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# ***Corruption and Mismanagement in Botswana: a Best-Case Example?***

by KENNETH GOOD\*

INDEPENDENT Botswana has developed on three main pillars: rapid and sustained economic growth (over the decade to 1992, for example, at 8.4 per cent a year, third-highest among all developing countries, and far in excess of any other in Africa);<sup>1</sup> multi-party or liberal democracy; and an efficient central state, the main features of which have been identified and praised by observers.<sup>2</sup> With growth, an accompanying build-up of a relatively strong governmental system took place, with activities especially focused on finance and planning. The civil service was maintained at a high level, according to Ravi Gulhati, by avoiding rapid localisation, by providing high compensation for officials, and by keeping well-defined lines of authority and accountability. Able people were placed in key positions and kept there for extended periods. The political élite fairly consistently sought expert advice from leading bureaucrats, and the two groups have displayed a closeness and mutuality of interest built upon their common involvement in cattle and commerce, and the not uncommon tendency for cabinet ministers to arise from the ranks of the senior bureaucracy.

Generally conservative fiscal and monetary policies were pursued by the Botswana Democratic Party (BDP) Government, and an implementation capacity was constructed which Gulhati described as 'very good in most areas'. Charles Harvey and Stephen Lewis also

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<sup>1</sup> *The Economist* (London), 18 September 1993.

<sup>2</sup> This section is based upon Kenneth Good, 'Interpreting the Exceptionality of Botswana', in *The Journal of Modern African Studies* (Cambridge), 30, 1, March 1992, pp. 73–6, and the sources referred to are as follows: Christopher Colclough and Stephen McCarthy, *The Political Economy of Botswana: a study of growth and distribution* (Oxford, 1980); Larry Diamond, 'Introduction: roots of failure, seeds of hope', in Diamond, Juan J. Linz, and Seymour Martin Lipset (eds.), *Democracy in Developing Countries*, Vol. 2, *Africa* (Boulder and London, 1988), pp. 1–32; Ravi Gulhati, *The Making of Economic Policy in Africa* (Washington, DC, 1990); and Charles Harvey and Stephen R. Lewis, Jr., *Policy Choice and Development Performance in Botswana* (London, 1990).

identified Botswana's coherent and sustained development capabilities. The bureaucracy tried to anticipate problems and opportunities. Funds were early established to provide for stabilisation reserves and for public-debt service, and such planning helped produce sustained development through mineral booms, and an exceptionally low debt-service burden,<sup>3</sup> while the drought relief programme has prevented the famines which have occurred elsewhere in Africa, even within an environment of harsh and recurrent drought.

Christopher Colclough and Stephen McCarthy summarised the rôle of the Botswana state as 'careful planning, economic management, and diplomacy', the latter instanced in skilful negotiations with De Beers and over-favourable beef export-quotas with the European Union.<sup>4</sup> The choosing of appropriate priorities was the responsibility of a political leadership which Harvey and Lewis saw as of 'unusually high quality'. This élite holds constitutional responsibility for the management of the governmental system. Interventions in the economy have obviously been of great importance, but they have, just as significantly, been restricted and selective – in Gulhati's terms, they were 'kept to a feasible set'. Mismanagement was thus generally low or absent, and corruption too was deemed to have been limited; the country was outstanding, said Larry Diamond, for the creation of effective structures of control.

### THREE PRESIDENTIAL COMMISSIONS OF INQUIRY

It is this high reputation for good government that has crumbled since 1991 in the face of a series of scandals highlighted by the International Project Managers consultancy, the Kgabo report on illegal land-sales, the Botswana Housing Corporation debacle, and the near ruination of the National Development Bank. Yet these now manifest malpractices might well have been latent earlier, overlooked by observers who were themselves once senior advisers in the bureaucracy, or who stressed the *relative* efficiency and democracy of Botswana in an Africa which varied economic decrepitude with dictatorship.<sup>5</sup> Bad government was perhaps shielded by the hierarchies and inequalities that permeate the society, and authority's assumption

<sup>3</sup> Harvey and Lewis, *op. cit.*, and Catherine B. Hill and D. Nelson Mokgethi, 'Botswana: macroeconomic management of commodity booms, 1975–86', in World Bank, *Successful Development in Africa* (Washington, DC, 1989), pp. 174–206.

<sup>4</sup> Colclough and McCarthy, *op. cit.* p. 242.

<sup>5</sup> The exceptionality of Botswana remains a fact, but its extent and limitation require further definition.

of deference easily stifled public questioning. Aspects of the present problems over land-sales, housing, and the abuse of loan-funds, have quite evidently germinated over a period of some 10–15 years.

### 1. *Supply of Teaching Materials for Primary Schools*

Responsibility for primary education in Botswana is shared between the Ministry of Education, the professional and policy-formulating body, and the Ministry of Local Government, Lands, and Housing which is concerned with the infrastructure and general management of schools, including the provision of books and equipment. The contract for the supply of teaching materials for the country's primary schools in 1990 was awarded to the International Project Managers (IPM) without any examination of the company's employees or of their qualifications. No tender competition was conducted, and no proper survey of experienced agencies in the field of educational procurement was made. The contract was not approved by the Central Tender Board, and what the Presidential Commission of Inquiry described as 'a series of breaches of Tender Board and Financial Regulations' soon followed.

The consequence of several gross errors was that P27 million was dissipated, largely unaudited, on the tender, of which P23 million had been given to a locally-based company which was without financial standing and headed by an insolvent.<sup>6</sup> Rather more than P1 million was lost in the mis-allocation and delivery of books. The IPM had in fact no experience of any kind in the purchase and supply of school materials.

The two Ministries had earlier established a Reference Group and a Tender Panel supposedly to plan and co-ordinate the procurement exercise, and it was on the Chairman of both these bodies, Leonard Mukokomani, that the Presidential Commission placed 'the main responsibility for this debacle'. He had been influenced by the 'ill-considered advice' of the Principal Finance Officer in the Ministry of Local Government, Roger Bowyer, although 'ultimate responsibility' rested with the Permanent Secretary and Accounting Officer, Meshack Mokone.<sup>7</sup>

<sup>6</sup> The Pula was worth 0.53 US dollars in 1990, 0.50 in March 1991, 0.48 in June 1992, and 0.41 in 1993. *Barclays Botswana Economic Review* (Gaborone), selected issues.

<sup>7</sup> Republic of Botswana, *Report of the Presidential Commission of Inquiry on the Supply of School Books and Materials to Primary Schools for the 1990 School Year* (Gaborone, 16 April 1991), pp. 1–11, 13, 18, 50, 55–6, and 60–63.

