

DITSHWANELO - The Botswana Centre for Human Rights



**TORTURE IN BOTSWANA:
an exploration of forms and effects**

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TORTURE IN BOTSWANA: an exploration of forms and effects

We, at DITSHWANELO, would like to acknowledge the time and valuable information contributed to this fact-finding mission, by each Survivor of torture, Government Official, and Professional who participated in this assessment. Without their care and concern for the well-being of Botswana's society, valuable assessments such as this would not be possible.

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June, 1998

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List of Abbreviations

The Botswana Department of Prisons and Rehabilitation -	BDPR
The Botswana Defence Force - BDF	
The Botswana National Police Force -	BNPF
The Botswana Department of Wildlife and National Parks -	DWNP

I INTRODUCTION

The statistics of the Botswana Government covering a span of 28 years, 1966-1994, officially reported a total of 34 deaths of persons held in police custody or as a result of police operations ([unknown], 1994a). Fifteen (15) of the thirty-four (34) reported cases involved persons held in police custody who had either hanged themselves or had jumped from moving vehicles; fourteen (14) deaths were the result of gun shot wounds sustained during police operations; three (3) persons died during interrogation by police; and two (2) were certified dead on arrival at the hospital, after being arrested by the police for being drunk and disorderly.

There have also been allegations by the Basarwa that members of their communities have been tortured by officers within the Department of Wildlife and National Parks (DWNP) (Mogwe, 1992, p. 12). The Basarwa allege that anti-poaching personnel within the Department have assaulted community members in a variety of ways, one method being the application of rubber rings around a male's testicles for an extended duration of time.

While the reported deaths and assaults have varied in nature, there is the overwhelming suggestion that torture is an activity condoned by persons of authority within Botswana. We, at DITSHWANELO, through our work, are also cognizant of unrecorded cases which are not indicated in the above statistics. In addition, the Government has continuously rejected allegations of torture on the basis that there has been insufficient evidence to support such allegations. Without documented evidence there appears to be very little possibility that the Government can and will treat this issue seriously.

As illustrated above, there is sufficient suggestion that Government officials, or persons of authority, are employing torture as a means of expressing their position within Botswana's society. While domestic violence is not readily viewed as being a form of torture, we, at DITSHWANELO, believe torture is inclusive of both the private and public domains, and therefore incorporate domestic violence within this preliminary assessment. We are persuaded to follow this line of thought by the fact that the home is, in a manner of speaking, an institution in which the stronger partner imposes control, be it financial or physical, to torture, abuse, and assault their partner. Once the home is considered an institution then domestic violence can also be rightly considered as torture (Bhagwati, 1997).

This fact-finding mission was designed to investigate these allegations, document the findings, and to then plan for a more in-depth investigation, if one is required.

II TORTURE - SITUATION ANALYSIS

Torture is not simply a random act of violent behavior which has no purpose associated with the outcome of inflicting the violence. Torture is an act by "which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons"(Gordon and Marton, 1995, p. 97).

(a) *Identified Conditions Leading to the Use of Torture*

Amnesty International has identified preconditions which provide a forum for the adoption of torture through which the state plays a significant role. "Emergency or other special legislation that allows wide powers of arrest and detention may facilitate torture. Suspects can be held on the vaguest of suspicions; crimes against the state are given broad, elastic definitions. Torture most often occurs during a detainee's first days in custody. These vulnerable hours are usually spent incommunicado, when security forces maintain total control over the fate of the detainee,..." (Amnesty International, 1984, p.11).

While these conditions leading to torture focus upon public or state action, there are some which further categorize torture to be invasive within the private or domestic realm. "From conception to old age, womanhood is full of risks which are not attendant upon men: of abortion and infanticide because of the social and economic pressure to have sons in some cultures, of malnutrition because of social practice of giving husbands and sons food in priority, of less access to health care than men, of endemic violence against women in all States" (Bhagwati, 1997,pp.24).

DITSHWANELO, views torture as being employed to place an individual, or a group of persons, in a situation where they are not able to defend themselves. They are at the mercy of their torturers who are in a position of authority or strength. This authority or strength tends to manifest itself in physical, psychological, and economic forms.

