

A NOTE ON CHIEFLY AND NATIONAL POLICING IN BOTSWANA

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1. Introduction

According to Griffiths (1984) specialization in the execution of social control has received little attention in the ethnographic literature.² And while ethnography has devoted its attention to other issues in traditional society, criminology - which should be specifically concerned with the execution of social control - has ignored the past and present Third World almost completely (see Sumner 1982:3; Cohen 1982:iii). In this note I propose to discuss specialization in the execution of social control in Botswana. Such a limitation to one aspect of social control seems justifiable in a first exploration of the subject, although the boundaries between the legislative, adjudicative and executive aspects of social control are of course by no means distinct or stable.

As far as Africa is concerned, this situation is in part due to historical circumstances. In most traditional societies there was only

1. This article is based on extensive fieldwork carried out in Mahalapye, Botswana, from 1982 to 1986. Additional fieldwork was carried out in Dinokwe and Kalamare in 1986.

2. The literature is perhaps not quite as thin as Griffiths suggests. One of the early classics of legal anthropology, Llewellyn and Hoebel's *The Cheyenne Way* (1941), devotes considerable attention to police-like activities among North American Plains Indians. The execution of community judgements has recently been analysed in the case of European village justice (Van den Bergh 1980, discussed in Griffiths 1984).

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little criminality in our sense (Von Benda-Beckmann 1982). Most conflicts involved wrongs inflicted by intimates. Dispute institutions were often vague about the remedy and judgements were carried out slowly and partially, since they had to be fitted into the ongoing relationships (Abel 1979). Thus, specialized enforcement may in many societies have been a rather minor factor, easy to overlook.³

As societies become more complex and stratified and the relationships between individuals accordingly change more emphasis comes to be put on rule enforcement. This results among other things in the establishment of specialized police forces (cf. Chambliss and Seidman 1971:35; Abel 1979a:173 ff). It is in particular such police forces, or rather the concept of policing as applicable in Botswana, that I intend to discuss. For present purposes I broadly define the police as a more or less specialized auxiliary organisation which carries out enforcement activities for legislative and adjudicatory institutions, applying or threatening to apply physical force when necessary.

For some centuries, policing has been central to the functioning of the criminal law in the West and police forces have been considered as "fundamental to the state's efforts to maintain its power and authority" (Marenin 1980:24). In this view, the police and the state are inseparable (e.g. Weber, as cited in Griffiths 1984:53). However, the situation is more problematic than such an identification suggests. In what follows I describe some agencies that traditionally performed policing tasks, independently from the State. Furthermore, because of the legal pluralism so characteristic in post-colonial states, the question should also be posed how non-state authorities currently enforce their specific rules and order. To what extent do such 'informal' institutions make use of the state police force, or do they still have other means of more or less institutionalised enforcement at their disposal?⁴

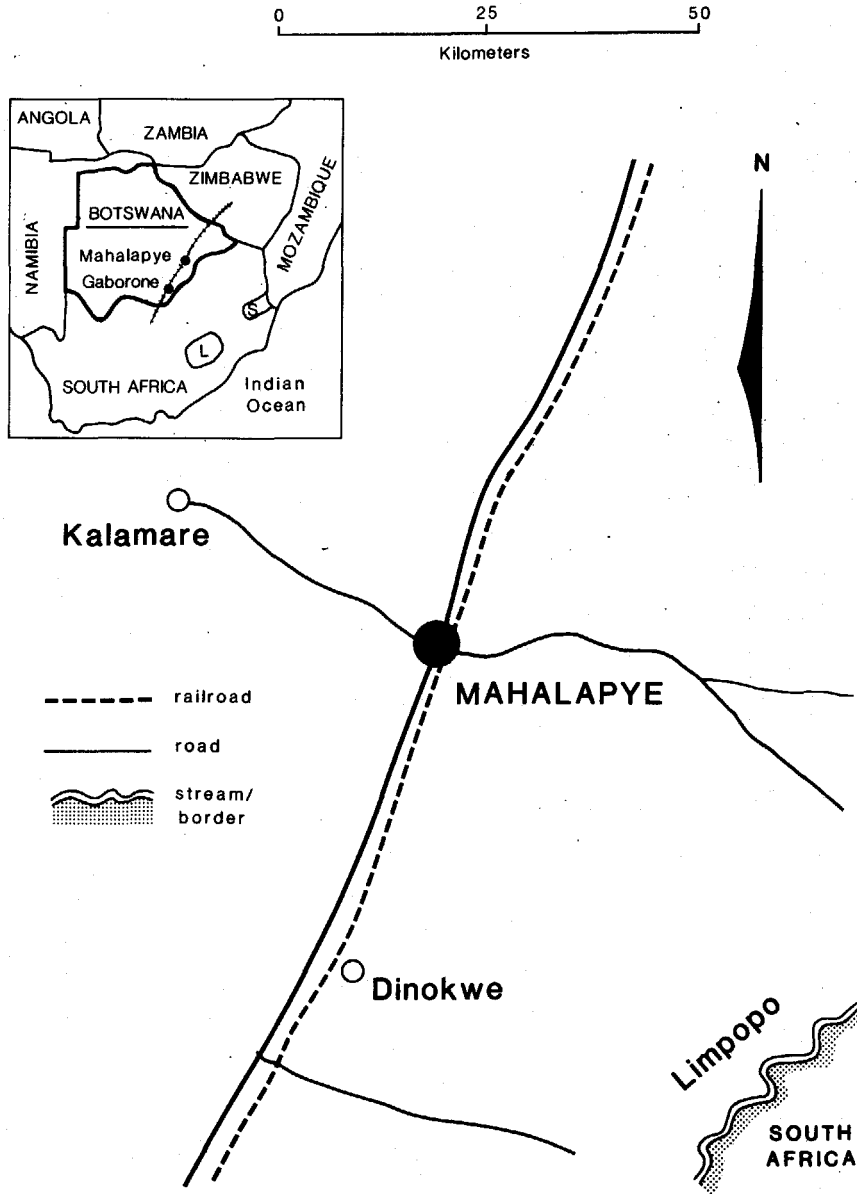
In this note I shall therefore describe the organisation of national and chiefly policing in Botswana, focussing on a few aspects:

- past and present 'traditional' means of rule enforcement;
- the historical background of Botswana's dual police force system;
- the present structure and interactions between the policing agencies.

