect for the boundary established by the Treaty. The north-western boundary of the Caprivi along the Zambezi was also strictly controlled. Thus, after Germany withdrew its administration from the Caprivi and Britain administered both the Caprivi and North-western Rhodesia, Britain nonetheless continued to observe the boundary established by the 1890 Treaty. When Britain administered the Caprivi between 1914 and 1922, it issued temporary permits to the people from North-western Rhodesia who wished to cultivate on certain Caprivi Islands.<sup>39</sup> These permits were extended through a formal Exchange of Notes when Britain and South Africa settled the north-western boundary of the Caprivi.<sup>40</sup> Moreover, in 1944, Trollope, the Magistrate and Native Commissioner for the Eastern Caprivi, ordered the arrest of Masubia natives from the Bechuanaland Protectorate who were cultivating on Muntungobusa Island, an Island on the River Chobe which is more than 70 kilometers west of Kasikili Island.<sup>41</sup> The Bechuanaland Masubia natives were prosecuted in 1944 after they were warned in 1930, 1940, and 1943 not to plough on the island because it was part of the Caprivi (Namibia).

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<sup>39</sup> NM Annex 52, p. 205-6.

<sup>40</sup> *British Foreign and State Papers*, Vol. 136, pp. 520-523.

<sup>41</sup> See letter of October, 1950, (17/15/2 - 11) from Trollope to Marr, District Commissioner for Kasane. (Annex 25)



The foregoing shows that the colonial authorities had an interest in and were capable of ensuring that the boundary established by the 1890 Treaty were respected by all parties concerned, including the natives.

*16. Did the 1890 Treaty bring about any changes in the lifestyle of the native peoples in the region in the following several decades after its conclusion?*

At one level, the 1890 Treaty did not significantly change the lifestyle of the people of the Eastern Caprivi. They continued to depend on subsistence agriculture for their livelihood and the annual floods continued to dominate their lives. The 1890 Treaty did not change the Masubia system of communal property and their control over the land. At another level there were several changes: the traditional authorities of the Masubia were incorporated into the system of colonial administration under the system of indirect rule; chiefs and other Masubia officials were paid a salary by the colonial administration; controls on the movement of cattle across colonial boundaries were introduced; a hut tax was established in the 1940s; hunting was strictly controlled and, after the Eastern Caprivi was declared a Native Reserve, entry into the area by Europeans and other Africans required a special permit. Other significant changes are reflected not only in areas such as the identification of

people with their new territories and nation states (e.g. Botswana and Namibia), but also the provision of such services as school education, health, employment, monetary currency, modern means of communication, conservancy and tourism.

*17. In the period immediately after the conclusion of the 1890 Treaty, was there any real control by the colonial States - Germany and Great Britain - enforcing a strict separation of the northern and southern people in the region of the Chobe River.*

As already stated in answer to question 15, colonial States, Germany (after it established administration under an Imperial Resident in 1909) and Great Britain, were able to fully enforce a strict separation of the northern and southern people in the region of the Chobe River. This separation became even more strict during the period when the Caprivi came to be administered by the South African Government.

*18. Did the division of the territory or separation of the peoples, in spite of the 1890 Treaty, in fact only start as late as the middle of this century?*

As explained in our answer to question No. 15, the enforcement of the boundary established by the 1890 Treaty began shortly after Germany established an administrative presence in the Caprivi in 1909. It continued in the 1910s when Britain issued special permits to the people from North-western Rhodesia who wished to cultivate certain Caprivi Islands on the Zambezi River.

It must also be noted that one of the major concerns of the Permanent Mandates Commission of the League of Nations was to preserve the territorial integrity of the territories under Mandate. It thus encouraged Mandatory powers to settle and demarcate the boundaries of these territories.<sup>42</sup> The existence of the Mandate was undoubtedly one of the reasons that explains why South Africa and Britain were so actively involved in defining the boundaries of the Caprivi Strip in the late 1920s and early 1930s. During this period South Africa and Britain settled the land sector of the southern boundary of the Caprivi and the north-western boundary of the Caprivi along the Zambezi River.

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<sup>42</sup> Q. Wright, *Mandates Under the League of Nations*, Chicago, University of Chicago Press, 1930, pp. 467-9.

**ANNEXES 9 - 25**

UNION OF SOUTH AFRICA.

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# REPORT

OF THE

Government of the Union of South Africa

ON

# SOUTH - WEST AFRICA

FOR THE

# YEAR 1925.

---

*Presented to both Houses of Parliament by Command of His Excellency  
the Governor-General.*

---

CAPE TOWN :  
CAPE TIMES LIMITED, GOVERNMENT PRINTERS.  
1926.

and there were a good many deaths from this disease. Malaria and dysentery were the other principal diseases notified, the last named being the most prevalent in the months immediately preceding the rainy season when the reeds and vegetation in the lagoons and waterways begin to rot and the waters become foul.

During the year, the Chiefs were requested to instruct their people to keep their huts and clothing free from fleas in view of the outbreak of plague in the Union of South Africa. The fact that the native habitations in that district are constructed of reeds with thatched roofs, and that they are often renewed from year to year makes, to a certain extent for cleanliness, but the people—living as they do for the most part with access to an abundance of water—can only be described as dirty.

The natives are able to get medical treatment of an elementary nature from the Missionaries at the mission stations, and may also consult the Medical Officer in Ngamiland.

§ 10. *Native People.*—There are two sections of natives living to the East of the Maschi River under the rulership of Chiefs Mamili and Chika-Matondo, respectively. Mamili's people comprise Bafwi, Bayeyi and a section of the Mampukush whilst those of Chika-Matondo consist of Basubia. West of the Maschi River the land is peopled by Mampukush, who live mainly on the islands in the Okavango River, and are adepts at navigating dug-out canoes in the rapids of that river.

The Barotse of Sesheke, Northern Rhodesia, again availed themselves of the permission granted to them by the High Commissioner in July, 1923 (and renewed under stated conditions in 1924 for three years) to cultivate lands on the south bank of the Zambesi River, and there have been no complaints lodged by the local natives in this connection.

The Paris Missionary Society, Sesheke, are also permitted by His Excellency to cultivate gardens, approximately 4 acres in extent, near to Schuckmansberg, and to keep 8 oxen and 4 cows in the Caprivi Zipfel for the benefit of the students boarding at their school.

§ 11. *Tribal Law.*—Each village has its Induna or Headman who has authority to adjudicate according to native law and custom amongst his followers. He is generally assisted by the older men. If they do not agree or if the plaintiff or defendant is not satisfied, then the case is taken to the Chief's Kgotta.

The Chief's Kgotta or Court is the principal one and its judgments are final, except that provision is made under Proclamation No. 1 of 1919 for appeals against the judgments of native chiefs in the Bechuanaland Protectorate, in the first instance to a court composed of the Assistant Commissioner or Magistrate of the district and of the chief, and in the event of their disagreeing, then the Resident Commissioner decides the matter in dispute. When members of a tribe are punished by their own courts, the penalty is usually one or more head of cattle. The fines become the sole property of the Chief although he may give some of the cattle to his councillors.

§ 12. *Population.*—The native population of the Caprivi Strip as enumerated in the year 1921, was :—

Males.	Females.	Total.
2,003	2,246	4,249

and a part from officials, the only Europeans in the Territory are a few missionaries and traders.

*Annexure "D."*

Statement of Revenue and Expenditure in the Caprivi Zipfel for the Year ended 31st March, 1925.

REVENUE.			EXPENDITURE.		
	£	s. d.		£	s. d.
Licences .. .. .	72	7 6	Personal Emoluments (District Administration and Police) .. .. .	737	3 3
Revenue Stamps .. .. .		7 0	Stores, Equipment, Grain, etc. .. .. .	57	13 5
Poll Tax .. .. .	12	0 0	Travelling Expenses .. .. .	4	0 0
Rentals and Transfer Duty .. .. .	66	0 0	Cattle Diseases .. .. .	393	0 0
Miscellaneous .. .. .	1	1 10			
<b>Total Revenue .. .. .</b>	<b>£151</b>	<b>16 4</b>	<b>Total Expenditure .. .. .</b>	<b>£1,191</b>	<b>16 8</b>

**ANNEX 10**

and sanitation of the villages, was far above that of average years. The natives of these parts living as they do for the most part with an abundance of water, can, however, only be described as dirty.

In the western portion of the Strip there has been the usual prevalence of fever, but, apart from this, the health of both Europeans and Natives has been fairly good. The natives are able to get medical treatment of an elementary nature from the Missionaries at the Mission Stations; they may also consult the Medical Officer in Ngamiland.

*Native Peoples.*—There are two sections of natives living to the East of the Mashi River under the rulership of Chiefs Mamili and Chika-Matondo, respectively. Mamili's people comprise Bafwi, Bayeyi and a section of the Mampukush whilst those of Chika-Matondo consist of Basubia. West of the Mashi River the land is peopled by the Mampukush, under Chief Disho, who live mainly on the islands of the Okowango River, and are adepts at navigating dug-out canoes in the rapids of that river.

The Barotse of Sesheke, Northern Rhodesia, again availed themselves of the permission granted to them by the High Commissioner in July, 1923 (and renewed under stated conditions in 1924 for three years), to cultivate lands on the South bank of the Zambesi River, and there have been no complaints lodged by the local natives in this connection.

The Paris Missionary Society, Sesheke, is also permitted by the High Commissioner to cultivate gardens, approximately 4 acres in extent, near to Schuckmansberg, and to keep eight oxen and four cows in the Strip for the benefit of the students boarding at their school.

There are also a good many natives living on the river, whose Chief is Nyangana residing in South West Africa and near the border. The latter tribe are now under Chief Disho, but constant intercourse and visiting goes on between these people and those under Nyangana and the recent outbreak of Lung-sickness is, no doubt, the result of this. The disease appeared at Nyangana a considerable time before the outbreak was reported in the Strip.

*Tribal Law.*—Each village has its Induna or Headman who has authority to adjudicate according to Native Law and Custom amongst his followers. He is generally assisted by the older men. If they do not agree or if the plaintiff or defendant is not satisfied, then the case is taken to the Chief's Kgotla.

The Chief's Kgotla or Court is the principal one and its judgments are final except that provision is made under Proclamation No. 1 of 1919 for appeals against the judgments of Native Chiefs in the Bechuanaland Protectorate, in the first instance to a Court composed of the Assistant Commissioner or Magistrate of the District and of the Chief, and in the event of their disagreeing then the Resident Commissioner decides the matter in dispute. When members of a tribe are punished by their own Courts the penalty is usually one or more head of cattle. The fines become the sole property of the Chief although he may give some of the cattle to his Councillors.

*Population.*—The Native population of the Caprivi Strip as enumerated in the year 1921 was:—

Males.	Females.	Total.
2,003	2,246	4,249

and, apart from Officials, the only Europeans in the territory are a few Missionaries and Traders.

STATEMENT OF REVENUE AND EXPENDITURE IN THE CAPRIVI STRIP FOR THE YEAR ENDED 31ST MARCH, 1926.

Revenue.	Amount.	Expenditure.	Amount.
Licences .. .. .	£98 2 6	Personal Emoluments (District Administration and Police) .. .. .	£1,320 15 8
Revenue Stamps .. .. .	10 0 0	Stores, Equipment, Grain, etc. .. .. .	85 15 4
Poll Tax .. .. .	9 0 0	Travelling Expenses .. .. .	47 4 3
Rentals and Transfer Duty .. .. .	84 0 0	Cattle Disenses .. .. .	402 0 0
Miscellaneous .. .. .	17 11 ..	Public Works Recurrent .. .. .	12 1 6
		Public Works Extraordinary .. .. .	150 0 0
		Education .. .. .	20 0 0
Total Revenue .. .. .	£192 10 5	Total Expenditure .. .. .	£2,037 16 9



## **ANNEX 11**

rainfall was 17.34 inches and except for the higher localities the whole of this portion of the Strip was flooded from April to June by normal floods from Barotseland.

In the Western portion of the Strip the health of the native population was fairly good but there was the usual prevalence of Malarial fever. Medical treatment is rendered by the Andara Mission.

*Native Peoples.*—There are two sections of natives living to the East of the Mashi River under the rulership of Chief Mamili and Chika-Matondo, respectively. Mamili's people comprise Bafwi, Bayeyi and a section of the Mampukush, whilst those of Chika-Matondo consist of Basubia. West of the Mashi River the land is peopled by the Mampukush, under Chief Disho, who live mainly on the islands in the Okovango River, and are adepts at navigating dug-out canoes in the rapids of that river.

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The Chief's Kgotla or Court is the principal one and its judgments are final except that provision is made under Proclamation No. 1 of 1919 for appeals against the judgments of Native Chiefs in the Bechuanaland Protectorate, in the first instance, to a Court composed of the Assistant Commissioner or Magistrate of the District and of the Chief, and in the event of their disagreeing, then the Resident Commissioner decides the matter in dispute. When members of a tribe are punished by their own Courts the penalty is usually one or more head of cattle. The fines become the sole property of the Chief although he may give some of the cattle to his Councillors.

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Males.	Females.	Total.
2,003	2,246	4,249

and, apart from officials, the only Europeans in the territory are a few missionaries and traders.

#### STATEMENT OF REVENUE AND EXPENDITURE IN THE CAPRIVI STRIP FOR THE YEAR ENDED 31st MARCH, 1927.

<i>Revenue.</i>		<i>Expenditure.</i>	
	£ s. d.		£ s. d.
Licences .. .. .	67 19 0	Personal Emoluments (District Administration and Police) .. .. .	1,824 19 9
Revenue Stamps .. .. .	0 5 0	Stores and Equipment .. .. .	187 5 3
Poll Tax .. .. .	12 0 0	Travelling Expenses .. .. .	30 18 0
Rentals and Transfer Duty .. .. .	75 0 0	Cattle Diseases .. .. .	315 5 2
Miscellaneous .. .. .	0 7 0	Public Works Recurrent .. .. .	38 6 2
Customs .. .. .	2 5 0	Education .. .. .	26 0 0
	£157 7 0		£2,445 14 4

ANNEX 12

I have to  
return the  
minutes of  
the meeting

Population Cens  
Zipfel 2  
THE MAGISTRATE  
EASTERN CAPRIVI ZIFFEL,  
KATIMA MULILO,  
P.O. BOX 384,  
VIA LIVINGSTONE,  
NORTHERN RHODESIA,  
SOUTH AFRICA.

*Handwritten notes:*  
I have received  
the statement of  
the census  
held on the 31st  
May 1946  
and have  
sent it to  
the Secretary  
for Native Affairs  
P.O. Box 384  
Pretoria  
for his  
information  
29/7

UNIE VAN  
SUID-AFRIKA.



UNION KATIMA MULILO P.O. 384  
SOUTH AFRICA. NORTHERN RHODESIA  
VIA LIVINGSTONE. NOORD-RHODESIE

MAGISTRATE EN  
MAGISTRAT EN  
EASTERN CAPRIVI ZIFFEL  
10-7-1946

Kantoor van die  
Office of the Magistrate

DEPT. VAN NATURELLESAKE  
NATIVE AFFAIRS DEPT.

25-7-1946

Leer No. 360  
File No. ....  
Leer gemerk  
File marked.....

Population Census : Eastern  
Caprivi Zipfel : 31st May, 1946

I have the honour to forward herewith a statement of a census held on the 31st May, 1946,

*Signature*

MAGISTRATE AND NATIVE COMMISSIONER,  
EASTERN CAPRIVI ZIFFEL.

*Handwritten notes:*  
Sda  
are you  
interested  
29/7  
207

Notes and observations.

Method. Opportunity was taken to explain the method at full tribal meetings held at Linyanti on the 24th May, and at Zabbe on the 27th May. The explanation was in great detail and the taking of a census by a village head was staged for the benefit of the people.

Each village head was required to have four sticks of different lengths: the longest for men, the next for women, the next boys and the shortest for girls. A short distance from one end of each stick a ring was cut the space below which was for people of the Strip out of the territory on the night fixed for the count i.e. 31st May (the fact that only a few days were to elapse between the explanation and the count was regarded as important).

Village heads were instructed to make the count first thing on the morning following by notching their sticks. In the Caprivi Strip at many villages people sleep at their lands when crops are gathering. At this time, however, few people were reported as being employed in this way and in any event instructions were issued that everyone was to be at home (or at some other village) on the census night.

The notching having been completed village heads were to await the arrival of a constable or cattle guard and simply hand over the sticks.

The constables and cattle guards all attended one or other of the meetings and were specially instructed prior to their setting out on enumeration. They were given sheets of paper with headings written in their own language.

Reports of constables and cattle guards indicated that they had had very little difficulty and were able to correct what few mistakes had shewn up as a result of their questioning.

It is considered that the Census is reasonably accurate. It will be observed that persons of 16 years and over are classed as men or women and those under that age as boys or girls as the case may be. The classification must of necessity be approximate, all one could do was to select persons of about the age of 16 and indicate them to the people as being of the dividing age.

