

Comité Africain d'Experts sur les Droits et le Bien-être de l'Enfant Comité Africano de Peritos os Direitos e Bem-Estar da Criança لجنة الخبراء الإفريقية المعنية بحقوق الطفل ورفاهه



CONCLUDING OBSERVATIONS AND RECOMMENDATIONS OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD TO THE REPUBLIC OF BOTSWANA ON ITS INITIAL REPORT ON THE IMPLEMENTATION OF THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

SEPTEMBER 2023

I. INTRODUCTION

- 1. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC/The Committee) extends its compliments to the Government of the Republic of Botswana and would like to extend its gratitude to the latter for submitting its combined Initial report on the status of implementation of the African Charter on the Rights and Welfare of the Child (ACRWC/The Charter), which was considered during the 41st Ordinary Session held in Maseru, the Kingdom of Lesotho, from 28 April to 06 May 2023. The Committee further congratulates the State Party for its large delegation led by Hon. Mabuse Mopati Pule, Assistant Minister of Local Government and Rural Development and its high-level inter-ministerial composition. However, the Committee regrets that the report was submitted with considerable delay, which prevented the Committee from monitoring the level of implementation of the Charter by the Republic of Botswana for some years after the ratification.
- 2. Following the consideration of the report and the constructive dialogue held during its 41st Ordinary Session, the Committee has the honour to submit to the Government of Botswana the following concluding observations and recommendations to improve the implementation of the Charter in the State Party.

II. PROGRESS IN THE IMPLEMENTATION OF THE CHARTER

- 3. The Committee welcomes several legal, political and administrative measures adopted by the Republic of Botswana to domesticate the provisions of the ACRWC. The Committee further appreciates that since the ratification of the ACRWC in 2001, the State Party has developed, among others, the following legislation and policy frameworks:
 - Enactment of the Children's Act in 2009, Domestic Violence Act in 2008 and the development of a National Plan of Action for Orphans and Vulnerable Children;
 - Legal Aid Botswana established through an Act of Parliament in 2013;
 - Amendment of Penal Code in 2018;
 - Adoption of Public Health (Prevention of Immunizable Childhood Diseases) Regulations; and,
 - Amendment of the National Registration Act [Cap. 01:02] by Act No 11 of 2017.

III. AREAS OF CONCERN AND RECOMMENDATIONS

A. General measures of implementation

4. The Committee notes with appreciation that Chapter II of the Constitution of the Republic of Botswana entrenches a Bill of Rights which protect the fundamental rights and freedoms of the individual. However, the Committee

notes with concern that the Bill of Rights does not protect socio-economic rights and it does not include children's rights issues. Therefore, the Committee recommends that the State Party amends the Bill of Rights to include the protection of socio-economic rights and children's rights issues.

- 5. The Committee notes with appreciation that the State Party, through the Children's Act (2009) has established the National Children's Council (NCC) to ensure the coordination and provision of oversight of all children's rights-related initiatives and activities at the national level. However, the Committee notes from the State Party report that the NCC has not been able to deliver on its assigned mandate effectively. In this regard, the Committee recommends the State Party allocate adequate human, technical and financial resources to the NCC to effectively execute its mandate and ensure there are representations of children and CSOs in the NCC.
- 6. The Committee appreciates that the Children's Act has established a National Children's Consultative Forum (NCCF), which is advisory to the NCC and members of the Forum include ten children representatives from each district in the State Party. The Committee recommends that the State Party ensures that children's views are considered in decision- and policy-making processes and the Forum has representatives from children with disabilities and other vulnerable situations.
- 7. The Committee congratulates the State Party that the Ombudsman Bill that confers the human rights mandate to the Office of the Ombudsman was passed into law in November 2021. Therefore, the Committee recommends the State Party to establish a children's rights desk in the Office of the Ombudsman with adequate financial and human resources to address various children's rights issues effectively.
- 8. The Committee appreciates that the Government of Botswana has disseminated the provisions of the Charter through, among others, the production of a newsletter that was distributed to all schools, TV and radio programs. The Committee encourages the State Party to continue disseminating the provisions of the Charter, Children's Act (2009) and other legal provisions relating to the rights of the child in the State Party. The Committee further recommends that the State Party develop child- and disability-friendly versions of these legal instruments and translate them into local languages to ensure wider dissemination of the rights enshrined in these instruments among children and other relevant stakeholders.
- 9. The Committee notes with appreciation that the government of Botswana has implemented a Judicial Case Management System (JCMS) to better manage case flow and achieve a speedy resolution of cases. The Committee recommends the State Party to provide adequate resources and sufficient technological equipment to the Judiciary and regularly train judicial officers with the skills and knowledge required to manage digital records effectively.
- 10. The Committee commends the State Party for commemorating the Day of the African Child (DAC) every year. While encouraging the State Party to continue commemorating the DAC, the Committee recommends the State Party to share the measures, initiatives and activities it has undertaken to commemorate the DAC by submitting every year a report to the Committee on how the DAC was commemorated in the State Party.
- 11. The Committee appreciates that the State Party has continued to make improvements in collecting information on children's issues by gathering and

disseminating important information on child rights issues. The Committee recommends the State Party to establish a national database that centralizes all data on children's rights issues and provides updated and disaggregated data on children to identify disparities in the realisation of children's rights and inform the development of national policies and programmes that specifically address current child rights issues and needs.

