

Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executionsREFERENCE:
UA BWA 1/2021

26 March 2021

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 44/5.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the alleged risk to the life of former President Ian Khama, including planned assassination attempts and downgrading of his security detail, as well as an attempt to harm or intimidate Mr. Shadrak Baaitse.

According to the information received:

Mr. Ian Khama was President of Botswana, representing the Botswana Democratic Party (BDP), from 2008 until his retirement from office on 31 March 2018. He was succeeded by current President Masisi, his Vice President and Chairman of the BDP. In 2019, former President Ian Khama left the BDP and joined the breakaway Botswana Patriotic Front (BPF).

Planned assassination attempts against Mr. Ian Khama, former President of the Republic.

Three intelligence agencies from States outside of Botswana have issued credible warnings of threats to Mr. Khama's life. The warnings were partially based on intercepted communications, including those of the authorities.

The reports refer to three planned attempts on Mr. Khama's life, including the use of biochemical poison in two cases. One of the intelligence reports included a seemingly transcribed discussion on the administration of strychnine powder, which is readily available in Botswana, (including the quantity that should be used, the best way to administer it and the general effects on any victim) and explicitly mentioned the intention of targeting opponents of current President Masisi including Mr. Khama and another former high level official.

Mr. Khama was also informed by a reliable source of a plan to assassinate him in mid-2019 (during the general election). The plan reportedly involved the use of a highly radioactive substance to be administered during Mr. Khama's visits to an isolated conservation resort in Botswana, 900 kilometers away from Gaborone. Mr. Khama visited the camp frequently but exceptionally did not do so in 2019 and the plan was aborted. The information was corroborated by a second source. Mr. Khama was also warned of further possible vectors

for poisoning including hand-sanitizer, bottled water, face masks, certain furniture and bedding. Further witnesses have corroborated the planned assassination at the resort and indicated that the plan was to use an isotope of polonium which was secured from a neighboring country in anticipation of a visit from Mr. Khama to the camp.

Other plans to kill Mr. Khama were alleged by applying toxic agents to his personal items and furniture.

Mr. Khama notified the head of his Directorate for Intelligence and Security Services (DIS) security team about the camp incident. The head of the DIS team had a meeting with other members of the protective team in response to the information. This information should also have been reported to the head of detail's superiors at DIS. Mr. Khama later asked the head of the DIS security team if the information had been reported to his superiors and was told no report had been made as the head of the DIS security team did not see any reason to do so.

Faced with criticism in the media about the attempts to poison Mr. Khama, the Botswanan authorities have claimed that if they had intended to poison him this would have happened.

Downgrading of former President Ian Khama's Security Team

During his time in office and in the initial period after leaving office, Mr. Khama had stable and effective State security protection. After leaving office, the DIS assessed Mr. Khama's security needs based on his unique workload, health vulnerabilities and his high risk activities including in relation to wildlife conservation. While personnel changes did take place during this period, they were ordinary rotations. Additionally, key members of Mr. Khama's security detail had remained with him from his time in office and were highly trusted and relied upon by him.

In January 2019, Mr. Khama received unofficial information that the Government planned to downgrade his security without warning and with immediate effect and that members of the DIS security team had been told they would be transferred. He asked the Director of the DIS about plans to downgrade his security but was told that he was not aware of any plans. Shortly afterwards, the DIS downgraded his security.

The decision to relocate members of the DIS security team, transport and other support equipment was disclosed in a leaked letter dated 7 February 2020. DIS defended the decision following the leak, stating Mr. Khama had more staff than former President Mogae – who preceded him in office – with no substantive justification for the disparity. At the time he left office, the DIS assessed Mr. Khama's needs based on his workload which was more onerous than former President Mogae.

Mr. Khama hired private security in response to information he received that his security would be downgraded. The Government reportedly objected and sought to frustrate this without justification. Members of his private security were charged with possession of a lethal weapon after a recreational paintball gun was seized in February 2019 during a raid and were accused of trying to assassinate President Masisi. The case was dismissed by a magistrate in November 2019.

