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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Forty-third session**  
1–12 May 2023

## **Summary of stakeholders' submissions on Botswana\***

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### **I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review and the outcome of the previous review.<sup>1</sup> It is a summary of 10 stakeholders' submissions<sup>2</sup> for the universal periodic review, presented in a summarized manner owing to word-limit constraints.

#### **II. Information provided by stakeholders**

##### **A. Scope of international obligations and cooperation with human rights mechanisms**

2. BCU expressed its disappointment at the fact that of the 207 recommendations that had been made at the previous review, 114 recommendations had been noted by Botswana, and encourage Botswana to reconsider its approach to the recommendations that will be made in the upcoming review. BCU emphasised the importance of implementing supported recommendations.<sup>3</sup>

3. Referring to a relevant supported recommendation from the previous review, JS3 stated that Botswana had not ratified International Covenant on Economic, Social and Cultural Rights, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, I International Convention for the Protection of All Persons from Enforced Disappearance, Convention on the Rights of Persons with Disabilities, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman /or Degrading Treatment or Punishment, Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Convention on the Prevention and Punishment of the Crime of Genocide, and considered the recommendation to have not been implemented.<sup>4</sup>

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\* The present document is being issued without formal editing.



4. Noting that Botswana had neither signed nor ratified the International Covenant on Economic, Social and Cultural Rights, BCU stated that this Convention was particularly relevant for the regulation of the right to health, including in the context of HIV.<sup>5</sup>

5. CGNK stated that Botswana should swiftly ratify the Convention on the Prevention and Punishment of the Crime of Genocide.<sup>6</sup>

6. JS5 stated that Botswana had not ratified Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty and had repeatedly voted against United Nations General Assembly resolutions calling for a moratorium on the use of the death penalty, including most recently in 2020.<sup>7</sup>

7. JS3 considered a supported recommendation from the previous review relating to reporting obligation to treaty bodies to have been fully implemented.<sup>8</sup> It noted that Botswana had issued a standing invitation to special procedure mandate holders and considered the relevant supported recommendation from the previous review to have been implemented.<sup>9</sup>

## **B. National human rights framework**

### **1. Constitutional and legislative framework**

8. JS5 underscored that at the previous review, Botswana had supported recommendations to incorporate into domestic law those international human rights conventions which it had supported.<sup>10</sup>

9. JS1 noted that in 2022, a Constitutional review process had commenced with the establishment of a Constitutional Review Commission with the mandate to undertake public consultations. It stated that despite relevant legal protections in the Constitution of Botswana, there were gaps in ensuring the enjoyment of the right to bodily autonomy through the provision of access to safe and legal abortion, sexual and reproductive health commodities, gender-affirming healthcare, and the protection of the right to be free from violence.<sup>11</sup>

10. JS3 noted the ongoing drafting of a bill to incorporate the provisions of the Convention on the Rights of Persons with Disabilities into the domestic legal framework, and considered a relevant recommendation from the previous review that had enjoyed the support of Botswana to have been implemented, in part.<sup>12</sup>

11. JS1 highlighted the need to harmonize civil and customary law to ensure the promotion and protection of human rights, particularly for sexual and gender minorities; and the need to strengthen laws and policies to protect lesbian, bisexual, queer and transgender women from violence.<sup>13</sup>

### **2. Institutional infrastructure and policy measures**

12. JS3 stated that the restructuring of the Office of the Ombudsman to insure its compliance with the Principles Relating to the Status of National Human Rights Institutions (Paris Principles) was ongoing and considered the relevant supported recommendation from the previous review to have been partially implemented.<sup>14</sup>

13. Referring to a relevant supported recommendation, which it considered to have been partially implemented, JS3 stated that the mandate and membership of the National Gender Commission had been reviewed and in 2022 and launched as an oversight, monitoring and evaluation structure. However, the Commission has been unable to undertake this role due to the lack of an adequate budget.<sup>15</sup>

