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# Intelligence operations as terrorism: Emerging state terrorism in Botswana

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**Botswana is considered one of Africa's credible democracies. Its economic performance and good governance over the years distinguished its statehood from its African counterparts. The stable political landscape backdating to independence also made it a regional security exception. However, the security landscape has changed over the last three years. Using a historical procedure, the article illustrates how the changing political landscape resulted in the creation of a securitized state controlled by intelligence agencies. It also employs a survey procedure—using interviews and other qualitative sources—to illustrate how incidents of intellectual repression, communication surveillance, extra judicial killings and politicized covert operations have changed the country. The article interrogates the magnitude of security threats as well as the competence of the intelligence security outfits. Having proven the existence of common denominators of state terrorism in Botswana, which point to emerging state terrorism, the study proceeds to make recommendations for structural and operational reform.**

**Key words:** Botswana, Directorate of Intelligence and Security (DIS), state-terrorism, extrajudicial killings, surveillance.

## INTRODUCTION

The establishment of the Directorate of Intelligence and Security (DIS) in 2008 became the key variable that redefined Botswana's political and security landscape. The DIS accounts for an unprecedented record of state terrorism. These events were until then, uncommon in Botswana, which was regarded Africa's miracle. Botswana's democratic credentials originate from the traditional Tswana culture, which predates the colonial era. Thus, by maintaining a free society characterized by principles of free speech, freedom of expression and freedom of association, Botswana became one of Africa's thriving democracies (Maundeni, 2005). These were preserved without blemish until the reign of Lieutenant General Seretse Khama Ian Khama from 2008.

The Ian Khama regime managed to reverse the democratic profile of Botswana through the DIS. The DIS turned itself on the civilian population with a legacy of terror. Public extra-judicial killings by state security agents, particularly in operations overseen and coordinated by the DIS, became a commonality. Communication surveillance is instigated towards

politicians who seem to be a threat to the presidency: whether from the ruling party or opposition. It mattered less whether this perceived threat was of national security or towards the Khama personality cult, a man whose leadership aptitude is considered wanting (Good, 2010). Black operations were instigated against certain members of the public on political grounds or in order to defeat the ends of justice. Select members of the society, including tertiary students, became victims of renditions during which security agents issued death threats. These not only cause terror but undermined a democratic legacy enshrined in civil freedoms, political freedom, judicial independence, and a proper use of security institutions. Thus terror escalated in the public realm.

The purpose of this article is to provide a narrative of emerging state terrorism from a security point of view. The focus is on misplaced intelligence activities, particularly covert operations that undermine democracy, hence raising the level of insecurity within society. The primary thesis is that the arbitrary use of force and violence, including structural violence, amounts to

terrorism. These operations erode the freedoms in a democratic entrenching a culture of fear and terror. This terrorism paralyzes the functions of government. The power of one arm of government is inflated while its counterparts are rendered useless and ceremonial. The drift of this paper is informed by the murder of unarmed civilians; communication surveillance; renditions and other acts meant to create a culture of fear and terror.

## Objectives

The objective of this paper is to provide a scientific and systematic analysis of politico-security events in Botswana. It seeks to prove that there is evidence of emerging state terrorism. This form of terrorism started recently at the hands of the newly created DIS. The paper seeks to show the gap between a tranquil and accountable democratic state in 2008, to a less democratic, rogue and terror state within three years; instigated and the local populace. The method of analysis hinges on the constriction of democratic credentials.

## ANALYTICAL AND CONCEPTUAL FRAMEWORK

This paper does not present a rigorous emphasis of theoretical framework. It is primarily based on a systematic analysis of politico-security events occurring in Botswana. Below is delineation of this systematic as well as the conceptual basis of the argument.

This paper analyses the events that occurred under the aegis and auspices of security organs in Botswana. This analysis hinges on the activities that occurred at the hands of intelligence agencies. Although the text seeks to exclusively chronicle events at the hands DIS, the clandestineness behind intelligence operations encroaches on this precision. In some of the cases it is not clear whether the operations are DIS, instigated or they were inter-agency operations. The analysis exploits several factors in order to underscore the terrorist nature of the activities. Democratic rights and freedoms, as reflected in the constitution, form the basis for analysis. There is also conformity to the legality and judicial correctness of the operations, whether they [dis]regard the foundations of political stability as enshrined in the laws of Botswana. This also qualifies the element of fear, which is the end objective of inflicting terror in human beings. In other cases there is a leaning on the subject of human and civil rights. The conceptual basis of the study invokes a controversial and sometimes ambiguous concept of state terrorism. This study adopts the following definition of state terrorism, as captured in Gareau (2004: 14).

State terrorism consists of deliberate acts of physical and/or psychological nature perpetrated on select groups of victims. Its intent is to mould the thinking and

behaviour not only of these target groups, but more importantly, of larger sections of society that identify or share the views and aspirations of the targeted groups or who might easily be led to do so.

This aptly captures the scenario in Botswana. What follows is a discussion of events of both physical and psychological harm intended to protect a personality cult. Whether the personality figure is the engineer of this process or this is a result of a few zealots is beyond the scope of this discussion. However, it is in the interest of this study to discuss these events.

State terrorism varies from the legitimate right of the state to use reasonable force. Norbert Elias (as cited in Schlesinger, 1991: 9) argues that a reasonable use of force is usually inclined to protect the civilian population. This requires either separate or collaborative operations of state security apparatuses such as the army, police and civil intelligence community: these are monopolized by the state (Poggi, 1990). The objective is to depersonalize the use of force so that it is not abused as various arms of the state, through a system of checks-and-balances, “[provides] a legal framework which...[seeks] to limit its (the state’s) arbitrariness” (Schlesinger, 1991: 9). The supremacy of just laws ensures that the state does not become a terror to its citizens.

State terrorism is engineered by an arbitrary use of force and violence by the state. Historical examples of state terrorism include apartheid South Africa. This example captures the refinement of this concept. P.W. Botha characterized Mandela and the ANC as terrorists, yet the apartheid state was responsible for physical and psychological terror. This means that an analysis of state terrorism should be impact-based. The apartheid government passed an anti-terrorism law in 1967. By the late 1980s South Africa had a plethora of secret committees, teams and squadrons which exacerbated terror throughout the country (Perdue, 1989: 92-94). Other cases, in South East-Asia, exhibited a direct terrorism from the state against specific groups (Heryanto, 2006). These include military crackdowns, torture, suppression of opinion through black propaganda, and extra judicial killing of civilians (Simons, 2000). This extreme and unjustifiable use of force or violence is meant to create fear in the public. Use of violence objective of these mechanisms is to create and sustain terror among civilians.

