

BOTSWANA
Universal Periodic Review (UPR)
UPR NGO Working Group Stakeholder Report
Fourth UPR Cycle
Submitted 11 October 2022



BOCONGO
BOTSWANA COUNCIL OF
NON-GOVERNMENTAL ORGANISATIONS



Letloa Trust DITSHWANELO

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I. INTRODUCTION

In January 2018, the Government of Botswana appeared before the UN Human Rights Council for its third cycle of Botswana's Universal Periodic Review (UPR) process. The Government of Botswana accepted 93 of the 207 recommendations made by other member states. Botswana submitted its Mid-Term Review report in 2020. Both the State and Stakeholders submitted their reports. This Stakeholder Report covers the period 2018 - 2022.¹

Stakeholder Consultation Process

The participants² provided information about the implementation status of the recommendations, based on their knowledge and experiences of working with communities. The consultations were held between 1 September to 23 September 2022.

II. INTERNATIONAL HUMAN RIGHTS FRAMEWORK AND COMPLIANCE WITH INTERNATIONAL STANDARDS

¹ The report is submitted by DITSHWANELO – The Botswana Centre for Human Rights, on behalf of the UPR NGO Working Group comprising: DITSHWANELO – The Botswana Centre for Human Rights, Media Institute of Southern Africa (MISA) Botswana Chapter, Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo), Letloa Trust, Rainbow Identity Association (RIA), and The Botswana Council of Non-Governmental Organisations (BOCONGO).

² CSOs which participated in the thematic consultations were: Botswana Association of the Blind and Partially Sighted; Botswana Centre for Public Integrity (BCPI); Botswana Council of the Disabled; Botswana Gender Based Violence Prevention and Protection Centre; Childline Botswana; Chobe Arts Association; Community Media Foundation (COMEF); Disability Resources and Advocacy Centre; DITSHWANELO – The Botswana Centre for Human Rights; Emang Basadi; LeGaBiBo (Lesbians, Gays and Bisexuals of Botswana); Men and Boys for Gender Equality; Putting Women First Trust; SOS Children's Villages, Botswana; Southern Africa Federation of the Disabled; Stepping Stones International; Women Against Rape; and Youth Empowered Botswana. Additional participants included: Human Rights Unit (Ministry of Justice) and Office of the Ombudsman (Ministry of Justice).

³ 128.23 Ratify the Convention on the Prevention and Punishment of the Crime of Genocide (Armenia); 128.24 Consider ratifying the Convention on the Prevention and Punishment of the Crime of Genocide in view of the upcoming seventieth anniversary of its adoption (Rwanda)

127.1 Ratify those international instruments that Botswana had committed to ratifying during the second cycle of the universal periodic review (Madagascar);³

NO IMPLEMENTATION

- **International Convention on Economic, Social, and Cultural Rights**
Not ratified
- **International Convention on the Protection of the Rights of Migrant Workers and their Families**
Not ratified
- **International Convention on the Protection of All Persons from Enforced Disappearances**
Not ratified
- **Convention on the Rights of Persons with Disabilities**
Ratified 12 July 2021
- **Convention on the Prevention and Punishment of the Crime of Genocide**
Not ratified
- **Optional Protocol to the Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment**
Not ratified
- **Third Optional Protocol to the Convention on the Rights of the Child**
Not ratified

Key Issues

³ 128.23 Ratify the Convention on the Prevention and Punishment of the Crime of Genocide (Armenia); 128.24 Consider ratifying the Convention on the Prevention and Punishment of the Crime of Genocide in view of the upcoming seventieth anniversary of its adoption (Rwanda)

The government of Botswana (GoB) has not followed up on the recommendations stated in the mid-term stakeholder report (third cycle) on making public the information on the status of the progress towards the ratification process of the international treaties⁴.

127.2 Cooperate fully with treaty bodies by meeting reporting obligations as a Member State (Republic of Korea)

FULL IMPLEMENTATION

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Due Date: 7 October 2001. Submission: 4 April 2022.⁵

International Covenant on Civil and Political Rights (ICCPR)

Due Date: 30 April 2019 (initially in 2012). Submitted 26 May 2020.⁶

Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Due Date: 01 May 2019. Submitted 30 January 2020.⁷

Convention on the Rights of the Child (CRC)

Reply to List of Issues. Submission 1 May 2019.⁸

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Reply to List of Issues. Submission 15 Jan 2019. The government is currently preparing the report which is due in 2023.

127.3 Continue to work on the implementation of its commitments to promote and protect human rights in the light of the recommendations already accepted (Sudan)

See Responses to all the recommendations

127.4 Consider the creation of a national follow-up mechanism for recommendations on human rights issues, which would allow for the adequate

⁴ UPR Working Group. *Botswana: Civil Society Mid-Term Review Stakeholder Report, Third UPR Cycle*, 2020: p. 5

⁵ Initial report submitted by Botswana under article 19 of the convention pursuant to the simplified reporting procedure, due in 2001, 6th May 2022, CAT/C/BWA/1. The report for the reporting cycle II is due on the 29th July 2026.

⁶ Second Periodic Report submitted by Botswana under Article 40 of the Covenant pursuant to the optional reporting procedure, due in 2019. 17th November 2020, CCPR/C/BWA/2*

⁷ Combined seventeenth to twenty-second periodic reports submitted by Botswana under Article 9 of the Convention, due since 2009. 21st July 2020, CERD/C/BWA/17-22

⁸ List of Issues in relation to the combined second and third periodic reports of Botswana: Replies of Botswana to the list of issues, 14th of May 2019, CRC/C/BWA/Q/2-3/Add.1. The report for the reporting cycle IV – VI is due on the 12th of April 2024.

follow-up of the obligations and recommendations made by regional and universal human rights systems (Paraguay)

PARTIAL IMPLEMENTATION

In collaboration with the United Nations Development Programme (UNDP) and the Office of the High Commissioner for Human Rights (OHCHR), GoB has been establishing a National Human Rights Recommendations Tracking Database (NRTD) to record, track, and report on the implementation of human rights recommendations put forward by national treaty mechanisms. However, there has been no information available on whether this has already come into effect or whether it is still in progress.

128.26 Extend a standing invitation to the special procedure mandate holders (State of Palestine);⁹

FULL IMPLEMENTATION

Botswana issued a standing invitation to the special procedure mandate holders on the 2nd of May 2018.

- **Special Rapporteur on Minority Issues:** Mission Conducted and Report Submitted: 12 – 24 August 2018¹⁰.
- **Special Rapporteur on Contemporary Forms of Racism:** Request Submitted on 9 July 2012. Reminder Sent on 7 February 2018 for mission in 2019. No Response¹¹.
- **Independent Expert on International Solidarity:** Request Submitted on 28 November 2018. Dates of visit: April 2019 – November 2019. No Report submitted.
- **Special Rapporteur on the Rights of Persons with Disabilities:** Request

⁹ 128.27 Extend a standing invitation to the special procedure mandate holders (Honduras); 128.28 Issue an open standing invitation to the special procedures of the Human Rights Council (Ukraine); 128.29 Issue a standing invitation to the special procedures of the Human Rights Council (Portugal); 128.30 Issue a standing invitation to the special procedure mandate holders (Montenegro); 128.31 Fully cooperate with the United Nations human rights mechanisms and, in particular, invite the Special Rapporteur on the situation of human rights defenders to conduct visits, and ensure that there are unhindered visits with human rights defenders (Chile)

¹⁰ A/HRC/40/64/Add.2 Report of the Special Rapporteur on minority Issues, 9th January 2019

Submitted on 17 January 2018 for mission in 2019; Accepted on 25 July 2018 for May 2019; Decision to postpone on 15 October 2010 to 23 March 2020 – 3 April 2020; Proposed new dates for mission: 24 April 2023 to 4 May 2023.

- **Special Rapporteur on the Right to Food:** Request Submitted on 25 January 2017. Accepted on 24 July 2017. No Mission conducted.
- **Special Rapporteur on Right to Development:** Request Submitted on 10 November 2017. No Response.
- **Working Group on Discrimination against Women and Girls:** Request Submitted on 7 February 2018 for mission in 2019. Reminder sent on 27 February 2019. Proposal of Dates for 2022.
- **Working Group on Arbitrary Detention:** Submitted on 22 December 2016 for mission in 2017. Reminder Submitted on 19 February 2018 for mission in 2018. Mission conducted, July 2022.¹²

¹² No official report has been published yet. A Press release summarising the insights and recommendations following from the visit is available. For more information, see: OHCHR, INT/CV/ESS/BWA/25007, “Press Release by the Working Group on Arbitrary Detention”, 15 July 2022.