14. JS3 stated that there was a lack of information on the progress relating to the finalization of the Draft Comprehensive National Human Rights Strategy and National Action Plan, 2021–2026, and considered relevant supported recommendations from the previous review to have been partially implemented.<sup>16</sup>

15. Referring to a relevant supported recommendation from the previous review, which it considered to have been partially implemented, JS3 stated that in collaboration with the United Nations Development Programme and the Office of the High Commissioner for Human Rights, Botswana had established a National Human Rights Recommendations

Tracking Database. However, there was no information on whether the National Human Rights Recommendations Tracking Database was operational.<sup>17</sup>

16. Referring to a relevant supported recommendation from the previous review, which it considered to have been partially implemented, JS3 stated that human rights training had been conducted for the Botswana Defence Force through the Defence Command and Staff College, the Botswana Prison Service through the Prison Officers' course syllabus, the Botswana Police Service through the Botswana Police College and the International Law Enforcement Academy located at the Botswana Police College. It stated that there had been no recent civil society involvement in the human rights training and that despite the training there was still cases of human rights violations by the defence force personnel.<sup>18</sup>

17. Noting that the school curricular included human rights education through "knowing your rights" modules, JS3 stated that human rights education should be accessible not only in schools, but to the broader public. It considered a relevant supported recommendation from the previous review to have been partially implemented.<sup>19</sup>

18. Referring to a relevant report of the implementation of the 2030 Agenda for Sustainable Development by Botswana, JS3 stated the indicators in relation to Goals 4 and 5 did not include transgender women and were insufficient to address the experiences of lesbian women and girls.<sup>20</sup>

## C. Promotion and protection of human rights

### 1. Implementation of international human rights obligations, taking into account applicable international humanitarian law

#### *Equality and non-discrimination*

19. JS3 stated that the ongoing constitutional review resented a crucial opportunity to further enshrine the protection of women from discrimination by amending relevant sections of the Constitution that permitted such discrimination.<sup>21</sup>

#### *Right to life, liberty and security of person, and freedom from torture*

20. AI stated that people on death row had been subjected to cruel, inhuman or degrading treatment prior to their executions. The date and time of the set execution had not been not communicated to them in advance. There was a separate place where people on death row were housed, called "Cell 10". The day before a person was executed, he was transported to the "death watch" cell in the morning, where he spent the last 24 hours of his life. Notice of executions were not provided to family members and representatives and forthcoming executions were not made public. Furthermore, the bodies of those executed were usually not released to their family members for burial.<sup>22</sup>

21. Referring to a relevant supported recommendation from the previous review, JS3 stated that Botswana had not held specific public consultations on the abolition of the death penalty. According to the Government statements, there were no plans to impose a moratorium on the execution of the death penalty. JS3 considered the recommendation to have not been implemented.<sup>23</sup> CGNK encouraged Botswana to abolish the death penalty.<sup>24</sup>

22. CGNK stated that homicide data had not been made public and urged Botswana to produce comprehensive and simplified homicide data for the last five years.<sup>25</sup>

23. JS5 highlighted the prevalence of poor conditions in detention facilities, most of which need repairs that have been outstanding for years.<sup>26</sup>

#### *Administration of justice, including impunity, and the rule of law*

24. JS5 stated that court proceedings in cases had been significantly delayed for reasons which included an insufficient number of court reporters to produce records of proceedings, and failure of a magistrate or defense counsel to appear, resulting in the frequent adjournment and rescheduling of trials.<sup>27</sup>

25. Noting that that Botswana imposed a mandatory death penalty for various crimes under the Penal Code, and the Botswana Defence Force Act, 1997, AI highlighted that the Human Rights Committee had stated that “mandatory death sentences that leave domestic courts with no discretion as to whether to designate the offence as a crime warranting the death penalty, and whether to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature.”<sup>28</sup> It also highlighted that on 28 November 2019, the African Court on Human and Peoples' Rights ruled in a landmark judgement that mandatory imposition of the death penalty was unfair, because it denied the convicted person the right to be heard and present mitigating circumstances; and constituted an arbitrary deprivation of life.<sup>29</sup>