3. There are, however, some ethnographic references to policing in pre-colonial African societies.

4. For a similar approach see Ertmann 1981.

FIGURE 1: MAP OF THE STUDY AREA



2. The study area

Botswana (see figure 1) is a sparsely populated (940.000 inhabitants in 1981)⁵, landlocked country in Southern Africa, formerly known as the Bechuanaland Protectorate. The administrative and judicial organisation of Botswana is briefly as follows.

The Republic of Botswana is ruled by a democratically-elected government responsible for the management of all general affairs. At the local level, however, different authorities have a say. Members of Parliament, District Commissioners (representatives of the central government), locally elected District Councillors and also the traditional tribal authorities: the Chiefs (*dikgosi*) and Headmen (*dikgosana*). The last are only partly recognized and supported by the central government.

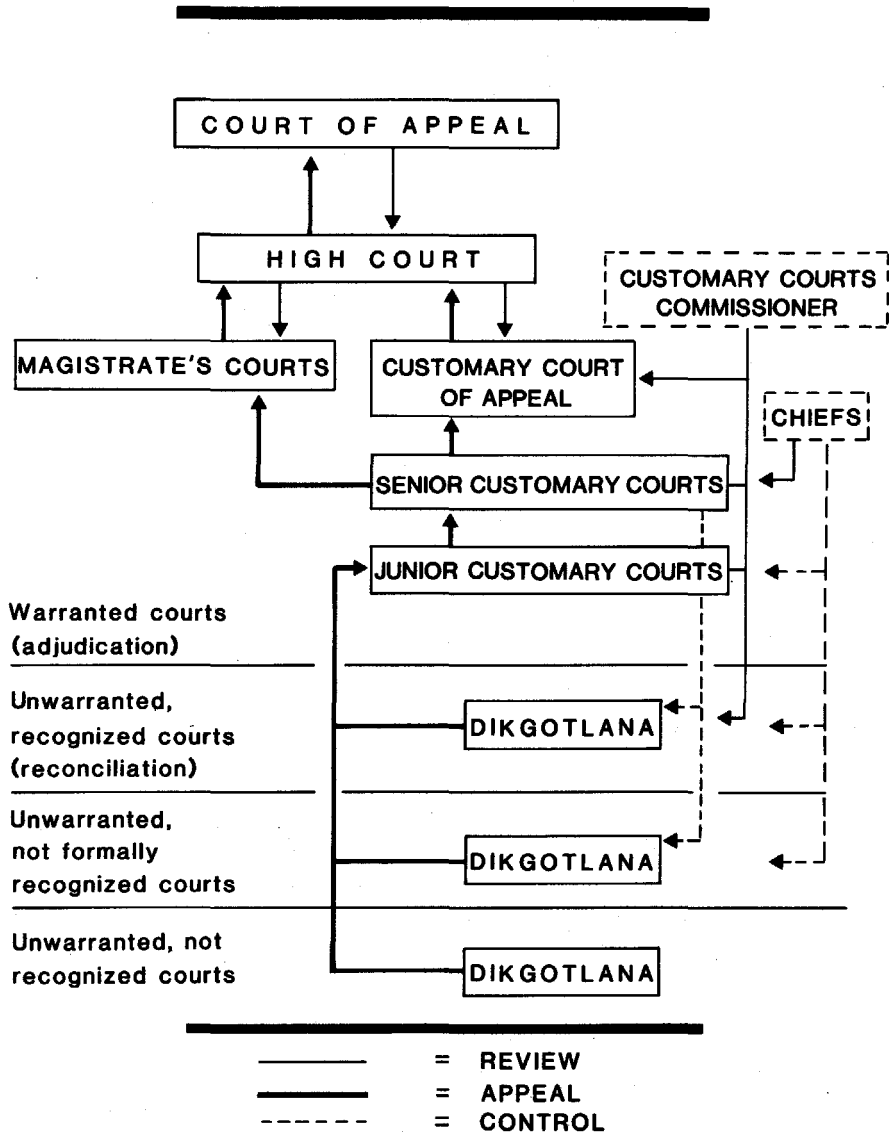
Approximately 225 warranted courts (15 'modern' and 210 'customary' courts) administer the state's civil and penal laws (see figure 2). The modern courts are staffed with trained expatriate lawyers, whereas the Customary Courts (*dikgotla*) are presided over by 'traditional' tribal leaders. At least an equal number of unwarranted traditional courts are functioning. These unwarranted courts - '*dikgotlana*' - can be found in hamlets and in the wards of larger villages and are presided over by tribal headmen.

A distinction should be made between 'warranted' and 'recognized' *dikgosi* and *dikgosana*. All recognized chiefs and headmen are paid by the government, but only if warranted are they empowered to enforce the Penal Code. Unwarranted *dikgosi* and *dikgosana* are only allowed to engage in reconciliation. The imposition of punitive measures would be an offence for them. No official data concerning strength and workload are available for this latter group. To make matters even more complex, informally recognized *dikgosana* also exist.

Since the central government considers itself to possess the exclusive power of administration and legislation, the Tribal Authorities are left with the administration of justice as almost their last vestige of officially acknowledged authority.

5. *Housing and Population Census 1981*. Central Statistics Office Botswana.

FIGURE 2: OFFICIAL AND UNOFFICIAL COURTS IN BOTSWANA



3. Precolonial mechanisms of rule enforcement

To what extent institutionalized police systems were present in Tswana tribes in the precolonial era, cannot easily be assessed. The available information is sparse and it is often not clear whether sources are depicting exemplary or incidental phenomena. From Schapera's writings (1959, 1970) on the Tswana⁶ four distinct rule enforcement mechanisms can be distilled.

The first and most common form of chiefly law maintenance was to lean strongly on the mutual social control exercised by all subjects. If a Chief was under the impression that a certain offence was not reported, or that the identity of an offender was deliberately concealed from him, he might assist this social control method by punishing a complete ward collectively. But in general it was customary that:

"...every man in a community should consider himself a policeman. That is why everybody held himself responsible if anything wrong happened where he was..." (Chief Tshekedi, cited in Schapera 1970:216).

Next to this responsibility shared by all male adult tribesmen, the Chief could rely on more specific means of law enforcement. The *mephato* (age-sets or regiments, consisting of men initiated in the same year) were sometimes called to carry out military and social tasks, including arresting offenders and executing sanctions.