- 12. The Committee notes that the State Party organises general elections every five (5) years and the next election will be organized in 2024. Therefore, the Committee recommends the State Party to ensure that specific measures are in place to effectively protect children's rights before, during and after the election periods (including, among others, during the election campaigns and electoral process). In this regard, the Committee recommends the State Party to make use of the guidance provided under the ACERWC Guidelines on children's rights during elections.
- 13. The Committee commends the State Party for its actual budgetary allocation and expenditure for programmes and activities relevant to child rights. While the Committee is informed that there is a high level of multidimensional poverty that is disproportionally affecting children in the State Party, especially children in farms, rural and remote areas; it notes with great regret that the resources allocated to various child rights issues are not fully utilized. Therefore, the Committee recommends the State Party to effectively utilize the budget allocated to child rights issues by strengthening coordination and collaboration among relevant stakeholders (state and nonstate actors) for the effective implementation of the rights enshrined in the Charter; design and implement child-sensitive social protection programmes and monitor how the budget and actual expenditures on children are allocated and utilized; evaluate the impact of the social protection programmes to improve the accessibility to adequate basic needs and services to children living in poverty; and, intensify efforts to implement the poverty eradication programmes which provide greater economic opportunities to the most vulnerable populations.
- 14. The Committee welcomes the establishment of the Human Rights Unit (HRU) under the Ministry for Presidential Affairs, Governance and Public Administration (MOPAGPA) and recommends that the State Party establishes a child rights desk within the HRU.
- 15. The Committee appreciates that the Government is working on the development of a Comprehensive Human Rights Strategy and National Action Plan (CHRSNAP) and recommends that the State Party ensures the active participation of children in the development and implementation of the CHRSNAP to address children's rights issues; and, allocates adequate budget for the effective implementation of the CHRSNAP.
- 16. The Committee welcomes the establishment of District and Village Child Protection Committees and recommends that the State Party strengthens these child protection structures and ensures that they are fully functional in all districts of the State Party.
- 17. The Committee commends the State Party for the establishment of an Inter-Ministerial Committee on Treaties, Conventions and Protocols (IMCTCP) to ensure Botswana's compliance with international agreements, including reporting and follow-up on recommendations from treaty bodies. The Committee recommends the State Party to adopt concrete measures to

strengthen the capacity of the IMCTCP and allocate sufficient resources to it to widely disseminate the recommendations provided in this Concluding Observations to relevant stakeholders, including children; and, ensure that they are translated into local languages and effectively implemented at the national and local levels.

B. Definition of the child

18. The Committee congratulates the government of Botswana for withdrawing its reservation on article 2 of the ACRWC on the definition of the child. The Committee further appreciates that the Children's Act (2009) defines a child as any person who is below the age of 18 years. However, the Committee notes with concern that there are still some challenges to harmonizing the definitions of the child in the different laws of the country. Therefore, the Committee recommends the State Party to strengthen the capacity of the Law Reform Unit to urgently harmonize all pieces of legislation with both the Children's Act and Article 2 of the ACRWC; and, conduct public education to inform various stakeholders on all the legislative changes.

C. General principles

Non-Discrimination

19. The Committee notes with appreciation that Children's Act (2009) expressly prohibits discrimination of any kind and against any class of children. The Committee further appreciates that specific measures have been put in place to promote equity in service provision and targeted interventions for different vulnerabilities were undertaken. The Committee encourages the State Party to continue reducing the disparity in accessing public services and ensure effective equal opportunities for all children. The Committee further recommends the State Party to improve its infrastructure and take all appropriate measures to prevent and protect children from vulnerable situations such as those from commercial farms, rural and remote areas as well as children with disabilities, children born out of wedlock and those born from an act of rape or incest from various forms of discrimination and ensure that they have access to quality public services and basic needs.

Best Interests of the Child

20. The Committee appreciates that the Children's Act (2009) enumerates the guiding principles in determining the best interests of the child and when taking the decisions, Courts in the State Party are taking into account the best interests of the child. The Committee encourages the State Party to continue ensuring that the best interests of the child are the primary consideration in all actions concerning children undertaken by state and nonstate actors. The Committee further recommends the State Party to take all appropriate measures. including among others. educational and administrative measures to respect and promote the principle of the best interests of the child in practice as well as in all spheres including in all policies, strategies, programmes, projects and action plans and at the family, community, sub-national and national levels.

