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### **Draft report of the Working Group on the Universal Periodic Review\***

#### **Botswana**

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\* The final document will be issued under the symbol A/HRC/23/7. The annex to the present report is circulated as received.

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## Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its fifteenth session from 21 January to 1 February 2013. The review of Botswana was held at the 5<sup>th</sup> meeting on 23 January 2013. The delegation of Botswana was headed by Mr. Dikgakgamatso Ramadeluka Seretse. At its 10th meeting held on 25 January 2013, the Working Group adopted the report on Botswana.
2. On 14 January 2013, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Botswana: Austria, Poland and Uganda.
3. In accordance with paragraph 15 of the annex to resolution 5/1 and paragraph 5 of the annex to resolution 16/21, the following documents were issued for the review of Botswana:
  - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/15/BWA/1);
  - (b) A compilation prepared by OHCHR in accordance with paragraph 15 (b) (A/HRC/WG.6/15/BWA/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/15/BWA/3).
4. A list of questions prepared in advance by Czech Republic, Mexico, Netherlands, Norway, Slovenia, Spain, The United Kingdom of Great Britain and Northern Ireland was transmitted to Botswana through the troika. These questions are available on the extranet of the UPR.

## I. Summary of the proceedings of the review process

### A. Presentation by the State under review

5. The delegation stated that it was happy to see that the UPR had retained its form, following the review of the work and functioning of the Human Rights Council. The successful completion of the first cycle of the UPR epitomised the achievement of the Human Rights Council in discharging its mandate.
6. The delegation stated that the value of the UPR depended on the acceptance by Member States that the promotion and protection of human rights can no longer be a side issue in the global discourse of human development.
7. In introducing Botswana's National Report, the delegation highlighted that this Report was a product of broad consultations involving Government, civil society and nongovernmental organisations.
8. The delegation stated that Botswana continued to live up to its obligations as a democracy, particularly as it observed the rule of law, fundamental freedoms and good governance characterised by consultations and inclusiveness, as well due regard for the will of its people.
9. In addition, the delegation stated that the Government placed a high premium in resourcing the institutions that dealt with the promotion and protection of human rights, including the Office of the Ombudsman, the Directorate of Public Prosecutions, the Police Service, the Prisons Service, and the Directorate on Corruption and Economic Crime.

10. In order to protect and safeguard the interests of all the people from possible police misconduct, such as torture, corruption and other forms of malpractice, the delegation stated that in 2011 a motion was adopted towards the creation of the Independent Police Complaints Commission.

11. Furthermore, in 2009, a woman was elected head of the Legislature. This election was an addition to key appointments of women to positions of leadership, which included that of the Governor of the Central Bank of Botswana, the Attorney General, and the Ombudsman. In the public service sector, female leadership stood at over forty percent.

12. With regard to access to justice, the delegation stated that more Specialised Courts have been established. This effort was further augmented by the extension of the Judicial Case Management System from the High Court to lower Courts with a view to improving case management and facilitate speedy resolution. In addition, the Government introduced a pilot project on Legal Aid in 2011, to promote greater access to justice by needy citizens.

13. The delegation stated that the Government continued to pay particular attention to the rights of women, children and the youth. Public education on HIV/AIDS, gender-based violence and gender sensitisation initiatives were adopted.

14. In 2009, the Convention on the Rights of the Child was domesticated through the enactment of the new Children's Act, incorporating the Bill of Child Rights.

15. A comprehensive six-year (2010-2016) National Action Plan for Orphans and Vulnerable Children had been adopted to facilitate the welfare and protection of vulnerable children.

16. The delegation stated that the Government made these strides, despite its small and vulnerable economy.

17. The delegation underscored Botswana's need for assistance and support. Most urgently, the country needed support towards the development of a comprehensive strategy and action plan on human rights and its willingness to engage with local and international partners.

18. The delegation stated that the Government had not made any changes to the clemency procedure since 2008, since this procedure was considered sufficiently transparent so as not to warrant any review.

19. The delegation indicated that there was no legislation specifically addressing marital rape. This was a sensitive matter that hinged on established cultural beliefs. Wide consultations with the public and legislators were on-going.

20. Furthermore, the delegation stated that the Government put in place a comprehensive public education and awareness programme to disseminate information on the Domestic Violence Act. The Government was at an advanced stage of developing Regulations to the Domestic Violence Act to improve implementation.

21. The delegation informed that a number of initiatives were also being developed, including the establishment of the Gender Based Violence Referral System, which primarily aimed at promoting closer collaboration among key service providers for survivors and perpetrators. The Government was currently validating the 2012 Gender Based Violence Indicators Study, which was due for completion in September 2013.

22. The delegation indicated that the National Gender Machinery continued to work with the Botswana Police Service to train Police Officers on gender-based violence issues. Active engagement of faith based organisations was also acknowledged. The Government also continued to support civil society organisations providing gender-based violence

related services, mostly to women and children, through subventions to carryout operations, as well as to fund specific activities.

23. The delegation stated that an inter-ministerial initiative was in place to address gender-based violence from a criminal justice perspective, to augment all other existing initiatives and programmes.

24. The delegation informed that the Government has not taken any additional measures subsequent to the 2010 Employment Act amendment, regarding the issue of sexual orientation. However, the delegation clarified that the Penal Code still proscribed unnatural acts involving persons who have canal knowledge of others against the order of nature.

25. The delegation stated that the Government continued to engage the Basarwa through established structures, with a view to ensuring a sustainable solution to the Central Kgalagadi Game Reserve (CKGR) matter. Several programmes were being implemented, including poverty eradication, affirmative action, education for all, community-based natural resource management planning, and effective utilisation of wildlife management areas.

26. The delegation stated that the Government was working with the CKGR NGO Coalition that was producing a community based land use management plan within the CKGR, intended to address government policies for the conservation of the CKGR biodiversity and wildlife resources.

27. Regarding measures to speed up responses by Government Departments to the requests of the Office of the Ombudsman, the delegation stated that all Departments have been urged to respond promptly to enquiries by the Office of the Ombudsman. Non-compliance may affect the grading of a given Ministry or Department during periodic Ministerial Reviews and could result in severe consequences.

28. Regarding steps taken to ensure equal access for women to education and justice, the delegation stated that there were no institutionalized impediments to education for women.

29. On access to justice, the delegation stated that all persons within the territory of Botswana have access to national courts of civil and criminal jurisdiction. The Abolition of the Marital Power Act of 2005 changed the initial position prohibiting women from bringing an action in the courts without their husband's assistance. In addition, the Rules of the High Court recognize women's unlimited access to the High Court and that a spouse can sue and be sued without the assistance of the other.

30. The delegation stated that the Government continued to comply with international standards in the treatment of prisoners. Regarding overcrowding in prisons, the Government had embarked on a study with the assistance of the Commonwealth Secretariat to develop alternatives to imprisonment. This was in addition to a number of measures already being implemented such as remission and extramural provisions, already contained in the legislation.

