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LEGABIBO & PARTNERS

MULTI-
STAKEHOLDER
CONVENING
REPORT

Family Law, SRHR,
Human Rights and
Inclusive Governance
in Botswana

REPORT

High-Level Multi-Stakeholder Convening: Family Law, SRHR, Human Rights and Inclusive Governance in Botswana

Theme: Building an Inclusive Botswana: Strengthening Rights, Law, and Parliamentary Accountability

25–26 May 2026

Hilton Garden Inn, Gaborone, Botswana

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For: LEGABIBO

&

Partners: Equality Now, SALC, Global Equality Caucus



LIST OF ABBREVIATIONS

ANC — AFRICAN NATIONAL CONGRESS

ARV — Antiretroviral

AU — African Union

BOCONGO — Botswana Council of Non-Governmental Organisations

BOFWA — Botswana Family Welfare Association

BDP — Botswana Democratic Party

CALS — Centre for Applied Legal Studies

CEDAW — Convention on the Elimination of All Forms of Discrimination Against Women

CRC — Convention on the Rights of the Child

CRPD — Convention on the Rights of Persons with Disabilities

CSO — Civil Society Organisation

FGM — Female Genital Mutilation

GBV — Gender-Based Violence

GEC — Global Equality Caucus

HIV — Human Immunodeficiency Virus

ICCPR — International Covenant on Civil and Political Rights

KCM — Name withheld out of respect; queer man murdered in Maun, September, 2025

LEGABIBO — Lesbians, Gays and Bisexuals of Botswana

LGR — Legal Gender Recognition

LGBTQI+ — Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and others

MP — Member of Parliament

NEC — National Executive Committee

NHRI — National Human Rights Institution

PAC — Public Accounts Committee

SADC — Southern African Development Community

SALC — Southern Africa Litigation Centre

SGBV — Sexual and Gender-Based Violence

SRHR — Sexual and Reproductive Health and Rights

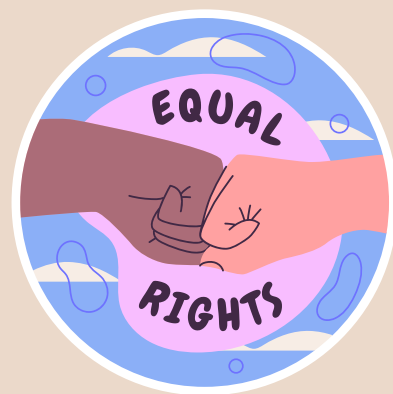
TB — Tuberculosis

UDC — Umbrella for Democratic Change

UN — United Nations

UNFPA — United Nations Population Fund

SOGIESC –SexualOrientation,GenderIdentityandExpression, and Sex
Characteristics



Foreword

The HLCC convening took place at a particularly significant moment for Botswana and for our broader human rights movement. While the convening had not been deliberately planned to coincide with Africa Day, its convergence with 25 May 2026 offered an important opportunity to reflect on the meaning of human rights, equality and inclusion within the African project. The African Union's 2026 Africa Day theme, focused on assuring sustainable water availability and safe sanitation systems to achieve the goals of Agenda 2063, may at first appear removed from the questions that brought us together. Yet access to water, healthcare, legal identity and justice are all ultimately questions of whose dignity is recognised and whose rights are understood to be deserving of protection and fulfilment by the state.

These questions are therefore inseparable from the human rights agenda that underpinned our convening. engagement also took place against the backdrop of an important political transition in Botswana. The 2024 general election marked the first democratic transition of power that many of us had witnessed in our lifetimes. The incoming administration came into office using an explicit language of human rights, inclusion and accountability. For civil society, however, the use of human rights language must always be accompanied by meaningful implementation. Our role is not simply to welcome commitments, but to engage constructively, test those commitments against lived realities, and hold institutions accountable for translating them into tangible change.

This is the context in which LEGABIBO's Letsema Le Tsweletse project, meaning the journey continues, has been implemented. The programme emerged at a time when the 2025 funding freeze had severely constrained our organisation and the communities we serve. Staff were lost, community visibility across Botswana was affected, and difficult decisions had to be made about where and how we could continue our work. We remain deeply grateful to The Other Foundation and partners who stepped in during that period and enabled us not only to sustain critical work, but to think deliberately about what comes next.



Nozizwe Ntesang
Chief Executive Officer
LEGABIBO

Foreword cont...

These questions cannot be resolved by litigation alone. They require sustained engagement with Letsema Le Tswetse has therefore been about more than responding to an immediate funding crisis. It has provided an opportunity to reflect on LEGABIBO's outgoing Beyond the Rainbow strategy, developed in 2019; to develop a new organisational strategy; to strengthen our resource mobilisation so that our sustainability is not perpetually dependent on external goodwill; to advance our policy, law and government engagement; and ultimately to build towards a broader movement convening that can create space for deeper collective reflection and action.

The HLCC engagement formed an important part of that journey. It brought together actors who have different institutional mandates, experiences and entry points, but who share an interest in building a Botswana in which human rights are meaningful for everyone. We also used the convening to situate the *Lorato ke Lorato* campaign and the ongoing marriage equality litigation within this broader human rights conversation. For the first time in Botswana's history, two women are challenging the constitutionality of the exclusion of same-sex couples from civil marriage. At the heart of this litigation is a fundamental question about equality, dignity and the consequences of recognising some intimate relationships while denying others the legal recognition and protections that flow from marriage.

, government, civil society, communities, legal institutions and other actors who shape the social and legal environment in which people live. They require us to continue creating spaces in which difficult questions can be asked openly, evidence can be shared, and relationships can be built across institutional and sectoral boundaries.

For LEGABIBO, this convening was therefore never intended to be a once-off engagement. We hope it marks the beginning, or indeed the continuation, of sustained relationships with the partners, parliamentarians, institutions and individuals who joined us. We invite those who participated to remain engaged, to call us back into conversation, to challenge us, and to help us build on what was started.

The journey continues. The value of this convening will ultimately be measured not only by what was said in the room, but by the relationships we sustain, the commitments we pursue and the changes we collectively help to bring about.



Introduction

On 25 and 26 May 2026, LEGABIBO hosted a High-Level Multi-Stakeholder Convening on Family Law, Sexual and Reproductive Health and Rights (SRHR), Human Rights, and Inclusive Governance. The convening fell on Africa Day (25th of May), a detail that shaped its opening tone and anchored the proceedings in a continental consciousness. It was held at the Hilton Garden Inn in Gaborone, and brought together civil society leaders, legal practitioners and advocates, regional human rights experts, representatives of development partners, members of the judiciary, faith-based and traditional leadership networks, and government officials. Members of Parliament (MPs) were specifically invited as a primary audience, given that parliamentary accountability was central to the convening's objectives. As is recorded in this report, no MPs attended either day.

The convening was organised by LEGABIBO in partnership with the Southern Africa Litigation Centre (SALC), Equality Now, and the Global Equality Caucus (GEC). It forms part of a broader grant programme, supported by Dreilen through The Other Foundation, under which LEGABIBO is implementing work across five strategic pillars, including policy, law, and government leadership. The year 2026 carries particular historical weight. Botswana marks 60 years of independence. LEGABIBO marks its 10th anniversary since formal legal registration, following the 2016 Court of Appeal ruling in *Attorney General v Thuto Rammoge and 19 Others* [CACGB-28-14], which secured the organisation's right to register in its own name and conduct its operations lawfully. . The country witnessed its first change of ruling party after the October 2024 general election, ushering in a government that has explicitly positioned itself as human rights-led. And on 26 March 2026, the Attorney General of Botswana formally published a gazette notice amending the Penal Code to delete Sections 164(a), seven years after the High Court first ruled. These developments do not resolve the outstanding agenda, they sharpen it.

Botswana has accumulated a body of progressive jurisprudence that is recognised across the continent and beyond. But recognition in courts has not been matched by legislative enactment, administrative implementation, or community-level access. The Maputo Protocol was ratified in December 2023 and has not yet been domesticated. The High Court's 2017 order in *ND v Attorney General of Botswana and Others* [MAHGB-000449-15] to create accessible administrative procedures for legal gender recognition remains unimplemented. Rates of sexual and gender-based violence remain well above the global average, In Botswana, over 67% of women have experienced physical or sexual abuse in their lifetime, more than double the global average of one in three women, according to UNFPA Botswana. The UNFPA Botswana Gender Based Violence Indicators Study further found that only 1.2% of Botswana women reported cases of GBV to police in the same period, meaning the prevalence of GBV is 24 times higher than what official statistics record . A landmark marriage equality case, brought by two women, is scheduled for the High Court in July 2026. And the country navigates the weight of a brutal suspected hate crime: the 2025 murder of KCM, a beloved model and choreographer from Maun.

The convening set out to address these realities through structured multi-stakeholder dialogue. It was moderated by Tlamele Mothudi, an independent consultant, admitted attorney of the courts of Botswana, and Afro-feminist human rights advocate. Her facilitation combined legal rigour with a deliberate openness to lived experience, creating conditions in which expert legal analysis and community testimony informed the same conversation. This report provides a session-by-session account of the proceedings across both days, captures key themes and cross-cutting findings, and closes with a standalone Annex, the Unified Call to Action / Collective.

The design of this convening placed Members of Parliament at the centre of its intended audience. The theme, Building an Inclusive Botswana: Strengthening Rights, Law, and Parliamentary Accountability, was chosen precisely because Parliament holds constitutional responsibility for translating judicial victories into legislation, domesticating international instruments into domestic law, and holding the executive accountable for implementation. The presence of MPs was not incidental to the event; it was foundational to its purpose. Despite direct invitations extended by LEGABIBO, no MPs attended either day of the convening. An Assistant Director from the Office of The Deputy Speaker of the National Assembly, delivered a contextual statement and acknowledged the absence on behalf of the office. She explained that Parliament was in recess, and members were currently engaged in various committee sittings during the same period, and that MPs had very limited discretionary control over their schedules, which are determined by senior office bearers and the demands of parliamentary committees, including international travel for regional and global forums.

