

ORAL STATEMENT TO THE CEDAW COMMITTEE - BOTSWANA

COUNTRY: Botswana SESSION: 45 th ; 2010 - GENEVA NGO REPRESENTED: Botswana Council of Non-Governmental Organizations represented by:- Ms Chigedze Chinyepi Ms Monica Tabengwa Ms Nobantu Kalake	PRIORITY ISSUES: 1) Inadequate and ineffective legal and structural framework for the protection of women 2) Dissemination of CEDAW and All laws affecting the status of Women 3) Substantive equality in power sharing and political representation of women 4) Violence Against Women 5) Sexual Reproductive Health and HIV&AIDS
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Madam Chairperson,

Thank you for affording us the opportunity to appear before your Committee. My name is Chigedze Chinyepi and I am accompanied by Ms Monica Tabengwa and Ms Nobantu Kalake. We represent the Botswana Council of Non-Governmental Organizations which is an umbrella body with a membership of 120 NGOs. Our oral statement covers the following priority issues:

1)Inadequate/ineffective legal and structural framework for the protection of women;
2) Substantive equality in power sharing and political representation of women;
3)Weak gender machinery ; 4)Violence against women; 5) Inadequate sensitization and information dissemination on CEDAW; 6)Sexual Reproductive Health and HIV&AIDS. Also forming part of the statement are recommendations for each of the issues.

I will present three of the issues and my colleague Ms Tabengwa handle the other three issues.

1. INADEQUATE AND INEFFECTIVE LEGAL AND STRUCTURAL FRAMEWORK FOR THE PROTECTION OF WOMEN

Women's NGOs in Botswana are concerned that CEDAW has not been fully integrated into domestic law. Even where attempts have been made to incorporate some aspects of CEDAW, this has been done in a piecemeal fashion. This is evident from Government's failure to repeal Sections 15(4) of the Constitution, which allows discrimination in matters of adoption, marriage, divorce, inheritance and other matters of personal Law, despite the Courts pronouncing gender discrimination to be a violation of human rights the government have maintained this section in the Constitution. The Government's argument is that where there is a violation there is recourse to the courts, and this assumes that all women can have equal access to the justice delivery system. However this is not true because many women cannot afford legal services, or are unaware of such remedies. Furthermore the Government has admitted to having failed to review some of the laws deemed to affect the status of women and recommended for amendment to align with the Convention [Government's response to Comment 4]

Regarding the structural framework for the protection of women, the positioning of Women's Affairs Department (WAD) and its resourcing are a limiting factor. The government has admitted in their response to Comment 10 of the CEDAW Committee that the positioning of the Department limits the authority of the department to effectively coordinate and further that the staffing as well as the budgetary constraints limit its implementation capability. An illustration of this has been the failure of the Department to mainstream gender throughout the government machinery; its failure to monitor and evaluate the compliance of Government with CEDAW; and its limitations in influencing policy decisions on the advancement of women's issues.

2. DISSEMINATION OF CEDAW AND ALL LAWS THAT AFFECT THE STATUS OF WOMEN

We wish to bring to the attention of the Committee that Government has failed to ensure both *de jure* and *de facto* compliance with the provisions of CEDAW. The inadequate dissemination of CEDAW and all Laws that affect the status of women has denied them the benefits of CEDAW. Rural women, ethnic women, sexual minorities and women with disabilities are especially disadvantaged as there are no targeted interventions for their needs. Their benefits are further limited by distance, the effect of poverty and the non conducive legal environment that makes it difficult to access the programs.

3. SUBSTANTIVE EQUALITY IN POWER SHARING AND POLITICAL REPRESENTATION

The Government has failed to recognise the non-enabling environment that has been created by the patriarchal socialization of Botswana on gender issues, a factor which disadvantages women and renders them unequal partners in decision making at all levels of life. The entrenched patriarchal attitudes discourage women from participating in politics and the limited access to financial resources hinders women's capacity to meaningfully compete for political positions. This is evidenced by the number of women holding political office in the current parliament. Out of the 57 members in the parliament, only 4 are women. This lack of commitment to empowering women by the Government is further demonstrated by its refusal to sign the Southern African Development Community (SADC) Protocol on Gender and Development, whose objective is to set minimum standards and targets for the advancement of women to positions of power to be achieved by 2015.

4. VIOLENCE AGAINST WOMEN

Violence Against Women continue to affect many women in Botswana. Efforts to combat has been largely ineffective due a number of reasons and these are;

- Poor dissemination of information on laws and programs meant to benefit victims of gender violence/domestic violence negatively impacts on their effectiveness.
- The Domestic Violence Act for its part does not criminalise marital rape and therefore fails to protect women against this heinous act of violence against women. The lack of financial resources limits women's access to the legal remedies which further renders the Act ineffective particularly for poor women who happen to be in the majority in Botswana.
- The Abolition of the Marital Power Act does not apply to Customary and Religious marriages. A sizable number of Botswana choose Customary Law as their living Law and this Law not only perpetuates unequal power relations between men and women but also tolerates violence as a means of enforcing such power relations. Moreover the review of laws affecting the status of women did not include a review of customary Law hence Customary Law and practice continue to negate efforts to protect women against violence.

5. SEXUAL AND REPRODUCTIVE HEALTH AND HIV&AIDS

Statistics continue to show disproportionate impact of HIV&AIDS on women and men with women recording higher levels. While Government efforts to mitigate the impact of the pandemic are commendable, more attention should be focused on elimination those indicators that make women more vulnerable to infection such as gender stereotyping, marital rape and the perseverance of unequal power relations that compromises women's sexual autonomy and their ability to negotiate for safe and safer sex.

Access to sexual and reproductive health services remains a challenge for sexual minorities, including sex workers and women in same sex relationships. Although health is provided to all persons without discrimination, the legal environment which makes it an offence to engage in same sex sexual acts and prostitute means that there are no services targeting the needs of these communities of women.

Abortion is illegal in Botswana except in very limited cases, as a result many women resort to clandestine and often unhygienic abortions. These abortions are unsafe and can result in long term complications and can be fatal too. It is our position as NGOs that the failure to provide adequate, safe and affordable sexual and reproductive health services for all women by the government amounts to a violation of their right to health.

RECOMMENDATIONS

- 1) There should be automatic incorporation of all treaties upon ratification.
- 2) There should be adoption of affirmative action through strategies such as the quota system to enable the entry and participation of more women in politics and decision making machinery; Government to sign the SADC Protocol on Gender and Development as a demonstration of political will to advance women to positions of power and decision making.
- 3) WAD to work with other stakeholders, such as NGOs in the dissemination of information and in the monitoring of the impact of amended and newly enacted Laws; Government to strive for the generation of disaggregated data .
- 4) Domestic Violence Act should criminalise marital rape; introduce a legal aid system for women who are victims of domestic violence.
- 5) WAD should be relocated to Office of the President; to be better resourced to coordinate, implement, monitor and evaluate substantive equality of women.
- 6) Review of customary Law to remove discriminatory practices that tolerate and perpetuate gender based violence

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