## 2. *Illegal Land Transactions in Peri-Urban Villages*

Local Government was the Ministry chiefly responsible for the mismanagement and waste of the IPM, and it was also entirely accountable for the far greater malpractices which surfaced in 1991 and 1992. Operating the gates through which all must pass in search of land and housing, its systemic and societal importance is outstanding. This is reflected in its size, the possession of two Assistant Ministerships, and its large financial allocations. Under the 1994 budget it received 18 per cent of recurrent expenditure which, at P581 million, was the second-largest outlay. It also got an additional 21 per cent of development spending, P335 million, the largest share.<sup>8</sup> As the agency for government policy in key areas, it might well be termed 'a flagship Ministry'.<sup>9</sup>

The Presidential Commission of Inquiry into illegal land transactions in peri-urban villages near Gaborone concluded its work in December 1991. The Chairman, Englishman Kgabo, was explicit regarding the origins of an acute public problem which had steadily worsened over a decade. People had moved to the Kweneng District, and more particularly into Mogoditshane, because of the critical shortage of accommodation in Gaborone; and this was 'a serious indictment of Government itself since it failed to provide shelter to its people.' The difficulties faced were indeed exacerbated by the relevant agencies operating under the purview of the Ministry of Local Government. Land allocations had remained frozen in Mogoditshane since the mid-1980s, and the Botswana Housing Corporation had virtually suspended the construction of houses, while the servicing of plots had also slowed down. The Commission managed to identify as many as 841 plots that were illegally acquired, but felt that the actual figure was higher. 'It was a grave mistake' to suspend allocations for so long a time, Kgabo concluded, without any alternative being provided by the Government.

While many residents were well-nigh forced into unlawful land transactions, they were also encouraged to act illegally by the participation of certain parliamentarians and leading ministers in such activities. The Commission found evidence of the use of high office for personal gain, and named the Vice-President and Minister for Local Government, P. S. Mmusi, and the Minister of Agriculture, D. K. Kwelagobe. The latter had claimed to have been given a parcel of land

<sup>8</sup> 'Budget Speech, 1994' by the Minister of Finance, Festus Mogae, Gaborone, 7 February 1994, pp. 21-3.

<sup>9</sup> Roger Charlton, 'The Politics of Elections in Botswana', in *Africa* (London), 63, 3, 1993, p. 359.

by a generous friend, but the Land Board had refused to give legal effect to this transfer: 'On appeal to the Minister [of Local Government] by Mr Kwelagobe... the Land Board was... directed to effect the transfer'. This intervention by the Minister on behalf of a friend and colleague was, said Kgabo, 'deeply regrettable'. Both Mmusi and Kwelagobe were developing land in the area, and a plot had been transferred to the Vice-President's son and consolidated with adjacent land owned by a senior bureaucrat; both the transfer and the consolidation 'were done during the freeze' on allocations by the Land Board. Residents informed the Commission that Mmusi had 'told them in the *kgotla* that the freeze affected non-Bakwena only'.

Several of those who were themselves engaged in illegal land sales claimed that they had done no wrong since 'responsible people accumulate large chunks of land and enrich themselves'. In Mogoditshane, the name of Mmusi and Kwelagobe had 'cropped up very frequently' before the Commission, and 'the public does not refer to them with any compliments'. Kgabo concluded that 'government credibility and integrity are at stake' in the peri-urban areas.<sup>10</sup> Mmusi was also the National Chairman of the BDP, and Kwelagobe was its Secretary-General; respectively numbers two and three after President Ketumile Masire in the hierarchy of the ruling party. Although both resigned from the Government in March 1992, three months after the submission of the report, they were most reluctant to admit the seriousness of their actions. Only in June 1992 was their suspension from party office also announced.

### 3. *Operations of the Botswana Housing Corporation (BHC)*

The Presidential Commission of Inquiry into the operations of the BHC, chaired by Richard Christie, presented its report in November 1992, amid existing public furore as events unfolded concerning that parastatal and its associated Ministry. In the previous December, Spectra Botswana had granted an unsecured loan of P500,000 to one of its three directors, the Assistant Minister of Local Government, Michael Tshipinare, and thereafter its parent company, the Premier Group of South Africa, made a successful tender-bid to construct a new headquarters for the BHC, at a planned allocation of P53 million. In February 1992 the Corporation's ambitious general manager, Joseph Letsholo, met a violent death. It was not entirely surprising, therefore,

<sup>10</sup> Republic of Botswana, *Report of the Presidential Commission of Inquiry Into Land Problems in Mogoditshane and Other Peri-Urban Villages* (Gaborone, 13 December 1991), pp. vii, xii-xvii, 12-19, 42-9, 53, 69, and 72-3.

when Christie identified 'gross mismanagement and dishonesty' in the BHC 'resulting in the loss of tens of millions of Pula'.

Inefficiencies and wrong-doing appeared throughout the Corporation, and existed too within the supervising Ministry. The other Assistant Minister of Local Government, Ronald Sebege, was found to have used his position for the benefit of friends. The construction of 407 high-cost houses had been planned on a hillside at Lobatse, though little or no market existed there for such accommodation, and the BHC had paid out P8.5 million for professional services in their design. Spectra Botswana received P12 million to build the new BHC headquarters before the contract was finally cancelled in June 1992. Christie found that 'ultimate administrative responsibility' was borne by the Permanent Secretary in the Ministry who was also Chairman of the BHC, Pelonomi Venson, while Mmusi carried 'the political responsibility' for the massive corruption.<sup>11</sup>

The subjects of the Kgabo and Christie reports were closely interrelated, and the identified problems stemmed from housing and land shortages which had been unreasonably prolonged by those in power. Ministers and senior civil servants had manipulated the circumstances for personal advantage, and irresponsible, wrong decisions had been taken. The spending of P53 million on a redundant office-building for the BHC was without justification, and it was at least questionable if the contract in any case should have gone to the Premier Group, a company whose operations in Africa, perhaps especially so in Zaïre, were surrounded by notoriety.<sup>12</sup> The Corporation, under the day-to-day control of a maverick manager, had acted out of public control. The IPM consultancy also resulted from the near total ineffectiveness of the supposed controls, and almost P30 million had been wasted, to the presumed private gain of some of those involved. The events in Mogoditshane and the mismanagement in the BHC and the Ministry of Local Government, moreover, came to light through public controversy – fuelled by able investigative reporting in the independent newspapers – and not as a result of internal, governmental

<sup>11</sup> Republic of Botswana, *Report of the Presidential Commission of Inquiry Into the Operations of the Botswana Housing Corporation* (Gaborone, 30 November 1992), pp. 6–8, 79–89, 99, and 203–5.

<sup>12</sup> According to Sebastian Mallaby, *After Apartheid* (London, 1992), pp. 160–3, 'Premier went to great lengths to win the loyalty of senior politicians' in Africa, and the Belgian chairman of its international division, Albert Nelissen, 'had a way of charming presidents'. He had agreed to instal a 'ready-made garden' for Mobutu's palace at Gbadolite, 'complete with gardeners to replace the Zaïrean bush with flower-beds', and soon after provided a poultry farm, also requested urgently. Where speed was the criterion, and not costs, Premier got things done wherever they were called. As Nelissen himself explained: 'Us establish in Africa. Paying tax, employing locals, training locals. Us give them a complete package.'

checking mechanisms. These throughout were either absent or ineffective.

