



Republic of Botswana

Ministry of Justice

Assessing the State of the Child-Friendly Justice System in Botswana:

Qualitative Situational Analysis for Reform

Abridged Report

July 2023



**It is my sincere hope
that this research study
will assist government
to develop a child
friendly justice system
that will guarantee the
respect and effective
implementation of all
children's rights at the
highest attainable level.**



Foreword

Children are vulnerable members of society in all aspects of life and access to justice for children is no exception. It remains my conviction as a person and indeed my Government's to ensure that children are not in any way prejudiced in their endeavor to access justice.

It is for that reason that the Government of Botswana has prioritized reform of the justice sector in its National Development Plan. The reform of the justice sector is consistent with the Government of Botswana's international obligations on the promotion and protection of children's rights as well as key international children's rights instruments that Botswana is a party to.

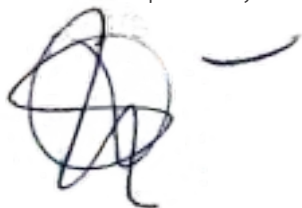
The Ministry of Justice is committed to transforming and reviewing the justice system to remove impediments to the enjoyment of rights of children through improving access to an effective justice system. The Government recognizes the continuous support it receives from the civil society organizations like Stepping Stones International Botswana to improve the justice system by making it more child friendly.

For the Ministry, strengthening child-friendly justice in Botswana is also part of the national commitment to end violence against children, 'E seng mongwaneng'.

This research study will be part of the review and has proposed constructive solutions to addressing critical gaps for improving access to justice with particular emphasis on Children. This includes strengthening the relations between referral mechanisms service providers of the justice system such as the judiciary, police, healthcare providers, education officials, social workers, prosecutors, lawyers, and correctional officers.

It is my sincere hope that this research study will assist government to develop a child friendly justice system that will guarantee the respect and effective implementation of all children's rights at the highest attainable level. The system should also give due consideration to the vulnerability including a child's level of maturity and understanding and also deepen understanding of the processes of the different stakeholders in the justice system.

In conclusion, Ministry of Justice, is committed to providing an enabling environment for a justice system that is fair, accessible, affordable, and last but not least, a justice system that dispenses justice timeously!



Honourable Machana Ronald Shamukuni
MINISTER OF JUSTICE



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Documents

This is the comprehensive research report that describes the extensive research conducted and its findings. In addition, an abridged report and a policy brief have been developed. Recommended citation: Jamu S.M., Rieff, J.A., Mahlolo, T.C., Mashaka, K., Seete, G., Jamu, L. Mosweunyane, S. (July 2023). Assessing the state of child-friendly justice in Botswana: Qualitative situational analysis for reform. Gaborone, Botswana.

Disclaimer

The opinions expressed in this report are those of the respondents and do not necessarily represent the views of the Ministry of Justice, the European Union, Stepping Stones International or the Stephanie Lacroix Humanitarian Fund.



The primary purpose of this study was to investigate the current state of the children's justice system by identifying strengths, opportunities, challenges, and gaps. This information is critical for providing evidence to reform the system to a friendlier, fairer, and more accessible justice system.

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Acronyms

ACRWC	African Charter on the Rights and Welfare of the Child
AG(C)	Attorney General's (Chambers)
AOJ	Administration of Justice
ARCW	African Report on Child Well-being
ARV	Antiretroviral
BCRN	Botswana Child Rights Network
BDF	Botswana Defence Force
BOFWA	Botswana Family Welfare Association
BONELA	The Botswana Network on Ethics, Law and HIV/AIDS
BPS	Botswana Police Service
BPS	Botswana Prisons Service
CB	Children's Budgeting
NCCF	National Children's Consultative Forum
CFC	Child-friendly Court
CID	Criminal Investigation Department
COREQ	Criteria for reporting qualitative research
COVID	Corona Virus Disease
CCRS	Crime and Criminal Recording System
CRB	Criminal Record Bureau / Court Record Book
CS	Council Secretary
CSAEN	Child (Sexual) Abuse, Exploitation, Negligence
CPC	Child Protection Committee
CP&EA	Criminal Procedure and Evidence Act
CRC	Convention on the Rights of the Child
CRIN	Child Rights International Network
CRNSA	Child Rights Network for Southern Africa
CS	Council Secretary
CSAE	Child Sexual Abuse and Exploitation
CSO	Civil Society Organisations
DC	District Commissioner
DCPC	District Child Protection Committee
DHMT	District Health Management Team
DPP	Directorate of Public Prosecutions
DSD	Department of Social Development
DSP	Department of Social Protection
EU	European Union
FGD	Focus Group Discussions
GeAD	Gender Affairs Department
GBV	Gender-Based Violence



HIV	Human Immunodeficiency Virus
HOD	Head of Department
HQ	Headquarters
ICPCC	Inter-agency Child Protection Committee
IDI	In-depth Interviews
KII	Key Informant Interviews
LAB	Legal Aid Botswana
LGBTQI+	Lesbian, Gay, Bi-sexual, Transgender, Queer/Questioning, Intersex and any other sexuality/gender self-identification
MEL	Monitoring, Evaluation and Learning
MoESD	Ministry of Education and Skills Development
MoH	Ministry of Health
MJS	Ministry of Justice
MLGRD	Ministry of Local Government and Rural Development
NCC	National Children's Council
NCPF	National Child Protection Forum
NCPTC	National Child Protection Technical Committee
NGO	Non-Governmental Organisation
NSA	Non-State Actor
PS	Permanent Secretary
S&CD	Social Welfare and Community Development Department
SDGs	Sustainable Development Goals
SER	Social Enquiry Report
SOP	Standard Operating Procedures
SRC	Student Representative Council
SSI	Stepping Stones International
SSG	Special Support Group
TAC	Technical Advisory Committee
UB	University of Botswana
UB-IRB	University of Botswana Institutional Review Board
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNICEF	United Nations International Children's Emergency Fund
VCPC	Village Child Protection Committee
VDC	Village Development Committee
WHO	World Health Organisation
YFC/YFS	Youth Friendly Clinic / Services



Executive Summary

Introduction, Background and Methodology

The primary purpose of this study was to investigate the current state of the children's justice system by identifying strengths, opportunities, challenges, and gaps. This information is critical for providing evidence to reform the system to a child rights friendlier, fairer, and more accessible justice system.

The situational analysis employed a qualitative research design, triangulating in-depth phenomenological interviews, comparative (legal) documents and retrospective case note analyses. The study sampled key informants from government departments and non-state actors in the forefront of the protection the rights and welfare of children, as well as delivery of services related to child victims' rights and welfare services and children in conflict with the law. The study interviewed 327 professional staff, children, caregivers, and community gatekeepers selected in Tsabong, Maun, Letlhakane, Francistown, and Greater Gaborone.

Results

The results are the voices, opinions and lived experiences of the study's participating respondents.

Strengths and Opportunities

Governance Structures for Children's Rights: The conception of the National Children's Council (NCC), the Children's Consultative Forum (CCF) and the Village Child Protection Committee (VCPC) as governance structures to oversee the implementation of the Children's Act are significant for advancing the rights of children in Botswana. The opportunity to geographically expand Legal Aid Botswana to provide legal advice, representation and education to indigent populations and children could be one of the country's significant milestones for advancing child protection services.

Legislation: The enactment of the Children's Act of 2009 which domesticated some of the Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) articles, is considered one of the strengths, and a foundation for creating a children's justice system that is accessible, friendlier, fair, age-appropriate, speedy, and focused on the needs, rights and best interest of children.

Budgetary Allocation on Child Protection Services: Botswana is considered one of the significant investors in social protection programmes in Africa; however, most of the current investments cannot be tracked to demonstrate their allocation specific to children, in particular prevention programmes against child sexual abuse, exploitation and neglect.

Child-friendly Infrastructure: The establishment of the child-friendly police stations is lauded as one of the significant steps towards creating accessible, friendlier, fair, age-appropriate services focused on the needs and rights of children. While it is too early to determine how the new initiative will perform, it is a significant move in a positive direction.

Exemplary and Promising Attitudes, Behaviours, and Commitment to Children's Rights: Results showed exemplary attitudes, behaviours, and processes across participating departments consistent with the best interest of children and focused on the needs and rights children deserve. Results from children and caregivers also underscored some of the promising practices. Unfortunately, these practices and processes were isolated and outweighed by negative experiences.

A photograph of three children outdoors. On the left, a boy in a light-colored button-down shirt and dark shorts is smiling and looking towards the center. In the middle, a girl in a white dress with blue and red horizontal stripes and star patterns is smiling broadly, looking towards the right. On the right, a younger child is shirtless and looking directly at the camera with a neutral expression. The background is a soft-focus green and yellow, suggesting a natural outdoor setting. In the top right corner, there is a small logo consisting of several horizontal lines in green, blue, and orange.

**A child-friendly justice system
starts with legislation. Part of implementation
and enforcement involves ensuring that laws
protect all children and work
in their best interest.**



Challenges, Gaps and Constraints

Weak Governance Structures for Child Protection Services: The current governance and administrative structures (the NCC, CCF, DCPCs, and VCPCs) aimed at overseeing, coordinating, and monitoring the implementation of the Children's Act in their current structural configuration and character have failed to achieve their legal mandates. Consequently, there are weak accountability and quality assurance mechanisms, and a monitoring, evaluation and learning framework to inform continuous service improvement in the justice system.

Children's Act Implementation Barriers: Most of the Children's Act's provisions are not comprehensively implemented by the ministerial departments mandated to do so due to multiple challenges and constraints. None of the existing social protection programmes focuses on preventing child sexual abuse, exploitation, and negligence (CSAEN) and underlying causes of criminality and antisocial behaviours among children. Ministerial implementing departments do not have accountability and case monitoring mechanisms to track cases and services given to children.

Unfriendly Infrastructure and Systems: Except for the established child-friendly police stations in some parts of Botswana, most government departments and NGO offices providing children's protection or care services are not designed to meet the minimum standards for creating a child-friendly environment.

Weak Monitoring Evaluation and Learning Systems: There are no comprehensive, centralised monitoring, evaluation and learning systems to inform the justice system's performance (across sectors) and to generate evidence-based programme planning and continuous improvements.

Weak Stakeholder Coordination and Collaboration: The study found weak stakeholder coordination and collaboration due to the complexity of the bureaucratic system in which pertinent justice system stakeholders work in silos and only follow their departmental mandates, rules, and approaches, often resulting in coordination difficulties and constraints to create seamless communication and referral processes.

Insufficient Linked Guidelines, Standard Operating Procedures and Processes: Except for Botswana Police Service, Botswana does not have intra and inter-departmental standardised guidelines and standard operating procedures for handling children in the justice system.

Inadequate Specialisation and Capacity Building: More than 70% of the respondents do not have received specialised training for working with children, such as providing trauma counselling for rape victims and children in conflict with the law.

Dissatisfied Children and Caregivers: Child victims and those in conflict with the law reported being dissatisfied with the current services. Most experienced unfriendly, unexplained and delayed resolutions to their grievances.

Study Implications

While the results highlight Botswana's significant milestones and opportunities to improve its child justice system, most structures, systems, and processes provide sub-optimal services to children coming in contact with it. Chronic persistent suboptimal services in the child justice system have several implications and significant consequences for children and their families, communities, and the country. A suboptimal child justice system can lead to a rise in recidivism and antisocial



behaviours. Secondly, a suboptimal system can perpetuate inequalities where children from socially disadvantaged families and communities become more marginalised, ending up in situations that deny them the opportunity to overcome their challenges and become productive citizens. Besides, suboptimal systems have long-term effects on children's mental health and well-being, which can be passed on to the next generations. Thus, failure to address violations of children's rights and optimization of the system can negatively impact Botswana's pathway to Vision 2036 aspirations.

Conclusion

The recognition and domestication of UNCRC and ACRWC conventions testify to the country's commitment to advancing children's rights and needs. This situational analysis investigated the state of the child justice system to inform improvements in the delivery of services, instigate reforms for rights-centric services and create a system that is accessible, fair, prompt, age-appropriate and serves children's best interests.

The study identified strengths and opportunities, challenges, gaps, and constraints undermining the government's optimal delivery of rights-centric services as the primary duty bearer of children's rights. It is up to the government to adopt or modify the suggested recommendations for reforming the children's justice system. The government's actions or inactions impact children more significantly than any other age cohort, given that Botswana has a young population. The individual and societal costs of failing to address children's rights and needs are costly in the future, thus, the government's immediate action is imperative and urgent.

Summary of Recommendations

The proposed recommendations address the challenges, gaps and constraints identified in the study. The recommendations are derived from the respondents, literature and best practices from Sub-Saharan Africa, other regions and the European Union (global leaders in child-friendly justice).

Prioritising and Mainstreaming Children's Rights: Create a strategy for child rights mainstreaming, including children's meaningful participation, in the design, implementation, monitoring and evaluation of policies and programmes and accountability systems. Children's rights should be brought to the forefront of national programmes.

Review Legislation: While Botswana has an excellent legislative blueprint (Children's Act) to advance children's rights within the justice system, its major 'Achilles heels' is its suboptimal implementation.

- Government must consider including a comprehensive Children's Bill of Rights and Protection Provisions in the Constitution to solidify its commitment to creating children as equal bearers and ensure the absolute protection of their rights.
- The Children's Act and all laws pertaining to child justice should be reviewed, such as the Affiliation Proceedings Act, Marriage Act, Adoption Act, and the Domestic Violence Act to ensure that all legislation in Botswana is consistent with child-friendly principles such as the best interest of the child and participation.
- It is also recommended to harmonise the Children's Act's Bill of Rights and provisions with the Customary Act to address rights for children meeting the customary court for civil cases.
- Other statutes, such as the Criminal Procedure and Evidence Act and the Penal Code need to be aligned where inconsistencies exist, to ensure that they address child-friendly principles. Harmonisation should also consider alignment with international children's rights instruments that Botswana ratified, such as the African Charter on the Rights and Welfare of the Child.