26. JS5 stated that not all of the crimes for which mandatory deaths sentences are imposed were at the level of “most serious crimes”, pursuant to Article 6(2) of the International Covenant on Civil and Political Rights.<sup>30</sup>

27. JS5 noted that the Registrar of the Court of Appeal was required to provide legal counsel to accused facing the death penalty. However, the quality of counsel that had been provided were inadequate, and legal counsel’s access to their client had often been insufficient to provide a proper defense. Appointed counsel had often been inexperienced junior lawyers.<sup>31</sup>

#### *Right to participate in public and political life*

28. Highlighting the relatively low representation of women in parliament, JS3 stated that Botswana had not adopted quotas to advance political participation of women. Also, women were not represented in party leadership positions and a lack of funding had precluded women from participating in politics. The economic empowerment of women was key to facilitating their participation at all levels of decision-making, including in political institutions.<sup>32</sup>

#### *Prohibition of all forms of slavery, including trafficking in persons*

29. ECLJ stated that Botswana had served as a source, transit and destination country for women, men and children subjected to forced labour and sex trafficking.<sup>33</sup>

30. JS3 referred to a relevant supported recommendation from the previous review and noted the signing of bilateral agreements with neighbouring countries to coordinate efforts to tackle trafficking in persons. It stated that convictions for trafficking in persons had generally been low in the previous years, and in cases where there were convictions traffickers often received suspended sentences and fines, despite the Anti-Human Trafficking Act (2014), providing for sentences of imprisonment of up to 25 years. JS3 considered the recommendation to have been partially implemented.<sup>34</sup>

31. Noting that the Anti Human Trafficking Act (2014) provided for the establishment of Trafficking Victims Fund, JS3 stated that this Fund had yet to be operational. There were also no government operated shelters for victims and no programme to rehabilitate and reintegrate victims. JS3 considered a relevant supported recommendation from the previous review to have been partially implemented.<sup>35</sup>

32. JS3 considered a supported recommendation from the previous review relating to strengthening of measures to combat trafficking in persons through the training of service providers and stakeholders to have been fully implemented. In this regard, a Human Trafficking Workshop for Media Practitioners was held to sensitize the media about the importance of reporting on cases of trafficking in persons. Also, a training to enhance the capacity of criminal justice practitioners was conducted by the United Nations Office on Drugs and Crime, in collaboration with the Ministry of Defence, Justice and Security.<sup>36</sup>

#### *Right to work and to just and favourable conditions of work*

33. JS3 stated that the National Employment Policy was launched in 2021 to provide a comprehensive set of solutions to challenges leading to unemployment.<sup>37</sup>

34. JS4 stated that whilst the buying and selling of sex was not illegal in Botswana, there are a number of legal provisions in place that prohibited a wide range of activities associated

with sex work. This had posed a material risk to sex workers, and had violated their rights to work, to health, to bodily autonomy and to be free from violence.<sup>38</sup>

35. JS3 stated that while child labour violations were criminal offences under the Employment Act (1982) and also under the Children's Act (2009), there was poor enforcement due to a shortage of labour inspectors.<sup>39</sup> It stated that reports had documented children of the indigenous Basarwa/San peoples had often been engaged in child labour on large cattle farms in Gantsi, which labour inspectors had failed to appropriately investigate.<sup>40</sup>

*Right to social security*

36. JS4 stated that during the COVID-19 pandemic, sex workers were not entitled to any kind of relief funds or social services, and found themselves indirectly excluded from government food relief programmes.<sup>41</sup>

*Right to an adequate standard of living*

37. JS3 stated that Botswana was in the process of designing a poverty eradication strategy with the purpose of ensuring that the next national development plan was aligned with the goal of poverty eradication.<sup>42</sup>

38. JS4 stated that the COVID-19 pandemic had exacerbated the economic vulnerability of sex workers, the vast majority of whom had reported engaging in sex work for financial reasons due to lack of alternative employment opportunities.<sup>43</sup>