Kgabo made clear the long-running nature of the problems he investigated, and much the same applied to the operations considered by Christie. As noted, leading politicians and bureaucrats were identified in both reports; Mmusi was particularly prominent, ranking next only to President Masire in both the Cabinet and the ruling BDP. Sandy Grant examined the possibility that 'key members of the government knew very well what was happening but hoped somehow to keep matters quiet.' Chance events, like the death by car accident of the BHC's General Manager, made this impossible. When, as Grant noted, Joseph Letsholo's personal safe was opened, 'so many of the top people in government were sufficiently concerned about what was in [it] that they had all to be present'.<sup>13</sup> Rather as Kgabo seemed to suspect, the BHC scandals implied a failure in the entire government system, precisely in its highest echelons.

#### *The Immediate Reactions of the Ministers Involved*

Those accused and named in the Kgabo and Christie reports have in general insisted, sometimes belligerently, that no personal wrong-doing had occurred, and that they held no responsibility for the consequences. These denials have been persisted with even after the Commissions had reported and their findings accepted by both Parliament and Government. Segebo allowed that he had indeed allocated BHC houses to friends as Assistant Minister of Local Government while there were some 20,000 on the formal waiting-list for housing. He was subsequently moved, with no demotion, to a similar post in the Ministry of Finance and Development Planning, and continued to maintain, at least until his resignation from the Cabinet in February 1993, that 'I don't think I did anything wrong', and 'I don't take the blame for not detecting problems at the BHC'.<sup>14</sup> Quasi-judicial judgements, society's opinions, and the norms of responsible government were intransigently ignored.

After being dropped from the Cabinet, Mmusi and Kwelagobe organised vociferous public rallies at which they vehemently proclaimed their innocence. The latter also declared at one of these that Kgabo and his fellow commissioners had lied in their references to him.<sup>15</sup> When the

<sup>13</sup> Sandy Grant, 'The Christie Report Revisited', in *Midweek Sun* (Gaborone), 13 January 1993.

<sup>14</sup> *Mmegi/The Reporter* (Gaborone), 29 January 1993. See also *ibid.* 19 February 1993, and *Midweek Sun*, 27 January 1993.

<sup>15</sup> Referred to by President Masire at a press conference, and reported by the *Botswana Gazette* (Gaborone), 25 March 1992.

Government's white paper on the report came to be debated in April 1992, backbench MPs, some of whom had been named by Kgabo, were said to have described the commissioners as liars, and as vicious and wicked.<sup>16</sup> After the report was approved by Parliament, Mmusi and Kwelagobe announced that they were suing the Government over the matter.

Such strong denials of responsibility constitute an apparent claim that members of the ruling élite are above the law, or that they are capable of interpreting the laws to their own advantage. Democratic norms of accountability have been flouted, and the absence of any moral code of exemplary leadership indicated. The conclusion seems unavoidable that, if these attitudes remain unchanged within the ranks of the top leadership, corruption and mismanagement are unlikely to end. This became more probable when the BDP congress, in July 1993, re-elected Kwelagobe and Mmusi to their former positions on the central committee, with commanding majorities. The ruling party had by direct implication sanctioned their previous wrongdoings. Kwelagobe described his re-election as a sign that he was innocent, adding for full measure that 'the BDP was convinced that I have committed no offence whatsoever'.<sup>17</sup>

#### NEWSLINK AND PROJECT EAGLE

Other questionable, seemingly unsound decisions have occurred or are in process. While these may not be of the same scandalous proportions as the BHC/Local Government embroglio, they involve the diversion of large financial resources, and jeopardise national security. They too cast doubts on the old reputation for efficient, prudent administration.

In August 1990, the South African Defence Force (SADF) was able to establish the weekly *Newslink Africa* in Gaborone as an organ of its military intelligence. Botswana's capital had been chosen as a more favourable location than alternative regional sites such as Windhoek or Harare. It was later reported in the then *Weekly Mail* of Johannesburg that the SADF's front men 'succeeded completely in persuading the Botswana government of the operation's *bona fides*', and that the guest speaker at the official launching of the paper was the Minister of Commerce and Industry.<sup>18</sup> It closed in December 1991, some four months after President F. W. de Klerk had announced that budgetary

<sup>16</sup> *Mmegi*, 16 April 1992.

<sup>17</sup> *Botswana Gazette*, 25 August 1993.

<sup>18</sup> *Weekly Mail* (Johannesburg), 6 November 1992. The origin, rôle, and ramifications of *Newslink* were extensively considered in this issue.

restrictions meant the curtailment of such covert projects, and after the *Weekly Mail* and *Mmegi* had begun to expose the true nature of the SADF's publication.

The Minister for Presidential Affairs and Public Administration, Lieutenant-General Mompoti Merafhe, had stated in August 1991 that Botswana viewed the media reports seriously; if they proved true, 'the presence of *Newslink* in Botswana... would therefore be most unacceptable'.<sup>19</sup> The exposure steadily increased, and *Newslink* was allowed in mid-December to withdraw large truckloads of equipment over the Botswana border. How and why this was done, as locally-based employees clamoured for unpaid wages and suppliers for outstanding payments, has not been fully explained.<sup>20</sup> Later still, in November 1992, Merafhe announced that Botswana was to lodge a protest with South Africa, adding to a *Mmegi* interviewer: 'We felt there was something sinister about the whole matter', although not denying the suggestion that a brother of President Masire had been involved with the *Newslink* management.<sup>21</sup> The whole incident was the more strange since the Government had previously adopted a consistently strong stance on issues of national security.

The decision-making which has led to the construction of 'Project Eagle', the new military airbase near Molepolole west of the capital, is highly questionable. There was a perceived need to move Botswana's Air-Arm from its existing location in the middle of Gaborone, but it might well have been re-located at Sir Seretse Khama International Airport – which is not an over-utilised facility – rather as the larger Zambian Air Force is based in Lusaka. The Air-Arm as constituted is a very small force: as of 1991–2, it consisted of 13 obsolescent ground-attack aircraft (8 BAC-167, 5 BN2), one transport squadron (2 Defenders, 2 CN-235, 2 Skyvans, 1 BAe 125-800), and 7 unarmed helicopters (2 AS-350L, 5 Bell 412).<sup>22</sup>

In November 1992, the Government released a document, dated March 1991, stating that Project Eagle had been conceived much

<sup>19</sup> Quoted in *Mmegi*, 30 August 1991.

<sup>20</sup> According to the *Midweek Sun*, 18 December 1991, three truckloads of printing equipment had been allowed to pass through the Tlokweng border-gate with South Africa on the morning of Sunday, 15 December, 'leaving creditors at a loss about how to pursue their claims against the paper', while the *Botswana Gazette* of the same day spoke about the workers having been 'left high and dry' by the sudden departure.

<sup>21</sup> *Mmegi*, 6 November 1992, reported Mompoti Merafhe as having said: 'Certainly I don't think there is any conclusive evidence that Basimanyana [Masire] knew about the machinations of *Newslink* in Botswana'.