In the third place, the ward headmen were expected to police their territory. The use of forcible means could sometimes even be reserved to them:

Shortly afterwards he [Chief Seepapitso] himself entered a man's hut and found *kgadi* there. At the trial, one of his advisers said the man was immune, "because the Chief had no power to enter our huts". Many other headmen joined him in saying that it was their duty and not the Chief's to arrest wrongdoers. (Schapera 1970:222)

Finally, the Chief could appoint his own policemen, independent of regiments and headmen. Examples of this are known since the beginning of the 19th century.

6. Schapera, who first worked under the Batswana during the thirties, is the generally acclaimed doyen of all legal and anthropological researchers on Botswana.

4. Formation of a protectorate police force

It is not surprising that a police force was among the first things introduced by the British at the onset of the establishment of the Bechuanaland Protectorate. In 1885 the Bechuanaland Border Police was formed, with an establishment of 192 men. "It was instrumental in safeguarding the Protectorate against would-be filibusters [i.e., Afrikaners and perhaps competing colonial powers as well]".⁷ Although border protection was the primary objective, many internal administrative activities were carried out by these European policemen (see Sillery 1965:58). Because "there is no doubt that natives... under European officers, are vastly more useful and efficient as policemen in a native territory than Europeans" the Protectorate Native Police Force was established in 1895 (Sillery 1965:58). For this force Basuto men were recruited because they were of "excellent stamp, active and willing and for the most part discreet and intelligent" (Sillery 1965:60).⁸ In 1902 the two police forces were amalgamated into the Bechuanaland Protectorate Police.

The reaction of the Batswana Chiefs was not entirely positive. In 1898 Chief Bathoen for instance expressed fear of the consequences that would result from the stationing of a police regiment in his territory:

I said that if the Police have to be stationed at Kakea you will be killing me.... I said I am able to look after my place without Police being stationed here.⁹

The Resident Commissioner replied, however:

With reference to ... Bathoens statement that he could carry out the police duties there ... I pointed out the impossibility of Government giving power to his natives to perform the duties of Policemen.... It must be clearly understood by Bathoen that the object of the Native Police in the country is not alone the

7. Annual Report of the Commissioner of the Botswana Police Force, 1976.

8. By recruiting native policemen from other tribes the administration followed a method similar to the one later applied in the Rhodesian mines. Compound policemen selected from a different cultural background would implement discipline without fear of favour, according to C. van Onselen (1980: 139). Even nowadays the Botswana Police Force never station personnel in their home villages.

9. National Archives of Botswana: HC.154/3.

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laudable one of preventing the introduction and sale of brandy but also for the general purposes of maintaining law and order and consequently peace.¹⁰

After Independence the Protectorate Force was continued as the Botswana Police Force. In broad outlines it remains similar to its colonial predecessor. The Force has for instance retained its vertical structure, with centralized management by the Commissioner of Police, typical for most African police organisations (see Clinard and Abbott 1973:223). What did change was the composition of the force. Even in the last years before Independence the inspectorate consisted mainly of 'Europeans'. This was due "to the presence of European settlers and farmers, who have strong objections to cases in which they are concerned being investigated by Africans".¹¹ Africanisation of the force was only completed some years after independence. A more structural change concerned the loss of the military task of the police in 1977, when the Police Mobile Unit was transferred to the newly established Botswana Defence Force. Prior to 1977, the original emphasis on military duties had already shifted to more attention for 'normal' police duties. The duties of the force are now, among others, to prevent and detect crime, maintain security and tranquillity, apprehend offenders and bring them to justice. This last task implies that most offences are prosecuted by policemen rather than the Public Prosecutors of the Attorney-General's Chambers.

After Independence, the number of policemen increased rapidly. In 1981, the force had a strength of 1801, meaning there was one policeman to every 520 BaTswana (excluding the members of the Local Police).¹² The Office of the President is politically responsible for the force.

5. Indirect Rule

After the establishment of the Protectorate, the sophisticated judicial system of the BaTswana could be incorporated into the new administrative structure almost without modification (see Roberts 1972).

10. *Ibid.*

11. Mavrogordato 1946, p.4.

12. Based on figures of the Annual Report of the Commissioner of the Botswana Police Force for 1981 and of the 1981 Population and Housing Census of Botswana.

Although the Indirect Rule doctrine was only officially introduced in 1934, when the chiefs were formally made responsible for the prevention of crime among the natives,¹³ the maintenance of internal law and order was from the start left to the tribal authorities, provided that their activities did not interfere with the overall control of the Protectorate. In this way the colonial administration created a cheap but extensive framework of rule enforcement. Their own specialized force could cater exclusively for the colonial needs, while most indigenous (mainly intrapersonal) disputes could be dealt with more or less in the same manner as in former days.

The Resident Commissioner stated in 1943:

In the Bechuanaland Protectorate where we have the Native Administration with their regimental system and their own system of tracking criminals we have even a greater right to expect help from the local populace and it is on that account that we are able to keep the force at its present strength and not have it about ten times bigger.¹⁴

The available colonial statistics confirm this statement and show that the Bechuanaland Protectorate Police Force mainly acted as an agent for the colonial state and was - next to its military and intelligence duties - only interested in offences under the Masters and Servants Act and the Liquor Act. In later years offences under these Acts were replaced by offences under the Native Pass Law and the Native Tax Act. In particular offences under the last Act constituted in some years the bulk of all police activities. Otherwise the force was hardly interested in criminal behaviour, unless whites were involved:

In the Native Reserves the majority of minor cases (incl. theft and assault) are dealt with by the Native Courts without reference to the Police.¹⁵

13. Proclamations nos 74 and 75, 1934. Parsons (1982) argues that the formal introduction in 1934 of the doctrine of Indirect Rule in the Protectorate in fact implied a more direct rule.

14. National Archives of Botswana: S.98/1.

15. Bechuanaland Protectorate Police Force, "Annual Report 1951 and 1952", p.16.

6. Tribal police

Apparently, the Indirect Rule policy could not function satisfactorily without more direct policing. The Native Police Force had been discontinued in 1902, but in the thirties the British started to reconsider the establishment and/or formalisation of a tribal police force. This time, however, members were to be recruited from within the tribes.

In those days a few Chiefs employed paid policemen, acting as court messengers and administering summary justice (Schapera 1959:285). In the administration's design, if reorganised, this Tribal Police Force could assist the Protectorate Police when carrying out duties in the 'reserves'. In addition, with the formalisation of the tribal police a closer cooperation should result, enabling the Protectorate Police to dispense with contact between them and the Chiefs in less important cases.¹⁶ What was envisioned was a direct link between the distinct enforcement agencies, bypassing the authority of the Chiefs. It was, however, only after the Second World War that the Tribal Police Force was established.