39. JS4 stated that there was suspicion that a house was being used as a premises for sex work or that a person residing or frequenting it was living off its earnings, a magistrate may authorise police to enter and search the house, and arrest the person. This had affected the sex workers' ability to secure access to housing and to an adequate standard of living.<sup>44</sup>

*Right to health*

40. JS2 stated that 12 percent of the national budget was allocated to the health sector, which was less than the 15 percent required by the Abuja Declaration on Health; and that only a fraction of this budget allocation was channelled into sexual and reproductive health.<sup>45</sup>

41. JS1 highlighted the need for women's access to legal, safe and affordable sexual reproductive healthcare services, including abortion and access to hormonal therapy.<sup>46</sup>

42. JS1 stated that the Penal Code placed undue power in the hands of medical practitioners in determining access to safe abortion.<sup>47</sup>

43. BCU referred to four relevant supported recommendations from previous review and stated that whilst, on its face, it would likely assist in protecting people from HIV, these recommendations were too broad to ensure any meaningful implementation.<sup>48</sup>

44. Referring to relevant supported recommendations from the previous review, JS2 stated that the HIV/AIDS response had been hampered by an unusable supply of health commodities, particularly condoms and HIV test kits, and considered the recommendations to have not been fully implemented.<sup>49</sup> BCU considered these recommendations to have been implemented in part.<sup>50</sup>

45. BCU stated that Botswana had achieved the "95-95-95" targets, but that there remained a gap in awareness of HIV status, especially among young adults, particularly among young women.<sup>51</sup> It stated that education was required to tackle stigmatization related to HIV and sex work, which would ensure the wide use of self-testing.<sup>52</sup>

46. JS4 stated that sex workers were considered a key population in the HIV/AIDS response and the Government had worked with sex worker organizations and their partners to implement projects aimed at linking sex workers to with health care services. However, there was still a service delivery gap, with majority of female sex workers having never been tested for HIV. Stigma and discrimination against sex workers had affected their ability to access HIV testing and other services, with sex workers routinely experiencing discrimination at the hands of health workers.<sup>53</sup>

47. BCU stated that Botswana should abide by the International Guidelines on HIV/AIDS and Human Rights, which were published by OHCHR and UNAIDS to ensure that Member States were implementing international human rights standards on HIV.<sup>54</sup>

48. JS2 stated that adolescent pregnancy was high in Botswana and that adolescents had faced barriers in having their sexual and reproductive health needs met, which included challenges in accessing contraceptives and lack of youth-friendly health workers in clinics.<sup>55</sup>

49. JS1 stated that there was no public health care support of transgender persons to medically transition and that Botswana did not offer gender reassignment surgery. Whilst government facilities did have medication for hormonal therapy, it was often prescribed at the discretion of the medical staff.<sup>56</sup>

50. JS2 stated that Botswana was struggling to provide comprehensive sexuality education for adolescents. In secondary schools, the syllabus taught was a variation of the life skills syllabus and had insufficient information on sexual reproductive health rights. There was also no strategy or programme to provide comprehensive sexuality education to adolescents who were out of school.<sup>57</sup>

51. JS3 stated that mental health problems were a challenge for many people in Botswana, especially the youth. Accessibility to mental health services was poor.<sup>58</sup>

#### *Right to education*

52. JS3 stated access to education for girls was hindered by barriers including sexual violence, defilement, and early pregnancy. There were issues with the implementation of the policy to facilitate re-entry of girls after childbirth, which included a lack of public awareness.<sup>59</sup>

#### *Development*

53. JS3 stated that the promotion of private sector development had been crucial in the economic diversification drive in Botswana. Noting the launch of the ICT Policy Review and E-Commerce Strategy and the development of the Economic Recovery and Transformation Plan, JS3 stated that the economy was still too reliant on the extraction of diamonds, which was a depleting resource; and that the financial resources allocated for promoting entrepreneurship was insufficient. JS3 considered a relevant supported recommendation from the previous review to have been partially implemented.<sup>60</sup>