The absence of MPs was raised with concern by multiple speakers across both days. It was not simply noted as a logistical shortcoming. Several speakers named it as a structural symptom of a deeper problem: that civil society lacks reliable, institutionalised pathways to reach elected officials. One participant observed that the people in the room were already aligned. The convening needed to reach the people who were not in the room, and that those people had the power to act. Another noted that the format of formal invitations to centralised events was unlikely to succeed when competing against parliamentary schedules. Creative, constituency-level engagement, meeting MPs where they are rather than asking them to attend events in Gaborone, was identified as a more viable strategy. The representative from the Deputy Speaker's Office offered useful guidance. She advised civil society to identify allies not only among MPs but among the staff who manage their schedules, to seek parliamentary committee schedules in advance, and to engage MPs at constituency events where attendance is more consistent. Messages drafted by convening participants and addressed to their respective MPs were collected at the close of the event. These called for constitutional reform and budgetary accountability, abortion and hate crime legislation, inclusive consultation processes with genuine notice periods, and improved access to parliamentary offices and committee processes. These messages form part of the follow-up advocacy to which participants committed at the close of Day Two.



DAY ONE: 25 MAY 2026 OPENING SESSION

WELCOME REMARKS — SETHO MONGATANE, BOARD CHAIRPERSON, LEGABIBO

Setho Mongatane opened the convening by acknowledging the absence of parliamentarians and naming it immediately as a problem. She noted that Parliament is constitutionally obligated to uphold the Protection of Fundamental Rights and Freedoms of the Individual, and that every MP swears to do exactly that on taking office. Her argument was direct: had parliamentarians done their work, LEGABIBO and organisations like it would not have needed to pursue strategic litigation. Penal Code Sections 164, 165, and 167 should not exist in a constitutional state. Parliament should have acted. It did not. Civil society went to court instead.

She illustrated the cost of that failure with two examples. First, she recalled that following the 2021 Court of Appeal affirmation of the decriminalisation judgment, the then Minister of Defence and Security drafted a bill to reinstate the very law the court had struck down. She named this as a clear demonstration of the capacity gap that exists among some lawmakers. Second, she noted how frequently parliamentarians have declared Botswana a Christian nation from the floor of the House, apparently unaware that Chapter 1 of the Constitution declares Botswana a Republic, and that Chapter 2 guarantees every person the right to freedom of association, regardless of faith. Mongatane spoke about the material consequences of incomplete rights for queer people. When a queer person cannot marry their partner, they cannot access a joint mortgage, cannot place their partner on medical aid, cannot co-own property, and face a series of financial and legal exclusions that heterosexual couples navigate automatically. This is not an abstract dignity argument. It is a concrete economic one she called for parliamentary capacitation as the central purpose of convenings like this one, arguing that parliamentarians who do not understand human rights cannot supervise institutions that are meant to protect them. She noted that Botswana has parliamentary committees on women, children, and human rights, none of which, in her assessment, had proactively called civil society to account for what services are needed, what challenges are being faced, or what Parliament could do. She closed her remarks with a call for participants to find ways to extend the conversation beyond the two days, and to commit to educating Botswana about their right to hold their lawmakers accountable.



"Violating the constitution is not violating the paper. It is violating the very people that they go to parliament to represent."

**Setho Mongatane, Board Chairperson,
LEGABIBO**

FRAMING THE CONVENING — NOZIZWE NTESANG, CHIEF EXECUTIVE OFFICER, LEGABIBO

Nozizwe Ntesang began by acknowledging Africa Day, noting that the convening had not been planned for this date but that the convergence was significant. She observed that the African Union's 2026 Africa Day theme, assuring sustainable water availability and safe sanitation systems to achieve the goals of Agenda 2063, was not separate from the human rights agenda of the convening. Access to water, like access to healthcare, legal identity, and justice, is a question of who the state sees as entitled to its services. She framed the convening within the broader arc of LEGABIBO's work and the political moment Botswana occupies. She spoke about the 2024 general election and the historic change of government, noting that for the first time in her lifetime, Botswana had experienced a democratic transition of power. The incoming administration had explicitly used the language of human rights. She was deliberate in noting that language and implementation are different things, and that civil society must test and hold accountable any government that claims a human rights mandate.

She described the grant framework under which the convening was taking place. The programme, named Letsema Le Tswelletse (meaning the journey continues) was supported by two foundations that stepped in when the funding freeze of 2024 severely limited LEGABIBO's operations. She was direct about what that freeze cost: staff were let go, community visibility across the country was compromised, and the organisation had to make difficult decisions about where it could still be present. The grant had five pillars: reviewing the outgoing Beyond the Rainbow strategy, developed in 2019; developing a new organisational strategy; building a resource mobilisation strategy so that LEGABIBO is not perpetually dependent on external goodwill; implementing the policy, law, and government leadership aspect of LEGABIBO's programming that had brought everyone into the room that day; and convening a broader movement conference, for which she made a frank and humorous appeal to partners for funding.

In her address, she introduced the Lorato ke Lorato campaign and the ongoing marriage equality litigation, noting that for the first time in Botswana's history, two women were challenging the constitutionality of the Marriage Act, with a High Court hearing scheduled for July 2026. She asked participants to sit with the question of what it means for a government to say it recognises the right to private intimacy but refuses to recognise the legal consequence of that intimacy through civil marriage. Ntesang closed by calling on the convening to be the beginning of a sustained relationship, not a once-off event. She asked partners, parliamentarians, and institutions to call the organisation back to continue the engagement, to build on what had been started, and to treat this as the latest step in a longer journey rather than a moment that would dissolve when people returned home.

"We must push the needle to make sure that rights are something that people can touch, in the same way you can touch this table, this microphone, as opposed to some omnipresent, inaccessible thing that we speak about in rooms like this."

Nozizwe Ntesang, Chief Executive Officer, LEGABIBO



MYTH-BUSTING AND PERCEPTION MAPPING — LAONE VAN VUUREN, HEAD OF POLICY AND LEGAL ADVOCACY, LEGABIBO

Van Vuuren facilitated an interactive exercise designed to surface assumptions, test received wisdom, and situate participants in Botswana's political and legal landscape before the substantive sessions began. He set up three stations across the room (true, false, and it's complicated) and invited participants to vote with their feet, physically moving to the station that best reflected their position on each statement. The exercise was deliberately designed to resist simple answers.

The first statement was that Botswana is often described as one of Africa's most stable democracies. Most participants moved toward "it's complicated." The discussion that followed was candid. Participants acknowledged that the description exists, that Botswana does appear in regional stability indices, and that the country has a functioning multiparty system and an independent judiciary. But they also pushed back on what stability actually means. One participant noted that stability and equality are not the same thing. A country can be politically stable while large portions of its population are excluded from the benefits of that stability. The question of who gets to participate in the democracy being described as stable was raised directly, and left open.

The second statement was that Botswana has had only one ruling party since independence, which produced more debate. The 2024 general election, which brought the Umbrella for Democratic Change (UDC) coalition to power for the first time, was the pivot point. Some participants said the statement was now clearly false: Botswana has had two ruling parties. Others said it was complicated, noting that for nearly six decades, one party held uninterrupted power, and that the 2024 transition, while historic, was recent enough that its durability remained to be seen. One participant offered a sharp personal analogy: having two children does not mean you wait for one to die before you acknowledge you have two. The coalition nature of the current government added another layer, with one participant noting that it was not simply two parties but more than two, which made the statement even harder to answer cleanly.

The third statement asked whether LEGABIBO has existed longer than Botswana's constitution. Technically, the answer is no: the Constitution predates the organisation. But the discussion that followed resisted a straightforward answer. One participant said it was complicated for them personally, because they had existed as a queer person long before any legal framework acknowledged that existence, and long before LEGABIBO was registered. The argument was that LGBTQI+ people in Botswana predate every institution in the room, including the Constitution, and that the role of the law is not to create them but to finally see them. Another participant clarified the distinction: as an organisation, LEGABIBO was formally registered only in 2016, following the Court of Appeal ruling in *Attorney General v Thuto Rammoge and 19 Others* [CACGB-28-14]. The Constitution therefore predates LEGABIBO. But the point raised by the first participant was allowed to stand, because it was accurate in the way that mattered: the people LEGABIBO represents have always been here. The law simply refused to acknowledge them.

Van Vuuren used these three exchanges to frame the rest of the day. Botswana's reputation for stability, its single-party history, and the legal invisibility of LGBTQI+ people for most of the country's existence are all part of the same story. The legal milestones of the past decade are not departures from that story. They are corrections to it.

HUMAN RIGHTS SPECTRUM EXERCISE KITSO LEATSEKA, HEALTH AND WELLNESS OFFICER, LEGABIBO

Nkaile and Leaketsa facilitated an interactive session designed to build shared vocabulary around LGBTQI+ identities before the day's substantive sessions began. The exercise was deliberately participatory, rather than presenting definitions from the front of the room, the facilitators drew on the knowledge already present among participants, inviting them to define terms and to ask questions. The session opened with a simple question; who are the LGBTQI+ community? The acronym had already been used repeatedly in opening remarks, and the facilitators used this as an entry point. Participants contributed the components of the acronym as lesbian, gay, bisexual, transgender, queer, intersex and then the conversation turned to the plus. One participant noted that the plus exists to represent those whose identities are not captured by the named categories, and that it acknowledges the fluidity of sexuality and gender more broadly. Pansexual and asexual were offered as examples of identities that fall within that space.