- There should be consistency in the Penal Code (Section 13.1) and Children's Act (Section 82.1) and Section 83 for defining the criminal age. The prosecution should also be held accountable to prove that the child brought before the courts had the capacity to know, at the time of the offense, that they were committing the crime.
- It is strongly recommended to increase the age of criminality above eight years. Government must develop children's court rules to streamline the management of children's cases within the children's court system.

The review must expound on children's court rules to streamline the management of children's cases within the court system, including timeline-based service delivery for all service providers.

Restructure Governance and Administrative Structures: Government must urgently consider amending the Children's Act, to strengthen the position and legal form of the NCC and ensure it can function more independently, such as in the form of an autonomous parastatal organisation, with its own leadership, an independent board of directors, and human and budgetary resources to facilitate the implementation of the Children's Act and its legal mandates.

The strengthened and restructured NCC should oversee the functioning and the roles and responsibilities of child protection committees, including the Children's Consultative Forum (CCF), the National Child Protection Technical Committee (NCPTC), the Inter-agency Child Protection Committee (ICPCC), the District Children's Consultative Forums (DCCF), the District Child Protection Committees (DCPCs) and the Village Child Protection Committees (VCPC).

The new entity must also be answerable to the Parliamentary Committee(s) that created it, the minister (MLGRD) and the public. The NCC is recommended to develop a comprehensive accountability framework whereby different institutions ensure each sector is consistently audited and evaluated on performance.

National Quality Improvement (NQI) and Monitoring, Evaluation and Learning (MEL) Mechanisms: The restructured NCC must be the bearer of the child justice system implementing stringent NQI and MEL mechanisms to hold ministerial departments and NGOs accountable for upholding child-friendly justice principles.

Children's Rights Budgeting: Develop a costed and adequate budgetary resource review for all government departments mandated to implement child protection and justice interventions.

Child-friendly Infrastructure: There is an urgent need to remodel child-friendly infrastructure or spaces in all departments that provide services to children accounting for differently abled children.

Addressing Weak Stakeholder Coordination and Collaboration: To address weak stakeholder coordination and collaboration, the government must create integrated professional teams within child-friendly police stations, children's courts, and youth-friendly clinics as a matter of urgency. For example, each children's court must include a trained and specialised team, including a children's court magistrate, social workers/probation officers, psychologists, and court assistants (a prosecutor as provided in the Children's Act) to improve the provision of services. South Africa and European countries have successfully implemented this model.

Specialised Services and Capacity Building: There is a need to prioritise and offer specialised capacity building to improve and make high-quality service a professional norm within and outside government institutions providing CSAEN services to children to capitalise on promising practices, attitudes, and behaviours identified in the study.



Development of Guidelines, SOPs, and Processes: Develop standardised SOPs for implementing the Children's Act for all sectors based on child-friendly principles and elements.

Children's Sentencing Guidelines Incorporated in a Statute: Develop a comprehensive sentencing guideline focusing on rehabilitation and restorative justice rather than punitive measures. Custodial sentencing must be used as a last resort for serious crimes that put the public at risk from violent children. To ensure the guidelines are followed, it should be incorporated in a statute such as in the form of a schedule under the Penal Code, the Children's Act, or as a stand-alone Act.

Professional Skills Set: Undertake a restructuring and skill's analysis to ensure that the required qualified professionals in the child protection and child justice system are appointed and adequately and equitably distributed to serve in all sectors.

Video Recorded and Conferencing Testimonies: Consistent with the Children's Act, the government must implement video-recorded documentation of all matters involving children in the justice system under the guidance of qualified personnel. In addition, testimonies during court proceedings must be through video conferencing to limit child re-victimisation.

Prioritising Children's Cases: Consider legally prioritising children's cases, to safeguard children's safety and promote speedy conclusions.

Use of Age-appropriate Tools and Aids: To account for the age, maturity and vulnerability of children who struggle to articulate themselves in the justice processes during administrative, investigation and court proceedings, the government must consider investing in visual aids and dolls, art, audio, sign language (personnel) materials. These would aid children effectively communicating by showing what happened to them or what they saw instead of using their jargon and metaphors that often result in the miscarriage of justice.

Community Interventions: In conjunction with law enforcement agencies and departments, including Legal Aid Botswana, child protection committees and civil society must scale up interventions that aim to increase community awareness of children's rights, the importance of bringing cases to the (formal) justice system, and the importance of children receiving comprehensive and child-friendly services (and demanding those rights), and the right to attain legal support and representation.

Parenting Programmes: Tailor community interventions with the evidence-based parenting programmes to support and protect their children from abuse and descale inhuman and punitive punishment such as physical and verbal abuse in community settings.

Support Programmes: Allow registered civil society organizations with qualified personnel such as social workers and psychologists to support children during their encounters with the justice system where government civil servants are unavailable. Secondly, it is necessary to expand child protection programming through CSOs, such as providing psychosocial support, violence prevention, substance abuse programmes and sexual reproductive and health and rights.

Dialogue and Training of Dikgosi: Initiate a constructive dialogue with Dikgosi to address Dikgosi's concerns regarding children's rights and train them on children's rights and their role in upholding them.



1. Introduction, Background and Methodology

The Ministry of Justice (MoJ),* through the Technical Advisory Committee (TAC)ⁱ in collaboration with Stepping Stones International and the University of Botswana, conducted a situational analysis with key informants of the child justice system. In January 2021, the TAC highlighted the need for reform because some aspects of the current child justice system do not conform to the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) and are out of line with the child-friendly justice system principles requiring reform.ⁱⁱ Furthermore, the TAC members noted that despite the improvements made in the past years, there are still many limitations in implementing the Children's Act.

1.1 Statement of the Problem

The Botswana Government has made progress towards creating a pathway to a justice system which guarantees the respect and the protection of children's rights to the highest attainable level. However, several studies show multiple gaps in the Botswana juvenile justice system.^{1,2,3,4,5} Ramabu (2021) identified the inadequacy of the governance structures established to oversee the implementation of the Act as one of the significant gaps in implementing the Children's Act.¹ Previous studies have also identified a backlog of children cases, some of which take more than four years to complete, subjecting some victims to re-victimisation and withdrawal.² Other studies found that 90% of the respondents had never received specialised training in counselling sexually abused children, crisis counselling, and trauma management. Furthermore, 95% of the respondents had never received specialised training in forensic social work. Therefore, support to the child and processing of such cases is inadequate from the onset.³

In mapping and analysis of justice for children, the Department of Social Services & UNICEF (2011) found that the juvenile justice system lacked administrative, regulatory capacity, financial and human resources to implement the Children's Act, thus compromising the protection of children's rights and well-being.⁴ Lucas (2010) found that untrained personnel, rules and regulations delivered probation services were outdated, and the prison services did not provide specialised care and treatment to young offenders consistent with their age and level of maturity.⁵ The study found that the Botswana child system was unaligned with the international juvenile instruments and thus did not promote children's best interests.⁵

1.2 Purpose and Specific Objectives

Against this backdrop, the Ministry of Justice commissioned a situational analysis with the following specific objectives:


- To deepen the understanding of the judicial system's status, functioning, and processes for children, all stakeholders and service recipients, i.e., identify strengths, weaknesses, gaps, and lessons learned in the implementation and functioning of the child justice system.
- To recommend reform for the weaknesses and gaps of the current judicial system to accommodate a sustainable child-friendly justice system.
- To inform a model to promote access to child-friendly justice for child victims, witnesses and offenders as well as cater for complainants consistent with the statutory provisions of the

ⁱ The Child-friendly Justice Reform Technical Advisory Committee (TAC) is a network of stakeholders chaired by the Ministry of Justice and includes members from the Police, Prisons, Ministry of Defence, Administration of Justice, Directorate of Public Prosecution, Department of Social Protection, Ministry of Youth, Sports, Culture and Gender Affairs, Ministry of Education and Skills Development, Tribal Administration, University of Botswana, UNICEF, and Stepping Stones International.

ⁱⁱ Minutes of the TAC held on January 21, 2021.



The government should consider developing a comprehensive child sentencing guideline focusing on rehabilitation and restorative justice rather than punitive measures.



Children's Act, thereby minimising both short and long-term trauma and secondary victimisation by the justice system.

The results and recommendations presented in this study are expected to inspire the government to reform the child justice system so that it is accessible, age-appropriate, expedient, diligent, upholds child-friendly principles, and is adapted to and focused on the needs and rights of the child.

1.3 Literature Review

The child-friendly justice system varies across countries. However, critical analysis and evaluation of jurisprudence literature shows that the elements and principles that characterise child friendly justice emanate from the same international law: the United Nations Convention on the Rights of the Child (UNCRC).^{6,7,8} In addition to the application of CRC in developing and implementing child-friendly justice systems, African jurisprudence studies highlight the importance and influence of the African Charter for the Rights and Welfare of Children (ACRWC) in the region.⁹ The domestication of the convention and the charter into national laws are considered the foundation for creating a juvenile justice system. Botswana achieved this goal by domesticating the Children's Act. However, domesticating conventions and charter articles require operationalisation, effective governance and administrative structures, systems, processes, and resources to achieve optimal goals.

The child-friendly principles and elements are considered critical to operationalising children's rights.¹⁰ Child-friendly justice principles and elements facilitate children's access to justice, eliminate many traumatic experiences children face in the legal system, and foster greater respect for their rights by providing them full access to the justice they need. It promotes effective participation in judicial proceedings and fosters conditions that advance children's best interests. The Committee of Ministers of the Council of Europe (CoE) on child-friendly justice provides the most elaborate definition of child-friendly justice:

"Justice systems which guarantee the respect and the effective implementation of all children's rights at the highest attainable level [...] and giving due consideration to the child's level of maturity and understanding and the circumstances of the case. Justice is accessible, age-appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child. Child-friendly justice respects the rights of the child, including the rights to due process, the right to participate in and to understand the proceedings, the right to respect for private and family life and the right to integrity and dignity." (CoE, 2010).

The CoE (2010) identified five fundamental principles governing a child-friendly justice system: a) participation, b) the best interest of the child, c) dignity, care, and respect, d) protection from discrimination and equality, e) the rule of law. These child-friendly principles form the backbone of treating children.¹⁰ In addition, there are child-friendly elements that should be taken into account when looking at the child-friendliness of the child justice system, which include providing information and advice, protecting privacy, safety measures to prevent secondary victimisation, training professionals, and depriving liberty as a last resort.¹¹

* Since the inception of the research, the Ministry of Defence, Justice and Security has been restructured into two separate Ministries, namely the Ministry of Justice, and the Ministry of Defence and Security. The Department of Social Protection has changed its name to Department of Social Development.



1.4 Methods and Procedures

This social research employed a phenomenological qualitative research design. The study triangulated in-depth interviews with legislative analysis and a retrospective case study analysis.¹²

Study Setting and Sample Size: The study was conducted in Gaborone, Francistown, Maun, Tsabong, and Letlhakane districts. The sample sizes included government institutions and non-state actors recognised as providing child protection and welfare services related to child abuse in Botswana, each with a sample ranging from 10–48 respondents, enough to achieve over 80% information saturation. The total sample was 327 participants.

Sampling Methods and Composition of Participants: Respondents used purposive sampling design, with most departments providing a list of individuals deemed bearers of justice within their profession and, therefore, knowledgeable about child-friendly services. The sample included children (victims and offenders), caregivers, and community gatekeepers to compare providers' views against service recipients' experience.

Data Collection Instruments: The study utilised semi-structured, open-ended and iterative questionnaire guides specific to each sampling group. Researchers sought permission and recorded interviews using a smartphone or tape recorders. Out of 327 respondents, only four declined to be recorded. About 20% of the interviews were conducted online or by phone during the COVID-19 pandemic.

Data Management and Processing: Data were anonymised to ensure confidentiality and privacy. All audio data were downloaded to one central computer and thumb drives under the custody of SSI. External transcribers had access to audio data that did not have socio-demographic profiles, making it impossible to trace the participants' identities.

Data Analysis: The study analysed text data using ATLAS.ti, one of the computer-assisted qualitative data analysis software. The study applied the framework analysis approach and the in-built artificial intelligence coding functionality.^{13,14}

1.5 Study Challenges, Limitations and Ethical Clearance

The study was conducted at the peak of the COVID-19 pandemic. Some selected individuals were unavailable because they were either sick, attending a funeral, in quarantine or had passed away. The study received a pre-selected list of participants from government departments, which may have introduced bias. However, the research teams' reflections collected at the end of each interview suggest that respondents were truthful and genuine. If any, the level of bias was minimal.

The study received ethical clearance from the Office of Research and Development at the University of Botswana Institutional Review Board (UB-IRB), Ref #UBR/RES/IRB/SOC/125, dated July 7, 2021.



2. Cross-cutting Results

This chapter presents emerging cross-cutting themes that are overarching and applicable to all sectors within and outside government departments.

2.1 Child Protection Governance and Administrative Structures

Respondents highlighted the establishment of the National Children's Council (NCC), the district child protection committees (DCPC) and village child protection committees (VCPC) as one of the significant achievements of the governance and administrative structures of the child justice system in Botswana. However, regarding the NCC's structural arrangement and its effectiveness, it is considered ineffective and does not support the magnitude of responsibility put on it by the law.

2.2 Child Protection Legislation and Implementation

One of the cross-cutting themes consistently emerging from this study was the enactment of the Children's Act as an outstanding achievement and a blueprint for creating a robust child justice system. However, the most significant gap regarding legislation is the actual implementation of the Act. Some of the provisions that have not been implemented include:

- Lack of Children's Courts
- Lack of sentencing guidelines for Magistrates
- Children had no direct access to the justice system despite the provision
- Children are not offered full participation in decision-making in the current justice processes
- Punishing caregivers or adults who fail to report or protect children is not enforced
- Support during court proceedings by social workers – 'friends of the courts' is almost non-existent
- Courts use suspended sentences (without supportive remedial interventions) and have a heavy focus on punitive sentences, such as corporal punishment or custodial punishment (jail terms) instead of rehabilitative or restorative sentences, due to the lack of alternative sentencing options
- Botswana does not have probation officers and court assistants assigned to the children's courts as the Children's Act demands, and
- Children's rights to legal representation is not enforced, resulting in many children going through courts without legal representation or counsel.