31. Regarding the recommendations made by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, the delegation stated that the Government did not recognize any specific group as more indigenous than others. All groups were considered to be indigene to the land. However, the delegation indicated that Botswana recognized that not all groups were at the same level of development for various reasons. The Government introduced preferential strategies to absorb such communities into the mainstream of the country's economy, including through employment and education. The Government was also actively pursuing affirmative action measures for remote area communities in order to promote social inclusion and equal opportunities for meaningful participation in the development process. In this regard, special dispensation

was given for the employment of members of these communities in the police and defence forces, and in the civil service in general.

32. The delegation stated that the Economic Diversification Drive Policy was adopted in 2010. This was aimed at improving livelihoods and food security at household level, especially in rural and remote areas. Additionally, the Livestock Management and Infrastructure Development programme was specifically designed to improve the economic status of Botswana in rural areas.

33. In education, the delegation stated that a number of policies and strategies have been put in place to ensure that women and the girl-child are not discriminated against. Student girls who fall pregnant were no longer required to discontinue from school.

34. Regarding empowerment of persons with disabilities, the delegation stated that since 2010, the Coordinating Office for People with Disabilities has been established. The Office designated disability coordinating structures in all government Ministries and Departments at national and district levels. The Office also undertook continuing review of the laws for adequate provision for people with disabilities, and the development of a disability strategy.

35. The delegation noted that there were several obstacles, such as lack of resources to modify the environment to accommodate people with disabilities, lack of skilled personnel, and lack of appropriate training facilities for students with disabilities.

36. Regarding measures to discourage practices that were detrimental to women's rights, the delegation stated that measures such as public awareness and educational campaigns, legislative reform, particularly in relation to equal right to inheritance by women and men were adopted. The Government also took a decision to cascade the campaign to traditional leaders (Dikgosi), with a view to eliminate negative traditional and cultural practices.

37. Regarding safer environment in prisons and reduction of health risks, the delegation stated that the Government introduced human rights education in the training curriculum for prison staff. Furthermore, training was provided by health education officers in District Health Management Teams to ensure continuous health education including on HIV/AIDS to prison population. Health education officers also provide education on other public health interventions including hygiene. These measures were designed to ensure a safer environment in prisons and reduction of health risks.

## **B. Interactive dialogue and responses by the State under review**

38. During the interactive dialogue, 68 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

39. Thailand commended human rights education in schools and equality of access to education for HIV/AIDS orphans, and noted efforts to promote gender equality. Work to discourage customary practices that were detrimental to women's rights was welcomed, despite patriarchal attitudes and stereotypes of women. Thailand made recommendations.

40. Tomor Leste commended Botswana's accession to human rights treaties and noted specific strategies to protect and promote the rights of women, children and youth. However, it was concerned at reports of corporal punishment at home and in schools. Timor-Leste made recommendations.

41. Togo noted the opening of special courts, which had improved access to justice and case processing and had eased delays. The measures taken by Botswana to improve living conditions for women, children and young people were welcomed. Togo made recommendations.

42. Tunisia took note of the improved access to justice and protection for the rights of women, children and young people. It stated that measures promoting gender equality were welcomed, alongside youth programmes and the National Children's Council. It further noted the consultations to establish a national human rights institution compliant with the Paris Principles. Tunisia made recommendations.
43. Turkey welcomed Botswana's commitment to democracy, good governance, the rule of law and respect for human rights. Achievements in the fight against corruption and the preparation of the Anti-Human Trafficking Bill were commended. Turkey made recommendations.
44. Uganda noted impressive achievements in the provision of anti-retroviral therapies to refugees and the development of HIV awareness campaigns targeting the refugee community. Uganda also noted that introducing human rights issues to the education curriculum would provide young people with a broad education. Uganda made a recommendation.
45. The United Kingdom of Great Britain and Northern Ireland took note of the positive progress with regard to children's rights, prison conditions and HIV/AIDS awareness. It expressed disappointment with the criminalization of homosexuality. Also, application of the death penalty and a lack of transparency over final decisions for executions were regrettable. Progress in negotiations between the Government and the San residents of the Central Kalahari Game Reserve was a matter of urgency. Closer attention should be given women's rights. It made recommendations.
46. The United States of America applauded the High Court's decision to overturn customary law disinheriting women, while expressing concern that traditional practices continued to limit women's property rights in rural areas. It also expressed concern about low reporting rates of domestic violence and persisting impunity. It expressed concern on a narrow interpretation by the High Court, which prevented hundreds of San people from living and hunting on their ancestral lands. It made recommendations.
47. Uruguay noted the progress in the fields of youth development, children's rights and human rights education. A public debate on the death penalty, with a view to abolishment, would be useful. Women's rights in marriage and customary law raised concerns, as did the arrangements for children's courts. Uruguay made recommendations.
48. Viet Nam acknowledged the achievements made in recent years, particularly the improvement in health care and establishment of the Coordinating Office for People with Disabilities. It made a recommendation.
49. Zimbabwe commended measures to improve access to justice and speed up case processing, the enactment of the Children's Act incorporating key provisions of CRC, increased financial support for the Ombudsman, introducing human rights education in schools, and the establishment of the Office for People with Disabilities. Zimbabwe made recommendations.
50. Algeria noted progress in the promotion of women's rights, particularly the election of a female speaker to parliament, and improved access to justice. It also noted the ratification of international and regional instruments, the launch of youth development programmes and the revision of national health policy. Algeria made recommendations.
51. Angola noted legislation and strategies aimed at children and youth, the National Strategy for Poverty Eradication, the empowerment of women in rural areas, and the establishment of several new institutions. Progress in the field of health was welcomed, particularly the measures introduced for persons living with HIV. Angola made a recommendation.