Asexuality prompted a genuine discussion. One participant said simply that an asexual person is someone who experiences little to no sexual attraction. Another noted that the best explanation of any identity comes from someone who lives it, and that technical definitions should not be mistaken for the full picture. The point was made without defensiveness and received well. The definition of a lesbian, a woman attracted to another woman was offered and accepted. Bisexuality prompted a memorable exchange. A participant described it initially as a man who dates a woman and a man. The facilitator clarified, a bisexual individual is someone attracted to more than one gender. That attraction may be simultaneous or sequential, and it does not require equal intensity toward all genders. Transgender identity generated the most extended and layered discussion of the session. Setho Mongatane offered a definition grounded in the language of soul and embodiment, that a transgender person is someone whose inner sense of gender does not match the body they were born into. She noted that Botswana's legal framework currently recognises only medical transition as a pathway to gender recognition, and called on the government to incorporate social transition as a valid and recognised process. Her framing, that we are souls, and that the soul has its own gender, was received thoughtfully and prompted further reflection.

A participant asked for clarification on the difference between social and medical transition. The facilitator explained that medical transition involves changing the body to align with one's gender identity, through hormone replacement therapy, surgical intervention, or both. Social transition involves living as one's identified gender through name, pronouns, clothing, and presentation without any medical procedure. She noted the legal significance of this distinction, in Botswana, only those who have undergone medical transition have had a recognised pathway to changing their gender marker, despite the *ND v Attorney General* judgment [MAHGB-000449-15, 2017] having ordered the state to create accessible administrative procedures for all transgender people.

Another participant raised a question about the difference between transgender and intersex, noting that some of the biological language being used seemed to describe a different condition. The facilitator clarified that intersex refers to variations in biological sex characteristics, while transgender refers to gender identity. They are distinct, though both are part of the broader conversation about how bodies, identities, and legal systems interact.

Rigidity that now feels natural. She referenced South Africa's Act 49, which allows people to change their gender marker without requiring surgical intervention, as a model of what is possible when legislation catches up with lived reality. Letlhogonolo Mokgororoane added a dimension that the earlier definitions had not fully captured, non-binary identity. They noted that discussions of transgender identity tend to default to a binary framework transitioning from man to woman or woman to man and that this excludes people who do not identify with either gender. Non-binary people are part of the transgender umbrella but occupy a space that legal frameworks almost universally fail to accommodate. They described their own experience of being misread by people who see them and make an immediate gender assumption, and connected this to the broader argument for pronoun introductions, not as a performance of inclusion, but as a practical act of allowing people to reveal themselves on their own terms. They noted that Setswana is a language without gendered pronouns, but that social practice has imposed gender through honorifics such as *dumela mme*, *dumela rra*, in ways that exclude those who do not fit either category. They challenged participants to begin introducing their own pronouns in professional settings, not because it is required, but because it opens the door for others to do the same.

The session closed with a legal note from the floor, referencing the *Unity Dow* citizenship case as an example of the courts striking down sex discrimination, alongside the 2019 decriminalisation judgment, as part of Botswana's trajectory of constitutional progress on the grounds of sex and sexual orientation. The facilitator recommended that participants search for the Gender Bread Person online as a visual resource for understanding the distinctions between gender identity, gender expression, biological sex, and sexual orientation. As a way to continue the sensitization, LEGABIBO assured the participants that the Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) materials would be shared with them following the convening. As the session ended a question posed to the room; what song best represents freedom to you? Responses included *Redemption Song* by Bob Marley, *Zabalaza* by Thandiswa Mazwai, and *Beautiful* by Christina Aguilera. The question was not incidental. It was a reminder that the vocabulary being built in this room is not abstract. It belongs to people who have songs that name what they are still fighting for.

Honourable Mmapaseka Steve Letsike added a structural framing. She noted that gender is a social construct, that society has built systems around a binary understanding of gender that does not reflect the full range of human experience, and that colonial law is responsible for much of the



"The only thing recognised in Botswana is medical transition. We need to encourage the government to also incorporate social transition, because transitioning is not homogeneous." **Setho Mongatane, Board Chairperson, LEGABIBO**

OFFICIAL OPENING – QUEEN LATOYA MOANGA, PRINCIPAL MAGISTRATE

Principal Magistrate Queen Latoya Moanga opened by doing something small and deliberate: she noted that "good morning ladies and gentlemen" no longer works in gatherings of this nature. She said she had learned that four years ago, when she began her journey into inclusive rights training, and that she had not gone back. It was a quiet signal about how the work changes the person doing it.

She spoke on behalf of the Botswana Chapter of the International Association of Women Judges; a body of women judges and magistrates that had partnered with LEGABIBO in 2022 on the Inclusive Justice project. She described the project as a country-wide training programme that ran from Gaborone to Maun, reaching judges, magistrates, bench clerks, interpreters, and court administrators. She testified to its success without qualification, noting that a significant number of judicial officers and court staff had benefited from the training. She expressed hope that it would continue, and acknowledged that funding constraints had forced it to pause. The magistrate was careful, and transparent, about the limits of her role. As a judicial officer, she said, she carries that identity into every room she enters and cannot set it aside. The parliamentary accountability dimension of the convening's theme caused her some discomfort, and she said so plainly, making a deliberate disclaimer that her presence should not be read as the judiciary taking a position on Parliament. She noted that she had been brought in at short notice, that The Speaker of Parliament had originally been scheduled to open the proceedings, and that she was nonetheless glad to be there.

What she could speak to, and did, was the legal landscape. She reflected on five years of engaging with Botswana's laws on discrimination across sex, gender, and sexual orientation and described a progression from hope to genuine satisfaction. She identified one specific piece of legislation that she found particularly significant: the Section 23(d), which contains an explicit prohibition on discrimination on the basis of sexual orientation. She noted that this specificity matters. General non-discrimination clauses can be interpreted narrowly. Legislation that names sexual orientation as a protected ground removes that ambiguity. She encouraged participants to examine that provision further during the day's sessions. She closed by declaring the convening officially open and expressing hope that the two days would produce productive engagement that participants would carry back into their respective institutions and communities.

"We have gathered here this morning to bring together the frontline torchbearers who are going to interrogate Botswana's laws on equality and social justice reforms. I can testify that the Inclusive Justice project was a huge success."

Queen Latoya Moanga, Principal Magistrate



KEYNOTE ADDRESS — HON. MMAPASEKA STEVE LETSIKE, DEPUTY MINISTER IN THE PRESIDENCY FOR WOMEN, YOUTH AND PERSONS WITH DISABILITIES, REPUBLIC OF SOUTH AFRICA

Honourable Steve Letsike, South Africa's first openly queer deputy minister and the first queer activist to serve on the National Executive Committee (NEC) of the African National Congress (ANC), delivered the keynote address. Her presence was itself significant: she holds the distinction of having been elected to the NEC, a body within which she had spent more than a decade advocating for the mainstreaming of rights of LGBTQI+ people. She also founded Africa's first queer law clinic. She spoke not as a guest but as a fellow traveller in the same movement, and the room responded to her accordingly.

She opened by acknowledging the passing of former President Mogae, noting that she had worked with him on HIV advocacy across the continent in his post-presidential years. She reflected on his response to a television interviewer who asked why he had not changed the law on same-sex relations during his presidency: he had said he did not want to lose votes. She used this not to condemn him but to illustrate the calculus that political leaders perform and the gap between that calculus and the constitutional obligations they carry. She argued that it takes organised pressure, not only political goodwill, to close that gap.

She introduced the concept of the right to the city, drawing on the work of French urban philosopher Henri Lefebvre, and asked participants to imagine a young queer person navigating Gaborone. She described in detail the calculations that person makes, from which route is safer, which shop is hostile, which clinic will misgender them, and whether reporting an assault will result in more humiliation. She argued that a democratic city is one in which this young person can move without performing a safety map in their mind. Botswana's courts have opened doors. The question is whether those doors lead anywhere.

Letsike named violence directly. She spoke about the murder of KCM, noting that where hate goes unnamed, it escalates from utterance to action. She called on governments to stop treating violence against LGBTQI+ people as a footnote in statistics and to name the motive when it is clear. She challenged the claim that homosexuality is un-African, citing documented pre-colonial examples of gender fluidity and same-sex relationships among the Langi of Northern Uganda, the Lala people of Zambia, and the Lubara people, noting that these are recorded by historians and scholars, not invented by activists. She was clear that defending the human rights of LGBTQI+ persons is not importing foreign values. It is reclaiming what colonialism suppressed.

She addressed budget accountability directly, arguing that South Africa's experience demonstrates that inclusive healthcare policies are meaningless without corresponding budget lines. Gender-affirming care exists in South African policy. It does not exist in practice in rural hospitals and clinics, because the money did not follow the policy. She urged Botswana not to repeat this pattern as it moves toward domesticating its international obligations. She closed with a challenge to intersectionality as a discipline rather than a slogan, citing Audre Lorde's reminder that no struggle can be isolated, and Simon Nkoli's insistence that his identity as a Black gay South African could not be divided into a primary and a secondary cause.



“A court judgment can remove a chain, but it does not build a bridge. Legal victories are foundations. They are not destinations. The law must follow people home, accompany them to the clinic, protect them at school, and open the door to employment.”



SESSION 1: PLENARY — BOTSWANA'S LEGAL LANDSCAPE AND REGIONAL TRENDS

The guiding question for this session was: what do progressive legal and regional developments mean for Parliament's constitutional role in aligning domestic law and policy with evolving human rights standards? Three expert panelists addressed the question, with remarks from the keynote address already having provided a substantial frame.