While the name 'tribal' suggested an Indirect Rule design, the force was clearly meant to increase direct colonial control over the population. Whether the administration accomplished this goal is unclear since the Chiefs could exercise considerable influence over the tribal police in day-to-day practice. In the fifties the Tribal Police Force consisted of approximately 80 men, for the most part illiterate and untrained.

The Tribal Police Force was maintained after independence. The motivation seems to have been as follows:

An Assistant Commissioner considered that he would require a further 10 (Botswana) Police Posts in his area if the Tribal Policeman was to be abolished. (Baillie 1969:31)

Because the Tribal Police lacked a legal basis for some of its tasks, the force received a new act and a new name in 1972, when the Local Police Act came into force. The duties of the Local Police are, among others, to assist the Chief in the exercise of his lawful duties, preserve the public peace, prevent the commission of offences, apprehend offenders, execute orders (in particular administering corporal punishment) and warrants, and act as a messenger in

16. National Archives of Botswana: S.443/5 1935.

Customary Court matters. The Local Police also prosecute offenders in the Customary Court. The Minister of Local Government and Lands is politically responsible for the force. In 1979 the Local Police Force had a strength of 180 (Rural Sociology Unit 1981:17).

7. Present policing in Botswana

7.1 Introduction

After Independence the existing rule enforcement system was maintained. The duties of the Botswana Police Force and the Local Police in this respect have already been described. The Chiefs, too, remained responsible for the prevention of crimes committed within their tribal territories, as expressly provided in the Chieftainship Act.¹⁷

The Botswana Police took over the main occupation of their predecessor, i.e. catering for the needs of the state. According to some authors, the role of the police as state agents in developing countries is even more important than that of their western counterparts, because the former are often the most visible government organisation present (Clinard and Abbott 1973:2). Besides, the range of duties the police are responsible for, is often far more extensive (Wickwar 1977:36).

These remarks apply in Botswana with regard to the Botswana Police Force, and were emphasized in the fourth National Development Plan:

In many places it is the principle representative of the Government, and particularly in rural areas its communications and transport services are often available to the public in times of emergency.¹⁸

In their role as principle representative of the central government the Botswana Police devote their attention in particular to (members of) opposition parties, recording their political meetings and

17. Chieftainship Act s.20: "It shall be the duty of every Chief to the best of his ability to prevent the commission of any offence within his tribal territory." Cf. Proclamation 74, 1934, s.15: "Every Chief ... shall be responsible to the Government for the maintenance of law and order and the prevention of crime among the natives...."

18. Ministry of Finance and Development Planning 1977: 254.

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intimidating potential supporters, thereby enforcing specific order requirements.¹⁹ Otherwise, proactive behaviour of the Botswana Police Force is limited to a few administrative offences (poaching, illegal weapons, drugs and diamonds). Although some authors have noted the increasing occurrence of various forms of corruption, this is not reflected in the official police returns (see Bouman 1986:65).

But despite all these state-directed activities, the dominant character of the main work has changed. Nowadays the majority of cases handled on the national level concern theft and assault.²⁰ The reasons for this change are unclear. Neither comprehensive Local Police statistics nor dark-number or victim-studies are available for Botswana and it is therefore not possible to find out to what extent the number of cases reported to the Botswana Police reflect the total number of offences committed. Therefore, it may either be argued that the local enforcement agencies that catered exclusively for these offences in colonial days cannot cope with the work because of rising crime rates, or alternatively that victims for some reason make a deliberate choice for the national police force.

7.2 Catchment areas of the forces

Not all victims are in a position to choose between the various enforcement agencies (compare Tanner 1970:61; Abel 1979b:185). At present over two third of Botswana's citizens live in rural areas, in very small villages, on farms and at cattleposts. This rural population includes most of the poorest BaTswana and those with least access to public services and reliable sources of income.²¹

The Botswana Police Force can be found in all towns and major villages of Botswana. The same applies to the Local Police Force, but they are in addition also stationed in the smaller villages. In technological respects a great difference between the forces can be observed. The Botswana Police have available all modern means of communication, while the Local Police often do not have any facilities at all.

Although the technical resources of the Botswana Police are superior, the force is hampered discharging its duties by the vast area it has

19. *Dikgang tsa Gompieno* 21-3-1983, 8-9-1983.

20. Botswana Police Force, Annual Reports 1980-1984.

21. Ministry of Finance and Development Planning 1985: 60, 80.

to cover ~~in~~. Lack of police stations and deficiencies in the communication networks increase their problems.²² Reporting behaviour thus depends firstly on local conditions and logistical consequences. In larger villages and towns the public can choose between the two forces, whereas in the rural areas the majority of the people is forced to use the Local Police Forces because the national organisation is out of reach. Only serious offences are then creamed off by the Botswana Police and most rural enforcement activities are left to the Local Police or to less specialized agencies.

7.3 The division of rule enforcement labour in Mahalapye

In Mahalapye village (see figure 1) the public can to a certain extent make a deliberate choice between the two police forces. Mahalapye is typical of the larger settlements to be found in Botswana: a semi-urban village with approximately 25,000 inhabitants. The village has a Magistrate's Court with one expatriate Magistrate and a Customary Court with three warranted Presiding Officers: the Chief, the Sub-Chief and one Headman from a non-Tswana tribe. They do not carry out any executive social control labour, but have instead become an indispensable part of the formal adjudication system, dealing from 9 a.m. to 5 p.m. with cases presented to them by the police forces.

The village is divided into approximately 11 wards. Each of these has its own *kgosana* (headman). Only one (non-Tswana) *kgosana* is recognized and paid by the Government. There is a Botswana Police Station (with 55 policemen) in the vicinity of the Magistrate's Court and a Local Police Station (with 5 policemen) at the main *kgotla*. Both the Local Police and the Botswana Police prefer to prosecute most offences in the Customary Court.²³

In order to analyze the division of rule enforcement labour the available records of the Botswana Police and the Local Police were studied. Furthermore, the activities of the unwarranted *dikgosana* were monitored over a period of one year. Local statistics partly confirm the national trend. An analysis of the chargebooks shows that the Local Police address themselves to offences against the general public order (affray, disorderly conduct, etc.) and some minor offences, in particular the 'use of insulting language'. The Botswana

22. *Ibid*: 332.