¹³ 128.28 Accelerate ongoing efforts to domesticate the provisions of the international human rights treaties to which it is a party (Zimbabwe); 128.43 Adopt laws to incorporate into its national legislation the international human rights instruments to which it is party (Niger); 128.44 Include provisions of international human rights treaties ratified by Botswana in national legislation, in order to ensure their applicability in courts and administrative organs (Russian Federation)

III. NATIONAL HUMAN RIGHTS INSTITUTION

127.6 Continue efforts to ensure that the national human rights institution will be established in line with the Paris Principles (Morocco); 127.14 Complete the legal processes to establish the national human rights institution (Tunisia); 127.15 Complete its efforts to establish a national human rights institution in line with the Paris Principles (Greece); 127.16 Establish a national human rights institution that is in line with the Paris Principles by finalizing and adopting the Ombudsman Amendment Bill that will confer a human rights mandate on the Office of the Ombudsman (Thailand); 127.17 Make every effort to ensure that its national human rights institution is in compliance with the Paris Principles (Timor-Leste); 127.18 Ensure the independence of the Office of the Ombudsman as a national human rights institution in line with the Paris Principles (Canada); 127.19 Take concrete steps towards the finalization of the bill on the transformation of the Office of the Ombudsman into a hybrid national human rights institution (Namibia); 127.20 Ensure that the Office of the Ombudsman, as a national human rights institution, is independent and adequately financed in line with the Paris Principles (Germany);

(Portugal);¹⁴

PARTIAL IMPLEMENTATION

- GoB is in the process of amending the legislation to grant the Office of the Ombudsman the mandate to investigate human rights issues in Botswana. ¹⁵NHI mandate to the Office of the Ombudsman has been passed through parliament on the 16th of August 2021 and is still awaiting the assent of the President.
- The restructuring of the Office of the Ombudsman for it to comply with the Paris Principles is ongoing.

Key Issues

- In its current form, the Office of Ombudsman is not operationally independent, as it is housed under the Office of the President.

127.22 Finalize the work on a Comprehensive Human Rights Strategy and National Action Plan (Turkey); 127.23 Finalize its plans to develop a National Human Rights Strategy and National Action Plan (Zimbabwe)

PARTIAL IMPLEMENTATION

¹⁴ 127.7 Expedite the establishment of a national human rights institution in conformity with the Paris Principles (Sierra Leone); 127.8 Intensify efforts aimed at establishing a national human rights institution in line with the Paris Principles (Ukraine); 127.9 Prioritize the setting-up of a national human rights institution in accordance with the Paris Principles (South Africa); 127.10 Step up the process of setting up a national human rights institution in conformity with the Paris Principles (Togo); 127.11 Accelerate the establishment of a national human rights institution in line with the Paris Principles (Afghanistan); 127.12 Establish, without further delay, a national human rights institution that will be in full compliance with the Paris Principles (Liechtenstein); 127.13 Establish a national human rights institution in line with the Paris Principles (Morocco); 127.14 Complete the legal procedures to establish the national human rights institution (Tunisia); 127.15 Complete its efforts to establish a national human rights institution in line with the Paris Principles (Greece); 127.16 Establish a national human rights institution that is in line with the Paris Principles by finalizing and adopting the Ombudsman Amendment Bill that will confer a human rights mandate on the Office of the Ombudsman (Thailand); 127.17 Make every effort to ensure that its national human rights institution is in compliance with the Paris Principles (Timor-Leste); 127.18 Ensure the independence of the Office of the Ombudsman as a national human rights institution in line with the Paris Principles (Canada); 127.19 Take concrete steps towards the finalization of the bill on the transformation of the Office of the Ombudsman into a hybrid national human rights institution (Namibia); 127.20 Ensure that the Office of the Ombudsman, as a national human rights institution, is independent and adequately financed in line with the Paris Principles (Germany);

¹⁵ Currently, the Office of the Ombudsman is only tasked with ensuring administrative justice by investigating allegations of maladministration within the public sector.

- The Ministry of Presidential Affairs, Governance, and Public Administration (MOPAGPA) has formulated GoB’s commitment to the promotion, protection, and fulfilment of Human rights in the Draft Comprehensive National Human Rights Strategy and National Action Plan (CHRSNAP) 2021 – 2026. The CHRSNAP report was expected to be completed in 2021. There has been no information available on its progress.¹⁶

127.25 Provide trainings on human rights principles and obligations for all law enforcement officers, as well as continue to investigate allegations of human rights violations, including violations committed by police officers, and hold accountable those who are responsible (Thailand)

PARTIAL IMPLEMENTATION

Human Rights training is conducted for the Botswana Defence Force through the Defence Command and Staff College; for the Botswana Prison Service through the Prison Officers’ course syllabus; for the Botswana Police Service through the Botswana Police College and the International Law Enforcement Academy (ILEA) located at the Botswana Police College.

Key Issues

- There has been no recent CSO involvement in the human rights training of security forces
- Despite the training, there are still cases of human rights violations by the defence force personnel.

127.63 Promote human rights education and awareness-raising for the public, including schools, through government ministries and other bodies (Ghana)

PARTIAL IMPLEMENTATION

- Secondary school curricula include human rights education through “knowing your rights” modules.

Key Issues

- The Draft Comprehensive National Human Rights Strategy and National Action Plan (CHRSNAP) does not identify human rights education as a priority area to address current human challenges.

¹⁶ The Human Rights Unit which is responsible for CHRSNAP has now moved to the Ministry of Justice. The work is overseen by the National Human Rights Coordinating Committee, which is co-chaired by Permanent Secretary of Ministry of Justice and DITSHWANELO (representing civil society).

- Human rights education should be accessible not only in schools which are limited to those attending school, but in fora accessible to the broader public, e.g at dikgotla¹⁷. Human rights education should cover not only children’s rights but also other thematic areas of human rights.¹⁸

IV. CRIMINAL JUSTICE AND ACCESS TO JUSTICE

127.29 Renew the work towards holding a public national discussion on the death penalty (Ukraine) ¹⁹

NO IMPLEMENTATION

Botswana has not held any public consultations on the abolition of the death penalty.²⁰ According to statements by GoB made during a workshop hosted by the Ministry of Justice to draft the African Charter on Human and Peoples’ Rights State Report, there are also no plans of holding a moratorium on the death penalty as the government does not consider itself in a position to do so.²¹

127.37 Take the necessary measures, as a country of origin, transit and destination for human trafficking and sexual exploitation of children, to address and investigate such crimes (Syrian Arab Republic)
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PARTIAL IMPLEMENTATION

GoB continues to prosecute and convict human traffickers and investigate trafficking in persons (TIP) cases.²²

GoB has signed bilateral agreements with neighbouring countries to coordinate efforts to tackle trafficking in persons (TIP).²³ Information collection and sharing is also facilitated through the SADC

¹⁷ The Kgotla is the customary law court and a public meeting place to discuss matters that concern all members of the community. The Kgotla is presided over by the traditional leader. The Kgotla still holds a lot of significance in modern Botswana as a platform for dispute mechanism and for community members to exercise their democratic rights.

¹⁸ While traditional leaders and CSOs do conduct awareness raising programmes on children’s rights for parents at dikgotla, many parents are unaware of legislative instruments such as the Children’s Act (2009). However, human rights education should cover not only children’s rights but also other thematic areas of human rights.

¹⁹ 127.28 Take active steps to ensure that public consultations on the abolition of the death penalty, including on its abolition are held, and include information on the outcome of those consultations in its next universal periodic review report (Rwanda);

²⁰ DITSHWANELO Press Statement on the World Day against the Death Penalty, 10th October 2022

²¹ Botswana has been holding country-wide consultations regarding constitutional review. Some people advocated for retention while others advocated for abolition of the death penalty. The majority of the views reported upon in the media reflect the wish to retain the death penalty.

²² In 2021, the government investigated one sex trafficking case and continued investigation of five cases from previous periods. The government prosecuted two suspects for sex trafficking and continued to prosecute 17 suspects from previous reporting periods. Moreover, four traffickers were convicted compared to no convictions in the previous year. For more information, see: U.S Department of State. *2022 Trafficking in Persons Report*. (2022): p. 135

²³ For example, in some cases, a trafficker might cross the border into a neighbouring country which does not have substantial legal frameworks in place to combat human trafficking, which would oblige that country to provide information. Coordination is beneficial for the exchange of information between law enforcements of the given countries. In 2021, the Botswana government collaborated with the governments of South Africa, Zimbabwe, Eswatini, and Tanzania on one trafficking conviction and five investigations. This is part of a broader regional effort coordinating by SADC to combat human trafficking.

Regional Anti-Trafficking in Persons Data Collection System.

Key Issues

- Although through the Anti-Human Trafficking Act (2014), human traffickers can be convicted and be given a 25-year prison sentence, they often receive only a fine. Convictions have generally been low in the previous years, and even in the case of traffickers being convicted, they have often received suspended sentences and fines.

Recommendation

- Continue to train judicial practitioners to enhance their knowledge about the existing legislation and to strengthen their adjudication of TIP cases.

127.28 Continue to strengthen measures to combat human trafficking by providing training to service providers and stakeholders working with victims of human trafficking (Maldives); ²⁴
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FULL IMPLEMENTATION

- The Human Trafficking Workshop for Media Practitioners was held for the purpose of drawing attention to TIP incidents and to sensitize the media about the importance of reporting on TIP incidents.²⁵
- In 2021, UNODC in collaboration with the Ministry of Defence, Justice and Security (MDJS) conducted judicial training of trainers against TIP to enhance the capacity of criminal justice practitioners.²⁶
- In May 2022, GoB engaged CSOs in a Workshop to discuss the Draft Anti Human Trafficking (Amendment) Bill of 2022.

