



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women
Seventy-second session**

Summary record of the 1678th meeting

Held at the Palais des Nations, Geneva, on Friday, 1 March 2019, at 3 p.m.

Chair: Ms. Gbedemah

Contents

Consideration of reports submitted by States parties under article 18 of the Convention
(*continued*)

Fourth periodic report of Botswana (continued)

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Fourth periodic report of Botswana (CEDAW/C/BWA/4; CEDAW/C/BWA/Q/4 and CEDAW/C/BWA/Q/Add.1) (continued)

1. *At the invitation of the Chair, the delegation of Botswana took places at the Committee table.*

Articles 10 to 14 (continued)

2. **Ms. Reddock** said it was the Committee's hope that, once revised, the Employment Act would address sexual harassment, enshrine the principle of equal pay for work of equal value and provide for monitoring and evaluation mechanisms. With regard to public sector employment, it would be interesting to know what mechanisms existed to give priority to women with disabilities who had completed higher education and how many such women had been employed.

3. It was unclear whether a comprehensive policy on gender in agricultural and rural development had been finalized and implemented and, if so, whether its impact had been assessed. In addition, she would like to know what arrangements were in place to promote gender equality with respect to access to land. What kind of public education programmes had been conducted on land ownership rights and in which areas did the State party plan to strengthen its capacity to challenge malpractice with regard to land allocation? What was the role of national and satellite gender offices in that regard?

4. She wondered whether the State party had signed the International Labour Organization (ILO) Workers with Family Responsibilities Convention, 1981 (No. 156). It would be interesting to know whether any provision had been made for the establishment of community day-care centres and of facilities at the workplace for breastfeeding and expressing breast milk.

5. She wished to know what mechanisms were in place to monitor compliance with the legislation governing wage continuation during maternity leave in the private sector and what other arrangements were made to ensure that women who worked outside the public sector did not suffer a loss of income as a result of maternity. Lastly, she would be grateful if the delegation could indicate what other social security benefits, for example pension schemes, were provided to women working in the informal sector. Would the State party be willing to access support from the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and ILO to work with national statistical agencies so as to build capacity to develop gender-informed and gender-disaggregated indicators, data-collection systems and monitoring and evaluation mechanisms in areas of gender mainstreaming?

6. **Ms. Chalal** said that, while the State party had made great progress in improving the access of women and girls to health-care services, maternal and child mortality remained a cause for concern. In that connection, she wished to know what measures would be taken to guarantee high-quality childbirth care, offer free follow-up for women and girls who gave birth in health-care facilities and raise awareness of midwifery as a profession. She wondered whether abortion was completely free for women and girls of childbearing age, whether women and girls received free follow-up care after an abortion, what was done to guarantee the anonymity of girls and women who underwent abortions and whether the State party planned to impose penalties on health-care facilities that established additional restrictions on access to abortion. Recent data on the numbers of legal and illegal abortions would be welcome.

7. It would be useful to learn whether access to the contraceptive pill was subject to any age restrictions. Could women and girls access other forms of contraception free of charge? Did the State party plan to take measures to guarantee the confidentiality of the data held on girls and women who requested emergency contraception and ensure that early pregnancies were subject to careful and regular follow-up in health-care facilities?

8. She would be grateful if the delegation could indicate whether health-care professionals were trained to care for victims of gender-based violence and whether they were required to report incidents of such violence. She also wondered whether the State party planned to conduct activities to raise awareness of gender-based violence among women involved in prostitution, women in places of deprivation of liberty and migrant women.

9. She wished to know what measures had been taken to raise awareness of cervical cancer screening and vaccination among women and girls and what measures were planned to raise awareness of HIV/AIDS among women involved in prostitution. What measures would be taken to guarantee access to confidential HIV testing? Would the State party promote free and rapid access to antiretroviral treatment for rural women, women in places of deprivation of liberty, indigenous women and lesbian, gay, bisexual, transgender and intersex persons? She wondered whether the State party planned to impose penalties on health-care facilities and professionals that denied women access to such treatment. On a related point, she would like to know whether the State party planned to update its expired plans to prevent HIV/AIDS. Lastly, it would be instructive to discover whether the State party planned to study the causes of the increased prevalence of cervical cancer, promote the distribution of cervical cancer testing kits and ensure that the results could be obtained free of charge from any health-care facility.