Autocratic laws have often preceded state terrorism. In such cases, despots can often retort that security institutions are fulfilling their mandate in law-enforcement. The former Chancellor of Germany, Otto von Bismarck, once dissolved parliament after they rejected a battery of laws which parliament deemed autocratic. He invoked executive privilege and thus unilaterally enacted laws that paved way for state terrorism (Miller, 1995: 39-41). The aforementioned case of apartheid South Africa is also a case in point. Therefore, a law in itself is not a basis for

adjudging whether a system is justified or not. The law in question should be just, coming short of encroaching on civil liberties that guarantee a free society.

The above framework forms the basis of what happened in Botswana since 1998. The following sections will discuss the legality of the phenomenon as well as case studies of incidents of state terrorism, at the hands of security services. It is also imperative to note that the perceived state terrorism is strictly ascribed to security institutions. It does not extend to other arms of the state. However, this parochial framework does not annul the fact that fragments of state terrorism are starting to emerge in Botswana, and are gaining momentum.

## METHODOLOGY

This study follows a qualitative approach. As fitting for a qualitative approach, there is heavy reliance on a descriptive representation of the phenomenon in question (Weber, 1949). There is no use of statistical data or evidence, in which case it annuls the relevance of quantitative approach or a combined methodology (combining both). Thus, the research follows two procedures.

The study makes use of two research procedures: historical and survey procedures. The historical procedure makes use of literature preceding this study. This includes texts dealing with Botswana's changing political landscape. Some also point to the shift in security policy. The paper makes use of such revisionist texts as those of Professor Kenneth Good. It also makes use of texts by leading political scientists on Botswana such as Ian Taylor. There has been very little written about intelligence related activities in Botswana, hence the paper leapfrogs local texts in favour of those published elsewhere. This includes conceptual subjects such as state terrorism and ethics of intelligence operations. There is reliance on credible media reports regarding the activities of intelligence organizations. The paper prefers the *Sunday Standard* for its credible practice of investigative journalism. In case of *Mmegi*, articles are selected sensitively, seeking to decipher between cases of speculation and veracity. It will emerge that cases cited from *Mmegi* are mostly court cases.

The survey procedure makes use of the interviews and communications with select individuals. This forms a smaller part of the study. The objective is to cover subjects outside the scope of media reportage. In such cases the author used direct interviews (when in Botswana: March-May, 2011) and electronic communication [in the early part of the compilation of evidence, while in Japan]. Names are disclosed in the case of public figures and deceased, and concealed in case of living sources. Some cases were left out due lack of apparent evidence as well as their capacity to undermine diplomatic relations with other countries.

## State terrorism in Africa

State terrorism is conspicuous in many African countries. The difference between what happened in most African countries and Botswana is that the former were not democracies. The number of democracies in Africa has increased since the end of the Cold War. However, a number of countries that emerged from conflicts still grapple with abuse of the security forces. The abuse of intelligence agencies is rife. Those opposed to these bogus governments are killed or die under mysterious circumstances (Ayittey, 1992). The

lack of democracy in this countries means that the deaths of such victims cannot be probed. Even in the new democracies, accountability is still a challenge. Although African state may be impervious to democratic accountability, they are not behind in the use of security forces. This includes use within and without the country. In both cases, circumstances often dictate that the state use covert operations. However, in standard international practice covert operations should mostly be an extension of foreign policy where overt diplomacy comes short (Cater, 2000; Volkman, 1994). In this dispensation plausible deniability is necessary as required by the nature of these activities, which include propaganda and assassinations (Lowenthal, 2000; Holt, 1995). However, African states have not hesitated to use this system against its own populaces. In some cases the use of grotesque methods during liberation struggles have often translated into the post-independence governments, such as Zimbabwe and South Africa (Smith and Tromp, 2009). Thus most countries are more experienced in the grotesque use of security institutions and much less experienced in democratic accountability of these institutions.

It is also imperative to note the high politicization of security forces in Africa. First, such as in the Southern African case, leaders sought to reward one another for their efforts during the liberation struggle. For example, in South Africa and Zimbabwe, former leaders of the armed wings of the ANC and ZIPRA and ZANLA, respectively were grafted into the new military (Ibid. Smith and Tromp, 2009; Sibanda, 2005: 244; Alao, 1994: 82-88). This comradeship grew to blur the lines between the politicians and civil servants. Second, this system sometimes evolves out of gradual mutual endearment as elitism of comprador grows within a state. For example, in the process of Africanising the Tanzanian civil service (which took considerably longer than other countries such as the Congo), politicians replaced British senior civil servants with native civil servants whom they later endeared with quasi detrimental effects (Pratt, 1971: 105-106). The prospect of politicized security institutions also stems from such scenarios.

The antecedent of the emerging state terrorism in Botswana arises from similar arrangements: a buddy system that results in a clique consisting of an amalgam of technocrats and autocrats working in concert to reverse a democracy built over two centuries (although the actual state was incepted forty-four years ago).

## Creation of the DIS

Botswana's democracy encountered a major shift during towards the end of President Masire's rule. He invoked executive privilege and incepted what came to be known as automatic succession. It ensures that the vice president of the Republic of Botswana automatically assumes the presidency when the term of the incumbent expires (Good, 2006: 53). It was also designed such that term of the new benefactor commences a year before the general elections. This is the process that ushered Lt. General Ian Khama-the creator of the DIS-into the presidency.

Khama joined politics as Vice President in 1998. Prior to this Khama was the commander of the armed forces, the Botswana Defence Force. Khama was not new to joining institutions at senior levels. He started his military career at age 24, as the world's youngest brigadier general (Henk, 2004). During his ten years as Vice President, Khama was controversial. He abolished the national service<sup>1</sup>, took unjustified sabbatical leave, flew military helicopters

<sup>1</sup>The national service was popularly known as TireloSechaba. Under this programme, high school graduates served in areas culturally different from their place of origin and schooling. Khama abolished this programme only to bring it back under his term in the form of a post-graduate internship for university and college graduates.

and had a propensity of attacking fellow legislators whenever he chose to attend parliament. During this era, dictatorial tendencies started to surface (Good, 2010). Key among his initiatives was to suggest the creation of the DIS. Legislator and fierce critic of Khama, Honourable Akanyang Magama, stated that the pretext for the proposed intelligence agency was to help Khama “execute his job [as president] more effectively” (Magama, 2008). The idea was brought before parliament for debate.