128.58 Take effective measures to prevent trafficking in human beings and to rehabilitate victims (Russian Federation)
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PARTIAL IMPLEMENTATION

Since adoption of Anti-Human Trafficking National Action Plan (2018-2022), GoB has been engaged in various efforts for its implementation. These entail extensive training of stakeholders, preparing the judiciary to handle cases of TIP, facilitation of campaigns in schools to sensitize children on the threat of TIP, as well as conducting awareness-raising programmes amongst other vulnerable groups.

As Botswana's current Anti-Human Trafficking National Action Plan (2018-2022) is coming to an end this year, the Ministry of Justice has established a multi-stakeholder National Drafting Committee

²⁴ 127.40 Work closely with civil society and non-governmental organizations in addressing human trafficking issues (Philippines)

²⁵ Part of the workshop was to educate media personnel about the techniques used by Police in preventing human trafficking and how to practice victim-sensitive journalism.

²⁶ Key goal of the workshop was to sensitise the judiciary on how the vulnerability of the victims and the trauma which they suffer could present challenges to the collection and presentation of evidence.

to devise the new Anti-Human Trafficking National Action Plan (2023 – 2028).²⁷

Key Issues

- The Anti Human Trafficking Act (2014)²⁸ provides for the establishment of the Trafficking Victims Fund. However, this is yet to be operationalised.²⁹
- It is not uncommon that people who are impoverished and living in rural areas send their children to live with an affluent relative based on the assumption that their child will receive care and education. However, in some cases, this cultural practice is abused and children end up being exploited as domestic workers and farm workers.³⁰
- GoB itself did not operate any victim shelters but cooperated with NGOs on the referral of trafficking victims.³¹
- GoB does not have a specific programme in place to reintegrate and rehabilitate victims of TIP geared at preventing victims from being re-trafficked.³²
- GoB has gathered and analysed TIP data, yet this data has not been compiled in a centralised anti TIP database.

Recommendations

- Conduct education and awareness-raising campaigns for the public and for all stakeholders involved, including local government.
- Provide information on the adoption and implementation of the Anti-Human Trafficking National Action Plan (2018-2022) and develop monitoring and evaluation systems to assess

²⁷ The New National Action Plan will build upon the internationally recognized 4P Paradigm to combatting human trafficking, which includes initiatives to prevent the crime, protect victims, prosecute perpetrators, and foster partnerships with various stakeholders.

²⁸ Republic Of Botswana. *Anti-Human Trafficking Act*, 2014, No. 32

²⁹ While the government provides reimbursement for trafficking victims, this is only the case when the perpetrator is convicted.

³⁰ In cases like this, human trafficking crimes rarely get reported. As victims are not aware that they are being trafficked. Moreover, these arrangements often take place without any official agreements between the parents and the relative in question.

³¹ Victims of TIP are sometimes housed in makeshift shelters, lodges, or hotels. In most cases, they are accommodated in shelters for survivors of GBV. Victims of trafficking need to receive special protection as traffickers, to whom they are an asset, will search for them. It has happened before that victims have disappeared even when in custody. Moreover, assistance provided in shelters must be geared towards addressing the kind of trauma which victims of human trafficking experience

³² The Ministry of Local Government and Rural Development (Social Protection) is offering social protection services to victims of human trafficking, including the provision of psychosocial counselling services and opportunities for economic wellbeing. Such efforts should be translated into a concrete and targeted reintegration and rehabilitation programme.

the impact of interventions.³³

127.39 Take concrete measures to prevent human trafficking and exploitation, especially of women and children (Republic of Korea)

NO IMPLEMENTATION

Key Issues

- Efforts to combat TIP should address the root causes rendering specific groups . such as the rural poor, farmworkers, children, asylum seekers, and unemployed women³⁴ vulnerable to trafficking in the first place.
- Reports have documented that children of the indigenous Basarwa/San peoples often engage in child labour on large cattle farms in Gantsi, as a result of the high school dropout rates amongst San children and youth³⁵. However, labour inspectors have not been appropriately investigating this issue. ³⁶

Recommendation

- Train and employ additional labour inspectors and conduct inspection visits. Publish information about the funding for labour inspections, number of labour inspections conducted, and training for labour inspectors on issues surrounding the exploitation of children.

V. RIGHTS OF THE CHILD

127.70 Pursue the implementation of plans and strategies to promote the rights of the child (Cuba)
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PARTIAL IMPLEMENTATION

The rights of the Child are enshrined in the Children's Act (2009)³⁷, which is operationalised through the National Action Plan for Orphans and Vulnerable Children

³³ TIP has always existed but it has only recently been labelled as such. Thus, a lot of effort needs to be undertaken to develop an adequate response to the issue. The approach to TIP needs to be multi-sectoral and all-encompassing. It needs to involve stakeholders at all levels, including traditional leaders, social workers, local government offices, immigration, police offices, and the judiciary.

³⁴ There have been reports of child refugees becoming victim to sex trafficking around Dukwi refugee camp.

³⁵ Nguluka, Stella and Arve Gunnestad. *San Children – in or out of school: Baseline Study on why children drop out and how to keep them in school in the Gantsi District*. Gantsi, Botswana: Thuto Isago Trust, 2011

³⁶ There is a shortage of labour inspectors on the one hand, and on the other hand, farm owners' relationships with local government appears to have allowed them to avoid labour inspections. In some cases, farm owners have even been warned prior to the visit of a labour inspector³⁶. In other cases, inspectors have been denied entry to the farms.

³⁷ Republic of Botswana. *Children's Act (No. 8 of 2009.)*

(OVCs).³⁸

Key Issues

- Botswana conducted a situational analysis on the National Plan of action on OVCs in 2019. However, it has not published any information since on how identified areas of attention in the report have been translated into concrete action.
- The Children’s Act (2009) established a high-level, multi-sectoral National Children’s Council (NCC), the National Children’s Consultative Forum (NCCF), and Child Protection Committees (CPC) with government and community representation.³⁹ However, most Children Protection Committees are dysfunctional and in some communities there are no committees at all.
- Child welfare issues are scattered across different Ministries. Thus, there is no proper budgeting and no proper coordination of children’s issues in the country.

Recommendations

- The government should present and adopt a new strategy of how to resuscitate or establish the CPCs as they can address grassroots vulnerabilities of children in the villages.
- Select focal persons for child protection who will deal solely with the establishment of CPCs, develop reporting and responding procedures in the committees as well as plan preventative measures.
- A special budget for supporting CPCs needs to be established.
- Establishment of Child Welfare Ministry.

127.71 Continue conducting the situational analysis of the National Plan of Action for Orphans and Vulnerable Children (Slovenia)

NO IMPLEMENTATION

The last situational analysis on orphans and vulnerable children was carried out in 2019. There has been no information available on how the government has been proceeding since 2019.

³⁸ The government continues to raise awareness about the Children’s Act (2009) and disseminate it through stakeholder workshops, broadcasting, and the media. Children’s rights are also prioritised in other policy documents and development plans. The previous years have seen the establishment of various plans, legal instruments, and structures aimed at the protection of children’s rights. Currently, the Department of Social Protection is in the process of drafting the Orphan and Vulnerable Child Policy. However, challenges with coordination between different stakeholders, the effective implementation of plans and operation of structures, remain and must be addressed by the government.

³⁹ These structures are best suited for addressing issues affecting orphans and vulnerable children, especially the Children Protection Committees at village and ward levels.

Recommendations

- The National Plan of Action for OVCs should be revised to meet the current needs of children.⁴⁰

127.72 Allocate dedicated funding to the National Plan of Action for Orphans and Vulnerable Children for more effective implementation (Singapore)

PARTIAL IMPLEMENTATION

The budget allocation for this programme entails USD 250,000⁴¹. There are no available reports which provide information about how the funding is disbursed.

Recommendation

- Create a thorough assessment of the actual anticipated budget for the effective implementation of the National Plan of Action for OVCs requires. The Situational Analysis of the National Plan of Action for OVCs does not address funding requirements. It does not evaluate past budget allocations.

128.67 Establish a comprehensive monitoring mechanism on the treatment of children, with the aim of disclosing cases of sexual abuse, mistreatment and neglect, including by introducing the possibility of taking children out of an environment which is not conducive for their development (Germany)

PARTIAL IMPLEMENTATION

Community-based mechanisms through the Village CPCs play an important role in preventing and responding to violence against children.⁴²

Key Issues

⁴⁰ There are more vulnerabilities today compared to when the document was designed. These vulnerabilities relate to the abuse of drugs, issues related to child trafficking and human rituals which need to be addressed. Technology has evolved and has presented different challenges which increase child vulnerabilities such as cyberbullying. An action plan on addressing these issues needs to be developed.

