



DITSHWANELO

DITSHWANELO – The Botswana Centre for Human Rights

**Monitoring and Documenting Human Rights Abuses in Botswana through the establishment of
Call lines to report human rights abuses**

8 May 2020

Table of Contents

1. Organisation Background.....	4
2. State of Public Emergency.....	5
3. Right to counsel.....	6
➤ Gender-Based Violence.....	6
➤ Child Abuse.....	6
➤ Right to work.....	6

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ACRONYM

- ACHPR = African Charter on Human and Peoples Rights
- BCPI = Botswana Centre for Public Integrity
- BOCAIP = Botswana Christian AIDS Intervention Programme
- BGBVC = Botswana Gender Based Violence Prevention and Support Centre
- BOLAMA = Botswana Labour Migrant Association
- BONELA = The Botswana Network on HIV/AIDS
- CONGOF = Coalition for NGO funding
- DITSHWANELO = The Botswana Centre for Human Rights
- GBV = Gender Based Violence
- LeGaBiBo = Lesbians, Gays and Bisexuals Of Botswana
- WAR = Woman Against Rape
- YALDA = Youth Alliance for Leadership and Development in Africa

Organisation Background

DITSHWANELO -The Botswana Centre for Human Rights was established in 1993 as a trust. It is an advocacy organisation which plays a key role in the promotion and protection of human rights in Botswana. The Centre seeks to affirm human dignity, irrespective of gender, ethnicity, religion, sexual orientation, social status or political convictions. In pursuit of this mission, DITSHWANELO educates, researches, counsels and mediates on issues of Human Rights, with specific reference to the marginalised and disempowered.

It is committed to fostering of an enabling environment for human rights and has variously initiated, seeded and nurtured several organisations. These include: the Botswana Network on HIV/AIDS (BONELA), Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo), the Botswana Labour Migrants Association (BoLAMA) and the Domestic Workers Association. All of these independent NGOs were initiated as DITSHWANELO projects and once able to exist independently, became independent organisations.

DITSHWANELO is committed to the building and deepening of collective approaches to work. It has initiated and facilitates the following such collective approaches: the UPR NGO Working Group, the CKGR NGO Coalition, and the Botswana Civil Society Solidarity Coalition for Zimbabwe (BOCISCOZ). As founding members of the Coalition for NGO Funding (CoNGOF), DITSHWANELO and Childline Botswana, together with the Botswana Gender Based Violence Prevention and Support Centre, are co-coordinating CSO responses¹ to the COVID-19 virus in three (3) clusters – 1). Advocacy, Public Awareness and Human Rights 2) Humanitarian Support 3) Psycho-Social Support.

DITSHWANELO's work is organised in three pillars – access to justice; regional solidarity; and awareness-raising and accountability.

Introduction and Background

Botswana held its most recent general elections in October 2019. They led to victory of the ruling political party, Botswana Democratic Party (BDP), which has been in power since the first elections of 1965. Underlying the political processes leading up to the elections, tension between President Masisi and his predecessor, former President Khama was manifested in the formation of a new party, the Botswana Patriotic Front (BPF), with former President Khama as its supporter. In the run-up to the elections, there were media reports and reports from the BPF about regular efforts by the government, to stymie their work through denial of their use of public facilities in spite of the appropriate procedures having been followed and the necessary hire fees paid.

¹ Botswana Centre for Public Integrity (BCPI), Botswana Christian AIDS Intervention Programme (BOCAIP), Botswana Gender Based Violence Prevention and Support Centre (BGBVC), Botswana Labour Migrants Association (BoLAMA), Botswana Network for Mental Health (BNMH), Botswana Substance Abuse Network (BOSASNet), C.A.R.E., CHILDLINE Botswana, DITSHWANELO – The Botswana Centre for Human Rights, Emang Basadi, Friends of Diversity, Inclusive Directions Botswana, Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo), Men & Boys for Gender Equality, Molayakgosi, Putting Women First Trust, Save Widows and Orphans Organisation Botswana, Skillshare International Botswana, Southern African Alcohol Policy Alliance Botswana (SAAPA-Botswana), Stepping Stones International, WoMen Against Rape (WAR). Youth Alliance for Leadership and Development in Africa (YALDA - Botswana).