Observations:

1. From the report of the Bechuanaland Protectorate Administration on the whole of the Caprivi Zipfel for the year 1928 the following extract is taken :-

"The native population of the Caprivi Strip as enumerated in the year 1921, was :-

<u>Males.</u>	<u>Females</u>	<u>Total.</u>
2003	2246	4249

And apart from officials, the only Europeans in the territory are a few Missionaries and Traders."

The figures that follow are from reports during the period of administration by South West Africa viz 1929 to 1939 and are for the Eastern Caprivi Zipfel.

1931	1130	1484	2510	301	394	1506	1931	3378	4016	8321
1932	1151	1510	2570	820	928	1556	1971	2432	4126	8529
1933	1168	1539	2638	329	939	1602	1997	2478	4241	8716
1934	1213	1601	2677	845	959	1628	2058	2560	4305	8923
1935	1247	1641	2723	881	982	1656	2128	2623	4379	9130
1936	1276	1687	2745	912	1008	1680	2188	2695	4425	9308
1937	1327	1725	2801	945	1037	1717	2272	2762	4518	9532
1938	1366	1767	2844	968	1068	1752	2334	2835	4596	9765
1939	1182	1908	3026	906	1251	2151	2088	3159	5177	10424

During the war years census was not taken. The figures for 31st May, 1946 are appended here for purposes of easy comparison.

Mafue (Mayeyi)			Masubia			Totals			Grand Total	
Men.	Women.	Children.	Men.	Women.	Children.	Men.	Women.	Children.	Total	
146	2173	2865	4525	1432	1549	2567	3605	4414	7092	15111

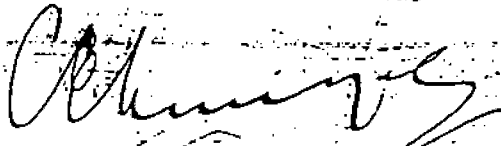
The increase is due not only to natural increase but also to influx from other territories. The Eastern Caprivi Zipfel (4,500 square miles) is still sparsely populated and capable of holding many more people.

The European population has not varied much from 1921.

A study of the detailed figures shows that in the Masubia area in the eastern half (much less than half actually) of the Caprivi Zipfel, an area subject to annual inundation and where many villages are situated on the higher ground (mounds) in the flood plains, the villages are much smaller than in the Mafue (western) area and at the same time more numerous. The biggest Masubia village holds 166 persons as against 409 Mafue; average village figures are 33 Masubia, 74 Mafue. There are 156 Masubia villages to 130 Mafue.

In the Masubia area the villages are scattered all over the plains; the majority are to be found along the banks of or within reach of the Kwando (or Mashi or Linyanti or Chobe) River, although in the interior there is a line of villages dependant on waterholes or pans carrying a population of some 2,230 souls.

The Mafue (Mayeya) tribe is made up of people of the Mafue, Mayeyi and Wambukushu tribes or clans with Makwengo Bushmen in addition. The latter, who now seem to have taken to more or less permanent living places, number 81.



MAGISTRATE AND NATIVE COMMISSIONER  
MAGISTRAAT EN NATURELLEKOMMISSARIS  
EASTERN CAPRIVI ZIPFEL  
OOSTELIKE CAPRIVI ZIPFEL

POPULATION CENSUS 31ST MAY, 1946.

SUMMARY.

	Men.	Women.	Under 16 years.		TOTAL.
			Boys.	Girls.	
<u>MAFUE.</u>	1857	2847	2341	2152	9197
<u>ADD: ABSENTEES</u>	316	18	29	3	366
<u>TOTAL.</u>	2173	2865	2370	2155	9563
<u>MASUBIA.</u>	1148	1487	1300	1148	5083
<u>ADD: ABSENTEES</u>	284	62	78	41	465
<u>TOTAL.</u>	1432	1549	1378	1189	5548
<u>NATIVES.</u>					
<u>MAFUE:</u>	2173	2865	2370	2155	9563
<u>MASUBIA:</u>	1432	1549	1378	1189	5548
<u>TOTAL.</u>	3605	4414	3748	3344	15111
<u>EUROPEAN:</u>	5	1	1	-	7
<u>GRAND TOTAL.</u>	3610	4415	3749	3344	15118

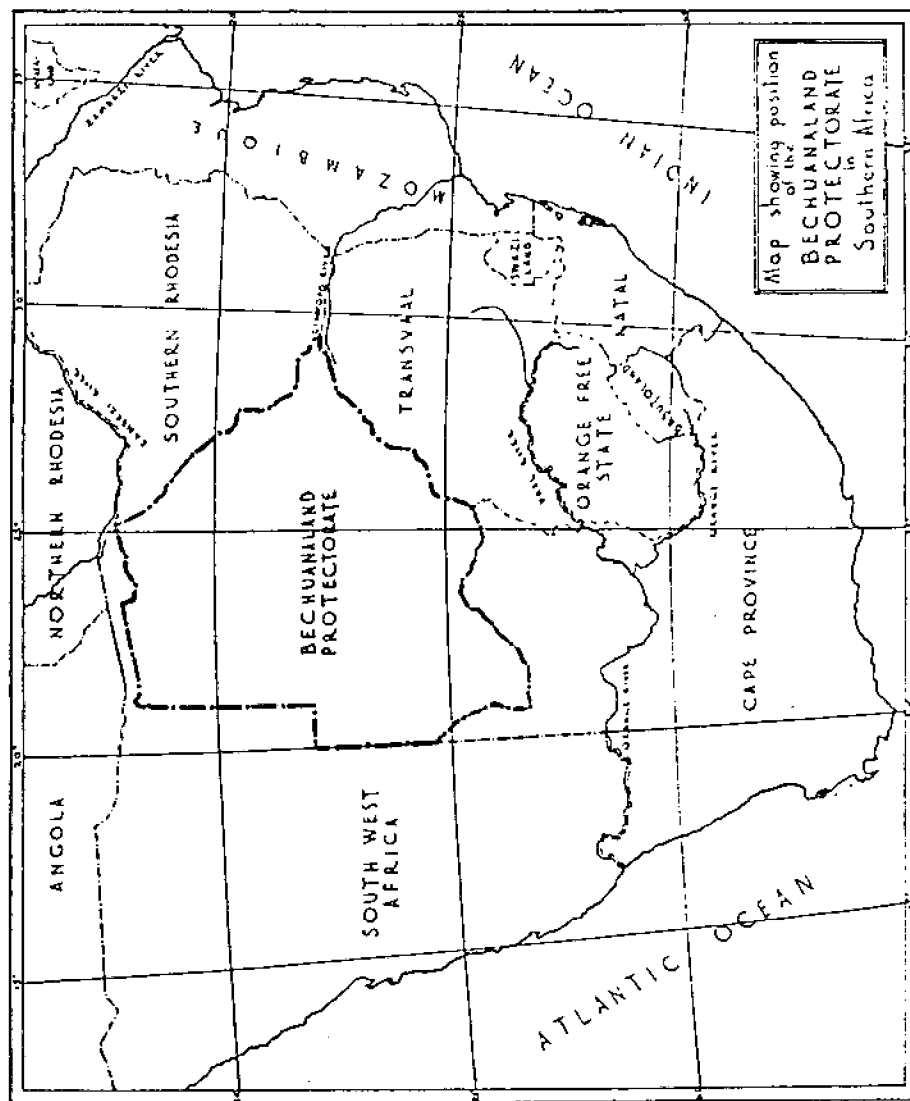
*Alhambra*

MAGISTRATE AND NATIVE COMMISSIONER.  
EASTERN CAPRIVI ZIPFEL.

# THE BECHUANALAND PROTECTORATE

11  
G 20

by  
A. SILLERY



Geoffrey Cumberlege  
OXFORD UNIVERSITY PRESS  
Cape Town London New York  
1952



## APPENDIX II

Numbers to the nearest hundred of the principal indigenous tribes, based on the preliminary figures of the 1946 census, and in some cases on estimates.

Kalaka	...	...	...	33,200
Ngwaketse	...	...	...	28,000
Kgatla	...	...	...	27,600
Kwena	...	...	...	25,400
Ngwato	...	...	...	18,100
Kuba	...	...	...	17,600
Kgalagadi	...	...	...	15,700 (a)
Sarwa...	...	...	...	14,400 (b)
Lete	...	...	...	13,000
Tswapong	...	...	...	11,200
Birwa	...	...	...	9,600
Tawana	...	...	...	7,500
Rolong	...	...	...	7,400
Khurutshe	...	...	...	6,400
Mpukush	...	...	...	6,000
Herero	...	...	...	5,500
Kaa	...	...	...	4,100
Hurutshe	...	...	...	3,600
Talaote	...	...	...	3,500
Tlokwa	...	...	...	3,100
Pedi	...	...	...	2,600
Tlharo	...	...	...	2,500
Subia	...	...	...	2,500
Phaleng	...	...	...	2,400
Najwa	...	...	...	1,600
Rotse	...	...	...	1,000 (c)
Seleka...	...	...	...	900
Teti	...	...	...	400

(a) Does not include the Phaleng and Pedi (q.v.).

(b) Does not include estimated 10,000 nomadic Bushmen.

(c) Does not include a floating population in the Chobe District.

## BIBLIOGRAPHY

- Agar-Hamilton, J.A.I. *The Road to the North* (Longmans, Green & Co., 1937)
- Baines, Thomas *The Gold Regions of South Eastern Africa* (Edward Stanford, London; J. W. C. Mackay, Port Elizabeth, 1877)
- Barrow, Sir John *Travels into the Interior of Southern Africa*, 2nd Edition (T. Cadell & W. Davies, London, 1806)
- Brown, J. T. *Among the Bantu Nomads* (Seeley, Service & Co. Ltd., London, 1926)
- Burchell, W. J. *Travels in the Interior of Southern Africa* (Longman, Hurst, Rees, Orme & Brown, London, 1822)
- Cambridge History of the British Empire*, Volume VIII, 'South Africa, Rhodesia and the Protectorates' (Cambridge University Press, 1936)
- Campbell, Reverend John *Journal of Travels in South Africa; among the Hottentot and other tribes; in 1812, 1813 and 1814* (The Religious Tract Society, London, 1840)
- Chapman, James *Travels in the Interior of South Africa* (Bell & Daldy, London; Edward Stanford, London, 1868)
- Cloete, Stuart *African Portraits* (Collins, London, 1946)
- Creswicke, Louis *South Africa and the Transvaal War* (T. C. and E. C. Jack, Edinburgh, 1903)
- Cumming, Gordon *The Lion Hunter* (John Murray, London, 1909)
- Ellenberger, V. F. 'History of the Ba-ga-Malete of Ramoutsa (Bechuanaland Protectorate)' (*Transactions of the Royal Society of South Africa*, Volume XXV, Part I)
- do. 'History of the Batlokwa of Gaberones (Bechuanaland Protectorate)' (*Bantu Studies*, September 1939)
- Hofmeyr, Jan. H. *South Africa* (Ernest Benn, London, 1931)
- Kgari, Chief Press cuttings in Chief Kgari's possession about the visit to England of chiefs Kgama, Sebele and Bathoen.

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No. 6.

JUNE, 1901.

Vol. XVII.

JOURNEYS IN THE LINYANTI REGION.\*

By PERCY C. REID.

On June 15, 1899, we left Kazungula, and, keeping along the right bank of the Linyanti river, headed nearly due west. At the end of about 7 miles we came to the Sobuba rapids, which were the only obstacle to navigation we met with on our trip. It is, however, only at seasons of low water that these rapids constitute any serious difficulty, and even then native canoes are able to pass up them. Our road had led most of the way along the foot of some low stony hills, which, at the rapids, come right down to the river's bank. From Sobuba we continued to march along the right bank of the river for about 25 miles. The same low hills, covered with dense jungle, were on our left hand all the way, and indeed continue for about 55 miles from Kazungula. The river meanders through a low flat plain at their base, which stretches away northwards as far as the eye can reach. While, of course, the hills hem in the river on the south and prevent its overflow, the plain to the north is for many months of the year flooded from 1 to 3 or even more feet deep.

On June 19 we arrived at a spot where the river, including its inundation, narrowed considerably owing to some rising ground on the north side. Here some natives informed us, though without any real truth, that the country ahead of us was impassable for our donkeys, owing to the thickness of the bush, and we therefore, with the help of a couple of canoes, ferried our goods and swam our donkeys over. Thenceforth we proceeded along the left bank. A march of about 3 miles through flooded country brought us to the village of

\* Read at the Royal Geographical Society, March 25, 1901.

of various places were a 6-inch sextant, an astronomical telescope, and two half-chronometer watches with Greenwich time. Before leaving Buluwayo I was enabled to get the error of my watches on Greenwich time by signal from Cape Town; but, unfortunately, on my return to Buluwayo the wires had been destroyed by the Boers, and I had therefore to wait until I arrived in London before I could again get Greenwich time. I was, however, successful in observing stellar occultations on July 21, August 16, and September 17, and thereby to compute with very fair accuracy the rates of my watches. As a result, I fixed the following positions:—

Maheni's village ... ..	lat. 17° 52' 6" S., long. 23° 19' 22" E.
Salishand's village ... ..	" 18° 30' 0" S., " 23° 30' 45" E.
Mameli's village ... ..	" 18° 5' 8" S., " 24° 0' 9" E.
Ngoma ... ..	" 17° 51' 10" S., " 24° 40' 15" E.
Kazungula ... ..	" 17° 46' 40" S., " 25° 11' 15" E.

The country from Kazungula westwards, along the north side of the river, is inhabited by Basubia as far as a point slightly west of Mameli's. Westwards again from this, and still on the north side of the river, come the Baheyi. Mameli is the head chief of the Basubia of this district, and Maheni of the Baboyi; but most of the more important villages have Barotse headmen appointed by Lewanika himself. The villagers pay tithes to their headmen, and the latter, after presumably deducting a percentage, hand them over to indunas sent down by Lewanika to collect them. These tithes or taxes consist chiefly of skins, such as pookoo and lechwee and situtungu among the antelopes, jackals, and various species of herpestes or mungoose among the smaller mammals. Most of the headmen own a few cows, although these, I believe, are really the property of Lewanika, who allows the headmen to retain the milk and butter and a small percentage of the calves, as remuneration. No fowls are kept by either tribe, and eggs or chickens are therefore unobtainable, except at Mameli's village, where we saw pigeons and heard cocks crow, though we were unable to purchase either. The principal diet of both tribes is corn and fish, eked out by an occasional buck. The women and children, of course, do all the cultivation, and therefore the man who can buy most wives and has most children is the one who can till most land, and so soon becomes the most wealthy and important. The people are quiet and inoffensive, but shy. The majority live under shelters of grass which they call huts, but in the principal villages the houses are more substantial.

Periodically, what one may almost term slave-raids are made by the Barotse chiefs from Lialui, when young men and girls are carried off to become their serfs and wives. In Batokaland, to the north-east of Kazungula, this has been carried to such an extent that you can see no one in the villages but worn-out old people and infants. The Basubia and Baheyi are wilder by habit, and shyer, and consequently

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JOURNEYS IN THE LINYANTI REGION.\*

By PERCY C. REID.

On June 15, 1899, we left Kazungula, and, keeping along the right bank of the Linyanti river, headed nearly due west. At the end of about 7 miles we came to the Sebuba rapids, which were the only obstacle to navigation we met with on our trip. It is, however, only at seasons of low water that these rapids constitute any serious difficulty, and even then native canoes are able to pass up them. Our road had led most of the way along the foot of some low stony hills, which, at the rapids, come right down to the river's bank. From Sebuba we continued to march along the right bank of the river for about 25 miles. The same low hills, covered with dense jungle, were on our left hand all the way, and indeed continue for about 55 miles from Kazungula. The river meanders through a low flat plain at their base, which stretches away northwards as far as the eye can reach. While, of course, the hills hem in the river on the south and prevent its overflow, the plain to the north is for many months of the year flooded from 1 to 3 or even more feet deep.

On June 19 we arrived at a spot where the river, including its inundation, narrowed considerably owing to some rising ground on the north side. Here some natives informed us, though without any real truth, that the country ahead of us was impassable for our donkeys, owing to the thickness of the bush, and we therefore, with the help of a couple of canoes, ferried our goods and swam our donkeys over. Thenceforth we proceeded along the left bank. A march of about 3 miles through flooded country brought us to the village of

\* Read at the Royal Geographical Society, March 25, 1901.

these slave-raids are not so successful. Force, too, is not infrequently used on both sides, and this the Barotse do not like. I am glad to say that this question is receiving the deep attention of the officials of the British South African Company. Although both the Basubia and Baheyi understand and speak Serotse, they each have also their own language. They, however, not infrequently intermarry.