Life, Survival and Development

- 21. The Committee appreciates that under the Children's Act (2009), and in terms of several other laws, a child in the State Party cannot be sentenced to death, nor can s/he be sentenced to life imprisonment. However, the Committee notes with concern that there are increasing cases of death of children as a result of murder and road traffic. Therefore, the Committee recommends the State Party to take all appropriate measures to effectively protect the right to life of children and ensure strong prosecution of those who violate this right.
- 22. The Committee further appreciates that infant and under-five mortality rates have declined between 2006 and 2017 and there has been a significant reduction of HIV transmission to infants. However, the Committee is concerned that childbirth remains a serious health risk for women in Botswana, especially among young mothers, and the maternal mortality ratio continues to increase. The Committee is further concerned that malnutrition is one of the major underlying factors contributing to child mortality in Botswana. To address the above-mentioned issues, the Committee recommends the State Party to:
 - take all appropriate measures to improve the accessibility to quality healthcare services for women during pregnancy, childbirth and post-partum period;
 - ensure antenatal and postnatal care services are available to all mothers and expectant mothers ; healthcare facilities are well equipped and have sufficient and well-trained healthcare professionals ; and, childbirth is assisted by skilled and well-trained birth attendants, especially in rural and remote areas ;
 - intensify efforts to address issues affecting the life, survival and development of children such as child malnutrition, child mortality and morbidity, routine immunization coverage, HIV/AIDS mother-to-child transmission, access to drinking water and hygienic sanitation facilities, especially in rural and remote areas; and,
 - take all appropriate measures to address the issues related to household food insecurity in the short and long run and urgently provide adequate food and nutrition to children.

Child Participation

- 23. The Committee appreciates that child participation is facilitated through structures established under the Children's Act such as the NCCF and Village Child Protection Committees (VCPC). The Committee recommends the State Party to allocate adequate resources to the NCCF and VCPC and ensure that their services are physically accessible in all districts and linked to other child-focused actors and services.
- 24. The Committee further appreciates that there are clubs where students gather to discuss issues affecting them, and all secondary school institutions are encouraged to form School Councils where students are given an opportunity to advocate for their needs and share their views on school management matters through Student Representative Councils (SRC). The Committee encourages the State Party to continue strengthening its effort to promote child participation at all levels and consider children's views in all matters that concern them including in decision-making, policymaking and preparation of laws, plans and policies relevant to children's lives.

Committee further recommends the State Party to raise awareness of various stakeholders on the principle of children's participation and ensure that this principle is well understood and respected at the local and national levels. To improve child participation in all settings, the Committee recommends the State Party to refer to the ACERWC's Guidelines on child participation and establish a coordinated platform for children such as the Children's Parliament with adequate resources for its full operationalization in all settings and situations that concern the child.

D. Civil Rights and Freedoms

Name, Nationality and Birth Registration

- 25. The Committee appreciates that the office of the registrar of births, deaths and marriages has the mandate for birth registration. However, the Committee notes from the State Party report that the office functions well in urban and semi-urban centres. Therefore, the Committee recommends the State Party to take all necessary measures to ensure that the office of the registrar is also fully operational in rural and remote areas.
- 26. The Committee further appreciates that all major hospitals including private hospitals have the births and deaths registration desk, and there are 34 decentralized district registration offices across the country. However, the Committee remains concerned that there are still parents that do not register their children. Therefore, the Committee recommends the State Party to allocate sufficient human and financial resources to the Department of Civil and National Registration to establish more registration centers in all schools, commercial farms, rural and remote communities. The Committee further recommends that the State Party to undertake regular mobile registration campaigns in all areas to register all children, including those born out of health facilities and issue birth certificate; undertake regular public awareness-raising activities in all settings to educate parents and other relevant stakeholders on the importance of birth registration and certificate and how to consider the best interests of the child when naming their children.

Freedom of expression, conscience, thought, religion, assembly and protection of Privacy

- 27. The Committee appreciates that the State Party has domesticated the child's freedom of expression, thought, conscience, religion, association and peaceful assembly in the Children's Act (2009). The Committee recommends the State Party to raise awareness among various service providers and other relevant stakeholders in families, communities and schools concerning these rights; provide special protection for children who express their views in the online and offline environments; promote respect for children's views at the family, school and community levels; and, ensure the prosecution of individuals who violate these rights.
- 28. The Committee notes with appreciation that the right to privacy is guaranteed by Section 9 of the Botswana Constitution as well as the Children's Act. The Committee recommends the State Party to organize public education and awareness-raising campaigns on the provisions of the Cybercrime and Computer Related Crimes Act, 2018; and, ensure that the right to privacy is

effectively protected in the online and offline environments for all children and in all settings, including in schools, hospitals, public or private media and other institutions.