The current children's court system does not demand:

- Victim impact statement – a critical element of child participation in criminal court proceedings which discusses harm children suffer after being subjected to violence.
- Reading of the rights of accused person (Miranda rights). The study found that police officers arrest children in conflict with the law without reading them their rights, denying them the right to information about the reasons for their arrest. Often, children are arrested without caregivers being present.
- That the victim is not exposed to the perpetrators during court proceedings.



2.3 Children's Sentencing Guidelines

Respondents characterised the Botswana child justice system's sentencing prescription as an adversary and the rehabilitation options as discriminatory and ineffective, requiring a total overhaul. The Botswana Children's Act provides that the presiding judicial officer makes any of the following sentencing orders:

- Placing the child on probation for not less than six months or more than three years. However, Botswana does not have probation officers.
- Sentencing the offender to a school of industries (Ikago) for a period not exceeding three years or until he or she attains the age of 21 years. Since its inception in early 2000, Ikago has never had more than 15 children in conflict with the law, despite being able to host 100 children.
- Sentencing children to community service is one restorative alternative considered child friendly and appropriate for children. The study found no demonstrable community service programmes in Botswana.
- Sentencing the child to corporal punishment remains one of the controversial methods for disciplining children in Botswana, despite its detrimental effects on children's well-being.


2.4 Inadequate Financial and Human Resources

Respondents across participating government departments identified the shortage of financial and human resources as the primary root cause of the failure to implement the Children's Act in Botswana. Despite domesticating international and regional conventions (UNCRC and ACRWC) into the Children's Act, no direct resources are allocated for implementing the Children's Act and addressing child sexual abuse, exploitation, and negligence as well as dealing with children in conflict with the law. Despite educated and professional human resources observed in the departmental demographic profiles, overall results suggest departments underperform due to the limited supportive financial resources, non-supportive systems, need for skills building, insufficient accountability and stringent monitoring mechanisms.

2.5 Coordination and Collaboration

Excerpts from participating departments suggest weak coordination and collaboration within the justice system, resulting in delayed case processing and conclusion. The lack of coordination and effective collaboration has created a finger pointing culture in which one department blames another for inefficient processes. Reflecting on their experiences, magistrates and prosecutors identified the working relationship with social workers as weak and the primary cause of delays in concluding cases. According to prosecutors and magistrates, any case involving a child (a victim or perpetrator) requires detailed social enquiry reports (SERs). Magistrates reported that a social enquiry report forms a vital decision-making document during arraignment, court proceedings, and sentencing. However, in most instances, magistrates and police stated that social workers delay in providing SERs. The reports also lack requisite details to inform the decisions of presiding officers.

In addition, prosecutors and magistrates indicated that given the age, maturity and needs of children in contact with the courts, the Children's Act requires the presence of social workers to provide their expert support of children and guide the child-centric conduct and processes during court arraignment and proceedings.



However, in most cases, social workers do not show up during arraignment and court proceedings, resulting in situations where most child victims and offenders go through the court system without proper preparation and support. The absence of social workers often results in case postponement and subsequently compound court delays. Having in-house social worker in the court system could control the time and the pace of the cases, and ensure that children are prepared for court and receive counselling.

Social workers blamed the police for engaging them late in children's cases, resulting in many children going through initial police interviews without their professional guidance. The district leaders blamed magistrates for the lack of teamwork and working in isolation at the district level.

The biggest casualty of blame game are child victims and offenders. Respondents highlighted a good working relation between government and civil society organizations in areas where civil society organizations were present. The mentioned that they refer to civil society organizations to offer psychosocial support services, shelter and sometimes use of their facilities.

2.6 Child-friendly Infrastructure

Respondents across departments reported the lack of specially designed children's infrastructures: the magistrate and customary courts, social service facilities, district leaders' offices and most police stations, schools, and health facilities.ⁱⁱⁱ It concerns for instance the availability, physical design and set-up of buildings, such as not having enough rooms available to conduct police interviews or counselling in privacy, and children being confronted with their perpetrator while waiting in the court hall. While the police have initiated child-friendly police stations, these facilities were not scaled up to all study districts and therefore not accessible for children countrywide.

2.7 Corporal Punishment

Excerpts from respondents across sample groups show that corporal punishment is widely inflicted and inconsistently applied on delinquent children and those considered deviant in public schools, at the customary court, and in homes and used as a penal sanction in children's courts. Results show that most respondents in the Department of Social Protection, the Ministry of Health, the Justice sector, and non-state actors recommended that the government repeal corporal punishment in schools and children's courts to enhance child-friendly justice.

They recommended that, ideally, the government develop alternative effective evidence-based interventions that focus on ameliorating the root cause of antisocial behaviours instead of punitive measures such as corporal punishment that often have the opposite effect. On the other hand, corporal punishment remained popular among more than half of police officers, educators, and community gatekeepers. They suggested to continue the use of corporal punishment with measured caution in the community setting under the strict consent of parents or caregivers.

2.8 Social-Cultural Impact on Children's Rights Abuse: Prevention & Response

The study identified several sociocultural norms as impacting children's rights in many communities. Respondents suggest that knowledge and awareness about children's rights are obscured by social norms affecting children's access to justice. Traditionally, children are expected to obey their parents and may easily be coerced to withdraw rape or defilement case. Parents do not often recognise child

ⁱⁱⁱ Interviews with health services providers suggests that victims of child sexual abuse do not utilise youth-friendly services where they exist, thus the current facilities do not cater for most children interviewed in this study.



abuse as being abuse, and prefer to reconcile abuse with the help of Dikgosi, preventing justice being served and children receiving the right medical and psychological services. Some communities condone inter-generational sexual relationships with children, obstructing any form of intervention for victims of rape and defilement. Perpetrators of defilement and incest often promise the pregnant victims' material and financial support, and even marriage, resulting in parents and caregivers protecting the perpetrators at the expense of the child receiving justice and necessary medical and psychosocial support.

Results also indicate that case withdrawals are associated with perpetrators being family members or friends. In some cultures, such as Bazezuru, children conform to arranged marriages due to sociocultural expectations inconsistent with the Children's Act.



3. Summary of Departmental Results

3.1 Ministry of Justice: The Justice Sector

Magistracy and the prosecution bear the burden of ensuring that children in contact with the justice system receive fair, age-appropriate justice centred on the rule of law. They are accountable for ensuring the court processes are premised on the children's best interest. The summary presents the most recurring themes in the justice system.

3.1.1. Guidelines and Standard Operating Procedures in Children's Court

Children's Court Rules

Most respondents argued that the Children's Act falls short because it does not include Children's Court rules or standard operating procedures to guide administrative and judicial procedural safeguards for managing children's cases.

'In Camera' Arraignment and Proceedings

While most magistrates hold court arraignments and proceedings *'in camera'* or the magistrate's chambers with limited authorised personnel, children and adults share the same reception areas, challenging the observation of privacy and confidentiality. In this regard, holding children's cases in camera does not prevent re-victimisation because victims often come face-to-face with perpetrators. Perpetrators are allowed to cross-examine children which is intimidating for a child, and often causes secondary trauma.

Sentencing Guidelines/ Protocol

In addition, Botswana does not have a children-specific sentencing protocol. While most magistrates reported accounting for a child's best interest in their sentencing decisions, they indicated that the lack of a sentencing protocol introduces inconsistencies in the sentencing approaches. Often, magistrates reported relying on social workers' reports to help inform their decisions. Where such reports are inadequate and informative, children are prone to injustice.

Children's case Turnaround Time and Case Delays

Respondents explained the turnaround time of children's cases they experienced in their careers. Results suggest confusion and disagreement on turnaround time for children-related cases. The expedient processing of litigation cases depends on how individual magistrates approach each case.

Commenting on the root causes of delays in children's cases, prosecutors blamed magistrates for frequent postponement of cases for long periods up to four or five months. Prosecutors and other court officials make a lot of effort to ensure all witnesses from across the country can attend, only for the magistrate to be absent without even informing prosecution.

3.1.2 Legal Representation

Several magistrates and prosecutors cited the lack of legal representation as one of the causes of delays in cases involving children. Respondents cited instances where police and prison officers bring children for court proceedings without legal representation. While Legal Aid Botswana reported availability and willingness to provide legal representation for children in need, they often do not get requests from social workers, the police, the prosecution nor magistrates where such need is required. Legal Aid Botswana has offices in Gaborone, Palapye, Francistown, Tsabong, Maun and Kasane.



Child-friendly justice is justice that is accessible, age-appropriate, expedient, diligent, adapted to and focused on the needs and rights of the child.



Promising Practices

Best Interest of Children

The study found promising and innovative practices in which some magistrates and prosecutors try to ensure children's best interests. Before trial, some magistrates reported talking to children in their chambers to ensure they understood why they were in court and whether they were prepared and ready to give testimonies. If they feel children are not ready, they refer them to social services for counselling. Some magistrates give priority to expedient case proceedings. Results also found that some magistrates insist on ensuring that children in conflict with the law brought to their courts have legal representation.

In-camera Court Proceedings

Results suggest that most children's cases in Botswana are held '*in-camera*', a process that prohibits the public and media to partake and holds cases in an empty gallery or chambers. Magistrates and prosecutors have further made initiatives to minimise the intimidation children face in court by not wearing their usual regalia and structuring a comfortable seating arrangement while they prepare children for court.

3.2 The Botswana Police Service

The Botswana Police Service is the first port of entry into the formal justice system and the primary investigative arm of the juvenile justice system. This section presents police-specific results on children's rights and the child-friendly justice system.

Inadequate Protective Services

The police encounter children needing protection, including victims of sexual or physical violence, neglect, or other forms of abuse and children in conflict with the law who need protection from public backlash. Neither the police nor the social workers have facilities for safe custody of children. In those instances, they rely on shelters run by NGOs, which are limited and not countrywide.

Shortage of Forensic Testing Facilities

Police also cited the inadequate forensic laboratory facilities as one of the detrimental factors affecting the expedited building of evidence for prosecution. Investigating officers nationwide collect specimen for forensic testing in various cases ranging from rape, murder, assault, and substance abuse which they send to the only laboratory in the country in Gaborone. This results in excessive delays of child cases.

Arrest, Interviews, and Detention of Children

Comparative analysis of interviews with child victims, offenders, and their caregivers suggests that the police's practices of arresting, interviewing and detaining children in conflict with the law are often inconsistent with principles of the child's best interest.

Most children in this study revealed that they were interviewed by the police without parents or social workers. For rape cases, a female officer may lead the interrogation in the company of other male officers or whoever is available at the station, regardless of their experience and training credentials. Children reported being assaulted by the police during the arrest. Another child reported being arrested in the street by three officers, who beat him up. Often children are detained in the same cells as adults.

Delays in securing medical examination for children

Since children's cases are not treated as medical emergencies, police officers who accompany children to medical facilities queue for long hours with the rest of the patients before they get assistance. This compromises children's privacy and confidentiality and increases the child's trauma.



Misalignment between police and social workers work shifts and schedules

Even though the police must always involve social workers when dealing with children, their work week and day schedules do not coincide. This results in the police handling many children's cases during the weekend and outside of normal working hours in the absence of social workers.

Inadequate Professional Services

Respondents identified the limited availability of child-expert services as one of the significant organisational challenges confronting police operations. Officers highlighted the lack of access to experts for children with disabilities (visual, hearing, and cognitive disabilities).

Shortage of Trained Officers

Results from interviews with children reveal several instances in which the police shouted at the child to **"Speak!"** and use harsh blaming interrogations techniques such as **"What did you do to cause him to do this?"** or **"Why didn't you report this earlier?"** Senior officers confirmed that most junior officers handling children's cases had not received training in interviewing and interacting with children, creating significant skills gaps in handling children.

Promising Practices

Child-friendly Police Stations

The Botswana police are setting up child-friendly police stations, aiming to handle cases in a child-friendly manner and ensuring uniformity in handling children's cases across the country. They set up a child-friendly police centre at Broadhurst Police Station in December 2020 after a pilot phase. Observation of the Broadhurst child-friendly police station showed that the facility has a friendly reception, a separate interrogation room, a sick bay, counselling rooms and ablution facilities specifically designed for children and trained staff onsite. There is also a play area outside the facility. The creation of the Broadhurst child-friendly police station and an increasing number across Botswana is therefore a milestone that accounts for a friendly space, a sensitive interviewing environment, and a psychologically safe environment for children.

3.3 Department of Social Protection

The Children's Act vests significant responsibilities to social workers in ensuring the delivery of child-friendly services in Botswana. Social workers are mandated to investigate children-related cases with or without police officers, ensure children's voices are heard in the justice system, and provide supportive services during police interviews, investigations, court arraignment, and proceedings. They are also responsible for providing counselling services, during which they may determine the child's eligibility for referral. Thus, social workers are expected to uphold the value of social justice as a professional norm. They are therefore pivotal to fulfilling the best interest of the child throughout the justice system. Results suggest that social workers do not consistently fulfil these obligations.

Transportation and Communication

Social workers cited the lack of adequate resources in most S&CD offices, such as transportation and communication, as significant impediments to delivering their duties. Vehicles often have mechanical faults and are frequently out of service, which causes delays in attending cases. In addition, vehicles are shared amongst social workers that work in different geographical areas.



Understanding the Children's Act

Some social workers cited their limited understanding of the Children's Act impeding their interpretation of the Act. The differing legal interpretation of the Act's provisions across social workers may create substantial obstacles hampering the effective delivery of services that protect children from harm.

Licensure for Social Workers

Senior officers decried the lack of a social work professional licensure council as an impediment to professional excellence. They argued that a professional social work council would regulate the profession and protect children by setting and enforcing quality standards for social work practice. The officers also pointed out that a professional body would establish the rules and regulations of the profession and the standards for licensure, issue licenses to social workers who meet professional standards, investigate complaints and, when necessary, decide whether a social worker continues to deserve a license.