## **2. Rights of specific persons or groups**

### *Women*

54. Referring to relevant supported recommendations from the previous review relating to gender-based violence, AI stated that the situation for women had continued to deteriorate with violence against women reaching endemic levels.<sup>61</sup> JS3 stated that in response to drastic increases in gender-based violence in 2020 at the height of the lockdown in response to the COVID-19 pandemic, special courts had been set-up to handle gender-based violence cases, but that long-term orientated efforts were needed to decrease awaiting time for trials. It also stated that Botswana had involved traditional leaders in its efforts to combat gender-based violence and that under the leadership of the local government, *Dikgosi*,<sup>62</sup> a national action plan on gender-based violence was being developed, containing a training curriculum on gender-based violence for *Dikgosi*. It considered relevant supported recommendations from the previous review to have been partially implemented.<sup>63</sup>

55. JS3 stated that lesbian, gay, bisexual and transgender women had been excluded from the discourse on gender-based violence, and noted the absence of law specifically addressing homophobic rape and violence experienced by these women.<sup>64</sup>

56. JS1 recalled that at the previous review, three recommendations relating to marital rape had not enjoyed the support of Botswana but that a recommendation relating to the punishment of perpetrators of sexual violence against women and girls had enjoyed the support of Botswana, which JS1 considered to be a contradiction and reflective of the legal situation in the country. Although marital rape formed part of the continuum of violence

against women and girls, it was not considered a crime, which negatively impacted the ability of married persons who experienced sexual violence to access to justice and other human rights such the right to personal security, to bodily autonomy and to health.<sup>65</sup>

#### *Children*

57. Referring to a relevant supported recommendation from the previous review, JS3 stated that the rights of the child were enshrined in the Children's Act (2009), which was operationalised through the National Action Plan for Orphans and Vulnerable Children. In 2019, a situational analysis was conducted on the Plan but the outcome had not been published. The Children's Act (2009) established a high-level, multi-sectoral National Children's Council, the National Children's Consultative Forum, and Child Protection Committees with government and community representation. However, most Child Protection Committees had been dysfunctional and in some communities had no committees. JS3 considered the recommendation to have been partially implemented.<sup>66</sup>

58. JS2 stated that for adolescent girls, sexual gender-based violence manifests itself in child marriage, defilement, and rape. Child marriage was often justified in the name of cultural values and traditions. It stated that although the Marriage Act did not regulate religious and customary marriages and that there was weak implementation of the Children's Act. Also, adolescent pregnancy was often used as a justification to marry off adolescent girls.<sup>67</sup>

59. EV stated that corporal punishment of children was lawful in the home, alternative care settings, day care, schools and penal institutions, and as a sentence for crime. It recalled that relevant recommendations from the previous review, had not enjoyed the support of Botswana, and expressed the hope that States will recommend that Botswana enact a law prohibiting corporal punishment in all settings, as a matter of urgency.<sup>68</sup>

60. Referring to a relevant supported recommendation, which it considered to be partially implemented. JS3 stated that: (a) there was limited accessibility to the various programmes on youth empowerment and eradicating poverty, (d) the implementation of policies and programmes designed to economically empower youth was hampered by a lack of empirical research, inadequate training and mentorship, lack of monitoring and accountability, and a lack of sustainability.<sup>69</sup>

#### *Persons with disabilities*

61. JS3 stated that in order to safe guard the rights of persons with disabilities, Botswana had pledged to move away from the charity-model, which viewed persons with disabilities as the recipients of welfare, towards a right-based approach.<sup>70</sup>

#### *Lesbian, gay, bisexual, transgender and intersex persons*

62. AI stated that In November 2021, the Court of Appeal upheld a High Court judgment that declared a law criminalizing consensual same-sex sexual relations unconstitutional.<sup>71</sup> JS1 stated that although some progress had been made in repealing offending criminal legislation, there still remained Section 167 of the Penal Code, which could be used to criminalize same-sex relations between consenting lesbian, bisexual and queer women.<sup>72</sup>