52. Argentina welcomed the establishment of the National Children's Council and the launch of plan for monitoring and evaluation under the framework of the national plan to combat HIV/AIDS. Argentina made recommendations.
53. Armenia welcomed the ratification of several international conventions and the introduction of an implementation mechanism for international human rights obligations. It noted initiatives taken to promote education and development, as well as measures to improve women's lives through public campaigns and improved legislation. Armenia made recommendations.
54. Australia acknowledged the enactment and promotion of the Domestic Violence Act of 2008. Australia made recommendations.
55. Brazil noted the progress in combating gender-based discrimination, in particular the High Court's landmark decision revoking a customary inheritance law that discriminated against women. Brazil made recommendations.
56. Burkina Faso encouraged further ratifications of international human rights treaties. It noted efforts made in the legal sphere and intentions to establish a national human rights institution. Restrictions had been identified on certain rights, including the right of refugees to education. It made recommendations.
57. Burundi commended Botswana for its efforts with regard to the empowerment of women. It was pleased to note that gender equality and the campaign to combat violence against women were priorities. It urged Botswana to continue its initiative to support HIV/AIDS orphans. Burundi made a recommendation.
58. Canada asked about plans to continue promoting the empowerment of women and the protection of their rights, and how it intended to address concerns about inequality under customary laws and practices. Work with regional partners to spread a culture of respect for human rights should be maintained. Canada made recommendations.
59. Cape Verde noted the legislative and institutional measures taken to improve the human rights situation. It encouraged Botswana to persist in its efforts in the field of human rights, despite a difficult background of traditional social practices. Cape Verde made recommendations.
60. Chad noted the Independent Electoral Commission and the Office of the Ombudsman. It welcomed measures for women's empowerment, the incorporation of CRC into national law and the launch of youth development programmes Chad made a recommendation.
61. Chile noted that Botswana would soon meet the second and the seventh Millennium Development Goals. Work to establish a national human rights institution was welcomed. Chile made recommendations.
62. China commended the progress made in the field of poverty reduction and noted the efforts taken to protect women's and children's rights. Although new HIV infection rates had fallen, due to improved prevention and treatment, many challenges remained. China made a recommendation.
63. Congo noted the adoption of new legislation on childhood, including a charter of rights, and youth development programmes. Although significant progress had been made in attaining the Millennium Development Goals, challenges remained with regard to economic, social and cultural rights. . It made recommendations.
64. Costa Rica emphasized achievements in the field of women's rights and their empowerment and participation in public life. The election of the first woman speaker to



the parliament was noted. The management of environmental resources was welcomed. It made recommendations.

65. Côte d'Ivoire welcomed the establishment of the Coordinating Office for People with Disabilities and the National Action Plan for Children. Botswana was encouraged to establish a national human rights institution in accordance with the Paris Principles, and to strengthen its cooperation with the treaty bodies of the United Nations.

66. Cuba stated that Botswana's efforts in respecting human rights and in particular the rights of children, women, minorities, persons with disabilities and disadvantaged groups, attested to its commitment to promote and protect human rights. Cuba noted improvements to national health-care coverage, particularly for HIV/AIDS sufferers. Cuba made a recommendation.

67. Cyprus welcomed Botswana's ratification of the Convention for the Safeguarding of the Intangible Cultural Heritage in 2010 and its recent entry into the UNESCO Harare Cluster. Cyprus made a recommendation.

68. The Czech Republic commended the strengthening of the human rights framework, noting in particular education programmes promoting human rights and the adoption of the Domestic Violence Act of 2008. It made recommendations.

69. Djibouti noted the on-going efforts of Botswana to promote and protect human rights and to foster social cohesion, despite numerous obstacles. It made recommendations.

70. Ecuador noted Botswana's efforts to eradicate gender-based violence, the establishment of a coordinating office for persons with disabilities and the Vision 2016 programme. It also noted efforts to provide health care and education for refugees. Ecuador made recommendations.

71. Egypt noted the efforts to uphold the fundamental principles of international human rights law and remarked on the support for human rights provided by its strong institutional framework. It welcomed the accession to core international human rights treaties, including CERD, CRC and CEDAW. Egypt made recommendations.

72. Estonia welcomed the work on gender equality and women's rights, including sexual and reproductive rights. It encouraged Botswana to implement Security Council resolution 1325, to combat gender-based discrimination, and to eliminate early and forced marriage. Estonia made a recommendation.

73. Ethiopia commended the progress made by Botswana in implementing accepted recommendations of the first UPR cycle and noted with satisfaction that important steps had been taken to promote and protect the rights of women, children and persons with disabilities. Ethiopia made a recommendation.

74. Finland enquired about measures to implement the recommendations of the Special Rapporteur and what the situation was regarding recognition of the concept "indigenous peoples". It also asked what further measures would be taken to address the special needs of indigenous children, especially regarding the right to education. Finland made recommendations.

75. France welcomed the considerable advances made in human rights in Botswana and encouraged the Government to maintain its commitment to the universality of human rights. France made recommendations.

76. Germany commended the efforts of Botswana to establish an independent human rights institution in accordance with the Paris Principles and encouraged it to take swift action in line with the advice of the Office of the High Commissioner for Human Rights. Germany made recommendations.

77. Guatemala welcomed the adoption of legislation on domestic violence and urged Botswana to implement the recommendation of the CEDAW to remove obstacles to women's access to justice. It stated that the provisions of legislation on matrimonial issues should apply both to religious and customary marriages. Guatemala made a recommendation.

78. Hungary recognized that reforming primary education was difficult when over 60 per cent of the population spoke minority languages. It noted the new legislative and policy measures to better implement the CRC, but remained concerned that the minimum age of criminal responsibility was eight years. Hungary made recommendations.

79. Indonesia welcomed the introduction of the National Strategy for Poverty Eradication, which had already contributed to a significant reduction in poverty. It commended efforts in the area of children's rights, including incorporating the provisions of the CRC into new legislation and establishing relevant bodies and plans. Indonesia made recommendations.

80. Ireland expressed concern about continuing issues relating to equal rights for minority tribes and encouraged Botswana to ensure relevant court judgements were implemented. It welcomed efforts to raise awareness of women's rights and mainstream gender issues, but was concerned at reports that three-fifths of women were victims of gender-based violence. Ireland made recommendations.

81. Italy welcomed endeavours to eradicate poverty and protect freedom of religion. It asked how the recommendations of the Special Rapporteur were being implemented and how it intended to guarantee non-dominant indigenous groups full enjoyment of their rights. Italy made recommendations.

82. Kenya commended Botswana on progress made in implementing the recommendations of the 1<sup>st</sup> UPR cycle, particularly relating to the provision of basic social services. It noted that Botswana was well on the way to achieving MDG 2 and 7 by 2015. Kenya made recommendations.

83. Kuwait commended Botswana on creating a strong legislative institutional framework, steps taken to fulfil its international human rights obligations and its accession to regional and international treaties. It also commended Vision 2016, which was a step towards achieving economic recovery and the eradication of poverty. Kuwait made recommendations.

84. Latvia noted with appreciation that Botswana had shown openness in its cooperation with special procedures mandate-holders of the Human Rights Council. Latvia made a recommendation.

85. Liechtenstein expressed concern that the Children's Act failed to prohibit corporal punishment in any setting. It was also concerned about the unequal status of women in marriage and the family and the lack of focus on women in poverty reduction strategies. Liechtenstein made recommendations.

86. Malaysia noted with appreciation the significant strides and continued efforts in upholding the rights of children, women, minorities, persons with disabilities and disadvantaged groups, but further noted that Botswana continued to face serious challenges, particularly relating to refugees and education. Malaysia made recommendations.