High Caseload and Diverse Duties

Social workers reported having multiple responsibilities including welfare, psychosocial support and judicial services. They have a high caseload, often spread over a wide geographical area. Their availability is limited to working hours on weekdays constraining their ability to pay full attention to their judicial responsibilities. The diversity of their duties limits opportunities for specialisation.

Promising Practices

The Department of Social Protection developed SOPs for social workers released in May 2017 and is in the process of developing guidelines to ensure the proper functioning of CPCs and CCFs at the national, district and community levels. The guidelines will include accountability mechanisms and budgeting of activities.

Evidence also suggests that social workers use the diversion approach to redirect children in conflict with the law from formal processing in the child justice system while holding them accountable for their actions. This study found that four of the five boys accused of infringing the Penal Code at Ikago did not go through the court system but worked with social workers.

3.4 Ikago School of Industry & Trade

The research interviewed five children and three management staff at Ikago School of Industry, Botswana's only rehabilitation facility for boys. The centre's principal told researchers that although the centre can house 100 children, the highest number of children the centre has had is 15. The centre has never operated at full capacity since its inception. Consequently, the infrastructure was falling apart at the time of the interview. There were no specialised employees, for example the clinic did not have a nurse and the social worker had been transferred.

Vocational, Education, Recreation, Recreational and Health Facilities

The study found that Ikago officially has four vocational programmes: carpentry, bricklaying, electrical and auto-mechanic. Excerpts from children and centre officials revealed that the centre was not providing any of these vocational training programmes at the time of data collection. There was therefore, no rehabilitation taking place at the centre. The respondents mentioned that the school offered bricklaying until the unfortunate death of the lecturer offering the training.

Results show that there is no vocational training, no recreational sporting activities, no health professionals nor services, and no social workers to engage children at the center. Only two students attended public secondary school education outside the centre at the time of data collection. The centre



has indoor and outdoor sporting facilities of various sporting codes, including soccer and table tennis, but they remain idle and unutilised, due to the lack of instructors and equipment like footballs, tennis balls and rackets.

Table tennis is the only active sporting code, but the children only get to play when the coach from outside brings the rackets. The digital satellite television set is the only source of entertainment. Excursions to Lion Park, for example, have ceased, meaning there are no outings either. The centre was built with a fully equipped clinic; however, the clinic has not been operational for a long time and was dilapidated with electrical wires hanging from the ceiling at the time of data collection.

3.5 Ministry of Education & Skills Development

The research interviewed educators, including regional and district education officers, primary and secondary school heads, heads of departments, teachers, and guidance and counselling teachers. Excerpts from educators' experiences revealed some challenges, such as high workload, particularly among guidance and counselling teachers with both teaching, and guidance and counselling tasks. Educators expressed the lack of expertise in addressing the needs of children needing protection due to student-teacher time conflict and the teacher-learner classroom relationship, which often prevents children from seeking help, mainly if the teacher is strict in the classroom.

Corporal Punishment Specific to Education

The study found that different schools address indiscipline differently, depending on protocols established within the schools. There was an indiscriminate use of corporal punishment as a disciplinary measure in schools. Responding to the questions, a teacher had this to say:

"Regarding punishment, the law says we are not supposed to do corporal punishment. The procedure is that once a child has committed an offence, I must talk to the school head, who will give me permission to go and discipline the student. We are human. We make mistakes, and we discipline students in class. I do not want to lie; we sometimes use a stick to correct behaviour."

Shortage of Specialised Teachers


Excerpts from guidance and counselling teachers showed an exponential increase in children requiring guidance and counselling services, particularly in secondary schools. District education administrators and teachers lamented being assigned to guidance and counselling tasks in addition to their teaching responsibilities without professional training. Teachers have been promoted to guidance teacher without having the appropriate skills in counselling.

Teacher-Parent Challenges

Teachers recounted several challenges they encountered when trying to help children who have been abused. Because of weak cordial, supportive parent-teacher relationships, some teachers do not notify social services or the police for fear of retribution.

Antisocial Behavior among Learners

Teachers reported increasing antisocial behaviours among learners and attributed these to underage alcohol consumption, use of illicit drugs and harmful environments at home. Teachers highlighted increased bullying, common assault, theft, foul language and even burglary and rape. Discussions with educators across the study districts revealed that one of the emerging problems in schools is smoking marijuana or even using cocaine. In some districts, teachers revealed that some learners are known drug dealers in their schools. Respondents argued that even though drug abuse is an individual child's behaviour, it is embedded in a sociocultural context that strongly determines its character and manifestations.



According to testimonies, removing children from these toxic environments and treating them for addiction has beneficial effects in helping them effectively. Unfortunately, such facilities do not exist. Children are often expelled from school without remedial interventions.

In Maun, educators reported an increasing prevalence of stay-alone children. Often parents or legal guardians leave their children alone to work in tourism lodges, the fields or cattle posts. Stay-alone children often assume the role of caregiving to their younger siblings. In most instances, such children, mainly girls, are prone to sexual abuse by relatives or strangers.

Promising Practices

Community Engagement “Circles of Support”

The study found that in some schools, there are active community engagement programmes through the circles of support, a school committee developed to promote the well-being of students, keep parents and community stakeholders informed of developments within the schools and reach out to stakeholders on issues that matter to children. The Circle of Support group is trained and educates the community while working with the guidance and counselling department when formulating term plans on issues to address drugs in school and around the village.

3.6 Ministry of Health

The study interviewed health service providers to understand their role and how they provide the children-related services associated with child sexual abuse, exploitation and negligence, including teenage pregnancies.

Youth/Child-friendly Clinics

Responding to the question about services they directly provide to children, health respondents cited delivering children-specific services through youth-friendly clinics. The study also found that some youth-friendly designated clinics are not providing services as previously envisioned due to a lack of adequate space, staff shortage, work overload and insufficient training to provide the minimum services required. Some youth clinics have only one staff member. The study also found that districts have varying infrastructure arrangements that enable or hinder the provision of youth-friendly health services.

Narratives also suggest that while there are youth-friendly service clinics across the country, these facilities do not help victims of rape, abortion services or those with mental illnesses (depression, suicidal ideation, traumatic events). None of the children interviewed in this study cited receiving services from a youth-friendly clinic.

Prioritising of Child-Related Matters

Health service providers commented that evidential medical examination is not a health emergency. Therefore, the police, who accompany the child to the clinic are made to queue with the rest of the patients, sometimes running into hours or an entire day. Health service providers acknowledged the delays rape victims experience and suggested prioritising child-related matters since that is currently not the case.

Lack of Counselling Services

Results from health psychologists revealed that the internal referral system does not often function, denying children accessing counselling services. Few victims and caregivers received counselling services from the council social services and non-governmental organisations referred by the police, but none in health service delivery facilities.



**There are incidents where a case
can remain unresolved for more
than five years.**





Handling and Prioritising of Children-Related Matters

Victims of sexual assault go through the same patient flow process as adults. They are assessed at the emergency departments and referred to the relevant ward. Children are uncomfortable, because of lack of privacy and risk of stigma. The police accompanies the child to the health clinic, carrying the rape test kits in public, showing that the child is a victim of rape. Respondents noted that health providers do not recognise medical examination as a health emergency, resulting in victims of rape being made to queue with all patients, resulting in a day waiting period or returning the next day.

Promising Practices

The widespread presence of youth-friendly services across Botswana to cater for youth remains an important milestone that can extend services to address child sexual abuse, exploitation and negligence. Youth-friendly staff suggested strengthening the existing clinics by having an integrated team consisting of doctors, registered nurses, midwives, social workers, and psychologists who change the persistent sub-optimal service delivery to children.

3.7 Department of Gender Affairs

The research sampled eleven gender officers, three in Gaborone and two in each study district. There were ten males and one female, with work experience ranging from two to ten years. All the respondents had attained post-secondary education.

Direct Services to Children Under 18 years

While Gender Officers do not provide direct services to children, it is a critical arm of government because its services cut-across policies and interventions by promoting gender equality and community development activities. Narratives suggest that Gender Affairs' primary clientele at the community level includes families with children needing protection from harm. One of the significant challenges Gender Affairs officers cited includes the lack of feedback from S&CD or the police for families they refer to these departments for support services.

Promising Practices

Gender Affairs could be one of the primary screening organisations for many victims of negligence because of their proximity in working with impoverished families in most communities across Botswana. Respondents recommended a standardised government-wide referral system that would allow the recording of a reported case. Some officers suggested adapting the GBV referral system that the Gender Affairs Department developed in 2016 and piloted in Mochudi and Maun.

The phone-based referral system allowed service providers handling cases of GBV (police, health sector, social services, NGOs) to refer clients directly to each other. The survivor would not have to repeat their story, reducing secondary trauma. The referring organisation received feedback when the referral was complete or made a follow-up. The system was client-friendly and minimalised the use of paper.

3.8 Non-State Actors

The study included a sample of non-state actors drawn from Development Partners, Regional Human Rights Organisations, and civil society organisations (CSOs) that provide high-level technical advice to the government on social policies and social protection services, advocate for children's rights as well as those supporting the government in providing child protection services directly to children.



Governance

Commenting on "child governance", a human rights regional expert noticed that while Botswana has demonstrated commitment to a just child justice system, children remain a non-priority. The child is not the centre of governance, children's rights are not mainstreamed, and Botswana does not fully adhere to the principles of child-friendly justice.

Legislation

Non-state actors cited multiple challenges, including the suboptimal implementation of the Children's Act, the conflict between legislative statutes for cases involving children, and weak collaboration among state and non-state parties in the current child justice system.

Implementation of the Children's Act

Non-state actors agreed that there is a weak implementation of the Children's Act, even though the Act is particular about access to justice and how child-friendly courts must be organised and prepared. They shared their concern that key stakeholders such as the police and social workers, responsible for carrying out these mandates, are unaware of what the Act says.

Budgeting

Despite a substantial budgetary allocation towards social protection services, social policy analysts described the current government budgeting model as one of the deterrents to providing child protection services. Offering his expert view, a social policy analyst noted that while Botswana was one of the highest per capita investors in the social protection sector in southern Africa, less than 10% of the budgetary allocation trickles down to a child.

"Botswana has more than 27 government departments implementing social protection services. However, none of the departments has an earmarked budget for children. Take the example of the Ministry of Local Government and Rural Development. Its total budget in the 2021/22 fiscal year was about BWP7 billion. Out of the four policy objectives, not one specified using the budget on a child."

Guidelines and Standard Operating Procedures

Respondents cited the weak or absence of standardised guidelines and operating procedures as one of the significant impediments to servicing children at the implementation level. The lack of guidelines in a fragmented and bureaucratic system creates challenges for seamless inter-departmental coordination and collaboration for social protection services. Respondents also highlighted the need to strengthen the coordination of NGOs in Botswana to avoid duplication of efforts.

Non-state actors cited a constraint to advancing child-friendly services as the restriction by the government not allowing qualified social workers and psychologists from registered civil society organisations to support children at the police and in courts of law. Non-state social workers could support the government in preparing social enquiry reports and accompany children needing support during police interrogations, court arraignments, and proceedings.

3.9 District Leadership

The research interviewed District Commissioners and Council Secretaries to gain perspectives from the district leadership on child protection services. The sample included members of the customary court (Dikgosi and five customary court clerks).



Administrative Structures

District leaders commended the establishment of the DCPCs and VCPCs as the primary pathway to reaching communities with child protection services. While council secretaries applauded the setting up of DCPCs and VCPCs at the district and village levels, they revealed that these structures were not functioning as envisioned. Law and Culture

District leaders reported the increasing incidences of rape and defilement in their districts, particularly during the pandemic. In addition, respondents noted the rise of child marriages that have not been effectively addressed despite the protection of children in the Children's Act. The procedures to deal with such cases can become jaded by culture, such as, the fact that some ethnic groups allow child marriages and do not perceive it as violating the child's rights.

Special Services for Children with Disabilities

Children with physical and mental disabilities face challenges and do not have readily accessible community programmes in most districts. For children presenting with hearing and sight impairments, authorities depend on experts from Gaborone or Francistown.

Customary Court Act and Children's Act

Results show that there is misinterpretation by community members and some government officials of the Customary Court Act on some cultural practices as giving leeway for different tribes to implement the Act according to their tribal sociocultural system. This has led to some communities believing certain cultural practices that violate the rights of children are in line with the Children's Act. In some instances, this, has led to instances whereby communities do not act or condemn child rights violations such as child marriages.

Strengthening and Capacity Building

Customary court clerks highlighted the lack of training in procedural processes critical in registering cases and dealing with psychological trauma for victims in contact with the customary court.

Promising Practices

Chiefs play a significant role in communities and are, for many, the first point of entry to report child abuse cases. The customary court has developed guidelines to help them carry out their role. In a pilot implementation practice, Dikgosi were effectively trained on the Children's Act, their role, the guidelines, and how to support a child in bringing cases to justice. This pilot has the potential for national roll-out.

The image shows a traditional outdoor setting. In the background, there is a wall made of vertical wooden poles. In front of the wall, several wooden chairs with slatted backs are arranged. The ground is dry and dusty. In the foreground, there are several large, round, woven baskets and a large, dark, rounded pot. The text is overlaid on the right side of the image.

**Dikgosi play a prominent role
in communities and are for many the
first point of entry to report cases of
child abuse.**

4. Children and Caregivers' Lived Experience

4.1 Children's Lived Experiences

The study interviewed 32 children (victims of a crime and children in conflict with the law) and 45 caregivers. The summarised results reflect children's and caregivers' experiences with the justice system. Of the 25 girls, thirteen had been raped, nine were defiled, one was sexually assaulted, and two reflected on their adoption process. Six of the boys interviewed in the study had infringed penal law, and one was a victim of child negligence. The study provides a contextual example of each scenario to paint a picture of varied circumstances in which children experience harm or commit crimes, the services they receive, and their perceptions of the services providers offer.