10. **Mr. Koorapetse** (Botswana) said that sexual harassment was not addressed in the Employment Act. Sexual harassment was specifically prohibited in the Public Service Act, which applied only to public sector employment. It had been proposed that existing labour legislation should be revised with a view to addressing sexual harassment in a more comprehensive manner. In July 2017, the Government had begun the process of consulting with employers and workers in preparation for that process. The services of an ILO consultant had already been enlisted, and it was expected that the draft legislation would be presented to Parliament later in 2019.

11. The National Industrial Relations Code of Good Practice addressed such issues as discrimination, the rights of employees with disabilities and sexual harassment. Labour inspectors worked to raise awareness of its provisions. Botswana had not ratified ILO Convention No. 156. As part of the review of the Employment Act, it had been proposed that, in accordance with the ILO Maternity Protection Convention, 2000 (No. 183), the proportion of basic pay that women working in the private sector received on maternity leave should be increased from half to two thirds.

12. **Mr. Khome** (Botswana) said that, since the introduction in 2012 of a policy of affirmative action for persons with disabilities, a large number of persons with disabilities had found employment in the public and private sectors. It was expected that the number would increase further in the context of preparations to become a party to the Convention on the Rights of Persons with Disabilities. Experts on the ground were already developing a national disability strategy and revising the country's disability policy so as to ensure its compliance with that Convention.

13. **Ms. Mokganya** (Botswana) said that the Government recognized that more needed to be done to lower the maternal mortality rate. Emergency obstetric care training for relevant health-care professionals had been rolled out at the national and district level. The Government had introduced the Maternal Mortality Reduction Initiative to address the four most common causes of maternal mortality, and a team of midwives had been appointed to ensure compliance with applicable care delivery standards. Although the results achieved had been promising, the problem remained that many pregnant women did not travel to a health-care facility until a late stage in their pregnancy.

14. Comprehensive family planning services were available to women and girls in order to prevent unexpected pregnancies, which were associated with a range of adverse health outcomes. Owing to staffing and resource constraints, only around 1 per cent of women who gave birth in Botswana had access to postnatal care. Comprehensive post-abortion care, including counselling and education, was provided free of charge and confidentially to any woman who had undergone an abortion. Relevant health-care workers received training on comprehensive post-abortion care and family planning.

15. Women who were provided with emergency contraception were also offered counselling, and any information gathered in that regard was confidential. Women and girls did not need their partner's or parents' consent to access such services. There was no age limit for the distribution of contraceptives. Any sexually active person who requested reproductive health services received them, regardless of age, although such persons also were provided with appropriate counselling.

16. Various media campaigns had been conducted to raise awareness of cervical cancer, and workshops had been held for chiefs and faith-based organizations. Some faith-based organizations had permitted health-care workers to address their congregations directly. In one case, a faith-based organization had made its premises available for cervical cancer screenings.

17. **Mr. Otlhabanye** (Botswana) said that the Government had launched agricultural initiatives specifically targeting women. In 2018, over 1,000 women had benefited from the Livestock Management and Infrastructure Development project. Many of its beneficiaries were also young people. Women accounted for the majority of beneficiaries of various other agricultural projects, including a poultry production project.

18. **Ms. Molokomme** (Botswana) said that women in Botswana tended to work in the informal sector and were often unable to afford to contribute to a private pension. Women aged over 65 years qualified for the State pension. In addition, many women who worked in the informal sector qualified for assistance under poverty-eradication programmes.