The bill was met with mixed feelings from the political establishment and civil society. A number of legislators from the ruling party and opposition were not convinced by the bill. Magama constantly expressed misgivings over the correlation between Khama’s dictatorial tendencies and the use of the intelligence community. Another fierce Khama critic, Honourable Dumelang Saleshando, was not entirely dismissive of the bill but pointing to certain aspects of the bill, such as oversight, that would compromise its credibility. Academics were expressly sceptical. During a symposium, Dr. Elmon Tafa predicted that the directorate would be used for political suppression. The then Minister of Defence, Security and Justice, Honourable Phandu Skelemani, who was tasked with campaigning for acceptance of the bill, remarked during the same symposium that “whether you like it or not, we will pass this bill”<sup>2</sup>. The bill was finally passed as an act of law in March 2008, a month before Ian Khama’s presidential inauguration.

The Act gave state agents arbitrary powers to use [unreasonable] force and violence. Among these were powers to use firearms—a luxury that even CIA agents did not enjoy during the Cold War (Devlin, 2007). Prior to this Act, the right to use arms was limited to police paramilitary units, and the army. The Act also empowered agents arrest without a warrant. Section 24 of the Act proffers immunity for all agents and auxiliary operatives (Intelligence Act, 2008). This meant that agents could operate with absolute impunity, regardless of the nature and legality of their actions.

The DIS came into being without credible oversight. The director of the DIS reports directly to the president (Khama Inaugural Speech, 2008)<sup>3</sup>. Although Section 31(3) of the Act mandates the creation of an Appeals Tribunal, there was none until the directorate degenerated into a political mess, at which point Khama appointed his party colleagues and chums to that tribunal. The Leader of opposition was never consulted during this process as required by law. The then leader of opposition, Otsweletse Moupo, was consulted when Khama had commissioned his allies to the tribunal (Lute, 2008). The oversight mechanism remains politically skewed towards Khama’s trustees and party loyalists.

## INCIDENTS OF STATE TERRORISM

### Tertiary students harassment

The inception of the DIS, in 2008, coincided with student demonstrations at the University of Botswana (UB). Mass demonstrations and class boycotts occur frequently at the national university, often headed by the Student Representative Council (SRC). The most popular UB-incited strike ever in Botswana was that following the murder of a 14-year old Segametsi Mogomotsi of

Mochudi. The strike spread from the main university campus in Gaborone to Mochudi village (Good, 1996). All major political parties have microcosms within the UB campus. These include GS-26, part of the BDP; MASS-BNF, part of the BNF; BCP and BPP. All but the GS-26 always express hostility towards the government. In 2008, MASS-BNF was in control of the SRC. They instigated class boycotts over a number of issues including book allowance, stipend disbursements, accommodation and poor university management. These strikes always enjoy massive coverage from the media. As elsewhere, the intelligence community is always present to appraise the impact of the strike on national security (Johnson, 2007: 177). During the 1990s university students fermented a national strike that spilt as far as Mochudi<sup>4</sup>, escalating into a case of national security (Masire, 2008). Thus this presence was justified over the years. However, in 2008 there was the DIS which not only appraised the situation but was eager to terrorize the students.

The president of the UB Student Representative Council (SRC) became the victim of an intelligence rendition<sup>5</sup>. The agents issued death threats and abandoned him the forest (Madibana, 2009). Key student activists were increasingly abducted by unknown and armed security agents over the next days. There was no violence on the part of the students, such as to warrant these intimidations. They were warned over their key role in the strike. Some were intimidated for their outspokenness or ‘tarnishing the name of the president’. The irony of these claims by security agents is that the Penal Code provides for the prosecution for sedition and insulting the head of state (Penal Code, Sections 50-51). The DIS agents could not charge these students because they (the agents) were blatantly abusing their authority. The publicity wing of the DIS later denied these claims following a public outcry over these abuses (Motlogelwa, 2009). During this strike, uniformed police also whipped students who were on a peaceful march to present a petition to the Minister of Education. This marked the first rigorous charges by state security units against members of the public.

This episode marked two important elements of state terrorism. First, it emerged that for the first time state security agents (primarily DIS) could apply an arbitrary use of force with impunity. Second, it marked the beginning of the desire to instil fear in members of the public. The beating of students by police was also unlawful. The Penal Code authorizes the use of reasonable force in case of public disorder and disturbance (Penal Code, Section 42). There was no

<sup>2</sup>The symposium was organized by the then Fourth Estate Club, a student movement housed within the Department of Media Studies, at the University. The panelists of the symposium included Hon. Phandu Skelemani, Hon. Dumelang Saleshando, Attorney Tshiamo Rantao and key members of the Socialist movement of Botswana.

<sup>3</sup>Ian Khama’s inaugural speech of April 1<sup>st</sup>, 2008 is available in video (English) at <http://video.google.com/videoplay?docid=5748864085901803362>

<sup>4</sup>Mochudi is the headquarters of Kgatleng District. It is located some 37 kilometers north-east of Gaborone. It is one of the largest villages in Botswana.

<sup>5</sup>A rendition is an intelligence term referring to a process wherein agents abduct a subject and move him/her to another place for questioning or torture. See Weissman, 2010

public disorder and disturbance during this incident. This does not imply that students never riot, yet the march was peaceful and the action could not also be deemed pre-emptive. It was the undisciplined behaviour of DIS agents that could ferment a student uprising. However, the students proved more disciplined and never rioted.

### Intellectual repression

The DIS subsequently moved its harassment from students to university lecturers and academics. It is common for university lecturers to publish opinion pieces in the media. Key commenters are mainly proffer analyses of political and social issues. In most cases they appear critical of government policies, and certain social trends. This is something that Khama does not take kindly to criticism. The DIS did not hesitate to intimidate these academics. This does imply that Khama directly authorized any of these harassments: it could have been his zealots. Nevertheless, intimidating professors was not easy as intimidating students and foreign professors (who were deported for their views). Some of the academics proved difficult to deal with. One of them suggested to the agents that they could exercise their civil right and counter his writings in the media. Others received death threats but continued writing to this day.