Protection of Children against Abuse and Torture

- 29. The Committee notes with concern that corporal punishment remains prevalent in the criminal justice, education systems and home environment. Therefore, the Committee recommends the State Party to prohibit corporal punishment in all settings and conduct regular public education to the Prisons Visiting Committee, Botswana Police Service (BPS), personnel of various service providers and other relevant stakeholders on the right of the child to be protected from corporal punishment, torture, cruel, inhuman and degrading treatment. The Committee further recommends the State Party to create effective, confidential, child-friendly and disability-inclusive reporting channels in all settings to allow children to report cases of abuse and torture; raise awareness on the existence of child line toll-free service; increase the number of child-friendly police stations that are also disability-friendly and accessible in all districts, rural and remote areas; ensure that these police stations have sufficient resources, specialized and well-trained personnel to effectively assist children; and, establish rehabilitation and rescue centers to provide psychosocial support and other necessary support to children who are victims or at risk of experiencing abuse and torture.
- 30. The Committee notes with concern that the State Party report states that the number of child victims of abuse or neglect has continued to rise over the years and many young orphans and children live in family and community settings whereby various forms of violence including sexual and physical violence and gender-based violence are quite common. Moreover, the Committee remains concerned that those who are supposed to protect children such as parents, other family members as well as teachers and other adults in the community are the ones committing violence against children. The Committee, thus, recommends the State Party to :
 - conduct a national study on the prevalence of violence against children in the country, identify the causes and consequences of violence against children and inform the development of plans, strategies and programs related to child protection;
 - take all appropriate measures to effectively prevent and address all forms of violence against children and provide victims with adequate remedies and support;
 - prohibit all forms of corporal punishment of children in the home and community settings, raise awareness of parents/caregivers, NCCF and VCPC, neighbourhood-watch committees and other relevant stakeholders on children's rights, positive discipline and educational practices, provide counselling and parenting advice to families and communities and establish child-friendly reporting mechanisms in all settings to report any form of violence against children; and,

- develop and implement comprehensive strategies and policies to end gender-based violence and all forms of discrimination against women and girls.

E. Family Environment and Alternative Care

Parental Responsibilities

31. The Committee notes with appreciation that the Children's Act (2009) places the principal responsibility for the care of children on their biological parents. However, the State Party recognizes that it needs to do more to ensure that child-maintenance court orders are obeyed and that the mechanism for the collection of maintenance funds is more efficient. The Committee also notes with concern that under customary law, fathers of non-marital children make a one-off child-support payment and thereafter have no obligations to their children. In this regard, the Committee recommends the State Party to undertake awareness-raising campaigns to educate parents on the rights of marital and non-marital children to be supported by both parents; their parental duties and responsibilities (whether married or not, living together, separated, or divorced and parents of adopted children) in upbringing and development of the child; and, ensure that their children are provided with appropriate conditions of living for their development. The Committee further recommends the State Party to take all appropriate measures to ensure that parents fulfil their obligations and respect the child-maintenance court orders; ensure that maintenance funds are sufficient; and, improve the mechanism for the collection of maintenance funds by allowing that the payments be made directly to the other parent/caregiver by using mobile money transfer services.

Family environment and alternative care

- 32. The Committee notes that sometimes hospitals provide temporary residence for children, especially for abandoned babies while a suitable place of safety is being sought. To this effect, the Committee recommends the State Party to take measures to prevent the abandonment of children in healthcare facilities by training the healthcare workforce to provide positive counselling to parents and families and address the root causes and consequences of abandonment of children in healthcare facilities; and, ensure supervision of the safety, well-being and development of abandoned children and the regular review of the appropriateness of the care arrangement provided to them.
- 33. The Committee notes from the State Party report that the number of children in residential care facilities is 447 children as of December 2021. However, the Committee notes from the reports that these institutions have to annually renew their license and licensing process is tedious. Moreover, the Committee notes from the State Party report that monitoring of alternative care arrangements is often compromised by capacity issues and limited options for placement, especially for older orphans, children who have been in conflict with the law, children with disabilities and those with terminal

illness as they are perceived as care burdens; and as a result, they overstay in alternative care. The Committee recommends the State Party to:

- expedite the renewal process of institutional care facilities to facilitate their full registration;
- ensure that residential care facilities have adequate resources and welltrained service providers to cater to the needs and rights of all children;
- ensure that children in residential care facilities have access to quality education and healthcare services, developmental opportunities and alternative education programmes such as skills acquisition and vocational training;
- provide appropriate care, accommodation, psychosocial support and other necessary assistance to children in residential care facilities and ensure that they are protected from various forms of violence including corporal punishment;
- ensure that institutional care is provided for the shortest time possible until a family-based care option can be found for the child ;
- conduct a research on the institutionalization and deinstitutionalization of children to raise more awareness around it as well as to influence better policy actions and assist children in reconnecting and reuniting with their parents or close relatives;
- provide the opportunity for children in residential care facilities to make their voice heard and influence the development of policy and practices ; and,
- take measures to support family and community-based care and intensify efforts to prevent and address conditions leading to separation of children from their parents or primary caregivers through the provision of appropriate support systems to children to avoid unnecessary institutionalization and the development of poverty alleviation strategies that aim to reduce family breakdown, separation and ultimately the number of children entering alternative care.

Adoption

- 34. The Committee appreciates that the State Party is undertaking measures to encourage formal domestic adoptions through the review of the Adoption of Children Act (1952) and the registration of customary adoptions. The Committee recommends the State Party to expedite the review of the Adoption of Children Act (1952) ; develop special and appropriate measures designed to protect children in formal and informal adoption from abuse, neglect, child labour and all other forms of exploitation, with particular attention to formal and informal adoption provided by non-relatives, or by relatives previously unknown to the children or living far from the children's habitual place of residence ; and, consider the views of children and their best interests in all adoption processes.
- 35. The Committee further appreciates that the State Party has now commenced the accession process to the Hague Convention No. 33 on the Protection of Children and Cooperation in Respect of Intercountry Adoption to facilitate inter-country cooperation in matters related to adoption. The Committee recommends the State Party to strengthen the capacity of actors in the judicial system and other relevant stakeholders on the Hague Convention and ensure that intercountry adoption is a measure of last resort if no suitable

arrangements can be made domestically and children enjoy safeguards equivalent to those for children adopted within the country.