Bradley Fortuin, Programme Officer, Southern Africa Litigation Centre (SALC)

Bradley Fortuin presented on strategic litigation and constitutional benchmarks, drawing on SALC's direct involvement in the three landmark Botswana cases. He described the litigation process not as a series of isolated victories but as a movement and each case building on the last, each judgment extending the constitutional reach of dignity, equality, privacy, and freedom.

He described the Rammoge case [Attorney General v Thuto Rammoge and 19 Others, CACGB-28-14, [2016] as foundational — not only because it secured LEGABIBO's registration, but because it established that freedom of association is universal. The 20 litigants included not only LGBTQI+ individuals but allies, parents, and partner organisations, reflecting the intersectional and coalition-based nature of the work. A memorable phrase from the Court of Appeal in that case was cited: that members of the LGBTQI+ community, although a minority, are part of the range, diversity, and texture of Botswana's society. He noted that this phrase became the basis for subsequent advocacy campaigns, including the hashtag and public communications that followed.

Fortuin described the ND case [ND v Attorney General of Botswana and Others, MAHGB-000449-15, [2017] as a case about identity and dignity, the right of a trans man to have his gender identity reflected on national documents, and the state's corresponding obligation to create an administrative process that makes this accessible without requiring individuals to litigate repeatedly. He noted that this administrative process had still not been created, meaning that every transgender person in Botswana seeking a corrected Omang may need to obtain an individual court order which is expensive, time-consuming, and precisely what the judgment was designed to prevent.

He spoke about the Motshidiemang case [Letsweletse Motshidiemang v Attorney General, MAHGB-000591-16, 2019, upheld by the Court of Appeal in 2021] and the seven-year gap between the judgment and the April 2026 Penal Code amendment. He noted that in principle, implementing a court ruling that declares legislation unconstitutional is a simple administrative step. The question of why it took seven years does not have a simple answer, but it requires an answer, and Parliament is the institution responsible for providing one.



He highlighted the regional impact of Botswana's jurisprudence, noting that courts in Namibia, Kenya, and Eswatini had cited Botswana's judgments. He also highlighted a threat: the inter-parliamentary forum on family values, which had been meeting annually in Entebbe, Uganda, and had drafted a document described as the Draft African Charter on Family, Sovereignty and Values. This charter would define marriage exclusively as between a man and a woman, prohibit abortion in all contexts across Africa, and explicitly reject internationally recognised definitions of gender equality and SRHR. He urged civil society to engage their MPs directly to prevent participation in this forum. This event was also held in Ghana in 2026 which reflects the worrying rise in the number of countries that align with the conference's values and are willing to host it. Even more troubling, Ghana has gone ahead and passed the bill.



"Our judgments are grounded in our dignity, our right to equality, to privacy. People across the continent have used our judgments to help free themselves and their movements. That is why going to court should always be the last option, because once you get there, the work of society and parliament has already failed."

Bradley Fortuin, Southern Africa Litigation Centre

SHERIFF MOTHOPENG – AFRICAN REGIONAL MANAGER, GLOBAL EQUALITY CAUCUS (GEC)

Mothopeng opened by acknowledging the gap between the room that had been planned and the room that existed. The convening had hoped for more Members of Parliament. They were not there. He named this plainly and moved on, noting that it is a recurring challenge in this kind of work and that Parliament being in recess, with MPs returning to their constituencies, was part of the explanation.

He introduced the Global Equality Caucus as an international network of parliamentarians and elected officials committed to LGBTI+ equality, operating across approximately 70 African legislators and working in partnership with civil society organisations and policymakers in multiple countries. He was deliberate in noting that GEC does not restrict its engagement to LGBTI+ health issues alone. You cannot talk about HIV, tuberculosis, malaria, or Ebola, he said, and leave certain groups of people out of the response. Inclusion is not a separate agenda from public health. It is a precondition for achieving it. He drew on a specific and instructive experience. While organising the Global TB Caucus meeting in Cape Town, he reached out to contacts in Botswana's civil society to ask a straightforward question, who chairs the parliamentary portfolio committees on health and on finance? Nobody could tell him. He used this not to criticise but to identify a gap that civil society must close. Portfolio committees on health and finance are among the most consequential spaces in any parliament. They shape what gets funded, what gets investigated, and what evidence gets heard. If civil society does not know who sits on those committees, it cannot engage them. And if it cannot engage them, it cannot influence the decisions that matter most.

He argued that this points to a broader strategic error. Relationships with parliamentarians cannot begin when someone is already in office. They must be built earlier, through campaigns, community processes, and branch-level democratic engagement. Civil society and community members must participate in the political processes that produce MPs, not only the advocacy processes that follow. By the time someone is sworn in, the relationship should already exist. He reflected on ten years of movement history in the region, noting that he had been part of a 2016 conference in Rosebank that brought together legal practitioners and transgender individuals from across Southern Africa, and that LEGABIBO had been a partner in that work. The people in the room at this convening were the same people, or the successors of the same people, who had been doing this work for a decade. The movement does not burn bridges, he said, because in this work you always find yourself back in the same room.

He presented three pillars of the parliamentary role in rights-based reform: law-making, oversight, and meaningful representation. He pointed out the third aspect, and noted that meaningful representation is not a political party announcing that it is inclusive of LGBTQI+ communities. It is those communities' lived experiences actually shaping what legislation says, what committee hearings examine, and what budget lines fund. The announcement without the substance is a strategy for votes, not a commitment to people. He cited Kenya as an example of parliament initiating accountability discourse on health and gender inclusion, noting a recent court victory that had enabled intersex and transgender people to change their legal gender markers on documents. He acknowledged the contrast: criminalisation was advancing in Senegal, legislative threats remained in Ghana, but wins were also accumulating in parts of the continent.



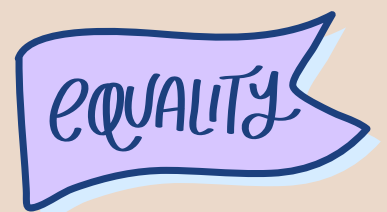
Democracy is strengthened when institutions actively protect those most marginalised and excluded.

Court victories are real, but the opportunity now exists for Parliament to consolidate them and retain the reforms. Meaningful representation means that the lived experience of excluded communities shapes how laws are written, not just how they are described.

Sheriff Mothopeng, Global Equality Caucus

Botswana's judiciary had led transformative change. The opportunity now existed for Parliament to consolidate those gains rather than allow them to remain court-level achievements that do not penetrate administrative practice. He was direct about what Botswana's Parliament needed to do. MPs must not distance themselves from the ongoing marriage equality litigation. The case shapes what constitutional equality will mean in practice, and elected officials who remain silent on it are not neutral. They are absent from a conversation that is happening about the people they represent. He also named hate-motivated violence as requiring a legislative response, linking it to the broader argument that democracy is only as strong as its protection of those most excluded.

He closed with GEC's model: peer-to-peer parliamentary engagement, where legislators from different countries speak honestly with each other about what is possible in their contexts, without civil society present to direct the conversation. The value of this, he argued, is that parliamentarians hear from their peers rather than from activists, and that creates a different kind of trust. Civil Society's role in this model is to identify the MPs who are ready for those conversations and to open the door.



DEBORAH NYOKABI – LEGAL ADVISOR, EQUALITY NOW

Nyokabi opened by asking the room how many people had engaged with the Maputo Protocol. A significant number of hands went up. She welcomed this and then invited someone to explain what the Protocol actually is, using the response from a participant, who noted that the last time they had engaged with it was while studying for their law degree, to illustrate the gap between familiarity and active use. The Protocol exists. People know of it. The question is whether it is being used as the tool it was designed to be.

She situated the Maputo Protocol within the African human rights architecture. It is the regional equivalent of CEDAW, the Convention on the Elimination of All Forms of Discrimination Against Women, but developed specifically by and for Africa, in response to African women's rights activists who argued that the global instrument was insufficient on its own. Where CEDAW provided one lens, the Maputo Protocol addresses the specific forms of discrimination that African women face, harmful practices including child marriage and female genital mutilation, reproductive healthcare, equality in marriage and the family, and the right to a positive cultural context. That last provision matters. Culture is frequently used on the continent to justify the suppression of women's rights. The Protocol insists that culture must serve human dignity, not undermine it. In her presentation she noted two features of the Protocol that are particularly significant in the context of the convening. First, the definition of women in the Protocol is broad enough to encompass transgender and intersex women, making it one of the few African regional instruments that explicitly creates space for gender identity beyond the binary. Second, the Protocol contains a provision on budgetary allocation that goes further than most international instruments, it expressly requires state parties to allocate budgetary and other resources to implementation, and specifically calls for the reduction of military spending in order to redirect those resources toward women's rights promotion and social development. The Protocol does not simply describe what should be done. It says where the money should come from.

She reported on the ratification landscape. As of the convening, 46 of 55 African Union member states had ratified the Protocol, representing a ratification rate of approximately 80 percent. Botswana ratified in December 2023, becoming the 45th country to do so. The Central African Republic became the most recent country to ratify the Protocol, doing so in July 2025. She noted that Botswana's initial implementation report was due in 2025, two years after ratification, and that it had not yet been submitted. She called on state actors to mobilise the goodwill and momentum needed to produce that report, and advised civil society not to wait for the state: the African Commission on Human and Peoples' Rights accepts alternative reports from civil society regardless of whether a state report has been filed. Civil society can and must update the Commission on the status of implementation independently. Her presentation described the monitoring mechanisms in detail. Article 26 of the Maputo Protocol, read alongside Article 62 of the African Charter on Human and Peoples' Rights, requires member states to submit periodic reports on implementation every two years. Botswana submitted a report in 2023 and was reviewed by the African Commission in 2024. Concluding observations were expected by the end of 2025. She urged NHRIs and civil society organisations to follow up on the implementation of those observations, and noted that the Special Rapporteur on the Rights of Women in Africa is accessible and willing to conduct country visits, formally, if coordinated with the Attorney General, or as academic visits organised by civil society alone.