63. Noting the existence of mechanisms to eliminate all forms of discrimination against women, JS1 stated all of these mechanism were rooted in a heteronormative framework that did not include lesbian, bisexual, queer and transgender women.<sup>73</sup>

64. JS1 stated that although the High Court had ordered the Government to allow transgender persons to change their gender marker, transgender persons were still required to obtain a court order to effect this change in their documentation, and called for this process to be simplified.<sup>74</sup>

#### *Refugees and asylum-seekers*

65. AI stated that the Refugee Act, which predated Botswana's accession to the Convention relating to the Status of Refugees, provided insufficient protection for refugees. Noting the reservations made to the 1951 Convention, particularly the reservations to Article

26 on freedom of movement, Article 17 on wage earning employment and Article 34 on naturalization, AI stated that refugee protection took place in a legislative and policy environment that prescribed encampment, thereby limiting freedom of movement, restrictions on employment, curtailing self-reliance and integration, and also limited options for durable solutions, in particular local integration.<sup>75</sup>

66. AI stated the right to seek and enjoy asylum in Botswana had continued to be severely limited. The status determination process for asylum seekers was intractably slow and was typified by high rejection rates and asylum seekers were detained pending their status determination. Children were routinely detained with their parents and denied social services.<sup>76</sup>

## Notes

<sup>1</sup> See A/HRC/38/8 and the addendum A/HRC/38/8/Add.1, and A/HRC/38/2.

<sup>2</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org) (one asterisk denotes a national human rights institution with A status).

### *Civil society*

#### *Individual submissions:*

AI	Amnesty International, London (United Kingdom);
BCU	The UPR Project at BCU, Centre for Human Rights, School of Law, Birmingham City University, Birmingham (United Kingdom);
CGNK	Centre for Global Nonkilling, Geneva (Switzerland);
ECLJ	European Centre for Law and Justice, Strasbourg (France);
EV	Global Partnership to End Violence Against Children, New York (United States of America).

#### *Joint submissions:*

JS1	Banana Club, Black Queer DocX, Botswana Trans Initiative, Love Loss Life, Mmammati Human Rights Hub, Iranti, Johannesburg (South Africa), Southern Africa Litigation Centre, Johannesburg (South Africa), and Sexual Rights Initiative, Geneva (Switzerland) (Joint Submission 1);
JS2	SRHR Africa Trust, Gaborone (Botswana), The PACT, and Sexual Rights Initiative, Geneva (Switzerland) (Joint Submission 2);
JS3	DITSHWANELO – The Botswana Centre for Human Rights, Media Institute of Southern Africa – Botswana Chapter, Lesbians, Gays and Bisexuals of Botswana, Letloa Trust, Rainbow Identity Association, and The Botswana Council of Non-Governmental Organisations (Joint Submission 3);
JS4	Sisonke Botswana Organization, Gaborone (Botswana), African Sex Workers Alliance, Nairobi (Kenya) and Sexual Rights Initiative, Geneva (Switzerland) (Joint Submission 4);
JS5	The Advocates for Human Rights, Minneapolis (United States of America), The World Coalition Against the Death Penalty, and Ditshwanelo (Joint Submission 5).

<sup>3</sup> BCU, para. 7.

<sup>4</sup> JS3, pp. 3–4, referring to A/HRC/38/8, para. 127.1 (Madagascar).

<sup>5</sup> BCU, para. 4. BCU made a recommendation (p. 5).

<sup>6</sup> CGNK, p. 3.

<sup>7</sup> JS5, para. 6 referring to United Nations General Assembly, *Resolution adopted by the General Assembly: Moratorium on the use of the death penalty*, (16 December 2020), A/RES/75/183.

<sup>8</sup> JS3, pp. 4–5, referring to A/HRC/38/8, para. 127.2 (Republic of Korea).

<sup>9</sup> JS3, pp. 5–6, referring to A/HRC/38/8, para. 127.26 (State of Palestine) and A/HRC/38/8/Add.1.