23. For the reasons, see Baillie 1969, Bouman 1986.

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Police activities are predominantly aimed at offences against the person, offences relating to property and administrative offences (in particular the Road Traffic Act).²⁴

According to older BaTswana it was virtually impossible to report offences to the Protectorate Police, because of the wide gap existing between the force and the population.²⁵ At least when, as in the case of Mahalapye, the Botswana Police are within reach, this gap has apparently been closed. When offences are reported by victims, they are usually reported to the Botswana Police and not to the Local Police. It is noteworthy that both offences with a more or less known culprit (assaults) and those in which the culprit is usually unknown (thefts) are reported to the Botswana Police, indicating a public choice for the national criminal justice system instead of the Local Police for quite a few interpersonal conflicts. Only the offence of use of insulting language deviates from this pattern. The Local Police of Mahalapye could perhaps best be characterized as ennobled court messengers and lashers.

7.4 Other enforcement mechanisms in Mahalapye

If the Local Police only deal with a minor number of assaults and thefts, what about the traditional enforcement mechanisms? Only one of the four modes of traditional rule enforcement seems to be completely defunct nowadays: the *mephato*-system.²⁶ Initiation ceremonies still take place in some areas (notably among the Bakgatla in Mochudi), but these do not have the social impact of former days. The transformation of another mode has already been described: the centralisation of the private police forces appointed by the Chiefs. This leaves us with the undifferentiated social control exercised by all people and the role of the *dikgosana* (the (ward)headmen). Both modes are still of some importance, although nowadays control activities appear to be less subject to the wrath or whims of the chiefs.

24. Chargebooks Local Police and Botswana Police Force, Mahalapye, 1982-1984.

25. Personal interviews with various elderly respondents during fieldwork in Mahalapye, 1982-1985.

26. The *mephato* system could, however, be compared to the present compulsory *Tirelo Setshaba* scheme, in which secondary school-leavers perform community service, including the task of Court Scribe.

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FIGURE 3: OFFENCES REPORTED TO VARIOUS AGENCIES

1984	MAHALAPYE (25,000 inh.)		DINOKWE (800 inh.)		KALAMARE (1,600 inh.)		
	BP	LP	Headmen*LP	Headmen**	LP	Headmen***	
assault	335	76	100	22	-	14	
theft	805	66	250	15	-	8	
insult	21	102	400	10	-	5	
other pc	81	121	-	15	-	5	
other	1,786	-	650	-	-	-	
total	3,028	365	1,400	62	-	32	70

BP = Botswana Police
LP = Local Police
PC = Penal Code

- * = estimate based on monitoring activities during 1985-1986 and personal retrospective interviews with all headmen
** = no generally accepted headmen could be identified
*** = fieldwork method too crude and figures too small to allow for distinction between categories. However, use of insulting language reportedly accounted for 75% of alle cases

The *dikgosana* of Mahalapye do not police their territory in the manner once described by Schapera (1970:222). They do not apply any forcible means themselves. Instead, they have on the one hand moved up on the scale of specialization. On the other hand, they are unpaid and thus not inclined to be full-time available for their task. Subsistence farming also restricts their availability, while the jobs of disputants and *kgotlana*-members force many *dikgosana* to handle cases only during weekends. Most of the social control labour of the *dikgosana* is geared towards adjudicatory (and reconciliatory) activities, leaving the enforcement and execution to others. In addition, their existence has been discovered by certain governmental agencies, who have now started to utilize the *dikgosana* for the unpaid supervision of welfare programmes and the distribution of seeds. At present their sole policing task is the intake of reports from the public.

People come to the headman to report offences and complaints and he thereupon deals with the matter in a manner he considers appropriate. Most often he attends to the matter personally, either on a adjudicatory basis (*tshoko*) or in a reconciliatory (*kagisano*) or mediating (*puisano*) fashion. Sometimes, he will refer the complainant to the formal criminal justice system, i.e. to the Customary Court or to the Botswana Police.

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The case-load of the *dikgosana* can roughly be divided into four main categories: matrimonial disputes, impregnation, insults and property disputes. The last are often classified by the victims as theft. One of the basic differences between thefts reported to the police and thefts reported to the *dikgosana*, concerns the identity (known or unknown) of the thief.

A typical though rather peculiar example of *bogodu* (theft) as dealt with by a Mahalapye kgotlana in 1985:

The Case of Baby Theft:

A 16-year-old girl was impregnated by B. Her parents went to report the matter to B's grandmother. The grandmother acknowledged the impregnation and gave money and clothes for the baby until it was four months old. Then the girl told her parents that she was tired of looking after her child; she couldn't look for work properly. Apparently the parents agreed. The girl went to B's grandmother and said she wanted to give the baby to her. The grandmother at first refused, but eventually agreed, and undertook the care of the baby. After some time the girl's parents went to the grandmother and asked if they could have the baby briefly to show it to some relatives. The parents did not return the baby. When the grandmother found out she went to report to the *kgosana* that her baby had been stolen, saying that if you borrow but then try to cheat you are stealing. The members of the *kgotlana* agreed that the baby should be returned because it was a case of theft.²⁷

The *dikgosana* usually passively await disputes to be brought to them. The question is how they are able to have their decisions enforced and their sanctions executed. Usually, their personal status as such is quite low. Most of them are elderly, illiterate, unemployed and poor. Unlike 'the Government' or 'the Chief' they form a source of ridicule for the youth. Nevertheless, to some extent the *dikgosana* are held in awe. There are several reasons for this.

Firstly, although their adjudication activities are not recognized by the national Government, they are appointed by the warranted Chief

27. Case proceedings witnessed by informant (8/85, Dilaene Ward) followed by personal interviews with participants and other ward inhabitants.

of Mahalapye after consultation with the members of the ward. (The extent of real public approval could in many cases not be ascertained.) Hence they can rely on the backing of the formal justice system, enabling them to refer cases to the main *kgotla* or to threaten offenders with harsh punishments. It is generally (if incorrectly) believed that they can impose sentences of imprisonment.

Secondly, although their adjudication activities are in violation of various national laws, these are tolerated or even supported by the official police forces. Thus, it is common knowledge that corporal punishment is imposed by the *dikgosana* both on male and female offenders.²⁸ Fines are imposed as well.²⁹ Lastly, they now are able to utilize their own 'police force', the Crime Prevention Committees (see paragraph 7.5).