Roughly speaking, the whole of the right bank of the river from Maheni's to Kazungula may be said to be uninhabited. It is true that from Maheni's to the south-west corner of the swamp, just beyond Salishand's, there are a few villages. The inhabitants of these are emigrants from the north bank—not, as a rule, originally from pleasure



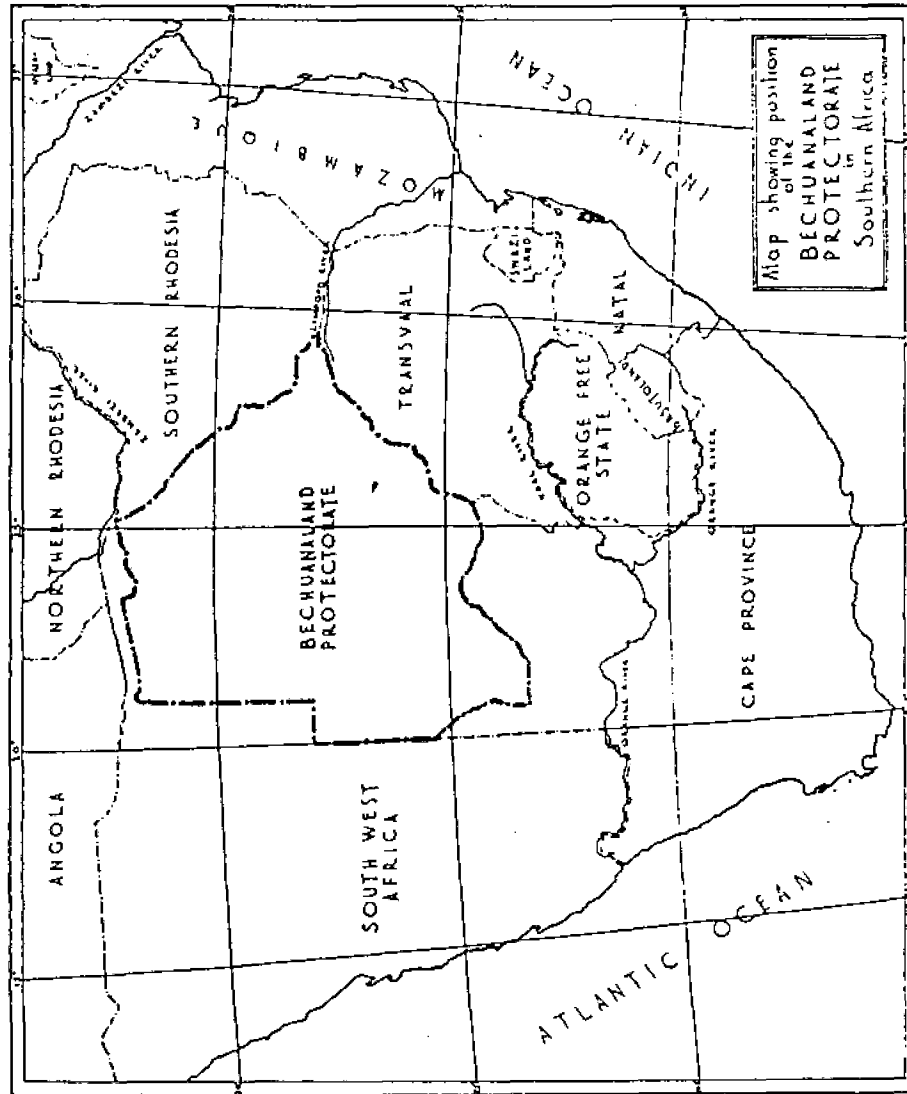
BUSHMAN'S CAMP.

but because of the slave-raids I have mentioned. They are called Bakuba by the Bechuana, Baheyi by the Barotse. They owe a divided allegiance, or rather they have to pay taxes both to Lewanika and to Sekhomi, the chief of Lake Ngami. Living in this district, but away back from the river, are the Bampukush, who own allegiance to Lebebe of Andarra. They trade with the Bakuba, and are often to be found near their villages, but they fly into the bush at the first whisper of the arrival of a Barotse. The Bampukush are good hunters, and very plucky; some eight or ten of them will even spoor up to a rhinoceros while asleep, and spear him, after which they follow him for miles, stabbing him as opportunity occurs, until at length they kill him. Among the Bampukush are a few nomad bushmen, the lowest of

# THE BECHUANALAND PROTECTORATE

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G 20

by  
A. SILLERY



ANNEX 16

Geoffrey Cumberlege  
OXFORD UNIVERSITY PRESS  
Cape Town London New York  
1952

Sankotse's posterity from father to son is as follows: Sankotse — Samanja — Mosadi — Mokgwathi — Baruti — Mbwe. According to one informant, the present hereditary head of the tribe, Mbwe, is not regarded with favour, as he is not thought to be whole-heartedly with the Yei in their demand for greater independence from the rule of the Tawana. Most Yei are in the Tawana reserve, but there are a few along the Botletle River in the region of Makalamabedi, in the Ngwato reserve.

#### *Subia*<sup>1</sup>

The Subia say that long ago they lived in and around a cave in the Goha Hills. With them lived the Yei. The chief of the Subia was Lipelenge,<sup>2</sup> and the Yei chief was Mosalasila. They were good friends until they quarrelled over a matter of precedence—the one refusing to recognize the authority of the other when they or their followers killed a lion. In the resulting struggle Mosalasila and his people were defeated and the Yei became the slaves of the Subia. Lipelenge and his people subsequently left the Goha Hills and settled at Luchindo near Ngoma on the Linyanti or Chobe River, where, they say, Lipelenge became chief of the Subia, Yei, Fwi and Mpukush. His dominions were very extensive.

The first chief of whom the Subia have any historical record is Mafwila, also called Lipelenge, which seems to have been a dynastic name. He was followed by Machila, who had a very short reign and he in turn by Sundano.

There is, however, a different story of the origins of the Subia which runs as follows: The Mpukush who lived at Katima Molilo were defeated by a tribe of Rotse origin and were scattered. Some went to Luchindo on the Linyanti, others were taken as slaves by the Rotse, others fled to the Toka, while others went across to the Okavango and settled at present-day Andara's, taking with them the sacred rain-making apparatus. At the time of the first known raids of the Rotse there were a people living in the Caprivi Strip and on the northern bank of the Zambezi, probably Totela, with whom the Mpukush intermarried. The result of this fusion was the tribe known as the Subia.<sup>3</sup> This story goes on to say that when Ngombala was chief of the Rotse he attacked and defeated Lipelenge, chief of the Subia, also known as Sundano, and made subjects of Sundano's people, who still called themselves Mpukush. Lipelenge, alias Sundano, then went with his people to Impalela Island at the extreme easterly tip of the Caprivi Strip. This happened before Tawana entered Ngamiland about 1795.

After the invasion of the Rotse came that of the Kololo. Sebetwane became very friendly with Sundano who was still chief of the Subia at that time, but this friendship did not last for very long, for having

<sup>1</sup> Sources: Nettelton, 'History of the Ngamiland Tribes'; African (South) 552, p. 146; Mafeking Registry files 79, 3869, 6403.

<sup>2</sup> Also written Lempelenge, Mbelenge, etc.

<sup>3</sup> See also history of Mpukush, p. 193.

defeated other tribes in this area he then returned and attacked the Subia at Nyungu on the Chobe River. The Subia, surprised in their sleep, fled and their chief, who was now Leswane I, son of Sundano's sister, went to find refuge with Mzilikazi, chief of the Matebele. It is said that the Matebele offered Leswane their assistance and returned with him to Nyungu, but found that Sebetwane had gone back to Barotseland. Sebetwane then treacherously invited Leswane to visit him, promising peace, and when Leswane accepted this invitation he was murdered in Barotseland on Sebetwane's orders. After Leswane's death, which occurred at Naliele on the Zambezi River, Sebetwane made Konkweni, Leswane's sister's son, chief of the Subia.

The empire of the Kololo was very shortlived. Sebetwane died in 1851 and after the very brief reign of his daughter Mma-Motshisane was succeeded by his son Sekeletu. Sekeletu died of leprosy in 1864, leaving an infant son, and a headman called Mbofelo was appointed to act as regent. In 1867 Mbofelo visited the Rotse and was murdered by them. Whereupon all the Rotse under Sepopa, third son of Maramba, their old chief before the coming of Sebetwane, took up arms, marched south, attacked the Kololo and virtually exterminated them. Sepopa was then confirmed as chief of the Rotse. The Subia say that they joined in the rising against the Kololo but that the Rotse subsequently fought the Subia and the Toka. The latter had risen against the Kololo at the same time as the Rotse, and had replaced their old chief on his throne. The Toka and Rotse then fought for supremacy and the Rotse won and reduced the Toka to submission. At the same time the Rotse invited Konkweni, the Subia chief, to Sesheke, ostensibly to make peace. Most of the Subia who accompanied him were massacred, but Konkweni and a few followers were spared and sent back to Impalela Island. Not content, Sepopa made plans to kill Konkweni, who, however, received timely warning and fled with his followers to the Botletle River where he died. A great many Subia must have been living in Barotseland and remained there, for in the map accompanying Gould-Adams's despatch of 24 August 1897,<sup>4</sup> describing his visit to the Rotse, the Subia are shown as occupying a substantial area north of the Zambezi, approximately opposite Sesheke. Gould-Adams described these people as servants of the Rotse.

After the death of Konkweni the leadership of the Subia on the Botletle fell upon Tshika Leswane, generally known as Leswane II. This group continued to live at Rakops but soon found that the foods to which they were used were not available, owing to lack of water and of flooded areas, and moved to the Mababe. Here they lived until 1902 when the Mababe began to dry up. They then returned to the Chobe with the exception of small sections of the tribe which went to Tlhale near Gomare in Ngamiland. Another small group remained on the Mababe. The old site of Leswane's village on the Mababe could still be seen, at any rate up to 1926, and was distinguishable by castor oil plants that grew on it.

Leswane II took his Subia to Munga, near Kachikau, where he

<sup>4</sup> African (South) 552, p. 146.

died in 1927. On his death the question of succession gave rise to much recrimination.

It seems that while the group was on the Boitlette River, Kgama III of the Ngwato, under whom they had placed themselves, had somewhat arbitrarily altered the law of succession. The old custom was that the succession should pass to the son of the eldest sister of the dead chief. Kgama now ordered that it should pass to the eldest son of the senior wife, in accordance with Tswana custom. The Subia apparently assented to this important change in the law and thus it was that Tshika Leswane, son of the Leswane who had been murdered by the Kololo, had become headman of the group.

Towards the end of his life he became incapable of attending to his duties and his son Sundano was appointed to act for him, on the assumption that he would succeed to the headmanship on the death of his father. But this was not Leswane's intention and Sundano himself, a very unsatisfactory character, was not popular with the people. So he fell out of the running. There was moreover some doubt as to whether Sundano was actually Leswane's son at all, it being said that he was born of another father before Leswane II married his mother.

There were now two candidates for the vacancy caused by Leswane's death; his second son Tshika and Simvula, the son of Konkwana. Moreover, Leswanenyana, chief of the Subia on the Caprivi Strip, then under the administration of the Protectorate, wished to have all the Subia under him. But the handing over of the Strip to South West Africa in 1929 presumably dashed these hopes.

Both Tshika and Simvula each had his own little body of adherents. Simvula was at Munga while Tshika was at Sehongwane, some twelve miles away. It was finally decided to accept the position as it was and to recognize each man as headman of his own adherents, and this arrangement has continued, not without considerable friction, ever since.

The situation was complicated by the behaviour of Sundano, who constantly caused trouble between headmen and people, claiming to be the rightful headman instead of his younger brother Tshika. Failing to obtain any satisfaction from the authorities, he crossed to the Caprivi Strip in 1934.

The little group was rent not only by political disputes but also by religious differences. In 1931 a European evangelist called Maree from a sect called 'The Latter Rain Assemblies of South Africa' arrived in the Kachikau area, having walked from Francistown. He made a number of converts among the Subia and then attempted to return to Francistown, also on foot, but was murdered by Bushmen. Mutemwa Lukulo, the evangelist in charge at Kachikau, went to seek work in Kimberley in 1936 and left one Munikasu in charge. On Lukulo's return Munikasu refused to stand down and there was a split in the church. This split continued for some years, the majority of the converts siding with Lukulo but it is reported that a *modus vivendi* between the two parties was reached in 1948.

### Mpukush<sup>1</sup>

The Mpukush live mostly on and between the Okavango and Kwando rivers where those rivers cross the Caprivi Strip, and in the Molembo area of Ngamiland. According to tribal legends the tribe once lived on a lake in the north-east of Angola. In a year of great famine, about the beginning of the nineteenth century, after the tribe had eaten all its cattle, hunting parties travelled south in search of game. One such party, under a headman named Mashambo, followed some elephants until they reached the Okavango River. Others of the tribe followed some eland down the Kwando and finally settled on the Linyanti. Mashambo decided to remain on the Okavango and drove out the river Bushmen who were then occupying the land. Mashambo was followed by Mbungo, Dibebe I<sup>2</sup> and Dimbo I,<sup>3</sup> who was known to the Tawana as Andara. It was he who gave his name to the place on the Okavango River in the Caprivi Strip, where there is now a flourishing Roman Catholic mission.

There is, however, another story. This says that the Mpukush originated from somewhere near the Victoria Falls, and went to live in the neighbourhood of Katima Mulilo on the Zambezi. Here they were attacked by the Rotse and dispersed, one group making its way to the place now called Andara's with the sacred rainmaking apparatus. It seems however most probable that whatever their later vicissitudes, the tribe originated in Angola.

The tribe did not long enjoy an independent existence in its home on the Okavango, for the overlordship was disputed between the Rotse and the Tawana. Andara died about 1890, allegedly poisoned by his successor Dibebe II. The law of succession among the Mpukush is that the chief is succeeded by the eldest son of his eldest sister. If this person is not considered suitable then another nephew of the late chief may be nominated. No one can remember a brother or an uncle having succeeded to the chiefship but the law provides for the eventuality. On Andara's death two of his nephews disputed the chiefship: Monkoya, the son of an elder sister by a man called Liwananda, and Dibebe, the son of a younger sister by a man named Dimbadi. The chiefly line of the Mpukush is noted for its rainmaking ability and Monkoya, who had managed to obtain possession of the sacred rainmaking medicines and apparatus, which some claim as sufficient to constitute chiefship, was chosen as their chief by the people on the eastern side, while those on the western side (on the Okavango) adhered to Dibebe. The tribe was thus divided into two parts and Lewanika, chief of the Rotse, and Sekgoma, chief of the

<sup>1</sup> Sources: Nettleton, 'History of the Ngamiland Tribes'; African (South) 55, p. 146; Mafeking Registry file series 6403.

<sup>2</sup> Some authorities say that Lebebe or Dibebe is a dynastic name which is assumed by all chiefs. My informants deny this.

<sup>3</sup> Nettleton's genealogy. Gould-Adams [in his despatch of 24 August 1897, given in African (South) 552], says that Andara was the son of a former chief called Sikaji. The Mpukush recognize the name Sikaji but do not know whether he was a chief. They also mention a chief called Kathimana but do not know the order of his succession.

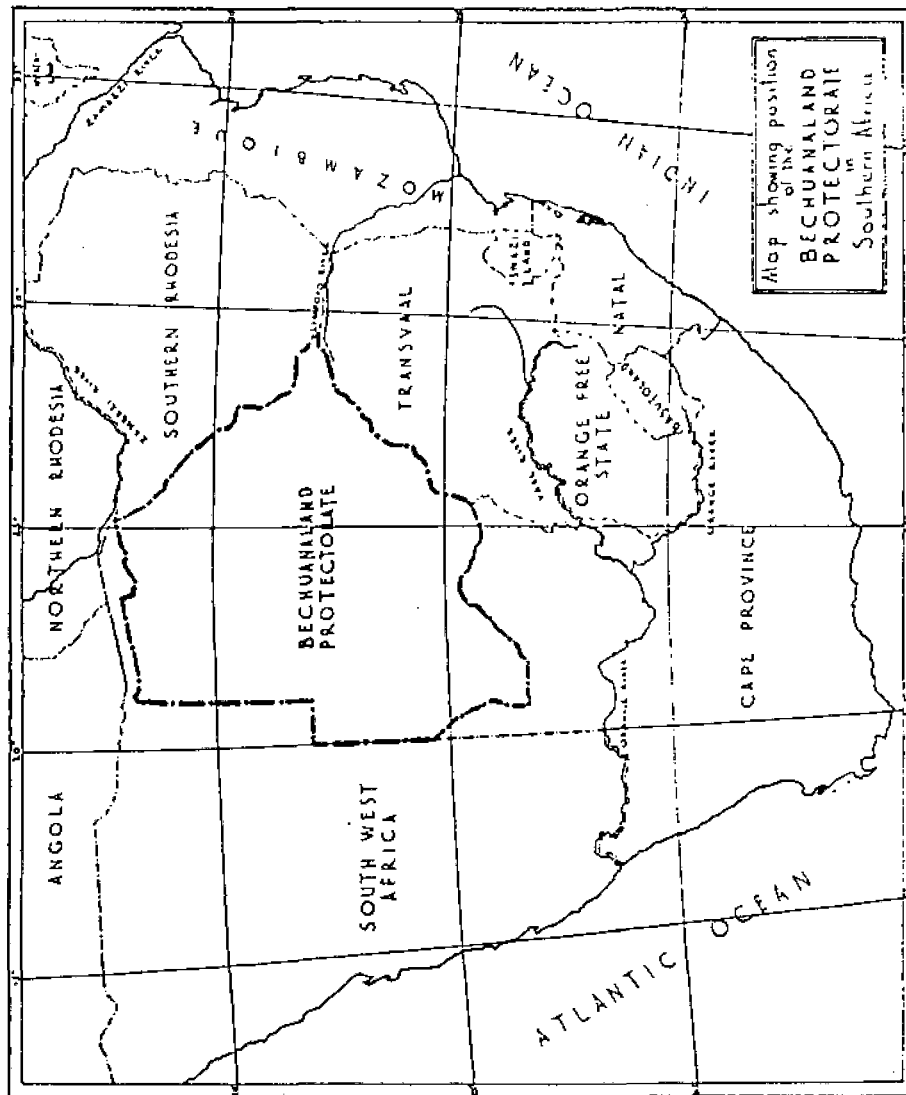


ANNEX 17

THE  
BECHUANALAND  
PROTECTORATE

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G 20

by  
A. SILLERY



Geoffrey Cumberlege  
OXFORD UNIVERSITY PRESS  
Cape Town London New York  
1952

The Resident Commissioner is advised in his conduct of the affairs of the Protectorate by a European Advisory Council and by an African Advisory Council. The Resident Commissioner presides over both. The European Advisory Council meets in Mafeking twice a year and consists of eight members, elected by the enrolled voters in the electoral divisions of the Protectorate. The African Advisory Council consists of thirty-six members and is composed of chiefs, headmen and other notables. This council meets once a year, also in Mafeking, and is invariably an occasion for frank debates in which Government often comes in for much criticism, generally helpful. The opportunity is taken at the African Advisory Council also to hold a conference of District Commissioners, at which these officers discuss their common difficulties and represent them to the Resident Commissioner. Perhaps not the least useful part of these meetings is the opportunity for District Commissioners and chiefs from up-country to meet members of the headquarters staff informally and at leisure and to discuss with them their individual problems.