<sup>10</sup> JS5, para. 5, referring to A/HRC/38/8, para. 128.37 (Slovakia), para.128.38 (Zimbabwe), para. 128.43 (Niger), and para. 128.44 (Russian Federation), read together with A/HRC/38/8/Add.1.

<sup>11</sup> JS1, paras. 6–9.

<sup>12</sup> JS3, p. 6, referring to referring to A/HRC/38/8, para. 128.37 (Slovakia), read with A/HRC/38/8/Add.1.

<sup>13</sup> JS1, paras. 4 and 5.

- <sup>14</sup> JS3, p. 7, referring to A/HRC/38/8, para. 127.6 (Portugal).
- <sup>15</sup> JS3, pp. 22–23. JS3 made recommendations (p. 23).
- <sup>16</sup> JS3, pp. 7–8, referring to A/HRC/38/8, para. 127.22 (Turkiye) and para. 127.23 (Zimbabwe).
- <sup>17</sup> JS3, p.5, referring to A/HRC/38/8, para. 127.4 (Paraguay).
- <sup>18</sup> JS3, p.8, referring to A/HRC/38/8, para. 127.25 (Thailand).
- <sup>19</sup> JS3, p.8, referring to A/HRC/38/8, para. 127.63 (Ghana).
- <sup>20</sup> JS3, p. 19.
- <sup>21</sup> JS3, p. 18. JS3 made recommendations (p. 18).
- <sup>22</sup> AI, paras. 13–17. AI made recommendations, paras. 3–35. See also JS5, paras. 17–20.
- <sup>23</sup> JS3, p. 9, referring to A/HRC/38/8, para. 127.29 (Ukraine). See also JS5, para. 11. JS5 made recommendations (para. 26).
- <sup>24</sup> CGNK, p. 3.
- <sup>25</sup> CGNK, p. 4.
- <sup>26</sup> JS5, para. 21.
- <sup>27</sup> JS5, para. 25.
- <sup>28</sup> AI, para. 14, citing UN Human Rights Committee, General comment No. 36, Article 6: right to life, UN Doc.CCPR/C/GC/36, 3 September 2019, para.37.
- <sup>29</sup> AI, para. 14, citing African Court on Human and Peoples' Rights, *Ally Rajabu and Others v. United Republic of Tanzania*, Application No. 007/2015, 28 November 2019, para.114, <https://www.africancourt.org/cpmt/storage/app/uploads/public/5f5/63d/f99/5f563df99fbc7507699184.pdf>.
- <sup>30</sup> JS5, para. 9. JS5 made recommendations (para. 26).
- <sup>31</sup> JS5, para. 23. JS5 made recommendations (para. 26).
- <sup>32</sup> JS3, pp. 20–22. JS3 made recommendations (pp. 21–22).
- <sup>33</sup> ECLJ, para. 6.
- <sup>34</sup> JS3, pp. 9–10, referring to A/HRC/38/8, para. 127.37 (Syrian Arab Republic). See also ECLJ, paras. 11 and 13.
- <sup>35</sup> JS3, pp. 10–11, referring to A/HRC/38/8, para. 128.58 (Russian Federation). JS3 made recommendations (p. 11).
- <sup>36</sup> JS3, p. 10, referring to A/HRC/38/8, para. 127.28 (Maldives). See also ECLJ, para. 13.
- <sup>37</sup> JS3, para. 30.
- <sup>38</sup> JS4, para. 1.
- <sup>39</sup> JS3, p. 15.
- <sup>40</sup> JS3, p. 12. JS3 made a recommendation (p. 13).
- <sup>41</sup> JS4, para. 5.
- <sup>42</sup> JS3, p. 30.
- <sup>43</sup> JS4, para. 5.
- <sup>44</sup> JS4, para. 11.
- <sup>45</sup> JS2, para. 5.
- <sup>46</sup> JS1, para. 5.
- <sup>47</sup> JS1, para. 37. JS1 made recommendations (p. 10).
- <sup>48</sup> BCU, para. 9, referring to A/HRC/38/8, para. 127.56 (Senegal), para. 127.57 (Ukraine), para. 127.58 (Azerbaijan) and para. 127.60 (Ethiopia).
- <sup>49</sup> JS2, paras. 16 and 20, referring to A/HRC/38/8, para. 127.54 (India) and para. 127.55 (Indonesia). JS2 made a recommendation (p. 7).
- <sup>50</sup> BCU, para. 10. BCU also referred to A/HRC/38/8, para. 127.59 (Myanmar).
- <sup>51</sup> BCU, para. 10.
- <sup>52</sup> BCU, para. 14.
- <sup>53</sup> JS4, paras. 17 and 18.
- <sup>54</sup> BCU, para. 6, referring to OHCHR & UNAIDS, 'International Guidelines on HIV/AIDS and Human Rights' (2006) <[www.ohchr.org/Documents/Publications/HIVAIDSGuidelinesen.pdf](http://www.ohchr.org/Documents/Publications/HIVAIDSGuidelinesen.pdf)>.
- <sup>55</sup> JS2, paras. 21 and 22. JS2 made a recommendation (p. 7).
- <sup>56</sup> JS1, para. 32. JS1 made a recommendation (p. 10).
- <sup>57</sup> JS2, paras. 13–15. JS2 made a recommendation (p. 7).
- <sup>58</sup> JS3, p. 27. JS3 made recommendations (p. 27).
- <sup>59</sup> JS3, pp. 18–19. JS3 made recommendations (p. 19).
- <sup>60</sup> JS3, pp. 28–29, referring to A/HRC/38/8, para. 127.27 (Indonesia).
- <sup>61</sup> AI, paras. 6, 18 and 19, referring to A/HRC/38/8, para. 127.31 (Australia), para. 127.32 (Belgium), para. 127.60 (Ethiopia), para. 127.73 (Mexico), para. 128.48 (Indonesia), read together with A/HRC/38/8/Add.1, AI made recommendations (paras. 36–39).
- <sup>62</sup> *Dikgosi* is the Setswana word for Chiefs, and refers the traditional leaders (JS3, p. 24, fn. 92).
- <sup>63</sup> JS3, pp. 24–25, referring to A/HRC/38/8, para. 127.31 (Australia) and para. 127. 33 (Belgium). JS3