F. HEALTH AND WELFARE

Health and Health services

- 36. The Committee notes with appreciation that the State Party has undertaken several measures to ensure the reduction of infant and child mortality and morbidity through the establishment of under 5 mortality auditing mechanism such as the National Under Five Mortality Audit Committee (NUFMAC) and a Facility Under Five Mortality Audit Committee (FUFMAC). However, the Committee notes from the State Party report that due to limited resources, the NUFMAC and FUFMAC are unable to conduct audits as expected. The Committee, thus, recommends the State Party to allocate adequate financial and technical resources to the NUFMAC and FUFMAC to regularly conduct audits and effectively prevent and address the root causes of infant and child mortality and morbidity.
- 37. The Committee notes with appreciation that the Public Health (Prevention of Immunizable Childhood Diseases) Regulations were enacted to make it illegal for any parent to refuse to immunise their children against immunizable childhood diseases. The Committee recommends the State Party to undertake awareness-raising campaigns targeting parents, caregivers, traditional and religious leaders to educate them on the importance of immunization and ensure that all children receive all required immunizations.
- 38. The Committee appreciates that the State Party has adopted the World Health Organization (WHO) 2020, guidelines which advise the country to consider delaying circumcision among children below the age of consent because these children are at risk of developing complications related to the procedure. The Committee recommends the State Party to ensure the effective implementation of the WHO 2020 guidelines at the local and national levels.
- 39. The Committee further appreciates that the government of Botswana is continuously improving the health system by addressing challenges that the health sector is facing such as the shortage and distribution of health professionals, among others. The Committee also appreciates that government health facilities offer free healthcare services to children. However, the Committee notes with concern that the State Party has high teenage pregnancy ; a high prevalence of HIV/AIDS with a large number of the population who are either infected or affected by HIV/AIDS ; increased number of newly registered orphans from 2020 to 2022 ; and, inadequate healthcare services, especially in hard to reach areas. The Committee, thus, recommends the State Party to :
 - develop child-friendly messages and child-friendly forms of dissemination to sensitize children on HIV/AIDS through online and offline platforms and ensure that these messages are made accessible in formats that reach those with disabilities;
 - allocate a sufficient budget to the National Aids and Health Promotion Agency to prevent and effectively address HIV/AIDS-related issues and

establish anti-AIDS clubs in schools and communities to educate children on how to prevent infection and seek treatment;

- establish child-friendly spaces in schools, health facilities and communities where adolescents can access child-friendly sexual and reproductive health information and services ;
- improve its infrastructure by building more healthcare facilities and providing them with sufficient equipment to ensure the provision of quality healthcare services, especially in rural and remote areas ;
- provide regular psychosocial support to newly registered orphans and children who are directly or indirectly affected by HIV/AIDS ; and,
- recruit more health professionals and provide better incentives such as professional and financial incentives to retain staff and improve the geographic distribution of the healthcare workforce, especially in rural and remote areas and use appropriate ICT tools such as e-learning platforms, telemedicine, phone and mobile healthcare services to improve the efficiency of healthcare service delivery and enhance the skills and performance of health professionals.
- 40. The Committee notes that the allocation of public financial resources to healthcare has been increasing from 4.0 percent of total government spending in 1990/91 to 12.5 percent in 2019/20. However, the Committee is concerned that this budget does not specify spending that is targeted toward children. Therefore, the Committee recommends the State Party to increase the budget allocation to the health sector to be in line with the Abuja Declaration target, which requires States to allocate 15% of the annual budget to health, effectively utilize the funds and ensure that a sufficient amount is allocated to improve the health of children.

G. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

- 41. The Committee notes with appreciation that the State Party has undertaken various measures to ensure that children in places without schools access early childhood education programmes which are usually run by the Village Development Committees (VDCs). However, the Committee notes with concern that the majority of eligible children do not have access to early childhood education and more than 100 public primary schools do not provide early childhood education. Therefore, the Committee recommends the State Party to:
 - ensure that all public primary schools provide early childhood education and all children access quality early childhood education;
 - build the capacity of all service providers such as VDCs, teachers, and school authorities in public and private schools, among others to increase accessibility to quality early childhood education for all children including those with disabilities and in vulnerable situations ; and,
 - conduct regular supervision in schools to assess the quality of early childhood education.
- 42. The Committee is informed that primary education is free for nationals and refugees, but non-nationals pay a subsidised fee of P200 per term. Therefore, the Committee recommends the State Party to take all appropriate measures to ensure that primary education is free of charge for all children (national and non-nationals) who are living in Botswana.