<sup>22</sup> The International Institute for Strategic Studies, *The Military Balance, 1992–93* (London, 1992), estimated the total personnel of Botswana's Air-Arm as '100+', while *Business Day* (Johannesburg) has suggested 300.

earlier when regional conflict was rife, and when Seretse Khama Airport could have been vulnerable to attack (as presumably the city airport or Molepolole might also have been). It claimed that the costs would not exceed P624 million, but no reference was made to additional expenditures on new equipment, spare parts, and training. It is only through the expansion, indeed the transformation of the airwing, necessitating larger outlays on costly machines and ancillary materials and services, that Botswana's utilisation of Project Eagle could be understood and rationalised. The *Midweek Sun* commented at the time that the document served to confirm the existence of 'unwarranted and excessive secrecy within the government'.<sup>23</sup>

In the 1992–3 financial year, defence claimed 9.4 per cent of Botswana's total expenditure, largely represented by the costs of the new airbase, and over the current planning period the military was expected to consume almost 13 per cent of development outlays. Confusion appeared to exist within the Government itself over the wisdom of such expenditures. Delivering his 1992 budget speech, the Minister of Finance and Development Planning, Festus Mogae, said that

the less threatening environment that is gradually emerging in the region...should serve to reduce Botswana's expenditure on defence, and enable resources to be re-directed towards productive development objectives.<sup>24</sup>

While the regional environment has continued gradually to improve, despite conflict in Angola, the construction of the Molepolole base has gone ahead. The South African correspondent of *Jane's Defence Weekly* (London), Helmoed Heitman, estimated in 1993 that the final cost of Project Eagle, when completed in 1995, would be US\$600 million,<sup>25</sup> or about P1,500 million at present prices, roughly 20 per cent of current annual GDP. Such non-productive military expenditures – for other than their employment-generating benefits – are extremely difficult to justify in themselves, and even more so in relation to the already existing problems of Botswana: notably, acute rural poverty, urban crime which is worsened by an under-funded police force, and of course the serious lack of public housing.

The construction of this new military complex has further created bafflement and unease among neighbouring states. Tokyo Sexwale, the Pretoria-Witwatersrand-Vereeniging chairman of the African National

<sup>23</sup> *Midweek Sun*, 18 November 1992.

<sup>24</sup> Figures and quotation from Keith Jefferis, 'The 1992 Budget', in *Barclays Botswana Economic Review*, 1st quarter, 1992, p. 15.

<sup>25</sup> *Business Day*, 13 September 1993.

Congress (ANC), and subsequently the Premier of that Province, has publicly stated that his organisation had investigated potential threats to South Africa and, apart from the Botswana airbase, had found that these were non-existent. He believed that the United States must be involved in the projected utilisation of so large a facility, though he also noted that Washington had denied such claims. Sexwale reportedly said that the base had affected the ANC's strategic thinking on military threats in the region.<sup>26</sup> The rationality and prudence which once characterised the choice and implementation of policy in Botswana seem absent from Project Eagle.

#### THE NATIONAL DEVELOPMENT BANK (NDB)

The NDB was established 'for the purpose of promoting the economic development of Botswana', and to this end was meant 'to provide financial assistance', and to conduct its business 'in the manner best suited for the efficient and economical utilization of its funds'.<sup>27</sup> It was, in the words of the Minister of Finance in 1991, 'an essential vehicle for channelling loan financing from Government and external sources to the agricultural sector and other development activities of high priority'. It had long been, Mogae emphasised, 'a pillar of our financial system'.<sup>28</sup>

By late 1993, however, its near bankruptcy was obvious. The NDB's accumulated losses had by March totalled P41·1 million. Outstanding loans amounted to P91·3 million, of which over one-third were in arrears, most for more than six months. The Government's equity position was a negative P15·6 million. In addition, the Small Borrowers Fund, administered by the NDB for the Government, had at the same time accumulated losses of P32·4 million; 70 per cent of its accounts were in arrears, almost all in excess of six months.<sup>29</sup> By November, the NDB was losing P450,000 a month. At a press conference, Mogae said that the NDB was owed more than P60 million in arrears, and that the essential problem entangling the Bank was the near refusal of borrowers even to service their loans.<sup>30</sup>

The NDB's collapse was neither sudden nor accidental. The Minister of Finance in his 1991 budget speech had noted the Bank's 'overly

<sup>26</sup> Ibid.

<sup>27</sup> As quoted by Tshepo Motswagole, 'Why Should We Reveal All on NDB?', in *Mmegi*, 11 March 1994.

<sup>28</sup> 'Budget Speech, 1991' by Festus Mogae, Gaborone, 18 February 1991, p. 11.

<sup>29</sup> 'Budget Speech, 1994', pp. 9-10.

<sup>30</sup> Radio Botswana press conference, reported in the *Midweek Sun*, 19 January 1994.

rapid expansion of lending during the 1980s', when loans and investments increased ten-fold from 1980 to reach P47.2 million in 1988. The Government had injected a total of P36 million to cover the write-offs of bad debts by the NDB on a number of occasions after 1982, with P31 million being outlaid for this purpose in 1988 alone.<sup>31</sup> It had also sanctioned the rescheduling of loans simply on an across-the-board basis, without regard for an individual's possible capacity to repay what was still owed. The effect, according to some employees of the NDB after the events, was to send the wrong signals to farmers and other borrowers – that loans need not be repaid because their eventual cancellation could be safely anticipated.<sup>32</sup>

Part of the weaknesses of the Bank, especially its heavy accumulation of debt, seemingly related to the composition of the NDB Board. Herein civil servants tended to predominate, as at the start of 1994, and while they were men and women of likely capacity, their collective strength, independence, and autonomy vis-à-vis Ministers, was not obvious.<sup>33</sup> On the testament of employees of the Bank, interest rates on NDB loans were not set by the Board, but by the Government.<sup>34</sup> Various restructuring programmes were announced, but all to no avail. A consultancy was commissioned by the NDB in 1989–90, at a cost of P1 million, but its recommendations were never implemented.<sup>35</sup> The Minister of Finance, in his budget speech of January 1991, and again in January 1992, specifically stated that 'a sharply curtailed level of new lending and an intensive debt collection campaign' had 'been initiated'.<sup>36</sup> A year later, in January 1993, the Minister referred again to an 'intensive arrears collection programme', adding illuminatingly that new loans were 'restricted to creditworthy borrowers'<sup>37</sup> – seemingly, such standard banking requirements had not always been upheld previously.

The futility of the various remedial measures was finally clarified at the beginning of 1994. A document prepared/leaked by unknown NDB

<sup>31</sup> According to Mogae's 'Budget Speech, 1991', P31 million had been provided by the Government in 1988 in order to write off bad debts. Three years later it was revealed that loans to the NDB had been written off twice, in 1985–6, as well as 1988–9, with a total value of over P35.5 million. See the *Botswana Gazette*, 30 March 1994, for the parliamentary statement by the Assistant Minister of Finance, Edison Masi.

<sup>32</sup> Information from unnamed NDB employees following the publicising of the Bank's parlous position. *Mmegi*, 21 January 1994.