Repression of intellectual freedom is a key indicator of state terrorism. Despots have a propensity to limit intellectual freedom in order to exert more control of the society. Freedoms and rights predate what the world knows to be Botswana's democracy. There are old age adages that have often guided these freedoms in political and social forums: "*Mmualebeoabo a bua la gagwe*" (a speaker is simply expressing his/her opinion) and "*Mafoko a kgotla a mantle otlhe*" (all statements are worth listening to). These embody the philosophy that guided judicial and political proceedings in traditional Tswana society. These also define the free society that the DIS and is bent to curtail. However, the limits of these freedoms [relating to sedition] are clearly defined in the Penal Code (the locus classicus of law enforcement in Botswana) and due punishment is prescribed (Penal Code, Sections 50-51). Sections 74 and 98 also define the boundaries for expressing dissatisfaction with the government. Thus the Penal Code outlines what constitutes national security threats, a buzzword the DIS has often abuse. What the DIS and sister institutions embarked on was a clear violation of both the law and order of society by abusing their powers and mandate.

### Communication surveillance and monitoring

Communication surveillance falls within an area called communication intelligence (COMINT). It is further divided into signals intelligence (SINGIT), image

intelligence (IMINT) and electronic signals intelligence (ELINT). The objective of communications intelligence is to monitor perceived security threats. This involves the tapping of telecommunication devices, including unconventional electronic gadgets. Idealistically, the scope and frequency of surveillance should match the perceived threat (Todd and Bloch, 2003: 35-37). However, this practice varies from one agency to another.

Communication surveillance in Botswana includes eavesdropping into telephone calls, and email communication. It is yet to be clear whether this is a blanket operation or select few individuals pending court authorization. Although most people believe that the surveillance process is erratic, the Registrar and Master of High Court attested to the fact that courts were inundated with court applications to intercept private phone calls (Morewagae, 2010). The veracity of these claims remains suspect. However, the process which preceded the surveillance incited this paranoia and cynicism.

In 2008 the government of Botswana mandated the registration of mobile communication gadgets, and proceeded to tap other forms of communication. For example, surveillance cameras were installed at the University of Botswana. Thus government became privy to all communication. The position of government was that this initiative was part of an anti-cybercrime strategy (Koontse, 2008). They denied any connection between mobile-phone registration and communication surveillance. The DIS later acquired antelephone-call eavesdropping machine. It eventually became clear that the police service had also acquired its own eavesdropping machine. DIS director, Isaac Kgosi, denied that the directorate possessed such equipment (Ngakane, 2010). Ironically, Kgosi later admitted that the DIS had used such equipment to monitor a serial killer in Kanye<sup>6</sup> (discussed thus).

The DIS also began to target several opinion makers using the newly acquired surveillance material. In 2009, a young radical returned from Germany with unprecedented political zeal. (Mokwena\*, personal communication, April, 2010). The following week Mokwena\* died in a mysterious car accident. There continues to be a common view that the DIS is complicit in his death.

The DIS also instigated cyber-warfare on journalists and lawyers who handles high profile cases, particular those in which security agents were complicit. For instance, following the extra-judicial killing of John Kalafatis, journalists reporting on the issue were constantly harassed by security agents over their interest

<sup>6</sup>Kanye is one of the main villages in Botswana, and the administrative center of the Southern District. It is also the capital of the Bangkwetsi tribe. It is located south west of Gaborone.

in the matter. An investigative journalist<sup>7</sup> indicates that the DIS would send a text message with a warning to these journalists. The message would appear for as long as it optimally takes to read then disappear. The journalist also disclosed that Duma Boko, who was then handling the Kalafatis case, received such a text message. This was an attempt to silence the last remaining vanguard of freedom of expression. Had they been successful, they would have managed to intensify the fear that already existed.

A propensity to propagate fear indicates that a state is gravitating towards terror. This sort of campaign starts with open or clandestine threats. In the event that these campaigns fail, the perpetrators resort to killing or eliminating the subject. These sorts of death are conspicuous throughout most of Africa (Ayittey, 1992). In reality, there was little that the security agents could do because the extrajudicial killing of Kalafatis had already raised alarms outside Botswana. However, the security agency was adamant to escalate the fear and it did work. Most Botswana within the country were not aware that the new developments were closely watched in the region and abroad, hence the fear-spreading campaign worked. Moreover, the main concern for security organs covers urban areas, which are very few in number. Thus this operation could be easily executed in Gaborone and few key towns. Within a short time most people feared the DIS as though it was a terror squad.

It is imperative to question the transparency of communication surveillance in Botswana. The may hem that surrounds this process is suspect. Government claimed that mobile-phone registration was aimed at fighting cyber-crime. Where is that evidence? Government launched the Financial Intelligence Agency (FIA), but still cannot afford to make it fully operational (Pitse, 2011). Is it because there is nothing for them to do? Could it be that there is negligible cybercrime in Botswana? The number of misplaced use of communication surveillance of politicians also leaves a lot to be desired. The intent is not to demonize communication surveillance, but impropriety surrounding its application. The fact that the surveillance is bent on terror is what is particularly disturbing.

### Extra judicial killings and torture

Incidents of public shootings stood at twelve by 2010. In prior years such incidents were rare and occasionally carried out against armed suspects following extensive intelligence exercises. This changed with the advent of the DIS. Shooting suspects and wanted criminals in public became conspicuous. Two of the cases were mistaken identities. A man suspected of stealing a mobile

phone was shot in front of his family in Maun (Mooketsi, 2010). The deceased turned out to have been preparing to leave for another city the next day. Another man on the police's wanted list was shot in front of his father in Molepolole. A Zimbabwean national suspected of armed robbery and also on police wanted list was shot by security agents and left for dead (Pitse, 2009c). Not only was this a rapid pace of killings, but never before had suspects been shot in public in this manner.