4.1.1 Rape Victims

When a girl respondent was raped, her mother was in Francistown and was left under relatives' care, including the accused. The story represents the faces and voices of many girl-children who suffer abuse at the hands of people expected to protect them, often within the confines of their homes. As alluded to in excerpts from service providers, including social workers, health service providers and community gatekeepers, many abuse victims come from impoverished families and lack the family-supportive environment they need and deserve.

A girl who was twelve years old during the interview, reported being raped by her uncle when she was nine years old. She did not immediately report him because he had threatened to kill her.

"My uncle sexually abused me. He told me to bring him water. When I got there, he held my hands together, placed the cup down, pulled out a knife, put it next to the bed, and told me that if I ever told anyone about what he was about to do to me, he would kill."

Services at the Police Station

Rape victims reported giving statements at the police station in the presence of more than two officers, often in the absence of an adult or a social worker. In twelve of the thirteen cases, social workers were absent during initial contact with the police. Results indicate that the police allowed caregivers during interrogation in two of the thirteen cases. Respondents expressed discomfort and frustration being in the same room with perpetrators.

Health Services

In all rape incidences, the police escorted the victims to the nearest hospital or clinic for a rape examination, HIV testing, post-exposure HIV prophylaxis, and pregnancy tests. Narratives suggest that health service providers explain the services they provide to the child. However, all cases had to queue with other patients before being assisted. Two victims of rape in Tsabong reported being escorted to the hospital in the afternoon by the police and leaving the hospital at night. None of the children received counselling services nor were referred to social services for counselling services.

Social Services

In two case scenarios (Tsabong and Francistown), social workers kept in close contact by telephoning caregivers. Social workers were often unavailable throughout their interaction with the police and health service providers. Children of rape reported being traumatised and afraid and depicted depressive experiences.



Stay-alone children often assume the role of caregiving to their younger siblings. In most instances, such children, mainly girls, are prone to sexual abuse by relatives or strangers.



Perceived Quality of Services

Most respondents expressed frustration and disappointment for the lack of or slow progress and not knowing the state of their case. The investigating police were often unresponsive and failed to provide updates about their cases. Asked if they had any additional thought or questions, children expressed dismay at the rate at which perpetrators tend to be left unpunished after they have abused children.

4.1.2 Defilement Victims

Defilement victims often get caught up in family conundrum of poverty, dependency, intimidation and power plays to the detriment of their rights. A girl dropped out of primary school when she became pregnant following a relationship with a 29-year-old 'boyfriend'. He acknowledged that he made a mistake and promised her parents that he would take her back to school.

The girl agreed with her caregiver and the boyfriend's relatives not to press charges because the boyfriend had agreed to care for her and the unborn child. At the time of the interview, a respondent's boyfriend was unemployed and did not provide financial support to her and the child.

Another teen mother in Mochudi held the following views about her case:

"I admit that he made a mistake. I admit it is defilement, but I do not want my baby daddy to be apprehended because I am still young, and my mom is not working."

Caregiver Attitudes Towards Defilement

Evidence suggests that in many instances, caregivers do not show any cause for alarm and often treat defilement as a societal norm. Recounting the action of her parents and grandmother when she told them about her pregnancy, a respondent indicated that they said nothing and never asked about the child's father. Some caregivers even recommended the child to get married to the perpetrator.

Service Providers' Response to Defilement

The study observed similar indifference and often the lack of urgency among service providers to take action. Often social workers advise victims to report back to them after giving birth but do not take legal action. While social workers were caring and non-judgemental, the police, in most cases, were rude and condescending. Health providers themselves focus on providing ante-natal services to the child, neglecting the need to refer the victim to relevant authorities for legal intervention.

4.1.3 Adoption Case

Two twin sisters, 17 during the interview, reported losing their biological parents when they were young. They entered foster care at SOS Children's Village in Francistown at nine and later transferred to Mpule Kwalagobe in Jwaneng to live with the adoptive parents.

Participation in the Adoption Process

Children processed for adoption are seldom involved in the decisions of their adoption, nor are they informed of all the steps to be taken. Narratives from the girls adopted from SOS suggest that they did not fully comprehend the adoption process and were not given adequate information about whom they would stay.

They did not know if they would stay with their aunt who often visited them and spent holidays with, or their uncle and his wife, whom they barely knew. While they were happy to relocate from SOS Children's Village to live with their uncle, they did not contribute to any decision.



Access to Social Services

The girls complained about lacking social worker support and being cut off from direct contact with social workers since moving to Francistown. The adoptive parents were the only ones with contact with the social welfare office, they never got to speak to the social worker directly.

4.1.4 Children in Conflict with the Law

The study interviewed six boys accused of infringing the Botswana penal law. The crimes ranged from burglary, manslaughter, physical assault, a threat to kill (including substance abuse and intent to commit suicide), defilement and rape. The accused children were aged between 16 and 18 years. Two boys had dropped out of junior secondary school while the remainder were still there.

One case is a story of an 18-year-old boy who dropped out of secondary school at 16 after a fight with one of his teachers. He reported many delinquent activities and substance abuse leading to his arrest. He was accused and found guilty of burglary, to which he admitted. The magistrate gave him a suspended sentence and corporal punishment.

The second case is a story of a 17-year-old form 4 student accused of manslaughter. He told the interviewer that he had accompanied his father for bird hunting when the gun accidentally discharged, killing a man with another hunting crew. He did not have a visual of the man he killed and did not know the other crew was nearby. He and his father immediately took the man to the hospital and reported the matter to the police.

Handling of Children in Conflict with Law

Five of the six boys in conflict with the law reported being treated harshly by the police. For these children, the police often took a sociocultural disciplinary approach disregarding their circumstances, age, rights, social background and maturity. Children's lived experiences show a consistent pattern of abuse of the adult-child power relationship. The offenders reported being handcuffed without being told why they were being arrested.

"During my arrest at the playground, they slapped, handcuffed, and placed me in the van. When we got to the police station, they gave me some slashes under the feet." [...] I spent three nights in a holding cell."

Interrogation Process


Police interrogation practices involved more than two officers without the presence of a social worker or any adult for support.

"Four officers interrogated me. They were impolite and spoke over each other. Sometimes I could not hear them as their voices were overpowering me."

Social and Health Services

Children who interacted with social workers and health services providers described them as fair, respectful, and supportive. However, in many instances, social workers did not show up to offer supportive services to the police and the court. The verbatim account of a child accused of defilement:

"The social worker enquired about our relationship [of the accused and the accuser]. She said she had something to do and would be back. I do not remember what it was, but she never returned."



The 17-year-old boy accused of manslaughter reported receiving professional and supportive services throughout the justice system pipeline: from the police, social services, doctors, psychologist, prosecutors and magistrate (during arraignment). His experience depicted a fair system, considerate of his age and level of maturity consistent with children's rights principles. Recounting his experience, he told the interviewer:

"We reported the incident to the police. We then went with the police where it occurred. Then we were taken to Maun General Hospital. Then I saw a doctor who gave me sleeping pills. Then we were told that we should go to Letsholathebe Hospital. I was taken to a psychologist there, who started helping me immediately. The social worker was with me during the sessions with the psychologist until the end. Then I went to see her after I was done with the psychologist, and we started our sessions. Our ongoing sessions, and I see her twice a week."

Court Services

Of the six offenders interviewed in this study, only one case had his case concluded during data collection. Recounting his experience, he told researchers that the magistrate who presided over his case was fair and allowed him to speak. He received coaching from social services and was conversant with the court environment at the time of court proceedings. The case was heard 'in camera'. The magistrate found him guilty of burglary and gave him a three-year suspended jail sentence and corporal punishment. The prison services administered the punishment.

4.2 Caregivers' Lived Experiences

Forty-five caregivers were interviewed in the five study districts, 42 females and three males. Most cases reported in this study were rape (n=15) and defilement (n=15). Rape and defilement were frequently reported in Tsabong, Letlhakane and Gaborone.

4.2.1 Rape Case

The following cases contextualise the circumstances in which children experience harm and service provided as told by caregivers. A mother in Maun recounted a case of her standard one daughter whom a known man in her village raped. The man bribed the little girl for 50 Thebe not to tell anyone. However, she told her mother the same day the incident happened.

"He told her to remove the shirt, spread it on the ground, and lie on it. He then told her to remove the underwear and went on top of her. After he was done, he gave her 50 Thebe, saying she should not tell anyone he raped her."

Reporting the case

Caregiver testimonies suggest that the immediacy of reporting rape incidents by the victims depended on several factors, including the closeness to the accused perpetrator and the violence the perpetrator demonstrated during the rape incident. In cases where the accused rapists were close relatives or threatened to harm the child or any relatives, children often hesitated to report, taking more than a day or longer. In instances where the accused is a non-relative, children often report immediately. In the case cited above, the victim immediately reported to her mother, who reported to the Kgosi the same day.

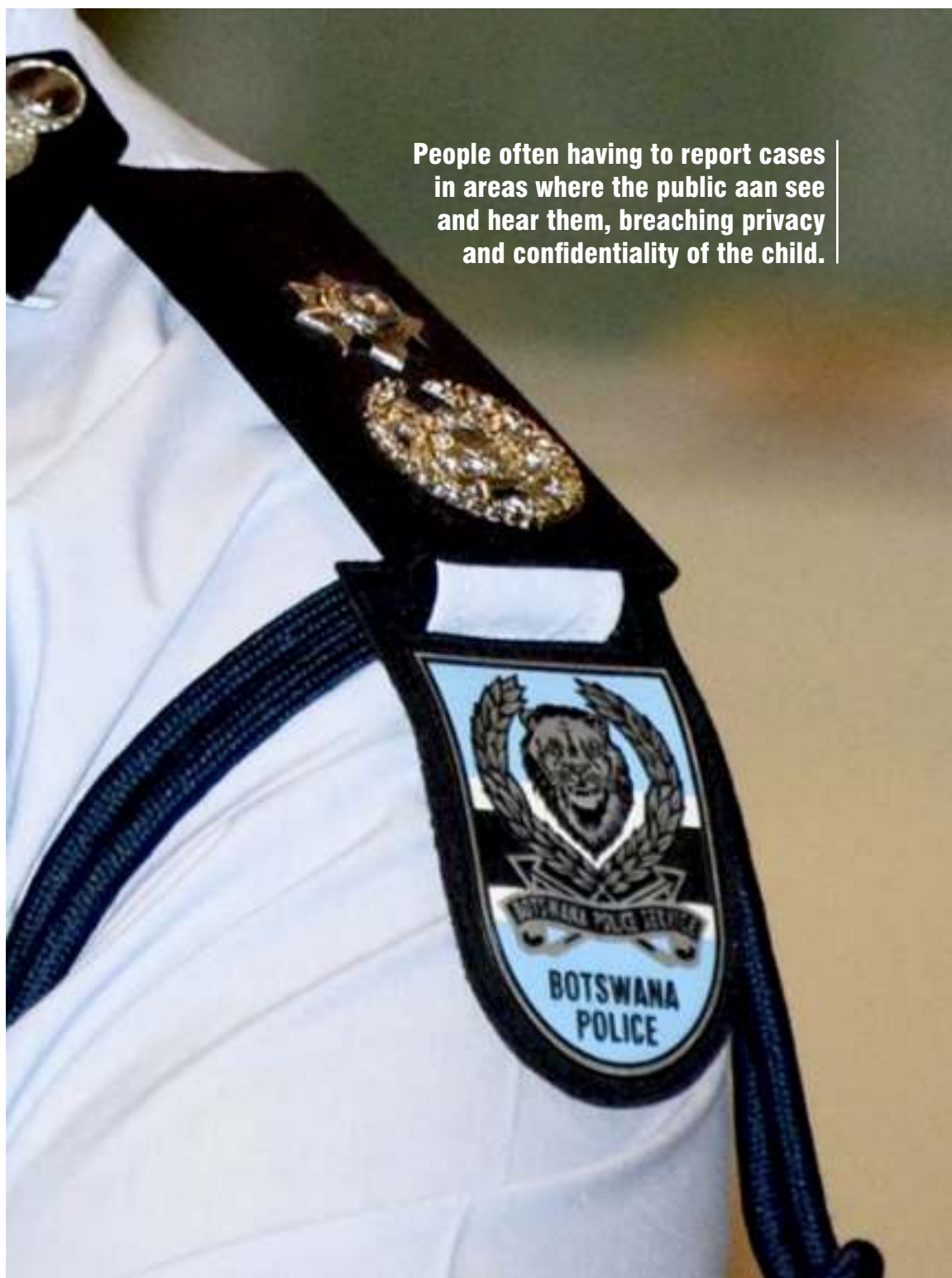
"We went to the chief, who advised us to report to the police. Immediately we took the child to the police. The police went to arrest the perpetrator and locked him behind bars."

In cases involving relatives, children hesitated to report, especially when threatened or felt no one would believe them.

Police Services

Because police are the face of the justice system in the communities, they are often blamed for case delays. Caregivers blamed the police for not providing progress reports of their cases during investigation and court proceedings.

"I wanted to go there and ask their boss (the police) why are they so quiet like this. There is no progress and no feedback. The whole process is prolonged."



People often having to report cases in areas where the public can see and hear them, breaching privacy and confidentiality of the child.



5. Discussion

Global justice studies suggest that most countries are becoming increasingly off track to meet the United Nations Sustainable Development Goal (SDG) 16.3: *"To ensure equal access to justice for all by 2030"*.¹⁵ Against this backdrop, the Ministry of Justice, in collaboration with Stepping Stones International and the University of Botswana, aims to use the results and recommendations of this qualitative study to create a friendlier, fair, and more accessible justice system tailored to children's needs and delivered cognisant to their age and maturity as prescribed in the Children's Bill of Rights (Children's Act - Part III, Sections 10 to 26).

The discussion highlights the meaning of the findings and the strengths and opportunities in the current system and the challenges and gaps that need to be addressed at strategic, organisation and implementation levels. Interpretation of the results led to the development of recommendations (section 15), which address the identified challenges, gaps, and constraints.