⁴¹ Republic of Botswana. *Mid-Term Progress Report on the Implementation of Agreed Recommendations from Botswana's 3rd Cycle Review under the Universal Periodic Review (UPR) Mechanism of the United Nations Human Rights Council* (Gaborone, Botswana: December 2020)

⁴² They are usually run by volunteers and supervised by social workers. Traditional leaders usually preside over these Committees. The Government has conducted studies evaluating services for Orphans and Vulnerable Youth in Botswana. It also evaluates knowledge of GBV, abuse, and available services amongst youth. For more information, see: Mandal, Mahua et al. *Evaluation of Services for Orphans and Vulnerable Youth in Botswana: Final Report*, (Chapel Hill, NC, USA: MEASURE Evaluation, University of North Carolina, 2019).

- While there is a provision for community and traditional leadership involvement in the protection of children’s rights in the Children’s Act and community involvement is operative through the Village CPCs, there is no designated system in place, and the interventions which exist are not based on any guidelines.⁴³.
- GoB is not running any shelters but allocates funding to CSOs who run shelters. Shelters are usually designed to be utilised on a temporary basis. Family-based alternatives should be in place to provide long term solutions.⁴⁴

Recommendations

- Provide information on the number of children who have been subject to abuse and have been effectively removed, rehabilitated, and socially reintegrated.

128.68 Take effective measures to end violence against children, including sexual abuse and exploitation (Myanmar)
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PARTIAL IMPLEMENTATION

- GoB partnered with UNICEF to launch the campaign ‘E Seng Mo Ngwaneng’⁴⁵.
- In 2021, the Botswana Police Service announced to launch a Gender and Child Protection Unit which would handle issues concerning domestic

⁴³ In 2019, Stepping Stones International composed guidelines for this, the Kgosi Guidelines on Child Welfare and Abuse in Botswana, but these have not been adopted by the government yet. Moreover, the volunteers who are engaged in the Village Child Protection Committees are not adequately trained. For more information, see: UN Partner Portal. *Capacity Enhancement of Village Child Protection Committees and Districts Children Consultative Forums: On Prevention and Management of Violence Against Children (VAC)*. New York: United Nations, 2022

⁴⁴ These entail foster care, kinship care, and adoption. Since the Formal Foster Care Programme (FFCP) which was launched as a pilot programme in 2007 but failed. There has been no information on whether the government has since been involved in developing alternative care programmes. For more information, see Bianca Dahl. *The Challenges of Foster Care in Botswana: An Analysis of Failed Government Policy for Orphans during the HIV Epidemic*, United States: Brown University, 2012, <https://paa2012.princeton.edu/papers/122544>

⁴⁵ (‘Not on the Child’). The first phase of the campaign was centred around raising awareness about the exploitation of children. The next phase aims to promote the reporting of cases of abuse to authorities and support services, change norms related to sexual exploitation and abuse, strengthen the capacity of stakeholders to deal with victims of abuse. For more information, see: Joan Matiji “UNICEF launches Eseng mo ngwaneng campaign”, Mmegi, August 11th, 2022, <https://www.mmegi.bw/opinion-amp-analysis/unicef-launches-eseng-mo-ngwaneng-campaign/news>, (accessed September 18th, 2022)

violence and sexual abuse related to children. However, so far, there has been no information on whether this programme has actually been launched.⁴⁶

Key issues

- The Report on the Violence Against Children Survey conducted by the Ministry of Local Government and Rural Development calls for the development of a National Action Plan to combat violence against children, implementation of child protection regulations and operationalization of the Children’s Act (2009). However, so far there has been no information on implementation.
- While child labour violations are criminal offences under the Employment Act (1982)⁴⁷ and also under the Children’s Act (2009), there is poor enforcement due to a shortage of labour inspectors.⁴⁸

127.45 Continue working on poverty eradication initiatives with special focus on women and children (Bhutan)
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PARTIAL IMPLEMENTATION

Children receive assistance from government school feeding programmes provided in primary and secondary schools but also through the registration of parents as destitute persons.⁴⁹

Key Issues

- Studies measuring the child poverty through multidimensional poverty indexes, have shown that more than four out of ten children can be considered as multidimensionally poor.⁵⁰ Of concern is to what extent the definition of a vulnerable child includes all children suffering from multidimensional deprivation.

VI. RIGHTS OF PERSONS WITH DISABILITIES

128.13 Consider ratifying the Convention on the Rights of Persons with Disabilities (Mauritius)

FULL IMPLEMENTATION

Ratified 12 July 2021

⁴⁶ Moreover, one child friendly police station was established in 2020 in Gaborone and another one in Francistown. However, more of such initiatives are needed in rural areas⁴⁶.

⁴⁷ Republic of Botswana. Employment Act (No. 29 of 1982) amended 2010 (Act No. 10).

⁴⁸ Moreover, labour inspectors do not have authorisation to inspect domestic households and have faced many barriers in inspecting large farms.

⁴⁹ Children also receive indirect benefits through the Community Home-based Care Programme, the Vulnerable Group Feeding Programme, Old Age Pensions, Destitute Programme, and Ipelegeng. These programmes are family based in the sense that families receive food-baskets determined by family size.

⁵⁰ A study conducted by UNICEF revealed that 77 % of children who suffer from multiple dimensions of poverty live in households that do not receive support from social assistance programs.⁵⁰ This begs the question to what extent the definition of a vulnerable child captures all those children who suffer from multidimensional deprivations.

127.26 Take measures to prevent and combat all forms of discrimination, especially against women, persons with disabilities and other vulnerable groups

PARTIAL IMPLEMENTATION

To safeguard the rights of persons with disabilities (PWDs) GoB has pledged to shift away from a charity-model, which views persons with disabilities as the recipients of welfare, towards a rights-based approach.⁵¹

Key Issues

Slow Policy Development

- The policy revision process started in 2010 and has been ongoing since. Since the Draft Disability Policy was approved with corrections in November 2021, there has been no information available on the progress made on the integration of corrections as recommended by Parliament.⁵²

Challenges with Disability Mainstreaming

- The ways in which legislations and policies are implemented depend on the geographical area of the country. Due to the high level of inequality in Botswana, the assistance which a PWD receives depends on their geographical location.
- There is a wide spectrum of challenges which PWDs face. The loophole in existing policies such as the NPCPD is that all PWDs are grouped together.⁵³ Services exist for those persons with mild challenges.⁵⁴
- There is a perception amongst CSOs that disability mainstreaming is the responsibility of CSOs working specifically in the field of disability rights. This leads to the exclusion of PWDs from services provided by CSOs⁵⁵.

⁵¹ The government has pledged to review policies, programmes, and processes to ensure the mainstreaming of disability rights. CSOs have been consulted on the review of the National Development Plan 11 to better factor in the needs of persons with disabilities. Currently, the Workmen's Compensation Act (1998) is being reviewed on the basis of how it can make provisions to assist persons with disabilities who have been injured at the workplace and how they can be better absorbed into the workforce. The government is currently in the process of finalising the Draft Disability Policy to ensure the implementation of the Convention of the Rights of Persons with Disabilities (CRPD), which was ratified in July 2021.

⁵² The advancement of the rights of persons with disabilities has been hampered due to a lack of political will and the weak bargaining power of disability rights advocacy groups vis- a-vis the government.

⁵³ Omotoye, Marumu. 2018. Public Policy Implementation Prospects and Challenges in Botswana: Case of National Policy on Care for People with Disabilities, BIDPA Working Paper 49

⁵⁴ There is a lack of empirical research to understand the different challenges of persons with disabilities. Reports often focus on those persons with mild challenges, who can survive in the institutional structures. This is the case for reports and research assessing the inclusiveness of education, which focus on those learners who are enrolled in school but rarely address those individuals who are not accessing education at all.

⁵⁵ For more information, see Hanass-Hancock, Jill, Mthethwa, N, Molefhe, M. and Tsh "Preparedness of civil society in Botswana to advance disability inclusion in programmes addressing gender-based and other forms of violence against women and girls with disabilities", *African journal of disability* No. 9 (2020): 664

- Women and children with disabilities are particularly vulnerable to GBV⁵⁶
- There is a lack of empirical research monitoring the practice of disability mainstreaming.

Recommendations

- Funds allocated to help PWDs are channelled through CSOs. GoB should, instead of channelling this money through CSOs improve public services to provide for PWDs.
- Increase efforts to introduce disability mainstreaming practices amongst CSOs. Policies and strategies of CSOs need to prioritise disability mainstreaming.
- Make available information on the progress of finalising the National Disability Policy, the Implementation Plan, the Draft National Disability Strategy and the Disability Bill.
- Enhance data collection aimed at monitoring disability mainstreaming practices.
- Develop a streamlined budget to address the challenges and meet the needs of people with disabilities.
- Ensure representation of persons with disabilities at all decision-making levels.⁵⁷

VII. GENDER EQUALITY

127.5 Domesticate the Convention on the Elimination of All Forms of Discrimination against Women in order to enhance the promotion and protection of women's rights (Namibia);⁵⁸

NO IMPLEMENTATION

GoB is currently facilitating a constitutional review which could be a crucial opportunity to further enshrine the protection from discrimination against women in the constitution and amend those sections of the constitution which discriminate against women.⁵⁹

⁵⁶ However, empirical evidence on how many women and children with disabilities who have experienced GBV and have been assisted is still lacking. The same applies for children with disabilities. While the Children's Act makes provisions for children with disabilities, numbers of children who are being assisted by custodians by the Children's Act are not consistent with the number of children in need of protection

⁵⁷ This can be achieved through the introduction of temporary special measures, campaigns raising awareness about the importance of persons with disabilities being represented in decision-making positions and conduct capacity building programmes for people with disabilities who intend to occupy political positions.

