Dear Dr. Schapera,

I am returning to you under separate cover the MSS on Tswana Law and Custom which you sent me for perusal and comment. I am sorry that I have kept it so long, but pressure of duties prevented me from reading it as rapidly as I ought to have done. Since our return from East Africa we have been absorbed not only in College duties, but in a more detailed study of the numerous memoranda on African education in those northern territories which we did not have time to read while there and which we must digest in order to prepare our Report. During the last few weeks we have been engaged in making comments on the instalments of the preliminary draft of the report which are being circulated for this purpose. We have been warned by our Chairmen that it may be necessary for the whole Commission to come together again to consider the final draft before it is presented to the Secretary of State for the Colonies. For Dr. Kerr and myself, that would mean a trip to London with resultant complications as far as our College work is concerned, so we are trying to wriggle out of that part of it. In the circumstance I have written to the International Institute intimating that it will not be possible for me to go to the field in June as I had hoped. Whether we have to go overseas or not in June, I feel I ought to postpone my fieldwork until November by which time the work arising out of the Commission will, I hope, have been completed. I hope you will concur with me in the line I am taking up in this matter.

With regard to MSS, I need hardly say that I read it with a great deal of interest and profit, but I naturally cannot offer comments on all parts of it from the Barolong point of view as I have not yet got anything like a complete view of that culture, and in any case for the reasons outlined above I have not read it as closely as I ought to have done. There are however one or two points on which I should like to touch.

The general tenour of the draft bears out what I was able to note of Barolong Law and Custom during my brief stay among them.

1. Re the use of the term "kgotla", the Barolong use it rather loosely both for what the Bakgatlina call "kgoro" and the Bangwato "motae" (p. 7) and also for the large section of the tribe described on p. 11. The term "motae" is used much for the town as a whole or for outlying villages with a fair concentration of population. Both the large divisions of the tribe and the wards are arranged in order of seniority and are named after their principal headman or an ancestor or his. The large divisions which are under the headship of close relatives of the Paramount Chief Letšamoreng number 8 or 9, while the wards number between 40 and 50.

2. Regarding your discussion of the importance of precedent in Tswana Law on p. 18, my impression is that one of the obvious results of the absence of writing among these people is that precedents are not closely followed. Even today when records are kept of the Trials at the Paramount Chief's court, I found among the Barolong who by no means among the least educated of the Bantu, it could by no means be said that these records were used for the purpose of holding the Court to its past decisions. The 'right to distinguish' one case from another, a practice not unknown in modern courts seemed to me to rather freely used.

On the other hand the influence of the Court, on cases settled out of court, as it were, must not be underestimated. Settlements out of court must, broadly speaking, be such as; according to the best knowledge of
those concerned, the Court would approve. Otherwise an appeal may be lodged.

The fear of the possibility of an appeal being lodged exercises considerable influence on the mechanisms for the enforcement of law outside the Court. This is what is implied in "recognised tribal usage".

3. On p. 38 wouldn't you say that Tswana Law today embraces all the observances which are recognised by the tribes at the present time and approved expressly or impliedly by the Administration.

4. Re Installation of a Chief (p. 46) one of my informants, a man who has seen the reigns of Leshomo, Tswana, Monthsiwa and their successors, told me that it was usual before installing the new Chief to send him out on a military expedition in order that he should have first-hand experience of war and its horrors. This, it was said, served the useful purpose of making him reluctant to declare war (go aba ntwa) unnecessarily in his future reign. Whether this was so among the other tribes I cannot say.

5. P. 72 Among the Barolong a Chief or headman relies considerably for advice upon his maternal relatives who as a rule support him in disputes with his paternal kin. Nowadays when the chief usually has a private secretary it is common for him to select one of his maternal relatives for this office. When Lotlamoreng whose reign has never been free from tribal disputes minor and grave, succeeded to the Chieftainship, he removed Sebopiwa Molema, a paternal relative, and replaced him with Stephen Phetlo, a maternal relative.

6. Re administration of tribe; foreign sections of tribes have caused no end of trouble to Lotlamoreng by claiming that they owe allegiance to their original Paramount Chiefs, although from the territorial point of view they would appear to be under his jurisdiction. There is a Kopulana section of the Barolong at Rietfontein, 16 miles from the Chief Rathedi Stad who refuse to recognise him as their Paramount. A section of Rathware refused to plough for Lotlamoreng on the ground that that was a duty they owed to their Paramount Chief somewhere in the Kuruman Reserve. That particular case aroused so much resentment among the Rathsi that their headman had to be asked by the Administration to leave the Reserve, but he claims that he is in the right according to Tswana Law and points out that Monthsiwa in whose time he first settled in that area never claimed such rights over him.

7. Re regimental organisation it would appear that among the Barolong an initiation "school" could be held at the request of any member of the tribe, after a good season when there would be plenty of food for all the necessary ceremonies. But for the request to be granted there must be a sufficient number of young men eligible for initiation to make the holding of the "school" worth while.

Initiation ceremonies have not been held among the Thsidi Barolong since about 1930, but it is reported that they continue to be held among the Tlou Barolong in the Setlagole, Ganyesa and Morokweng Reserves. But regimental organisation still obtains among the Thsidi, the young people being informed by the Chief of the regiment to which they belong. These regiments are now used mainly as a labour force. The regiment of the girls had the same names as those of the boys initiated about the same time.

