



REPUBLIC OF BOTSWANA

STATEMENT BY

**HONOURABLE MACHANA RONALD SHAMUKUNI
MINISTER OF JUSTICE**

ON

**BOTSWANA'S INITIAL
REPORT ON THE CONVENTION AGAINST
TORTURE DURING THE 74TH SESSION OF THE
COMMITTEE AGAINST TORTURE**

20TH JULY, 2022

GENEVA, SWITZERLAND



Chairperson of the Committee Against Torture and Members of the Committee,

**Secretary of the Committee Against Torture,
Ladies and gentlemen,**

Good morning,

1. It is a great honour and privilege for me to address this 74th Session of the Committee Against Torture and in particular, to present Botswana's maiden report.
2. I wish to take this opportunity to express my Government's gratitude to this Committee for allowing Botswana to use the Simplified Reporting Procedure to submit this Initial Report. We further wish to thank the Committee for expediting the presentation of our report.
3. The subject matter we are dealing with involves a number of stakeholders. To this end, I am accompanied by senior Government Officials from various portfolios including defence, security immigration and health. Also in the delegation are legal experts, human rights experts, diplomats and those dealing with children's rights.

Chairperson,

4. Let me at the outset assure this esteemed Committee that we are cognisant of our reporting obligations to human rights treaty bodies, hence our appearance before the committee today. We pledge our full cooperation with the committee and undertake to ensure timely reporting going forward.
5. Botswana subscribes to the ethos of democracy, respect for human rights and the rule of law, and has over the years been building capacity to ensure that we fulfil our reporting obligations.
6. In this regard, a standing Inter-Ministerial Committee on Treaties, Conventions and Protocols was established which meets on monthly basis to monitor compliance and adherence to International Agreements, including the country's reporting obligations to Treaty Bodies.
7. Furthermore, Government established the Human Rights Unit in 2019 to perform the functions of a national human rights coordination office.
8. In June 2020, the National Human Rights Committee was established, which comprises Government Ministries and Civil Society Organisations and is co-chaired by the Ministry of Justice and a representative of the Civil Society Organisations. This arrangement was made because we regard the Civil Society as a strategic partner in advancing the human rights agenda.

9. Botswana's draft Comprehensive Human Rights Strategy and National Action Plan is a product of the cooperation of Government and Non-Governmental Organisations through the National Human Rights Coordinating Committee.
10. Through technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Human Rights Recommendations Tracking Database has been developed to assist the Government in following up the implementation of recommendations emanating from human rights treaty bodies.
11. Strengthening the country's structures has resulted in Botswana meeting all her reporting obligations to treaty bodies: Convention on the Rights of the Child (2017); Convention on the Elimination of All forms of Discrimination Against Women (2017); International Covenant on Civil and Political Rights (2020); Convention on the Elimination of Racial Discrimination (2020); and the Convention Against Torture (2022).
12. The afore-stated policy and institutional measures led to the general improvement in the implementation of our obligations and commitments to international human rights mechanisms. This is demonstrated by our cooperation and engagement with treaty bodies, human rights special procedures and mechanisms. As an example, Botswana hosted the Working Group on Arbitrary Detention in July 2022.

13. In April 2022, issues of Justice were de-linked from the former Ministry of Defence, Justice and Security through the establishment of a dedicated Ministry of Justice, which is mandated, among others, to specifically deliver on the protection and promotion of human rights.

Chairperson,

14. Botswana's ratification of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment signified our commitment to continue governing the affairs of the nation using a human rights-based approach.
15. Although the Penal Code does not incorporate the crime of torture as defined by the Convention, other pieces of legislation extending to the military justice system do, and violations of those Acts render one liable to prosecution and punishment. The pieces of legislation that prohibit torture include amongst others, the Children's Act; the Botswana Defence Force Act; the Intelligence and Security Service Act; the Police Act; the Prisons Act and the Mental Disorders Act.
16. Moreover, administrative or regulatory provisions relating to the prohibition of torture are found in the above-mentioned legislations of the disciplined forces. The administrative measures generally attract disciplinary sanctions, such as reprimand, severe reprimand, fine, reduction in rank or dismissal to be imposed on a perpetrator of torture.

17. There are further legal safeguards in place, amongst which are:
- (i) any person or prisoner who reports being ill-treated or subjected to torture has the right to institute court process claiming damages against the Government.
 - (ii) any confession statement recorded by a judicial officer from an accused person would be inadmissible in court if it is determined that the accused was coerced into making the confession through torture.
18. On access to justice, **Chairperson**, substantive and procedural justice is guaranteed to all aggrieved persons under the Constitution. This principle is of paramount importance to Botswana such that even during the height of the Covid-19 pandemic, Government introduced measures to ensure continued access to justice. These included virtual courts, specialised courts, additional shelters, a gender and child protection branch of the police service as well as introduction of Gender Based Violence toll-free lines.

Chairperson,

19. It will be recalled that upon signature and ratification of the Convention against Torture, Botswana entered a Reservation with regard to Article 1 of the Convention. The Reservation was made on the basis of our Constitution, particularly Section 7 (2) thereof,

that permits the infliction of any form of punishment which includes the death penalty and corporal punishment as possible sentences following due process of the law. This remains the legal position in Botswana to date.

20. A major legislative development is the ongoing comprehensive constitutional review process that was commissioned with the aim of consulting its populace on what they want changed, what they want retained or what they want introduced into the Constitution of Botswana. The Constitutional Review Committee is scheduled to present its report to Government before the end of 2022.

Chairperson,

21. In concluding my address, allow me to reiterate Botswana's unwavering commitment to the ideals of the Universal Declaration of Human Rights and to the implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
22. All of the commitments the Botswana Government has made to uphold human rights will continue to be a guiding beacon of the interaction between the state and Botswana society. We stand ready to consider the recommendations of the Committee.
23. In this regard, I wish to appeal to our international partners to provide the necessary technical assistance to help Botswana to

build the capacity which is much needed in the implementation of the Convention.

Thank you, Chairperson.