To sum up, the Native Administrations of the Protectorate are, at their best, satisfactory instruments of local government, resourceful and generally in line with the condition and ideas of the people. Their strongest point is their enthusiasm for social services, especially education, and for the general advancement of their people. Their weakest, and the one on which they need most guidance, amounting sometimes to control, is that of finance. Here they find difficulty in adjusting their very praiseworthy aspirations to their resources. This weakness is however by no means general. These Administrations are still based on the past and their machinery still derives strongly from tribal tradition. Some, at least, may soon have to broaden their bases to meet the changing needs of the time. For instance, in Ngamiland there is a demand from the subordinate tribes, hitherto relegated to a minor rôle in the conduct of affairs, for a much larger share in tribal government. In other areas the younger generation will claim to have its voice heard, and will show itself, as in other countries, more and more restive of patriarchal direction and restraint. In the view of the writer, the Native Administrations, not perhaps always without difficulty, will be able in the end to adapt themselves to changing conditions. In the meantime a certain conservatism, provided it is not prejudiced and unreasonable, is no bad thing.

EPILOGUE<sup>1</sup>

FROM the beginning of hostilities in 1939, the Tswana chiefs constantly offered the services of their men, and their own, if required, in any capacity. At first these could not be utilized, but as the Middle East campaign developed and drew near its darkest days, the need of a reliable force of military labour in the Middle East became pressing, and East African and High Commission Territories labour companies were called for.

A training depot was set up at Lobatsi at the end of June 1941 under the command of Lt.-Col. R. C. Boothby, M.C. Officers of the Royal Pioneer Corps were sent from England and were joined by six Administrative Officers released by the Government. No extended training was given to the companies, who began to arrive from all tribes in July and whose personnel were enrolled in the African Pioneer Corps of the British Army. They were taught rudimentary parade ground work, simple arms drill and discipline, and in each case, after about two months' training, were sent to the Middle East, where they were to embark on more advanced training in intervals while being rested from the many heavy labour commitments for which their presence was urgently required.

The first group of six companies, 64 Group of the Royal Pioneer Corps, left in September 1941, under the command of Lt.-Col. J. H. M. Edye, D.S.O., O.B.E., M.C., and went to Syria, where defensive lines and bases were being constructed against a possible new front which might be opened by a German thrust through Turkey towards the Middle East, and Iran and Iraq, and indeed India. Other companies followed to the Middle East as they completed their initial training and by the end of December 1941 there were thirteen labour companies of 340 men each, a total of over 4,400 Tswana, in the Middle East.

All except three of the companies went to Syria and were centred on Baalbek in the Lebanon. They undertook all types of military labour, including the construction of defences, road making, the establishment of engineer dumps, the handling of supplies and incidental guards. Despite the cold and snow of the Lebanon, they maintained an astonishing freedom from sickness and earned an excellent reputation for their energy and discipline. The other three companies became garrison guard companies and remained in Egypt on guard duties. Early in 1942 two further companies arrived and joined the others in Syria and Haifa.

<sup>1</sup> This account of the Tswana at war is contributed by Mr. R. A. R. Bent.

PROOF.

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No.

THE HIGH COMMISSIONER TO THE SECRETARY OF STATE

(Received, November 30, 1907.)

(Confidential (4).)

High Commissioner's Office, Johannesburg,

November 11, 1907.

MY LORD,

I HAVE the honour to enclose a copy of a letter which I have received from Lewanika, the Paramount Chief of the Barotse nation, dated the 7th October, 1907, in which he begs that the boundary between Barotse and Portuguese territory may be fixed and demarcated.

2. I had a second interview with Lewanika at the Conference of the Njoko and the Zambesi Rivers on the 13th October. At that Conference I told Lewanika that His Majesty the King had observed with great satisfaction how loyally the Chief had accepted the award of the King of Italy, although he knew that the terms of that award had in certain respects caused the Chief much disappointment. I laid emphasis on the fact that His Majesty the King of Italy was the King's personal friend, in whose absolute impartiality His Majesty had complete confidence. Lewanika told me that he had been disappointed, but he begged me to assure the King that he had accepted the award finally and unreservedly, and his most earnest wish now was that a Commission should be appointed to fix and beacon the boundary on the spot. I told Lewanika that I would do my best to support his petition, as indeed an undemarcated boundary is always a possible source of danger, and not least so in this case, but I warned him that such matters were not quickly settled, and that he must be patient.

3. On my return to Livingstone, I discussed the matter with the Administrator, Mr. R. Codrington, who expressed his great satisfaction that Lewanika had asked for demarcation, and stated that he should warmly support the proposal, as he knew the Directors of the British South Africa Company would also do.

4. I believe that the reason why this question has never been raised by His Majesty's Government has been the objection that your Lordship's predecessor and the Secretary of State for Foreign Affairs felt as to the expediency of moving in the matter while Lewanika was still sore about the terms of the King of Italy's award. Now that your Lordship and the Secretary of State for Foreign Affairs can feel completely reassured on this point, and now that Lewanika himself has asked for the demarcation of the boundary, may I be permitted strongly to support the advisability of as prompt action to this end as is feasible in the circumstances?

5. In connection with the question of the demarcation of the boundary between the Bechuanaland Protectorate and German South-West Africa, I shall be pointing out that what is really required is a tripartite settlement, affecting His Majesty's territory, German territory, and Portuguese territory. His Majesty's territory concerns two separate administrations—the Bechuanaland Protectorate and North-Western Rhodesia, and in the interests of both alike, a general settlement of boundary is urgently required. After seeing Lewanika and the condition of affairs on the spot, I would ask to be permitted to formulate and emphasize my recommendation to His Majesty's Government to endeavour to effect an exchange of territory with the Emperor of Germany, the object of which would be that what is called the German Strip on the Zambesi should be ceded to His Majesty's Government in exchange for a corresponding portion of the Bechuanaland Protectorate. The reasons in favour of this readjustment are very strong.

6. The people living on the southern shore of the Zambesi are Barotse, and in the closest touch with Lewanika. Although Lewanika knows that the territory is now German, his relations with his subjects have been unimpaired, and it will certainly cause additional trouble with him when German authority is exercised over these people. I may observe that the administration of German South-West Africa has latterly been so occupied with native wars that there has been no attempt as yet whatever on its part to extend its authority to the German Strip on the Zambesi. This strip is now a "no man's land," and is becoming a refuge for criminals from all the surrounding territories. Of course, when the German Government chooses to do so, it can assert its authority there; but the frontier and administrative difficulties on the one hand and the other, which will be caused by this strip

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CJ. WZ

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of German territory coming like a wedge between the Bechuanaland Protectorate and North-Western Rhodesia, and extending at its point right up to Southern Rhodesia, will, I fear, tend to increase rather than to diminish.

I have always understood that the reason why His Imperial Majesty the German Emperor laid such stress on the possession of this strip, was his desire not to be excluded from the navigation of the Zambesi, about which, at that time, very little was known. But what are the facts of the case now that they are known? From the point of view of access to the Zambesi as a road to the sea, the German strip is wholly valueless. The Zambesi becomes wholly unnavigable, even to small canoes, close to Kazingula, which is over 50 miles from the Victoria Falls. Between it and the Falls, therefore, there is no possibility, and never can be any possibility, of navigation. Nor, again, can there ever be any possibility of navigation in that deep and intricate gorge, through which the river so fiercely forces its way for many miles below the Victoria Falls. So far as the Governments for which I am responsible are concerned, the German strip could be exchanged for a corresponding portion of British territory taken from the Bechuanaland Protectorate. I will revert to this subject when I answer your confidential despatch of May 4th, 1907. The Resident Commissioner of the Bechuanaland Protectorate and Sir Hamilton Goold-Adams both earnestly advocate the proposal I have adumbrated, and I am only waiting for certain information from the Magistrate in the Batawana Reserve to reply to your despatch. The British South Africa Company would have to be consulted in respect of any surrender of territory from the Bechuanaland Protectorate, but if as I should recommend the Barotse portion of the German strip was added to North-Western Rhodesia, there is no likelihood of the directors being otherwise than entirely favourable to the scheme.

I have, &c.,  
SELBORNE,  
High Commissioner.

Enclosure in No.  
CHIEF LEWANIKA to HIGH COMMISSIONER.

Sir,

Sesheke, October 7, 1907.

There is still one thing very important which I have forgotten to bring before Your Excellency, it is about the boundary; we have seen the boundary on the map, as it has been fixed by the King of Italy, but I fear very much that troubles may arise, for nobody know exactly where the boundary is—where it is Portuguese and where it is British territory or sphere of influence. Things forbidden, such a gunpowder, may be introduced from there. It is now many years since we have been promised a Commission would be sent to fix that boundary to the south and west of my country; I wish it would come before troubles have arisen. I therefore beg Your Excellency to let the Colonial Office know my anxiety about that boundary, and entreat them to send a Commission before it is too late.

LEWANIKA.  
I beg, &c.,

To His Excellency  
The High Commissioner.

P.S.—I intend to leave to-morrow to go back to Lealui, my capital. I trust Your Excellency and Lady Selborne have a nice time, and enjoy a good health.

# ANNEX 19

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and the provision limiting the number of adults to a given area would appear to be all that is necessary to obtain the object in view.

I have, &c.,  
C. DOUGLAS-JONES,  
Private Secretary.

The Imperial Secretary,  
Johannesburg.

21674

No. 88.

FOREIGN OFFICE to COLONIAL OFFICE.

(Received 15 June, 1908.)

[Answered by No. 97.]

SIR, Foreign Office, 15 June, 1908.

SECRETARY Sir E. GREY has had under his consideration your letters, Nos. 1280 and 11106, of March 10th and the 11th of April,\* proposing that negotiations should be opened with the German Government for the cession to His Majesty's Government of the German strip giving access to the Zambesi in exchange for a portion of the Bechuanaland Protectorate, and suggesting that these negotiations might possibly be combined with those in regard to the southern boundary of the German South-West Africa Protectorate along the Orange River.

I am to state that Sir E. Grey does not consider that the fact that such a proposal might evoke unacceptable counter proposals from the German Government need be a serious objection to the opening of negotiations with this object, for in the event of the German Government taking advantage of the opportunity afforded to raise, *e.g.*, the question of the cession of Walfisch Bay, it is open to His Majesty's Government to reply that the Bay must be considered as outside the sphere of the matters under discussion.

With regard to the enquiry made in the second paragraph of your letter of March 10th, Sir E. Grey is unable to express an opinion as to the attitude which the German Government are likely to assume towards the cession of the German strip, but it would appear impossible that the strip can ever serve its original purpose of giving German South-West Africa access to a navigable portion of the Zambesi, and improbable that it can ever have any great intrinsic value.

I am to enclose, for the Earl of Crewe's concurrence, a draft of a despatch to His Majesty's Ambassador at Berlin instructing His Excellency to approach the German Government with a view to coming to an agreement on the lines suggested.

I am, &c.,  
W. LANGLEY.

Enclosure in No. 88.

(Draft.)

Sir E. GREY to Sir F. LASCELLES.

SIR, Foreign Office, June . . . 1908.

I TRANSMIT to Your Excellency herewith copies of two letters\* from the Colonial Office containing proposals for the settlement of certain boundary questions on the south and east frontiers of German South-West Africa.

As Your Excellency is aware, it was arranged by the Agreement of July 1st, 1890, between the German Government and that of Her late Majesty, that the boundary between British territory and German South-West Africa should run eastward along the 18th parallel till it reaches the River Chobe and then descend the centre of the main channel of that river to its junction with the Zambesi, with the further proviso that the strip of territory by which Germany thus gained access to the Zambesi should not be less than 20 English miles in width.

It was discovered subsequently that the southern boundary of Portuguese West

\* No. 34 in this book and No. 46 in African No. 398.

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Africa in this region lay further south than was supposed in 1890, and the delimitation of the southern boundary of the strip would, therefore, necessitate the cession to Germany of some portion of the northern frontier district of the Bechuanaland Protectorate.

Such a cession of territory would involve no small disturbance of the Batawana tribe, and Your Excellency will observe from the High Commissioner's letter of December 23rd last (enclosed in the Colonial Office letter of March 10th) that both the Resident Commissioner of the Bechuanaland Protectorate and the Magistrate of N'gamiland are of opinion that any interference with this tribe is at the present moment most undesirable.

The Earl of Selborne stated in Sections 5 and 6 of his despatch of December 23rd last that, apart from the trouble with the Batawana which may result from the delimitation of the boundary of the German strip, it is to be feared that, when the Government of German South-West Africa establish their authority in the strip, difficulties with the natives inhabiting it may arise when attempts would be made to use British territory as a base of operations, as in the cases of Morenga and Simon Cooper.

In addition to these considerations the delimitation of a strip of territory in which not only His Majesty's Government and the German Government, but also the Portuguese Government are interested cannot fail in my opinion to be one of considerable difficulty.

The strip in question appears to be of no value either intrinsically or as a highway to the navigable waters of the Zambesi, which is closed by the Katima rapids at the west while the Victoria Falls prevent vessels descending to the portion of the river running through Rhodesian territory.

In these circumstances His Majesty's Government would suggest, for the consideration of the German Government, that the strip in question should be ceded to Great Britain in exchange for the portion of the Bechuanaland Protectorate coloured red on the annexed map,\* and lying between the 22nd parallel on the north and an east and west line on the south passing through the point of intersection of the Nosop River with the 21st meridian, and between the 21st meridian on the east and the present German boundary on the west.

This territory would be of value to the German Government, as its possession would enable them to guard against the assembly of disaffected natives.

In the event of the German Government consenting to negotiate an exchange of territory on these lines His Majesty's Government would be willing to agree to an arrangement in regard to the Orange River boundary on the lines of the Cape Ministers' Minutes of February 29th and March 10th last (enclosed in the Colonial Office letter of April 11th).

I request that Your Excellency will address a note to the German Government, laying stress on the fact that, for the reasons stated, the strip would appear to be of no intrinsic value to Germany, while its position between two British administrations can hardly fail to cause a number of troublesome frontier incidents. You should propose the exchange of territory outlined above, and add that if, as His Majesty's Government hope, the German Government are prepared to give the proposal their favourable consideration, His Majesty's Government will in deference to the wishes of the German Government abandon an appeal to arbitration in the Orange River boundary question, and give favourable consideration to any proposal they may put forward for the settlement of that question.

I have, &c.,

22318

No. 89.

THE HIGH COMMISSIONER to THE SECRETARY OF STATE.

(Received 20 June, 1908.)

(No. 464.)