In October 2020, the DIS further downgraded Mr. Khama's security detail. They made changes to seven members of the DIS security team including simultaneously removing Mr. Khama's three designated drivers, his long-time medic and some bodyguards. Following this, Mr. Khama had no qualified medical support and was driven by a guard rather than trained driver as per normal procedures. The specialist drivers which Mr. Khama formerly had access to had been trained to deal with a range of threat situations including armed ambush, which is particularly important given that he is reliant on regular long-distance road trips for his conservation work particularly as he is denied access to Government aircraft. The officers removed from the detail were reportedly not relocated to comparable roles with other VIPs.

Mr. Khama raised concerns with the head of his DIS security team and proposed that at least one trained driver be retained. The request was relayed to the supervisor of the head of the DIS security detail but was rejected with no explanation.

On 7 October 2020, the DIS denied that the DIS security team had been downgraded and indicated there were changes in personnel due to on-going restructuring within the DIS, and redeployments as part of DIS Director General' strategy of transforming the DIS.

Recently, an additional officer was transferred from Mr. Khama's security detail. The officer was the only medic on the DIS security team and was responsible for taking anti-poisoning measures amongst other duties. The medic has not been replaced by DIS and Mr. Khama has not been informed if and when a replacement will arrive. This is particularly problematic given he was initially assigned specialist medical assistance by the DIS based on his specific work and vulnerabilities. Since this time, the health and security risks have increased rather than decreased, both due to the specific threats against his life and the COVID-19 pandemic.

In total the numbers of officers assigned to Mr. Khama's security has reduced from 21 officers to 14 and included the re-assignment of long serving officers, some of whom had been with the DIS for over 10 years, likely as they were seen as loyal to Mr. Khama.

The security equipment available to Mr. Khama's detail has also been steadily reduced, including the recall of vehicles and support weapons including personal weaponry, with officers now sharing guns rather than having their own.

Attempted intimidation by DIS

On 4 November 2020, the DIS passed information to the Botswanan Police Service (BPS) falsely claiming that a vehicle owned by Mr. Shadrak Baaitse, a critic of President Masisi and friend of Mr. Khama, was being driven by a suspect in an armed heist who was believed to be armed and dangerous. Mr. Baaitse's car was stopped and he was approached by two plainclothes BPS officers. One of the police officers had recognized Mr. Baaitse driving and advised him that police would have used lethal force had he not been recognized.

A formal complaint was filed with the BPS Commissioner on 9 November 2020 which stated that the BPS knew that the real suspect had fled to South Africa, that the description of the suspect's car was inexplicably changed to match Mr. Baaitse's car and alleged the misinformation was a deliberate ploy to confront the vehicle with maximum force which could later be explained as a mistaken identity if Mr. Baaitse was killed or to embarrass him with a wrongful arrest pending investigations if not. Reportedly no significant steps have been taken to investigate the report.

On 5 November 2020, Mr. Khama planned to take a trip to visit some of his farms and provided notice to the DIS as required. Shortly before setting out he was warned by a source at DIS "that a traffic accident would be easy to arrange on the country roads."

Mr. Khama decided to proceed accompanied by a driver and security team provided by DIS. Shortly after setting out, a vehicle, which was not part of the security detail but was recognized as a DIS car, was observed behaving suspiciously. Mr. Khama was advised to abandon the journey or take additional precautions. He chose the latter as the car did not follow his vehicle and he arrived at the farm without incident. However, fearful for his safety, Mr. Khama decided to return by light aircraft rather than by road as planned.

Mr. Khama raised his concerns with the head of his DIS security team and asked it be escalated and appropriate action be taken. This request was dismissed without justification or explanation and no action taken. No DIS or other Government officials have contacted Mr. Khama to discuss his concerns.

Without prejudging the accuracy of these allegations, the information received appears to be sufficiently reliable to raise serious concern about the risk to the life of former President Ian Khama and alleged attempt to harm or harass Mr. Baaitse.

I am particularly concerned at the reported attempts on Mr. Khama's life by organs of the state corroborated by several sources. This is compounded by allegations that his security detail has been significantly reduced despite the risk to his life, and despite the concerns raised by Mr. Khama. I am further concerned that reportedly no steps have been taken to investigate the planned attempts on Mr. Khama's life or the alleged attempt to harm or harass Mr. Baaitse. I am equally

concerned with the dismissive responses of the authorities to the allegations, indicating disconcerting disregard for the serious threats against Mr. Khama's life.