Of course, their decisions are not always backed by the formal system: The parents of the young mother did not comply with the decision of the *kgotlana* in the Baby Theft case. Pressure could not be exerted by the *kgotlana*-members, since they knew that the formal justice agencies would not be able to convert the case into a Penal Code case. When I left Botswana in October 1986, the child was still with its mothers' relatives. No further action had been taken by any of the participants, including the *kgosana*. The grandmother had long since reconciled herself to the situation.

7.5 Twantsho Borukhuti

Law enforcement by the warranted Chief and the official police forces apparently does not suffice in the opinion of those responsible for the formal criminal justice system. Therefore, the Botswana Police initiated the establishment in all villages and wards of Mahalapye Sub-district of *Twantsho Borukuthi* or Crime Prevention Committees, chaired by the *dikgosana*. President of the Association of the Committees is the warranted Deputy-Chief of Mahalapye. On an average each ward committee has 8 members. Apart from Botswana Police Coordinators and officers of the Local Police (who take part

28. According to the Penal Code (s.30) corporal punishment cannot be inflicted on females or on males over 40 years of age.

29. Fines are to be distinguished from compensation. The destination of these fines is unclear: the *dikgosana* state that the money is destined for the Crime Prevention Committee or for the Drought Relief Schemes.

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ex officio), the unpaid and partly voluntary membership is predominantly confined to a few males and more middle-aged females from the lower socio-economic strata of Botswana society.³⁰

The official Botswana Police statement declares the objectives of *Twantsko Borukuthi* to be "good working relations between the public and the police, identification of crime problems and their causes and working out solutions to such problems".³¹ In this manner the police attempt to gain more control over the population, while also creating a cheap network of informants. It is on the other hand not surprising that the Crime Prevention Committees are extremely popular with the unwarranted headmen. According to them, crime has miraculously decreased since the establishment of the committees.³² The members report offences to the headmen, assist the headmen during the adjudicatory proceedings and execute sentences of corporal punishment. In my view, *Twantsho Borukuthi* (literally: 'fight against social disorder') should therefore be considered as an attempt to reinforce the less specialized executive control institutions.³³

7.6 The division of rule enforcement labour in smaller villages

So far I have described the division of rule enforcement labour in a larger community, Mahalapye. The Local Police busy themselves with the maintenance of public order while the Botswana Police and the *dikgosana* deal more often with victim-reported offences. The offences dealt with by the police forces are referred to other institutions, while the unrecognized *dikgosana* in most cases deal with the matter themselves, assisted by the *Twantsho Borukuthi* members.

30. This statement is based on the Botswana Police co-ordinator and several interviews with members of Crime Prevention Committees, and on personal observations at committee meetings. The predominantly female membership is explained by members as being caused by the fact that the work is voluntary and unpaid and therefore not attractive to most males.

31. Statement of the Mahalapye Botswana Police Force, 14-4-1984.

32. Source: observations made by various headmen during personal interviews. Not surprisingly, these observations could not be corroborated.

33. I intend to discuss the actual work of the *dikgosana* and the *dikgotlana* more fully in my forthcoming dissertation on cattletheft in Botswana.

For a comparison, two smaller peripheral villages, Dinokwe and Kalamare, were also studied.³⁴ Both lie approximately 30 kilometres from Mahalapye (see figure 1). The quantitative results of this study are summarized in figure 3. The comparison was made in order to obtain some insight into the division of rule enforcement labour and public reporting behaviour in localities which do not possess the full range of options. Neither village has a Botswana Police Station, but both do have a Local Police officer to assist the warranted headman.³⁵ Dinokwe and Kalamare are otherwise quite different with regard to the division of rule enforcement labour, a fact that can probably be attributed to their distinct genesis and present social organisation.³⁶

In Dinokwe (800 inhabitants) no further division into wards with unwarranted headmen could be observed. The number of disputes reported to the Local Police is extremely high. In quite a few cases the dockets have to be closed since the victims later on refuse to press charges. 75% of the case-load of the Local Police consists of assault and theft cases and to a lesser degree insult cases. The Crime Prevention Committee has been defunct almost since its foundation, despite several threatening visits by the Mahalapye coordinators. Serious offences, including many stocktheft cases, are transferred to

34. The main data-collection techniques used in these villages were the study of Local Police records and interviews with Local Police officers and with headmen. In Kalamare I also observed a limited number of cases and interviewed disputants and other informants.

35. Other combinations of rule enforcement agencies are possible. Localities with no formal agency or with only a headman could not be included in the study for practical reasons. It is possible that some larger towns have only Botswana Police and Local Police (although this seems unlikely).

36. Dinokwe is a poorly organised village based upon an earlier railway settlement (from which the village takes its better-known English name, Palla Road). The tribal (mainly subjugated non-Batswana) and socio-economic (mainly peasant) composition may contribute to the lack of a strong social organisation. This is, however, only a speculation: no research on the village is available.

Kalamare, by contrast, has a very strong social organisation. Most wards were established by offshoots of various Batswana tribes, who did not belong to the locally dominant tribe, the Bamangwato (Hitchcock 1978: 105). Thus the general political culture is shared with the surrounding region, but the village does tend to preserve a specific identity to some extent.

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the Botswana Police in Mahalapye. Due to the repeated absence of the warranted headman, the Local Policeman sometimes prosecutes his cases in Mahalapye Customary Court (which requires him to hitchhike to Mahalapye, together with the accused).

Kalamare (1600 inhabitants) has an extensive division into approximately 12 wards. All wards have their own unwarranted *kgosana*, and all of them have an assistant *kgosana* as well. The number of cases reported to the Local Police is significantly lower than in Dinokwe. The case-load consists mainly of assault and theft cases and a few insulting language cases. *Twantsho Borukuth* is active and has not lost a single member since its establishment two years earlier. Serious offences are transferred to Mahalapye, including many stocktheft cases. Some (in particular stocktheft) cases are however prosecuted by the Botswana Police while passing through the village.

Some conclusions can be drawn from these observations:

In the first place, the flexible role of the Local Police is striking. This role appears to depend greatly on the availability of other agencies -

- if both the Botswana Police and unwarranted headmen are present, as is the case in Mahalapye, most cases will be handled by these agencies, leaving the Local Police with the nasty tasks of lashing convicts and maintaining order;
- if the Botswana Police are not within easy reach, the division of rule enforcement labour depends on the strength of the informal social control structure. In Dinokwe, therefore, the Local Police have an important function as an intake and settlement agency, whereas their counterpart in Kalamare does not seem to have much of a rule enforcement role.