- 43. The Committee also notes that secondary education is not free in the State Party which is limiting the accessibility to secondary schools and increasing the vulnerability of children from poor households and marginalized minority ethnic groups to drop out of schools. Therefore, the Committee recommends the State Party to work towards making secondary education free and accessible; and, take all necessary measures to promote quality vocational training to enhance the skills of children, particularly those who have dropped out of school.
- 44. The Committee notes with concern that the implementation of the right to education is facing some challenges such as high school dropout; low attendance, transition and completion rates; long distance to access education; lack of teaching materials such as textbooks; lack of infrastructure to accommodate children with disabilities; high turnover of staff; high teacher/student ratio, especially in rural and remote areas; and, some issues related to the language of instruction and school feeding program, especially after school holidays. Thus, the Committee recommends the State Party to :
 - allocate adequate resources to the education sector and put in place mechanisms to ensure that the budget allocations and actual expenditures on education are spent in an effective, equitable and sustainable manner;
 - build more schools to improve accessibility to schools ;
 - provide sufficient teaching materials and recruit more and qualified teachers to provide quality education to all;
 - take measures to address the issue related to the language of instruction;
 - take measures to increase the attendance, transition and completion rates in schools and enhance the provision of school feeding programmes, especially after school holidays to promote proper nutrition of learners;
 - invest in safe and innovative technological solutions to improve the accessibility to education at all levels, especially during emergency situations such as the COVID-19 pandemic; and,
 - take measures to address the root causes of high turnover of staff and school dropout at all levels of education and ensure that children have access to drinking water and hygienic sanitation facilities and playgrounds that are also child and disability friendly in all schools.
- 45. The Committee appreciates that the policy that allows pregnant girls to return to school continues to be implemented in the State Party. However, the Committee notes from the reports that the majority of children do not return to school. Therefore, the Committee recommends the State Party to effectively implement the policy, especially in rural and remote areas; take measures to address discrimination against pregnant girls and teenage mothers in schools and communities; and, conduct public education to parents, caregivers, teachers and other relevant stakeholders to ensure that all teen mothers return to school.
- 46. The Committee notes with concern that the provision of the Education Act (Corporal punishment) Regulations explicitly allows the use of corporal punishment in school settings and corporal punishment is still prevalent in schools. On this issue, the Committee recommends the State Party to urgently review the Education Act and ensure that corporal punishment is

explicitly prohibited within the education system. The Committee further recommends the State Party to educate the public including teachers and school authorities in all schools on the importance of utilizing positive discipline methods instead of corporal punishment in school settings and take concrete actions against perpetrators of corporal punishment in schools.

47. The Committee notes from the State Party in its response to the list of issues that there are 45 National libraries and 59 village reading rooms across the country and all these facilities are accessible to wheelchair users and have a children's section corner. The Committee recommends the State Party to increase the accessibility of these facilities and materials in rural and remote areas as well as to all children with various forms of disability by producing these materials in braille, large print and audio versions. The Committee further recommends the State Party to ensure the active participation of all children including those with disabilities and other vulnerable situations in sports, recreational and cultural activities.

H. SPECIAL PROTECTION MEASURES

Children with disabilities

- 48. The Committee appreciates that the government of Botswana is in the process of enacting a Disability Act and reviewing some laws to address the issues that children with disabilities are facing in the State Party. However, the Committee is concerned that lack of adequate infrastructure, limited effective protection measures as well as lack of provision of appropriate public services such as inaccessibility to timely, accurate and reliable healthcare information and services, inaccessibility to buildings, long distances to schools and the long period of stay in boarding facilities with very limited visits and moral support from families are some of the challenges that hinder children with disabilities to fully enjoy their rights. Hence, the Committee recommends the State Party to :
 - improve the accessibility to quality public services for children with disabilities that are closed to their communities and provide psychosocial support and other necessary support to them;
 - conduct a national study on the status of children with disabilities in Botswana to identify the causes and types of disability, challenges and needs of those in schools and out of school ;
 - develop and effectively implement a comprehensive strategy for disability-inclusive policies and practices to provide reasonable accommodation for children with disabilities in all spheres of life ; and,
 - ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa and expedite the enactment of a Disability Act; and, ensure that its provisions are disseminated to the public and domesticated in national laws, policies and practices.

Children in conflict with the law

49. The Committee notes with appreciation that the Children's Act (2009) provides for the protection of children in conflict with the law. However, the Committee notes with concern that sentencing a child to corporal punishment who is in conflict with the law is provided by law under Section

85 of the Children's Act. Therefore, the Committee recommends the State Party to amend this provision and explicitly prohibit all forms of corporal punishment of children in conflict with the law.

- 50. The Committee notes from the State Party report that the 'Children's Act has raised the age of criminal responsibility from 8 to 14 years and a child under 14 is presumed to be incapacitated to commit a criminal offence unless it can be proved that at the time of committing the offence the child had capacity to know that he or she ought not to do so'. The Committee is concerned by this exception and recommends the State Party to amend any form of exception concerning the minimum age of criminal responsibility.
- 51. The Committee appreciates that the State Party has established childfriendly police services and rehabilitation centres, the Gender and Child Protection (GCP) Branch and deployed GCP officers in all police stations of Botswana. However, the Committee is informed that the Government has thus far not established any child-friendly Court and the Court environment is generally unfriendly to children. Therefore, the Committee recommends the State party to establish child and disability friendly Courts and child protection units in the police stations; increase the accessibility of children to the GCP Branch, child-friendly police services and rehabilitation centres in all districts; establish a special budget to support these services and continuously strengthen the capacity of social welfare officers and other service providers on children's rights and welfare to effectively carry out their mandate. The Committee further recommends the State Party to ensure the availability of well-trained child rights-oriented legal representation for children in the justice system to deal sensitively and professionally with children who interact with the criminal justice system whether as suspects, accused, complainants or witnesses.
- 52. The Committee is concerned that the Children's Act (2009) does not provide for diversion programs and the government of Botswana has thus far not developed the same. The Committee recommends the State Party to ensure that a diversion program for children is provided by law and develop alternative measures (diversion programs) and services to ensure social reintegration and provide quality public services, psychological recovery and counselling services for children in conflict with the law.