5.1 Strengths and Opportunities at Strategic Level

5.1.1 Governance and Administrative Structures

The establishment of the National Children's Council (Section 35), the Children's Consultative Forum (Section 34), and the Village Child Protection Committees (Section 33) are significant governance and administrative structures towards creating a friendlier child justice system. Analysis of the literature shows that the Department of Social Development (DSD) established additional coordination structures and mechanisms, including the National Child Protection Technical Committee (NCPTC) and the Inter-Agency Child Protection Committee (ICPCC) to streamline coordination of child services provision linking child protection oversight between the NCC and the VCPCs.¹⁶

Human rights literature characterises these structures as elements of good governance, on which institutions manage and leverage public resources. Through these structures, Botswana envisaged an effective multi-actor partnership, multi-sectoral participation, and an accountable collaborative approach. Good governance leverages human and financial resources, ethical leadership, and accountability aligned to address and regulate common concerns within a national context.^{17,18,19}

5.1.2 Legislative Statutes: The Enactment of the Children's Act of 2009

Jurisprudence studies attest that domesticating international and regional child rights conventions, the CRC and the ACRWC into the Botswana Children's Act was momentous for creating a human-rights-centred justice system.^{20,9} The domestication of these conventions into the Botswana Children's Act of 2009 is a significant step in creating a human-rights-centred justice system.²¹

5.1.3 Budgetary Allocation

Literature suggests that Botswana has one of Africa's friendlier social protection programmes with high per capita budgetary allocations. However, the country's overall ranking on the child-friendly index among African countries has declined from #2 in 2008 to #15 in 2021. The World Bank & UNICEF commend Botswana for allocating a substantial budget to social protection programmes.

5.2 Strengths and Opportunities at Organisational Level

5.2.1 Child-friendly Infrastructure

Children who encounter the justice system inevitably have contact with the police. Child-friendly police stations provide a conducive environment where children encountering the justice system for



the first time are treated fairly, with respect, and with dignity, ensuring protection from revictimization and accorded the protection they deserve, cognisant of their age and full rights based on their best interest (Eyasu et al., 2021). The professional staff treat children with respect, with dignity and are accorded the protection they deserve, cognisant of their age and full rights based on their best interest.^{23,24} The establishment of child-friendly police stations in Botswana is, therefore, a significant ground-breaking achievement in Botswana. However, it is too early to determine whether this innovative initiative will achieve the envisaged children's rights protection outcomes.

5.3 Strengths and Opportunities at Implementation Level

Opinions, insights, and individual reflections from this study strongly show variations and inconsistencies in procedures professionals follow in handling children-related cases, resulting in procedural lapses and disparities. Despite multiple gaps, respondents in several sectors highlighted exemplary child-friendly organisational processes that met the judicial procedural standards critical for building a robust child-friendly system.

5.3.1 Child-friendly Procedures

Two of the exemplary child-friendly procedures involved a 12-year girl child in Tsabong whom her uncle had raped and a 17-year-old boy in Maun accused of manslaughter. These cases reveal how professionals involved, from the police to the magistrates, demonstrated fairness, exemplary inter-departmental collaboration, and compassion consistent with procedural judicial safeguards, the child's best interest, and children's rights.

In the case of a 12-year victim of rape, a guidance and counselling teacher identified the child at school and immediately called a social worker and the police. The teacher, social worker, and the parent accompanied the victim to Tsabong, 250 kilometres from the village where the incident occurred. These officers supported the child at the police station and during medical examinations. Before the court proceedings, the social worker prepared the child and familiarised her and the caregiver with the court environment. The magistrate and the prosecutor were fair and demonstrated the child's best interest.

5.3.2 Children Court Practices: Protection and Confidentiality


Another exemplary best practice found in this study was that the courts largely maintain privacy and confidentiality in cases involving children. Excerpts and case study analysis found that:

- Most of the court proceedings involving children are held 'in camera', i.e., not open to the public for the protection of their privacy consistent with section 16 of the Children's Act, and
- Their right to confidentiality is guaranteed, i.e., their names and addresses cannot be published without the court's permission, consistent with section 25 of the Children's Act.

5.4 Challenges, Gaps, and Constraints at Strategic Level

5.4.1 Governance and Administration Structures

Excerpts from NCC, district leadership, and Dikgosi revealed that the governance and administrative structures mentioned under the strengths section are not functioning as mandated due to challenges, gaps and constraints related to bureaucratic complexities, shortage of human and financial resources, and weak oversight and accountability among officers mandated to oversee these structures.



Public management and administration literature suggests that the underlying root cause of the weak governance and administrative structures in their current form is the bureaucratic complexity that involves multiple stakeholders.^{22,23} The NCC and its associated governance structures are unable to mobilise resources for child protection programmes and monitor, evaluate and collate lessons learned from implementation departments or civil societies to inform child protection policies and programmes. The NCC is also unable to fully hold ministerial departments and civil societies accountable for implementing the Children's Act and evaluating the quality and friendliness children's rights services. These findings are consistent with another study by Ramadu (2021) that found that the current governance and administrative structures of the NCC, CCF, DCPC, and VCPC were not functional and had failed their mandate. It is critical to create an intersectoral approach by creating teams who work together on children's cases.

5.4.2 Legislative: Gaps and Implementation of the Children's Act

Analysis of excerpts from government and non-state actors agree that one of the significant challenges undermining Botswana's pathway to an internationally recognised child-friendly justice system is due to Children's Act implementation barriers. In addition to the bureaucratic complexity cited above, the causes of the implementation barriers include the lack of a specific programme addressing CSAEN, inadequate human and financial resources, role ambiguity among pertinent stakeholders and lack of guidelines to provide direction. In addition, there are weak coordination and collaboration mechanisms, a shortage of specialised and trained staff to manage children-related matters, and a lack of human-rights-based monitoring, evaluation and learning (MEL) mechanisms.

Several researchers have analysed the implementation barriers of the Children's Act and major national projects in Botswana. Ramabu found significant impediments in the structural systems (governance and administrative structures) mandated to implement the Act.¹ Studies also found that the stakeholders within child justice do not always have a mutual understanding of their roles and responsibilities as prescribed in the law.²⁴ In the analysis of the implementation of the National Development Plan 11, Botlhale concluded that public projects were poorly implemented due to constraints of cost, time, and scope and characterised public policy implementation as suboptimal.²⁵

5.4.3 Corporal Punishment

One of the 'Achilles Heels' of Botswana's children's rights is the legal provision of corporal punishment as a penal sanction in its justice system. Corporal punishment is a health, human rights, and social problem affecting half of the world's children. Evidence shows that corporal punishment has a long-lasting impact on later health and well-being. WHO reports that it triggers harmful psychological and physiological responses that exacerbate sadness, fear, anger, shame, guilt, and pain.^{26,27} Studies consistently show that corporal punishment does not benefit children's development. Instead, it is a detrimental risk factor determining aggression and antisocial behaviours.²⁸

Results from this study show that corporal punishment remains the primary form of punishment for delinquent children at home and in schools, and an alternative sentencing option in the penal institutions (customary, magistrates courts, prisons). These findings are consistent with other studies conducted in schools where evidence of punitive and unregulated use was evident.^{29,30,31} Human rights literature strongly argues against corporal punishment in any setting. Drawing from lived experiences highlighted in this study and supported by local and international evidence, there is a compelling argument that Botswana's rationale for continued use of corporal punishment *"as a beneficial traditional alternative aimed at building responsible future citizens"* is unsubstantiated.



5.4.4 Budgeting Model of Child Protection Services

While Botswana provides one of the most significant investments in social protection programmes, the current incremental budgetary allocation does not translate to the optimal prevention of CSAEN outcomes.^{32,33} None of the 29 social protection programmes focuses on preventing child abuse, exploitation, and negligence or child-friendly justice.³⁴ The Children's Act has not been costed which has led to under resourced service providers, and leaving detrimental gaps in implementation. In order for the Act to be fully implemented, a costing analysis and review of available skillset are needed, to allow allocation of sufficient and appropriate funding and resources.

5.5 Challenges, Gaps and Constraints at Organisational Level

The study examined whether the child justice infrastructure, organisational systems and processes conform to child-friendly principles and standards.

5.5.1 Child-friendly Infrastructure


Children in contact with the justice system are often served in unfriendly environments. Our study found that except for the new child-friendly police station initiative, administrative, investigative institutions, and the courts are unfriendly to the needs of children. Police stations, for example, are inherently scary and unfriendly environments.^{35,36} Studies show that younger children are often petrified of the justice system regardless of being victims or offenders.³⁷ Children in conflict with the law perceive the justice system as inhumane, cruel, and harsh.^{24,38} Conducive and separate infrastructure facilitates are less intimidating and create a sense of safety where children feel free to talk. Child-friendly infrastructure is the backbone of the children's best interests.³⁹ The United Nations' approach to justice for children strongly recommends a separate child justice system that also requires child-specific institutional structures, such as specialised and separate infrastructure in the police, social services, the court system, or civil societies representing or providing legal or other appropriate assistance.³⁴

While Botswana operates the children's courts (magistrates courts sitting as children's courts), its set-up is not different to that of the adult court system. One magistrate noted, *"The court environment remains rigid and unfriendly to children."* A study by Solo & Nsengaali described the magistrate courts as rigid, requiring complex procedures, making the environment unfriendly even for adults, particularly for illiterate Batswana.⁴⁰ Most respondents decried the lack or shortage of child-friendly spaces across departments in the justice system as one of the constraints in providing services to children.

5.5.2 Organisational Systems and Processes

The levers of control for implementing and managing a child-friendly justice system include systems and processes for translating child-friendly principles and elements into implementable judiciary procedural standards or 'soft laws'. Botswana does not have standardised child-friendly administrative, investigative and judiciary (children court rules) procedural guidelines for managing children's cases. The study found departmental guidelines and SOPs (for example, the police developed standard procedures during data collection).

However, none of the SOPs cut across all justice system departments. While departmental guidelines and SOPs are critical and necessary, there is a need to align the national child-friendly guidelines and improve role clarity for child protection services. In addition, gaps often exist in adequately training staff on guidelines and "child friendliness" language. Furthermore, monitoring and support of guidelines should follow. For example, most defilement victims described some officers as verbally abusive and disrespectful. Results from the children's interaction with the police reveal



inconsistencies in the police arrest, interview and detention procedures when handling cases of children in conflict with the law.

Child-friendly procedural safeguards promote access to information, representation, and participation throughout the justice system. They also give children a voice at all stages of the justice system procedures.⁴¹ The guidelines build on five fundamental principles: participation, the best interest of the child, dignity, absence of discrimination and the rule of law, as well as detailed child-friendly principles applicable before, during and after proceedings.⁴²

5.5.3 Social Enquiry Reports

A social enquiry report, which social workers or probation officers prepare to describe the social circumstances of a person involved in criminal proceedings, represents a vital exchange between two professional groups in the criminal justice system with different responsibilities, backgrounds, and perspectives during the pre-sentencing and sentencing.⁴³ SERs consider the rules of natural justice to assist the court in knowing the juvenile's background and determining factors that may have influenced the juvenile's behaviour. It is a critical instrument that advances the rule of law and a child's best interest.⁴⁴

Magistrates and prosecutors who participated in this study cited social enquiry reports (SERs) as one of the most critical decision-making tools during prosecuting and sentencing cases involving children. However, magistrates, prosecutors and police officers decried the slow process of preparing social enquiry reports and their low quality among social welfare officers as one of the root causes of the untimely conclusion of criminal cases in the judicial system.

5.5.4 The Child-friendly Toolkit

This study found that language is a barrier for children seeking justice in Botswana. When ill-prepared, children struggle to use explicit formal language to describe anatomic parts of a human body (genitals) as required in the courtroom. Most children use metaphors inconsistent with the court language. Best practices from other countries suggest that toy-like materials make it easier for children to communicate during court proceedings.

Child-friendly professionals promote using anatomical dolls that can be dressed and undressed for sexual abuse cases or teddy bear cards to help children articulate their emotions and demonstrate what happened to them. In Spain, for example, the court uses specially trained psychologists as intermediaries to video-record pre-trial proceedings instead of the court at the magistrate's/judge's discretion in CSAEN cases.

5.5.5 Specialised and Professional Services

While most departments included in this study have professionalised personnel, most officers have not received child rights training. The practices of handling children in contact with the justice system vary depending on an individual's skills and attitudes. Officers often do not account for children's age, maturity, vulnerabilities, psychological and social needs creating unsafe and unfriendly environments. For example, results of this study showed that victims of rape often have to wait for many hours for examination at health facilities. Most traumatised children do not receive counselling services at health facilities or social services. Results also revealed that in many instances, police officers interview children in the absence of professional intermediaries (social workers/ psychologists) or parental support. Studies show that creating an integrated and well-trained professional team for children's rights is critical.⁴⁰ This requires having enough specialised professionals available in country, aligning tertiary education with job requirements.

5.5.6 Sentencing and Restorative Juvenile Justice System

Children's human rights advocates recommend restorative justice as a critical component of a child-friendly justice system. The restorative justice system entails a broad range of community practices which attempt to repair the harm a crime has caused rather than inflicting harm on an offending child.⁴⁶ In restorative justice systems, custodian services are used as a last resort where public security is compromised in cases involving children. For restorative justice to work within a dual legal system such as Botswana, there is a need for a deliberation process to decide what offenders should do that involve all people directly affected by a crime. Restorative justice prioritises children's rights and focuses on diverting children from custodian services, reinforces restorative practices enabling the active participation of children, and promotes participatory and collaborative forms of decision-making.^{iv}

Our study found that Botswana does not have a sentencing protocol for child offenders. While excerpts suggest that judicial officers account for the offender's age and social circumstances, individual officer discretion may disadvantage child offenders who may not have social enquiry reports available during sentencing. Ikago School of Industry is significantly underutilised and was not offering any rehabilitative and vocational services. Some respondents suggested overhauling the Botswana rehabilitative services because it was not beneficial to children and was heavily discriminatory for girls. Currently, there are no restorative programmes at the community level available, and no probation officers to oversee their implementation.