Subsequently Nyakobi addressed Botswana's specific family law landscape directly, drawing on an Equality Now report on family laws across Southern Africa. Key findings included, the Constitution of Botswana contains no reference to families, though it guarantees protection from discrimination, the application of customary law in rural areas continues to produce discriminatory outcomes for women, rates of gender-based violence remain significantly above the global average, same-sex marriage is not recognised despite decriminalisation and cohabiting partners receive minimal legal ading protection on the dissolution of a relationship. She noted the Abolition of Marital Power Act of 2004 as a significant milestone, while acknowledging that legislative reform had not been matched by cultural or administrative change in practice.

She listed the recommendations for Botswana's Parliament with clarity, pass a standalone gender equality law to bring coherence to the scattered legislative landscape, monitor and enforce the implementation of progressive court judgments on family law, amend family laws to ensure equality in marriage, including for same-sex couples; ensure adequate budget allocations for gender equality programmes, and submit state reports to all relevant review mechanisms on time. She also called for the criminalisation of marital rape and the strengthening of the Domestic Violence Act.

She closed with the warning that had been echoing through the day's sessions. Across the continent, sovereign African governments were not only failing to repeal colonial era laws criminalising homosexuality, they were enacting new ones. She named them: Nigeria, Uganda, Burkina Faso, Mali, Senegal, Kenya, Ghana, Liberia. She noted that the argument that homosexuality is un-African was being codified into fresh legislation by African parliaments, not imposed from outside. She described the Draft African Charter on Family, Sovereignty and Values, being developed through the inter-parliamentary forum on family values in Entebbe, Uganda, as a document that would define marriage exclusively as between a man and a woman, prohibit abortion in all contexts across Africa on the grounds that life begins at conception, and explicitly reject the existing definitions of gender equality and SRHR. She called it a problematic charter that must be actively opposed, and warned that if Botswana's parliamentarians attended and endorsed those forums, the country could find itself reversing the very reforms its courts had built.

She urged civil society to engage governments at regional forums such as the Pan-African Parliament, the Inter-Parliamentary Union, where parliamentarians reliably show up, and to develop counter-narratives that are as organised and as well-resourced as the backlash they are responding to.

“*Botswana is a very encouraging country for the rest of Africa. But what we are seeing across the continent is sovereign African governments creating brand new laws that endorse homophobia. The argument that these laws were colonial is being abandoned, and African parliaments are now authoring the repression themselves. That is a very dangerous practice, and every country should be on alert.*”

Deborah Nyakobi, Equality Now



SESSION 2: MARGINALISED COMMUNITIES AND ACCESS TO HEALTH SERVICES

KITSO LEAKETSA – HEALTH AND WELLNESS OFFICER, AND KEALEBOGA NKAILE – ADVOCACY & COMMUNICATIONS OFFICER, LEGABIBO

This session was structured as a group exercise, with participants divided into discussion groups and assigned specific questions drawn from LEGABIBO's research and advocacy experience. Each group reported back to the plenary, and the facilitators added analysis from LEGABIBO's own data. The discussion that followed was among the most direct and personal of the two days.

Group 1: Barriers to Access

Group One presented the biggest barriers preventing marginalised communities from accessing healthcare in Botswana. They identified affordability as the first and most consistent barrier: whether a person can physically get to a health facility depends on where they live, how far they must travel, and whether they can pay for transport and for the service itself. Infrastructure for people with disabilities was raised as a specific gap, with participants noting that physical access to health facilities is not designed with differently abled people in mind. Operating hours were identified as a barrier for marginalised communities whose daily circumstances, including work patterns, caregiving responsibilities, and safety considerations, may make standard clinic hours impractical or dangerous.

Limited information was identified as a compounding barrier. Knowing which facilities exist, what services they offer, and whether those services are safe for LGBTQI+ individuals is not straightforward. Community members reported having to ask around, search without guidance, and rely on informal networks to find facilities that would not humiliate or turn them away. Documentation barriers were also raised: individuals without correct identity documents, including transgender people carrying IDs with incorrect gender markers, face denial of service or exposure of their status every time they present at a health facility. Commodity security was named directly, especially lubricants and other SRHR commodities relevant to LGBTQI+ health needs are not reliably available at public facilities.

The facilitator highlighted that LEGABIBO conducted a Still We Stand campaign, which informed the group's presentation as they drew from the findings from the campaign, which documented lived experiences of LGBTQI+ individuals during the 2024 and 2025 funding freeze. The campaign found that stigma and discrimination from healthcare providers remained the most pervasive barrier. The Public Health Act and the Mental Health Act are both silent on LGBTQI+ health needs, providing no guidance, no protection, and no accountability framework for the interactions between LGBTQI+ patients and health workers. Economic barriers compounded this. In this case, private facilities that are more likely to offer non-discriminatory care are unaffordable for most community members. Even within public facilities, limited personnel and high patient loads meant that even those providers willing to offer inclusive care often lacked the time or support to do so.

Group 2: The Role of Traditional Leaders, Civil Society, and Parliament

Group Two addressed the question of what role traditional leaders, civil society, and Parliament should play in improving access. They opened with an observation that reframed the entire discussion: most of the issues that end up in formal litigation in Botswana are first dealt with in customary courts. Traditional leaders are already engaged in dispute resolution, community protection, and the administration of daily life. The question is not whether they have a role, but whether they are equipped to play it well.

The group argued that CSOs must capacitate traditional leaders through sensitisation, language, and protocol training. Customary courts are accessible in ways that formal courts are not: they are local, they are familiar, they do not require legal representation, and they do not carry the financial and logistical costs of formal litigation. If traditional leaders understand human rights frameworks and are sensitised to the needs of LGBTQI+ individuals, people with disabilities, and other marginalised groups, the customary court system becomes an asset rather than a risk.

While speaking on the role of parliament, the group called for inclusive policies developed in deliberate engagement with customary law, noting that customary law tends to be discriminatory and that this must be actively addressed rather than assumed to be separate from the formal legislative agenda. They raised a specific and practical point on international scholarships, that Botswana must develop domestic screening mechanisms for bilateral and multilateral scholarship programmes that contain exclusionary clauses, for example excluding people living with HIV or LGBTQI+ individuals. The country cannot simply advertise opportunities that discriminate against its own citizens.

On meaningful representation, one participant noted that the most powerful form of inclusion is not a quota. It is someone going into a government office as themselves, openly queer, not because they were appointed to represent queer people, but because they are a person doing a job. That, the participant said, advances the human rights agenda more effectively than any tick-box exercise. The group concluded with a framing that carried through the rest of the session, the link between traditional leaders, civil society, and Parliament is the transference of knowledge. What connects all three is capacitation, knowledge sharing, and the ability to embed human rights not as rules imposed from outside, but as a culture that grows from within communities.

Group 3: Practical Interventions

Group Three addressed what practical interventions could improve equitable healthcare delivery. They identified four: legislation, human rights-based training for healthcare workers, health financing, and universal health coverage. On legislation, the group argued that when laws exist, practitioners and institutions have a framework they are obligated to follow. The absence of law creates a vacuum in which personal bias fills the space that policy should occupy. On training, the group noted that many healthcare practitioners do not know what human rights are in relation to their professional obligations. A training programme gives them a reference point. On financing, the group was plain: money must follow the commitment. Universal health coverage means quality healthcare for everyone, free at the point of delivery. Without financing, every other intervention is declaratory.

On termination of pregnancy, the group noted that restrictive environments and policies do not eliminate abortion, they eliminate safe and autonomous abortion. In Botswana, abortion is legal under specified circumstances, but implementation is inconsistent, facilities are limited, and the procedural steps required to access a legal abortion are themselves barriers. The group noted that the link between abortion restriction and maternal mortality is direct and documented. When people cannot access safe services, they access unsafe ones, and the health system then deals with the consequences at a far greater cost, in human and financial terms, than it would have incurred had the service been accessible in the first place.

Budget Accountability

Moderator Tlamele Mothudi intervened during the presentations to raise the question of budget narration, and the discussion that followed was substantive. She drew on her experience in budget advocacy to argue that budget increases reported at ministerial level are meaningless without programme-level accountability. When the Ministry of Health receives an additional five million pula, the public should be told what was done with it: how many clinics were built, how much medication was purchased, how many community outreach programmes were funded, and whether any of it reached CSOs. Without that narration, the number is a headline, not a commitment.

She connected this directly to the referendum question on the Constitutional Court. Budget decisions reflect priorities. If there is money to establish a Constitutional Court but no money for safe abortion services, no money for CSOs, and no money for community health outreach, those allocation decisions reveal what the state actually values. Budget lining, she argued, is one of the most powerful tools civil society has for holding Parliament accountable to the commitments it makes in public.

