

UA 79/98

Fear of execution / Death penalty

11 March 1998

BOTSWANATlhabologang Mauwe, aged 30**Gwara Brown Motswetla**

Although no date has yet been set for the execution of Tlhabologang Mauwe and Gwara Brown Motswetla, Amnesty International fears that they will face certain death unless imminent action is taken to ensure that they are granted clemency. This decision is likely to be made by President Ketumile Masire before he retires on 31 March 1998.

Tlhabologang Mauwe and Gwara Brown Motswetla were found guilty in early 1997 of murdering a man who had caught them stealing his cattle. The two prisoners had their sentences upheld by the Court of Appeal in July 1997.

Under Botswana's Code of Criminal Law, the death penalty is mandatory for murder unless the court finds mitigating circumstances. When the Court of Appeal upholds a conviction and sentence, each case is then considered by the Advisory Committee on the Prerogative of Mercy, consisting of the President, Vice-President, Attorney General and a medical doctor. The President considers the Committee's advice and then decides whether to grant clemency. An execution cannot take place without a warrant signed by the President.

BACKGROUND INFORMATION

Under Botswana's constitution, President Masire will be succeeded by the Vice-President, Festus Mogae, until general elections are held in 1999. Both men have in the past stated their support for capital punishment. During a 1995 meeting with Amnesty International's Secretary General, Pierre Sané, Vice-President Mogae stated that the bible sanctions the death penalty for murder. He also insisted that executions helped to keep Botswana's rising crime levels down.

The first executions in Botswana for many years were carried out in August 1995 when five prisoners were hanged. One prisoner convicted in 1995, Gaolatlhe Kwaee, was executed in January 1998. Another convicted murderer, Joseph Kgaodi, had his death sentence set aside in 1997.

Although Amnesty International has little personal information about Tlhabologang Mauwe and Gwara Brown Motswetla, both are believed to be married with children, and to be members of the Basarwa (San) ethnic group.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or your own language:

- appealing to President Masire to grant clemency to Tlhabologang Mauwe and Gwara Brown Motswetla before he retires on 31 March 1998, as a final gesture as president to reaffirm the sanctity of the right to life, and to commute the death sentences of any other prisoners whose cases come before him for consideration;
- appealing to Vice-President Mogae, upon assuming the responsibilities of the presidency on 31 March 1998, to reconsider the question of capital punishment, stressing that there is no scientific evidence to support the view that the death penalty deters crime more effectively than other punishments;
- urging the Vice-President to commute the death sentences of any prisoners whose clemency petitions are brought before him for consideration after 31 March 1998;

- asking the Attorney General to urge the President to grant clemency to Tlhabologang Mauwe and Gwara Brown Motswetla;
- expressing deep regret at the execution of Gaolatlhe Kwaie in January 1998, as well as the execution of five other prisoners in August 1995;
- stressing opposition to the use of the death penalty in all cases, on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, as proclaimed in the Universal Declaration of Human Rights.

APPEALS TO:

1) Sir Ketumile Masire

President of Botswana

Office of the President

Private Bag 001, Gaborone, Botswana

Telegrams: President, Gaborone, Botswana

Fax: +267 350 858 / +267 356 866

Salutation: Dear President

2) Hon. Festus Mogae

Vice-President of Botswana

Office of the Vice-President

Private Bag 006, Gaborone, Botswana

Telegrams: Vice-President, Gaborone, Botswana

Salutation: Dear Vice-President

3) Mr. P.T.C Skelemani

Attorney General

Attorney General's Chambers, Private Bag 009, Gaborone, Botswana

Telegrams: Attorney General, Gaborone, Botswana

Salutation: Dear Attorney General

COPIES TO:

Hon. Lt. Gen. Mompote Merafhe

Minister of Foreign Affairs

Ministry of Foreign Affairs, Private Bag 001, Gaborone, Botswana

Fax: +267 313 366

Salutation: Dear Minister

The Editor

Mmegi - The Reporter

Private Bag BR50, Gaborone, Botswana

Ditshwanelo - The Botswana Centre for Human Rights

Private Bag 00416, Gaborone, Botswana

and to diplomatic representatives of Botswana accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 27 April 1998.