⁵⁸ 127.64 Continue efforts to implement Committee on the Elimination of Discrimination Against Women obligations and promote and protect the rights of women (Maldives)

⁵⁹ For example, the Botswana constitution contains exceptions to the prohibition of discriminatory laws. These exceptions refer to customary laws providing for "adoption, marriage divorce, burial, devolution of property on death or other matters of personal law", authorizing discrimination against women in these areas.⁵⁹ However, there was a minimal participation and presence of women in the constitutional review process. At dikgotla, women were often not speaking in large numbers and discussion of women's rights was minimal.

Recommendations

- Repeal Section 15 (4) of the Constitution and make provisions for women’s equal rights in marriage.
- Strengthen and amend customary and common laws to provide for equal access to property at the dissolution of a marriage or after the death of a spouse.
- There must be a stand-alone section on Women Rights in the Constitution to address the Human Rights of women and girls adequately.

127.65 Continue to put emphasis on gender equality and ensuring the rights of women and girls, including better access for them to education, aside from committing greater budgetary resources to the Women’s Economic Empowerment Programme (Malaysia)⁶⁰

PARTIAL IMPLEMENTATION

Education Statistics indicate that access of girls and young women to all levels of education is commendable as more than 50% girls are enrolled at all levels of the education system⁶¹.

Key Issues

- Barriers hindering girls from accessing education include: Sexual violence, defilement, orphan-and child-headed household, socio-cultural issues, and early pregnancies.⁶²
- Botswana has a policy in place to facilitate the re-entry of pupils after childbirth. However, issues with implementation have been documented.⁶³

Recommendations

- Existing programmes should be strengthened so they can target the needs of the affected families and young mothers.
- The Ministry of Education should collaborate with CSOs and the Department of Non-Formal Education to strengthen existing programs and improve access of girls to available programmes.

⁶⁰ 127.69 Continue to strengthen programmes for the economic empowerment of women (Cuba)

⁶¹ Statistics Botswana. *Secondary Education Stats Brief 2019*, p. 5

⁶² According to World Bank Data, the adolescent fertility rate in Botswana is at 44 births per 1000 women aged 15 – 19.

⁶³ For example, the Ministry of Education has not promoted policy awareness amongst communities. Moreover, monitoring and evaluation of whether school re-entry policies have been implemented has been poor. There are programmes in place to assist young mothers, e.g the Young Mothers Support Programme, yet these do not specifically assist young mothers with the process of re-entering school.

For more information, see: Chiyota, Namayuba. *Implementation of a Re Entry Policy for Teenage Mothers in Zambian Secondary Schools*. University of Pretoria, PHD Dissertation, 2020.

Child marriages

- Child marriages are still a problem in some parts of the country, where ethnic groups such as the Bazezuru still hold this practice⁶⁴.

Exclusion of Transgender People from Health Services and Education

- A look at Botswana's sustainable development goals will reflect that the country has limitations on gender descriptions. Under goal 4 (Quality Education) and goal 5 (Gender equality), there are indicators that speak to women and girls but they are not inclusive of transgender women and are insufficient to address the experiences of lesbian women and girls.⁶⁵
- Under the quality education goal, Botswana aims to eliminate gender disparities in education and ensure equal access to all levels of education. It has an inclusive education policy established (2011), however these policies do not speak to transgender women.⁶⁶
- There is SOGIE⁶⁷-related prejudice and stigma in the healthcare system in Botswana⁶⁸.
- LGBT⁶⁹ women are often excluded from the discourse on gender-based violence. There are no laws in Botswana that specifically address homophobic rape and the violence or hate these women experience.⁷⁰

⁶⁴ Child marriages take away the girl child's opportunity to access both education and healthcare. The child brides would either be removed from school to focus on family roles or be expected to balance school with their duties. These ethnic groups also have certain approaches to health care which prohibit the use of modern medicine. Children will often be prohibited from receiving injections/vaccines. For more information, see: Ramabu, N. M. *The Extent of Child Abuse in Botswana: hidden in plain sight*. Heliyon 6, 2020.

⁶⁵Ministry of Finance and Economic Development (MFED) and United Nations Development Programme (UNDP) Botswana. *Botswana SDGs Status Report 2016 – 2020* (Gaborone, Botswana: MFED and UNDP, 2020)

⁶⁶ Transgender identifying individuals tend to drop out of school when they take hormone replacement therapy which changes their body and they struggle to exist in school settings when these changes are happening. Gender expression in schools is also an issue, students are forced to dress in accordance with the gender which they were assigned at birth. The lack of knowledge on trans issues by both school staff and students also makes schools a breeding ground for bullying. Lastly, the infrastructure in schools at all levels is not accommodative of trans students. For example, there are no gender-neutral bathrooms in place.

⁶⁷ SOGIE stands for Sexual Orientation, Gender Identity and Expression.

⁶⁸ The health care provided is not gender affirming for transgender individuals. This exacerbates the discrimination transgender women and men face. Discrimination also exists in the workplace, where transgender individuals cannot dress in a gender affirming way at work. The Employment Act prohibits only termination of employment on the basis of sexual orientation but does not speak to gender identity. For more information, see: Müller, A., Daskilewicz, K. and the Southern and East African Research Collective on Health (2019). 'Are we doing alright? Realities of violence, mental health, and access to healthcare related to sexual orientation and gender identity and expression in Botswana: Research report based on a community-led study in nine countries'. Amsterdam: COC Netherlands.

⁶⁹ LGBT is an abbreviation for Lesbian, Gay, Bisexual and Transgender.

⁷⁰ For example, the police are also not capacitated to use the Domestic Violence act (2008) on LGBT cases.

⁷¹ 127.26 Take measures to prevent and combat all forms of discrimination, especially against women, persons with disabilities, and other vulnerable groups (Italy)127.68 Continue efforts to achieve gender equality and the empowerment of women (Egypt); 127.35 Continue with efforts in the field of gender equality, especially by removing loopholes in national legislation and by encouraging participation of women in the economy and politics (Slovenia)127.36 Continue to study the possibility of establishing the measures and mechanisms in order to improve the representation of women's access to decision making positions in politics (Mauritania)

equality (Tunisia);⁷¹

NO IMPLEMENTATION

Participation in Politics

Key Issues

- Representation of women in parliament is the lowest in the entire SADC, with 11 %. This number had only increased from 10 % to 11 % in the entire period between 2014 and 2019⁷².
- Current policies to mainstream gender across ministries, districts councils and private sector, such as the National Policy on Gender and Development (2015), have not been effective due to challenges with implementation and enforcement.

Electoral System

- Botswana has not yet adopted quotas to advance political participation of women.⁷³

⁷¹ 127.26 Take measures to prevent and combat all forms of discrimination, especially against women, persons with disabilities, and other vulnerable groups (Italy)127.68 Continue efforts to achieve gender equality and the empowerment of women (Egypt); 127.35 Continue with efforts in the field of gender equality, especially by removing loopholes in national legislation and by encouraging participation of women in the economy and politics (Slovenia)127.36 Continue to study the possibility of establishing the measures and mechanisms in order to improve the representation of women's access to decision making positions in politics (Mauritania)

⁷² Women are not only underrepresented in parliament but in all areas of decision-making. Only 5 % of women hold political positions, which is still far from the 30 % target set by SADC.⁷² However, women do hold key decision-making position in the public sector and in the judiciaryPini Bothoko, "Women's underrepresentation in politics causes worry", Mmegi, March 14th 2022, <https://www.mmegi.bw/news/womens-underrepresentation-in-politics-causes-worry/news> (accessed September 16th 2022)

⁷³ There are also no legal provisions that make it mandatory for political parties to install quotas for female representation in their parties.⁷³ However, while quotas are often identified as a viable solution to increase women participation in politics, they will not be enough to tackle the problem. What is needed is a review and reform of the electoral system. The current system in place is the first-past-the-post-system (FPTP), where the winner takes all – Regardless of by how much or by which percentage. Many countries which have adopted proportional representation (PR) systems have fared very well in terms of female representation in parliament.⁷³ PR systems⁷³ give both younger women and men the chance to be voted for and also the chance to be identified as voters⁷³. A possible model for Botswana to adopt would be a mixed system, which entails the combination of an FPTP and a PR system.