Stigma, Discrimination, and Health-Seeking Behaviour

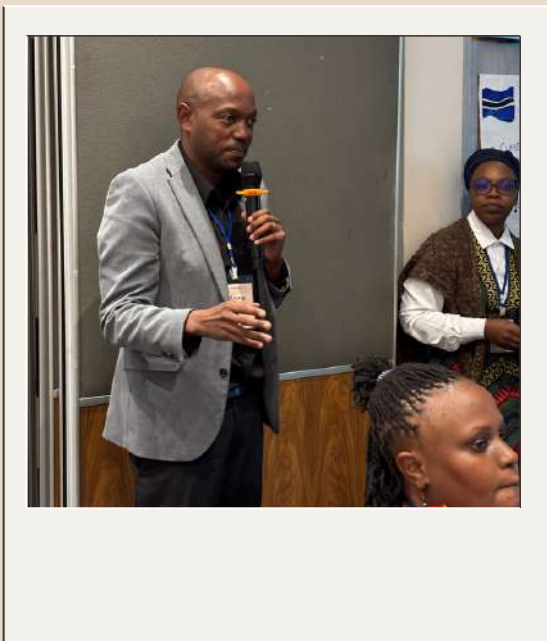
Group Two also addressed how stigma and discrimination affect health-seeking behaviour. They defined health-seeking behaviour as the decisions people make about when and where to seek care, drawing a comparison to consumer behaviour, just as people choose which restaurant to enter based on whether they feel welcome, people choose which clinic to attend based on whether they expect to be treated with dignity. If the answer is no, they do not go. Participants named the specific forms that discrimination takes in healthcare settings like being looked at inhumanely on arrival, being spoken to dismissively, being asked intrusive questions about the nature of an ailment, or simply sensing that the person behind the desk would rather not be dealing with you. One participant noted a nurse featured in a LEGABIBO film (Still We Stand, 2025) who had placed a rainbow flag in her consulting room as a signal that “you are queer and you can be here.” That small act, they said, changed the environment entirely. It told patients that disclosure was safe and that care would follow.

Age was raised as a dimension in this dynamic. Young people attending clinics where the majority of patients and service providers are older feel additional hesitance to disclose the real reasons for their visit. Approachability is not only about LGBTQI+ competence, it is about whether a person feels that the practitioner in front of them is someone they can speak to honestly. One participant closed this part of the discussion with a statement that stopped the room: all of these things can lead to death. The connection between stigma, deferred care, and preventable mortality is not metaphorical. It is clinical. People who do not seek care because they fear discrimination do not get treatment. Some of them die from conditions that would have been treatable had they come in sooner.

Termination of Pregnancy

The discussion on abortion drew some of the most candid testimony of the entire convening. One participant spoke from personal experience, noting that they had accessed a safe, legal abortion service in a context where such access is now being rolled back. They described the procedural landscape in Botswana in which abortion is legal under certain circumstances, but accessing it requires navigating a series of steps that are themselves traumatising. Travelling to a designated facility. Gathering documentation to prove eligibility. Justifying to multiple gatekeepers why the service should be granted. These steps, they argued, constitute a form of violence against women. The law technically permits access. The system practically denies it. They identified several layers of burden that restricted access creates such as financial, because late-presenting cases require specialist intervention that primary care facilities cannot provide, logistical, because designated facilities are few and far between, mental health-related, because the process of justification and delay compounds distress; and relational, because forcing someone to carry an unwanted pregnancy affects not only the pregnant person but the child born into that circumstance. They called for honest public education about abortion, noting that much of the opposition is grounded in misconceptions rather than facts, and that the conversation needs to be had in a way that names those misconceptions directly rather than working around them.

Another participant connected the abortion discussion to neonatal mortality and unintended pregnancy, noting that most pregnancies in Botswana that end in abortion began as unintended. The morning-after pill, they noted, has a 72-hour window. For someone in a remote area who has experienced an unintended sexual encounter, that window is practically impossible to meet. The distance to a facility, the cost of transport, the stigma of asking for the pill at a local clinic, and the inconsistency of stock at primary healthcare level all combine to make a legally available intervention practically inaccessible. A High Court judgment addressing access to emergency contraception was referenced, again illustrating the pattern in which the law is ahead of the system it is supposed to govern.



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"Forcing someone to have a child impacts that relationship from the start. The child suffers as a consequence. It is a burden on the public health system, a burden on the financial purse, and a burden on the body of the woman navigating it. Making abortion accessible lessens all of those burdens at once."

Session participant, Marginalised Communities and Access to Health Services

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SESSION 3: MARKET FAIR REFLECTIONS

LAONE VAN VUUREN – HEAD OF POLICY AND LEGAL ADVOCACY, LEGABIBO

The Market Fair reflections created space for participants to aggregate and publicly share what had stayed with them from the day's sessions. Using sticky notes and a structured voting exercise, the session surfaced collective sense-making rather than individual opinion. Participants were asked how Botswana at 60 feels different depending on who you are. Gender received the most votes as a differentiating factor, followed by generation. Geography and sexuality also received significant responses. The pattern was clear. The participants had to note how they experience Botswana at 60 depends substantially on the intersection of their gender, where they live, age, and who they love. These are not abstract variables. They are the structural determinants of access to rights.

The question of whose experience remains least visible in Botswana, democratically, in healthcare, and economically, produced consistent answers such as disabled people in rural areas, transgender people, and queer voters in the full complexity of their intersectional identities. One participant noted that the invisibility is not accidental. Systems that are not designed to see you will not see you, and will not budget for you, and will not legislate for you, until someone in the system is required to look.

Sticky note reflections also captured what participants were taking home. The abortion discussion was identified repeatedly as the most challenging conversation of the day. Participants committed to carrying it into their homes, workplaces, and networks. Several noted that this was the first time they had heard abortion discussed so directly and without shame in a professional setting, and that this itself was significant.



DAY ONE CLOSING

NOZIZWE NTESANG, CHIEF EXECUTIVE OFFICER, LEGABIBO

Ntesang closed Day One by acknowledging the weight of what had been shared. She named the absence of MPs again, not with bitterness but with resolve and noted that civil society must develop better, more strategic methods of reaching parliamentarians, and must continue to do so whether or not any given event produces their presence. She framed Day Two as an opportunity to move from understanding to commitment, and asked participants to return rested and prepared to make specific, concrete pledges about what they would do differently as a result of the convening.



DAY TWO: 26 MAY 2026

DAY ONE RECAP – LAONE VAN VUUREN, HEAD OF POLICY AND LEGAL ADVOCACY, LEGABIBO

Van Vuuren opened Day Two by presenting the aggregated results of the Mentimeter survey completed by participants on Day Two. The data was presented to name the gap between where Botswana's legal framework sits and where its people are.

On the question of how close Botswana is to translating its legal victories into lived reality, nine participants had responded. The average score was 2.4 out of five. One participant noted that there is still a lot of work to be done. The score reflected what the entire first day had been building toward, that court victories are real, that they matter, and that they have not yet reached the people they were meant to serve.

On the question of what the biggest barrier to implementation is, the most common response was policy gaps. Participants cited the absence of inclusive legislation, the lack of operational guidelines to give effect to court orders, and the absence of any administrative framework for legal gender recognition despite the 2017 *ND v AG* judgment. One response specifically named scholarship policies as an area of concern, prompting a discussion from the floor. A participant explained that international scholarships offered to Botswana, including those from China and Cuba, sometimes contain exclusionary clauses that bar people living with HIV or members of other marginalised groups from applying. No domestic policy framework currently screens for or rejects such conditions. The participant noted that HIV is now a manageable condition requiring one pill a day, and that restricting young Botswana's access to educational opportunities on those grounds is indefensible. Van Vuuren acknowledged this, noting that it had also come up the previous day, and connected it to the broader argument about how exclusion from economic participation compounds the denial of other rights.

The question of who failed when implementation is delayed was “everybody suffers.” Marginalised populations bear the direct cost. Young people carry the weight of a future that has been deferred. But the failure of implementation is a democratic failure, and democratic failures do not stay contained. They erode the legitimacy of institutions across the board.

The survey results on urgent parliamentary priorities showed clear consensus on constitutional reform, budgetary accountability, abortion legislation, and hate crime legislation. On the commitment people were prepared to carry from Day One into Day Two, the most common response was active engagement, full participation, meaningful presence, and a willingness to listen and act rather than simply attend.

A question from the floor opened a substantive discussion on what constitutional reform actually means. The participant who raised it noted that constitutional literacy is low, and the phrase is being used without people being clear on what they are asking for. It was explained that the Constitution of Botswana is a rights framework, but one that is notable for what it does not include, socio-economic rights. The right to water, the right to housing, the right to healthcare, and the right to a clean environment are not currently justiciable under the Constitution.

Constitutional reform, in the context of this convening and the broader advocacy landscape, means including those rights so that the state can be held accountable for the basic services it is constitutionally obligated to provide. It was also noted that inclusion in the Constitution is not the same as realisation. Rights that are written down must still be implemented, funded, and enforced. The concept of progressive realisation, which had been argued for during the 2024 constitutional review process, is the mechanism that bridges the two. It does not demand perfection immediately, but it requires the government to demonstrate intentional, traceable, budgeted steps toward the rights it has committed to. The Constitutional court established under Amendment Bill No. 14 of 2025, and the referendum that is to follow, was identified as one context in which these questions of constitutional reform were already becoming concrete and urgent.

The representative from the Deputy Speaker's office advised civil society to first identify allies not only among politicians but among the people who manage politicians' schedules. Parliamentary staff control access. If they do not know that an event is happening or why it matters, the MP will not be there regardless of goodwill. Second, engage at constituency level. MPs never miss constituency events. That is where they are most accessible and most likely to listen without the competing pressures of the Gaborone calendar. Third, seek committee schedules in advance. Portfolio committee sittings are the spaces where civil society evidence is most likely to be formally received and recorded. Knowing when those sittings are happening, and requesting to present at them, is a more reliable pathway than event invitations.