87. Mauritania welcomed efforts to guarantee access to justice and the rights of children, women, persons with disabilities and minority and disadvantaged groups, to eradicate poverty and to improve the situation of indigenous people. It encouraged continued promotion of cultural diversity and the establishment of an independent national institution in accordance with the Paris Principles.

88. Mexico encouraged the Supreme Court of Botswana to continue reviewing customary practices that discriminated against women. It noted that, in response to Mexico's recommendation, Botswana had adopted a preferential strategy on indigenous peoples and had received a visit by the Special Rapporteur in April 2009. Mexico made recommendations.

89. Morocco commended Botswana's commitment to human rights principles and respect for the rights of children, women and persons with disabilities. It also commended efforts to combat HIV/AIDS, including making special provision for migrants, refugees, HIV-positive mothers and their infected children and raising awareness among prisoners. Morocco made recommendations.

90. In response to the questions raised from the floor, the Delegation stated that the Constitution is the supreme law of the land. Cultural practices that are deemed to be inconsistent with the Constitution would not prevail, if challenged.

91. Furthermore, the delegation stated that, as a predominantly Christian nation, Botswana has not reached a stage where it can accept same-sex activities. It would be necessary to engage in educational campaigns on this issue so that when the laws are changed, the people are carried along.

92. Regarding cultural sensitivities that have a bearing on existing legislation, the delegation confirmed Botswana's commitment to comply with its treaty obligations. In this regard, the Government was determined to undertake educational awareness campaigns with a view to bring up these issues, including sexual orientation, corporal punishment and death penalty. Thus far, public consultations have confirmed that Botswana still support the retention of corporal punishment, death penalty and the criminalization of same sex activities.

93. The delegation also stated that wildlife management areas outside the CKGR were established with a view to preserve the eco-system and promote sustainable tourism. Special hunting licenses had been issued for hunting in the wildlife management areas. However the hunting should be undertaken using traditional methods, and not for commercial purposes using sporting rifles.

94. The delegation stated that, as a country that fully upholds the rule of law, Botswana had fully implemented Court decision on the CKGR case. In addition, Government had taken a decision to provide water for residents of the CKGR.

95. In respect to education for remote area dwellers, Government has provided boarding facilities to encourage parents to give their children an opportunity to go to school. For those in the CKGR, boarding facilities have been established outside the Reserve, in areas such as New Xade. The Children's Act provides that all children be afforded an opportunity to attend school, and parents denying their children that opportunity could face prosecution.

96. Namibia commended Botswana's efforts to improve the promotion and protection of human rights in particular advances made in women and children's rights and in poverty reduction, including the special focus on youth development and education programmes. Namibia made recommendations.

97. Netherlands commended Botswana on progress made since the 1<sup>st</sup> UPR cycle, but noted that challenges remained, including discrimination and violence against women and girls and the LGBT community and criminalization of same sex activities. It noted that Botswana considered education to be the key to changing culturally-rooted prejudices. Netherlands made recommendations.

98. New Zealand welcomed the increased attention to gender issues, but noted concerns at the high rate of maternal mortality and the lack of a strategic plan to address the problem.

It requested more details on the women and health focus of its National Gender Programme, particularly to address maternal mortality. New Zealand made recommendations.

99. Norway welcomed the focus on indigenous groups, women and the judicial system since the previous report. Violence and discrimination against women remained a challenge and Norway was concerned that the prevalent use of customary law prevented women from enjoying as much protection as men. Norway made recommendations.

100. State of Palestine noted Botswana's commitment to upholding the rights of children, women, persons with disabilities and minority and disadvantaged groups. It commended the adoption of public education initiatives such as gender awareness-raising and affirmative action for women empowerment. It made recommendations.

101. Paraguay noted the incorporation into national legislation of a number of international treaties, and enquired what legislative initiatives would be given priority in the near future. As a land-locked country, it urged Botswana to demand its right to preferential treatment to pursue its right to development, particularly in relations with neighbouring countries. Paraguay made recommendations.

102. Philippines commended Botswana's ratification of several core human rights treaties and the readiness to fulfil its obligations. It welcomed efforts to mainstream human rights in education noting that the target of universal primary education by 2015 was achievable. Philippines made a recommendation.

103. Romania welcomed the creation of specialized courts, the adoption of the new Children's Act and the establishment of the National Children's Council. It applauded the election of the first female speaker of the National Assembly and encouraged Botswana to strengthen institutions to eliminate discrimination of women. Romania made recommendations.

104. Rwanda commended Botswana on creating specialized courts, which had improved access to justice, and the adoption of awareness-raising initiatives on gender issues to educate the public on women's rights. Rwanda made recommendations.

105. Senegal noted the considerable progress made by Botswana in improving human rights in the follow-up to the recommendations of the 1<sup>st</sup> UPR cycle, particularly in the justice system and in promoting and protecting the rights of women, children and persons with disabilities. Senegal made recommendations.

106. Singapore noted that Botswana's persistent efforts were leading to a steady reduction in poverty and increase in its Human Development Index and that it was on track to achieve universal primary education and a reduction in school dropouts. It also noted Botswana's success in lowering the prevalence of HIV/AIDS. Singapore made recommendations.

107. Slovakia acknowledged Botswana's commitment to following up the recommendations of the 1<sup>st</sup> UPR cycle. Particularly noteworthy was the adoption of the Domestic Violence Act and the new Children's Act and the progress towards achieving MDGs 2 and 7. Slovakia made recommendations.

108. Slovenia commended the efforts to meet its international human rights obligations. There were gaps to fill, however, such as the failure of the new Children's Act to prohibit corporal punishment in any setting and the lack of authority, capacity and resources allocated to the Women's Affairs Department. Slovenia made recommendations.

109. South Africa noted that Botswana remained committed to fulfilling its international human rights obligations, notwithstanding the obstacles and constraints present. It called on

the international community to assist Botswana with the capacity-building and technical assistance it had requested. South Africa made recommendations.

110. Spain said that the climate of peace and political stability prevailing in Botswana and its effective macroeconomic management had enabled the development of human rights promotion and protection. It welcomed the reform of school curricula to include education in human rights and fundamental freedoms from early childhood. Spain made recommendations.

111. Sri Lanka noted Botswana's commitment to eradicating poverty, which had been steadily declining since 2009. It acknowledged progress made in the health sector, and efforts to protect and promote the rights of women and children, but was concerned that three-fifths of women were victims of gender-based violence. Sri Lanka made recommendations.

112. Lesotho stated that the ratification of almost all the core human rights treaties was a testament to Botswana's commitment to enhancing human rights. Moreover, it had strengthened its institutional framework and enacted legislation to protect human rights in accordance with its Constitution and international obligations. Lesotho made a recommendation.

113. Bangladesh was impressed by government efforts to promote and protect human rights in Botswana, not least through taking steps to improve the socio-economic development of its citizens. Nonetheless, the country had many challenges, which could be overcome with the assistance of the international community. Bangladesh made recommendations.