- Women are not represented in party leadership positions.⁷⁴
- Women's participation in politics is also constrained by a lack of funding.⁷⁵

Social and Cultural Norms

- Women are represented in senior positions in other sectors, e.g. in the private sector or in the civil service, but seemingly in the political arena there are still barriers. The political arena is still seen to be a male dominated space, and political leadership roles are perceived to be reserved for men.⁷⁶

Recommendations

- Affirmative action measures implemented by political parties must address funding barriers of women wishing to enter politics.⁷⁷
- Engage political parties on reviewing the electoral system and introducing laws and regulations which will provide for gender equity in political participation
- Provide resources to civil society organizations to undertake a robust education and observation process with traditional and political structures, families, and communities to change mindsets, social cultural

⁷⁴ This is despite the fact that women comprise the majority of voters and actively support political party mobilisation and campaigning. The male dominance in political parties makes it difficult for women to participate as candidates. Reasons for this are gendered perspectives that men are better equipped to be leaders than women, and the nature of political campaigning practices which often feature the defamation of opponents and abusive language – elements which are associated more with traditionally masculine character traits, which further discourages potential female candidates. There are few opportunities for women to network outside their political party spaces. This is due to a lack of common platforms for women to work together across party lines, strong allegiance to political parties and party regulations prohibiting women to support women in other political parties. For more information, see Emang Basadi. *Report on Mme O Kae? A National Study for Increased Women's Representation in Politics*, (Gaborone, Botswana: Emang Basadi, 2018)

⁷⁵ Women's socio-economic constraints mean that they often do not possess the economic means to enter a political career. Participating in politics often requires substantial financial resources for conducting campaigns and reaching constituents. Furthermore, the registration fees to become a candidate for parliament or for local council are very high. The registration fees to become a candidate for parliament are BWP 2000 to become a candidate for parliament and BWP 1000 for local council. Women tend to have less access to financial networks, credit, and political clientelism.

⁷⁶ Patriarchal norms, beliefs and values entrench male dominance in the political space promoted by political structures and women and men as voters. This can be exemplified by the fact that in Botswana, women comprise the majority of voters, yet they tend to vote for men. Apart from that, women's wings/leagues have not been particularly focussed on putting in place strategies to advance women's political empowerment through encouraging them to participate in elections or addressing the concerns of women voters. For more information, see Gretchen Bauer, "Cows will lead the herd into a Precipice: Where are the Women MP's in Botswana?" Botswana Notes and Records, Vol. 42, pp. 56 - 70

⁷⁷ This can be done through developing formal regulations to political finance, e.g. through introducing gender targeted public funding. Gender targeted public funding refers to a system where the eligibility of a political party to obtain public funding depends on provisions in relation to gender, or where some of the public funding gets specifically dedicated to gender related purposes.

practices and patriarchal values to promote positive attitudes towards the role of women in political leadership.

Economic Empowerment

- Economic empowerment of women is key to facilitating their participation at all levels of decision-making in the economy and political institutions. Empirical evidence indicates that most women in urban and rural areas are in the small business and informal sectors. Most women occupy average to low paying occupations. This compromises their ability to have adequate resources to fund political campaigns etc. as well as sustain the livelihoods of their families.⁷⁸
- The Department of Gender Affairs in partnership with key Ministries, the private sector and civil society organizations should promote strategic economic interventions which will make a positive difference to the economic status of women. In addition, strengthening and diversifying the SMME's and informal sector to diversify the economy and create employment is imperative.

Recommendations

- Advocate for gender mainstreaming and audits in all economic sectors to identify gaps and challenges to inform strategic actions and resource allocation.
- Promote effective access and control of productive resources for poor women in urban and rural areas.
- Provide effective business training to women and the youth in the informal and SMME sector to strengthen their operations and diversify their products and services.
- Sensitise financial institutions such as, banks, private sector and ministries to facilitate gender responsive financial regulations and requirements.
- Identify structural and systemic barriers that prohibit access to economic opportunities to facilitate easy access to resources.

⁷⁸ Gender is a key development variable which should be mainstreamed in all economic policies and programmes to facilitate access to - and control of productive resources.

127.21 Resource adequately the National Gender Commission established in 2016 to monitor implementation of the National Policy on Gender and Development to perform its functions effectively (Singapore)

PARTIAL IMPLEMENTATION

- The National Gender Commission has an annual budget of about USD 35 000.00⁷⁹. The UNDP is providing financial support of USD 10,000.00 to the Department of Gender Affairs to support its policy oversight capacity⁸⁰. The National Gender Commission mandate and membership was reviewed in 2022 and launched as an oversight, monitoring and evaluation structure. It currently does not have an adequate annual budget to undertake its role effectively.
- The National Gender Commission and the Department of Gender Affairs are not in a strategic Ministry which has influence and adequate resources. The relocation of the gender structure to the Ministry of Youth, Sports, Arts and Culture has marginalized the power of influence and impact of the gender machinery.⁸¹

Recommendations

- Elevate the Department of Gender Affairs to a Ministry of Gender and Social Development given its broad and strategic mandate in order achieve SDG 5, the SADC Gender and Development Protocol and AU Agenda 2063. The implementation of the 2015 National Gender and Development Policy and the National Gender Plan and Programme will only be realized if the Department is elevated to a Ministerial level.
- Establish an inter-ministerial structure that will effectively monitor and evaluate the implementation of international, regional and national gender policies and programmes.
- Strengthen district level monitoring and evaluation structures to support the mainstreaming of gender priorities in district development policies and plans.
- Strengthen the capacity of top decision-making officials at national and district levels through gender training and sensitization.
- Review all policies and legislations that are discriminatory and not gender responsive to enhance the implementation of the National Gender and Development Policy and Programmes.

127.33 Punish the authors responsible of sexual violence against women and girls

⁷⁹ Republic of Botswana. *Mid-term Progress Report on the Implementation of Agreed Recommendations from Botswana's Third Cycle Review under the Universal Periodic Review (UPR) Mechanism of the United Nations Human Rights Council*, (2020): p. 45

⁸⁰ CCPR/C/BWA/2. *Second Periodic Report submitted by Botswana under Article 40 under the Covenant pursuant to the optional reporting procedure, due in 201* (2020)

⁸¹ Inadequate financial, technical and human resources has marginalised the position of the structure to make a positive impact.

⁸² 127.30 Criminalize domestic violence and continue the elaboration and implementation of public policies to prevent, address, punish and eradicate all forms of violence against women, including building help centres for women victims of violence (Paraguay)

(France)⁸²

PARTIAL IMPLEMENTATION

- GoB introduced the Sexual Offenders' Registry Act (2021)⁸³ which provides for the establishment of a Sexual Offenders Registry⁸⁴. The Act makes provision for the supervision of sexual offenders, which includes their monitoring and psychological counselling.⁸⁵
- The Penal Code Amendment Bill was passed in parliament on the 16th of August 2021, which is targeted at amending the Penal Code to enhance penalties for sexual offenders, and to make provisions for compensation for victims of sexual offenses and criminalise false allegations of sexual offences.⁸⁶

Key issues

- There are no government-owned shelters or centres for survivors of GBV. The government provides financial support to some organizations to address GBV issues.⁸⁷
- There is no information available on whether the Sexual Offender's Registry is operational or not⁸⁸. The Sexual Registry Act may also label and oppress those sex offenders who have served their sentence as a form of rehabilitation and have reintegrated into society.
- More punitive measures may actually not change the attitudes of perpetrators.⁸⁹
- Shelters are not evenly distributed across geographical areas.⁹⁰

Recommendations

⁸² 127.30 Criminalize domestic violence and continue the elaboration and implementation of public policies to prevent, address, punish and eradicate all forms of violence against women, including building help centres for women victims of violence (Paraguay)

⁸³ Republic of Botswana. *Sexual Offenders Registry Act (No. 7 of 2021)*

⁸⁴ The Sexual Offenders' Registry Bill was unanimously passed in parliament on the 16th of December 2020.

⁸⁵ The Act makes it mandatory to disclose a conviction for a sexual offense to a prospective employer in an institution providing services to - or caring for vulnerable persons.

⁸⁶ Botswana Centre for Public Integrity. *2021 Bills Report*. Gaborone, Botswana: 2021

⁸⁷ During the Covid-19 lockdown in April 2020, there was a significant increase in the number of survivors of gender-based violence. While the situation is said to have stabilised since, the numbers are still higher than prior to the pandemic. The government has not provided any extra resources to tackle this issue and support overwhelmed shelters.

⁸⁸ Tumelo Koboyatau "Women slam Sexual Offenders Register" Weekend Post, 20th April 2022, <https://www.weekendpost.co.bw/34125/news/women-slam-sexual-offenders-register/> (accessed 6th October 2022)

⁸⁹ An increase in penalty is not a sufficient measure to combat gender-based violence. Penalties for rape have always existed, but perpetrators often do not get penalised due to underreporting.

⁹⁰ Currently, there are only shelters in Maun, Gaborone, and Francistown, run by WAR and BGBVSC.

- GoB should support the increase in the number of shelters.⁹¹

127.33 Train police officers and other stakeholders on the handling of reported cases of gender-based violence (Belgium)
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PARTIAL IMPLEMENTATION

GoB has been involving traditional leaders in the fight against GBV. Under the leadership of the local government, a Dikgosi⁹² National Action Plan on Gender Based Violence is being developed which will contain a training curriculum on GBV for Dikgosi.