Moderator Tlamele Mothudi pressed the practical question further. She named the gap between the recommendation to engage creatively and the absence of any specific guidance on what creative engagement actually looks like. Do you go to the constituency office or the Gaborone office? Do you request a meeting through the MP's assistant or through the party structure? Do you invite them to tea, to a sports event, to a community gathering? What does it mean to hijack an event where they are already present? She also raised the idea of requesting a block schedule not a day-by-day diary, but an indication of which months are heavy with committee work and which offer more room. Knowing that May and June are inaccessible, for example, would allow civil society to align its advocacy calendar with legislative windows rather than working against them.

She connected this to an existing project aimed at bridging the gap between Parliament and civil society, suggesting that the findings from the convening should be fed directly into that project. The fact that MPs could not attend this convening is itself information that the bridging project needs. Civil society should not only be told to engage more creatively. Parliament should be asked what it needs from civil society to make that engagement possible. The session made it clear, there was more work to be done, the people in the room are already the choir, this convening should be in front of Parliament. Identify allies. MPs have packed schedules. Find strategic ways to reach them. Reach them at constituency level. They don't have a say on their own priorities. Get to them where they are.





The people in this room are already the choir. What must leave this room completely finished is a commitment to action.

Laone van Vuuren, Head of Policy and Legal Advocacy, LEGABIBO



SESSION 5: PARLIAMENT AS A DRIVER OF INCLUSIVE GOVERNANCE

SETHO MONGATANE – LEGABIBO BOARD CHAIRPERSON

Mongatane framed the session as a classroom in the sense that the concepts being discussed required building from the ground up, because the assumptions people carry into conversations about parliament and democracy are frequently wrong. She started with a question, “Who are we?” to which participants responded, “We are the people.” And Parliament is the people, not separate from them, not above them, but the institution through which 2.5 million Batswana who cannot all sit in one room at once send representatives to make decisions on their behalf. A representative democracy is the mechanism that makes collective governance possible at scale. The test of whether it is working is whether those decisions actually represent the people who sent the representatives. On that test, Mongatane argued, Botswana's Parliament fails regularly and structurally.

She cited Section 77 of the Constitution, which recognised eight major tribes at the time of independence, as the starting point of that failure. She went on to note that Botswana has 37 languages, with one spoken by only five people as of 2024. A constitutional framework built around eight tribes does not reflect the country it purports to govern. This is not a historical curiosity. It is an active legal structure that shapes who is visible in governance and who is not. She defined inclusion directly, drawing on participant responses, who noted that inclusion means being able to see yourself in something. It means being represented. And she mapped what that means concretely which is, if you are a Black, disabled, queer woman, inclusion within Parliament means there is someone in that chamber who is Black, who is queer, who is disabled, who is indigenous. Without that presence, the decisions that emerge from Parliament cannot reflect your reality, because the people making them have no experience of it.

She then opened the floor to a question she had posed the previous day. “Have you ever felt excluded from Parliament?” The responses were immediate and layered. One participant noted that to their knowledge there is no openly queer presence in Parliament, so they had never felt included rather than excluded, which is a different and perhaps more fundamental condition. Another noted that only six women sit among 67 members of Parliament, and only two of those were elected rather than appointed. A widow spoke about the daily experience of navigating institutions, government offices, law-making rooms, village spaces that are built for a world she no longer fits. A participant working in a research capacity raised the question of non-eligible voters noting transgender people whose identity documents do not reflect who they are, who face a structural barrier to participating in the democratic process that elected the parliament that is supposed to represent them.

Another participant raised a practical and immediate example: nurses writing a mother's HIV status on child health cards, which are then sent with the child when they travel to stay with the father's family. The mother's status is disclosed without her consent, not because of individual malice but because a system designed without her in mind did not consider the consequences. Mongatane reflected on what the room had just shown her. If the majority of people present felt excluded from Parliament, then the gap between the institution's mandate which is the government of the people, by the people, for the people and its reality was not a marginal one. It was structural. And the structure was not accidental. Democracy, she argued, had become coupled with capitalism somewhere along the way, and that coupling had consequences for who gets represented and who gets left outside.

She illustrated the consequences with two examples from Parliament's own record, both involving legislation that should have been straightforward. The first was the Employment Act debate on paternity leave. The Employment Act is, she noted, one of Botswana's most progressive pieces of legislation in relation to queer rights. Section 23 explicitly prohibits discrimination on the basis of sexual orientation, giving affected workers a named legal remedy, not just a general non-discrimination clause but specific grounds and specific recourse. But the dominant debate during the Act's passage was about paternity leave. Among 67 members of Parliament, six are women and two of those were elected. The men debating paternity leave were predominantly older. One young male MP stood up and told his colleagues that they were debating something that did not affect them. Their mothers had stayed home, their wives' mothers had stayed home, and they had never been expected to be present at the birth of a child or in the months that followed. His generation had working mothers. His generation did not have that infrastructure.

The response of the older men was to frame the debate around ensuring women married before becoming mothers, rather than around what working parents of any gender actually need. And the same legislation that created protections for queer workers made no provision for queer parenting, because that conversation was never going to happen in a room shaped like the one that existed.

The second example was the domestication of the Convention on the Rights of the Child (CRC) into the Children's Act of 2009. The then leader of the House was so personally resistant to the legislation, which required fathers to be named on birth certificates and created accountability mechanisms for child support, that he walked out of the chamber every time the bill was debated, returning only when the discussion moved on. His resistance, Mongatane suggested, was rooted not in principle but in personal exposure; the requirement to be named as a father made certain private arrangements public. He was forced by the direction of the Khama administration to allow the law to pass. He did not want it. Governance, the structure of protocols, obligations, and institutional accountability overrode his personal position. That, Mongatane argued, is exactly what governance is for.

She extended this to the question of religious indoctrination in public services. She noted that Batswana are required to participate in prayer before accessing government services at the Omang office, at clinics, at public institutions. This is not a constitutional requirement. Chapter 1 of the Constitution declares Botswana a republic. Chapter 2 guarantees freedom of religion and association. But the practice of state-led prayer has been normalised to the point where people do not notice it as an imposition. The effect is that those who approach questions of queer rights, abortion rights, or women's rights from a religious framework believe they are applying Botswana's values. They are not. They are applying an indoctrinated lens that has been embedded through daily practice in public institutions, without legislative authority. Mongatane walked through Botswana's obligations under international instruments: CEDAW, the CRC, the CRPD, the ICCPR, the African Charter on Human and Peoples' Rights, the Maputo Protocol and noted that Botswana is a dualist state, meaning that ratification alone does not incorporate an instrument into domestic law. Parliament must act. And Parliament has not acted on most of these instruments in the ways the instruments require. She noted that when Botswana was reviewed by the African Commission on Human and Peoples' Rights, only two paragraphs in the country's report addressed LGBTQI+ issues: one noting decriminalisation, one saying the country is working on it. No commitments, no accountability, no timelines.

She introduced the concept of the three parliamentary sessions to explain how inclusion or exclusion becomes encoded in law and budget. The State of the Nation Address sets the priorities the President has committed to. The budget session allocates resources to those commitments. The Winter Parliament passes the legislation that gives effect to both. These three sessions feed each other. If the President declares a human rights-led government in the State of the Nation Address and nobody in Parliament asks what that means for the Maputo Protocol, for indigenous communities, for the death penalty, for access to healthcare then the declaration remains a speech. The budget follows the speech, not the need. Legislation follows the budget, not the people.



There was also the issue of the role of parliamentary portfolio committees in oversight to address. Once legislation passes, Parliament does not step back. Portfolio committees and oversight committees exist to hold the executive accountable for implementation. The Botswana Housing Corporation was established by an Act of Parliament to provide affordable housing for Batswana. The question that Parliament's oversight committees should be asking every year is whether BHC is doing that. Air Botswana and the Botswana Railways were established to move people and grow the economy. Are they doing that? The Botswana Meat Commission and the Botswana Agricultural Marketing Board were set up as non-profit enterprises to give Botswana's farmers access to markets. Are they? These are not rhetorical questions. They are the function of parliamentary oversight, and the fact that they are not being asked is itself an accountability failure.

She closed the formal part of her remarks by noting that inclusive governance is not a sentiment. It is a structure. It is the protocols, laws, policies, and regulations that ensure the machinery of government works for everyone, not only for those whose perspectives happen to be represented in the room on the day a decision is made.

“Parliament is the people. But the people in parliament are not always the people that need to be represented. Governance is the ability to ensure that the machinery works for representation, regardless of what the majority or minority says at any given moment.”

**Setho Mongatane, Board Chairperson,
LEGABIBO**

REVIEWING ONGOING LEGAL AND CONSTITUTIONAL DEVELOPMENTS

NOZIZWE NTESANG – CHIEF EXECUTIVE OFFICER, LEGABIBO

Ntesang invited dialogue rather than delivering a presentation. She began with a question. How much do we know about the Constitution of Botswana? Someone noted that a Constitution is the supreme law of the land. That is the parent of all laws, the document from which all other rights are derived. One participant from the Office of the Ombudsman (Maun) offered a translation rooted in Setswana, “Molao motheo ke molao o kwa godimodimo, kgotsa wa botlhokwatlhokwa mo Botswana, o o tlhalosang gore poso e bopilwe jang, le gore lefatshe le tshwanetse go laolwa le go tsamaisiwa jang. Ka ntlha ya gore ke molao o kwa godimodimo, ga gona molao ope o re ka o dirang, re le Batswana, o o sa tsamaisaneng le one Molao Motheo. Melao e e ganetsang Molao Motheo, e tshwanetse ya fetolwa, mme ka dinako tse dingwe, go dirwe melao e mesha gore dikeletso tse di mo Molaong Motheo di fitlhelelwe,” reflecting the group's discussion the previous day about decoloniality and the importance of seeing constitutional literacy as something that belongs to everyone, not only to lawyers. Ntesang noted that much of what she was about to present grew from exactly that impulse, the Constitution should be legible to and reflective of every person it governs.