114. In concluding, the delegation noted the recommendations from various delegations, with a view to accept as many as possible, within the framework of its laws and policies; and indicated that they would contribute significantly to the improvement of Botswana's human rights situation.

## II. Conclusions and/or recommendations

115. **The recommendations listed below have been examined by Botswana and enjoy its support:**

115.1. **Incorporate into domestic law the provisions of the treaties that Botswana has freely acceded (Chad);**

115.2 **Ensure that the provisions contained in the international human rights instruments which Botswana has ratified are transposed into national law (France);**

115.3. **Complete the process of fully implementing its obligations under the Rome Statute into domestic law, in particular by adopting provisions that allow for full cooperation with the International Criminal Court (Liechtenstein);**

115.4. **Ensure full alignment of its national legislation with all obligations under the Rome Statute of the International Criminal Court (Slovakia);**

115.5. **Continue to implement national laws in accordance with its treaty obligations (Lesotho);<sup>1</sup>**

<sup>1</sup> The recommendation made during the interactive dialogue was as follows: "Continue to implement national laws in accordance with the universally agreed human rights norms and principles

- 115.6. Envisage increasing the budget allocation to the Office of the Ombudsman in order to enable it to efficiently investigate human rights matters, and create a National Human Rights Institution in line with the Paris Principles (Morocco);
- 115.7. Prioritise the establishment of a national human rights institution, in line with the Paris Principles and ensure the allocation of necessary human and financial resources to this institution (South Africa);
- 115.8. Accelerate its efforts with a view to creating an independent national human rights institution in line with the Paris Principles (Togo);
- 115.9. Accelerate its efforts to effectively set up a national human rights institution in line with the Paris Principles (Tunisia);
- 115.10. Accelerate actions to establish a national human rights institution (Chile);
- 115.11. Continue working towards the establishment of a national human rights institution in accordance with the Paris Principles (New Zealand);
- 115.12. Accelerate the process towards establishing a national human rights institution in accordance with relevant international standards (Kenya);
- 115.13. Form a national human rights institution in compliance with the Paris Principles (Turkey);
- 115.14. Put in place an independent national human rights institution, in accordance with the Paris Principles (Burundi);
- 115.15. Intensify its efforts to make effective the work to establish a national human rights commission in compliance with the Paris Principles (Burkina Faso);
- 115.16. Intensify efforts to establish a national human rights commission conforming to the Paris Principles (Djibouti);
- 115.17. Accelerate the creation of an independent national human rights institution conforming to the Paris Principles, or extend the mandate of the mediator to human rights (France);
- 115.18. Expedite efforts to establish a national human rights institution and a national human rights strategy (Australia);
- 115.19. Continue efforts to further promote human rights, democracy and rule of law (Turkey);
- 115.20. Adopt a national human rights action plan (Mexico);
- 115.21. Consider prioritizing the stated objective of developing a comprehensive national action plan for human rights (South Africa);
- 115.22. Formulate a national plan of action for the implementation of accepted recommendations (Turkey);
- 115.23. Enhance capacity-building in its pro-poor and results-based development planning policy and programmes (Zimbabwe);

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(Lesotho).”

- 115.24. Continue implementation of the National Monitoring and Evaluation Plan for the National Operational Plan for HIV and AIDS (2012-2016) (Algeria);
- 115.25. Continue implementation of the National Strategy for Poverty Eradication (Algeria);
- 115.26. Carry out efforts in the area of poverty eradication (Senegal);
- 115.27. Continue to implement its National Strategy for Poverty Eradication and ensure access to quality education for all (Singapore);
- 115.28. Continue its efforts to promote social and economic development and prioritize poverty reduction in its national development, to enable its people to enjoy human rights on a solid economic foundation (China);
- 115.29. Continue implementing the National Strategy to Eradicate Poverty and continue with its actions aimed at improving the health care coverage (Cuba);
- 115.30. Continue to implement the National Strategy to enable further poverty reduction in Botswana (Indonesia);
- 115.31. In assistance with its Development Partners, continue its fight against poverty (Bangladesh);
- 115.32. Continue implementing its national youth development programme as one of the means to alleviate poverty in the country (Malaysia);
- 115.33. Continue implementation of the National Operational Framework for HIV and AIDS for the period 2012-2016 and the National Strategic Operational Plan for HIV/AIDS 2011-2016 (Angola);
- 115.34. Accelerate the implementation of the National Action Plan for Children for 2006-2016 (Romania);
- 115.35. Include a gender perspective into its policies and programmes to combat HIV/AIDS, taking into account what has been pointed out by CEDAW (Chile);
- 115.36. Continue to promote human rights education (Armenia);
- 115.37. Continue to raise awareness on harmful cultural norms and traditional practices as well as human rights education in primary school system (Ethiopia);
- 115.38. Seek support and assistance from international institutions in dealing with the challenges that constrain the effective realization of certain rights, particularly the right to education and the protection of refugees (Burkina Faso);
- 115.39. Accelerate the implementation of the Action Plan to enable targeted programming and interventions for the welfare and protection of the most vulnerable children in Botswana (Indonesia);
- 115.40. Continue to seek the necessary assistance from civil society to reach the goals of the Vision 2016 (Kuwait);
- 115.41. Continue reviewing and reforming Government programs, as needed, to ensure that they do not discriminate against particular groups (Palestine);

- 115.42. Provide human rights training on an on-going basis for the disciplined forces (South Africa);
- 115.43. Strengthen the Women's Affairs Department located within the Ministry of Labour and Home Affairs by providing it with authority, decision-making power, and human and financial resources (Slovenia);
- 115.44. Continue to implement agreed recommendations and other domestic and international obligations such as treaty body reporting (Zimbabwe);
- 115.45. Continue to cooperate with the Human Rights Council and its mechanisms (Guatemala);
- 115.46. Take the necessary measures to combat discrimination against women, strengthen its domestic legislation on the rights of women and adequately enforce CEDAW provisions (Italy);
- 115.47. Continue strengthening the necessary policies to promote gender equality, with a focus on education, on adopting awareness campaigns for the population against gender violence, and on putting in place specific legislation that criminalizes violence against women (Spain);
- 115.48. Use temporary special measures in accordance with article 4 paragraph 1 of the CEDAW to achieve substantive equality of women (Palestine);<sup>2</sup>
- 115.49. Continue its efforts in order to reduce stereotypical approaches to the roles and responsibilities of women (Armenia);
- 115.50. Continue repealing discriminatory laws and to allocate adequate budget for the implementation of its National Gender Programme to ensure non-discrimination against women (Thailand);
- 115.51. Intensify its efforts aimed at modifying or eliminating the negative cultural practices and stereotypes which are the source of certain forms of discrimination against women (Tunisia);
- 115.52. Further consolidate on important fields of rules of law, gender equality, and social welfare to better overall conditions for vulnerable groups such as women, children and youth (Viet Nam);
- 115.53. Consider continuing to strengthen the rights of women, particularly in the family setting (Namibia);
- 115.54. Aligning traditional laws and procedures with principles that protect particularly the balance of socio-economic rights of men and women both in the family and in the society, as well as the rights of the child (Cape Verde);
- 115.55. Continue to pay special attention to the needs of rural women ensuring that they participate in decision-making processes and have full access to justice, education, health services and financial facilities (Egypt);
- 115.56. Pay special attention to the needs of rural women and women heads of households, ensuring that they participate in decision-making processes and have full access to justice, education, health services and credit facilities; and

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<sup>2</sup> The recommendation made during the interactive dialogue was as follows: "Use temporary special measures to achieve substantive equality of women (Palestine)."