Further to this, DITSHWANELO identifies persons subjected to torture as survivors, not victims, of an inhuman act, and it is upon that understanding which we base our actions for further intervention. At DITSHWANELO, we strongly believe that survivors of torture can be empowered to lead full lives, and to assist society in identifying means through which torture can be eliminated.

(b) A Global Overview

There are many reasons why people resort to torture. What seems to be paramount is the desire to exercise total political control, economic and social control, and suppress dissent. Another apparent reason for torture is the desire to silence those who are perceived as a threat (Amnesty International, 1984). What seems to be central to all acts of torture is the pursuit of power, and the desire to boost one's ego. Police officers use torture to obtain confessions as a quick way of solving difficult investigations and as a means of controlling detainees in the overcrowded holding cells. Partners, in personal relationships, resort to torture as a way of affirming themselves when they have a poor self-image. The survivors in all these cases are perceived as either a threat or a challenge, hence they are subjected to the dehumanizing, embarrassing and humiliating method of torture as a means of control.

(c) National Overview

The situation in Botswana is not clear. To date there has been no quantitative evidence through which a clear understanding can be determined. There are however significant allegations, reported through the local media, implying that torture does exist and is practised by police and other persons in positions of authority.

Indicators that torture exists have been presented in the following manner:

- Reports of eyewitness accounts have been documented (Matebele, 1996; Motsokono, 1996; Baitlotli, 1994; Balise, 1994; Matebele, [unknown]);
- Those who have survived such encounters have contributed to media coverage (Matebele, 1996; Motsokono, 1996; [unknown], 1995d; Baitlotli, 1994; Balise, 1994; Matebele [unknown]);
- Work colleagues of the perpetrators have been called as state witnesses in judicial cases trying perpetrators of torture (Botswana. High Court of Botswana;1993);
- The former Permanent Secretary in the Ministry of Local Government, Lands and Housing, Mr. Pitso, has been cited warning "police recruits against abusing their powers by effecting unlawful arrests and torturing suspects" ([unknown],1995b,p. 2);
- During 1993, five police officers working for the Criminal Investigations Department (CID), at the Broadhurst Police Station, were convicted on charges of manslaughter (It should be noted that all five were granted a Presidential Pardon in 1995, therefore nullifying their criminal records. Despite receiving the pardon the Botswana National Police Force (BNPF) refused to reinstate their former employees. However, it has been alleged that one of the five was admitted to the Botswana Defence Force (BDF).)(Segwai, 1995; Guardian Correspondent, 1994; Botswana. High Court of Botswana;1993));
- In 1995, the former Commissioner of Police, Mr. Simon Hirschfeld, was quoted as saying, "torture of suspects is not officially sanctioned in the police force and that it is illegal and constitutes a criminal offence. We take immediate action

and have done that in the past when an over-enthusiastic police officer (who has tortured suspects), come[s] to our notice.” (Sechele, 1995, p. 5)

Overall there is ample suggestion, almost to the point of verification, that torture is practised within our society. Whether one were to view the question from the point of the survivor or the perpetrator, clearly there is need for further investigation.

III PURPOSE OF THIS FACT-FINDING MISSION

The purpose of this fact-finding mission is three-fold:

- Firstly, DITSHWANELO needed to establish whether or not a more extensive and targeted research project should be undertaken.
- Secondly, if this research is to be conducted, DITSHWANELO requires sufficient cause, in the form of existing documentation, to support rigorous methodological approaches and our application for funding.
- Thirdly, this preliminary assessment was developed to record existing limitations and barriers, which are likely to be encountered when conducting a more in-depth review about torture in Botswana.

Further to this, DITSHWANELO's mission upholds the following principles:

“The Centre is an advocacy organization that plays a key role in promotion and protection of human rights in the Botswana society. The Centre seeks to affirm human dignity and equality irrespective of gender, ethnicity, religion, sexual orientation, social status, or political convictions. In pursuit of this mission, we seek to educate, research, counsel, and mediate on issues of Human Rights, with specific reference to the marginalised and disempowered. However, due to our commitment to this indivisible nature of Human Rights, this mission extends to regional and international levels.”

In order to fulfill our mission, DITSHWANELO must pursue studies which address sensitive issues such as torture. If we do not then we are failing to assist in contributing towards the promotion and protection of free and democratic rights for all citizens and residents of Botswana.