COVID-related human rights issues²

State of Public Emergency

Following the announcement of the confirmation of the first cases of coronavirus on 30 March 2020, on 31 March, President Masisi declared a State of Public Emergency in accordance with section 17 of the Constitution, “until further notice”. Section 17 empowers the President to declare it for a period of 21 days, when Parliament is not sitting. He further resolved to hold a Parliamentary Meeting to “. seek a resolution of Parliament for the state of emergency to continue for a longer period”. During a press conference on 7 April 2020, President Masisi stated that he would seek a resolution for a State of Emergency for a period of 6 months. Section 17 of the Constitution limits maximum period for which such a declaration can be approved, is six (6) months. **On 9 April 2020, Parliament passed the resolution tabled by Vice-President Tsogwane, for the State of Emergency to last for six (6) months.** On 8 April 2020, President Masisi had stated that “The State of Emergency is intended to deal only with the COVID-19 crisis and will not in any way undermine people’s fundamental rights”.³ However, of concern is that States of Emergency risk being used for purposes other than that for which they have been allegedly been declared. On 31 March 2020, President Masisi declared a 28 day lockdown for the period 2-30 April 2020.⁴ On 30 April 2020 it was extended for a further 21 days.

Early reported human rights abuses during the State of Emergency include:

- The spokesperson of the Botswana Patriotic Front, Justice Motlhabane, allegedly assaulted and arbitrarily arrested on 10 April 2020 by the police (BPF President Biggie Butale 11 April 2020);
- Nicholas Kgopotso of the Umbrella for Democratic Change (UDC), who was allegedly harassed by 12 police officers for allegedly causing noise during the current COVID-19 lockdown;
- Two persons (Neo Dikgole and Thuso Sebinyane) who were allegedly assaulted by the police (Office of the President, 11 April 2020); and
- Three suspects arrested for “... publishing, through electronic communications, offensive statements against government ...” (Botswana Police Service, 11 April 2020). In terms of the Emergency Powers Act No 61 of 2020 section 31 (3) ‘any person who publishes a statement ... with the intention to deceive ... about any measure take by the Government to address COVID-19, commits an offence and is liable to a fine not more than P100 000 or to imprisonment for not more than 5 years or to both. It is not clear in which law the offence of ‘offensive statement against government’ is contained. Additionally, the right to freedom of expression is protected under section 12(1) of the Constitution. It can only be limited under exceptional circumstances provided by law and which are necessary for the protection of ... public health ... (article 19.3 (b) of the International Covenant on Civil and Political Rights).

² DITSHWANELO coordinates the Advocacy, Public Awareness and Human Rights cluster, working with the Botswana Centre for Public Integrity (BCPI).

³ Press Statement: **CSOs call for protection of human rights under 6 month State of Emergency** 13 April 2020

Botswana Centre for Public Integrity (BCPI), Botswana Gender Based Violence Prevention and Support Centre (BGBVC), Botswana Labour Migrants Association (BoLAMA), Botswana Network on Ethics, Law and HIV/AIDs (BONELA), CHILDLINE Botswana, DITSHWANELO – The Botswana Centre for Human Rights, Friends of Diversity, Inclusive Directions Botswana, Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo), Molao Matters, Molayakgosi, Putting Women First Trust, Save Widows and Orphans Botswana, Skillshare International Botswana, Stepping Stones International, Turning Point, WoMen Against Rape (WAR), and Youth Alliance for Leadership and Development in Africa (YALDA - Botswana).

⁴ Emergency Powers Act Regulations 2020 state that ‘during the state of public emergency declared by the President under the Emergency Proclamation, the President may declare a national lockdown for the whole of Botswana or a lockdown in a particular location or area of Botswana For the purpose of preventing, controlling and suppressing the spread of COVID-19, a lockdown is hereby declared with effect from 2nd April, 2020 at midnight until 30th April, 2020, for the whole of Botswana’.

Human Rights which have been curtailed during the State of Emergency are: freedoms of movement, speech, expression, assembly religion and the rights to work and to education for those schools which are unable to implement an e-learning programme for their students, following the closures of schools.

Right to counsel

The right to counsel is constrained due to the limitations placed on lawyers through the Emergency Regulations. Legal services are considered to be essential services. However, the issuing authority for permits for the Ministry of Defence, Justice and Security shall be the Registrar of the High Court in respect of urgent litigation matters and the Ministry as regards non-litigation urgent matters. Determination as to the urgency of matters rests with the issuing authorities. This necessitates lawyers being forced to violate the principle of lawyer-client confidentiality as they are expected to provide information about the cases, to the issuing authorities before their application for a permit may be considered. Without prior access to their clients to determine the facts, the right to counsel and a fair trial will be severely compromised.