Key Issues

- The Botswana police service announced the launch of a GBV dedicated branch, which was to be set up by April 2021. There is no information on the progress of this process, and whether the branch is actually operational already.⁹³

127.31 Implement further measures to combat gender-based violence and take steps to strengthen legal protections for victims of gender-based violence (Australia)

PARTIAL IMPLEMENTATION

- In response to drastic increases in GBV cases in 2020 during the height of the COVID-19 lockdown⁹⁴, the government set up special courts to handle these cases⁹⁵. However, more long-term oriented efforts need to be made to decrease waiting time for trials.
- Women Against Rape and Stepping Stones International piloted the GBV Referral System, to increase community awareness of GBV and enhance care and support for survivors.⁹⁶ However, it has not yet been rolled out due to budgetary constraints.

⁹¹ Shelters should also be more geographically accessible.

⁹² *Dikgosi* is the Setswana word for Chiefs, and as such refers the traditional leaders.

⁹³ Your Botswana, “Botswana Police Service GBV-dedicated Branch planned for 2021, September 11th, 2021, <https://yourbotswana.com/2020/11/09/botswana-police-service-gbv-dedicated-branch-planned-for-2021/> (accessed September 18th, 2022)

⁹⁴ DITSHWANELO and CoNGOF. The Human Impact on Migrant Populations of the Laws and Regulations Introduced by the Government of Botswana in Response to Covid-19 (2020).

⁹⁵ Keletso Thobega “Botswana sets up gender violence courts to tackle pandemic backlog”, Reuters, November 30th, 2020, <https://www.reuters.com/article/botswana-rape-court-idUSL8N2IG3BE> (accessed September 18th, 2022)

⁹⁶ The system was supposed to improve communication between different GBV service providers through a mobile phone application allowing service providers to capture case details and refer survivors to other service providers.

- Many withdrawals of GBV cases hamper the fight against GBV.⁹⁷
- Alleged rapists are often granted bail, which puts not only survivors but entire communities at risk.⁹⁸

Recommendations

- Rape and domestic abuse need to be prioritised in court.
- Review the bail system in rape cases.

VIII. YOUTH

127.44 Adopt a specific policy with affirmative action measures to lift young people out of exclusion and poverty, particularly those living in rural areas (Honduras)
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PARTIAL IMPLEMENTATION

Key issues

Shortcomings in Youth Empowerment Programmes

- GoB has various programmes aimed at eradicating poverty and youth empowerment however the accessibility of these is limited.⁹⁹
- Many young people are taking advantage of the Ipelegeng programme.¹⁰⁰ However, Ipelegeng is centred around providing employment rather than education and skill transfer.¹⁰¹

⁹⁷ This can have severe risks for survivors, and sometimes leads to the murder of survivors. For more information, see: Lebogang Mosikare “Withdrawal of cases blots fight against GBV, Mmegi, December 18th 2020, <https://www.mmegi.bw/news/withdrawal-of-cases-blots-fight-against-gbv/news> (accessed September 29th 2022)

⁹⁸ Some perpetrators repeatedly commit similar offenses violating their bail conditions. Due to the lengthy trial proceedings, this also prolongs the time for which survivors remain accommodated in shelters.

⁹⁹ A majority of the youth do not know how to apply for the youth development fund nor are they capacitated for entrepreneurship. Current youth empowerment programmes do not have affirmative action measures in place e.g for youth with disabilities, or youth living in rural areas.

¹⁰⁰ Botswana launched the public works programme, also known as Ipelegeng programme in 2008 to reduce poverty by providing short term employment to beneficiaries, by engaging them in community development projects.

¹⁰¹ They opt for Ipelegeng because it is difficult for them to access to the Youth Development Fund (YDF) or CEDA. The Citizen Entrepreneurial Development Agency (CEDA) often requires documents that young people struggle to obtain. For example, if an applicant wants to build houses to lease, they must have a title deed and are required to test the soil in the place where they want to build houses. Obtaining all these documents requires financial resources which young people often do not have. For youth it is merely a means of survival as it does not contribute to notable improvements to the quality of life, with beneficiaries often remaining below low-income wage. For more information, see: Kgomotso Jongman “Sustainable Livelihood and Poverty Eradication in Botswana”, International Journal of Development and Sustainability” Vol. 7 No. 4: 1317 – 1324

- Implementation of policies and programmes designed to economically empower youth is hampered by a lack of empirical research, inadequate training and mentorship, lack of monitoring and accountability, and a lack of sustainability.¹⁰²

Exclusion from Participation and Decision-Making

- Youth are not present in the spaces used for decision-making such as the Kgotla¹⁰³.

Mental Health

- Mental health problems are a challenge for many people in Botswana, especially for the youth¹⁰⁴. However, there is a gap in research on mental health disorders.¹⁰⁵
- Accessibility to mental health services is poor. There are no mental health experts in hospitals, clinics, or schools.¹⁰⁶

Recommendations

- GoB should work more closely with CSOs when designing and implementing programmes.¹⁰⁷
- Mentorship and training to assist youth with applications for the YDF and CEDA facilities should be provided.¹⁰⁸

¹⁰² Evaluations of youth policies often emphasize that these programmes fare well in terms of getting “youth off the streets” while measuring success in terms of the amount of funds dispersed and the number of young people that have been assisted. However, there is a lack of in-depth, qualitative assessment of how such programmes have impacted the lives of young people. For more information, see: Kabo Diraditsile, “Challenges to Social Policies: A Critical Analysis of Youth Intervention Programmes in Botswana”, *Asian Journal of Social Science Studies* Vol. 2 No. 1 (2017); and Kabo Diraditsile, “Youth Empowerment Programmes in Botswana: Overestimated or Under-researched?”

¹⁰³ The Kgotla is mainly used by the older generation. The youth tend to not engage with the customary elements of this platform. Social media is the platform where one can find large numbers of youth engagement however, they do not use these platforms for official matters. It is however important that the youth are invited to spaces used for decision-making

¹⁰⁴ Mental health challenges are connected to various other issues that affect youth. There is a risk of alcohol and drug abuse among youth dealing with mental health challenges.

¹⁰⁵ There is no national mental health research database and the research available does not provide sufficient guidance to inform policies and strategies.

¹⁰⁶ In places where mental health services are supposedly available, there are staff shortages and staff is not available in cases of emergency. In schools, there are only guidance and counselling teachers who are often overwhelmed and do not have sufficient expertise to undertake mental health counselling.

¹⁰⁷ Moreover, the responsible ministry should collaborate with CSOs to ensure that all youth understand the available economic empowerment programmes.

¹⁰⁸ Training should also be provided to help youth develop entrepreneurial skills. The CEDA form should be restructured to make it easier for young people to fill it out.

- Facilitate periodic reviews of the design and implementation of youth policies and programmes to assess whether they are producing positive results.
- GoB should introduce rehabilitation centres to assist those struggling with drug and alcohol addictions.¹⁰⁹

127.55 Further strengthen its national programme to reduce HIV prevalence, especially among young people (Indonesia)

PARTIAL IMPLEMENTATION

- Through (NAHPA), GoB has been collaborating with civil society organizations by providing funding and other material assistance to promote awareness raising about HIV prevention amongst young people.

Key Issues

- Limited collaboration between the education and health sectors in the provision of sexuality education and health services. The potential of health professionals remains underutilized in offering SRH information.¹¹⁰ Furthermore, training of teachers on the provision of Sexual and Reproductive Health and Rights (SRHR) education remains limited.¹¹¹
- Usually, guidance and counselling teachers do not focus on guidance and counselling classes, meaning that sexuality education is not their priority area. Moreover, they often lack sufficient training to provide this.¹¹²

Recommendations

- Young people may not utilise health services that are available to them if they are not treated politely or are concerned that confidentiality will be breached by health care providers. In order to make health facilities youth-friendly, more opportunities need to be available for nurses to communicate about HIV risk reduction.
- Guidance and counselling teachers’ training should be centralized and managed by the Ministry of Education.

IX. ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

127.27 Continue with reforms, which include introducing measures to diversify the economy and accelerate economic growth aimed at increased productivity, poverty reduction and the attainment of equitable social development (Indonesia)

¹⁰⁹ Currently, there is no specialized rehabilitation centre to treat drug and alcohol addictions in Botswana. The approach to combatting substance abuse needs to be centred around rehabilitation rather than criminalization.

¹¹⁰ Francis Barchi, Helen Apps, Oleosi Ntshabe, and Peggie Ramaphane, “Contraceptive literacy among school-going adolescents in Botswana”, *International Nursing Review* (2021): 1 – 10

¹¹¹ Ibid.

¹¹² In some cases, a guidance and counselling teachers lack knowledge about defilement and HIV.

PARTIAL IMPLEMENTATION

The promotion of Private Sector development has been crucial in the economic diversification drive in Botswana.¹¹³ In October 2021, Botswana launched its national ICT Policy Review and E-Commerce Strategy to support the development of ICT's and the growth of a knowledge-based economy.¹¹⁴ Botswana has also developed an Economic Recovery and Transformation Plan (ERTP) to facilitate the recovery of economic activity, promote economic transformation and to enhance the resilience of the economy.