IV OBJECTIVES OF THIS FACT-FINDING MISSION

The objectives of this fact-finding mission were the following:

- To assess the existence of torture in Botswana.
- To ascertain the possible forms of torture in use.
- To document actual incidents of torture in Botswana.
- To assess the existing resources available to assist a victim, and their family, in coping with being a survivor of torture.
- To assess the level of public awareness with reference to torture.
- To ascertain possible solutions in preventing torture.
- To provide sufficient knowledge through which a more in-depth study could be effectively undertaken.

V THOSE INTERVIEWED

Interviews were held with six (6) Botswana citizens who have survived torture inflicted either by Botswana uniformed officers or their own spouses; with six (6) professionals working within the

medical, social work, and legal professions; and with four (4) Government Departments representing the Botswana Attorney General's Chambers, The Botswana National Police Force (The Ministry of State President), The Botswana Department of Prisons and Rehabilitation (The Ministry of Labour and Home Affairs), and the Women's Affairs Department (The Ministry of Labour and Home Affairs).

Most notably missing from this list of those interviewed are the Department of Wildlife and National Parks (The Ministry of Commerce and Industry), and The Botswana Defence Force (The Ministry of State President).

An appointment for an interview had been scheduled with the Director of Wildlife and National Parks for November 13, 1997, however when we arrived at his office we were informed that authority for such an interview would be required from the Permanent Secretary in the Ministry of Commerce and Industry. We promptly sent a letter requesting the privilege to interview the Director of Wildlife and National Parks. Unfortunately, their response to our request was received after our fact-finding mission had been completed. We do however acknowledge that their response was positive, and therefore anticipate that a more extensive assessment would be viewed with the same level of cooperation.

DITSHWANELO's request for an interview with the Botswana Defence Force was acknowledged, but not positively received. The response received by DITSHWANELO very simply stated, "*The Botswana Defence Force does not condone the use of torture, as such, this should be sufficient to satisfy your concerns.*"

VI FINDINGS

(1) Does Torture Exist in Botswana?

Both the Attorney General's Chambers and the Botswana National Police Force verified that allegations of torture against the Police and other uniformed officers were valid. The Commissioner of Prisons and Rehabilitation could only recall a single case, in 1985, where two prison officers were on trial for assaulting a suspect.

Of the four (4) Government Departments interviewed only the Botswana National Police Force provided statistics outlining identified cases of Police torture (It should be noted that these statistics were not comprehensive in their coverage of all police stations in Botswana.). From 1993 to 1997, fifteen (15) cases were filed against police officers. Of these fifteen (15), five (5) were found to be invalid claims, ten (10) were concluded to be valid claims, with seven (7) being dealt with via internal procedures, and three (3) being put forward for prosecution.

Of the three (3) cases forwarded for prosecution one resulted in a conviction, one in an acquittal, and the third was dismissed due to inadequate evidence for building a case for prosecution.

(1) Which Forms of Torture are Employed in Botswana?

(i) Professionals and Government Officials

The following is a list compiled by the Professionals and Government Officials interviewed during this fact-finding mission. They have reconfirmed journalists' reports and have contributed significant insight into the forms and effects of torture used in Botswana.

- Being secured to a floor with nails.
- Being suspended from a tree, via one's arms, for prolonged periods of time.
- Denial of access to a lawyer or contact with family members.
- Denial of food.
- Denial of speedy medical care.
- Domestic violence.
- Expression of the threat to kill.

- Fastening of exhaust clamps to one's hands.
- Forced to use dirty and blocked toilets.
- Gunshot wounds.
- Interrogation at gun point.
- Overcrowding in prisons and holding cells.
- Recipient of ongoing verbal abuse.
- Semi-drowning.
- Severe back pain inflicted through a knee being forcibly pressed against one's spine.
- Suffocation commonly referred to in Botswana as "riding the jet".
- Threat and exposure to rubber bullets.
- Threat and exposure to tear gas.
- Twisting of male genitals.