**eliminate all forms of discrimination against women with respect to ownership and inheritance of land (Liechtenstein);**

**115.57. Continue focusing efforts to improve the situation of women, especially in rural areas where many head families, with regard to access to educational services, justice and credit mechanisms (Paraguay);**

**115.58. Disseminate information to the population of Botswana on ways and means to avail themselves of available judicial remedies relating to discrimination against women (Guatemala);**

**115.59. Hold a public debate on the death penalty, in which all aspects of the issue should be highlighted in a holistic manner (Uruguay);<sup>3</sup>**

**115.60. Meanwhile, provide information to concerned families, so that they can know in advance the date of execution of their relatives (Uruguay);<sup>4</sup>**

**115.61. Intensify efforts to combat violence against women (Congo);**

**115.62. Fight efficiently against rape and domestic violence (Togo);**

**115.63. Continue to fight against sexual violence (Djibouti);**

**115.64. Urgent implementation of measures to improve the reporting rate of gender based violence, where the NGO Genderlinks estimates only 1 in 24 incidents were currently reported; and to increase the prosecution of perpetrators (United Kingdom);**

**115.65. Actively combat all forms of gender-based discrimination and violence, in particular domestic and sexual violence (France);**

**115.66. Draft implementation instructions and provide police and public training on the Domestic Violence Act (United States);**

**115.67. Continue to take steps towards eliminating gender-based violence, including through strengthening domestic laws and policies to protect women (Australia);**

**115.68. Consider enacting specific legislation on domestic violence to hold perpetrators accountable for their behaviour (Brazil);**

**115.69. Take the necessary measures to ensure sexual assault perpetrated by a spouse is explicitly covered by the criminal code and educate chiefs and other customary law practitioners so that their decisions are in line with constitutional law, particularly with respect to marriage and property rights (Canada);**

**115.70. Enact specific legislation on marital rape (Ireland);<sup>5</sup>**

<sup>3</sup> The recommendation made during the interactive dialogue was as follows: “Hold a public debate on the death penalty, in which all the aspects of the issue should be highlighted in a holistic manner, in order to repeal it from the domestic legal order and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Uruguay).”

<sup>4</sup> The recommendation made during the interactive dialogue was as follows: “Meanwhile, Provide information to concerned families, so that they can know in advance the date of execution of their relatives and ensure that the executed persons’ bodies are handed over for private burial (Uruguay).”

<sup>5</sup> The recommendation made during the interactive dialogue was as follows: “Enact specific legislation on marital rape to ensure that all violence against women and girls constitutes a criminal offence, that victims have access to immediate means of redress and protection; and that all perpetrators are

- 115.71. **Take concrete measures to ensure a safer environment for both women and girls (Netherlands);**
- 115.72. **Take efficient steps to secure the protection of women, also when abuse happens within the family (Norway);**
- 115.73. **Strengthen national frameworks and mechanisms to effectively address and combat violence against women and girls (Sri Lanka);**
- 115.74. **Take measures to improve the conditions in prisons (Norway);**
- 115.75. **Increase its efforts to raise awareness of a woman's entitlement to request the transfer of a case from a customary court to a common law court, as recommended by CEDAW in 2010 (New Zealand);<sup>6</sup>**
- 115.76. **Strengthening the efficiency of the judicial system, while making sure the rights of everyone to a fair trial is not compromised (Norway);**
- 115.77. **Continue to take the necessary measures to make sure that all the population has easy access to free birth registration for newborns (Mexico);<sup>7</sup>**
- 115.78. **Implement specific and concrete measures with a view to increasing women's participation in political and corporate life in the country (Brazil);**
- 115.79. **Pursue on-going efforts to ensure the adoption, in the near future, of a list identifying types of hazardous work prohibited to persons under the age of 18 years (Egypt);**
- 115.80. **Continue addressing the HIV/AIDS impact on women and children as a priority, in particular, the mother-to-child transmission (Thailand);**
- 115.81. **Further develop measures to combat HIV/AIDS, with special focus on reducing infant and child mortality (Sri Lanka);**
- 115.82. **Continue to implement its HIV/AIDS prevention, care and treatment programmes to further reduce the prevalence (Singapore);**
- 115.83. **Strengthen the promotion and protection of the rights of the elderly (Senegal);**
- 115.84. **Continue efforts to provide comprehensive primary education (Kuwait);**
- 115.85. **Continue to ensure full access to education for children (Egypt);**
- 115.86. **Continue its efforts to ensure full access to education (Bangladesh);**
- 115.87. **Redouble efforts to increase women's participation in education, including tertiary education (Timor-Leste);**
- 115.88. **Continue efforts aimed at enhancing the welfare of peoples with disabilities, including taking the appropriate steps to ratify the Convention on the Rights of Persons with Disabilities (Malaysia);**

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prosecuted (Ireland).”

<sup>6</sup> The recommendation made during the interactive dialogue was as follows: “Increase its efforts to raise awareness of a woman's entitlement to request the transfer of a case from a traditional court to a constitutional law court, as recommended by CEDAW in 2010 (New Zealand).”

<sup>7</sup> The recommendation made during the interactive dialogue was as follows: “Adopt the necessary measures to make sure that all the population has easy access to free birth registration for newborns (Mexico).”