<sup>33</sup> The Chairman of the NDB Board was Freddie Modise of the Ministry of Finance, while other members were Dr D. Hudson, Ms T. Moremi, Mrs E. Molomo, Dr R. Sibanda, and Messrs D. M. Moroka, T. Taukobong, J. Wellio, and J. B. Galefolorwe. *Midweek Sun*, 16 February 1994.

<sup>34</sup> *Mmegi*, 2 January 1994. <sup>35</sup> *Guardian*, 26 November 1993.

<sup>36</sup> 'Budget Speech, 1992' by Festus Mogae, Gaborone, 10 February 1992, p. 8.

<sup>37</sup> 'Budget Speech, 1993' by Festus Mogae, Gaborone, 8 February 1993, p. 9.

sources revealed that many of Botswana's leaders were heavily indebted to the Bank, some in default for over six months. Among them, the Assistant Minister of Finance, Edison Masisi, had himself acquired a loan of P42,000, as of September 1993, and the Minister of Mineral Resources and Water Affairs, Archie Mogwe, had borrowed P26,000, of which P15,000 was more than six months in arrears. The Minister of Presidential Affairs, Lieutenant-General Merafhe, owed P47,000, while his colleagues at Commerce and Industry, P. H. K. Kedikilwe, held a balance outstanding of P640,000, of which P260,000 was in arrears. Johnny Swart, a prominent BDP backbencher from the Ghanzi district, owed as much as P1,120,000.

The Minister of Labour and Home Affairs, Patrick Balopi, was indebted via his company Phuramarapo Investment P/L to the extent of P1,100,000, with arrears of P400,000. The NDB was also allegedly owed P546,000 by President Masire, P600,000 by Tshipinare, and P1.5 million by Sebego, with both ex-Minister being similarly lax in their repayments. As well, the President's brother, Basimane Masire, figured in the top 15 of the Bank's debtors near the end of 1993, with a loan outstanding of P1.2 million that had never been serviced.<sup>38</sup>

Although the Minister of Finance had said in January 1992 that the NDB was 'increasingly dependent on Government for its survival',<sup>39</sup> several of its leading members seem to have been responsible for its decline and downfall. They had borrowed heavily from this proclaimed 'pillar of our financial system', and had not bothered to repay their loans even as the Bank collapsed under the burden of its accumulated debts. This governing élite included those, as NDB employees plausibly claimed, who determined the interest rates charged on bank loans. They also had sanctioned at least two generous debt write-offs in the 1980s, from which presumably some of them had personally gained, thereby undoubtedly sending 'the wrong signals' to other borrowers, actual and potential.

Unnamed sources inside the NDB stated, in February 1994, that Cabinet Ministers and other parliamentarians had repeatedly sought loans for which they did not qualify.<sup>40</sup> Indeed, the size of those later

<sup>38</sup> An unsigned document listing NDB loans to Ministers and MPs of more than P20,000 each, and the names of the top 15 debtors in September 1993, was apparently faxed to various recipients, and the information so presented eventually appeared in the independent press, notably the *Botswana Gazette*, 9 February 1994.

<sup>39</sup> 'Budget Speech, 1992', p. 8.

<sup>40</sup> *Botswana Gazette*, 9 February 1994. Similar unnamed sources also claimed that 'political interference, especially on lending, has over the years [made] an important contribution to the collapse of the bank'. *Mmegi*, 21 January 1994.

known to have remained outstanding and unserviced for over half a year says nothing for the strength and autonomy of the NDB Board. The Minister of Finance had implied that creditworthiness had not been a requisite for all borrowers, and the Bank's new interim general manager, John Rohan, admitted in an interview that some loans might have been approved through political influence.<sup>41</sup>

The fate of the Small Borrowers Fund (SBF), with outstanding loans of P32 million, as already noted, was further indicative of prevailing practices among the ruling élite. The Fund, according to Mogae at a press conference in January 1994, had been grossly misunderstood: 'It should have been called small loans fund not the SBF since there is nothing small about those who utilise it'. The Fund had originally been intended for the poor, but in the absence of any clear-cut policy as to who exactly should be regarded as small borrowers, most of those who made use of the facility were actually, he reportedly said, 'big guns'.<sup>42</sup>

Both the Bank and the Fund had been exploited, extensively and over many years, by those who were responsible for the good operations of these crucial sources of finance. The governing élite's manifest ethos was individual self-enrichment. During the budget debate in 1992, when the MP for Kgalagadi, Lesedi Mothibamele, called on parliamentarians and top officials to settle their NDB debts, he was reportedly heckled, and some members demanded to know 'who has shown you our accounts?'<sup>43</sup> It was specifically from the spectacle of greed and negligence among the leadership that the 'wrong signals' had emanated, and these undoubtedly indicated that close associates of the élite might also be the beneficiaries of debt cancellations and other inequitable policies and procedures. While Ministers were able to maintain unpaid debts for long periods, other borrowers were treated quite differently – the owner of a small cement-block manufacturing business being threatened with foreclosure by the Bank when his debt stood at just P166.<sup>44</sup> The NDB's employees were obviously well placed to observe how the credit system actually worked, and in fact they obtained staff-loans which eventually totalled over P7 million.<sup>45</sup>

<sup>41</sup> Interview with the *Guardian*, 18 February 1994. The consultancy firm International Development Ireland, of which John Rohan is a member, was contracted in late 1993 to manage the NDB until November 1995 at a reported fee of over P3 million. *Ibid.* 26 November 1993.

<sup>42</sup> *Mmegi*, 14 January, and *Midweek Sun*, 19 January 1994.

<sup>43</sup> *Midweek Sun*, in February 1992.

<sup>44</sup> *Ibid.* 16 February 1994.

<sup>45</sup> *Botswana Gazette*, 9 February 1994.

*Reactions to Exposures*

The immediate response of several Ministers was to assert that their large loans and indebtedness were actually all the fault of the NDB. Sebege said that 'my arrears [of P730,000] are not that high. They are probably half that figure written on the [debtors] list'.<sup>46</sup> Merafhe claimed that 'it is just that accounts at NDB are in a mess'.<sup>47</sup> Although this might have been wholly or partially true by early 1994, it ignored the related question of ministerial responsibility in the making of the mess in the first place. His colleague, Mogwe, nevertheless agreed, explaining that 'The thing is the NDB never reminds us to pay and we forget.' He also suggested that his debts were only normal, adding disarmingly, 'We are human too.'<sup>48</sup> President Masire reportedly paid the Bank what was outstanding on his debt shortly before saying that 'I had a problem like all farmers of sometimes being in arrears.'<sup>49</sup> The effectiveness of this Everyman argument suffered from the patent fact that by no means all farmers, for example, enjoyed any such access to NDB funds. It might be normal to want a loan, but it was decidedly abnormal to receive one of hundreds of thousands of Pula and not be obliged to repay.