(See also: Baitlotili, 1994; Balise, 1994; Galotshoge, 1995; Guardian Correspondent, [unknown]; Guardian Correspondent, 1994; Matebele, [unknown]; Matebele, 1996; Mogwe, 1992; Mooketsi, 1995; Motsokono, 1996; Sechele, 1995; Segwai, 1995; [unknown], 1994a; [unknown], 1995a; [unknown]; 1995b; [unknown], 1995c; [unknown], 1995d; [unknown], 1995e)

(ii) Survivors

Our initial assessment also revealed the following forms and effects of torture inflicted upon the six survivors of torture interviewed during this fact-finding mission:

Physical torture:

- Beatings inflicted through the use of: batons, booted feet, fists, open hands, rifle butts, and sticks.
- Choking.
- Forced to undress in front of same gender officers.
- Infliction of gunshot wounds.
- Application of handcuffs in a manner which causes injury.
- Locked in a cell without any clothing or blankets, and then splashed with water and left for two days.
- Rape.
- Suffocation.
- Squeezing of genital organs.
- Told to run while being shot at by officers.

Psychological Torture:

- Abduction.
- Being forced to observe a third party being physically tortured.
- Denied companionship outside the immediate family structure.
- Denied police cooperation when reporting an incident for investigation.
- Denial of prompt and adequate medical treatment.
- Denied medical reports certifying physical trauma sustained.
- Destruction of existing medical records related to physical trauma sustained.
- Exposure to verbal abuse over extended periods of time.

One respondent contributed the following personal observation, which is worthy of note, “Interestingly Botswana retains physical forms of torture, rather than the more subtle psychological methods used in more modern states.” Despite this observation, it is reasonable to acknowledge that Botswana’s perpetrators of torture do exhibit, albeit fledgling, tendencies towards the adoption of psychological torture, as illustrated above.

(iii) Domestic Violence

Five (5) of the six(6) respondents, who were composed of medical doctors, social workers, and lawyers, stated, ‘yes, domestic violence is a form of torture’. Collectively they summarized domestic violence ‘as a deliberate and systematic action, with long term effects on the survivor, even after divorce’.

The Government Officials interviewed also agreed, in principle, that domestic violence is a form of torture. The Deputy Attorney General did indicate that where a “threat to kill” is made, a prosecution case can be successfully made.

It was also generally agreed, among some of the Government respondents, that the real tragedy is that the police, at times, do not take complaints of domestic violence seriously. Much of this attitude can be attributed to a background where domestic violence is accepted, and a failure to understand that an assault, whether committed by a husband upon his wife or committed upon another person, is an assault. A worthy case to review in support this observation is the “State Versus Philliman Magodelo” (Botswana. High Court of Botswana, 1993b).

(3) Summary of Case Studies

In order to maintain confidentiality for those willing to contribute to this report we, at DITSHWANELO, have chosen to convey the facts provided in the following manner:

(1) Place

Torture, in Botswana, tends to occur whenever the perpetrator desires authority or control of the situation. The infliction of torture has been recorded as taking place in one's home, place of employment, a social setting, in the confines of police departments or prison structures, or as in some instances, a combination of any of these settings.

The events recorded, during DITSHWANELO's six (6) survivor interviews, and a brief analysis are presented below:

Civil Unrest During 1995 - place of employment and on the street

In two separate incidents, torture occurred during the height of the 1995 civil unrest experienced in Botswana. In both instances neither of the survivors interviewed for this assessment were active participants in the events unfolding around them. One of the survivors was engaged in her daily job tasks on the premises of her employers when she was assaulted by twelve (12) members of the Special Support Group (SSG) (a section of the Botswana National Police Force (BNPF)). The other survivor, who was also tortured during the civil unrest, was walking from her place of employment to her home when indiscriminately assaulted by members of the Botswana National Police Force.

Analysis:

In the event of civil unrest, such as that experienced in Botswana during 1995, the prime goal of the government is to regain control and to remove or suppress the dissenting voice. In such instances, torture is often adopted as the method for regaining control. The use of torture was used, as documented above, by the Botswana Government's uniformed officers, to quell and dismantle the protest aimed at Government action (or inaction). These observations and allegations are supported by Amnesty International (1984, pp.4 & 5), "Torture is usually part of the state-controlled machinery to suppress dissent. [...] Emergency legislation may facilitate torture by giving extensive powers of detention to the security forces [...] A specific reason for torture is often to intimidate the victim and other potential dissidents from further political activity."