The most virulent of these acts was the extra-judicial killing of one John Kalafatis on the night of 12 March, 2009. The shooting occurred at the Extension 12 Mall, in Gaborone. Until then Kalafatis was an unpopular petty criminal. Days before the shooting, John Kalafatis was implicated in a robbery at Phakalane Estates (the plush suburb of Gaborone). The victim was a friend of President Khama's. Following a joint manhunt by agents of the directorate, police and a commando unit of the BDF<sup>8</sup>, Kalafatis was shot in public view at the aforementioned venue which is a well frequented pub. Posthumous ballistic analysis confirmed that he was shot using armour-piercing bullets. Current judicial testimony point exonerates the police from the killings, thus liability falls on the soldiers and intelligence agents (who did not and cannot appear before court). Only one military intelligence official appeared before court. The four were convicted and sentenced to 11 years imprisonment and the military intelligence officer sentenced to four (Morewagae, 2011). (They are currently appealing their sentences)<sup>9</sup>. Other DIS agents who had allegedly been involved in the manhunt were never prosecuted. They were shielded by the law.

Another court case involves police intelligence officers are facing criminal charges following a drive and shoot along the A1 Highway<sup>10</sup>. The security agents claimed that the suspects were implicated in an attempted robbery. Court proceedings would later reveal that some white residents around *Ruretse* (a farm owned by the Khama family) had reported a suspicious vehicle moving in their neighbourhood. The state agents chased and shot at the suspects in broad daylight. This was not a clandestine operation. There was not even an attempt to follow these suspects to a less populated area. The agents rather jeopardized the lives of civilians by shooting at unarmed suspects. They explicitly disturbed public order. These activities may be clandestine, their increasing statistics before the courts of laws have drawn the attention of the public.

Incidents of torture at the hands of the DIS became were increasingly reported in the media. The Serious

<sup>8</sup>Botswana Defence Force

<sup>9</sup>The latest information in the media denotes that the convicts intend to appeal their sentences. Ref. Morewagae (2011) Kalafatis killers to appeal, *Mmegi*, 28 (119)

<sup>10</sup>This is an international route that starts from Ramatlabama border [with South Africa], passes through Gaborone, Mahalapye and Francistown and proceeds to the Ramokgwebana border [with Zimbabwe].

<sup>7</sup>Identity of the journalist and name of the newspaper withheld for security reasons, and sworn anonymity

Crimes Unit (police intelligence) is also implicated on increased use of torture. One of the cases before the courts, features tortured female suspects who were not subsequently taken to hospital ("Five CID officers charged", 2009). In another case the DIS tortured soldiers over a missing gun which was later found in the armoury.

Disregard for human life is a key indicator of state terrorism. It is paradoxical that Ian Khama became president he promised that one of the pillars of government would be dignity. Alas his key security project, the DIS, has done everything to frustrate dignity. Where is dignity of suspects when they are shot to death in public? Where is the dignity [of the public] when public order is disturbed by trigger-happy security agents? In the pre-Khama years, public shootings were unheard of. Paramilitary units used force when necessary. In some cases the Special Support Group (SSG)-a police paramilitary unit-used arms in order to incapacitate violent and/or armed criminals<sup>11</sup>. This use of force was never deliberately lethal. The society was engulfed in fear following the public execution of John Kalafatis. The public now fears both the DIS and criminals. Moreover, this trend is likely to incite even the pettiest of criminals to start arm themselves. This boomerang will make Botswana unliveable, perhaps proving too difficult for the state to control security.

The relationship between these shootings and elitism is a source of concern. It is the duty of the state to provide security details for sitting and retired presidents. President Ian Khama is still a bachelor as a sexagenarian. It becomes more difficult to determine who qualifies for the presidential security detail. This could end up being extended to his relatives and friends. This is evinced by shootings that occurred near *Ruretse*, and that the killing of Kalafatis followed complaints by a Caucasian friend of Ian's. This is particularly disturbing in that anyone with an irrational agenda who befriend might have DIS services at their command. The DIS, its legitimacy notwithstanding, is a public institution sustained by public funds hence it should be accountable and serve the good of the public, not elites.

### **Covert operations: Defeating the ends of justice**

According to Carter (2000) covert operations are carried out in utmost secrecy which should not be traced back to the state. Covert operations are sometimes illegal activities but are an extension of government policy especially in cases where overt operations prove difficult or impossible. Lochrie (1999) also discusses the relationship between power and covert operations, implying that elites and regimes generally depend on

covert action to maintain power. Covert action has been a key asset for defeating the ends of justice in Botswana during a spate of high-profile court cases involving members of the elites.

The first incidence of abuse of covert action among in favour of elites involved the Masitara rape case. Robert Masitara, a local business tycoon and philanthropist was accused of rape by one of his employees. The evidence involved a towel that Masitara had allegedly used after forcing himself on his employee. The towel contained samples of semen from the rape scene. During his trial, some of the evidence disappeared from a police station in Gaborone through covert means [which were never investigated] (Mooketsi, 2004). Masitara is a close friend of the former president and his vice, Festus Mogae and Ian Khama respectively. The mysterious loss of evidence undermined the case and Masitara was finally acquitted. He is currently serving as a specially elected member of parliament in the Khama administration.

In another case covert action was instigated against the chief prosecutor of former Managing Director of Debswana, Louis Nchindo. Debswana is joint merger of DeBeers and the Botswana government. Nchindo was charged with corruption and economic crimes committed during and after his official tenure. This was the highest profile case of its nature. At the peak of the case there was an unusually skilful break into the house of the chief prosecutor, Ngakayagae. Only his laptop was stolen (Gaotlhobogwe, 2010). This was not a case of turning the case in favour of Nchindo. Nchindo had earlier remarked that the DIS was after him. His court case had implicated many members of Botswana's political elite and thus increasingly became a menace to political careers of many. The stolen laptop contained crucial information about the case which appeared to implicate many political figures. Nchindo ultimately died from an alleged suicide that police investigations kept in utter secrecy (Morula, 2010; Modise, 2010). Members of the public rarely believe this story. Nonetheless, with Nchindo out of the picture, the political careers of many elites were more secure. A similar case of covert action featured in the Kalafatis case. The court case was a high profile case from the onset. There were allegations of abuse of office on the part of the presidency. This was never proven.

However, the case involved security agents as well as members of the intelligence community. A laptop computer belonging to Duma Boko, who was representing the Kalafatis family, disappeared during a burglary. In a manner similar to the burglary at Ngakaagae's house, the 'burglars' only stole the computer and its accessories, leaving other valuables. The stolen laptop contained crucial information on the case launched by the Kalafatis family against the state. The case was finally taken over by the Directorate of Public Prosecution, who prosecuted the accused in their private capacity.