A third reaction was to criticise the exposure, and to attack those who sought to investigate the rôle of the ruling élite in the NDB's collapse. President Masire declared that it was all 'unethical', and that 'the media should refrain from this witch hunt'.<sup>50</sup> The Minister of Foreign Affairs, Dr Gaositwe Chiepe, also attacked the press, claiming: 'We are breeding ... a culture of mistrust and abuse where you bundle everyone into one group without verifying the facts'.<sup>51</sup> Notably, however, no serious rebuttal or revision of the released figures was forthcoming throughout the considerable commotion that extended for some weeks. Newspapers added to the sensationalism by alleging that the collective debt of BDP Ministers and MPs to the NDB was P30 million.<sup>52</sup> University students and other concerned citizens held two lively protest demonstrations in Gaborone, but the governing élite was not pressed for further information.

<sup>46</sup> Ibid.

<sup>47</sup> *Guardian*, 11 February 1994.

<sup>48</sup> *Botswana Gazette*, 9 February 1994.

<sup>49</sup> Ibid. 16 February and *Mmegi*, 18 February 1994.

<sup>50</sup> *Botswana Gazette*, 16 February 1994. Vister Moruti, a specially elected MP, took this point a little further, reportedly saying that the press had revealed the list of NDB debtors in order to witch-hunt those in power. *Midweek Sun*, 16 February 1994.

<sup>51</sup> *Mmegi*, 25 February 1994.

<sup>52</sup> *Botswana Gazette*, 16 February, and *Mmegi*, editorial, 18 February 1994.

While the leadership concentrated on a few inadequate counter-arguments, what they conspicuously did not offer to the public was a detailed explanation of either the extent of their loans and accumulated indebtedness, or the circumstances in which they were acquired and maintained. For example: who had initially authorised the loans and on what basis and collateral? who had approved the cancellations of various debts, and had the Ministers themselves been beneficiaries? how had many remained in arrears on repayments for so long, and on whose authority? Although unethical behaviour was alluded to by more than one Minister, their accountability on this crucial matter remained entirely absent.<sup>53</sup> No resignations resulted.

Instead, it was certain subordinate though participant elements in the problem who have implicitly, in the context of the time, borne the responsibility; at least 129 of those working for the NDB, some 50 per cent of the Bank's staff, were declared to be redundant in January 1994.<sup>54</sup> When angry students demonstrated outside the House of Assembly the following month, they said that 'because of the failure of the Members of Parliament and Ministers to pay the NDB its money, innocent workers are having to pay by losing their jobs'.<sup>55</sup> It remained possible that not even full repayment of debts might be required of the leadership,<sup>56</sup> but although the Minister of Finance was again being criticised by some government MPs for not writing off more NDB loans, Mogae had publicly listed reasons during his press conference in January why any further cancellations would be unfair.<sup>57</sup> For its part, the Bank's new management did not aim at the full recovery of all debts. Rohan's position in February 1994 was described as being one of optimism for the recovery of either some, or a substantial amount, of the millions of Pula owed to the NDB, and this over an unspecified period.<sup>58</sup>

<sup>53</sup> Some recognition of the matter's seriousness, at least, did come from within the ruling party's organisation, when the BDP's Administration Secretary, Aobakwe Sekgwa, reportedly said that the unpaid loans did 'not augur well for the NDB and it is an embarrassment to the government and BDP'. *Guardian*, 11 February 1994.

<sup>54</sup> The Minister of Finance announced that some NDB departments were overstuffed and that the retrenchments would reduce the Bank's expenditure. *Guardian*, 11 February 1994.

<sup>55</sup> *Botswana Gazette*, 16 February 1994.

<sup>56</sup> The position of the ex-Assistant Minister of Local Government was perhaps different, given his earlier rôle at BHC. In December 1993 the High Court in Lobatse ordered that Michael Tshipinare's large farm at Sekokwane in the Barolong District be sold to pay off his debts, totalling then more than P500,000, to the NDB. *Guardian*, 17 December 1993.

<sup>57</sup> *Mmegi*, 14 January 1994. The Minister of Finance's name was absent from the list of ministerial debtors, and the student demonstrators voiced their support for him and urged, as they said, that he 'stay the course'. *Midweek Sun*, 16 February 1994.

<sup>58</sup> As reported in the *Guardian*, 18 February 1994.

President Masire had also offered what represented the élite's fourth argument against the exposures, one which did not lack for cogency. The NDB issue, he said, 'has to be looked at in its context'. Botswana was 'a highly risky area, especially in agricultural pursuits'. But the 'people who venture' were 'the hope of our society'.<sup>59</sup> Sebego had earlier been described in the *Botswana Gazette* as 'a farmer [who] has been leading the onslaught against Mogae', and was said to blame the Minister of Finance for the 'imminent collapse of the farming industry'.<sup>60</sup> A crude exaggeration, no doubt, but much the same notion that access to bank-lending was a prerequisite for the intensification of agricultural production occurring in Botswana. It was echoed too by another former Minister, Daniel Kwelagobe, when he called in Parliament for the provision of what was termed a period of grace for those with bank-loans for new agricultural projects.<sup>61</sup> Entrepreneurship, in this view, should be accorded a free rein.

The relevant 'context' was, however, even murkier than the President probably wished to imply. The NDB was the biggest but not the only public lending-institution plundered in the boom economy. The Botswana Cooperative Bank was practically bankrupt, according to the Minister of Finance, in early 1992. Accounts were overdrawn by huge amounts – in the case of one business client by more than P5 million. Insider-lending embraced both staff and the board of directors, and one senior bank official had several loans totalling some P700,000.<sup>62</sup> Meanwhile, at the Botswana Agricultural Marketing Board, accumulated losses were reported to have jumped from some P3 million in 1989 to over P21.5 million in 1992. *Mmegi* claimed to be reliably informed that top law-makers and civil servants were known to have taken fertilisers and various agricultural inputs on credit, which they failed to repay. Losses that incorporated bad debts exceeded P10 million. A company with which President Masire was associated, G.M. Five, held an outstanding loan with the Marketing Board of P57,676 in September 1993, dating back to December 1986 and said never to have been serviced.<sup>63</sup>

<sup>59</sup> President Masire contrasted such venture capitalists or entrepreneurs with those who 'just sit'. Interview on 15 February, *Mmegi*, 18 February 1994.

<sup>60</sup> *Botswana Gazette*, 9 February 1994.

<sup>61</sup> *Ibid.* 21 February 1994.

<sup>62</sup> *Ibid.* 26 February 1992.

<sup>63</sup> The Botswana Agricultural Marketing Board heightened its attractiveness to venture capitalists by reportedly not charging interest on debts. *Mmegi*, 18 and 25 February 1994.

## COALESCENCE OF ECONOMIC AND POLITICAL POWER

Corruption and mismanagement in Botswana is relatively pale and restricted. It is almost entirely an élite phenomenon, and when it extends to others, as in state-run financial organisations and over land in Mogoditshane, it is under conditions seemingly sanctioned by some participating government leaders and officials. It is not systemic to the whole of the political economy as in Zaïre, where in measured gradations it has served to retain the loyalty of officials to President Mobutu, one of the richest men in the world.<sup>64</sup> Nor is it epidemic, afflicting the whole society, as in Nigeria, and there is decidedly no 'culture of corruption' as exists in Brazil. Its significance lies in contrast with the generally reputable and efficient governmental performance preceding the 1980s, and in what the cases noted here might presage for the future. Responsibility and accountability have been seriously reduced within the top-most levels of the Government, but to-date many state institutions and most citizens remain untarnished.