High Commissioner's Office, Johannesburg,

My Lord,

1 June, 1908.

With reference to my telegram, No. 59, of May 30th,† I have the honour

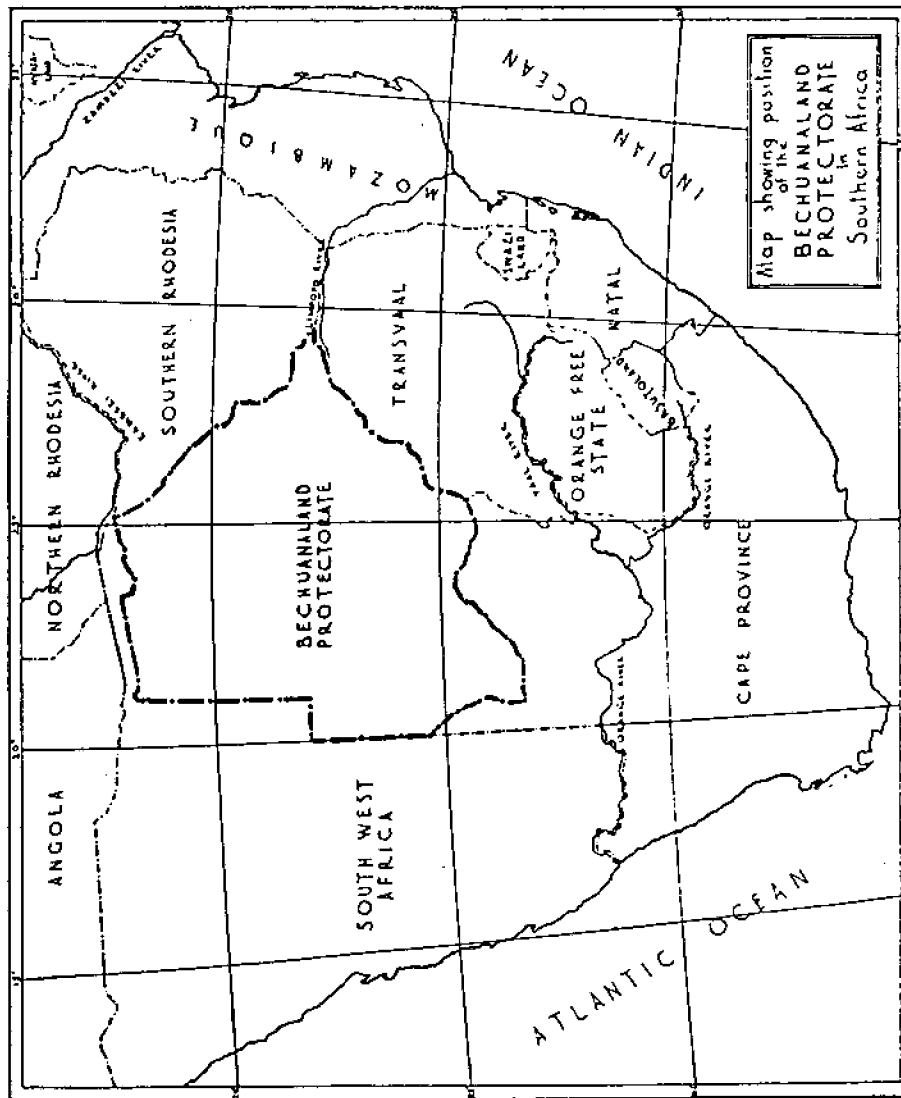
\* Not received in Colonial Office.

† No. 80.

THE  
BECHUANALAND  
PROTECTORATE

11  
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by  
A. SILLERY



Geoffrey Cumberlege  
OXFORD UNIVERSITY PRESS  
Cape Town London New York  
1952

The Tlokwa, owing to the particular circumstances of their entry and sojourn in the Protectorate,<sup>1</sup> were without a reserve of their own until 1933. The cession by the B.S.A. Company to the Crown of the land occupied by this tribe and the subsequent declaration of a reserve<sup>2</sup> were part of the settlement between the Company, the Ngwato and the Government in the matter of the Ngwato mineral concession.<sup>3</sup>

In 1904 an Order-in-Council<sup>4</sup> vested in the High Commissioner as Crown Lands the lands ceded by Kgama, Sebele and Bathoen in the east of their territories. The following year they were granted to the British South Africa Company with the exception of certain portions reserved for government purposes.<sup>5</sup> The Company was empowered to dispose of the land to European settlers, which in a large part it had already done, but Government retained certain rights, including the right to expropriate land for public purposes.

It was thus that the so-called Gaberones, Lobatsi and Tuli Blocks were created. With Ghanzi and the Tati area they constitute the areas of European settlement.

In 1910 an Order-in-Council added to the Crown Lands already defined in 1904, 'all other land situate within the limits of the Bechuanaland Protectorate elsewhere than in the Tati District', other than native reserves, land already subject to a grant, and the so-called 'Barolong Farms'.<sup>6</sup>

No further changes were made for over twenty years, but in 1933 a new reserve was created, and considerable additions made to the Ngwato reserve, as the result of negotiations connected with a concession held by the British South Africa Company. Not long after Tshekedi Kgama became acting chief of the Ngwato in succession to his half-brother Sekgoma and as regent for the heir Seretse, a mineral concession granted to the Company by Kgama in 1893 came in for criticism both from Tshekedi and from the Government. Tshekedi not only urged that the concession should be cancelled, but also declared himself and his tribe opposed to mining at all in their country. The Government, on the other hand, foresaw that an abrupt cancellation might lead to litigation with unforeseeable results (legal opinion as to the possibility of cancelling the concession was divided), and advised that the tribe and the Company should amicably negotiate a new concession. These negotiations were very lengthy and involved a visit by the acting chief to England in 1930 to lay his case before the Secretary of State. The issue was further complicated by discussions about a mining law, and it was not until 1932 that a new concession was signed between the tribe and the Company. This agreement provided for the cession by the Company to the High Commissioner

in trust for the tribe of two strips in the Tuli Block. In order to smooth the way for the new agreement the Government, which had throughout acted as mediator between the tribe and the Company, ceded to the tribe a considerable area to the north of the Ngwato reserve, while in return for the new agreement and a satisfactory mining law the Company made over to the Crown the area near Gaberones occupied by the Tlokwa which was then declared to be the Tlokwa reserve.<sup>1</sup> In the event, the Company abandoned the concession in 1934, and the two strips in the Tuli Block were transferred back from the tribe to the Company and Proclamation No. 45 of 1933 was cancelled. The Ngwato retained the Crown Lands which had been made over to them by Government, while the Tlokwa, beneficiaries of transactions in which they had otherwise not the slightest interest, remained securely established in their own little country.

In addition to the blocks of land in the east of the Protectorate which were ultimately granted to the British South Africa Company, and subsequently in the greater part sold by that Company to individual ownership, there is also a substantial concession in the north-eastern corner of the Protectorate, abutting on Southern Rhodesia. This is the Tati Concession.

Before the collapse of the Matebele power there stretched between the Ngwato and the Matebele an area of no-man's-land, which was claimed by both tribes, though effectively occupied by neither. One specific bone of contention between chiefs Kgama and Lobengula, still unsettled at the time of the death of the latter, was the narrow strip of country between the Molloutsi and Shashi rivers, called 'the disputed territory'.

In 1866 gold was discovered near the Tati River, which runs south into the Shashi River through the country known as the Tati district, lying between the Shashi and the Ramaquabane rivers. This area too was claimed by both the Matebele, on grounds of conquest, and by the Ngwato who said that from time immemorial they had grazed their cattle there, and that the Kalaka who lived there were tributary to them. The Boers of the Transvaal, much concerned at that time about their northern boundaries, negotiated with both sides. First they asked Matsheng, chief of the Ngwato, to cede the area to them and Matsheng wrote (as we have already seen)<sup>2</sup> to Sir Philip Wodehouse asking for advice, and offering to cede the region to the British Government. The Cape Parliament decided to appoint a commission to enquire into the value of the gold-fields and their ownership, but the matter went no further. Then the Boers offered to buy the area from the Matebele, but Mzilikazi rejected the offer. Finally, in 1868, the Transvaal Government issued a proclamation annexing the whole

<sup>1</sup> p. 169.

<sup>2</sup> Proclamation No. 44 of 1933.

<sup>3</sup> See below and p. 85.

<sup>4</sup> The Bechuanaland Protectorate (Lands) Order-in-Council, 1904.

<sup>5</sup> Proclamations Nos. 4, 12, and 13 of 1905.

<sup>6</sup> Bechuanaland Protectorate (Lands) Order-in-Council, 1910.

<sup>1</sup> These territorial transactions became law in Proclamations Nos. 45 (transfer to High Commissioner of land in Tuli Block), 31 (addition of Crown lands to Ngwato reserve), and 44 (declaration of Tlokwa reserve), all of 1933. The full story of the negotiations regarding the Ngwato mineral concession is in file series 382 in the Mafeking Registry.

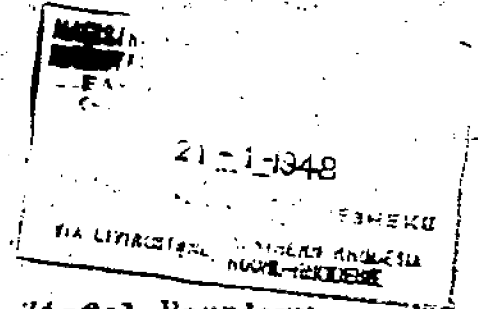
<sup>2</sup> p. 40.



ANNEX 21

17/15/2 - 5.

The Secretary for Native Affairs,  
P. O. Box 384,  
FRMITORIA.



Bechuanaland-Eastern Caprivi Zippel Boundary.

1. I attach hereto a joint report by myself and Mr. N.V. Redman, District Commissioner at Kasane, B.F.

2. The report is self-explanatory so far as the facts are concerned. The necessity for our consideration of the matter arises from the fact that a certain River Transport venture, which proposes transporting timber down river from a Bechuanaland Sawmill, has raised the question of the correct boundary both in representations to me and the Bechuanaland authorities. My views on the matter were solicited by the District Commissioner at Kasane and I suggested to him that we should make a joint investigation and endeavour to arrive at common ground in regard to the actual facts. The Joint Report is the result.

3. There is no doubt if the wording of the 1890 Treaty is applied to the geographical facts as they exist today the true inter-territorial boundary would be the northern waterway and would include Kasikili Island in the Protectorate.

4. There is just a possibility that since 1890 when the Treaty was made the course of the river has altered - but that proposition could only rest on supposition as there is no direct evidence thereof.

\* 5. However, to agree out of hand to the northern boundary would be to give up a fairly considerable area of land which has at least since before the actual time of the commencement of German Administration (i.e. 1907 - for the Germans left it until that year to send officials here although their rights had been conceded in 1890) been made use of by Caprivi tribesmen. It is possible that a right to that land has been acquired by prescription. Pointers in that direction are -

- (i) That this is the first time any claim has been made to the Island by the Protectorate Administration although there has, apparently since 1915 or thereabouts, been either a District Commissioner's Office or a police post within a mile or two of the Island who could not fail to have been aware that the Island was being used by Caprivi tribesmen; and
- (ii) That even during the period 1915-1929 when the Caprivi was administered by the Bechuanaland Administration on behalf of the Union Government, this position continued and no objection was raised to cultivation of the island by Caprivi tribesmen.
- (iii) That available maps, although not very clear, show the boundary as the waterway which we have found not to be the "main channel" of the river.

6. On the other hand the terms of the Treaty are very definite and, as I have already pointed out, favour the Bechuanaland contention. It is not without point, however, that we are - by occupation - in the position of the possessor and the onus would appear to lie on the Protectorate to prove their case in order to disturb our possession.

7. It will be remembered that in years past the ownership of certain Zambesi Islands was in continual dispute between the Caprivi and Northern Rhodesia. The "thalweg" (or main current) of the Zambesi River was, by the same Treaty, the boundary between the two territories.

8. A joint Inter-Territorial Commission (on which the South African representative was Mr. H.F. Sait since retired as Controller and Auditor-General) was appointed to investigate and reach conclusion - their agreement forms the basis of the "Exchange of Notes" which forms Treaty Series No.1(1953).

9. On this precedent it might be thought advisable to appoint a joint commission in regard to Kasikili Island. But I suggest that the facts are so patent that the appointment of such a commission is unnecessary and it is merely now a matter of negotiation between the two administrations.

10. The Bechuanaland authorities are anxious to have the northern channel recognised as the boundary because that stretch of water is navigable and gives access to the higher reaches of the Chobe - which is not the case in respect of the southern channel.

11. I appreciate the various alternatives as follows:

- I. To accept the geographical and treaty position and recognise the northern channel as the boundary thus including Kasikili Island in the Protectorate and precluding the Caprivi tribesmen from making use thereof;
- II. Similarly to accept the position as set out in alternative No.1 but to conclude a formal agreement with the Protectorate that Caprivi tribesmen may continue to make use of the island for cultivation, fishing of its backwaters, hunting, collection of grass and reed temporary residence during dry spells, and depasturing of cattle;
- III. To assert our right to the Island on the ground of long use or prescription, and seek recognition of the southern waterway as the boundary thus, under the Native Reserve Regulations, requiring any persons using the northern waterway for navigation (which in effect means "entering" the Caprivi) to obtain official permission to do so vide regulation 14(1) of S.W.A. G.N. 67/1924 as amended by G.N.129/1933;
- IV. Similarly to assert the right mentioned in alternative No.III, at the same time issuing a general permit to all persons to use the waterways for navigation subject to certain necessary conditions (no shooting or carrying arms and so forth);
- V. Similarly to assert the right mentioned in alternative No.III but to conclude a formal agreement with the Protectorate that the northern waterway may be used as a general waterway; or
- VI. Similarly to assert the right mentioned in alternative No.III and declare the northern waterway a "public road" this making reserve entry permits unnecessary. vide regulation 4 of S.W.A. G.N.129/1933.



# SEVEN YEARS IN SOUTH AFRICA:

TRAVELS, RESEARCHES, AND HUNTING ADVENTURES,  
BETWEEN THE DIAMOND-FIELDS AND THE ZAMBESI (1872-79).

BY

DR. EMIL HOLUB.

TRANSLATED BY ELLEN E. FEWER.

WITH ABOUT TWO HUNDRED ORIGINAL ILLUSTRATIONS AND A MAP.

IN TWO VOLUMES.

VOL. II.

ANNEX 22

Marutse king. Captain McLeod informed me that he had killed an elephant with tusks weighing 100 lbs., and that Sepopo had taken them, under a promise to give him two others instead on his return to Sesheke.

We were entertained at one of Makumba's residences with butshuala (kaffir-corn beer), which was brought in wooden bowls, and served out in gourd-shell cups. He was a staunch supporter of the king, and ultimately lost his life in his service. While I was with him, he took the opportunity of enlightening me as to some of Sepopo's peculiarities, that I might regulate my proceedings accordingly.

Before leaving Impalera I took several walks about the village, and found that it was divided into three groups of homesteads; that nearest the river contained 135 huts; another, where the natives took refuge during floods, contained twenty-five huts; the third, made up of thirty-two huts, lay farther to the west. The women did not wear aprons like the Bechuanas, but had little petticoats reaching to the knee. On the whole, the people were decidedly superior in looks to the Bechuana tribes.

Makumba left the village on the same day that we arrived. His proper home was on the left bank of the Zambesi, the residence at Impalera being occupied by one of his wives and some maids who attended to the fields, and kept the place prepared for him whenever he might choose to pay it a visit. The only reason for his being here now was that he might welcome me in the king's name; I thanked him for his courtesy, and offered him a present, which he

declined, saying that it was as much as his head was worth to accept a gift from either a black man or a white before the king had received one.

Late in the afternoon of the 17th we made our way to a great baobab close to the landing-place on the Zambesi known as "Makumba's haven." The boatmen put up a temporary shelter for Blockley and myself, and there I spent my first night on the bank of that great river that for years it had been my chief ambition to behold.

The landing-place was close to the rapids of which I have spoken, and about four miles above the mouth of the Chobe. Before us in the stream were numbers of small islands, some wooded and others overgrown with weeds. Darters were perching on the overhanging branches, and cormorants had taken up their quarters on the ledges of the dark brown rocks. Carefully avoiding the deeper places frequented by crocodiles, the birds kept on diving for fish and returning to their old positions, where they spread out their wings to dry. We shot several of them, but only managed to secure two, as the rest, like a bald buzzard (*Haliaeetus vocifer*) that I also killed, were carried down the stream and devoured by crocodiles. Hippopotamuses could be heard every ten minutes throughout the night, but the large fire that we made deterred them from coming close to us.

Soon after sunrise I took my first boat-journey on the Zambesi. I found myself in a fragile canoe made of a hollowed tree-stem scarcely eighteen inches wide, its sides being scarcely three inches above the surface of the deep blue stream, that made a dark belt around the diversified verdure of the islets.

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ANNEX 23



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HIGH COMMISSIONER'S OFFICE,

Johannesburg,

November 16th, 1902.

SOUTH AFRICA.

BECHUANALAND PROTECTORATE.

NORTH-WESTERN RHODESIA.

GERMAN SOUTH WEST AFRICA.

No. 675.

My Lord,

With reference to previous correspondence respecting the lawless condition of affairs prevailing in the Caprivi Zipfel, I have the honour to inform you that I have been in correspondence with the Governor of German South West Africa with a view to arranging co-operative measures for the policing of this district between his government and the neighbouring British Administrations of North-Western Rhodesia and the Bechuanaland Protectorate.

2. The Governor of German South West Africa received my proposals sympathetically and he is about to despatch an officer, Captain Streitwolf, with two white and sixteen native police via Lake Ngami to establish a police post at some place

- within -

The Hon. Member

The Earl of Crewe, K. G.,

etc., etc., etc.,

Colonial Office.