19. The majority of the land in Botswana was tribal land, which was subject to the Tribal Land Act. Tribal land was administered by land boards, which were overseen by the Ministry of Lands and Housing. NGOs had campaigned vigorously to achieve equality for women in that context. The authorities were developing a land registration database, which would provide gender-disaggregated data on access to land. Botswana had a large network of land allocation bodies, which adjudicated on cases in which citizens' rights had been violated. The Land Tribunal was the highest authority in that regard.

20. Although Botswana was not a party to ILO Convention No. 156, ad hoc programmes had been introduced to support women who both worked and had family responsibilities. Consideration would be given to the possibility of acceding to that Convention.

21. **Ms. Reddock** said that she would urge the State party to strengthen the role of satellite gender offices. Concerning agriculture, she would be grateful if the State party could provide further information on the comprehensive policy on gender in agricultural and rural development.

22. **Ms. Chalal** said that she would appreciate having recent data on legal and illegal abortions. She also wished to know whether medical procedures could be performed on women with disabilities without their prior and informed consent.

23. **Ms. Peláez Narváez** said that she was pleased to hear that the State party would become a party to the Convention on the Rights of Persons with Disabilities. It was also pleasing to note that the situation of women with disabilities in the State party had featured prominently in the dialogue thus far. However, women and girls with disabilities had needs that were distinct from those of persons with disabilities in general. She wondered whether any awareness-raising campaigns had been conducted to counter the belief that a man with HIV/AIDS could cure himself by having sexual relations with a woman with disabilities and what measures had been taken to ensure that women and girls with disabilities also had access to HIV/AIDS prevention campaigns.

24. **Ms. Haidar** said that, with regard to cooperation with religious leaders, she wished to draw the State party's attention to Faith for Rights, an initiative launched by the Office of the United Nations High Commissioner for Human Rights to explore the ways in which human rights issues could be framed from a religious perspective.

25. **The Chair**, speaking in her capacity as an expert, said that the replies to some of her questions remained outstanding. Concerning the sexual abuse of girls in education, for example, she wished to know the total number of prosecutions. In addition, she had wondered whether it was the case that technical training was the only training option available to

women who fell pregnant. As for bullying, it would be useful to receive information on the measures that had been taken at a national level.

26. **Mr. Otlhabanye** (Botswana) said that the comprehensive gender in agriculture and rural development policy was in place and had been developed in 2013.

27. **Ms. Mokganya** (Botswana) said that, when health-care professionals treated a woman who had undergone an abortion, they did not record whether or not the abortion had been performed illegally. Indeed, such records would be difficult to keep, as an elective abortion could often not be distinguished from a spontaneous one. With regard to the belief that a man with HIV/AIDS could cure himself if he had sexual relations with a woman with disabilities, public awareness-raising campaigns were organized to combat harmful practices as and when they arose.

28. Health-care professionals were required to seek the consent of any woman of sound mind before administering treatment. The family planning guidelines provided for an exception in the case of women with mental retardation. Given the risk of abuse and sexually transmitted disease and pregnancy faced by such women, health-care professionals regularly liaised with their families to promote the use of contraceptives.

29. **Ms. Kgotlhang** (Botswana) said that, as part of its efforts to curb violence, the Government had conducted a study of violence against children. The results of that study would be published and used in policymaking as soon as they were endorsed by the Government.

30. **Mr. Khame** (Botswana) said that every effort was being made to ensure that the rights of persons with disabilities were addressed in government policies. Although Botswana had not yet become a party to the Convention on the Rights of Persons with Disabilities, the Government had begun implementing some of its provisions.

31. **Ms. Reddock** said that she wished to know whether the Government had completed the development of the comprehensive policy on gender in agriculture and rural development, which, according to the State party's report (CEDAW/C/BOT/4, para. 95), should have been finalized and endorsed by mid-2017.

32. **Ms. Nadaraia** said that, although the State party had taken steps to promote women's participation in trade, facilitate their access to short-term credit and provide them with training on managing cooperatives and small businesses, women constituted a significant proportion of the disadvantaged segments of the population and women-headed households were more likely than those headed by men to be deprived. In view of that situation, she asked whether the Government was promoting women's economic empowerment by providing them with financial support and promoting their participation in development projects. She wondered what steps were being taken to increase the number of women in decision-making positions in sports and social and cultural life.

33. **Ms. Song** said that she wished to know whether any women farmers or women migrant workers had been elected to Parliament, what percentage of members of village development committees were women and how many women were leaders of those committees. In view of the fact that lack of knowledge of relevant laws constituted one of the main obstacles to rural women's advancement, she wondered what measures were in place to provide rural women with the information that they needed to earn a decent living, including information on local and national development programmes and laws and policies relating to women's rights. She asked whether mechanisms were in place to enable rural women to visit other parts of the country to learn best practices and establish partnerships.

34. The Committee wished to learn whether women whose land rights had been violated had access to a complaints mechanism and, if so, how many complaints of land rights violations had been submitted by women in 2018. It would welcome the delegation's comments on reports that indigenous peoples were subjected to marginalization and discrimination and would appreciate information on any programmes established to address the social and economic disadvantages that they faced. The delegation might also comment on reports that irregular migrants were held in detention facilities where families were separated and children did not attend school. She asked whether the Government would consider reducing the number of irregular migrants in detention through the introduction of

alternative measures. It would be interesting to learn whether the gender perspective had been fully incorporated in the country's national plan on disaster risk reduction and climate change and whether women participated in activities related to the plan.

35. **Ms. Molokomme** (Botswana) said that a number of housing schemes had been established to provide housing to destitute families, many of which were headed by women. The Government also provided loans at little or no interest to low-income families that wished to build property, and a large number of women were beneficiaries of that scheme.

36. **Ms. Kgotlhang** (Botswana) said that information on programmes benefiting rural women was disseminated through community-based organizations. In each village, community development and social welfare officers made efforts to identify persons in need of assistance and inform them of the services available to them. Every month, officers went into communities to raise awareness of government services. Rural women were able to generate income by selling their products in markets.

37. **Mr. Phiri** (Botswana) said that the families living in the Francistown migrant detention centre were originally asylum seekers whose applications for asylum had been rejected. They could not be returned to their own country because the situation there was still volatile and, to date, no other country had expressed a willingness to accept them. However, families with school-age children had been transferred from the centre to a camp where the children were able to attend school.

38. **Ms. Mokongwa** (Botswana) said that the Government had established a legal education programme with a view to raising the public's awareness of the laws affecting them. Legal aid was provided to indigent persons involved in civil disputes and, although that aid was not specifically targeted at women, the majority of applications for it were submitted by women. Mobile units and telephone helplines had been set up to provide legal assistance to persons living in remote areas.

39. **Ms. Maiketso** (Botswana) said that the Women's Economic Empowerment Programme was entirely targeted at women. Every year, national women's expositions were held in the north and the south of the country to enable women to showcase their products and establish networks with other entrepreneurs. In 2014, gender had been mainstreamed at the Ministry of the Environment, Wildlife and Tourism, which was responsible for managing the national response to climate change.

40. **Ms. Molokomme** (Botswana) said that women whose land rights had been violated could submit complaints to bodies established at a number of different levels, the highest of which was the Lands Tribunal. The majority of complaints were resolved before they reached that court. Mobile facilities had been established to provide educational, medical and other forms of assistance to persons living in remote parts of Botswana, including indigenous peoples.

41. **Ms. Gabr** said that, in considering its response to the problems facing rural women, the Government might consider the Committee's general recommendations No. 34 (2016) on the rights of rural women and No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change.

Articles 15 and 16

42. **Ms. Narain** said that the Committee was concerned about the remark made in the opening statement that the Government had been encouraging traditional leaders to align customary laws and practices with "acceptable" provisions of the Convention. As Botswana had not entered any reservations to the Convention, it was required to implement all its provisions and could not cherry-pick those which it found to be acceptable.