Secondly, by establishing the Crime Prevention Committees the state has - at least for the time being - been able to complete the jig-saw puzzle of control, having a relatively simple, cheap and reliable instrument of control at its disposal which can deal effectively with local situations. Thus in Mahalapye the costs of maintaining a Botswana Police Station can be afforded without a loss of control over politically less important places. The success of the scheme is at least partly a result of the advantages it offers to the unrecognized traditional authorities (see paragraph 7.4 above).

8. Post-colonial indirect rule

To an outsider it is perhaps enigmatic why the dual police system is still maintained.³⁷ There is no clear-cut division of power between the Local Police Force and her national counterpart, the Botswana Police Force.³⁸ On the contrary, in theory their duties partly overlap.

Since Independence, policy documents discussing the advantages of the current system are scarce. Only one report explicitly states that in order to preserve the nation's culture, faith in traditional society should be restored, among other things, by supporting and developing the Local Police.³⁹ (This recommendation was, however, not accepted by the government.) In my opinion, the primary explanation is purely historical: the legacy has never publicly been questioned. Also, the administrative-bureaucratic division of control at central government level - involving two ministries - leads to a fulfilment of Parkinson's law rather than to a review of the rationale and merits of the current system.

Of course, there are other underlying motives as well. The solid position of the Botswana Police is evident.⁴⁰ Questioning the system could therefore only imply abolishing the Local Police. But raising the question of the continued existence of the Local Police might cause undesired friction and ill-feeling among traditional leaders, for whom law enforcement is almost the last vestige of direct, visible power.⁴¹

37. Of course, Botswana is not the only country with a dual police system. Furthermore, the police forces in Botswana share their dual fate with other centralised and decentralised agencies in the fields of health, education, etc.

38. There are some differences in their radius of action: the Local Police can prosecute in the Customary Courts, whereas the Botswana Police can prosecute both in the traditional and in the Western courts.

39. Presidential Commission on Local Government Structure 1979:31.

40. This solid position is symbolized in the projected recurrent expenditure ceilings 1984-1985 for the forces: P 7,104,000 for the Botswana Police as opposed to P 1,977,000 for the complete Tribal Administration (including the Local Police, but other staff as well). (Ministry of Finance and Development Planning 1979:72).

41. The political structure provides for a House of Chiefs, functioning as a toothless watchdog for decisions taken in Parliament. In the judicial and administrative structure the powers of chiefs and headmen are confined to presiding over the Customary Courts. Other

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As I have shown, the Botswana Police Force is primarily active in rule-enforcement in the urban and semi-urban areas. Clearly, this organisation is expensive to maintain, because as a national force it has to adhere to uniform technical and legal standards. Extensive facilities and sound due process norms are not required for the scattered Local Forces, hence they can provide a relatively cheap manner of policing the rural part of the nation. Furthermore, the untrained and cheap Local Police presumably suffice in these areas because other options for the execution of social control still exist.

At Independence, British Indirect Rule came to an end. However, the concept remains useful in clarifying the present situation. The central idea of the Indirect Rule doctrine was that Europeans would control the traditional African rulers, leaving to them the more difficult task of keeping order over the masses (see Fage 1979). Sometimes, 'traditional' leadership forms that were previously unknown had to be created to keep the doctrine going.⁴² In the Protectorate this at first implied that all aspects of specialized internal social control labour were left to the traditional indigenous organisation. Things changed with the establishment of a regular tribal police force. This Local Police Force can be compared to the present *Twantsho Borukuthi*. Both are governmental reinforcements of partially existing executive control institutions. While the Local Police Force was presented as tribal, the Crime Prevention Committee is presented as popular; both characterizations suggest a non-statal character. In fact, both agencies have a dual task, on the one hand extending general governmental control, on the other hand increasing the specific power of the traditional authorities. It depends on local variable conditions to which side the balance will tip.

Sometimes the balance tips to both sides: At Independence the hereditary Chief of Kalamare was elected to Parliament for the district. After twelve years the party decided that the two positions could no longer be combined. The Chief therefore resigned as Chief and presented a local hereditary *kgosana* - who was also employed as tractor-driver by the Chief's family - to the villagers as his successor. The villagers agreed. This new Chief is assisted by a Court Clerk and by a Local Policeman. The latter was recently replaced by

designated duties are all phrased in terms as 'encouraging', 'assisting' etc. (Presidential Commission on Local Government Structure, 1979:30).

42. In the case of Botswana a fine example of this is provided by the so-called Urban Traditional Courts.

another policeman who is not from Kalamare. Soon after the new policeman's arrival the Court Clerk went on leave. At that time some villagers wanted to sell cattle and for this they needed a permit issued by the Court Clerk. Since she was on leave the villagers approached the policeman. He refused, saying he could only issue permits in case of an emergency. One of the villagers was a relative of the Member of Parliament and went to him to complain. Thereafter the MP/ex-chief went to the policeman and requested the permit. Again the policeman refused. The MP/ex-chief flew into a rage and told the policeman either to comply or to leave his village. But the policeman stood pat. One week later the MP tabled a motion in Parliament, proposing an immediate replacement for Court Clerks on leave and the establishment of the post of Local Police Commissioner to supervise the 'tribal' police.

Nowadays, the Local Police do not really manage to play a satisfactory role in the indirect rule set-up. Generally, they have become a cheap official extension of the state police, just as their masters - the warranted Chiefs - became an extension of the state's adjudicatory control agencies. Other mechanisms have had to be reinforced. Thus, as I have shown a more intricate Indirect Rule system has been created. In this system, several agents in the execution of social control labour can be distinguished with varying degrees of specialization. Although some of these are formally non-statal, they all clearly belong to the comprehensive social control system.

9. Discussion

In this article I have described the development of a policing system in one African country. In the case of Botswana, a three-tier structure can be found, consisting of an informal (pseudo) traditional system, a formal local system and a formal police system on the national level. These systems seem to interact in several ways, depending greatly on local and geographical variations.