PUBLIC RECORD OFFICE

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References: CO 417 454 29363

within the German Strip. In the case of the Bechuanaland Protectorate I have approved of Sub-Inspector Eason, with one white and four native Police, being sent to establish a post within the Protectorate to the west of Kasungula; while as regards North-Western Rhodesia an officer of that Administration will proceed to Shesheke, there to establish a similar post.

3. In connexion with the Bechuanaland Protectorate post I have authorized the Resident Commissioner to incur the necessary expenditure, not exceeding £200, for the erection of mosquito proof huts, stables, etc.. Colonel Panzera informs me that this expenditure can be met out of savings on other items under the head of Public Works Extraordinary, and it will not, therefore, involve any excess on the estimates. I have further authorized the Resident Commissioner to place the European members of the party proceeding north on the same footing as regards allowances as the Police in Namaland and they will each receive 1/- per diem extra ration allowance.

4. In order to enable Sub-Inspector Eason efficiently to carry out his duties I have appointed him to be an Assistant Resident Magistrate for the Protectorate with jurisdiction in that portion of territory lying between the Batawana Reserve on the west, the Rhodesian border on the east, and north of the Bamangwato Reserve; and further, in view of the

- rank -

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rank held by the officer in charge of the German post, I have thought it advisable to grant Sub-Inspector Eason the local and temporary rank of Captain.

5. I enclose, for your information, a copy of a Proclamation which has been issued by the German Governor providing for the exclusion of undesirable characters from the German Strip.

6. I trust that the action which I am taking in this matter will be approved by your Lordship.

I have the honour to be,

My Lord,

Your most obedient servant,

*Sellman*

High Commissioner.

PUBLIC RECORD OFFICE

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Reference:

CO 417 | 454 | 29363

Translation.

44660  
DEC 08

Proclamation of the Kaiserlichen Gouverneur of Deutsch  
Sudwest Afrika with regard to the traffic to and in the  
Caprivizipfel.

On the basis of Sec.15 of the Territory Laws (Reichsge-  
setzblatt 1900 S.815.) and Sec.5 of the regulations given  
by the Reichskanzler with regard to the rights given to  
the ~~secular~~ ~~ecclesiastical~~ and ~~ecclesiastical~~ bodies and to  
right to issue local orders by the officials in the  
Territories of Africa and the South Sec of the 27 Sep-  
tember 1903 (Kol. Blatt. S.509)

The following is herewith ordered:

Sec. 1.

The entrance into that portion of the South  
West African Territory situate to the East from the  
Okavango and called Caprivizipfel is herewith until further  
notice prohibited.

Sec. 2.

Exceptions from this order are:

- (1) persons who for special reasons have obtained  
a permit from the Governor or from any other competent  
authority;
- (2) the members of the native tribes residing in  
the Caprivizipfel.

Sec. 3.

Who contravenes Sec.1 will be punished with a  
fine up to 5000 Marks or with imprisonment up to 3 months,  
separately or jointly. Against natives such punishments  
will be used, as are laid down in the regulation of the  
Reichskanzler of 22 April 1896.

- Sec.4 -

PUBLIC RECORD OFFICE

Reference:

CO 417 / 454 29363

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## Sec. 4.

Goods which have been imported against this regulation into the Caprivisipfel or purchased there are liable to be confiscated.

## Sec. 5.

This order will come into force on the day of its publication.

Windhuk the 16th October 1908.

Der Kaiserliche Gouverneur.

W. S. v Schuckmann.

PUBLIC RECORD OFFICE

Reference:

CO 417

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SOUTH AFRICA  
HIGH COMMISSION  
DECH. PROT.  
GERMAN S.W. AFRICA  
27536

C O  
27536  
REC'D  
10 AUG 1913

Geograph.  
Journal  
Vol. XIV  
1893

Ac.  
date 1528

Alleged hunting by natives  
in G. S. W. Africa.

1913  
21 July

at previous Paper.  
Ac.  
9677

Fds. copy for dest. from Acting R.G. & refers to  
question of communicating with German Govt. re: accuracy  
of map referred to.

Copy sent to 102. 24 5/6 10/10 3/10  
Acad 367 & 611 10/3/10

See H. J. See also 27537  
This paper has been kept for some  
time while the library has been making  
research into the history of Dr. Pannoy's  
map. We have not got a copy, but  
the map on page 311 of the Geographical  
Journal (VII. XIV) for 1893, hereunto,  
is no doubt a reproduction  
The library tell me however that the  
map appears in the U.O. catalogue.  
A difficulty might arise in asking the  
German Govt whether they recognized the  
map, owing to the different names in  
held as to the Capricorn Tuffel strip:  
no doubt the position of the 21<sup>st</sup> meridian is all.

at subsequent Paper.  
Ac.  
27537

reference

PUBLIC RECORD OFFICE

CO 417/524

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right, but so far as I can judge from  
 the reproduction in the Journal, we do  
 not accept Dr. Passarigi's view as to  
 the southern boundary of the Caprine Strip.  
 I copy of the D.G.O. saying that we  
 have not got a copy of the map, but  
 believe they have a pointer and  
 as above in regard to the S. of the Caprine Strip.

sent  
3/9/13

I proceed. but let the said portion of  
 his inquiry to "the said portion of  
 Dr. Passarigi's work" and does not  
 amount to have anything to say  
 as to the rest. at once this.

3/9/13

WEST AFRICA  
DEPARTMENT OF PROGRESSIVE  
WEST AFRICA  
227

*DM*  
C.O. 748  
27536  
Date

HIGH COMMISSIONER'S OFFICE  
PRETORIA,

July 21st, 1918

Sir,

L. Tait.

747

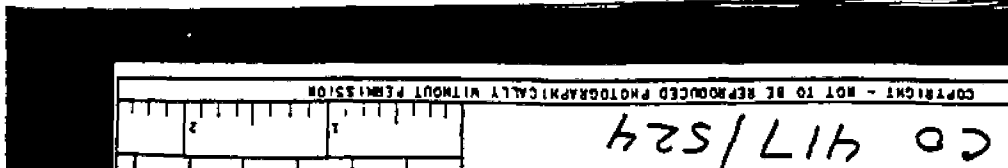
Several German maps herewith.  
S.A. N. 71 is apparently a copy of  
the map which accompanied 5643/09.  
Dr Passarge's map was made in  
1898-9 - see Geographical Journals  
(pages marked) herewith. We have  
no copy of Dr Passarge's map but  
we have - the catalogue entry  
appearing :-

Map of the journey during Jan.  
till July 1898 in the N.W. parts  
of Namaland - by Dr Passarge (Goring) Commissioner.  
Supplied by British West Coastland  
Co. to W.O. in 1899.

? The map on W 311. of Geog. Jnl.  
1898 vol. 14 is a copy.

*S.B.*  
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WEST AFRICA  
GERMAN SOUTH AFRICA  
GERMAN SOUTH AFRICA  
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*Att*

C O 748  
27536  
REC'D  
1913

HIGH COMMISSIONER'S OFFICE  
PRETORIA,

July 1st, 1913

Sir,

*7677*

With reference to my despatch No. 137 of March 25th respecting the alleged hunting by natives from the Bechuanaland Protectorate in German South West Africa, I have the honour to transmit to you a copy of a further despatch from the Acting Resident Commissioner, Mafeking, on the subject.

1913 7/13

I do not know whether you will consider it advisable to take up with the German Government the question of the accuracy of the map referred to by the Acting Resident Commissioner.

I have the honour to be,

Sir,

Your most obedient humble Servant,

High Commissioner.

RIGHT HONOURABLE

LEWIS HARCOURT, M.P.,

etc., etc., etc.,

COLONIAL OFFICE.

Incl. in despatch No. 528; 1/7/13

27538  
749  
REC'D  
19 AUG 1913

H.C. 146.

Resident Commissioner's Office,  
Mafeking.

July 4<sup>th</sup> 1913.

My Lord,

In continuation of the Resident Commissioner's despatch No. 28 of the 18th of February on the subject of the alleged hunting by natives of the Bechuanaland Protectorate in German territory I have the honour to forward herewith for Your Excellency's information a copy of a minute which has been received from the Magistrate of M'gamiland on the subject.

2. Your Excellency will observe that while the Magistrate is unable to confirm or contradict Muthibe's denial, which itself is not very definite or precise, he has given the necessary warning against a repetition of the practices complained of; and I think he can be relied on to see that his warning is not disregarded. The removal of the Chief's village from Tsau to near the Thamalakane - Botletle Junction will also be of assistance in the direction required, inasmuch as it will put another 75 miles between these people and the German border.

3. With regard to the penultimate paragraph of the minute I shall be much obliged if Your Excellency will .....

Your Excellency,

The High Commissioner,

PRETORIA.

will be so good as to cause enquiry to be made as to the present view of the German Government upon the approximate accuracy of Doctor Messergel's map.

I have the honour to be,

My Lord,

Your Excellency's

Most obedient servant,

J.C. Macgregor.

THE SECRETARY OF STATE FOR INDIA.

Alleged illegal hunting by Datawana in German Territory.

The Acting Government Secretary

Beaufort.

With reference to your minute of the 6th March last upon the above subject, enclosing a copy of an extract from a despatch from the British Consul for German S.W. Africa to the Foreign Office, together with a copy of the Resident Commissioner's despatch thereon to the High Commissioner, I have instructed the Chief Nathiba to warn his people in Kgotta as desired.

Nathiba states that, though Datawana used to hunt regularly away to the West (in the area referred to by the British Consul), they have not - to his knowledge - done so during recent years; and that if any persons have done so it is without his knowledge and consent.

I am not at present prepared to support Nathiba's statement or to contradict it. With regard to many other game-infested parts of N'gamiland repeatedly visited by me, I am definitely able to say that the steps taken during the last two years here for the conservation of Game have been successful, but I have never yet visited the country on the north-west to the West of here in the neighbourhood of the German Border.

From enquiries, so far, I am unable to discover that any parties of Datawana have been hunting giraffe or eland to the W. or N.W. of Tsau or elsewhere.

Nathiba asks that he may be shown where the Boundary runs, saying, that I have pointed out to him the temporary boundary on the Okavango at Muenembo (S. boundary of the Caprivi Strip) but not the

approximate .....



approximate boundary away to the west of Tsau on the Sand-belt (the 21st Meridian).

I have told him that next year, sometime, I hope to make a trip that way and endeavour to approximately locate the line. Meanwhile I have given him the names of Gautscha, Garu and Mamma as all being well in German Territory going by Dr. Passarge's Map.

Dr. Passarge (who was Geologist, etc, to the Kwebe Co. under Captain Lugard) mapped his routes to the West through Gautscha and the Kuaka veldt. He shows Gautscha as lying 30 miles west of the 21st meridian. Garu he shows some 21 miles west of the said meridian. Mamma as about 8 miles west of the meridian.

This being so, and Dr. Passarge's map (Der Mittleren Kalahari) having been recognized by the Royal Geographical Society, and also (at least some years ago) by the Germans, I shall be glad if you will kindly cause enquiries to be made through the proper channels as to whether the German authorities are for the time being prepared to look upon the said portion of Dr. Passarge's map as approximately correct.

Of course, as you know, the Anglo-German Boundary Commission of 1901 only demarcated the boundary as far North as the proximity of Rietfontein (to my knowledge).

(SD) A.C. Stigand

R.M.

Tsau

Mgamiland

30/5/13.

CO 417/524

HC 27536

S. Afr

753

HC

13 Res. Pub.

S.S. 4. Apr

*[Handwritten signature]*

9 Feb 1913

The U.S. J.S. to the Honorable  
present his compliments to  
the D. O., of direction  
of 17 Res. Harcourt

dated with a copy of  
despatch from the Gov. Gen.  
of the Union of S. Africa

on the subject of the alleged  
hunting of natives of the  
Res. Pub. in German territory.

It will be observed that the  
Resident Magistrate in question  
suggests that enquiry shall  
be made as to whether

copy  
to  
Res. Pub.

RAFT.

7.7

MINUTE.

Tait 8/7/13  
H. Just.

G. Fiddes.

H. Just. 9/2/13 p

J. Anderson.

H. Emmott.

Harcourt.

21 Feb 13

753A

observation as to the proposal  
 to approach the German  
 Govt. on the question. In  
 this connection he would  
 inquire whether it is considered  
~~probable~~ ~~that~~ ~~some~~  
 that any  
 difficulty might arise  
 in asking for the recognition  
 of the map, <sup>if my intention is,</sup> owing to  
 the question still a dispute  
 as to the exact boundary  
 of the Capricorn Strip in  
 the north of the Protectorate.  
 (See C.O. letter of 19<sup>th</sup> July 1910)

20901/16

CO 417/524

War service intervened and it was not until 1943 that the matter again arose by a report being made to me by my police patrol that the people were there again. I am unable to assert positively whether they had obeyed Kruger's warning but my information is that they did - and resuscitated the previous technique of evacuating the island but returning annually at cultivation time. I did not visit the island myself but sent a messenger there to warn the trespassers to move. A few of them came in to Katima Mulilo and lodged a plea ad misericordiam that they had standing crops. I agreed that those crops should be reaped but insisted that there should be no recurrence of previous procedure.

The next year (1944) saw a repetition of previous history. I therefore decided that, in view of Brits's warning in 1930, Kruger's in 1940, and my own in 1943 - all of which had been only partially complied with - to make use of the Reserve Regulations and prosecute the offenders. I feel that considerable latitude had been shown over a period of 14 years and that my action was not unreasonable.

At the prosecution which ensued there was no defence nor assertion of any rights - and convictions followed on the plea of guilt. The people thereafter left the island and, in order to forestall any repetition of previous history, I allowed local tribesman to cultivate the lands in question.

No subsequent complaint or assertion of rights were received by me either from the tribesman, their Chiefs, or from official sources in the Protectorate. The matter has now, however, apparently been raised with your administration by Chief Chika.

I think you will agree that the whole question rests on the question of whether Muntungobusa is Caprivi or B.P. territory. You will remember that in terms of the Agreement signed on July 1<sup>st</sup>, 1890, between Her Majesty's Government and the German Imperial Government, the boundary between what is now the B.P. and the eastern Caprivi Zipfel runs from the confluence of the Zambezi and Chobe rivers "..... generally westwards along the main channel of the Chobe River.....". If the Protectorate asserts that Muntungobusa belongs to them I suggest respectfully, that you will have to prove that the island is south of the "..... main channel of the Chobe River....." (*supra*). I suggest further that my putting the onus on you - rather on us - is justified by the fact that we are now in de facto possession.

While that is my appreciation of the legal position, I hasten to add that I do not wish to appear dogmatic. If at any time in the past history of the matters there had been any question whatever, or even an assertion to that effect, that there was doubt as to the ownership of the island I would not have dreamed of attempting to settle the matter unilaterally by a prosecution in my Court. But there was never any such question or assertion.

I offer, however, even at this stage to examine the geographical position jointly with you. If it is demonstrated to me that the present position is, in fact, unattainable I will be only too glad to assist in steps to see that the matter is rectified.

It is only fair, however, to say that the rights on the island are most jealously regarded by the local tribesmen. As a matter of fact the "island" which is not really an island at all but merely high ground in the marshy country on the north bank of the main channel of the Chobe (Linyanti) river is at least thirty miles long. The portion at one time cultivated by the Protectorate tribesmen is merely the extreme eastern tip of the "island". Further west the area is cultivated and has been so cultivated for decades - by Caprivi tribesmen. The excision of this considerable area (which would follow from the submission to the claim of Chika's people to the eastern tip) would be complicated and difficult proposition.

The initial approach would be, I feel, by a joint inspection of the terrain. It is, however, a most difficult area for any means of transport - motor, foot, mukoro or riding. It is in fact virtually impossible by any one means except by air. Some parts are quite inaccessible - only air observation is possible.

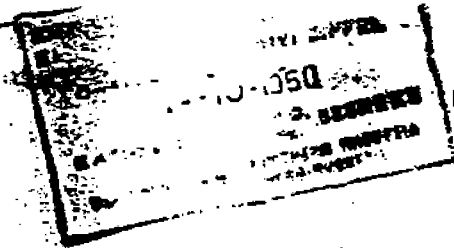
If, after our inspection, the position is not so absolutely patent that we cannot mutually agree on the facts, then I suppose you will have to set the ball rolling to oust us from our occupation.

With kind regards

Yours sincerely

**L. TROLLOPE**

*B.A.H.*

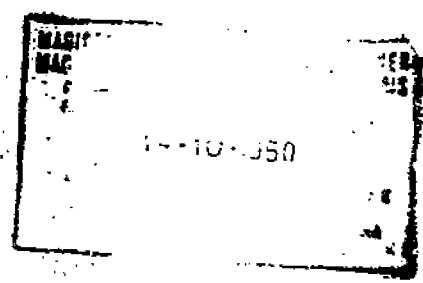


*Muntungobusa*

3

17/15/2 - 11.

ANNEX 25



The District Commissioner,  
KASANE.