Protection Against Harmful Social and Cultural Practices

53. The Committee appreciates that the State Party has undertaken legislative measures to prohibit and eliminate all forms of harmful traditional practices. However, the Committee notes that unsafe male circumcision, son preference over the girl child in the context of inheritance and child marriage are still prevalent, particularly among some communities and religious groups. Moreover, the Committee is concerned that the prohibition of child marriage in the Marriage Act does not apply to customary law or religious marriages (Section 2 of the Act) and customary law still enables young girls to marry with their parental permission. The Committee is also concerned that Section 15 of the Marriage Act concerns consent to marriage by minors. Therefore, the Committee recommends the State Party to amend Sections 2 and 15 of the Marriage Act by deleting them to ensure that child marriages are totally prohibited in the State Party and take all appropriate measures to prohibit traditional and religious marriages for all persons under the age of

18; and, develop and effectively implement measures to accelerate the elimination of all child marriages, customary inheritance laws that favoured male descendants and other forms of harmful practices. As it was indicated during the constructive dialogue, the Committee further recommends the State Party to take all appropriate measures to ensure that different forms of harmful practices including, among others, Female Genital Mutilation (FGM) and child marriage are not practiced among refugees, migrants and asylum seekers families and communities who are currently living in Botswana.

Armed Conflicts

54. The Committee notes with appreciation that the Botswana Defence Force Act (1977) provides that no person, who is under the age of 18 years, will be recruited into the army. The Committee further appreciates that Botswana, as a country, has never been involved in armed conflict; and, as such, children in its jurisdiction have never taken part in hostilities involving armed conflict. As it was indicated during the constructive dialogue, the Committee notes that Botswana is a country that has received refugees and asylum seekers children and their families who came from countries affected by armed conflicts such as Somalia and the Democratic Republic of the Congo, among others. Therefore, the Committee recommends the State Party to provide adequate support to these children and their families as many of them have experienced or witnessed horrific events and different forms of violence including the trauma of war and displacement, among others. The Committee further recommends the State Party to provide all appropriate protection services to refugees and asylum seekers children and their families to recover from the trauma of war by providing them with psychosocial support and other necessary support for their social reintegration.

Refugee and Asylum seekers children

55. The Committee appreciates that refugees and asylum seekers children have access to education and healthcare services. However, the Committee is informed that not all refugees and asylum seekers attend schools. Therefore, the Committee recommends the State Party to ensure that all refugees and asylum seekers children have access to quality education and vocational training. The Committee further recommends the State Party to establish a child rights desk in the Dukwi Refugee camp and provide professional interpreters to facilitate refugees and asylum seekers children to express their views and report any form of violence against them; and, ensure that all procedures and actions concerning them are taken in the best interests of the child.

Sexual Exploitation

56. As was indicated during the constructive dialogue, the Committee welcomes the enactment of the Cybercrime and Computer Related Crimes Act (2018) and the establishment of an online child sexual exploitation (OCSE) Desk within the GCP Branch. However, the Committee notes with concern that cases of sexual exploitation and abuse reported to the police have increased and young girls living in urban areas are the most vulnerable. Therefore, the Committee recommends the State Party to decentralize the OCSE Desk to make it accessible in all districts and strengthen its capacity to prevent and protect children from various forms of sexual exploitation and abuse; increase the number of social workers to provide prompt and appropriate support to survivors of sexual exploitation and abuse; create child-friendly spaces in all settings where adolescent boys and girls can access free, accurate and reliable child-friendly sexual and reproductive health information and services; and, take all appropriate measures including administrative, educational, social and economic measures, among others to ensure that children are effectively protected from all forms of online and offline sexual exploitation and abuse.

Drug Abuse

- 57. While the Committee appreciates that the State Party has undertaken several administrative measures to protect children from substance abuse, it is still concerned that during the constructive dialogue, it was indicated that there is increasing abuse of marijuana and prescription drugs (Rohypnol) in urban areas. Therefore, the Committee recommends the government of Botswana to:
 - work closely with children in schools and those out-of-school and other relevant stakeholders to identify reasons that cause the increase of substance abuse in urban areas ;
 - adopt child-protective and child-friendly approaches to address the issue of substance abuse ; and,
 - formulate and implement effective substance abuse prevention and comprehensive intervention strategies including appropriate peer counselling, psychosocial support, recovery and rehabilitation services such as substance treatment facilities with specialized personnel to protect children from substance use and abuse.