The ruling élite in Botswana is distinctive in originating from an active and direct engagement in production – in cattle, which remains the basis of the rural economy. This involvement was sanctioned in Tswana history, as was the private accumulation of a ruler.<sup>65</sup> Those who acquired power in the nation-state at independence had a growing stake in the economy. Ketumile Masire, for example, decided to give up full-time teaching in 1955, in order to devote himself, as recent biographers say, to 'his one great passion: farming'. He bought a brand new tractor about this time – only the second-such acquired by a Motswana – and asked for 'a greatly increased land allocation for his ploughing needs'. Shortly afterwards the Department of Agriculture awarded him the Master Farmer's Certificate, the first given to an African in Botswana.<sup>66</sup> As early as 1970, the BDP was not only a party of the educated and middle-aged, but also of 'the wealthy'.<sup>67</sup>

In a significant step in the early 1980s, the private business activities of public servants were accorded official, legal recognition. They could engage in 'agriculture' and in 'the ownership and development of

<sup>64</sup> It is inherently difficult to estimate the fortune of Joseph Mobutu, also known as Marshal Sese Seko, the Redeemer, the Helmsman, the Messiah, since he apparently recognises little or no distinction between the public and his own personal wealth. He has reportedly amassed \$4,000 million since becoming ruler in 1965; indeed, in 1989 the US State Department put his wealth at \$5,000 million. *Guardian Weekly* (London), 12 March 1993, and *The Economist*, 17 April 1993.

<sup>65</sup> Discussed in Good, loc. cit. pp. 68–73.

<sup>66</sup> Barry Morton and Jeff Ramsay, 'The Making of a President', in *Botswana Gazette*, 11 and 18 August 1994.

<sup>67</sup> Willie Henderson, 'Seretse Khama: a personal appreciation', in *African Affairs* (London), 89, 354, January 1990, p. 52.

land and other property' provided this was done on an unincorporated basis and outside normal office-hours. Supposedly those concerned could not be a director or manager in a public or private company, but could 'hold a minority of shares' provided that the officer had fully paid for them. In the Government's white paper approved by Parliament in December 1982, it was declared that 'Ministers should register their interests in the same way as members of the public service'. Responsibility for the implementation of this important register was vested in the President. Forms for an officer's annual declaration of property, assets, and liabilities, under General Order No. 210, were prepared, but the register was either never introduced or fell quickly into abeyance.<sup>68</sup>

The long involvement of the ruling élite in agricultural production arguably promoted economic rationality and fuelled growth. But the distinction between public resources and private wealth, between the interests of the people and those of an influential few, remained inherently fraught. The amendments to General Orders were made in a time of economic boom, represented in a fashion commercial sense, and accorded with the ways of Tswana rulers. But the openness and weaknesses of the new regulations, and the non-existence of any register of assets and liabilities, may have unfolded the way to an abandonment of the distinction between public and private assets, notably as regards land, farming, housing, and the borrowing of funds. In the prevailing economic and political conditions, a Rubicon seems to have been crossed. Many in the ruling élite, as the cases here indicate, are now the owners and/or directors of commercial companies; some, as both ministers and directors, have acquired advantageous loans for their firms from state-owned financial institutions which they have been reluctant to repay, leading to the bankruptcy of the public bodies. This has proceeded in a hidden and secretive way, with little or no accountability, despite high financial and other costs to the nation.

#### PREDOMINANCE OF THE RULING ÉLITE

Economically engaged leaders emerged in the hierarchical society of nineteenth/twentieth-century Botswana. Rapid growth has deepened the inequalities of property and incomes. By the early 1980s, according

<sup>68</sup> Editorial, *Botswana Gazette*, 11 March 1992. The Presidential Commission on Economic Opportunities, on which the Government's white paper was based, had also proposed that Parliament appoint an Ombudsman.

to Richard White, 58 per cent of rural households neither owned nor controlled cattle, as against 74 per cent ten years later.<sup>69</sup> At the end of 1992, the gap between the top public service salary (P8,216 a month plus sizeable allowances) and the statutory minimum wage (P327 a month) reached 34.7:1, as H. K. Siphambe indicates.<sup>70</sup> If the average earnings of domestic servants and farm labourers – not covered by minimum-wage legislation – are also brought into the equation, the differential is far greater. Some were still worse off.<sup>71</sup> The monthly incomes of San in the Western Sandveld in 1991 averaged about P25, but a number worked ‘only for milk’, while others went unpaid.<sup>72</sup>

The legitimate operations of Botswana’s system of government further separates the ruling group from the bulk of the population. Citizens participate as voters once every five years, not usually otherwise. The ‘first-past-the-post’ electoral system makes it difficult for small opposition parties to translate votes cast for them into seats won in Parliament. Botswana’s élite democracy takes the particular form of a dominant-party system.<sup>73</sup> Patrick Molutsi has pointed to the non-engagement of the masses in politics, and to the failure or inability of citizens to make demands on their leaders.<sup>74</sup> This incapacity even extends to the organisations invested with the task of making demands on the Government. Although the opposition parties together obtained 33 per cent of votes at the 1989 elections, they appeared reluctant to mount an electoral challenge to build upon this sizeable vote during 1994. The Botswana National Front called a press conference in February to announce that it would inform ‘the international community’ of the financial improprieties of the BDP leadership,<sup>75</sup> but failed to press the Government for the details of ministerial loans. There is a seeming preference for a mutually irrational dialogue between

<sup>69</sup> Richard White, ‘Is the Livestock Industry the Enemy of the Environment?’, Symposium of the Kalahari Conservation Society, Gaborone, 13–14 November 1992, p. 15.

<sup>70</sup> H. K. Siphambe, ‘Minimum Wages in Botswana: should they be increased?’, in *Barclays Botswana Economic Review*, 3, 4, n.d. p. 6.

<sup>71</sup> See Kenneth Good, ‘At the Ends of the Ladder: radical inequalities in Botswana’, in *The Journal of Modern African Studies*, 31, 2, June 1993, pp. 203–30.

<sup>72</sup> Alec Campbell, Main and Associates, ‘Western Sandveld Remote Area Dwellers’, Report submitted to the Ministry of Local Government and Lands and the Norwegian Agency for International Development Co-operation, Gaborone, April 1991, pp. 44–5.

<sup>73</sup> See T. J. Pempel, *Uncommon Democracies* (Ithaca, NY, and London, 1990) for this terminology, discussed by Tom Nairn, ‘The Sole Survivor’, in *New Left Review* (London), 200, July–August 1993, pp. 41–7. In the somewhat similar systems of Japan, Sweden, and Italy (with a dominant coalition) until recently, one party ruled democratically for almost 40 years.

<sup>74</sup> *Midweek Sun*, 15 September 1993. Patrick Molutsi may rather over-state the actual, rather than the intended, passivity of the people, certainly with regard to students and organised workers in the towns.