Gomolemo Motswaledi became the first person to

<sup>11</sup>This does not imply that police do not carry guns. They do not carry them regularly but only in cases where there are reports of armed criminal activity.

challenge the state president in a landmark application at the high court. Motswaledi was the then secretary general of the ruling party and had challenged Khama's non-democratic tendencies. The case drew increasing political and civil interest from across the country because there is no clear separation of partisan politics and governance in Botswana (Tutwane, 2011). Following this application, which he lost on grounds of presidential immunity, he was dismissed from the ruling party. A splinter party was formed around the increasing outcry over Khama's tendencies. The party was named Botswana Movement for Democracy (BMD). Within a year the party had become widely popular among the working class and youth. At the zest of the party's maturity there was a burglary at Motswaledi's house. The perpetrators appropriated three laptops and two Blackberry mobile phones, ignoring more valuable assets (Nkala, 2010). There was a stark similarity between this burglary and those involving Boko, Ntwayagae and Professor Good. The electronic gadgets contained crucial information about the dealings of the party as well as those of his personal life. The similarities of these events draw curiosity. The plausibility of these covert operations being carried out by the DIS was very apparent. The state has not so far given any statement to counter such claims in the media. Even if they were to deny, it is nature of covert operations—plausible deniability.

In this regard the quest for power by elites undermined justice. This occurred in cases which featured state terrorism—the Kalafatis case; and whenever elites had done wrong or felt their future was threatened. It is not difficult to relate this type of burglaries to black operations. This is what is to be expected in the case of a national intelligence agency that does not account to a legislative body. Thus the elites, mostly from the ruling party, are able to use the intelligence agency for petty projects and personal vendettas. The prospects of terror are heightened among members of society who guard democracy: lawyers, judges, journalists, civil activists and members of opposition parties. In further development, this tendency may even work against the members of the elite groups as they grapple for more power and control. Thus the DIS finds itself in a channel of abuse. What is the future of Botswana's democracy if the state sows a culture of terror among the sentinels of democracy? It is fitting to submit that this sort of activities jeopardizes the mandate and future democratic institutions and their occupational candidates.

### Where is the threat?

There are probably a number of operations that the directorate may have cracked. Given the secrecy of such activities, the public does not have access to such cases of success. That notwithstanding, the DIS chose to leak some of their operations to the media. These were

essentially public warnings, in which they sought the cooperation of the public. However, these issued light into the prime cases of the directorate. In one of the cases the head of the DIS, Isaac Kgosi, claimed that Al-Qaeda had operations within Botswana, which sought to target the 2010 FIFA World Cup in South Africa. The suspects, mainly of Pakistani and Egyptian descent were later deported (Pitse, 2009d). Another case involved a Jamaican radical Islamist who was also declared a persona non grata and deported. The other case was the discovery of an international human trafficking syndicate with operations in Botswana. These were credible operations befitting an intelligence organization.

The preceding cases do not exhibit a sense of exceptional ingenuity. These are rudimentary intelligence duties which can be handled by the police intelligence. Tracking of trafficking syndicates and terrorist networks continue to be part of the mandate of Interpol (Fooner, 1989). By virtue of its name and structure, Interpol exhibits a transnational operation which brings international criminal syndicates under its ambit. This brings the necessity of Botswana bringing the aforementioned crimes under the operational mandate of the DIS. This would stand in contrast with, perhaps the CIA, having direct interest in fighting Al Qaeda. In the case of the CIA there is direct cause (linked to domestic security policy) to pursue terrorist networks. It is yet to be established and justified whether Botswana has interests in terrorism, when South Africa [by far having the politico-economic *raison d'être* to fight terrorism] has not shown such interest. What terrorist threats face Botswana? What is the DIS doing that the Botswana Police Service's Serious Crimes unit cannot do?

### Real security threats ignored

Although the intelligence Act of 2008 mandates the DIS to quell external and internal threats, it has failed the latter at its embryonic stage. Events that brought the nation to a standstill occurred during the same period that the DIS was making media headlines for impropriety. This brought the efficacy and mandate of the DIS (outside instigating terror) into question.

The capability and credibility of the DIS first became suspect during a series of serial murders in Kanye and the surrounding villages. A certain Oreeditse Mokoti killed about eight female victims between September 2008 and July 2009. The alleged killer would call police and notify them of his impending moves. The police failed to apprehend the suspect. On one occasion the suspect posed for a picture with his arm around President Khama during a BDP political rally in Kanye. The suspect later allegedly committed suicide in police custody. This happened before there could be a positive DNA confirmation of his criminal liability. This raised scepticism over whether Mokoti was criminally liable. Kgosi would



later claim that the DIS had monitored Mokoti's calls and were aware of his identity his final "Kodak moments" with President Khama at a BDP rally held in Kanye (Pitse, 2009a, b). This presented dire failure on the part of the DIS. It appears that their concern was the security of the president rather than the general public. It betrays the generic mandate of the DIS issued by law. This somewhat inflates the suspicion that the DIS is a pet project meant for Khama and his fan club. This brings the credibility of this organization into question.

It is beyond the scope of this article to deliberate the criminal liability of Mokoti, but the failure of the DIS hardly escapes notice. They failed to ensure "national security" when needed most. Kgosi's statements reflect a public relations makeover for professional incompetence. If the DIS seeks to qualify its legitimacy, it should gain the confidence of the public. They should contribute meaningfully to the security of the nation. It is the mandate of the state security mechanisms, of which the DIS is part. If national security is a top priority for the DIS, they would not allow such killings that threaten human security. Director Kgosi's statements regarding Mokoti's calls prompt a lot of questions. Does this mean that the DIS was aware of the calls made to the police? Even if the DIS came late into the picture in order to support the shortcomings of the police, what is the communications surveillance for? Does the controversial surveillance system not allow the DIS to pre-empt threats? What is the duty of the more than 5000 people they have enlisted across the country? The DIS and police have technical equipment (for COMMINT) enabling them to trace and locate calls (Mokone, 2006; Nkala, 2010). This dramatic outcome and the mystery thereof justify the scepticism as to whether the deceased suspect was really liable. Could this have been an operation to derail the public's attention from the Kalafatis saga, which had dragged for months? Nevertheless, the paramount argument here is that the DIS failed to live up to its mandate.