Torture used as a method of quelling civil unrest can achieve many goals, as it weakens the detainee's resolve for their cause. Torture isolates individuals, therefore removing them from their peer group and their sense of security based upon numbers actively pursuing the cause. Torture intimidates and humiliates the individual, therefore denigrating their beliefs / cause.

The Police Station

During another interview, it was revealed that the police attempted to search a survivor's home without a search warrant. When the survivor asserted himself by requesting to see the search warrant he was immediately taken to the police station. No search warrant was presented, and the request for one was "laughed at" by the one of the station officers. During this visit to the police station, the survivor revealed that he had not been charged with any offence, but was handcuffed, detained, and tortured. He was then taken back to his home where the police searched, still without a warrant. Once it became evident to the police that they had been provided with false information, as they had not found what they were searching for, only then did they release the survivor from his handcuffs.

Analysis:

Throughout the course of this fact-finding mission we, at DITSHWANELO, were repeatedly exposed to what was labeled the 'use of poor investigation techniques', by the BNPF and other uniformed officers. It was further suggested that poor investigation techniques often lead to the adoption of torture (Nsereko, 1993). The above case study brief reveals such concern. The police officers' use of torture to establish their authority, when asked for a search warrant, can be equated with these findings.

In order to gain control and authority, the officers in question adopted the use of torture as a method of circumventing the need for a search warrant. They removed the survivor to an isolated and unfamiliar environment, intimidated them through the use of physical torture, and removed the survivor's belief that they had certain rights within society. This analysis is further substantiated by the fact that the police did eventually gain access to the survivor's home, and without question or a search warrant.

The Home

Another torturer survivor interviewed stated that she has been continually exposed to torture solely within the confines of her own home. She has been tortured both in privacy (the torturer and herself being the only two present) and in a more public forum (in front of her children and extended family).

Analysis:

During this fact-finding mission, the perpetrator of torture was often identified by those interviewed as being someone of poor self-image. This was further explored through the observation that in situations where a person of poor self-image wishes to overcome this liability, they will often resort to a fast and assured method of gaining authority. Much like a uniformed officer, who adopts the use of torture to compensate for poor investigative techniques, an abusive domestic partner will adopt the practise of torture to obtain immediate control or authority within the domestic environment.

Public Place

Through the recounting of events by three (3) of the survivors interviewed we learned that torture can commence in a very public arena. One survivor of torture described how he was ordered into the back of a BDF issue truck, and slapped several times on the face before being told to return to his colleagues. When the survivor attempted to assert his rights, and record the names of his torturers, he was again ordered into the truck and driven to a isolated area, where he was left to fend for himself. While en route to this location, he was repeatedly beaten. In this instance the torture was magnified by the return of his torturers. Fortunately, the survivor had hidden and well after mid-night began to walk back to where he had originally been picked-up.

Analysis:

The reaction of the BDF uniformed officers to this survivor's request for the identification of the soldier, is very similar to that of an abusive domestic partner, or someone of low self-esteem. The recorded reaction of the officers demonstrates a belief in the perception that the uniform provides a certain level of authority. When this level of authority is challenged, i.e. suggesting that the officer is vulnerable, acting outside the realm of proper conduct, or not in control, etc., a very effective method to counter this is the use of torture. As noted in the case related to the "police station", the ideology that efficient and effective are synonymous with speedy and not always accurate facts, is the problem-solving strategy often adopted by uniformed officers in Botswana. A similar strategy has been noted with reference to domestic violence. Torture is used to humiliate, suppress dissent, apply psychological and physical pressure, and to intimidate parties involved (Amnesty International, 1984).

The Police Station and Prison

The final survivor interviewed began recounting events from when they were initially detained by the SSG. Shortly afterwards they were handed over to the BNPF. No report of torture was made covering the period while the detainee was in the custody of the SSG. However, once admitted to the custody of the BNPF, the detainee was exposed to a variety of methods of torture within the confines of the police station. The survivor was convicted of the alleged crime, despite there being no direct evidence linking him to the

crime, and sentenced to prison for an extended period of time. While in prison the torture practises continued, and were inflicted by both the Prison officials and inmates.