My dear Barr,

Via the usual grapevine I have heard, from local native sources, a rumour that Headman Chika of your area has made a complaint against me - apparently to you, to Maua or possibly to Hafeking. The gist of the complaint - so my informant states - is that in 1944 one of my messengers arrested certain Bechuanaland natives living on and cultivating Muntungobusa Island, Protectorate territory, and brought them to Katima Mulilo where I "forced" them to pay fines, for which no receipts were given, and that they were chased off the island.

I thought that possibly, if I took time by the forelock and let you know the facts, I might be able to save your Administration from expending some avoidable energy.

It is true that five or six years ago certain B.P. natives were prosecuted for cultivating land in the Caprivi without permission and were warned to leave the Territory; which they did without demur or complaint (so far as I know - certainly no complaint through any source, official or otherwise, even reached me). The "forcing" to pay is, of course, somewhat flowery speech. In that, if fines are not paid, the alternative of imprisonment becomes operative, I suppose the imposition of any fine would be called a form of "force". The implied criticism of failure to give receipts arises from ignorance of official procedure - receipts for fines are not given, the man's freedom is his receipt!

The rest of the complaint, too, is factually correct - except that Muntungobusa is <sup>not</sup> B.P. territory!

May I give you the history of this matter? As you know, from the time the occupation of S.W.A. in 1915 the Caprivi Strip was administered by the High Commissioner. This was on the score of convenience owing to the remoteness of the Territory. The High Commissioner, of course, did not have a special Service to carry out this duty, but made use of the Bechuanaland personnel and, although there was a B.P. Police camp at Schuckmannsburg in the Strip, the area fell under the control of the District Commissioner at Kasane. There was thus, during that period, a very close association (falling short, of course, of integration) between the B.P. Chobe area, and the Caprivi. It is, perhaps, as well to record that the Chobe (Linyanti) which is the boundary of our two territories, cuts through the Basubia tribe in the Hachikwa-Mahunda area and there are thus members of the tribe on both sides of the boundary.

~~In 1921 the mandate over South West Africa was awarded to the Union - but, by administrative arrangement, the control of the Caprivi remained in the hands of the High Commissioner, through the Bechuanaland administration. Later, the Mandates Commission of the League of Nations raised formal objection to this position and in 1929, at the behest of that body, the control was assumed by the South West Africa Administration and, in 1939 at the request of South West Africa, the Union Native Affairs Department shouldered the responsibility.~~

During the Bechuanaland regime certain Masubia tribesmen from the Protectorate side of the river commenced cultivating Mutungobuse island. There is no shadow of doubt whatever that the island is geographically part of the Caprivi - but probably at the time no notice was taken both, I suppose, for the reason that the two areas were under a common administrator, and also possibly for the reason that the tribesmen were in any case, Masubia.

However, when S.W.A. assumed control in 1929 their first district official to be sent here, Superintendent Britts, toured the area and warned the Bechuanaland tribesmen on the island that, as there had been a change in control, they would no longer continue to occupy the island.

My information is that the people then left, but surreptitiously need to return in subsequent years and cultivated the lands. The island is in a remote part not often visited by Police patrols and as the years passed, and visits became fewer, eventually some of the tribesmen - instead of leaving after having reaped their crops - erected huts, the final result being that the original position was restored!

In 1939 I arrived here as the first <sup>Magistrate</sup> magistrate having with me an assistant named Kruger. Kruger did the first tour of the area in which Mutungobuse is situated. There he found these B.P. tribesmen to whom I have referred. After eliciting the previous history of their cultivation of lands there Kruger warned them to leave after reaping their crops.

War service intervened and it was not until 1943 that the matter again arose, by a report being made to me by my police patrol that the people were there again. I am unable to assert positively whether they had obeyed Kruger's warning but my information is that they did - and resuscitated the previous technique of evacuating the island but returning annually at cultivation time. I did not visit the island myself but sent a messenger there to warn the trespassers to move. A few of them came in to Katima Mulilo and lodged a plea of ignorance that they had standing crops. I agreed that those crops should be reaped but insisted that there should be no recurrence of previous procedure.

The next year (1944) saw a repetition of previous history. I therefore decided that, in view of Britts's warning in 1930, Kruger's in 1940, and my own in 1943 - all of which had been only partially complied with - to make use of the Reserve Regulations and prosecute the offenders. I feel that considerable latitude had been shown - over a period of 14 years - and that my action was not unreasonable.

At the prosecution which ensued there was no defence - nor assertion of any rights - and convictions followed on the plea of guilt. The people thereafter left the island and, in order to forestall any repetition of previous history, I allowed local tribesmen to cultivate the lands in question.

He/.....



N1/15/3-9

7

No subsequent complaint or assertion of rights were received, by me, either from the tribesmen, their Chiefs, or from official sources in the Protectorate. The matter has now, however, apparently been raised with your administration by Chief Chika.

I think you will agree that the whole question rests on the question of whether Mantungobusa is Caprivi or B.P. territory. You will remember that in terms of the Agreement signed on July 1st, 1890, between Her Majesty's Government and the German Imperial Government, the boundary between what is now the B.P. and the Eastern Caprivi Zipfel runs from the confluence of the Zambezi and Chobe rivers "...generally westwards along the main channel of the Chobe River.....". If the Protectorate asserts that Mantungobusa belongs to them I suggest, respectfully, that you will have to prove that the island is south of the "...main channel of the Chobe River...." (above). I suggest further that my putting the onus on you - rather on us - is justified by the fact that we are now in de facto possession.

While that is my appreciation of the legal position, I hasten to add that I do not wish to appear dogmatic. If at any time in the past history of the matter there had been any suggestion whatever, or even an assertion to that effect, that there was doubt as to the ownership of the island I would not have dreamed of attempting to settle the matter unilaterally by a prosecution in my Court. But there was never any such question or assertion.

I offer, however, even at this stage to examine the geographical position jointly with you. If it is demonstrated to me that the present position is, in fact, untenable I will be only too glad to assist in steps to see that the matter is rectified.

It is only fair, however, to say that the rights on the island are most jealously regarded by the local tribesmen. As a matter of fact the "island" - which is not really an island at all but merely high ground in the marshy country on the north bank of the main channel of the Chobe (Liayanti) river - is at least thirty miles long. The portion at one time cultivated by the Protectorate tribesmen is merely the extreme eastern tip of the "island". Further west the area is cultivated - and has been so cultivated for decades - by Caprivi tribesmen. The excision of this considerable area (which would follow from the submission to the claim of Chika's people to the eastern tip) must would be a complicated and difficult proposition.

The initial approach would be, I feel, by a joint inspection of the terrain. It is, however, a most difficult area for any means of transport - motor, foot, mukoro or riding. It is in fact virtually impossible by any one means - except by air. Some parts are quite inaccessible - only air observation is possible.

If, after our inspection, the position is not so absolutely patent that we cannot mutually agree on the facts, then I suppose you will have to set the ball rolling to cast us from our occupation.

Yours sincerely,  
With kind regards

E. TROLLO

**Judge Ranjeva**

**NOTE SUR LES TITRES JURIDIQUES RELATIFS AUX TERRES CULTIVABLES  
ET LE REGIME FONCIER SUR L'ILE DE KASIKILI.**

1. Jeudi 25 Février 1999, le juge Ranjeva posait la question suivante :

“ Lorsque Monsieur l’agent du Botswana et lady Fox ont commenté la photographie aérienne (dossier des juges, onglet 7, n°3), mention a été faite de terrains de culture. Serait-il possible de communiquer à la Cour les titres juridiques relatifs à ces terrains de culture, s’il en existe ? ”

2. Le juge Ranjeva précisait que sa question s’adressait principalement à la délégation du Botswana, mais que la délégation namibienne avait la liberté de contribuer à apporter une réponse.

3. La délégation namibienne soumet donc les quelques éléments d’information ci-joints.

4. La structure foncière se présente de manière radicalement différente sur rive nord du Chobe et sur la rive sud.<sup>1</sup>

5. La rive nord du Chobe fut érigée en réserve pour les populations Masubia du Caprivi oriental. Ces populations occupaient ce territoire en y appliquant le droit coutumier. La terre est collective. Elle appartient à la communauté villageoise. L’utilisation en est décidée par les autorités traditionnelles. La compétence en matière d’allocation des terres est du ressort de la Kuta, c’est-à-dire du Conseil.<sup>2</sup> En fait, la distribution des parcelles se fait sous l’autorité de l’Induna, ou conseiller délégué, qui connaît exactement la situation foncière et se trouve le dépositaire de l’histoire du village et des parcelles de terre.<sup>3</sup>

6. L’autorité coloniale veillait au strict respect de ces dispositions. L’autorisation donnée - par les autorités responsables du Bechuanaland en tant qu’administrateurs délégués

<sup>1</sup> Sur les problèmes de propriété foncière en Afrique, on lira en particulier : Bruce, John. *A Perspective in Indigenous Land Tenure Systems and Land Concentration in Downs*, R.E. and Reyna, S., *Lands and Society in Contemporary Africa*, University Press of New England, Hanover, NH, 1988 ; Hangula, Lazarus, *Communal Land Reform in Namibia and the Role of Traditional Authorities*, SSD Discussion Paper, Windhoek, 1995. I. Schapera. *A Handbook of Tswana Law and Custom*, Oxford U.P., 1938. Reprint Munster Hamburg Lit, 1994, pp. 195-213 (“ Law of Property ”).

<sup>2</sup> Lettre du Commissaire aux Affaires bantoues de Katima Mulilo, NR, vol. III, Annexe 16 e) p. 148

du Caprivi oriental - aux Barotse de cultiver certaines terres dans le Caprivi oriental au début des années vingt fut strictement encadrée. Il s'agissait d'un permis temporaire, porté de un à trois ans. Il ne devait y avoir aucune gêne ou interférence avec les indigènes vivant dans la bande ou y cultivant des terres. Enfin, l'autorisation, essentiellement précaire, ne devait pas créer de droits acquis (" will not confer any vested rights ").<sup>4</sup> Le souci de l'autorité coloniale de ne pas porter aux droits coutumiers en matière foncière est patent.

7. Sur le rive sud, le protectorat du Bechuanaland érigea le secteur du Chobe en domaine de la couronne (" Crown Land ") par Order in Council du 16 mai 1904. La propriété foncière était confiée (" vested in ") au Haut Commissaire, qui avait compétence pour attribuer les titres fonciers et louer les terres sous réserve de l'approbation des contrats-type par le ministre.<sup>5</sup> Les " indigènes " (the " natives ") étaient exclus du système et " subsistaient " comme ils pouvaient.<sup>6</sup> Les autorités britanniques délimitèrent soigneusement les terres relevant du domaine de la couronne d'une part, les terres soumises à régime d'appropriation collective tribale d'autre part.<sup>7</sup> Il s'agissait d'une politique délibérée de l'autorité coloniale, afin de disposer sans entrave des terres de la couronne à des fins d'utilité publique.

8. La correspondance administrative relative au secteur du Chobe révèle un refus de l'autorité britannique d'étendre à ce secteur le régime d'appropriation collective tribale caractéristique des réserves, afin de pouvoir disposer librement en tant que de besoin du foncier correspondant.

9. Deux régimes juridiques divergents et incompatibles coexistaient de part et d'autre de la frontière du Chobe. Leur superposition n'était pas concevable. Une même parcelle ne pouvait relever à la fois du régime juridique de l'appropriation tribale collective et du régime de propriété individuelle en application dans le domaine de la couronne.

<sup>3</sup> Cf. rapport Kruger, NM, vol. V, Annexe 126, pp. 177-189, not. PP. 184-185

<sup>4</sup> NM, vol. IV, Annexe 50, Annexe 51 (not. Lettre du 4 octobre 1924) et Annexe 52 (rapport du Commissaire Résident sur l'administration de la bande de Caprivi de novembre 1914 à mars 1922).

<sup>5</sup> The lands were " vested in the High Commissioner who had the authority to make grants and leases on terms to be approved by the Secretary of State ". W.M. Hailey. *Native Administration in the British African Territories*. H.M. Stationery Office, 1950-53, vol. V, p. 206.

<sup>6</sup> *Ibid.*, p. 316.

<sup>7</sup> CR 99/4, p. 36 à propos des consultations qui précédèrent l'adoption de la carte délimitant le domaine de la couronne.

10. Nul ne conteste l'existence du régime d'appropriation et de distribution collective de la terre par les Masubia de Caprivi sur l'île de Kasikili. C'est ce que constatèrent en particulier les deux administrateurs compétents respectivement au nom du Bechuanaland et du Sud-Ouest Africain, Redman et Trollope.<sup>8</sup>

11. Mais les administrateurs ne s'en tinrent pas là dans leur constat. Ils jugèrent nécessaire d'ajouter que la rive sud du Chobe n'était pas "tribalement occupée", c'est-à-dire n'était pas soumise au régime foncier d'appropriation collective qui caractérise l'occupation tribale. Cette appréciation est confirmée par l'exclusion de l'île de Kasikili du périmètre du domaine de la couronne par la carte publiée par la Direction des Travaux publics du Bechuanaland en 1957, et reproduite dans l'Atlas de la Namibie.<sup>9</sup>

12. En tout état de cause, ce souci de clarification exclut toute confusion, toute superposition des deux régimes fonciers sur l'île. Si des Masubia de Kasane ont pu cultiver des champs sur l'île, ce ne pouvait être que dans les conditions précisées par le chef Moraliswani dans son témoignage devant la commission mixte d'experts techniques, c'est-à-dire dans le cadre d'un regroupement familial et avec les autorisations nécessaires émanant des autorités traditionnelles.

13. La Namibie n'a pas retrouvé de titres juridiques relatifs au droit de propriété sur l'île de Kasikili, ce qui n'est pas surprenant dans le cas d'un droit coutumier traditionnel régissant la propriété collective. En revanche, le Botswana devrait pouvoir présenter des titres de "grant" ou de "lease" si des ressortissants du Botswana cultivaient des terres de la couronne sur l'île de Kasikili, comme la partie adverse le prétend. En tout état de cause, l'existence de deux systèmes juridiques, de part et d'autre de la rivière Chobe et le rattachement incontestable de l'île de Kasikili au système juridique marqué par la propriété tribale collective créent une présomption forte en faveur de la souveraineté namibienne sur l'île.

<sup>8</sup> Constat en date du 19 janvier 1948, NM, vol. IV, Annexe 60, pp. 264-265. Confirmation par le Haut-Commissaire britannique, Sir Evelyn Baring, à la suite de sa visite sur place : lettre du 10 mai 1951, NM, vol. IV, Annexe 69, p. 294.

<sup>9</sup> NM, Atlas, Map IX. Cf l'extrait joint.

## JUDGE RANJEVA

*In view of the explanations given by the counsel for Namibia with regard to item No. 6.2 in the judges' folder for the second round of oral pleadings, would it be possible for the two Parties to ask the relevant specialized agencies to provide them with one or more satellite photographs of the area represented in that item of the folder and to produce it or them to the Court?*

Two sets of satellite images obtained from the Satellite Applications Centre of the South African Council for Scientific and Industrial Research accompany this answer. Transparent overlays prepared by Namibia identify the principal features. These overlays are attached to the top edges of the images and can be lifted off the images to examine the images more clearly. In these images a bright red colour indicates actively growing vegetation, mostly reeds, and a dense black colour indicates open water surfaces.

### **Image recorded on 5 September 1995**

This image covers most of the area shown on the fold-out map at the end of the Appendices of Professor Alexander's Main Report (NM Vol. VI, Part 2, Appendices). The area covered by the map in Item 6.2 of the Judges' Folder is indicated on the overlay. The Chobe River enters the top left of the image and is then diverted eastwards into the Linyandi Swamps. The water entering the swamps is evaporated to the atmosphere with the result that there is no flow in the Chobe River downstream of the swamps. Lake Liambezi is completely dry and is indistinguishable from the surrounding area. The river channel is also

indistinguishable within much of the area covered by the map in Item 6.2 of the Judges' Folder. Pools of water in the Chobe River can be seen just downstream of the Ngoma Bridge. Further downstream they become a continuous, narrow open water surface, which gradually becomes wider as it approaches Kasikili Island at the right hand edge of the image.

### **Image recorded on 30 September 1995**

This image is from an adjacent satellite flight path and was therefore recorded later than the previous image. It is reproduced at a larger scale in order to provide more details of the area in the vicinity of Kasikili Island. The principal features can be seen by comparing the image with Map 3 on Sheet 6 of the Appendices of Professor Alexander's Main Report (NM Vol. VI, Part 2, Appendices). It also shows the reach of the Chobe River from the Mambova Rapids through to the confluence of the Chobe and Zambezi rivers referred to in the question by Judge Kooijmans.

The level of the Mambova Rapids controls the level of the water in the Chobe River at Kasikili Island. This level is maintained by flow from the Zambezi River via the anabranching channels that enter the Chobe River just upstream of the rapids. These rapids control the level of the water that can be seen in the Chobe River extending to the left-hand edge of the image. The width of the water surface becomes progressively narrower in an upstream direction. There is no other source of the water in the Chobe River visible on the satellite image.

Note: The satellite image (dated 5 September 1995) and the satellite image (dated 30 September 1995) have been submitted to the Registrar of the ICJ.