CSOs have established 2 call lines for the reporting of human right abuses, but as they are not toll free numbers, they are not accessible to the most vulnerable in the community who have no money to pay for airtime. DITSHWANELO and Molao Matters are managing the call lines which were established on 21 April 2020.

Gender-Based Violence

There was a surge in the number of reported GBV cases⁵ which has led to the opening of 5 temporary shelters in Gaborone during the April lockdown period.

CSOs working directly in the field of GBV receive calls on their emergency telephone numbers and are able to house the GBV survivors in shelters and to offer counselling. The Botswana Gender Based Violence and Prevention Centre coordinates this work.

Child Abuse

Civil society organisations working on issues relating to children have reported concern for those children who are confined to their homes, in cases where they experience cases of incest.

CSOs working directly in the field of children's rights receive calls on their toll free telephone number and are able to house the abuse survivors in shelters and to offer counselling. Botswana Network for Mental Health and Childline are coordinating the counselling activities.

Right to work

Informal sector workers⁶ - including domestic workers, farm workers, taxi drivers, hairdressers, artists, street vendors, car washers, piece-job workers; car park attendants, youth; and informal sector migrant workers (they are not eligible

⁵Press Statement: **CSOs Concerned about potential rise in GBV during COVID-19 Lockdown** – 3 April 2020 by Botswana Centre for Public Integrity (BCPI), Botswana Gender Based Violence Prevention and Support Centre (BGBVC), Botswana Labour Migrants Association (BoLAMA), Botswana Substance Abuse Network (BOSASNet), CHILDLINE Botswana, DITSHWANELO – The Botswana Centre for Human Rights, Friends of Diversity, Inclusive Directions - Botswana, Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo), Molayakgosi, Putting Women First Trust, Save Widows and Orphans Organisation Botswana, Skillshare International Botswana, Southern African Alcohol Policy Alliance Botswana (SAAPA-Botswana), WoMen Against Rape (WAR), Youth Alliance for Leadership and Development in Africa (YALDA - Botswana).

⁶ Press Statement: **CSOs' Labour Day call for protection of informal workers in government COVID-19 strategies** - 1 May 2020 by Botswana Centre for Public Integrity (BCPI), Botswana Gender Based Violence Prevention and Support Centre (BGBVC), Botswana Labour Migrants Association (BoLAMA), CHILDLINE Botswana, DITSHWANELO – The Botswana Centre for Human Rights, Inclusive Directions Botswana, Lesbians, Gays and Bisexuals of Botswana (LeGaBiBo), Molao Matters, Molayakgosi, Putting Women First Trust, Save Widows and Orphans Botswana, Skillshare International Botswana, Stepping Stones International, Turning Point, WoMen Against Rape (WAR), and Youth Alliance for Leadership and Development in Africa (YALDA - Botswana).

for any wage subsidy or COVID-19 Government feeding scheme) - all form a group of workers which is most vulnerable to the economic consequences of the lockdown. They are not registered under any of the government social protection schemes (such as the Supplementary Feeding for Vulnerable Groups, Destitute Programme, Labour Based Drought Relief Programme) and are consequently invisible to the authorities. This group of workers is facing hunger and is dependent on food handouts. As a group which has been self-sufficient and able to provide for itself, it is experiencing a COVID-induced poverty and an undermining of its dignity.

CSOs receive calls through the group counselling telephone numbers from informal sector workers unable to cope due to having no income and no food. The Government's feeding scheme has taken time to reach the beneficiaries. It is also not clear for how long it will last. DITSHWANELO is coordinating the humanitarian support activities and engaging with BOISA – an informal sector workers' group.

Planned Activities

It is in the light of the above information that the following activities are suggested to expose human rights abuses perpetrated during this period of COVID-19 lockdown and State of Emergency declaration:

- Facilitation and launch of two call numbers to increase monitoring of human rights violations during COVID-19 lockdown and State of Emergency.
- Facilitating a group of lawyers to take up human rights abuse cases
- Media campaigns and engagements on legal frameworks regularising COVID-19 for citizen participation in policy-making, decision-making
- Documentation of human rights abuses and engagement with media for holding the perpetrators of human rights violations accountable
- Building a culture of human rights respect, sensitisation, through exchange of information about violations on our social media platforms, WhatsApp, twitter and facebook.

This work was made possible with the support of:



CONSOLIDATING CIVIL SOCIETY'S ROLE IN THE TRANSITION FROM AFRICAN HUMAN RIGHTS STANDARDS TO PRACTICE



This project is funded by the European Union