Sale, Trafficking and Abduction

- 58. The Committee welcomes the enactment of the Anti-Human Trafficking Act, the adoption of an Anti-Human Trafficking National Action Plan (NAP) 2018-2022 and the provision of safe houses to the victims of trafficking. Therefore, the Committee recommends the government of Botswana to :
 - renew the NAP and assess the level of NAP's implementation by taking stock of the gaps and challenges faced during the NAP's implementation and take all appropriate measures to address them in the new NAP;
 - allocate adequate financial and sufficient well trained human resources to the Human Trafficking (Prohibition) Committee to effectively prevent incidents of child trafficking by addressing the special vulnerabilities and needs of children at risk of child trafficking and the root causes of internal and external child trafficking;
 - provide free legal aid to children survivors of trafficking and intensify efforts to ensure the effective enforcement and implementation of the Anti-Human Trafficking Act through the establishment of child-friendly reporting mechanisms, comprehensive investigation and victim support systems and reparations to victims; and,

- provide victims of trafficking with short and long term appropriate care, psychosocial assistance, rehabilitation and reintegration services to promote their full recovery.

Children of Imprisoned Mothers

- 59. The Committee notes with appreciation that the Children's Act (2009) has specific provisions that protect the children of imprisoned mothers. However, the Committee notes from the constructive dialogue that some children are living in prison with their mothers and others are placed in alternative care. In this regard, the Committee recommends the State Party to :
 - ensure that the best interests of the child are the primary consideration when choosing a sentence and non-custodial sentences that are least harmful to children should be considered as a priority ;
 - in exceptional circumstances when custodial sentences have been made, establish a separate place for children and their mothers outside the prison and ensure that they have access to quality public services and basic needs, including, among others, health, education (access to early childhood education), child-friendly playgrounds and adequate housing and nutrition;
 - ensure that the facilities of children including the facilities of those who are in alternative care are child-friendly, clean and hygienic and conduct regular assessments to ensure that their living environment is in a child's best interests ;
 - ensure that children in alternative care can visit their imprisoned parents and criminal justice, social work and other professionals that may come into contact with children of incarcerated parents are trained in the rights of these children ; and,
 - ensure that pregnant women and new mothers, including breastfeeding mothers have appropriate diets for the healthy development of their children.

Child Labour

- 60. The Committee is concerned about the existence of child labor in the State Party, especially in the agricultural sector, children used by adults to commit crimes and exploitative domestic work where children work long hours. Furthermore, the Committee notes that Botswana's legal framework allows children from the age of 14 to have light work not harmful to a child's health and development; however, the government has not yet defined what activities are included in this category. Moreover, the Committee is concerned about the absence of a compulsory education age to reduce the vulnerability of children to be involved in child labour. To address the issue of child labor, the Committee recommends the State Party to :
 - develop and fully fund targeted social protection programmes to support families living in extreme poverty who are at risk of involving their children in hazardous work ;
 - allocate adequate resources to the Labour Inspectorate to regularly undertake inspections on child labor in all districts to improve data collection on child labor and take measures to ensure that the Employment Act is effectively respected in all formal and informal sectors;

- identify activities that are defined as light work and that do not harm a child's health and development and set a compulsory education age to reduce the vulnerability of children to be involved in child labour ; and,
- collaborate with national media to raise awareness on the issue of child labor and its impact on children's rights and take all appropriate measures to ensure strong prosecution against those who employ children.

Children in Street Situations

61. The Committee notes with concern that in the State Party, there are children in street situations that are largely found in the main urban areas. Moreover, the Committee is informed that most of the children in street situations have dropped out of formal education and are coming from poor families, femaleheaded households and abusive home environments. To reduce the prevalence of children in street situations, the Committee recommends the State Party to develop a national action plan to address diverse protection issues and needs at all levels including individual, family and communitybased care and services and ensure that children in street situations are protected from violence and abuse ; and, they have access to quality public services and basic needs, psychosocial support, rehabilitation, reintegration into their families and other necessary support that they need to live a comfortable and secure life.

I. Responsibility of the Child

62. The Committee notes with appreciation that the State Party has undertaken various activities to promote the responsibility of the child through the introduction of social and cultural studies, the Peer Approach to Counselling for Teens (PACT), the promotion of volunteerism among children and workcamp projects, among others. The Committee recommends the State Party to provide sufficient budget and technical support to children's groups and initiatives and collaborate with the media to educate them about their rights and responsibilities in all settings.

J. Conclusion

- 63. The African Committee of Experts on the Rights and Welfare of the Child appreciates the measures that the government of Botswana has undertaken to implement the provisions of the ACRWC. The Committee invites the government of Botswana to disseminate the current recommendations and ensure that they are effectively implemented at the local and national levels. The Committee would like to indicate that it will undertake a follow-up mission to assess the level of implementation of these recommendations. The Committee would also like to invite the State Party to submit its next periodic report in September 2026 according to article 43 of the ACRWC.
- 64. The African Committee of Experts on the Rights and Welfare of the Child takes this opportunity to renew to the Government of Botswana the assurances of its highest consideration.