



BAR HUMAN RIGHTS
COMMITTEE OF
ENGLAND AND WALES

London, 20th September 2013

Dear President of the Republic of Botswana,
Mr. Ian Khama
Private Bag 001,
Gaborone
Botswana

I am writing to you on behalf of the Bar Human Rights Committee of England and Wales.

The Bar Human Rights Committee ('BHRC') is the international human rights arm of the Bar of England and Wales. It is an independent body primarily concerned with the protection of the rights of human rights defenders, advocates and judges throughout the world. It is also concerned with maintaining proper access to justice, defending the rule of law and upholding internationally recognized legal standards relating to the right to a fair trial.

I write to you concerning the case of Mr. Gordon Bennett, barrister. Mr Bennett is instructed to act on behalf of the Bushmen of the Central Kalahari Game Reserve ('CKGR'). The group have been his clients in three hearings concerning their rights between 2002 and 2013 (including the case of *Roy Sesana and Others v. The Attorney General for Botswana*). Mr. Bennett was due to represent 200 applicants at a fourth hearing before the High Court in Gaborone on the 29th July. The Government of Botswana has been the defendant party in each of the previous cases but this recent case concerned a District Council, the local Land Board and the District Commissioner, all of whom were represented by the Attorney General. Her chambers ran the case for all practical purposes.

On the 31 June 2013, Mr. Bennett was taken from the Department of Wildlife in Gaborone, where he was seeking to obtain a permit in order to visit his clients in the CKGR, to the Department of Immigration. Mr. Bennett was told by the Director of Immigration that a report had been received alleging that he had been making political speeches to his clients and that this allegation might damage his relations with the state of Botswana. No details were given as to what it was alleged had been said, where, when and to whom. After his return to the UK, Mr. Bennett was informed that an order was being made placing his name on the so called 'visa list'.

As far as we are aware, inclusion on this list effectively results in the person named being permanently barred from entry to Botswana as, in practice, no visas are ever granted to those on it.

As a result of his inclusion on this list, Mr. Bennett was unable to return to Botswana and thus was prevented from appearing, as he was instructed to do, at the most recent hearing.

The BHRC wishes to express its grave concerns as to these events and to request that this case is urgently reviewed.

We respectfully request that you ensure that appropriate authority is instructed to remove Mr. Bennett's name from the list, that he be granted free and unfettered entry to Botswana and that whilst going about his legitimate business on behalf of his clients in Botswana he is free to practice without interference or intimidation from any quarter.

In the event that his name is not removed from the list, we request that you provide Mr. Bennett with details as to the basis upon which the original decision was made and as to why this decision is not being rescinded. We would ask that he be afforded a fair opportunity, if he chooses to exercise it, to challenge that decision.

The BHRC wishes to express its concern that Mr. Bennett has not been given any details as to why his freedom to travel to Botswana has been prevented in this way and has not been given any opportunity to challenge that decision in any fair manner whatsoever. Furthermore, and of particular concern is the fact that his clients are being prevented from relying on the services of the representative of their choice. As a result, they are obviously and clearly at a considerable disadvantage. They do not have access to the full legal team that has presented these cases over many years and who consequently know the nature of the issues in considerable detail and in whom they have placed considerable trust thus far.

This, in clear distinction, is not the position of the Government who has considerable resources at their disposal and are free to choose whomever they wish to represent them. Such an inequality of arms can clearly lead to the impression that any further cases involving these parties will not be fair by internationally recognized legal standards.

Whilst we do not know at this time the full details and basis of the allegations made against Mr. Bennett, the BHRC deplors any alleged interference by the state in the free and transparent process of justice.

We would ask that you confirm your commitment to the fundamental principles of freedom, equality, impartiality and transparency in the process of justice by addressing the concerns raised in this case as a matter of urgency.



Kirsty Brimelow QC

Chairwoman, Bar Human Rights Committee of England and Wales (BHRC)

Chair: Kirsty Brimelow QC | Vice-Chair: Sudanshu Swaroop

The Bar Human Rights Committee of England and Wales (“BHRC”) is the international human rights arm of the Bar of England and Wales. It is an independent body concerned with protecting the rights of advocates, judges and human rights defenders around the world. The Committee is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. The remit of BHRC extends to all countries of the world, apart from its own jurisdiction of England & Wales. This reflects the Committee's need to maintain its role as an independent but legally qualified observer, critic and advisor, with internationally accepted rule of law principles at the heart of its agenda.

Copies have been sent to:

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