5.5.7 Monitoring, Evaluation and Learning

Our study found that Botswana lacks a centralised system for collecting and reporting disaggregated data on children in contact with the justice system. Human rights studies show that reliable information is necessary for decision-making on issues involving children. However, the availability of reliable data remains a challenge in Botswana.


An active collection, verification and immediate use of information to address human rights problems are critical building blocks of a child-friendly justice system. A fully functioning MEL framework does not consist merely of passive observation but instead calls for proactively seeking information, ensuring that it is accurate and then using it to redress wrongs, halt violations and prevent abuse. Robust administrative records and reporting systems would allow government officials and institutions to track the treatment of children by the system and the circumstances throughout the justice system pipeline.⁴¹

5.5.8 Quality Standards and Licensing

Part XV of the Children's Act and the child protection regulations provide guidance, procedures, and tools for licensing institutions dealing with children-related welfare services. Results suggest that the quality standards and licensing obligations are not fully enforced to conform with child-friendly principles and standards. These findings are consistent with observations by the Botswana Child Rights Network (BCRN), which reported that the government was not enforcing these statutory quality standards and licensing institutions.⁴⁸ In addition, the study found that administrative processes for licensing child welfare institutions are poorly defined and ineffective.

Respondents identified inadequate number of specialised and licensed social service providers in providing quality services for children needing protection, justice and those in conflict with the law. Social workers deal with complex social problems and intervene with individuals or families in various structural dimensions.

^{iv} HM Inspectorate Probation Services. (March 2023). Restorative justice. <https://www.justiceinspectorates.gov.uk/hmiprobation/research/the-evidence-base-youth-offending-services/>



They have a substantial demand to address human injustice and suffering,^{49,50,51} and excerpts from respondents suggest that professionalising social work services through licensure would protect the children and the public by promoting safe, competent, and ethical social work practice in Botswana. Moreover, the secondment of qualified social workers as an integral part of the child-friendly police stations, children's courts and every institution providing services in Botswana will create a robust child-friendly justice system.

5.5.9 Inadequate of Investment in Prevention

There are no consistent programmes in Botswana that focus on prevention of children's rights violations and prevention of criminal behaviour of youth. These measures are important, because many of the problems children face stem from a variety of underlying societal ills, such as parents with psychiatric problems or substance abuse, child cognitive impairments or experiencing abuse themselves. Investing in a robust mental health system has a social return on investment and a larger positive societal effect. The problem is that the wider effects and cost effectiveness of these measures are not easy to measure and thus are often overlooked or not considered effective or necessary.

5.6 Challenges, Gaps and Constraints at Implementation Level

At the implementation level, the study examined how Botswana conforms to the five principles constituting a child-friendly system and elements that embody the UNCRC and ACRWC.

5.6.1 Application of Child-friendly Justice Principles

Participation

Participation, or the right to be heard, is a fundamental principle of the child-friendly justice system. The principle calls for service providers to treat children as full bearers of rights. The Botswana Children's Act (Section 8) not only emphasises the right of the child to participate but includes guidelines on how to facilitate this right. Child-friendly studies suggest that children identify the professionals' behaviours as critical elements for facilitating participation in the justice system.⁵² Studies suggest that children who perceive professional behaviours with whom they interact as friendly, caring, and respectful are likely to be open and feel safe to listen to them and take their views seriously.⁴⁰

Our study found that children in conflict with the law and victims of defilement repeatedly complained that they always felt unsafe and were treated harshly, aggressively, disrespectfully, and condescending. These children lacked sufficient information about their cases or court proceedings and felt ill-prepared to understand administrative, investigative and court proceedings.

The Best Interest of the Child

The best interest of the child is the primary pillar of the child-friendly justice system and an anchor of children's rights. It entails all actions and decisions that the administrative, investigative institutions and the courts make to safeguard and protect children's rights.^{40,53,54} It calls for professionals to ensure that any decisions they make respect children's fundamental Bill of Rights, considering their age, maturity, level of understanding, background, language, culture, ethnicity, and religious identity.

The child's best interest principle forms the base of judicial judgement in cases involving children. Our results are consistent with a case law review study⁴⁷, which found evidence that magistrates



consider the best interest in cases involving children seriously. However, as indicated in this study, there are instances in which the principle is floated, and not consistent with each magistrate, particularly in sentencing, due to unavailability of functional sentencing alternatives.

Outside the court system, the study found that the application of 'best interest' varied among professionals managing administrative services, creating disparities. Within the police service, children are often interviewed in the absence of parental or social service support by more than two officers, often in the presence of the alleged perpetrator. An example of the best interest of the child not being considered is when a child who was defiled and the perpetrator travelled in the back of the police van while three officers sat in the front. The child and caregiver never received counselling services or trauma therapy from social or health services. Despite conducting the court proceedings 'in camera', the victim and the accused met face-to-face, a risk for re-victimisation. The approach violates the principle of the child's best interest.

Dignity, Care and Respect

Dignity, care, and respect embody the idea that requires treating children with care, sensitivity, and respect throughout any procedure with special attention to their well-being and needs. The approach calls for full respect for their physical and psychological integrity. The principal guarantees children's fair treatment no matter the reasons for coming into contact with the justice system.⁴⁰

Excerpts from this study show that Botswana fails to abide by this principle. One of the violations of a child's dignity, care and respect is the application of corporal punishment as a penal sanction. Under the current legal provision, children have no protective mechanism from abuse when the punishment is unilaterally applied in schools, customary courts, prisons or at home. The right to dignity, care, and respect conflicts with the Tswana sociocultural norms where children are "**seen but not heard.**" Children are rarely consulted or considered a party to (family) decision-making.^{3,55,56} Lived experiences of children in conflict with the law suggest that the sociocultural norm is evident in administrative and investigative institutions dealing with children.


Protection from Discrimination

Protecting children from discrimination and inequality requires service providers to recognise that children are different. Institutions providing child protection services require equal treatment for all children. The Children's Act (Section 7) emphasises the protection of children against discrimination when in contact with the justice system. Narratives from the magistrates, children and caregivers participating in this study reported no evidence of discrimination towards children in the judiciary system based on their circumstances. However, inequalities and disparities within the court system were reported when handling children with disabilities that require specialised services. Social workers reported that support programmes for the destitute, such as providing food baskets during the COVID-19 pandemic, were discriminatory to non-Batswana children.

The Rule of Law

The rule of law includes due process, the presumption of innocence, the right to a fair trial, legal representation, and court access. The rule of law emphasises that the right to appeal should not be denied or minimised based on being a child.⁵⁷ A strong rule of law entails written and easily accessible laws that create certainty and enforceability of legal rights.⁵⁸

Botswana is one of the countries with a judiciary system grounded in the rule of law. Children are accorded the right to appeal, and no evidence suggests they were denied appeal due to age.



However, Botswana suffers shortcomings in implementing human rights obligations.^v Excerpts from legal experts sampled in this study suggest that the judicial procedural lapses include:

- No child in Botswana has direct access to the justice system, contrary to the Children's Act provision (section 84)
- Legal representation is not always available in cases involving children in conflict with the law.

5.6.2 Child-friendly Elements in the Current Justice System

Expediency Concluding Children's Cases

The undue delay in concluding criminal cases is one of the persistent challenges and a significant source of dissatisfaction with the Botswana child justice system. Children's lived experiences and results from a case study analysis¹² show that, on average, victimised children wait between three and five years to conclude their cases. Respondents viewed these undue delays as a miscarriage of justice and infringement on children's rights, i.e. the adage: "**case delayed is justice denied**". Thus, when a legal remedy is available for a party that has suffered an injury but is not forthcoming promptly, it is effectively the same as having no remedy. Development research scientists at Harvard University suggest that the untimely conclusion of cases for victims of abuse who lack stable, responsive, and nurturing parental support or therapeutical remedy can lead to toxic stress with damaging long-term effects.⁵⁹

Access to the Court for Legal Matters

Excerpts from legal practitioners and the police revealed that children lack direct access to the prosecution, court and police services for legal matters affecting them or requiring adjudicating under the jurisdiction of the children's court, unless accompanied by an adult persona, contrary to the Children's Act Section 94. In the current system, children's legal matters can only be heard through an intermediary or third party, including caregivers, a legal representative, or a social worker acting in the child's interest.

Risk of Secondary Victimisation

Victims of CSAEN and children in conflict with the law are exposed to multiple victimisations through the justice system and beyond. Studies suggest that one-third of CSAEN victims and those accused of a crime who report experiencing repeated victimisation had a two to three times greater risk of adult re-victimisation than non-abused children.⁶⁰ Re-victimisation may lead to self-blame, a component of trauma associated with continuous exposure to violence. Re-victimised children experience an irreversible psychological impact if not controlled or treated early.⁶¹

Excerpts from the current study suggest that most victims experienced traumatic events during investigation and court proceedings. In addition, despite holding children's cases '**in camera**', the current children's court set-up allows children to come face-to-face with accused persons. Botswana does not have specialised facilities for children to testify or give evidence in the absence of the accused person, despite the provision of the Children's Act (Section 84).

Supportive Information and Advice

One of the elements of the child-friendly justice system is access to information and advice about matters concerning children's cases. In a child-friendly justice system, victims require ongoing information about the investigation progress, when charges are brought or arrests made, times and dates for court proceedings, and other relevant information and events.

^v Ndt: No reference information



Children interviewed in this study frequently complained about the lack of case information and were often arrested without being mirandised. Most of the children in this study lacked a clear understanding of their cases.

5.6.3 Behavioural Problems and Substance Abuse among Children

Excerpts from this study show increasing concerns among respondents about antisocial behaviours, sexual abuse, and common assault in communities across the sampled districts. Respondents reported a persistent increase in substance abuse in violation of age-appropriate social expectations. Community leaders perceived family units as disintegrating, where parents abdicate their roles and uncles are no longer trusted to mould children into responsible citizens. In some families, uncles are the primary sexual predators instead of child protectors.

Global studies suggest that use and misuse of alcohol are exceptionally high during adolescence, increasing the risk of developing alcohol use problems in adulthood.⁶² Studies show that substance abuse leads to antisocial behaviours, i.e. aggressive and intolerance, physical and verbal abuse, bullying, non-compliance with social norms, school rules and regulations, and destruction of property. It also may lead to sexual abuse and exploitation, which, if not positively corrected, may lead to a cycle of criminality in adulthood.^{63,64}

Botswana does not have community programmes for preventing substance abuse or addressing mental health and behavioural problems that children and adolescents experience. Evidence suggests that using violence such as corporal punishment precipitates violence that harms other learners, educators, and community members.⁶⁴



6. Study Implications and Conclusion

6.1 Study Implications

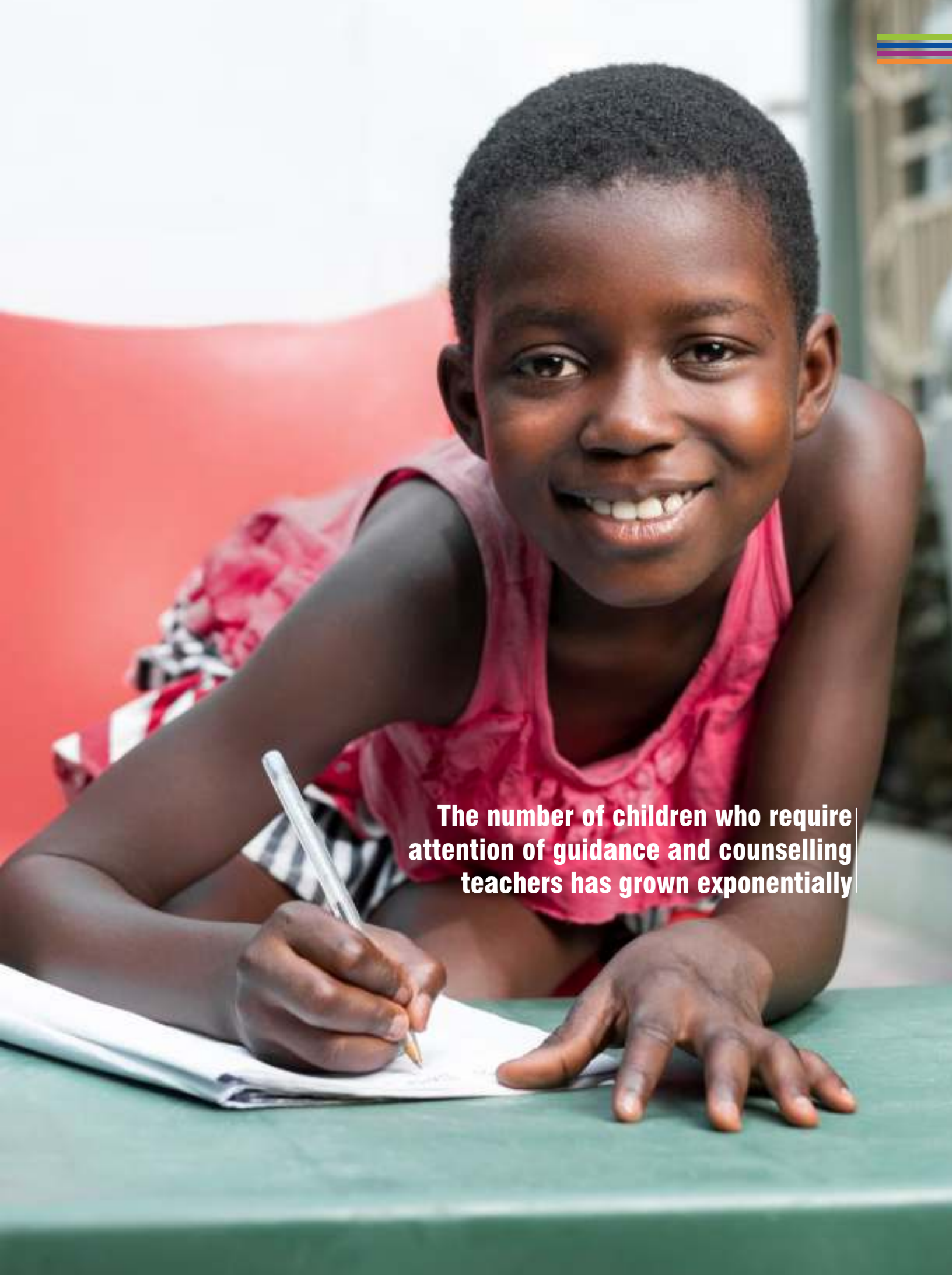
While results highlight significant milestones and opportunities for Botswana to improve its juvenile justice system, most of its structures, systems and processes provide sub-optimal services to child victims, witnesses, and those in conflict with the law. Chronic suboptimal services in the child justice system have several implications and significant consequences for children and their families, communities, and the country. At an individual level, a suboptimal children's justice system can lead to a rise in recidivism and antisocial behaviours when children are denied adequate supportive and rehabilitative services.