Analysis:

What has been observed, through this survivor's experiences is a myriad of several torture offences, occurring over an extended period of time, and due to a number of differing influences. Firstly, this survivor, as with others interviewed, was tortured early on during his initial detention. Amnesty International (1984, p. 11) reconfirms this observation, "torture most often occurs during a detainee's first days in custody". Furthermore, as discussed previously in this report, poor investigation techniques linked to promotion (which to some observers is linked to the number of convictions procured through an officer's actions) will precipitate the adoption of torture (Nsereko, 1993).

Secondly, this survivor was raped, by a fellow inmate, while in custody - an act which is often performed to establish control and authority.

Thirdly, this survivor, who had escaped from prison, was placed in isolation, deprived of basic essentials such as clothing and dry surroundings, was physically beaten, and psychologically tortured at gun point, all in an attempt by prison officers to re-establish control or authority.

(2) **Time Frame**

The recorded time frame required for an incident of torture to occur seemed to vary from approximately a quarter of an hour, from contact between the survivor and the torturer, up to twenty-four hours in most cases. These observations have been reconfirmed in studies conducted by Amnesty International (1984, p. 11), "torture most often occurs during a detainee's first days in custody".

However, upon review of the interviews it was noted that in two cases presented, the occurrence of recurrent torture could be accounted for a period ranging from two years up to sixteen years.

(2) **Factors Which May Have Initiated the Torture**

Through our access to these survivors, DITSHWANELO was able to develop background profiles of the circumstances leading to each survivor's encounter with their torturer. Clearly, the factors which provoked the torture were not based on any one specific form of behavior.

Non-personalized Encounter

As witnessed by the accounting of one survivor, they were one of many persons walking along a public venue when they fell victim to torture. This survivor's encounter was not face-to-face with their torturer, and to this day she has still not met the person who inflicted the gun shot wound.

Personalized Encounter

In all other recounting of events, DITSHWANELO was provided with profiles where the survivor and the torturer were face-to-face, and clearly able to communicate. For example, in one case the survivor appears to have "threatened" the Police officers, through his request to see their search warrant. As a search warrant had never been produced, DITSHWANELO can only assume that the officers, who subsequently handcuffed the survivor, escorted him to the police station, and proceeded to beat and suffocate him until he lost consciousness, felt threatened by this man's knowledge and ability to exercise his rights. After this initial exposure to the reality that torture would be inflicted at will, the survivor agreed to the Police searching his home without a warrant.

Another survivor of torture outlined for DITSHWANELO, her initial contact with her aggressors, who were members of the Special Support Group (SSG). The torture took place at her place of employment on one

of the initial days of Botswana's civil unrest in 1995. She was approached by members of the SSG, and was accused of participating in the events unfolding in the city. Upon expressing that that was not the case, she was told to find her employer in order to confirm her position on the staff. While complying with this request, she met and was tortured by other SSG members. Upon pleading with her aggressors to cease their beating, and stating once again that she was an employee, they simply ignored her pleas and continued to inflict the beating they had commenced.

Expression of Authority or Control

What has been made clear to us at DITSHWANELO, is the total lack of regard for one's human rights, and an inability for the aggressor to logically communicate with his or her victim. In situations such as civil unrest, it is perceived that anyone in the public domain is guilty of participating in an unlawful act, and that the means of suppressing such acts is to adopt a wide spread use of torture. Such action ensures the position of "authority" remains with the agents of the state, rather than with those persons acting in a non-conformist manner toward the state.

Public Humiliation and Isolation

In another interview, DITSHWANELO recorded reports of a prisoner who had escaped and upon being located and transported back to the prison, was made to strip naked and run while prison officials fired gun shots at his feet. Clearly, the public humiliation of being stripped of one's clothes coupled with the threat of death or injury by gunshot wound is enough to test anyone's resolve and mental well-being. Further imposed upon this scenario was the immediate beating received upon cessation of running, spending two nights in solitary confines with no clothing, and a daily dousing of cold water. Again, the declaration of authority, through the use of torture is overwhelming.

Similar, accounts of torture were recorded, for example in a case where members of the Botswana Defence Force abused their trust, abducted and beat a man for publically observing that they "were many", as the BDF gathered in a public place.