<sup>75</sup> *Botswana Gazette*, 16 February 1994.

ruling and competing élites; but the cost of ineffective opposition is the further enfeeblement of some one-third of the electorate, and of course the greater likelihood of maladministration and corruption.

The élite's preference for secrecy was seen throughout the *Newslink* affair and currently with Project Eagle. President Masire and his colleagues have proffered no information concerning their indebtedness to the NDB, and attacked the public's right to know. Instead, the response to such exposures is apparently to tighten secrecy even further.<sup>76</sup> According to the Botswana Housing Corporation (Amendment) Bill that was introduced in early 1994, all employees as well as members of the Board must take an oath of secrecy, and contravention will render an official liable to a fine of P5,000 and imprisonment for five years. Described by Douglas Tsiako as 'a formula for mediocrity, incompetence and corruption',<sup>77</sup> this legislation was enacted in the absence of significant parliamentary opposition, not surprisingly since Kwelagobe, the Secretary-General of the BDP, had called for the punishment of those who revealed confidential matters to the press, and attacked the NDB management for permitting recent leakages, saying: 'I deplore such things because it will never stop there.'<sup>78</sup> The BDP élite conceives of itself as the natural party of government, for whom confidentiality is an overriding concern.

Tom Nairn sees corruption as 'linked' to one-party dominance, as scandals in Japan under the Liberal Democrats and in Italy under the sway of the Christian Democrats have suggested.<sup>79</sup> Corruption and mismanagement are certainly likely to continue in Botswana *unless* all transgressors face effective punishment. Common criminality is sometimes severely dealt with. In January 1993, a self-employed taxi driver, found in possession of a stolen motor vehicle (which he was not alleged to have actually stolen), received four years imprisonment, with

<sup>76</sup> Under Section 5 of the existing National Security Act it is a criminal offence to publish any information which the state decides is 'classified'—defined as any matter declared to be confidential by the Government. Editorial, *Botswana Gazette*, 23 February 1994. The penalty under this Act is up to 25 years imprisonment, regardless of public interest.

Section 7 of the Immigration Act empowers the President to declare a resident or visitor a prohibited immigrant, and denies such a person the right of appeal to a court of law and to demand information. Bojosi Othlogile, 'The President: office, functions and powers', n.d., pp. 14–15. This power has been used to deport foreign journalists on more than one occasion.

Both Acts remained unused during *Newslink's* operations. It should also be noted that certain offences under the Penal Code, especially that of 'sedition', seriously limit access to information.

<sup>77</sup> *Guardian*, 18 February 1994.

<sup>78</sup> *Midweek Sun* and *Botswana Gazette*, 23 February 1994.

<sup>79</sup> Nairn, op. cit. p. 44. However, Sweden, apart from the Bofors case, appears to be different. Corruption in Japan, unlike the endemic form of Italy, is seemingly also of the élite variety, focused often on the construction industry.

two years suspended, although it was his first offence.<sup>80</sup> By way of contrast, in July, Tshipinare was found guilty by the Chief Magistrate of corruptly obtaining a P500,000 loan from Spectra Botswana and given an actual one year's jail sentence (four with three suspended).<sup>81</sup> Not four months later he was completely free, having been found not guilty on appeal to the High Court.

Justice K. Gyeke-Dako's reasoning threw strong light on the accepted business practices of Ministers. He ruled that when Alex Goldman (managing and fellow director of Spectra) released the P500,000 to Tshipinare, the former had 'already calculated' that since Spectra was going to make a profit of about P4 million, 'the accused's share [would be] about P1.3 million when the contract was completed'. The evidence showed that the Assistant Minister of Local Government urgently needed the new loan – he was 'hard-pressed' in the sympathetic words of the Judge – in order to pay off his old loan of P199,000 to the NDB by 13 December 1991. Gyeke-Dako determined that Spectra had 'a clear expectancy to deduct [the P500,000, plus interest] from [Tshipinare's] share of profits'. Both Goldman and the Assistant Minister, he concluded, were engaged in nothing other than a perfectly normal business transaction. Not only was the charge of influence-peddling unproven, but declared the Judge:

Surely, the accused as a director [of Spectra], was entitled to promote the interests of his company, and *stricto sensu*, there should be nothing wrong in the accused, *qua* director, purposely going to Johannesburg in August 1991 to join the Spectra group in conducting the BHC Management to inspect the handiwork of Spectra.

Although the Chief Magistrate earlier found that Tshipinare had failed to declare his business interests in Spectra to his supervisor, the President, for Gyeke-Dako this constituted a mere 'breach of administrative instruction', irrelevant to the appeal.<sup>82</sup> In other words, it was acceptable that a heavily indebted Assistant Minister should acquire P1.3 million through the award of a government contract, from within his own Ministry, to the parent organisation of a company of

<sup>80</sup> *Guardian*, 28 January 1993.

<sup>81</sup> The Chief Magistrate declared: 'I am satisfied that the accused has been validly accused of influence-peddling within the management of BHC in the award of the Spectra contract, and the onus is placed on him to prove albeit on balance of probabilities that he did not obtain the [so-called] loan corruptly.' See *Mmegi*, 6 August 1993, for 'State v Tshipinare, Judgement'.

<sup>82</sup> 'Michael Rabereng Tshipinare v the State, Judgement', High Court, Lobatse, November 1993, pp. 25-6, 30, and 35-7.

which he was simultaneously a director. The state has not appealed against the judgement.<sup>83</sup>



With Botswana's culture and politics of élite predominance, and with the maintenance of a growth economy, corruption and mismanagement are unlikely to be eliminated. They might be controlled and limited, but only if serious steps are taken to strengthen the morality and heighten the fiscal and administrative discipline of the rulers.<sup>84</sup> The above litany of transgression by the élite is daunting. Kwelagobe and Mmusi triumphantly regained top party office and present themselves vindicated, Kwelagobe is considered a leading contender to succeed President Masire, and like Tshipinare and Sebego they all remain honourable parliamentarians. Many in the leadership strongly contributed to the pillaging of financial institutions, and to the associated diversion and wastage of public resources. The nation has paid a large price for the growth that has been achieved, not least since the distinction between private profit-making and the responsibility of public office has throughout been obscured if not obliterated.

<sup>83</sup> One of the central issues in the case was whether a government Minister was or could be viewed as an agent of a statutory body falling under his Ministry, and this was resolved in Tshipinare's favour. Under law an acquittal cannot be reversed. But a court can declare that a person has been wrongly acquitted, and a retrial could be obtained due to irregularities in proceedings. Personal communication, Bojosi Othogile, June 1994.

The Assistant Minister's proceedings had been completed with particular speed. Hillary Naledi of Segatsho and Associates noted that other appeal cases filed long before were still pending, and wondered 'whether there is a special treatment for people like Mr Tshipinare' *Gazette*, 10 November 1993.

<sup>84</sup> The establishment of something like an Economic Crime Unit within the Office of the President was mooted over several months in 1994, and the creation of an Ombudsman has been talked about for more than a decade. But it is very doubtful that such bodies – in the abstract, and in and of themselves worthy reforms – could be capable of confronting the type of élite corruption experienced in Botswana.