made recommendations (p. 25).

<sup>64</sup> JS3, p. 20.

<sup>65</sup> JS1, paras. 10–15. JS1 made a recommendation (p. 10). See also JS3, p. 25; and AI, para. 21. AI made a recommendation (para. 40).

<sup>66</sup> JS3, pp. 12–13, referring to A/HRC/38/8, para. 127.70 (Cuba). JS3 made recommendations (p. 14).

<sup>67</sup> JS2, paras. 32, 34 and 35. See also JS3, p. 19.

<sup>68</sup> EV, pp. 1–2, referring to A/HRC/38/8, para. 129. 41 (Russian Federation), para.129.42 (Estonia), para. 129.43 (Kenya), and para.129.44 (Liechtenstein). See also, AI, paras. 3 and 12. AI made a recommendation (para. 29).

<sup>69</sup> JS3, p. 26.

<sup>70</sup> JS3, p. 16.

<sup>71</sup> AI, para. 2, referring to <sup>71</sup> *The Attorney-General v Letsweletse Motshidiemang* (LEGABIBO as amicus curiae) CACGB-157-19.

<sup>72</sup> JS1, paras. 41–48.

<sup>73</sup> JS1, paras. 18 and 19. See also JS3, p. 19.

<sup>74</sup> JS1, para. 28, citing *ND v Attorney General of Botswana and Another*, MAHGB-000449-15, 29 September 2017, para 80. JS1 made a recommendation (p. 10).

<sup>75</sup> AI, para. 23. AI made recommendations (paras. 41 and 44–46).

<sup>76</sup> AI, paras. 24–26. AI made recommendations (paras. 42 and 43).

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