I would like to remind your Excellency's Government of its obligations under international human rights law, including article 6(2) of the International Covenant on Civil and Political Rights and article 4 of the African Charter on Human and Peoples' Rights, ratified by Botswana in 1986, both of which guarantee the right to life and security of the person. There is a positive obligation on States to ensure the protection of the rights contained in the Covenant against violations by its agents (Human Rights Committee, General Comment No. 31).

The duty to protect the right to life also includes an obligation for States to adopt any appropriate laws or other measures in order to protect life from all reasonably foreseeable threats, including from threats emanating from private persons and entities (or indeed organs of the state itself) and to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. Such persons include prominent public figures. States may be in violation of article 6 even if such threats and situations do not result in loss of life (Human Rights Committee, General Comment No. 36).

My report on the Investigation of, accountability for and prevention of intentional State killings of human rights defenders, journalists and prominent dissidents (A/HRC/41/36, paragraph 38), observes that the jurisprudence on the implementation of the due diligence principle in relation to the right to life and its operationalization by police forces point several elements to be considered in relation to assessing threats to life, including;

- (a) Whether there are credible threats that are objectively verifiable; in other words, whether they are supported by reference to a range of sources of information;
- (b) Whether the perpetrators have the intention to implement their threats, whether they are in a position, including physical proximity, and have the capabilities to carry out the threats;
- (c) Whether the risk is immediate, meaning continuing and soon;
- (d) Whether the identity of the victim places the victim in specific situations of vulnerability or risk;
- (e) Whether there are patterns of violence against groups of individuals by virtue of their identities.

The report calls on states to review and, if needed, strengthen policies and procedures to ensure that security agencies and other relevant actors are meeting their due diligence obligation to protect the right to life of those who may be targeted by States and non-State actors for their peaceful expression and activities, both online and offline (para 89 (h)).

States also have an obligation to investigate alleged violations of article 6 including where there was a serious risk of deprivation of life, even if the risk did not materialize. Such investigations should be independent, impartial, prompt, thorough, effective, credible and transparent (Human Rights Committee, General Comment No. 36).

I am aware of alleged human rights violations which occurred during former President Ian Khama's term in Office including, but not limited to, the reported cases raised by Special Procedures mandate holders in communications (BWA 2/2013 sent on 8 July 2013 to which a reply was received on 10 July 2013, BWA 1/2013 sent on 12 February 2013 to which a substantive reply was received on 30 July 2013 and BWA 1/2011 sent on 19 September 2011 to which no reply has been received). However, I would like to highlight that any such allegations do not have any bearing on his right not to be arbitrarily deprived of his life and to receive protection against reasonably foreseeable threats to his life.

I note that, according to information received in this case, the alleged planned attempts on Mr. Khama's life are supported by reference to a range of sources, that the perpetrators apparently have the means and position to carry out the threats and that the profile of Mr. Khama places him in a specific situation of vulnerability. The information appears to indicate that he is at particular risk such as to warrant special measures of protection including effective security protection detail and that investigations be carried out into the alleged planned attempts on his life and attempt to harm or harass Mr. Baaitse.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is my responsibility, under the mandates provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the measures taken to ensure the safety of Mr. Khama, and to ensure he has sufficient personal security to enable him to carry out his activities safely.
3. Please provide information on the measures taken to investigate the alleged planned attempts on the life of Mr. Khama. If no investigation has been carried out, please explain why not and how this is consistent with Botswana's human rights obligations.

4. Please provide information on the measures taken to investigate the alleged attempt to harm or intimidate Mr. Baaitse. If no investigation has been carried out, please explain why not and how this is consistent with Botswana's human rights obligations.
5. Please provide information on the general policies and procedures to ensure that Botswanan security agencies and other relevant actors are meeting their due diligence obligation to protect the right to life.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence. This should include immediately restoring Mr. Khama's security team to its original level and taking all other necessary measures to protect his life. In the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations of Botswana's obligation to respect the right the life and obligation of due diligence.

Given the importance and urgency of the matter, I may publicly express my concerns in this case as, in our view, the information at hand is sufficiently reliable to indicate a matter warranting the most immediate attention. I believe that given the above circumstances the public should be alerted to these concerns and the human rights implications of the case. Any public statement on my part would indicate that I have been in contact with your Government's to clarify the issue in question, and recall the State's international legal obligations.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions