

# **BOTSWANA: POSITIVE REPUTATION BELIES HIDDEN VIOLATIONS**

## **AMNESTY INTERNATIONAL: SUBMISSION TO THE 43RD SESSION OF THE UPR WORKING GROUP, 3 MAY 2023**

### SUMMARY

Despite its relatively good reputation with respect to its respect for and promotion of human rights, on closer observation, Botswana has various grave human rights challenges.

In this vein this submission was prepared for the Universal Periodic Review (UPR) of Botswana in May 2023. In it, Amnesty International evaluates the implementation of recommendations made to Botswana in its previous UPR, including in relation to corporal punishment, gender-based violence, unlawful use of the death penalty and refugee and migrants' rights.

It ends with a set of recommendations to Botswana which, if implemented, would contribute to improving the human rights situation in the country

## FOLLOW UP TO THE PREVIOUS REVIEW

1. At the previous review, Botswana supported 93 of the 207 recommendations made.<sup>1</sup>
2. Since then, Botswana has made progress with regards to implementation of some recommendations, including some noted, most especially with respect to the rights of the LGBTI people.<sup>2</sup> In November 2021, the Court of Appeal upheld a High Court judgment that declared a law criminalizing consensual same-sex sexual relations unconstitutional.<sup>3</sup>
3. Botswana supported a recommendation on Children: protection against exploitation<sup>4</sup> in the previous review. Despite this the country continues to legalise the use of corporal punishment against children in school and home settings.
4. Botswana acceded to the Convention on the Rights of Persons with Disabilities in July 2021<sup>5</sup> but has not ratified any of the other remaining core human rights treaties.
5. Regrettably, Botswana noted two recommendations on the protection of refugee rights, including to lift its reservations to the 1951 Convention. Botswana maintains its reservations and the asylum space in Botswana is becoming increasingly precarious (see section in Human rights situation on the ground).
6. Botswana supported five recommendations relating to gender-based violence,<sup>6</sup> and yet the situation of women has continued to deteriorate in the country. The government has also taken no steps to address the recommendations to criminalize marital rape.<sup>7</sup>
7. Botswana supported two recommendations<sup>8</sup> relating to beginning public discussions on the use of the death penalty. Those discussions are currently ongoing in the context of the review of the Constitution.
8. Botswana supported 15 recommendations in the previous review on the establishment of a National Human Rights Institution that complies with the Paris Principles, but does not yet have one functioning, though it is currently in the process of setting one up.<sup>9</sup>

## THE NATIONAL HUMAN RIGHTS FRAMEWORK

9. The Republic of Botswana's domestic institutional human rights framework includes the Constitution, national legislation, policy and bodies such as the Independent Electoral Commission, the Office of the Ombudsman as well as Government Ministries and Departments. There is also an active civil society and civic organizations continue to make meaningful contributions to the promotion and protection of human rights in the country.
10. However, one of the greatest challenges Botswana faces with regards to its human rights framework is that although the Constitution sets out fundamental rights & freedoms of citizens it does not protect socio-economic rights, which has led to increased vulnerability & dependency of the poor.
11. With regards to international treaties, although Botswana has quite a high ratification rate, it does not incorporate many provisions of international law into domestic law & therefore they cannot be enforced. Regrettably, Botswana has not implemented the five recommendations at the previous review to take steps to do so.<sup>10</sup>

## HUMAN RIGHTS SITUATION ON THE GROUND

## Corporal punishment

12. In Botswana, corporal punishment (flogging) is routinely used as a form of punishment in traditional courts and is also lawful under section 27 and section 61 of the Children's Act.<sup>11</sup> According to the NGO Ditshwanelo (the Botswana Centre for Human Rights), a 16-year-old boy was flogged at a traditional court (*Kgotla*) in Mahetlwe village in Kweneng District by the village's Deputy Chief, and on instructions from the police, for not wearing a face mask as required by regulations put in place in response to the Covid-19 pandemic.<sup>12</sup>

## The death penalty

13. Botswana is the only state in Southern Africa still carrying out executions, contrary to the growing trend towards abolition.<sup>13</sup> The growing number of states prohibiting the death penalty or refraining from using it point to the increasing recognition of the death penalty as a cruel punishment in itself, inconsistent with the prohibition on torture and other cruel, inhuman or degrading treatment or punishment under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International opposes the death penalty unconditionally as the ultimate cruel, inhuman and degrading punishment.
14. Botswana imposes a mandatory death penalty for various crimes [under the] Penal Code,<sup>14</sup> and the Botswana Defence Force Act, 1997.<sup>15</sup> The imposition of the mandatory death penalty is prohibited under international human rights law and standards. The UN Human Rights Committee has stated that “mandatory death sentences that leave domestic courts with no discretion as to whether to designate the offence as a crime warranting the death penalty, and whether to issue the death sentence in the particular circumstances of the offender, are arbitrary in nature.”<sup>16</sup> On 28 November 2019, the African Court on Human and Peoples' Rights ruled in a landmark judgement that mandatory imposition of the death penalty was unfair, because it denied the convicted person the right to be heard and present mitigating circumstances; and constituted an arbitrary deprivation of life.<sup>17</sup>
15. Amnesty international recorded three executions in Botswana in 2021, six people were sentenced to death and one person's death sentence was commuted. At the end of 2021, six people were under sentence of death. All of the above are men, and all convicted of murder. The number of persons executed in 2021 was identical to the number of those executed in 2020.<sup>18</sup>
16. People on death row are subjected to cruel, inhuman or degrading treatment prior to executions. The date and time of the set execution is not communicated to them in advance. There is a separate place where people on death row are housed, called “*Cell 10*”. The day before a person is executed, they are transported to the “*death watch*” cell at 6am in the morning, where they spend the last 24 hours of their life. They are executed by hanging at 6am the morning after that. As stated by the Human Rights Committee, “[f]ailure to provide individuals on death row with timely notification about the date of their execution constitutes, as a rule, a form of ill-treatment, which renders the subsequent execution contrary to article 7 of the [International Covenant on Civil and Political Rights]”.<sup>19</sup>
17. The authorities of Botswana also do not provide notice of any set executions to the family members and representatives of those at imminent risk, nor the forthcoming executions announced to the public. Furthermore, the bodies of those executed are usually not released to their family members for burial.

## Gender-based violence (GBV)

18. Violence against women in Botswana remains to be at endemic levels with most recent statistics showing that 67% of women have experienced some form of violence.<sup>20</sup> In April 2021, the Botswana GBV Prevention and Support Centre (a local NGO) reported an increase in violence against women and girls during the Covid-19 pandemic.<sup>21</sup>

19. According to the UNFPA, in the most recent Gender based violence indicator study, only 1.2% of Batswana women reported cases of GBV to the police, which indicates a lack of trust in the police and entire justice system as a whole.<sup>22</sup>
20. In July 2022 the Botswana Police Force reported that between 1 January and 31 March 2022 there were 349 reported murders, 38% of which were related to gender-based violence which makes it a major cause of murder in the country during this reported period.<sup>23</sup>
21. Marital rape is not a criminal offence in Botswana although other forms of rape are criminalized.

## Refugee and migrant rights

22. Botswana is a state party to the 1951 Convention (the 1951 Convention) relating to the Status of Refugees and its 1967 Protocol.<sup>24</sup> It is also state party to the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention).<sup>25</sup> However, Botswana acceded to the 1951 Convention with seven reservations.<sup>26</sup> Botswana also has national refugee legislation: The Refugees (Recognition and Control) Act of 1968<sup>27</sup>, which governs asylum seekers and refugees in the country.
23. One of the primary challenges for refugee protection in Botswana is the archaic national refugee legislation. The Refugee Act, which predated Botswana's accession to the 1951 Convention, provides insufficient protection in relation provides insufficient protection in relation to the UN and OAU Conventions. The reservations made to the 1951 convention are also problematic, particularly the reservations Article 26 on freedom of movement, Article 17 on wage earning employment and Article 34 on naturalization. Consequently, refugee protection in Botswana takes place in a legislative and policy environment that prescribes encampment, thereby limiting freedom of movement, restrictions on employment, curtailing self-reliance and integration, and also limits options for durable solutions, in particular local integration.
24. Though there is unfettered access to territory by asylum seekers, the status determination process in Botswana is intractably slow and typified by high rejection rates owing to the 'policy' of first country of asylum. Asylum seekers awaiting status determination are arbitrarily detained in cruel and punishing facilities for no reason other than their immigration status,<sup>28</sup> with no access to legal representation as the country is yet to have functional short term reception centres.
25. As such, the right to seek and enjoy asylum continues to be severely limited. Botswana continues to host fewer refugees and asylum seekers than most countries in Africa (674 refugees and 58 asylum seekers as of September 2021).<sup>29</sup> In April 2021, UNHCR raised concerns after the authorities deported 57 Zimbabwean refugees who had lived in Botswana since 2008.<sup>30</sup> The refugees failed to register for voluntary repatriation, which led to their forced removal in March 2021, which amounted to refoulement.
26. The policy and practice for asylum seekers in Botswana is to be detained pending status determination. People are arbitrary detained for long periods of time at the "Centre for Illegal immigrants" where asylum seekers share the same space as 'illegal immigrants'<sup>31</sup>, within facilities which are not up to facilities which are not intended to house and protect asylum seekers whilst awaiting status determination, but rather, are more akin to prison facilities complete with cells and punishing environments. In most cases, asylum seekers perceive these facilities as akin to prisons, with the environment conjuring feelings of awaiting trial, while what in essence the what asylum seekers will be waiting on is protection. This process is particularly harrowing for children, who are routinely detained with their parents and denied social services such as access to education, in contravention of the Children's Act.<sup>32</sup>
27. In July 2022, the UN Working Group on Arbitrary Detention visited Botswana and found several instances where detentions fell short of international standards, including the arbitrary detention of asylum seekers and their children who had no access to education while detained.<sup>33</sup>

28. Undocumented migrants (defined as ‘illegal immigrants’ under Botswana’s law) are also subject to extended detentions when they are found to be in the country irregularly.<sup>34</sup>

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Botswana to:

### Corporal punishment

29. As recommended in the previous review, abolish all forms of judicial corporal punishment in law, including by traditional courts and within school and home settings.

### The death penalty

30. As recommended in previous reviews, urgently abolish the death penalty for all crimes.

Pending abolition:

31. Immediately introduce an official moratorium on executions and, as Botswana committed to do in the previous review, continue an informed national public debate aimed at promoting full abolition of the death penalty;

32. Remove from national legislation provisions that violate international human rights law and standards, including by removing the mandatory death penalty for all offences;

33. Ensure that those facing execution, their family members and legal representative are promptly informed of the set time of the execution, and that bodies are returned to family members should they wish to receive them;

34. Ensure that all persons facing the death penalty – including those from disadvantaged or marginalized socio-economic backgrounds – are provided access to competent legal assistance, from the moment of arrest or when they first face criminal charges, all the way through to appeals and other recourse procedures, and ensure that Legal Aid is provided sufficient resources to appoint competent pro bono lawyers in all regions of the country; and

35. Support international initiatives in favour of ending the death penalty.

### Gender-Based Violence

36. Prioritise appropriate, mandatory, initial and continuous training for all relevant professionals, including police and investigating officers, detectives, and other law enforcement officials who work with victims and survivors of gender-based violence on fulfilling their legal obligations.

37. Appropriately resource police officers and stations, including ensuring each station has a victim-friendly room.

38. Ensure regular, independent monitoring and evaluation of the handling of rape cases by the police, including monitoring the quality and timeliness of investigations, and link performance related targets to these.

39. Promote changes in the social and cultural patterns of behaviour of people of all genders with a view to eradicating harmful gender stereotypes and myths around sexual violence, for instance through informed awareness-raising campaigns owned by and directed at everyone in Botswana society, as well as specialized training on these issues for officials working within the justice system.

40. Criminalize marital rape.

### Refugee and Migrant Rights

41. Finalise the review of the Refugee Act to ensure it is in line with international standards.

42. Implement fair asylum procedures at the RAC which should apply international principles and refrain from the use of ‘first country of asylum’ policy.

43. Refrain from detaining asylum seekers solely due to their immigration status and implement alternatives to detention. Ensure reception facilities are equipped to provide medical care and assessments of needs before releasing people to await status determination”.
44. Remove Botswana’s seven reservations to the 1951 Convention relating to the Status of Refugees.
45. Remove the encampment system.
46. Allow refugees unfettered access to employment as well as the possibility to naturalize.

## ANNEX 1

### KEY AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE

Botswana: Submission to the UN Committee against Torture, (Index: AFR 15/5762/2022), 30 June 2022  
<https://www.amnesty.org/en/documents/afr15/5762/2022/en/>

Botswana: Executions of two people show contempt for right to life under President Masisi's government (Press release) 9 February 2021, <https://www.amnesty.org/en/latest/press-release/2021/02/botswana-executions-of-two-people-show-contempt-for-right-to-life-under-president-masisis-government/>

Botswana: President Masisi's first year in office marred by executions (Press release), October 30 2020, <https://www.amnesty.org/en/latest/news/2020/10/botswana-president-masisi-first-year-in-office-marred-by-executions-2/>

Botswana: President-elect Masisi must make death penalty abolition his top priority (Press release), October 31 2019, <https://www.amnesty.org/en/latest/news/2019/10/botswana-president-elect-masisi-must-make-death-penalty-abolition-his-top-priority-2/>

Botswana: Amnesty International calls on Botswana to step up action to promote human rights (Index: AFR 15/8689/2018), 28 June 2018, <https://www.amnesty.org/en/documents/afr15/8689/2018/en/>

Botswana: Execution of prisoner is an appalling step backwards (Press release), February 19 2018, <https://www.amnesty.org/en/latest/news/2018/02/botswana-execution-of-prisoner-is-an-appalling-step-backwards/>

## ANNEX 2

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
<b>Theme: A12 Acceptance of international norms</b>			
127.1 Ratify those international instruments that Botswana had committed to ratifying during the second cycle of the universal periodic review (Madagascar); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A12 Acceptance of international norms A27 Follow-up to Universal Periodic Review (UPR) <b>Affected persons:</b> - general	Partially Implemented
127.3 Continue to work on the implementation of its commitments to promote and protect human rights in the light of the recommendations already accepted (Sudan); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A12 Acceptance of international norms A27 Follow-up to Universal Periodic Review (UPR) <b>Affected persons:</b> - general	Partially Implemented
128.23 Ratify the Convention on the Prevention and Punishment of the Crime of Genocide (Armenia); <b>Source of position:</b> A/HRC/38/8/Add.1	Supported	A12 Acceptance of international norms B13 Genocide S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not implemented
128.24 Consider ratifying the Convention on the Prevention and Punishment of the Crime of Genocide in view of the upcoming seventieth anniversary of its adoption (Rwanda); <b>Source of position:</b> A/HRC/38/8/Add.1	Supported	A12 Acceptance of international norms B13 Genocide S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not implemented
128.10 Consider acceding to the Convention on the Rights of Persons with Disabilities (Ethiopia); <b>Source of position:</b> A/HRC/38/8/Add.1	Supported	A12 Acceptance of international norms S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - persons with disabilities	Implemented
128.13 Consider ratifying the Convention on the Rights of Persons with Disabilities (Mauritius); <b>Source of position:</b> A/HRC/38/8/Add.1	Supported	A12 Acceptance of international norms S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - persons with disabilities	Implemented
<b>Theme: A21 National Mechanisms for Reporting and Follow-up (NMRF)</b>			
127.4 Consider the creation of a national follow-up mechanism for recommendations on human rights issues, which would allow for the adequate follow-up of the obligations and recommendations made by regional and universal human rights systems (Paraguay); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A21 National Mechanisms for Reporting and Follow-up (NMRF) <b>Affected persons:</b> - general	Partially implemented
<b>Theme: A41 Constitutional and legislative framework</b>			
127.5 Domesticating the Convention on the Elimination of All Forms of Discrimination against Women, in order to enhance the promotion and protection of women's rights (Namibia); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A41 Constitutional and legislative framework F12 Discrimination against women S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women	Partially Implemented

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
<b>Theme: A43 Human rights policies</b>			
127.73 Implement gender equality policies that foster girls' access to health and education and raise awareness among the population about sexual and gender-based violence (Mexico). <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A43 Human rights policies A54 Awareness raising and dissemination E41 Right to health - General E51 Right to education - General F12 Discrimination against women F13 Violence against women <b>Affected persons:</b> - children	Not Implemented
<b>Theme: A45 National Human Rights Institution (NHRI)</b>			
127.6 Continue efforts to ensure that the national human rights institution that will be established will be in compliance with the Paris Principles (Portugal); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.7 Expedite the establishment of a national human rights institution in conformity with the Paris Principles (Sierra Leone); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.8 Intensify efforts aimed at establishing a national human rights institution in line with the Paris Principles (Ukraine); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.9 Prioritize the setting-up of a national human rights institution in accordance with the Paris Principles (South Africa); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.10 Step up the process of setting up a national human rights institution in conformity with the Paris Principles (Togo); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.11 Accelerate the establishment of a national human rights institution in line with the Paris Principles (Afghanistan); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.12 Establish, without further delay, a national human rights institution that will be in full compliance with the Paris Principles (Liechtenstein); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.13 Establish a national human rights institution in line with the Paris Principles (Morocco); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.15 Complete its efforts to establish a national human rights institution in line with the Paris Principles (Greece); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
127.17 Make every effort to ensure that its national human rights institution is in compliance with the Paris Principles (Timor-Leste); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Partially Implemented (this process is ongoing and the government says it should be concluded by the end of 2022)
127.18 Ensure the independence of the Office of the Ombudsman as a national human rights institution in line with the Paris Principles (Canada); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Implemented
127.20 Ensure that the Office of the Ombudsman, as a national human rights institution, is independent and adequately financed in line with the Paris Principles (Germany); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms <b>Affected persons:</b> - general	Implemented
127.16 Establish a national human rights institution that is in line with the Paris Principles by finalizing and adopting the Ombudsman Amendment Bill that will confer a human rights mandate on the Office of the Ombudsman (Thailand); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A12 Acceptance of international norms A41 Constitutional and legislative framework A42 Institutions & policies - General <b>Affected persons:</b> - general	Not Implemented
127.19 Take concrete steps towards the finalization of the bill on the transformation of the Office of the Ombudsman into a hybrid national human rights institution (Namibia); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A45 National Human Rights Institution (NHRI) A41 Constitutional and legislative framework A44 Structure of the national human rights machinery <b>Affected persons:</b> - general	Not Implemented
<b>Theme: A51 Human rights education - general</b>			
127.63 Promote human rights education and awareness-raising for the public, including schools, through government ministries and other bodies (Ghana); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A51 Human rights education - general E51 Right to education - General E56 Basic/continuing education S04 SDG 4 - education <b>Affected persons:</b> - general	Partially Implemented
<b>Theme: A53 Professional training in human rights</b>			
127.25 Provide trainings on human rights principles and obligations for all law enforcement officers, as well as continue to investigate allegations of human rights violations, including violations committed by police officers, and hold accountable those who are responsible (Thailand); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	A53 Professional training in human rights B51 Right to an effective remedy D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - law enforcement / police officials	Partially Implemented
<b>Theme: B31 Equality &amp; non-discrimination</b>			
127.65 Continue to put emphasis on gender equality and ensuring the rights of women and girls, including better access for them to education, aside from committing greater budgetary resources to the Women's Economic Empowerment Programme (Malaysia); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	B31 Equality & non-discrimination F12 Discrimination against women E51 Right to education - General S05 SDG 5 - gender equality and women's empowerment S04 SDG 4 - education <b>Affected persons:</b> - women - girls	Partially Implemented
<b>Theme: D23 Death penalty</b>			

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
127.28 Take active steps to ensure that public consultations on the abolition of the death penalty, including on its abolition, are held, and include information on the outcome of those consultations in its next universal periodic review report (Rwanda); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D23 Death penalty D21 Right to life A27 Follow-up to Universal Periodic Review (UPR) S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Implemented (in context of review of Constitution)
127.29 Renew the work towards holding a public national discussion on the death penalty (Ukraine); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D23 Death penalty D21 Right to life S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Implemented (in context of review of Constitution)
<b>Theme: D25 Prohibition of torture and cruel, inhuman or degrading treatment</b>			
128.48 Continue to fully implement various international human rights instruments, particularly the Convention on the Elimination of All Forms of Discrimination against Women and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with a view to reducing gender-based violence (Indonesia); <b>Source of position:</b> A/HRC/38/8/Add.1	Supported	D25 Prohibition of torture and cruel, inhuman or degrading treatment F12 Discrimination against women F13 Violence against women S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women - girls - lesbian, gay, bisexual, transgender and intersex persons (LGBTI)	Partially Implemented
<b>Theme: D27 Prohibition of slavery, trafficking</b>			
127.39 Take concrete measures to prevent human trafficking and exploitation, especially of women and children (Republic of Korea); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D27 Prohibition of slavery, trafficking A42 Institutions & policies - General F13 Violence against women F33 Children: protection against exploitation S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - women - children	Implemented
127.38 Continue to strengthen measures to combat human trafficking by providing training to service providers and stakeholders working with victims of human trafficking (Maldives); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D27 Prohibition of slavery, trafficking A53 Professional training in human rights S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - women - children - girls	Implemented
127.40 Work closely with civil society and non-governmental organizations in addressing human trafficking issues (Philippines); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D27 Prohibition of slavery, trafficking A61 Cooperation with civil society S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - women - children	Implemented
127.37 Take the necessary measures, as a country of origin, transit and destination for human trafficking and sexual exploitation of children, to address and investigate such crimes (Syrian Arab Republic); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D27 Prohibition of slavery, trafficking F31 Children: definition; general principles; protection D51 Administration of justice & fair trial B51 Right to an effective remedy B52 Impunity S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - children	Implemented

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
128.58 Take effective measures to prevent trafficking in human beings and to rehabilitate victims (Russian Federation); <b>Source of position:</b> A/HRC/38/8/Add.1	Supported	D27 Prohibition of slavery, trafficking S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general - women - children - girls	<b>Not Implemented</b>
<b>Theme: D28 Gender-based violence</b>			
127.31 Implement further measures to combat gender-based violence and take steps to strengthen legal protections for victims of gender-based violence (Australia); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D28 Gender-based violence F13 Violence against women A41 Constitutional and legislative framework S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women - girls - vulnerable persons/groups	<b>Partially Implemented</b>
127.32 Train police officers and other stakeholders on the handling of reported cases of gender-based violence (Belgium); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D28 Gender-based violence F13 Violence against women A53 Professional training in human rights S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women - law enforcement / police officials	<b>Partially Implemented</b>
<b>Theme: D29 Domestic violence</b>			
127.30 Criminalize domestic violence and continue the elaboration and implementation of public policies to prevent, address, punish and eradicate all forms of violence against women, including building help centres for women victims of violence (Paraguay); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D29 Domestic violence F13 Violence against women A41 Constitutional and legislative framework S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women	<b>Not implemented (marital rape still not criminalized)</b>
<b>Theme: D51 Administration of justice &amp; fair trial</b>			
127.34 Strengthen its domestic criminal legal system in order to effectively investigate and prosecute crimes (India); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	D51 Administration of justice & fair trial B51 Right to an effective remedy S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b>	<b>Partially Implemented (domestic violence courts have been set up)</b>
<b>Theme: E1 Economic, social &amp; cultural rights - general measures of implementation</b>			

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
127.27 Continue with reforms, which include introducing measures to diversify the economy and accelerate economic growth aimed at increased productivity, poverty reduction and the attainment of equitable social development (Indonesia); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	E1 Economic, social & cultural rights - general measures of implementation E21 Right to an adequate standard of living - general B41 Right to development B42 Human rights, structural adjustment/economic reform policies & foreign debt E25 Human rights & poverty E24 Right to social security S01 SDG 1 - poverty S08 SDG 8 - economic growth, employment, decent work S12 SDG 12 - sustainable consumption and production S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - vulnerable persons/groups - persons living in poverty	Partially Implemented
<b>Theme: E24 Right to social security</b>			
127.41 Enhance its social protection programme in areas such as targeting mechanisms, implementation procedures and coordination (State of Palestine); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	E24 Right to social security A42 Institutions & policies - General S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - vulnerable persons/groups	Partially Implemented
<b>Theme: E25 Human rights &amp; poverty</b>			
127.45 Continue working on poverty eradication initiatives with special focus on women and children (Bhutan); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	E25 Human rights & poverty E1 Economic, social & cultural rights - general measures of implementation S01 SDG 1 - poverty <b>Affected persons:</b> - women - children	Implemented
128.61 Strengthen further its efforts in the area of poverty eradication, including by strengthening and addressing shortcomings highlighted in the poverty-eradication programmes (Malaysia); <b>Source of position:</b> A/HRC/38/8/Add.1	Supported	E25 Human rights & poverty E21 Right to an adequate standard of living - general S01 SDG 1 - poverty <b>Affected persons:</b> - persons living in poverty	Implemented
127.43 Continue taking further measures to eradicate poverty (Azerbaijan); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	E25 Human rights & poverty S01 SDG 1 - poverty <b>Affected persons:</b> - persons living in poverty	Implemented
<b>Theme: F13 Violence against women</b>			
127.33 Punish the authors responsible of sexual violence against women and girls (France); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	F13 Violence against women B51 Right to an effective remedy D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - women - girls	Partially Implemented

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
127.66 Take measures aimed at ending violence against women and girls and the discrimination suffered by them by influencing traditional practices that undermine gender equality and promoting greater participation of women in all sectors of society (Spain); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	F13 Violence against women F12 Discrimination against women F14 Participation of women in political and public life S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women	Not Implemented
<b>Theme: F14 Participation of women in political and public life</b>			
127.35 Continue with efforts in the field of gender equality, especially by removing loopholes in national legislation and by encouraging participation of women in the economy and politics (Slovenia); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	F14 Participation of women in political and public life B31 Equality & non-discrimination A41 Constitutional and legislative framework F12 Discrimination against women S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women	Not Implemented (Botswana has very low rate of women political participation)
127.36 Continue to study the possibility of establishing the measures and mechanisms in order to improve the representation of women's access to decision making positions in politics (Mauritania); <b>Source of position:</b> A/HRC/38/8 - Para. 127	Supported	F14 Participation of women in political and public life B31 Equality & non-discrimination A42 Institutions & policies - General F12 Discrimination against women S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women	Not Implemented
<b>Theme: F33 Children: protection against exploitation</b>			
128.68 Take effective measures to end violence against children, including sexual abuse and exploitation (Myanmar); <b>Source of position:</b> A/HRC/38/8/Add.1	Supported	F33 Children: protection against exploitation F32 Children: family environment and alternative care S16 SDG 16 - peace, justice and strong institutions S10 SDG 10 - inequality <b>Affected persons:</b> - children	Not Implemented (corporal punishment in schools and home setting is still legal) Asylum seeker children are detained
<b>Theme: A13 Reservations</b>			
129.58 Lift its reservations on the Convention relating to the Status of Refugees, with a view to amending the policy of holding asylum seekers and refugees in camps and to providing them with work permits and decent job opportunities (Honduras). <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	A13 Reservations G5 Refugees & asylum seekers E31 Right to work S08 SDG 8 - economic growth, employment, decent work <b>Affected persons:</b> - refugees & asylum seekers	Not Implemented
<b>Theme: A22 Cooperation with treaty bodies</b>			
128.33 Adopt an open, merit-based selection process when selecting national candidates for United Nations treaty body elections (United Kingdom of Great Britain and Northern Ireland); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	A22 Cooperation with treaty bodies <b>Affected persons:</b> - general	Partially Implemented
<b>Theme: B31 Equality &amp; non-discrimination</b>			

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
129.45 Decriminalize consensual, same-sex sexual acts (Sweden); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	B31 Equality & non-discrimination A41 Constitutional and legislative framework S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - lesbian, gay, bisexual, transgender and intersex persons (LGBTI)	Implemented
129.46 Decriminalize same-sex sexual activities and ensure non-discrimination in accordance with Botswana's domestic and international human rights obligations (Iceland); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	B31 Equality & non-discrimination A41 Constitutional and legislative framework S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - lesbian, gay, bisexual, transgender and intersex persons (LGBTI)	Implemented
129.48 Decriminalize consensual sexual relations between people of the same sex and act to stop the discrimination suffered by people because of their sexual orientation (Spain); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	B31 Equality & non-discrimination A41 Constitutional and legislative framework S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - lesbian, gay, bisexual, transgender and intersex persons (LGBTI)	Implemented

### Theme: D23 Death penalty

129.22 Establish a moratorium on the death penalty as a first step towards its full abolition and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Portugal); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A12 Acceptance of international norms A41 Constitutional and legislative framework D1 Civil & political rights - general measures of implementation S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.33 Hold public consultations on the use of the death penalty and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Uruguay); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A12 Acceptance of international norms D1 Civil & political rights - general measures of implementation S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.35 While welcoming the public debates on the death sentence, Namibia encourages Botswana to consider placing a moratorium on executions, commute all death sentences to other sentences and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Namibia); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A12 Acceptance of international norms D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.26 Enact a moratorium on the use of the death penalty, with a view to abolishing it, and enhance the promotion and the protection of the right to life (Holy See); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework D21 Right to life S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
129.28 Establish and implement a moratorium on executions as a first step towards the abolition of the death penalty (Belgium); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.16 Abolish the death penalty (France) (Honduras); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.17 Consider abolishing the death penalty (Mozambique); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.18 Give due consideration to the legal abolition of the death penalty and to the commutation of all death sentences to terms of imprisonment (Liechtenstein); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.19 Impose a moratorium on the use of the death penalty (Montenegro); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.20 Establish an official moratorium on executions and abolish the death penalty (Germany); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.21 Establish a moratorium on the application of the death penalty, with a view to holding informed debates about its full abolition (Mexico); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.23 Agree to a moratorium on the death penalty as a first step towards its ultimate abolition, as previously recommended (Ireland); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.25 Consider implementing a moratorium on the death penalty (Ghana); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.27 Establish a formal moratorium on the death penalty, as a step towards complete abolition of this practice (Australia); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
129.29 Establish a moratorium on the use of the death penalty, with a view to its abolition in law and practice (Chile); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.30 Establish a moratorium on executions, with a view to fully abolishing the death penalty, as previously recommended (Estonia); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.31 Consider a moratorium on the death penalty, with a view to its legal and practical elimination (Ecuador); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.32 Repeal the death penalty and consider a moratorium pending its complete abolition (Canada); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.34 Consider initiating an inclusive public discussion on the implementation of a moratorium on the death penalty with the aim of abolishing it (Angola); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.24 Impose a country-wide moratorium on the death penalty that immediately halts all sentences and executions, with a view toward complete abolition of the death penalty (Iceland); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.36 Promote a national debate on the death penalty, with a view to establishing a moratorium on executions (Italy); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty D51 Administration of justice & fair trial S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general	Not Implemented
129.37 Abolish the death penalty definitively, hold a public debate to that end, and, in the meantime, humanize the process to mitigate the suffering of the persons sentenced and their families (Spain); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D23 Death penalty S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - general - children - prison officials	Not Implemented
<b>Theme: D28 Gender-based violence</b>			
129.38 Take measures to eliminate all forms of sexual and gender-based violence, including through criminalizing marital rape, investigating and prosecuting all acts of sexual violence and providing training to law enforcement officials on sexual and gender-based violence (Canada); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	D28 Gender-based violence A41 Constitutional and legislative framework F13 Violence against women A53 Professional training in human rights S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - law enforcement / police officials - prison officials	Not Implemented
<b>Theme: D43 Freedom of opinion and expression</b>			

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
128.51 Ensure that all journalists can report freely on government activities without threat or harassment (United States of America); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	D43 Freedom of opinion and expression E31 Right to work E32 Right to just and favourable conditions of work S08 SDG 8 - economic growth, employment, decent work S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - media	Not Implemented (during Covid period)
128.52 Improve legal protections for journalists, especially those receiving information from whistle-blowers or covering government protests (Australia); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	D43 Freedom of opinion and expression E31 Right to work E32 Right to just and favourable conditions of work S08 SDG 8 - economic growth, employment, decent work S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - media	Not Implemented (during Covid period)
128.53 Refrain from using criminal charges to obstruct freedom of information and expression, including for journalists who receive information from whistle-blowers (Netherlands); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	D43 Freedom of opinion and expression E31 Right to work E32 Right to just and favourable conditions of work S08 SDG 8 - economic growth, employment, decent work S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - media	Not Implemented (during Covid period)

### Theme: D6 Rights related to name, identity, nationality

128.75 Amend the Citizenship Act and the citizenship regulations in accordance with the Convention on the Rights of the Child, so as to ensure every child's right to a nationality (Belgium); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	D6 Rights related to name, identity, nationality A41 Constitutional and legislative framework F31 Children: definition; general principles; protection S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - children	Not Implemented
128.76 Adopt legislative measures, administrative measures and programmes which ensure the registration of all children born within its borders, regardless of their parents' migratory status or nationality, including refugees, founding children and those born outside of hospitals (Mexico). <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	D6 Rights related to name, identity, nationality A41 Constitutional and legislative framework G5 Refugees & asylum seekers S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - children - migrants - vulnerable persons/groups - stateless persons	Not Implemented
128.73 Adopt legislative and normative acts to ensure the right of all children to acquire citizenship and ensure that no child is born stateless (Russian Federation); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	D6 Rights related to name, identity, nationality A41 Constitutional and legislative framework S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - children	Not Implemented

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
128.74 Amend its legislation in order to grant nationality to any child born in Botswana who would otherwise be stateless, as well as to foundlings (Sierra Leone); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	D6 Rights related to name, identity, nationality A41 Constitutional and legislative framework S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - children	<b>Not Implemented</b>
<b>Theme: E41 Right to health - General</b>			
128.62 Widen the programmes to combat HIV for non-Botswana nationals (France); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	E41 Right to health - General E42 Access to health-care (general) E43 Access to sexual and reproductive health and services S03 SDG 3 - health <b>Affected persons:</b> - persons living with HIV/AIDS	<b>Partially Implemented</b>
128.63 Affirm that there is no international human right to abortion, resist calls to liberalize abortion and further implement laws aimed at protecting the right to life of the unborn child (Kenya); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	E41 Right to health - General E43 Access to sexual and reproductive health and services S03 SDG 3 - health A41 Constitutional and legislative framework <b>Affected persons:</b> - women - children	<b>Not Implemented</b>
<b>Theme: F13 Violence against women</b>			
129.39 Take urgent steps to address gender-based violence, including the creation of an act that makes marital rape illegal in Botswana (United Kingdom of Great Britain and Northern Ireland); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	F13 Violence against women A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - women - lesbian, gay, bisexual, transgender and intersex persons (LGBTI)	<b>Not Implemented</b>
129.40 Enact specific legislation on marital rape and ensure that all violence against women and girls constitutes a criminal offence, as previously recommended (Ireland); <b>Source of position:</b> A/HRC/38/8 - Para. 129	Noted	F13 Violence against women A41 Constitutional and legislative framework S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - women - girls	<b>Not Implemented</b>
<b>Theme: F14 Participation of women in political and public life</b>			
128.56 Increase women's representation in decision-making positions, in particular in the areas of access to water and services (Iraq); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	F14 Participation of women in political and public life E26 Human Rights & drinking water and sanitation <b>Affected persons:</b> - women	<b>Not Implemented</b>
128.55 Create mechanisms to increase the representation of women in positions of responsibility (Togo); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	F14 Participation of women in political and public life S05 SDG 5 - gender equality and women's empowerment <b>Affected persons:</b> - women	<b>Not Implemented</b>
<b>Theme: G3 Indigenous peoples</b>			

Recommendation	Position	Full list of themes	Amnesty International's assessment/comments on level of implementation
128.72 Ensure that indigenous peoples receive proper access to public services and water, and repeal the hunting ban, as recommended by the United Nations Special Rapporteur (Canada); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	G3 Indigenous peoples A24 Cooperation with special procedures E26 Human Rights & drinking water and sanitation A41 Constitutional and legislative framework S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - Indigenous peoples	Not Implemented (Botswana considers all African Batswana as indigene and so no specific protection for indigenous persons)
128.69 Increase efforts to promote the rights and well-being of indigenous peoples (Philippines); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	G3 Indigenous peoples A43 Human rights policies S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - Indigenous peoples	Not Implemented (Botswana considers all African Batswana as indigene and so no specific protection for indigenous persons)
128.70 Strengthen measures to protect minorities and indigenous people living in the country (Benin); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	G3 Indigenous peoples A43 Human rights policies S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - Indigenous peoples	Not Implemented (Botswana considers all African Batswana as indigene and so no specific protection for indigenous persons)

### Theme: G4 Migrants

128.60 Take effective measures to improve the condition of migrant workers in compliance with international standards (Holy See); <b>Source of position:</b> A/HRC/38/8/Add.1	Noted	G4 Migrants E31 Right to work E32 Right to just and favourable conditions of work S10 SDG 10 - inequality S16 SDG 16 - peace, justice and strong institutions <b>Affected persons:</b> - migrants	Not Implemented
--	-------	---	-----------------

- <sup>1</sup> Report of the Human Rights Council on its thirty-eighth session, UN Doc. A/HRC/38/2, para. 492
- <sup>2</sup> Botswana noted 13 recommendations at the previous review on ending discrimination against LGBTI persons including by decriminalizing same-sex sexual relations: recommendations 128.46 (Philippines), 129.9 (Netherlands), 129.11-14 (Australia, Brazil, Germany, Uruguay) and 129.45-51 (Sweden, Iceland, Canada, Spain, Argentina, France, United States of America), UN Doc. A/HRC/38/8 and its appendix A/HRC/38/8/Add.1
- <sup>3</sup> *The Attorney-General v Letsweletse Motshidiemang* (LEGABIBO as amicus curiae) CACGB-157-19
- <sup>4</sup> Recommendation 128.68 (Myanmar)
- <sup>5</sup> Despite having noted the recommendations to ratify the Convention on the Rights of Persons with Disabilities, Botswana indicated at the outcome adoption that it had decided to ratify this treaty and expected to do so by 2018. UN Doc. A.HRC/38/2 para. 495
- <sup>6</sup> A/HRC/38/8 and its appendix A/HRC/38/8/Add.1, recommendations 127.31-32 (Australia, Belgium); ();127.60 (Ethiopia), 127.73 (Mexico), 128.48 (Indonesia),
- <sup>7</sup> A/HRC/38/8, recommendation 129.38 (Canada)
- <sup>8</sup> Recommendations 127.28 (Rwanda) and 127.29 (Ukraine)
- <sup>9</sup> 127.6 -20 (Portugal, Sierra Leone, Ukraine, South Africa, Togo, Afghanistan, Liechtenstein, Morocco, Greece, Thailand, Timor-Leste, Canada, Namibia, Germany));
- <sup>10</sup> 127.1 (Madagascar), 127.3 (Sudan), 127.5 (Namibia), 128.23 (Armenia) 128.24 (Rwanda)
- <sup>11</sup> Children's Act, 2009, No. 8 of 2009
- <sup>12</sup> Amnesty International Report 2020/21: The state of the world's human rights, April 7, 2021, Index Number: POL 10/3202/2021
- <sup>13</sup> At the time of writing, the majority of the world's countries (110) have abolished the death penalty for all crimes and more than two-thirds are considered by Amnesty International to be abolitionist in law or practice.
- <sup>14</sup> Penal Code (Amendment) Act, Cap. 08:01 2018
- <sup>15</sup> Botswana Defence Force Act, No.3 of 2018
- <sup>16</sup> UN Human Rights Committee, General comment No. 36, Article 6: right to life, UN Doc.CCPR/C/GC/36, 3 September 2019, para.37.
- <sup>17</sup> African Court on Human and Peoples' Rights, Ally Rajabu and Others v. United Republic of Tanzania, Application No. 007/2015, 28 November 2019, para.114, <https://www.africancourt.org/cpmt/storage/app/uploads/public/5f5/63d/f99/5f563df99fbc7507699184.pdf>
- <sup>18</sup> Amnesty International, Death sentences and executions in 2021(Index ACT 50/5418/2022), May 2022.
- <sup>19</sup> Human Rights Committee, General comment No. 36, Article 6: right to life, UN Doc.CCPR/C/GC/36, 3 September 2019, para.40, and Concluding observations of the Human Rights Committee, Japan, UN Doc. CCPR/C/JPN/CO/5. See also Concluding observations on the second periodic report of Japan, adopted by the Committee at its fiftieth session (6-31 May 2013), UN Doc.CAT/C/JPN/CP/2; and interim report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/67/279, para. 50.
- <sup>20</sup> Genderlinks Gender Based Violence Indicators Study © Copyright 2012 GL and WAD ISBN: 978-0-9869880-3-5
- <sup>21</sup> Xinhua, 'Roundup: Gender based violence cases rise in Botswana, 15 April 2021, [http://www.xinhuanet.com/english/africa/2021-04/15/c\\_139880835.htm](http://www.xinhuanet.com/english/africa/2021-04/15/c_139880835.htm)
- <sup>22</sup> Genderlinks Gender Based Violence Indicators Study © Copyright 2012 GL and WAD ISBN: 978-0-9869880-3-5
- <sup>23</sup> The Botswana Gazette, 300 murders in three months, 27 July 2022, <https://www.thegazette.news/news/300-murders-in-three-months/>
- <sup>24</sup> UN General Assembly, Convention Relating to the Status of Refugees, [https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg\\_no=V-2&chapter=5&Temp=mtdsg2&clang=\\_en#EndDec](https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en#EndDec)
- <sup>25</sup> The 1969 OAU Refugee Convention and the Protection of People fleeing Armed Conflict and Other Situations of Violence in the Context of Individual Refugee Status Determination, January 2013, <https://au.int/sites/default/files/treaties/36400-sl-OAU%20Convention%20Governing%20the%20Specific%20Aspects%20of%20Refugee%20Problems%20in%20Africa.pdf> ]
- <sup>26</sup> Article 7 – Exemption from reciprocity, Article 12(1) – Personal Status, Article 17 – Employment, Article 26 – Freedom of movement, Article 31 – Refugees unlawfully in country of refuge, Article 32 – Expulsion and Article 34 on Naturalization.
- <sup>27</sup> Botswana: Refugees (Recognition and Control) Act of 1968 [], Cap. 25:03, 5 April 1968, available at: <https://www.refworld.org/docid/3ae6b4d60.html> [accessed 27 February 2021]
- <sup>28</sup> Daily Maverick, Botswana: Asylum-seekers accuse prison officials of ill-treatment and sexual assault, 08 January 2018, <https://www.dailymaverick.co.za/article/2018-01-08-botswana-asylum-seekers-accuse-prison-officials-of-ill-treatment-and-sexual-assault/>
- <sup>29</sup> Email from officer in charge at UNHCR Botswana Office, 13 September 2021.
- <sup>30</sup> VOA, UNHCR Voices Concern After Botswana Deports Zimbabwean Refugees, 18 April 2021 [https://www.voanews.com/a/africa\\_unhcr-voices-concern-after-botswana-deports-zimbabwean-refugees/6204751.html#:~:text=High%20Commissioner%20for%20Refugees%20\(UNHCR,forced%20removal%20late%20last%20week](https://www.voanews.com/a/africa_unhcr-voices-concern-after-botswana-deports-zimbabwean-refugees/6204751.html#:~:text=High%20Commissioner%20for%20Refugees%20(UNHCR,forced%20removal%20late%20last%20week)
- <sup>31</sup> Broad term which includes undocumented migrants, irregular migrants, failed asylum seekers, refugees who have had their refugee status stripped, people who have been declared 'undesirable'.

---

<sup>32</sup> Section 18 of the Children's Act, 2009 (No. 8 of 2009)

Also see E Macharia Mokobi (2020) Child asylum seekers in Botswana: a critique of the Ngezi and Iragi Decisions  
Safeguarding Children's Rights in Immigration law, 217 - 233

<sup>33</sup> United Nations Botswana must urgently embrace further safeguards against arbitrary detention for all – UN experts,  
15 July 2022, <https://www.ohchr.org/en/press-releases/2022/07/botswana-must-urgently-embrace-further-safeguards-against-arbitrary#:~:text=The%20Working%20Group%20on%20Arbitrary,of%20asylum%2Dseekers%20and%20immigrants.>

<sup>34</sup> United Nations Botswana must urgently embrace further safeguards against arbitrary detention for all – UN experts,  
15 July 2022, <https://www.ohchr.org/en/press-releases/2022/07/botswana-must-urgently-embrace-further-safeguards-against-arbitrary#:~:text=The%20Working%20Group%20on%20Arbitrary,of%20asylum%2Dseekers%20and%20immigrants>