A suboptimal justice system can perpetuate inequalities where children from socially disadvantaged families and communities become more marginalised, ending up in situations that deny them the opportunity to overcome their challenges and become productive adult citizens. More importantly, suboptimal systems have long-term effects on children's mental health and well-being. Excerpts in this study show that children who lack access to adequate support services and supportive family and community environments suffer trauma, depression, and anxiety, which can threaten their prospects.

6.2 Conclusion

Botswana's recognition and domestication of the international and regional human rights conventions into the Children's Act is a clear testimony to its commitment to advancing children's rights and needs. Against this backdrop, the situation investigated the current juvenile justice system's strengths, opportunities, challenges, gaps, and constraints. This study drew from rich service providers' and service recipients' experiential knowledge to identify the strengths and opportunities to address the identified challenges, gaps, and constraints.

As the primary duty bearer of children's rights, the Government of Botswana must examine and adapt suggested recommendations to address the identified structural, programmatic and implementation gaps and constraints. The government's actions or inactions impact children more significantly than any other age cohort. The costs of failing its children's rights and needs are enormous.



**The number of children who require
attention of guidance and counselling
teachers has grown exponentially**

7. Recommendations

The following recommendations are proposed to address the gaps and constraints identified in the study, considering the strengths in the various areas. More extensive description of the recommendations can be found in the comprehensive report.

7.1 Legislation

7.1.1 Include Children's Bill of Rights and Protection in the Botswana Constitution

Government must consider including the Children's Bill of Rights in the constitution to ensure the absolute protection of children's rights in the country's supreme law.

7.1.2 Review Children's Act and all Laws Pertaining to Child Justice: The Government of Botswana is recommended to review the Children's Act and all other laws pertaining to child justice such as Affiliation Proceedings Act, Marriage Act, Adoption Act and the Domestic Violence Acts to ensure that all legislation in Botswana is consistent with child friendly principles such as ensuring the best interest of the child, and their participation. The following amendments are recommended:

- **Set the age of criminal responsibility:** Align the age of criminal responsibility in the current Children's Act (Section 83[1]) and the Penal Code (Section 3[1]). Ideally, increase the age of criminal responsibility from 8 to 14. International treaties that Botswana ratified recommends the age to not be too low, because of children's vulnerabilities and prevention of criminalization of children.
- **Legal Representation and Child offenders:** Ensure that the Act specifically mentions that all child offenders consistently access free legal services and psychosocial support.
- **Access to Justice:** Standardised guidelines for all sectors (e.g police, social workers, health care workers) handling cases involving children need to be drafted and training provided on such.
- **Turnaround times:** To prevent lengthy processes and to ensure child-friendly services that are in their best interest, the Children's Act should include turnaround times for each service.
- **Children's Court Rules:** Develop children's court rules that clarify processing and managing children's cases in a friendly manner. Within the rules, set a reasonable turnaround timeline, consistently used to ensure expediency in children's cases as outlined in the Children's Act.
- **Specialised Services:** The Children's Act should make specific mention on the involvement of specialists in matters involving children, for instance child clinical psychologist specialising in child sexual abuse, child development cases, or involvement of criminal expert profilers in cases of child offenders to ensure a holistic overview of matters involving children.
- **Post Rape Abortion protocol:** There should be a development of a post rape abortion protocol to provide clarity on roles and processes to aid assistance for victims.


7.1.3 Corporal punishment:

Repeal corporal punishment as a penal sanction in all government institutions. It is critical to identify alternative methodologies of discipline, including classroom management techniques, discipline that teaches consequences for decisions, using love and logic methodology.

7.2 Governance and Administrative Structures

7.2.1 Restructuring the National Children's Council:

Restructure the NCC to an autonomous parastatal organisation with an integrated professional staff, budgetary allocation, and organisational processes and mechanisms to strengthen oversight,



implementation of the Children's Act, coordination, and accountability. The associated governance and administrative structures (CCF, NCPC, ICPC, DCPC and VCPCs) must fall under the NCC to streamline coordination mechanisms.

7.2.2 Establish Comprehensive Quality Improvement Mechanisms:

Through the NCC, develop a comprehensive quality assurance and MEL framework which holds each stakeholder to stringent performance indicators to ensure delivery of quality services. Secondly, community structures such as VCPC or CSOs can conduct community led monitoring. Following are other existing structures that can infuse safeguarding of children's rights and be utilised for comprehensive monitoring: Human Rights Commission under the Ombudsman, Human Rights Office, Office of the Auditor General/Public Accounts Committee and the National Planning Committee.

7.2.3 District Performance:

Establish a quality control mechanism to track performance and learnings in the district. (For example, number of operational child protection committees, % of cases that are processed timely.)

7.2.4 Budgeting and Provision of Adequate Resources:

Allocate sufficient resources and monitor accordingly to ensure the Children's Act's full implementation. A good example is the costing exercise conducted in Lesotho to estimate the cost for implementing the different services envisaged by the Government of Lesotho's Children's Protection and Welfare Act 2011 (Barberton et. al 2014).

7.2.5 Children's Budgeting:

Children should be involved in the budgeting of the activities to ensure the activities reflect their needs. The UNCRC has recommended Botswana to introduce a child rights perspective into the budgeting process.

7.2.6 Specific Programme Costing:

There is a need to cost the Children's Act and strategies to end violence against children, and align them with interventions addressing child sexual abuse, exploitation and negligence, and rehabilitation of children in conflict with the law.

7.3 Infrastructure, Systems, and Institutions

7.3.1 Child-friendly Infrastructure:

There is need for child-friendly infrastructure across all justice system departments and allow differently abled (blind, deaf, dumb) children to access and utilise them. Child-friendly standards include privacy assurance, avoidance of contact with perpetrators, and creating an appealing environment such as colourful walls, soft interview rooms for consulting with children, child friendly toilets, sick bays. The police child-friendly police stations are a model to replicate across all departments.

7.3.2 Strengthening and Improvement of Gender and Child Protection Units and Child-friendly Police Stations:

Continued focus on Strengthening and Improvement of Gender and Child Protection Units and Child-friendly Police Stations: There is a need to enhance monitoring of the functioning and effectiveness of the child-friendly police stations to determine their impact. Additionally, sufficient resources need to be allocated to ensure they can carry out their mandate.

7.3.3 Children's Court Multidisciplinary Team:

Establish integrated, specialised, and professional child-friendly teams at the children's courts, police stations, and health services. For example, the children's courts team should have a specialised children's court magistrate, social workers/probation officers, child prosecutors, psychologists, and support staff. Each court must include specialised staff for children with disabilities and those requiring special needs.

7.3.4 Integrated Child-centered Service Provision (One Stop Shops):

Pilot the provision of integrated and centralised services for children, whereby different trained service providers organise their services efficiently around the child. Integrated services do not need to be provided in a separate building. It is ideally a multi-sectoral child focal team of professionals that are on stand-by to come to the child when needed.

7.3.5 Safe Houses or Shelters for Children:

Safe houses/protective custody shelters for children should be established across the country. The centres must be complete with high security features and equipped with caretakers and other professionals such as counsellors and health personnel. They could be managed by independent Civil Society Organisations. District Councils could provide housing for this type of safe house or shelter.

7.3.6 Review Boys Prisons:

Evaluate the state of the Moshupa boys prison including operational systems, guidelines, personnel for handling of children.

7.3.7 Rehabilitation for Girls:

The justice system should set-up rehabilitation programmes for the girl child offenders. It is recommended that a child-friendly programme be developed, taking into consideration current best practices for rehabilitation of the girl child.

7.3.8 Legal Education:

Develop a deliberate programme to ensure legal education reaches hard to reach areas, delivered in local language and context (harmonised to local culture). Establish community-based structures friendly to children that serve as a resource to child justice issues. Legal Aid Botswana could expand with more offices and programmes to provide child friendly legal literature.

7.3.9 Investment in Response to Behavioural Problems:

Invest in the mental health sector specifically for substance abuse programmes, psychosocial support with more trained counsellors, psychologists and social workers and a database for case management, tracking issues and services received.

7.3.10 Child-friendly Complaint Mechanisms:

Invest in an independent, inclusive, safe, effective, easily accessible and child-sensitive complaint and reporting mechanism that is established by law.

7.4 Standard Operating Procedures

7.4.1 Standard Operating Procedures:

- **Prioritising children's cases:** It is recommended that all children's cases are classified as a priority to avoid administrative delays in the judicial process and prevent re-victimisation of the child.

- **Development of Guidelines with Quality Standards and SOPs:** Cross-sectoral guidelines, quality standards and SOPs for the implementation of the Children's Act must be developed urgently for all sectors. These guidelines need to guide the handling of child-related cases and matters interlinking the roles of all relevant stakeholders (social welfare, education, health, police, justice).

7.4.2 Sentencing Guidelines:

Government must consider developing comprehensive children's sentencing guidelines inclusive of other sentencing options such as restorative and rehabilitation, community service, and probation. In so doing the premises of Ikago should be fully utilised.

7.4.3 Establishment of Children's Courts:

The establishment of Children's Courts is urgently needed to attend to all cases involving children instead of them queueing with the rest of the cases. A technical working group including children should be formed to contribute to the design and establishment of the courts. In Mauritius in any proceedings, a child "capable of discernment" may request to be heard by the judge alone, with a legal counsel or person of his/her choice.

7.4.4 No uniform:

Only non-uniformed police officers must interview children and accompany them to health facilities for medical examination. This should be made into policy and consistently applied across all police stations.

7.4.5 Recording of statement:

To avoid re-victimisation of children, it is recommended that there be video recording the child statement so that they do not have to relate their ordeal repeatedly.

7.4.6 Early involvement of a social worker:

Make it mandatory for the police to engage social workers right at the beginning when the case is reported, regardless of whether it is for a child in conflict with the law or a child victim of crime.

7.4.7 24/7 availability:

Ensure that social services are available 24 hours per day, 7 days a week, so that cases can be attended to immediately, as it is the case in clinics and police stations.

7.4.8 Alert police in cases of child sexual abuse who report to health services first:

Health professionals must alert the police whenever they encounter a child victim of sexual violence (such as teenagers seeking prenatal care and treatment for STIs), so that the police can take appropriate action against the perpetrator.

7.5 Specialisation and Capacity Building

7.5.1 Train specialised police, social workers (Council and Hospital based), and guidance teachers based on a child-friendly curriculum to be developed:

in the use of similar counselling methodologies such as art, play and drama therapy to assist the child to verbalise an incident. The curriculum should be used to train guidance teachers to respond to trauma and ensure those in the position are placed according to qualifications not promotions. On-going in-service training is recommended to be planned for and implemented across service providers to continuously build capacity and respond to emerging issues.



7.5.2 Provision of Counselling:

It was suggested to provide counselling for judicial officers who are hearing violent cases of children as it can be traumatising.

7.5.3 Children's Court Assistant:

Implement the provision of the Children's Act that calls for the appointment of a Court Assistant to all magistrate courts who would advise and ensure all procedures are followed accordingly.

7.5.4 Appoint Probation Officers and Probation Committee:

As stated in the Children's Act (section 91) (1), the Minister of Local Government and Rural Development should appoint probation officers and a Probation Committee.

7.5.5 Child-friendly Service Certification:

Introduce a certification system for specialised staff within departments. Periodically (to be decided by sector) the police, social workers, guidance and counselling teachers, health providers should be assessed (observations and testing) for child-friendly services to renew their department child-friendly competency certificate. This would be accompanied by periodic assessment and training of staff.

7.5.6 Council for Social Workers:

Botswana should have a council for social workers to professionalise and regulate services for children and ensure consistent quality.

7.5.7 Workload social workers:

Review the workload of social workers including the caseload, the other responsibilities and diverse tasks covering a large geographic area. Consider specialization within the workload, with a focus on child counselling and justice.

7.5.8 Tertiary institutions and Training Academies:

The training and education curriculum of social workers, police, guidance and counselling teachers in tertiary institutions and training academies should be reviewed, based on the child-friendly quality requirements, and amended to meet the required standards as well as a key topic on children's rights according to the Children's Act and ratified international treaties.

7.5.9 Training of Dikgosi:

Provide training for chiefs on child protection and statutes including the Children's Act, their role, and how to support children, families and the community in preventing child abuse and ensuring access to a child-friendly service in the justice system.

7.6 Community Interventions and Prevention Measures

7.6.1 Awareness Campaigns on child rights:

Design interventions that aim to increase community awareness on children's rights, on the importance of bringing cases to the (formal) justice system, and on the importance of children receiving comprehensive and child-friendly services (and demanding those rights), where they can find those services, and the right to attain legal support and representation. Campaigns should ensure they cater for different people, taking into consideration differences in ability, culture, language and educational background.



7.6.2 Prevention Interventions:

Invest in prevention measures that address underlying problems of children in conflict with the law, and children facing violations of their rights:

- ***Parenting support programmes:*** Scale up the parenting programme, Parenting for Lifelong Health, coined Pinagare in Botswana, that improves the safety and stability in the homes, reducing violence, and teaching caregivers how to support (access to services) and protect their children including those with special needs and the differently abled.
- ***Development of Family Policy:*** Review the draft family policy of 2011.
- ***Investment in Mental Health System:*** Invest in private sector, public sector programmes for a strong mental health system with specialised psychologists, psychiatrists, counsellors and clinical social workers.

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