## CONCLUSION AND RECOMMENDATIONS

The preceding argument posits that Botswana is experiencing a new surge of state terrorism. The intelligence community, through the aegis of the DIS is the main source of terror. This stands in contrast to the existence of similar establishment in the 'disciplined forces', vis-à-vis Botswana Defence Force and the Botswana Police Service. This stands in contrast to four decades of peace and tranquillity in the democratic state. In this new era the DIS has instigated various acts of terror against members of the public. These include extra judicial killings, most of which are public; torture of suspects in order extract confessions, even for minor crimes; communication surveillance against people with dissenting views; and open intimidation in a bid of intellectual repression. These acts of terror by the state

are intended to instil fear in the public. It is a misfire to assume that the DIS acts in isolation. It is part of the state and their actions are not reprimanded by other arms of government. This terror is not in the interest of the public, but against the public.

This emerging state terrorism sees Botswana gravitating towards the grotesque legacies such witnessed elsewhere. State terrorism has been sufficiently practiced and the horrors thereof documented in Congo, Uganda, Libya, Nigeria and Zimbabwe (De Witte, 2002; Sullivan, 2009; Kyemba, 1977). This is the direction in which Botswana is headed. It matters less whether this has happened elsewhere in Africa. Botswana has managed to differentiate itself as a model state in Africa over the years.

This paper proffers several suggestions on how intelligence unit can be utilized in Botswana. First, the DIS should make itself useful economically. In the post-cold war era most intelligence agencies have turned their efforts to economic espionage (Volkman, 1994). The world of international relations is a place where each nature strives for influence and power. It is not an easy world. The DIS should indulge in economic espionage in order to improve economic development.

Second, they should seek to counter espionage within the border. Pateman (1992) discusses the extent to which Western intelligence communities, as well as Israel's Mossad, and Chinese intelligence are loosely infiltrating Africa. There is hardly an African country without a clique of agents infiltrating and frustrating the plans of the sitting government. As much as the current President [Ian Khama] departed from the non-interference foreign policy, he is set on antagonizing fellow African states; the DIS must be ready to tackle the concomitant ramifications.

Finally, the state (through arms not complicit in the acts of terror) should gravitate towards entrenching a purely democratic and non-partisan oversight of the DIS. The DIS, in an apolitical context, might be useful to Botswana. However, in order to make it a sustainable organization there should be credible oversight that survives the Khama presidency. What if Khama's successor becomes tyrannical? What if the current (Kgosi) leadership of the DIS is eventually assumed [years later] by eccentric, paranoid half-brained quarks? This oversight must also be entrenched in law. Most importantly this oversight mechanism should make the DIS accountable to a wide range of policymakers, including those that do not have a sentimental attachment to the presidency.

In the event that the above recommendations fail, it is sufficient to invoke a pre-emptory and dismissive suggestion made in the run-up to the legalization of the intelligence act. During a public debate Minister Phandu Skelemani asked, "What country can exist for forty years without an intelligence agency?" Dr. Elmon Tafa responded by stating that Botswana has effectively survived for forty years without a "civil" intelligence

agency. If oversight of the DIS fails, Botswana is better off without the DIS. If the DIS does not desist from its terrorist acts, with other arms of the state unwilling to placate this state terrorism, then it should be dismantled and redirect the billions of dollars spent on the DIS to infrastructural development, urbanization and economic diversification.