**Judge Fleischhauer**

**Judge Fleischhauer**

**Question No. 1**

*Is anything known, and if so what, about navigation on the Chobe River at the time of conclusion of the 1890 Treaty, or between 1890 and 1914.*

1 (a) Knowledge at the time of conclusion of the 1890 Treaty

Despite a diligent search during the preparations for this case, Namibia has been unable to find a single reference to a boat of any kind, at any period in history up to the present day, ever traversing the whole length of the Chobe River where it forms the common boundary between Namibia and Botswana.

The earliest record of navigation on a section of the Chobe River is that given by David Livingstone when he travelled by dugout canoe from the town of Linyanti to the confluence of the Chobe and Zambezi rivers. This is described in par. 68 and Annex 129 of Namibia's Memorial.

The following passages from Livingstone's diary are from par. 68 of Namibia's Memorial:

*11<sup>th</sup> November 1853 – Left the town of Linyanti ... We spent forty-two and a half hours, paddling at the rate of five miles an hour, in coming from Linyanti to the confluence...*

In 1881 Selous published his book 'A Hunter's Wanderings in Africa'. This was described by Casada in the introduction to the facsimile reprint of the 1881 edition published by Books of Zimbabwe in 1981 as follows:

*The book appeared towards the end of 1881, well timed to attract Christmas shoppers, and it was an instant success...the book went through four editions between its original publication and 1896.*

On p. 392 of his book Selous wrote:

*September 24<sup>th</sup> (1876) – Reached a pool of water after about a four hour's walk in the bed of what was evidently once a river. Our headman told us that when Sebitune was alive, this river was full of water, so they could travel up it in their canoes from Linyanti on the Chobe to Sesheke on the Zambezi. I find on referring to "Livingstone's Missionary Travels" that this was actually the case when he first visited Linyanti. There can be no doubt that year by year the overflow of the Chobe, which occurs during the dry season, independently of the rains, and simultaneously with that of the Botletle, Okavango, Machabe, Tamalakan and Mababe rivers – a phenomenon of which no solution has been offered - is becoming less and less.<sup>1</sup>*

These two accounts by Livingstone and Selous show that while it was possible to travel by dugout canoe down the Chobe River from the town of Linyanti to the confluence of the Zambezi River in 1853, by 1876 the section of the Chobe River in the vicinity

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<sup>1</sup> See Annex 26.

of Linyanti had been dry for many years and was no longer navigable. These two books were published and widely read prior to the conclusion of the 1890 Treaty.

1(b). Knowledge between 1890 and 1914

The most significant gain in knowledge of the navigability of the Chobe River during the period from 1890 to 1914 was Eason's account dated 5 August 1912. A typewritten copy of his report was reproduced in Annex 47 of Namibia's Memorial. Copies of his handwritten covering letter and report were reproduced in Annex 5 of Botswana's Memorial. The first two paragraphs of his covering letter read as follows:

*I have the honour to enclose a report on, and maps showing, the course of the Linyanti (Chobe) river so far as I was able to follow it.*

*2. I regret that I was unable to follow the river as far as its final intersection with the 18<sup>th</sup> parallel of south latitude owing to the lowness of the river, due to the exceptional drought during the last twelve months. In that period there were only 19 days on which even the slightest showers of rain fall were. The Zambezi floods were high and overflowing the Caprivi Strip, caused high floods in the Linyanti for a week or two, but this annual flood which does not affect the Linyanti to any extent west of the Liambezi Lake subsided very rapidly. There was no flood from the Okavango down the Makwegana channel, or from the Luiana or Kwando. The result was that the main channel of the Linyanti where it runs through the vast reed swamps which form the junction of the Makwegana and the Santa with the Linyanti was merely a succession of comparatively deep pools with mud and sand banks in between. - There are no river banks to walk on so that when I was near the old town of Linyanti I was compelled to abandon the work for this season.*

Eason's observations demonstrated that in 1912 it was not possible to navigate the Chobe River upstream of Linyanti town.

The scientific reports by Professor Alexander in Namibia's submissions as well as his video confirm these observations reported by Eason in 1912.

**Question No. 2**

*Professor Alexander, in his presentation on 16 February (CR 99/2, p. 31, para. 23.4) said, "the fact that the Chobe River is not perennial has been known for more than half a century". That means that the particularities of the Chobe River were not known at the time of the conclusion of the 1890 Treaty?*

The flow characteristics of the lower Chobe River including the annual contribution from the Zambezi River into the lower Chobe River via the Zambezi floodplain were well known at the time of the conclusion of the 1890 Treaty. (See Chapter II of Namibia's Memorial). The flow characteristics of the middle reaches of the Chobe River as far upstream as the town of Linyanti were less well known. The 1881 publication by Selous quoted above showed that the Chobe River in the vicinity of Linyanti was dry at the time of his visit in 1876 and had been dry for many years. Consequently the river was not perennial and was not navigable downstream from the town at that time, even by dugout canoes.

Namibia has been unable to trace any account of the flow characteristics of the Chobe River upstream of the Linyanti town prior to the conclusion of the 1890 Treaty. In the light of the difficulty experienced by Eason in 1912 it is unlikely that such observations were made prior to 1890.

## **ANNEX 26**



A NARROW ESCAPE; MASHONA LAND, SEPTEMBER 17, 1878.

Frontispiece.

See page 165.

11-117-210

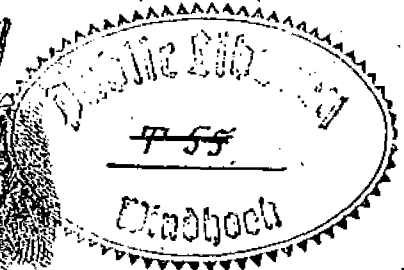
# A Hunter's Wanderings in Africa

ANNEX 26

BEING

A NARRATIVE OF NINE YEARS SPENT AMONGST THE  
GAME OF THE FAR INTERIOR OF SOUTH AFRICA

CONTAINING ACCOUNTS OF EXPLORATIONS BEYOND THE ZAMBESI,  
ON THE RIVER CHOBÉ, AND IN THE MATABELE AND MASHONA COUNTRIES,  
WITH FULL NOTES UPON THE NATURAL HISTORY AND PRESENT  
DISTRIBUTION OF ALL THE LARGE MAMMALIA



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not, but it was now transformed into a perfect little demon, charging people, dogs, and even the waggon wheel, with great fury. I now passed an ox-rein round its neck, and behind one shoulder, when it rushed alternately to the length of its tether, springing from the ground in its fury, and then back again at me, when it would inflict several bumps on my knees with its nose. Its *modus operandi* was to lower its head between its legs, and then, by throwing it up perpendicularly, strike several blows in quick succession with its nose. Small and weak as the poor little creature was, it still battered my knees with considerable violence. After being secured to the waggon-wheel it presently became quieter, though it still charged out to the full length of its tether at any dog or person that approached it. It, however, as I feared, obstinately refused all food, though I have no doubt it would have drunk milk had we had a cow with us; so, knowing that to let it run loose would be merely to condemn it to a lingering death from starvation, or an equally painful one by the fangs of lions or hyænas, I judged it most merciful to put a bullet through its head, which I did, though not without regret, for I should much have liked to rear it.

The rains having now fairly set in, and the ground being thoroughly soaked, we made but slow progress with the waggons, and did not reach the river Gwenia—which, as far as shooting is concerned, may be considered as the southern boundary of the Mashuna hunting country—until the 11th of December. During all this time we saw no signs of elephants, though we found other game fairly plentiful, and shot a few rhinoceroses, elands, sable, roan, and tsessebe antelopes, etc. Twice Cross, Wood, and I

made short trips on foot into the "fly," hoping to find elephants along the Umniati, Sebakwe, and Se-whoï-whoï rivers, but here too we were disappointed, and never even saw a fresh spoor. At Gwenia I was fortunate enough to bag a lioness. One Saturday evening Cross and I walked over from the river Se-whoï-whoï to old Jan Viljoen's waggons at Gwenia, hoping to hear some news from the Matabele. Mr. Viljoen, we found, was still away hunting with his son and sons-in-law on the other side of Intaba Insimbi, but we were most hospitably received by his wife and nieces, who regaled us *ad lib.* upon bread and butter, and buttermilk, an indescribable treat to us who had been so long strangers to such luxuries. The old lady informed us that they had been much troubled by lions during her husband's protracted absence, they having twice attacked the cattle in broad daylight, killing two cows and two young oxen; she told us, too, that one had been prowling about the kraal for several nights past, and had caught two of the best dogs. Of course, we hoped we might have a chance of coming to conclusions with the marauder, but scarcely looked for such luck. That evening a calf was missing, and though we searched both up and down the river we neither saw nor heard anything of it. The following day was Sunday, and it must have been about ten o'clock in the morning, when, as Cross and I were sitting in the hut, talking to Mrs. Viljoen, we suddenly heard loud screaming and shouting, and one of my Matabele boys came running up with the gun of my waggon-driver (a Griqua named Jantje, who was with us), calling out, "Isilouān, isilouān! lions, lions!—the lions have caught a woman!" Luckily my gun and cartridges were in

**Judge Parra-Aranguren**

**Judge Parra-Aranguren:**

*Sometimes reference is made to the thalweg of the main channel. On other occasions, the reference is to the thalweg channel of the main channel. My question is: what is the difference, if any, between the thalweg of the main channel and the thalweg channel of the main channel?*

(1) The Main Channel

In Namibia's submission, the main channel is the channel that carries the largest proportion of the annual flow of the river or the channel that is most used in relation to the needs of the regional economy. In the vicinity of Kasikili Island, the main channel appears as defined in the Namibian pleadings, with its tree-lined right bank at the foot of the Chobe Ridge and its left bank marked by the stretch of high ground proceeding across the southern third of the Kasikili Island in a west-east direction. The shape of the main channel is best seen in Figures 16, 17 and 18 in Professor Alexander' Second Supplementary Report.<sup>1</sup>

(2) The Thalweg of the Main Channel

Where a river bifurcates around an island, as is the case of the Chobe River at Kasikili Island, each of the channels has its own thalweg, which is the line of deepest soundings in that channel. The thalweg of the main channel is therefore the line of

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<sup>1</sup> See Annex 27a, 27b, and 27c.

deepest soundings within the channel described in (1) above. It can be identified on the ground only by a careful, detailed survey of the bed of the channel.

### (3) The Thalweg Channel of the Main Channel

A thalweg channel is a narrow channel occupied by water within a wider channel when water does not occupy the full width of the wider channel. In the dry season, the water in the southern channel of the Chobe River at Kasikili Island recedes to the narrow sinuous stream shown in the dry season aerial photographs and maps. This is the channel of the main channel. It follows the deepest portion of the main channel. The line of deepest soundings - or thalweg of the main channel -- will therefore be found within this stream.

The same phenomenon of a dry season thalweg channel within a broader high flow channel is shown in the comparative photographs of the Chobe River at Ngoma Bridge (Figure 9 in Professor Alexander's Second Supplementary Report)<sup>2</sup> and in the photograph of the Mkuze River (Photograph 62 at p. A1/32 in Professor Alexander's Second Supplementary Report).<sup>3</sup> The phenomenon of the thalweg channel is illustrated in theoretical terms in the figure from Schumm, (See p. A1/31 in Professor Alexander's Second Supplemental Report).<sup>4</sup>

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<sup>2</sup> See Annex 28.

<sup>3</sup> See Annex 29.

<sup>4</sup> See Annex 30.

**ANNEXES 27 - 30**

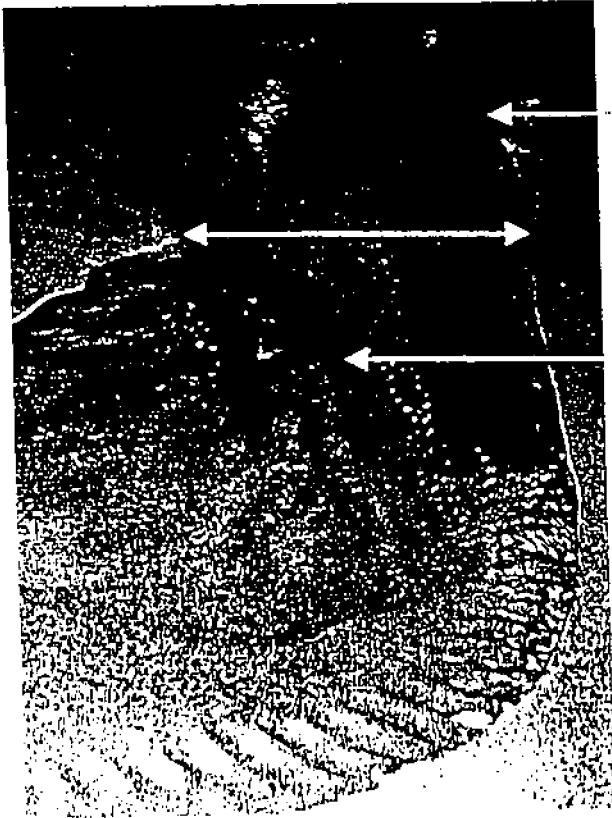
**NOTE FROM THE REGISTRY:**

Annexes 27-29 consist of colour photographs which could not be reproduced here. They can be found in Namibia's written pleadings in Professor Alexander's Second Supplementary Report, Reply of Namibia Volume II, as follows:

Annexes 27a, 27b and 27c	Second Supplementary Report (Alexander), Figures 16, 17 and 18 (opposite page 52)
Annex 28	Second Supplementary Report (Alexander), Figure 9 (opposite page 28)
Annex 29	Second Supplementary Report (Alexander), Appendix 1 (page 66), Photograph No. A1/32.

In addition, an original of the present document, including the abovementioned annexes, has been deposited in the Library (Room No. 8) for the convenience of the Members of the Court.

A1/31



Four sediment bars

Main channel

Thalweg channel

I took this photograph in the laboratory of the Colorado State University in 1971.

61. The meandering-thalweg channel within the wider and straighter main channel as well as the four sediment bars, are the mirror image of the southern channel and the overlying main channel at Kasikili Island.

Rivers 149

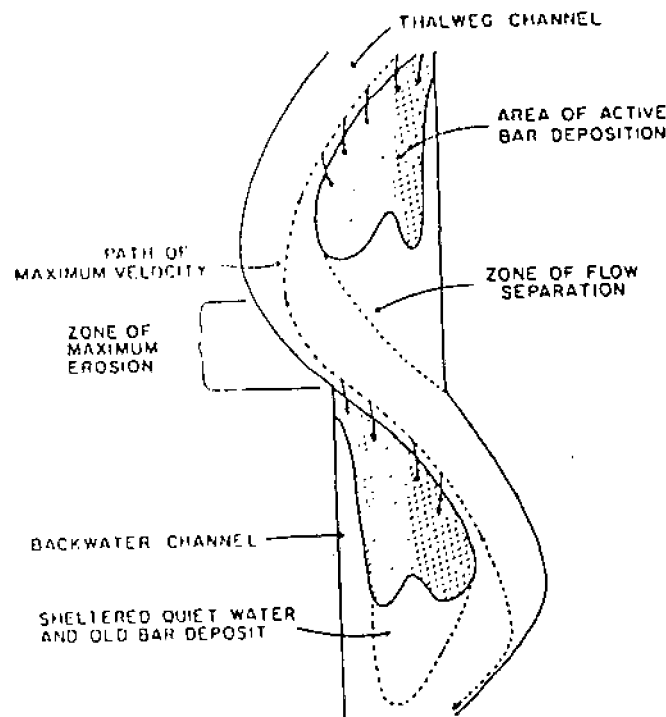


FIGURE 5.12. Flow conditions and bar locations in meandering-thalweg channel (from Edgar, 1973)

Diagram for the interpretation of Photograph 61 above. The diagram is from Schumm, Mosly and Weaver 'Experimental Fluvial Geomorphology' (1987). This diagram was reproduced as Diagram 3 on Sheet 2 of the Appendices to my Main Report, and described in par. 2.12 of my Main Report.

**Judge Kooijmans**



**Judge Kooijmans**

*What is the character of the River Chobe downstream from Mambova Rapids till its confluence with the Zambezi at Kazungula in the dry season?*

- *Is it mainly dry or is there continuous flow of water and, if so, where does that water come from?*
- *Can the Court be provided with the relevant hydrological data?*

- (a) The River Chobe between the Mambova Rapids and the confluence with the Zambezi River is about an eight-kilometre long permanent pool of open water. The level of the pool is controlled by the level of the water in the Zambezi River at the confluence, and varies with the flow in the Zambezi River.
- (b) There is a perennial flow of water into the Chobe River just upstream of the rapids. This is from the Zambezi River via the two anabranching channels identified on Map 3 on Sheet 6 of the Appendices to Professor Alexander's Main Report (NM, vol. VI). This flow passes down the Mambova Rapids and on to the confluence. This is in addition to the flow in the Chobe River upstream of the rapids in the wet season.
- (c) No hydrological data or depth measurements are available for this section of the Chobe River.

*Certified True Copy*

*Albert Kawana*  
D. ALBERT KAWANA  
AGENT OF NAMIBIA