While the use of torture by public officials to establish authority is a known but little discussed phenomenon in many countries, domestic violence is known and is often discussed. Again, the expression of authority, the blatant abuse of trust, and the ongoing use of torture to gain advantage can be identified in any case of domestic violence.

What is clear is that those wishing to establish themselves as authority figures for the state or within the home, will resort to the practise of torture, when no other method of obtaining this authority can be identified. The use of torture also suggests limited problem-solving skills are employed by the perpetrators of torture, as they seem to repeat the pattern, do not question superiors who may suggest that torture be employed, and they have not progressed from chosen reliance on physical torture to a wider adoption of the more subtle and less detectable use of psychological torture. These observations are further corroborated by the recommendations for preventing torture, as reported within this fact-finding mission.

VII RECOMMENDATIONS

The following recommendations were put forth by those interviewed during this fact-finding mission:

Education

- The police should be trained in proper investigation techniques, thus eliminating the use of force to obtain evidence from a suspect.
- Educate the public about the Office of the Ombudsman, and encourage the said office to actively fulfill the mandate of its office.
- The police need to be sensitized with reference to the treatment of survivors of torture, both at the police stations and at the survivors' homes.
- The police in particular, by virtue of their role in society, should be provided with training specifically related to investigating cases of domestic violence.
- The police should be provided with training which will incorporate more civil and humanitarian ideologies within their decision making. Such an approach would avoid misunderstanding, frustration, and poor decision-making, all of which lead to the torture of suspects. (With reference to this recommendation, it should be noted that prior to DITSHWANELO conducting this fact-finding mission, the BNPF did contact DITSHWANELO in order to establish a human rights component within their training syllabus.)
- There is clear evidence that the public requires education with reference to their basic rights not to be tortured.
- There is evidence suggesting that persons of authority, such as the Police, BDF Officers, Department of Wildlife and National Parks Officers, and Prison Officers, from the management down to the lowest ranking officer, require education with reference to human rights and the prevention of the violation of those rights.

Accountability

- There is a need to make the prisons more accessible to Human Rights Organizations and interested parties. A more open system will help improve accountability and increase transparency.
- State Legal Aid should be extended to all suspects upon arrest, as most torture occurs within the first 48 hours of the arrest. The rationale being, if the police know that upon arrest the accused will have a lawyer they may be deterred from participating in acts of torture.
- Upon arrest the police should allow the accused appropriate and timely access to a telephone in order to contact a lawyer.
- People must be encouraged to exercise their rights, by requesting the case reference number and the name of the police officer who attends to their case for their future reference.
- Officers working with the police force through e.g. joint operations of policing; with the DNWP through e.g. anti-poaching activities, etc., whether in an emergency situation or not, should be accountable to the superior officers of the Department of primary responsibility, and not to the superior officers of their own forces, e.g. when the BDF are involved in policing public forums.
- The legal, psychological and physical consequences of using torture should be clearly outlined for all involved working with the public.
- All officers convicted of practises of torture should be dismissed from the civil service.
- The Botswana Medical and Dental Association should formulate and implement guidelines for assisting survivors of torture.
- The Government should take constructive note when both public or private concerns of national interest are raised, so that civil unrest, such as the Mochudi unrest of 1995 will not occur again.
- The police should not be authorized to carry live bullets during public demonstrations.
- Local and national media should be encouraged to continue their responsible coverage of

torture related offences.

Judicial System

- The law should be enforced to exclude acceptance of confessions obtained through the use of torture.
- There is a need to sensitize the judiciary, from the headmen in the Customary Courts to the judges in the Court of Appeal, with reference to the life long impact of torture upon the survivor. In particular, the judiciary should be reminded that their role in society is to deter torture, not to perpetuate torture. For example, the remarks made by the Judge during Molambani Mthobi Versus The State (Botswana. High Court of Botswana, 1982) are a cause for concern with reference to human rights for women.⁽¹⁾
- The Botswana Constitution: Chapter 2: Section 4 (1) should be reviewed and rewritten with a clear definition of the phrase “use of reasonable force”.
- In cases of domestic violence, compulsory prosecution should be practised, even when the survivor is not willing to proceed with prosecution.