- 115.89. **That the Government has a continued focus on the situation of the San people and their rights in Botswana (Norway);**
- 115.90. **Take appropriate measures to protect and promote the rights of disadvantaged groups (Congo);<sup>8</sup>**
- 115.91. **Consider the possibility to seek further international cooperation in order to find sustainable solutions in the area of refugees law (Paraguay);**
- 115.92. **Intensify its efforts to create awareness regarding the primacy of constitutional law with respect to customary laws and practices (Uruguay);<sup>9</sup>**
- 115.93. **Ensure that the decisions of the customary courts may be challenged before common law courts (Uruguay);<sup>10</sup>**
116. **The recommendations listed below will be further examined by Botswana and its position on each of these recommendations will be provided in due time, but no later than the 23rd session of the Human Rights Council in June 2013:**
- 116.1. **Ratify the International Covenant on Economic, Social and Cultural Rights, and its Optional Protocol (Timor-Leste);**
- 116.2. **Ratify the International Covenant on Economic, Social and Cultural Rights (Congo);**
- 116.3. **Consider ratifying the International Covenant on Economic, Social and Cultural Rights to strengthen the rights of the citizens of Botswana to economic development (Namibia);**
- 116.4. **Consider acceding to the International Covenant on Economic, Social and Cultural Rights (Kenya);**
- 116.5. **Consider the ratification of the International Covenant on Economic, Social and Cultural Right, as well as the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Cyprus);**
- 116.6. **Ratify the International Covenant on Economic, Social and Cultural Rights and its optional protocol (Australia);**
- 116.7. **Consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities, as well as the ILO Conventions 169 and 189 (Costa Rica);<sup>11</sup>**

<sup>8</sup> The recommendation made during the interactive dialogue was as follows: “Take appropriate measures to protect and promote the rights of indigenous populations (Congo).”

<sup>9</sup> The recommendation made during the interactive dialogue was as follows: “Intensify its efforts to create awareness regarding the primacy of constitutional law with respect to customary laws and practices; ensure that the proceedings of customary courts are in line with the domestic courts and that its decisions may be challenged before such courts (Uruguay).”

<sup>10</sup> The recommendation made during the interactive dialogue was as follows: “Intensify its efforts to create awareness regarding the primacy of constitutional law with respect to customary laws and practices; ensure that the proceedings of customary courts are in line with the domestic courts and that its decisions may be challenged before such courts (Uruguay).”

<sup>11</sup> The recommendation has made during the interactive dialogue was as follows: “Consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the

- 116.8. **Ratify the Convention on the Rights of Persons with Disabilities (Togo);**
- 116.9. **Accede to the Convention on the Rights of Persons with Disabilities, especially because this country [Botswana] already applies the provisions of this Convention in practice, as demonstrated by its commitment to submit a voluntary report (Morocco);**
- 116.10. **Sign and ratify the International Covenant on Economic, Social and Cultural Rights as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Turkey);**
- 116.11. **Explore the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance (Argentina);**
- 116.12. **Consider the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide (Armenia);**
- 116.13. **Complete the harmonization of domestic legislation with the provisions of the Rome Statute, and consider the possibility of ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Tunisia);**
- 116.14. **Ratify, at the earliest possible date, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish preventive mechanism accordingly (Czech Republic);**
- 116.15. **Ratify the Optional Protocol to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Togo);**
- 116.16. **Consider the possibility of ratifying the 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 and Convention on the Rights of Persons with Disabilities (Ecuador);**
- 116.17. **Ratify the International Convention on the Protection of all Persons from Enforced Disappearances, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities (France);**
- 116.18. **Ratify the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol, and opt-in to the enquiry and inter-state mechanisms (Germany);**
- 116.19. **Consider signing the SADC Protocol on Gender and Development (Norway);**
- 116.20. **Consider ratifying the International Convention on the Protection of the Rights of Migrant Workers and Their Families and the ILO Convention 189 (Philippines);**
- 116.21. **Ratify the International Convention on the Protection of the Rights of all Migrant Workers and members of their families (Rwanda);**

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Convention on the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, as well as the ILO Conventions 169 and 189 (Costa Rica)”

- 116.22. **Speed up the process towards ratification of the Convention on the Rights of Persons with Disabilities (Rwanda);**
- 116.23. **Consider the ratification of the new third Optional Protocol to the Convention on the Rights of the Child on a communication procedure (Slovakia);**
- 116.24. **Reform customary law to eliminate restrictions on women's access to property (United States);**
- 116.25. **Raise the minimum age of criminal responsibility (Togo);**
- 116.26. **Raise the age of criminality (Turkey);**
- 116.27. **Raise the age of criminal responsibility, which is currently set at 8 years (France);**
- 116.28. **Raise the minimum age of criminal responsibility to an internationally accepted level, and in line with the Convention on the Rights of the Child, the Beijing rules and Riad guidelines (Uruguay);**
- 116.29. **Raise the minimum age of criminal responsibility in accordance with international standards, which should allow Botswana to withdraw its reservation to article 1 of the Convention on the Rights of the Child (Hungary);<sup>12</sup>**
- 116.30. **Review the inconsistencies between the Children's Act of 2009 and international obligations under the Convention on the Rights of the Child, such as the prohibition of corporal punishment of children in all settings (Liechtenstein);**
- 116.31. **Issue a standing invitation to the Special Procedures of the Human Rights Council (Czech Republic);**
- 116.32. **Extend an open invitation to Special Procedures (Guatemala);**
- 116.33. **Extend a standing invitation to all mandate holders of the Council (Hungary);**
- 116.34. **Consider extending a standing invitation to all the special procedures mandate holders of the Human Rights Council (Latvia);**
- 116.35. **Take steps to implement comprehensive anti-discrimination laws, particularly to eliminate discrimination on the basis of sexual orientation (Australia);**
- 116.36. **Ensure that the executed persons' bodies are handed over for private burial (Uruguay);<sup>13</sup>**
- 116.37. **Ensure the respect of international standards on the rights of prisoners sentenced to death (Italy);**

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<sup>12</sup> The recommendation made during the interactive dialogue was as follows: "Harmonize the minimum age of criminal responsibility, which currently is 8 years, with international standards, which should clear the obstacle to withdrawing its reservation to article 1 of the Convention on the Rights of the Child (Hungary)"

<sup>13</sup> The recommendation made during the interactive dialogue was as follows: "Meanwhile, Provide information to concerned families, so that they can know in advance the date of execution of their relatives and ensure that the executed persons' bodies are handed over for private burial (Uruguay)."