Although more or less specialised policing activities in precolonial Botswana were not uncommon, the trend toward specialisation and professionalisation appears to be pervasive in the postcolonial era. For a substantial part, this phenomenon should be attributed to implicit governmental tactics, that make clever use of (formerly) existing control patterns. It must be stressed in this respect that *formal* recognition of the activities of Headmen (and Crime Prevention Committees) is virtually absent. At first glance they might

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therefore be characterized as largely autonomous. In my view however, it is a mistake to equate recognition with active, explicit national regulations.

Partly as a structural legacy of colonial days, the informal agencies have been incorporated rather passively into the overall rule enforcement system. I am therefore tempted to conclude that in the case of Botswana, at least insofar as the executive aspect is concerned, specialized social control is largely - directly or indirectly - controlled by the State.

References

- ABEL, R.L.
1979a "Theories of litigation in society". Pages 165-191 in E. Blankenburg et al (eds.), *Alternative Rechtsformen und Alternativen zum Recht* (Jahrbuch für Rechtssoziologie und Rechtstheorie Vol.6). Opladen: Westdeutscher Verlag.
1979b "Western Courts in non-western settings: patterns of courts use in colonial and neo-colonial Africa". Pages 167-200 in S. Burman and B. Harrell-Bond (eds.), *The Imposition of Law*. New York: Academic Press.
- BAILLIE, A.N.
1969 *Report of a Territorial Survey Made of the Customary Courts*. Government Printer Gaborone.
- BENDA-BECKMANN, F. von
1982 "Individualisierung und Kriminalität - eine rechts-ethnologische Betrachtung". *Zeitschrift für Rechtssoziologie* 3:14-30.
- BOUMAN, M.
1986 "Crime and Punishment in Botswana". Unpublished M.A. thesis. Amsterdam.
- CENTRAL STATISTICS OFFICE
1981 *Population and Housing Census, Summary Statistics on Small Areas*. Government Printer Gaborone.
- CHAMBLISS, W.J. and R.B. SEIDMAN,
1971 *Law, Order and Power*. Reading, MA: Addison Wesley Pub. Co.
- CLINARD, M.B. and D.J. ABBOTT,
1973 *Crime in Developing Countries*. New York: Wiley.
- COHEN, S.
1982 "Western crime control models in the Third World, benign or malignant?" *Research in Law, Deviance and Social Control* 4:85.
- DIKGANG TSA GOMPIENO (Daily News of Botswana)
1983 March 21, September 8.
- ERTMANN, D.
1981 "Homicide in Southern Nigeria: a survey of some aspects of the law and criminological data". *Verfassung und Recht in Übersee* 14:269-286.
- FAGE, J.D.
1979 *A History of Africa*. London: Hutchinson.
- GRIFFITHS, J.
1984a "Village justice in the Netherlands", (review of G. van den Bergh, *Staphorst en zijn Gerichten* Meppel, 1980). *Journal of Legal Pluralism* 22:17-42.
1984b "The division of labor in social control". Pages 37-70 in D. Black (ed.), *Toward a General Theory of Social Control* (vol.1). New York: Academic Press.
- HITCHCOCK, R.K.
1978 *Kalahari Cattle Posts. A Regional Study of Hunter-gatherers, Pastoralists, and Agriculturalists in the Western Sandveld Region, Central District*. Gaborone: Ministry of Local Government and Lands.
- LLEWELLYN, K.N. and E.A. HOEBEL,
1941 *The Cheyenne Way*. Norman, OK: University of Oklahoma Press.
- MARENIN, O.
1980 "Police systems in African States". Paper given at the 1980 convention of the African Studies Association, Philadelphia.
- MAVROGORDATO, A.S.
1946 *A General Report on the Police Forces in the three High Commissions of Basutoland, the Bechuanaland Protectorate and Swaziland*. London: HMSO.
- MINISTRY OF FINANCE AND DEVELOPMENT PLANNING
1977 *Fourth National Development Plan 1976-1981*. Gaborone: Government Printer.

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- 1979 *Fifth National Development Plan 1979-1985*. Gaborone: Government Printer.
- 1985 *Sixth National Development Plan 1985-1991*. Gaborone: Government Printer.
- ONSELEN, C. van
1980 *Chibaro, African Mine Labour in Southern Rhodesia 1900-1933*. London.
- PARSONS, N.
1982 *A New History of Southern Africa*. London: MacMillan.
- PRESIDENTIAL COMMISSION ON LOCAL GOVERNMENT STRUCTURE IN BOTSWANA
1979 *Report*, vol.1. Government Printer Gaborone.
- ROBERTS, S.
1972 "The survival of the traditional Tswana Courts in the National Legal System of Botswana". *Journal of African Law* 16:103.
- RURAL SOCIOLOGY UNIT
1981 *Local Institutions and Development in Botswana*. Ministry of Agriculture, Botswana.
- SCHAPERLA, I.
1955 *A Handbook of Tswana Law and Custom* (2nd edition). London: Oxford University Press.
1970 *Tribal Innovators: Tswana Chiefs and Social Change, 1795-1940*. London: Athlone Press.
- SILLERY, A.
1965 *Founding a Protectorate, History of Bechuanaland 1885-1895*. The Hague: Mouton.
- SUMNER, C.
1982 *Crime, Justice and Underdevelopment*. London: Heinemann.
- TANNER, R.E.S.
1970 "Rural crime in Uganda, some theoretical issues". *Three studies in East African Criminology*. Uppsala: Scandinavian Institute of African Studies.
- WICKWAR, H.
1977 *The Place of Criminal Justice in Developmental Planning*. New York: United Nations.

National Archives of Botswana

1. Annual Reports of the Commissioner of the Bechuanaland Protectorate Police Force, 1939, 1950-1965.
2. Annual Reports of the Commissioner of the Botswana Police Force, 1966-1982.
3. Annual Report Botswana Police Mahalapye Station, 1982.
4. British South Africa Police, 1897, "Annual Report of the Bechuanaland division 1897-1898".
5. British South Africa Police and Protectorate Native Police, 1899, "Annual Report of the Bechuanaland Division 1899".
6. Files relating to Bechuanaland Protectorate Police Force: S.218/2 1946 e.v.
7. Files relating to Tribal Police, HC. 154/3 1897; S.443 1935; S.467/1 1937; S.303/11/1 1944; S.303/11/2 1958.
8. Local Police Mahalapye Criminal Record Books 1982-1985.
9. Local Police Dossier LG G/10 vol.III in Ministry of Local Government and Lands.
10. Proclamation no.74, 1934; Proclamation no.75, 1934.
11. S.98/1 1943.