Regional and International

- SADC, through the actions of their recently established Gender Desk and regional Women’s NGO’s, should create a treaty on the “Prevention, Punishment and Eradication of Violence Against Women”.⁽²⁾

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1. Botswana. High Court and Court of Appeal (1982). “Molambani Mthobi Versus The State”. The Botswana Law Reports, 1982. Gaborone: Government Printers. P. 90. “Thus having taken all the factors including the wife’s attitude to the appellant, her refusal to cohabit or have sexual relations with him, his age of 52 years and the fact that the stab wounds were inflicted in the heat of passion engendered by the wife’s attitude, I consider that the proper sentence should be 10 years imprisonment.”
 2. Steiner, Henry J. and Alston, Philip (1996). International Human Rights in Context: law, politics, and morals. Oxford: Clarendon Press. pp. 941-942. ‘In 1993, the Declaration on the Elimination of Violence Against Women (UN Doc A/48/629) was adopted by the UN General Assembly. By 1996, only one treaty had been created to deal with the issue. In 1994, the Organization of American States adopted the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (effective March 1995, with two ratifications).’
- Botswana has not signed the “United Nations Convention Preventing Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment”. This preliminary assessment has shown that there is need for the Government of Botswana to reconsider this decision, and to sign the Convention.
 - There is a call for the local medical community to adopt and use international instruments for reporting cases of torture.

General

- Currently the referral system between doctors, social workers, and lawyers is very informal. This system requires some formalization and development of standards to ensure that persons “uninformed” do not remain so.
- Determine ways to deal with the conflict, where it arises, between traditional norms and human rights - especially with reference to corporal punishment.
- A system for ensuring efficient and accurate retrieval of Botswana Law Reports would greatly enhance the role of the legal profession in preventing torture.
- The Government should establish a fund to assist victims of torture in obtaining appropriate and effective post trauma counseling.

VIII CONCLUSIONS

The findings of this preliminary study are conclusive in determining that torture is practised by persons sanctioned to protect the public of Botswana, as well as families in the home. The findings do provide recommendations for further research on this topic, but perhaps more importantly they have revealed a cooperative relationship between those alleged to be perpetrators of torture and DITSHWANELO, the investigator of these allegations.

What was further revealed through this study was an agreement that torture can be viewed from two distinct perspectives, physical and / or psychological. There was very little evidence provided to suggest that psychological torture is being widely practised in Botswana. However, physical forms of torture, such as beatings (using hands, boots, a gun handle, clubs, and tree branches), suffocation, infliction of gun shot wounds, the application of instruments to the genitals, overcrowding in prisons and holding cells, and forcefully applying one's knee up a suspect's back to induce¹ pain and discomfort appear to be the much more practised techniques of torture.

The reasons provided as explanations, through this study, with reference to the use and acceptance of torture are:

- Officers employ poor investigation methods.
- Officers lack the patience required to gain the suspect's confidence.
- Officers desire quick results.
- The Police and Prison officials have inherited a system where some officials appear to believe that they are the masters and that the public should bow to their wishes.
- Officers are often frustrated because suspects appear wiser than the officers themselves. They therefore continually place themselves in the position of reaction and not anticipation during investigations.
- Torture is conducted as a private act, or in isolation, and is in defiance of the police standing instructions prohibiting the use of torture.

Internal measures for investigating and proceeding with the prosecution of cases related to torture were outlined by the Botswana Police Force, the Department of Prisons and Rehabilitation, and the Attorney General's office. All of these Departments indicated that the procedures are initiated when required. One of the most prominent cases to-date, which demonstrates the efforts of the Botswana National Police Department in addressing allegations of torture, has been Lesogo Thebe and Four Others Versus the State (Botswana. High Court of Botswana ,1993).

As stated previously, the scope of this research was limited due to the non-participation of the Botswana Defence Force (BDF) and the Department of Wildlife and National Parks (DWNP). Their inability to participate in this study, places a large focus on the Botswana Police Force and the Department of Prisons and Rehabilitation, the Attorney General's Chambers, and the Women's Affairs Department. This extreme focus, on only four (4) of the six (6) identified informants, should be kept in mind while reviewing the analysis and recommendations of this assessment.

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