- 116.38. Engage in a dialogue to repeal laws which criminalize consensual adult same sex relations (Canada);
- 116.39. Support at national, regional and international level the promotion and universal realization of the human right to safe drinking water and sanitation, pursuant the recommendation made by the Council in its different resolutions on the matter (Spain);
- 116.40. Speed up the process to explore possible solutions for mother-tongue schooling, and develop an adequate strategy to lower the failure rate before the next UPR cycle (Hungary);
- 116.41. Continue its engagement with improving the rights of refugees (Uganda);
- 116.42. Improve the reception conditions, health care, access to water and sanitation, adequate housing and food, for refugees; Make sure that refugees are not repatriated in case that their lives are in danger in their country of origin, and promote, through public policies, their total integration into the society out of the refugees camps (Ecuador);
- 116.43. Maintain the positive efforts aiming to find durable solutions by way of repatriation, reintegration and resettlement of refugees (Egypt);
117. The recommendations which appear below have been examined by Botswana and do not enjoy its support:
- 117.1. Consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Costa Rica);<sup>14</sup>
- 117.2. Germany wished to repeat its recommendation from the first cycle of the UPR, to amend the definition of discrimination in the Constitution in such a way that it covers discrimination based on descent; and abolish those laws that permit discrimination on the basis of ethnicity, language and culture (Germany);
- 117.3. Take comprehensive action in order to achieve full equality for women, and to especially repeal section 15(4) of the Constitution and to review customary law in order to eliminate discriminatory elements such as an inheritance rule providing for male-only inheritance of the family home (Germany);
- 117.4. Take steps to abolish the death penalty (Norway);
- 117.5. Consider abolishing the death penalty or putting a moratorium on its use (Namibia);
- 117.6. Consider the abolition of the death penalty (Romania);
- 117.7. Establish a moratorium on the death penalty (Togo);

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<sup>14</sup> The recommendation has made during the interactive dialogue was as follows: “Consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Protection of All Persons from Enforced Disappearance, the Convention on the Rights of Persons with Disabilities and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, as well as the ILO Conventions 169 and 189 (Costa Rica).”

- 117.8. **Establish a moratorium on the death penalty (Chile);**
- 117.9. **Abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Spain);**
- 117.10. **Introduce a moratorium and seek alternatives to the death penalty (Hungary);**
- 117.11. **Agree to a moratorium on the death penalty as a first step toward ultimate abolition (Ireland);**
- 117.12. **Positively consider the establishment of a moratorium on executions (Italy);**
- 117.13. **Fully abolish the death penalty (Estonia);**
- 117.14. **Impose a moratorium on executions with a view to abolishing the death penalty entirely, in line with the UN Assembly General resolutions 62/149, 63/168 and 65/206, commuting all death sentences to life imprisonment terms (Slovakia);**
- 117.15. **Establish a moratorium on the death penalty, with a view to fully abolishing it, in line with relevant UN General Assembly resolutions (Germany);**
- 117.16. **Consider the possibility of establishing a moratorium on the carrying out of death sentences and evaluate the possibility of legally abolishing the death penalty (Argentina);**
- 117.17. **Consider a moratorium on the use of death penalty, and its eventual abolition (Cape Verde);**
- 117.18. **Establish a moratorium on executions as a first step towards complete abolition of the death penalty and accession to the Second Optional Protocol of the ICCPR (Australia);**
- 117.19. **Improved transparency of the clemency process in death penalty cases by making public the reasons behind decisions and providing a timetable for hearings (United Kingdom);**
- 117.20. **Establish a moratorium on the death penalty and initiate a national debate on its abolition (France);**
- 117.21. **Repeal the death penalty from the domestic legal order and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Uruguay);<sup>15</sup>**
- 117.22. **Apply strict measures to stamp out corporal punishment in school and home settings (Timor-Leste);**
- 117.23. **Take measures to eliminate corporal punishment that could lead to torture and cruel, inhuman or degrading treatment for victims, mainly children (Costa Rica);**

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<sup>15</sup> The recommendation made during the interactive dialogue was as follows: “Hold a public debate on the death penalty, in which all the aspects of the issue should be highlighted in a holistic manner, in order to repeal it from the domestic legal order and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (Uruguay).”

- 117.24. Continue to combat corporal punishment of children in all circumstances (Djibouti);
- 117.25. Prohibit corporal punishment of children (Slovenia);
- 117.26. Ensure that all violence against women and girls constitutes a criminal offence, that victims have access to immediate means of redress and protection; and that all perpetrators are prosecuted (Ireland);<sup>16</sup>
- 117.27. Decriminalize consensual same-sex activities between adults and promote tolerance in this regard (Czech Republic);
- 117.28. Evaluate to repeal the criminalization of same-sex relations (Argentina);
- 117.29. De-criminalize same sex activities and adopt policies to counter discrimination against LGBT (Netherlands);
- 117.30. Decriminalize consensual sexual relations between same-sex adults and strength efforts to combat discrimination against those persons, while respecting their rights to association and representation in civil society (Spain);
- 117.31. Remove relevant articles of the Penal Code criminalising same sex sexual activities (Slovakia);
- 117.32. Guarantee the fundamental rights of all persons living in Botswana and thereby decriminalize sexual relations of consenting adults of the same sex (France);
- 117.33. Fully implement the 2006 High Court ruling and allow all San individuals who want to live on the Central Kalahari Game Reserve to do so (United States);
- 117.34. Guarantee the return of the San communities to the Kalahari reserve, and facilitate their access to safe drinking water and sanitation (Spain);
- 117.35. Ensure that tourism development in the Central Kalahari Reserve allows indigenous peoples to continue with its traditional practices, including hunting and harvesting for subsisting, as well as access to water (Mexico);
- 117.36. Adopt effective measures to enhance the participation of indigenous peoples on issues affecting them and their rights as indigenous peoples (Finland);
- 117.37. Take all appropriate measures, including adequate resource allocation, to strengthen indigenous children's equal access to education, including, when possible, education in their own language (Finland);
- 117.38. Consider intensify measures to protect the rights of ethnic minorities of the country and their self-fulfilment of their cultural specificities (Cape Verde);
- 117.39. Ensure that the proceedings of customary courts are in line with the domestic courts (Uruguay);<sup>17</sup>

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<sup>16</sup> The recommendation made during the interactive dialogue was as follows: "Enact specific legislation on marital rape to ensure that all violence against women and girls constitutes a criminal offence, that victims have access to immediate means of redress and protection; and that all perpetrators are prosecuted (Ireland)."



**118. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.**

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<sup>17</sup> The recommendation made during the interactive dialogue was as follows: “Intensify its efforts to create awareness regarding the primacy of constitutional law with respect to customary laws and practices; ensure that the proceedings of customary courts are in line with the domestic courts and that its decisions may be challenged before such courts (Uruguay).”

## Annex

### Composition of the delegation

The delegation of Botswana was headed by Hon. Dikgagamatso Ramadeluka SERETSE, Minister of Defence, Justice and Security, and composed of the following members:

- His Excellency Mothusi B. R. PALAI - Ambassador/Permanent Representative of Botswana to the United Nations office;
  - Ms. Valencia K. D. MOGEGEH Director of Women's Affairs, Ministry of Labour and Home Affairs;
  - Mr. Charles MASOLE Deputy Ambassador, Mission of Botswana, Geneva;
  - Mr. O. Rhee HETANANG Deputy Director, Multilateral Department, Ministry of Foreign Affairs and International Cooperation;
  - Ms. Eunice R. MALOTHA Legal Advisor, Ministry of Foreign Affairs and International Cooperation;
  - Mr. Collen K. Diane First Secretary, Botswana Permanent Mission to the United Nations.
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