43. The Committee wished to know when the Government would remove the derogation contained in section 15 (4) of the Constitution, concerning adoption, marriage, divorce, devolution of property on death or other matters of personal law, as such derogations were often used to justify discriminatory treatment against women in matters of family law. She asked whether the Government would review the Abolition of Marital Power Act, the Deeds Registry Act, the Matrimonial Causes Act and the Marriage Act with a view to amending their scope to include customary and religious marriages. In view of the fact that Botswana

was one of the few African States not to have ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), she wondered whether the Government would consider ratifying that Protocol and whether that ratification could be used as a catalyst for repealing all discriminatory legislation.

44. She asked what would be done to address the fact that, according to reports from alternative sources, women seeking a divorce in customary courts were often pressurized into accepting settlements that were detrimental to them. In view of the fact that women appearing in customary courts were reportedly not allowed to sit down or wear trousers, she wondered what steps would be taken to ensure that such courts afforded equal treatment to women. Noting that certain complex cases could be transferred, on a discretionary basis, from a customary court to a civil court, she asked whether the Government would consider amending the law to provide for such transfers to be mandatory whenever a woman litigant alleged that she was being subjected to discrimination.

45. The Committee wished to know when the law would be amended to establish a minimum age for marriage of 18 years for both boys and girls, with no derogation, and whether any measures were being taken to raise awareness of the harmful effects of child marriage, particularly in rural areas. It would be interesting to learn how accessible legal aid services were for women in poor, rural areas and whether mobile courts were used to enhance access to justice in such areas. She wondered when the law would be amended to criminalize marital rape and whether legislation on adoption would be amended to prevent an adoptive parent from marrying his adopted daughter when she reached the age of 16 years.

46. **Ms. Molokomme** (Botswana) said that Botswana had ratified the Convention in good faith. The Government was fully committed to implementing the Convention and had not meant to give the impression that only some of its provisions were acceptable. Public forums, including customary courts, were open to women in 90 per cent of the country. In view of the fact that standing in a customary court would be considered rude, it was not clear why the reports cited by the Committee stated that women were required to remain standing in such courts. Consideration would be given to the possibility of ratifying the Maputo Protocol.

47. **Ms. Slave** (Botswana) said that, although marital rape was not explicitly criminalized in domestic law, rape was a punishable offence irrespective of the rapist's relationship with the victim. In the case of *Letsholathebe v. the Attorney General*, the court had stated that rape was a most serious, humiliating and invasive assault against a person and that it was totally unacceptable to suggest that it should be permitted if the perpetrator was a spouse.

48. **Ms. Molokomme** (Botswana) said that the Domestic Violence Act defined domestic violence in a way that covered marital rape. Consideration would be given to the possibility of explicitly criminalizing marital rape.

49. **Ms. Mokongwa** (Botswana) said that, following the ratification of the Convention on the Rights of the Child by Botswana, the Government was making efforts to implement that Convention. Steps were being taken to amend the Marriage Act to establish a minimum age for marriage of 18 years for girls and boys and to address the fact that the scope of the Act currently did not extend to religious and customary marriages.

50. **Ms. Kgotlhang** (Botswana) said that consultations concerning the amendment of the Adoption Act were complete and measures were being taken to repeal the provision allowing an adoptive father to marry his adopted daughter.

51. **Mr. Molodi** (Botswana), responding to the question concerning the mandatory transfer of cases from customary courts to civil courts, said that the matter was a complicated one because it would involve determining whether the woman in question was genuinely being discriminated against. As customary courts had jurisdiction over family law cases, the transfer of such cases to civil courts normally happened only on an exceptional basis. However, the Government would give further consideration to the Committee's suggestion.

52. **Ms. Gabr** said that she would welcome an explanation of why so many complaints of domestic violence were withdrawn and the connection between such withdrawals and the availability of legal aid.

53. **Ms. Mkongwa** (Botswana) said that steps had been taken to ensure that women no longer withdrew complaints of domestic violence.

54. **The Chair** said that she would like to thank the Committee members for their questions and comments and the representatives of the State party for the responses and explanations provided.

The meeting rose at 4.55 p.m.