8. I am inclined to disagree with the view expressed on p. 158 that the Barolong bogadi had to be paid before the marriage was consummated. I made repeated inquiries on that point and the answer was invariably that the bogadi payment was not insisted upon before the consummation unless it appeared that the boy's parents did not intend at all to pay. Otherwise it was left to them to take the steps necessary to give them power over the children of the union. Again the go ralala may follow the mokwele and does not necessarily depend upon the payment of bogadi except among Christians who in any case object to the go ralala even after bogadi.
Barlong bogadi must be even, not only the number 7 being objected to. In Barlong theory, furthermore, bogadi is not recoverable in cases of dissolution of marriage, especially if the marriage has resulted in offspring. In fact, as one informant put it, if the woman has had one miscarriage, the bogadi is not recoverable. I am not yet satisfied with my information on this point but I could not find cases where bogadi had been returned. Lokwela or its equivalent is recoverable depending upon who it at fault in the breach of promise, but the Thaidi insist that "bogadi ga bo boce".

These are the few points I noted in my hurried reading of your MSS. I am looking forward to getting a copy of the book when it is published. It will be of great value to students of Native Law.

Yours sincerely,
considerably

173. Among the Caddo a chief selected for residence upon the
relatives who on a who take his side in battle and fight with
his personal kin. Nowadays, when the chief usually be a priest
holding, it is usual for his blended one of his natural relatives
for this office. When Launque succeeded the Chieftainship he
named Launque his kinsman for the office of minister chief.

Mother, a brother of his first wife, she belonged to the Mohter family, which
her one mother belonged.

February 11, 1869
Chapter 1. p. 7.

From the beginning the term "knight" is used much more
for what the English call "knight" and the French "noble"
The term "knight" is used very loosely both for the award
as described on p. 7 and the large section devoted on p. 11.

Also, not the large domains arranged in a hierarchy of security or the basic
Grading by the Thebain and in the chief of the de stak "noble"
The large domains are about 30.7 and the smaller number as 60. The large
domains are the inner the dominion of the relation of the Paramount
Chief, his classifying and so on better, the smaller was necessarily

Chapter 2. p. 18-19

1. Regarding your definition of the importance of precedent in common
law, I think it would be well to point out that one of
the old stories results of the absence of writing among these peoples
is that precedent are as closely followed with in principle as a
detail. Even today when a record are kept of the books at the
Paramount Chief's court, I find among the books that is
read by no means to said that these records were used for the
purpose of holding the land to its past decisions. The record seemed to
be an account of all that happened in a particular case for the purpose
of informing those who had not been present or to the past decision
in the future when to hold the same court to its decision in that
particular case. But in regard to this cases, the "right to the English"
which is sometime at present in not in trouble with modern judge, seemed
to me to be wholly fully used. In my view the flexibility in not always
a disadvantage, although it may on occasion lead to an increase of justice.

2. The the other hand the absence the influence of the court, in case settled
out of court, in it use, and not be in question. Settlement of case must
result to the knowledge of the increase
of such at the land court of paper. There is
an appeal may be lodged. The fear of the possibility of an appeal being
lodged evokes considerable influence on the mechanism for the
enforcement of laws outside the court. This is what is reflected in the
accepted legal sense.
Chapter 57.

If a chief died without heirs, he was succeeded by his brother, but if the brother died unexpectedly or was killed in battle, he might very often have an elder deceased brother's widow in marriage when he was too embarrassed prior to his death. The soldier who died of such a misfortune was the rightful heir, after his death. Thus, many the Redmond.

Chapter 56.

The elder brothers of Tawana died childless. During the minority of Tawana, his uncle acted as regent. He then came succeeded to the chieftainship and had several sons. Then he married a wife for his deceased elder brother, Tawana and Mountaw was the eldest son of this wife. At the death of Tawana, he was succeeded by Mountaw and Killumka, his eldest son by his new powerful wife. [The present paramount chief, Thatchum, is legally the son of Wabaljepi, Mountaw, son, but thatchum was born 90 years after the death of his father.]

Proclamations of Chief

According to my last informant, among the Tawana, a man who was late born did, though he was of Tawana, Mountaw, and other lesser communities, it was usual before entering the land, the chieftainship of each to be in a military expedition in order that he should actual service in the war, substantials. This rendering long informed, caused the service of Tawana to be relatively to decline or (for lack of nature) inactivity or in his future reign. It death, however, of the war actually, who, having been born by a soldier, became to some extent from himself.
Mist of Administrators

The Household - Chief

The House - Keeper

The Village - Chief, who, in the absence of the Chief, acts as Local Governor

The District - Chief, who, in the absence of the Chief, acts as Local Governor

The Tribe - Local Governor

Relevant to Foreign Section of Tribe - After obtaining an application from Chief of Foreign, a Chief of Foreign will attend a regular section in the presence of Chief.

A Chief who has been in the presence of Provincial Governor

Relevant to Organization

A Chief, who has been in the presence of Provincial Governor

In many years, the last was held about 1870, but it is reported

That they continue to hold away the Roto section. But organization, 

A very large number of the organization still obtains away the Roto section and is collected for the heating of the

Informally, Public Session is a brief one 

Wife of Chief in the presence of the tribe initiated about the same time.

The Roto section did not have to be paid before the meeting was consumed. This rule in the past was flexible, especially

Because the tribe's powers, known the one by one, the Roto section evened out the balance of the meeting through the Chief to the

So which follows -

A Chief, who has been in the presence of Province, or the Chief, and is collected for the heating of the

Either you determine fits, Roto to the

Borgade in the presence of Roto section, especially the meeting,

Has noticed in the presence of one in a single meeting, or in another,

PROPERTY OF REGALIS WILL BE COMPLETED SOON.