## REFERENCES

- Alao A (1994). *Brothers at war: Dissidence and rebellion in Southern Africa*, London: British Academic Press.
- Ayittey GBN (1992). *Africa betrayed*. New York: St. Martin's Press.
- Carter J (2000). *Covert operations as a tool of presidential foreign policy in American history from 1800 to 1920: Foreign policy in the shadows*. USA: The Edwin Mellen Press.
- De Witte L (2002). *The assassination of Lumumba*. London & New York: Verso.
- Fooner M (1989). *Interpol: Issues in world crime and international criminal justice*. New York: Plenum Press.
- Gaotlhobogwe M (2010). Nchido's prosecutor's laptop goes missing. *Mmegi*, Retrieved from <http://www.mmegi.bw/index.php?sid=1&aid=2316&dir=2010/May/Wednesday12>.
- Gareau FH (2004). *State terrorism and the United States: From counterinsurgency to the war on terrorism*, Atlanta: Clarity Press Inc.
- Good K (2010). The presidency of General Ian Khama: The militarization of the Botswana 'miracle'. *Afr. Aff.*, 109(435): 315-324.
- Good KTI (2006). Unpacking the model: Presidential succession in Botswana. In R. Southhall & H. Melber (Eds). *Legacies of power: Leadership change and former presidents in Africa*. Sweden: Nordic Africa Institute.
- Good K (1996). Towards popular participation in Botswana. *J. Mod. Afr. Stud.*, 34(1): 53-77.
- Government of Botswana (2008). *Intelligence and Security Services Act*, Retrieved from <http://www.laws.gov.bw>. Government of Botswana. *Penal Code*, Retrieved from <http://www.laws.gov.bw>.
- Henk D (2004). The Botswana Defence Force: Evolution of a professional African military. *Afr. Secur. Rev.*, 13(4).
- Heryanto A (2006). *State terrorism and political identity in Indonesia: Fatally belonging*. London: Routledge.
- Holt P (1995). *Secret intelligence and public policy: A dilemma of policy*. Washington, DC: CQ Press.
- Kologwe O (2009). Police in court for negligent shooting of suspects. *Sunday Standard*, Retrieved from <http://www.sundaystandard.info/article.php?NewsID=4408&GroupID=1>.
- Kyemba H (1977). *A state of blood: the inside story of Idi Amin*. USA: Grosset & Dunlap.
- Lochrie K (1999). *Covert operations: The medieval uses of secrecy*. USA: University of Pennsylvania Press.
- Lowenthal M (2000). *Intelligence: From secrets to policy*. Washington, DC: CQ Press.
- Lute A (2008). Who is watching the spies? *The Botswana Gazette*, Retrieved from [http://www.gazettebw.com/index.php?option=com\\_content&view=article&id=2012:who-is-watching-the-spies&catid=18:headlines&Itemid=2](http://www.gazettebw.com/index.php?option=com_content&view=article&id=2012:who-is-watching-the-spies&catid=18:headlines&Itemid=2).
- Madibana K (2009). CID allegedly kidnap SRC president. *Sunday Standard*, Retrieved from <http://www.Sundaystandard.info/article.php?NewsID=4230&GroupID=1>.
- Maundeni Z (ed) (2005). *40 years of democracy in Botswana*. Gaborone, BW: Mmegi Publishing House.
- Magama A (2008). *Political Rally Speech*, Gaborone BW.
- Masire QKJ (2008). *Memoirs of an African democrat: Very brave or very foolish?* Gaborone, BW: Palgrave Macmillan.
- Miller MA (1995). *The intellectual origins of modern terrorism in Europe*. In M. Crenshaw, (Ed). *Terrorism in context*. Pennsylvania, USA: The Pennsylvania State University Press, pp. 27-62.
- Modise O (2010). Khama backed Nchindo-Court records. *Sunday Standard*. Retrieved from <http://www.sundaystandard.info/article.php?NewsID=7818&GroupID=1>.
- Modise O (2010). Dada pays Nchindo's bank debt. *Sunday Standard*, Retrieved from <http://www.sundaystandard.info/article.php?NewsID=7814&GroupID=1>.
- Mokone O (2006). Government hit-tech spying equipment to target all Batswana. *Sunday Standard*. Retrieved from <http://www.Sundaystandard.info/article.php?NewsID=750&GroupID=1>.
- Mooketsi L (2004). Police investigates disappearance of Masitara case exhibits. *Mmegi*, 21(128). Retrieved from <http://www.mmegi.bw/2004/August/Monday23/2471814081519.html>.
- Mooketsi L (2010). Police studies docket on Maun fatal shooting. *Mmegi*, 26(145). Retrieved from <http://www.mmegi.bw/index.php?sid=1&aid=53&dir=2009/September/Friday25>.
- Morewagae I (2011). Kalafatis killers to appeal. *Mmegi* 28(119), Retrieved from <http://www.mmegi.bw/index.php?sid=1&aid=951&dir=2011/August/Friday12>.
- Morewagae I (2011). Three Kalafatis killers get 11 years. *Mmegi* 28(92). Retrieved from <http://mmegi.bw/index.php?sid=1&aid=1794&dir=2011/June/Thursday23>.
- Morewagae I (2010). DIS applications to intercept phones overwhelm courts—claim. *Mmegi* 27(74). Retrieved from <http://new.mmegi.bw/index.php?sid=31&aid=2454&dir=2010/May/Wednesday19>.
- Morula M (2010). Police conclude investigations into Nchindo's death. *Sunday Standard*, Retrieved from <http://www.sundaystandard.info/article.php?NewsID=7897&GroupID=1>.
- Motlogelwa T (2009). DIS speaks out on torture. *Mmegi* 26(25). Retrieved from <http://www.mmegi.bw/index.php?sid=1&aid=6&dir=2009/February/Tuesday17>.
- Ngakane G (2010). Spy agency boss denies snooping. *Mmegi* 27(128). Retrieved from <http://www.mmegi.bw/index.php?sid=1&aid=4386&dir=2010/August/Thursday26>.
- Nkala G (2010). The state spies on you. *Mmegi* 27(181). Retrieved from <http://www.mmegi.bw/index.php?sid=1&aid=6978&dir=2010/December/Wednesday1>.
- Nkala G (2010). Motswaledi house raid has serious ramifications. *Mmegi*, 27(172). Retrieved from <http://www.mmegi.bw/index.php?sid=9&aid=6530&dir=2010/November/Tuesday16>.
- Pateman R (1992). *Intelligence agencies in Africa*. *J. Mod. Afr. Stud.*, 30(4): 569-585.
- Perdue WD (1989). *Terrorism and the state: A critique of domination through fear*. USA: Praeger Publishers.
- Pitse R (2011). Financial intelligence agency wants P25m for its operations. *Sunday Standard*. Retrieved from <http://www.Sundaystandard.info/article.php?NewsID=9744&GroupID=1>.
- Pitse R (2009a). Suspected serial killer posed for pictures with Khama. *Sunday Standard*. Retrieved from <http://www.Sundaystandard.info/article.php?NewsID=5498&GroupID=1>.
- Pitse R (2009b). Suspected serial killer allegedly commits suicide in police custody. *Sunday Standard*. Retrieved from <http://www.sundaystandard.info/article.php?NewsID=5451&GroupID=1>.
- Pitse R (2009c). Wanted alien shot dead and left to rot. *Sunday Standard*. Retrieved from <http://www.sundaystandard.info/article.php?NewsID=4532&GroupID=1>.
- Pitse R (2009d). Al Qaeda setting up sleeper cell in Botswana—claim. *Sunday Standard*. Retrieved from <http://www.Sundaystandard.info/article.php?NewsID=4310&GroupID=1>.
- Poggi G (1990). *The State: Its nature, development and prospects*. Cambridge: Polity Press.
- Pratt CR (1971). *The cabinet and presidential in Tanzania: 1960-1966*, In M. Lofchie, *The State of the nations: Constraints on development in independent Africa*, Los Angeles and London: University of

- California Press.
- Schlesinger P (1991). *Media, state and nation: Political violence and collective identities*. London: Sage Publications.
- Sibanda EM (2005). *The Zimbabwe African People's Union, 1961-87: A political history of insurgency in Southern Rhodesia, USA and Eritrea*: Africa World Press Inc.
- Smith J, Tromp B (2009). *Hani: A life too short*. Johannesburg: Jonathan Ball Publishers.
- Sullivan K (2009). *Mummar Al-Qaddafi's Libya*. USA: Twenty-First Century Books.
- Sunday Standard Reporter. (2009, March 22). Five CID officers charged with torture. Sunday Standard. Retrieved from <http://www.Sundaystandard.info/article.php?NewsID=4636&GroupID=1>.
- Todd P, Bloch J (2003). *Global intelligence: The world's secret services today*. London and New York: Zed Books.
- Tsie B (1996). The Political Context of Botswana's Development Performance. *J. Southern Afr. Stud.*, 22(4): 599-616.
- Tutwane L (2011). The myth of press freedom in Botswana: From Sir Seretse Khama to Ian Khama. *J. Afr. Media Stud.*, 3(1): 43-55.
- Volkman E (1994). *Spies: Secret agents who changed the course of history*. New York: Wiley Press.
- Weissman SR (2010). An extraordinary rendition. *Intell. Natl. Secur.*, 25(2): 198-222.