Key Issues

- Botswana's economy is still too reliant on the extraction of diamonds, a resource which is depleting.¹¹⁵
- While the allocation of financial resources is important for promoting entrepreneurship, it is not sufficient. Apart from this, a more enabling environment for doing business must also be developed.¹¹⁶

127.24 Take measures to improve efficiency, accountability, and transparency in the public service of the country (Azerbaijan)

PARTIAL IMPLEMENTATION

GoB established the Ethics and Integrity Directorate in 2020 which was provided for by the Ethics and Liability Act (2019)¹¹⁷ with the goal of promoting integrity and accountability in public office by analysing declarations of assets, income, and liabilities declarations.¹¹⁸

¹¹³ The support for small and medium sized enterprises has been made through financing schemes such as CEDA

¹¹⁴ E-Commerce has the potential to improve access to markets and to provide more efficient ways for enterprises to operate.

¹¹⁵ The COVID-19 crisis revealed the government's vulnerability as diamond prices plummeted. In response to this, President Masisi announced plans to expand mining operations for non-diamond minerals, such as coal and copper¹¹⁵. However, shifting from one non-renewable resource to another risks merely prolonging the issue of over-dependence on the extractive sector. Botswana has substantial renewable energy potential, most notably solar and wind, which remains largely under-exploited. Commitments to promoting the sustainable energy sector have already been made through the Integrated Resource Plan launched in December 2020.

¹¹⁶ The quality of infrastructure still hampers private sector development. There is a lack of domestic energy supply as the country depends on imported electricity. In order for the country to facilitate the transition into a knowledge-based economy driven by ICT, significant improvements in the electrification rate¹¹⁶ and the digital infrastructure need to be made. The current quality of the internet services is not sufficient to capacitate high data volumes. Skills mismatch is another impediment to the diversification of the economy. Firms in Botswana have identified as one of the key constraints to doing business the lack of an appropriately educated and trained labour force. While Botswana has achieved close to universal primary education, enrolment rates for secondary education are high, and the number of students enrolled in tertiary education increases every year¹¹⁶, the skills of the labour force do not match the skills which are in demand. This is a contributing factor in the high unemployment rates¹¹⁶ in Botswana, especially in relation to graduate unemployment. For more information, see The World Bank. *Country Private Sector Diagnostic: Creating Markets in Botswana*. Washington DC: The World Bank, 2022

¹¹⁷ Republic of Botswana. *Declaration of Assets and Liabilities Act (No. 12 of 2019)*.

¹¹⁸ Other efforts entail the establishment of the Governance Unit under the Ministry for Presidential Affairs, Governance, and Public Administration (MOPAGPA) in April 2020, with the goal of ensuring efficiency, accountability, and transparency in the public sector.

Key Issues

- Perception of corruption has risen in recent years in Botswana.¹¹⁹
- While institutions and measures to fight corruption are in place, the problem lies with the implementation and operational independence of the Directorate of Corruption and Economic Crime (DCEC).¹²⁰
- There are challenges with enforcement. Prosecutions and convictions are very low.¹²¹
- The Asset Declaration Act (2019) is insufficient to effectively enhance accountability.¹²²

Recommendations

- Amend the Asset Declaration Act (2019) .
- The DCEC should be removed from the Office of the president to ensure its independence.

¹¹⁹ In Transparency International's latest Corruption Perception Index, Botswana was rated 45 out of 180 countries worldwide, while in 2020, Botswana was on place 35 out of 100 countries. While Botswana used to be rated as the least corrupt country in Africa, it now ranks third, behind the Seychelles and Cabo Verde. For more information, see: Transparency International, *Corruption Perception Index: Botswana, 2021*, <https://www.transparency.org/en/countries/botswana> (Accessed September 27th, 2022)

¹²⁰ The main issue is the institutional independence of the Directorate of Corruption and Economic Crime, the main corruption fighting agency of government. Currently it is under the directorate of the Office of the President and the director of this institution is directly appointed by the president. The Corruption and Economic Crime Amendment Bill of 2021 aimed at ensuring the independence of the Directorate on Corruption and Economic Crime (DCEC) was discussed in parliament. However, it was voted against. For more information, see Kehumile Moekejo "Legislators Debate Corruption and Economic Crime Amendment Bill", Daily News, July 24th 2022, <https://dailynews.gov.bw/news-detail/68222> (Accessed September 27th, 2022).

¹²¹ The law penalizes corruption by officials. However, officials responsible for enforcement lacked adequate training and resources. Some cases do not even reach prosecution stage on account of there being technical errors in the investigation process and the collection of evidence. Of the few which make it to the courts, there are acquittals on the account of there not being sufficient evidence. Thus, there are procedural and technical deficiencies. Where cases are not prosecuted on account of technical errors, we are rarely ever given an insight into what kind of technical issues there were.

¹²² The Act restricts the declaration of assets to when a public official assumes office (within 60 days of assumption of duty) but does not necessitate it when term ends. Thus, it does not provide for noting comparisons and inconsistencies. This Act makes the publication of information in the asset register by third parties illegal. Journalists and Batswana in general have no access to it, and penalties are quite stiff for sharing the information (up to P1 000 000.00 fine or imprisonment of up to five years). How then will the public hold officials accountable for their actions under conditions that do not allow for transparency? FNtshingane, Bakang, *Corruption in Botswana's Key Institutions and Processes*, Botswana Centre for Public Integrity. Gaborone, Botswana: Botswana Centre for Public Integrity, 2021

¹²³ 127.46 Further strengthen policies aimed at poverty eradication (Georgia); 128.61 Strengthen further its efforts in the area of poverty eradication, including by strengthening and addressing shortcomings highlighted in the poverty-eradication programmes (Malaysia); 127.45 Continue working on poverty eradication initiatives with special focus on women and children (Bhutan) 127.42 Strengthen the economic resources of the most vulnerable so that they can live in dignity (Libya); Further consolidate its social and human rights policies, particularly in the area of economic, social and cultural rights in order to improve the quality of life, particularly of the most vulnerable groups in its population (Bolivarian Republic of Venezuela)

127.43 Continue taking further measures to eradicate poverty (Azerbaijan); ¹²³

PARTIAL IMPLEMENTATION

In 2021, GoB launched the National Employment Policy for Botswana which provides a comprehensive set of solutions to the challenge of unemployment.¹²⁴

To overcome the shortcomings of monetary poverty measures,¹²⁵ the government has started tracking non-income deprivations through the use of the Multidimensional Poverty Index (MPI).¹²⁶

The government is currently in the process of designing a Poverty Eradication Strategy (BPES) with the purpose of ensuring that the next National Development Plan is aligned with the goal of poverty eradication.¹²⁷

Key Issues

- Government conducts few follow up and little supervision of Poverty Eradication Programmes after implementation. There is a limited availability of project officers and support and mentoring is lacking.¹²⁸
- Monitoring of projects is done entirely by officials from the district council regional office without the participation of beneficiaries.¹²⁹

¹²³ 127.46 Further strengthen policies aimed at poverty eradication (Georgia); 128.61 Strengthen further its efforts in the area of poverty eradication, including by strengthening and addressing shortcomings highlighted in the poverty-eradication programmes (Malaysia); 127.45 Continue working on poverty eradication initiatives with special focus on women and children (Bhutan) 127.42 Strengthen the economic resources of the most vulnerable so that they can live in dignity (Libya); Further consolidate its social and human rights policies, particularly in the area of economic, social and cultural rights in order to improve the quality of life, particularly of the most vulnerable groups in its population (Bolivarian Republic of Venezuela)

¹²⁴ The overarching aim of the policy is to reduce the unemployment rate to less than 10 percent by 2030, as well as to ensure economic inclusion and participation of all citizens in the economic growth of the country. The policy document makes provisions for the inclusion of women and youth in the labour market through special programmes and legal reforms.

¹²⁵ Monetary poverty measures do not capture the various overlapping non-income deprivations related to education, health, housing, sanitation, and access to clean drinking water

¹²⁶ The government has also undertaken a Pilot National MPI to make adjustments to the poverty context in the country. This allows for a more comprehensive understanding of poverty, which will be beneficial for the design of policies to eradicate poverty.

¹²⁷ The document intends to provide a solution to the current fragmentation of poverty alleviation programmes through facilitating coordination across different government agencies and other stakeholders as well as improve monitoring and implementation of current and future poverty eradication programmes and policies. This document is supposed to replace the National Strategy for Poverty reduction of 2003. Nonetheless, this process has been ongoing since a number of years now and a final poverty eradication policy still does not exist.

¹²⁸ There is not one designated district officer responsible for a given community but several different officers from the district council. Kgotla meetings which were designed to enable participation were chaired by different district council officials. This makes it difficult for communities to be able to hold district council officers accountable and request feedback.

¹²⁹ Suggestions by community members often do not get taken serious and development administrators impose their own perception of the development needs onto the communities. For more information, see: Maphosa, F; Ntau, C; and Malatsi Seleka. "An Appraisal of Participation and Rural Development in Botswana: The Case of Mmankodi Village", *Botswana Notes and Records*, Vol 51 (2019)