She situated the session within a task force process that had brought together LEGABIBO, BOCONGO, Ditshwanelo, Botswana Centre for Public Integrity, Young Minds and Motheo o Mosha. . The group had convened in Lobatse deliberately outside of Gaborone, and in a city with historical significance (Botswana's first High Court sits in Lobatse) to examine what the future of constitutionalism in Botswana should look like. The process centred on Bill 14 of 2025, which had already passed in Parliament in August 2025 and proposed the establishment of a dedicated Constitutional Court. The task force's work was not to tell people how to vote in the forthcoming referendum but to ensure that when people voted, they understood what they were voting on. She asked the room how many people had been consulted about the establishment of the Constitutional Court. One participant said she had heard something on a radio programme and knew of a civil society engagement that had taken place, but she had not personally been consulted.

Another participant who had been in the room during that civil society engagement noted that a minister had arrived, presented the government's position, allowed less than six minutes for reflection and questions, and left. The session had been scheduled on the same day as the budget speech, which meant that attention and availability were already divided. It was apparent that it was a presentation, not a consultation. The distinction matters. Consultation implies a genuine give-and-take in which public input can shape a decision. What had occurred was notification. Nozizwe connected this to the constitutional foundation of Botswana itself. Chapter 1 of the Constitution is a single line: Botswana is a republic. A republic is a country where power rests with the people.



REVIEWING ONGOING LEGAL AND CONSTITUTIONAL DEVELOPMENTS

NOZIZWE NTESANG – CHIEF EXECUTIVE OFFICER, LEGABIBO

During her presentation, she asked a question about judicial quorum. The bill does not specify how many judges must sit on a constitutional matter. This is not a technical oversight. It has direct consequences. A bench of one judge hearing a matter concerning the rights of LGBTQI+ people is a bench whose outcome depends entirely on that one judge's disposition. The value of an odd-numbered bench, three, five, seven judges, is that it distributes deliberation, introduces multiple perspectives, and reduces the risk that a single individual's bias determines a constitutional outcome. Without a specified quorum, that protection does not exist. The second concern was the unclear legal status of the bill itself, and the way in which the public conversation around it had been shaped. She pointed out that the dominant narrative around the Constitutional Court had emphasised that it would create new rights and deliver better protection for Batswana. This framing misunderstands what the bill does. The bill creates a court. It does not expand the rights already enshrined in the Constitution.

A person whose rights are being violated is not better protected simply because there is now a specialised venue in which to litigate that violation. The protection comes from the right being in the Constitution and the state being held to it. The court is a mechanism, not a guarantee. Conflating the two leads citizens to vote for or against the court based on expectations it cannot fulfil. She noted that the task force had produced materials in both English and Setswana, specifically to ensure that constitutional literacy work reached beyond Gaborone and beyond communities already connected to civil society networks. The referendum affects every Motswana. The conversation needed to reach every Motswana.

She closed by restating the task force's objective which is not to direct the vote, but to ensure it is informed. Citizens should be able to say clearly what a yes vote means, what a no vote means, and what either outcome will and will not change about the legal protections available to them. That clarity requires investment in civic education, from the government, from Parliament, from civil society, and from the media, before the referendum takes place.

Consultation would have been: this is the process, this is how you can participate, here is the time to reflect, here is where you can engage. Instead, the minister came and told us what they were going to do, gave us six minutes, and left. That is not consultation. That is a notification.

Session participant, Constitutional Developments Discussion





MARRIAGE EQUALITY AND THE LORATO KE LORATO CAMPAIGN

MATLHOGONOLO SAMSAM – PROJECT CONSULTANT FOR ‘LORATO KE LORATO’

Samsam set the tone for the presentation by stating that she would not walk through the legal technicalities of the case in detail. She was going to explain what the case is about and why it matters.

The case involves two women who want to enter into a civil marriage. She explained that Botswana's marriage framework clearly states that there is a traditional marriage involving bogadi and family negotiations (a customary marriage), a religious marriage solemnised by an ordained minister, and a civil marriage, which is the moment the state becomes involved and the marriage becomes legally recognised. What the two women in the case are asking for is a state recognition of their union, a marriage certificate, and the legal benefits that follow from it. LEGABIBO has built a campaign in support of this case called Lorato ke Lorato, which translates as Love is Love. The campaign is grounded in dignity, equality, and the constitutional argument that there is no hierarchy of love. A heterosexual union is recognised and protected. The same recognition should be available to everyone.

The central legal question is whether it is constitutional for the Marriage Act to exclude a section of society on the basis of sexual orientation. She noted a second, equally important question: does the Marriage Act even explicitly exclude same-sex couples? It does not say they cannot marry. But it uses the language of bride and bridegroom, that assumes opposite-sex partners. That ambiguity is not neutral. It is, she argued, conveniently exclusionary. She was direct about what marriage actually means beyond the ceremony. A legally recognised union determines who can make medical decisions for an incapacitated partner. It determines inheritance. It determines how partners are treated by financial institutions, by hospitals, by the state.



We should not have to go to court to contest for our lives when we have people with the mandate of making laws

who have the resources and the offices. Parliamentary silence on issues that affect the constitutional rights of citizens counts as state violence against minority groups.

Matlhogonolo Samsam



Decriminalisation said the state will not prosecute same-sex intimacy. But it left intact a structure in which same-sex couples cannot formalise their lives together in any legally binding way. She named the contradiction that you can be in the relationship, but you cannot get married. You can exist, but you cannot fully belong. She situated the case within Botswana's jurisprudential trajectory. The Rammoge case affirmed freedom of association. The ND case affirmed that dignity includes legal recognition of identity. The Motshidiemang case affirmed that the Constitution is a living document that must be interpreted in line with its values. The marriage equality case is the next question in that sequence, and it is being asked of a court system that has already demonstrated it can answer honestly.

She argued that backlash is a signal that the advocacy is working. Every expansion of rights produces resistance from those who feel a system of power being challenged. That resistance is uncomfortable, but it is also measurable evidence that the message is getting through. The response to backlash is not to retreat but to sharpen the civic education that builds public understanding over time.

She closed with a challenge to the absent parliamentarians. They should not distance themselves from this case. Parliament's silence on a question of constitutional rights is not neutrality. It is an absence with consequences. Civil society should not have to go to court to contest for the right to exist fully in the country where its members are citizens.



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We have judgments from the courts and international instruments that we have ratified, but have not domesticated. The question is where rights get lost in that journey, and how we bridge that gap.

Parliament must enact enabling legislation and do so within set timelines. If there are no consequences for inaction, there will be no action.

Dr. Tshepiso Ndzinge-Makhamisa, University of Botswana

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SESSION 6: FROM GAPS TO ACTION

DR. TSHEPISO NDZINGE-MAKHAMISA – NDZINGE-MAKHAMISA LAW GROUP AND LECTURER, UNIVERSITY OF BOTSWANA

Dr. Ndzinge-Makhamisa delivered an analytical presentation. A lecturer of constitutional law at the University of Botswana, with additional practice in human rights litigation and civil society work in the disability and SRHR spaces, he presented a rigorous framework for understanding where rights get lost in Botswana's legal system and what is required to recover them.

He mapped an implementation lifecycle with five stages: constitutional recognition, judicial declaration, legislative enactment, administrative implementation, and community access and reach. He argued that Botswana has performed well at the first two stages but fails consistently at the remaining three. The most visible evidence is the seven-year gap between the 2019 Motshidiemang ruling and the April 2026 Penal Code amendment, and the near-decade of non-implementation of the ND v AG gender recognition order. On legal gender recognition, The ND judgment [ND v Attorney General of Botswana and Others, MAHGB-000449-15, 2017] did not only grant relief to one individual. It explicitly ordered the Government of Botswana to create an administrative process that would make gender marker correction accessible to all transgender people, without requiring individual court orders. That process does not exist. Administrative offices continue to direct transgender people to court. This is a misreading of the judgment that has become the de facto policy. The consequence is that 82% of transgender people in Botswana carry identity documents with incorrect gender markers. That is not an edge case. It is the norm. And it means that 82% of transgender people in Botswana face barriers to banking, healthcare, voting, education, employment, travel, and property registration.

He identified the bottlenecks that create and sustain the implementation gap. These are Legislative, Parliament is slow to translate court orders into statute, with the Motshidiemang case being the least example. Administrative obstruction, officials retain discretion to obstruct without consequences, and the ND systemic order has gone unenforced without accountability. Access barriers, community members do not know their rights, do not know the oversight mechanisms, and have no practical pathway to enforce what courts have already decided. He presented specific reforms that would address these gaps. Parliament must enact enabling legislation within defined timelines following constitutional judgments. Courts must include sunset clauses in human rights judgments that compel legislative or administrative action within a specified period, with consequences for non-compliance. Mandatory training on constitutional compliance must be introduced for all civil servants, including healthcare workers, registration officials, and police officers. Human rights reporting must be a requirement for every ministerial portfolio committee, not only the social sector.

A parliamentary human rights committee must be established with oversight authority and civil society engagement mechanisms. And the proposed Constitutional Court must be accompanied by funded public interest litigation mechanisms, so that access to justice is not limited to those who can afford it.

FORWARD-LOOKING ADDRESS

LETLHOGONOLO MOKGOROROANE – SENIOR LEGAL RESEARCHER, CENTRE FOR APPLIED LEGAL STUDIES (CALS); LEGAL COUNSEL TO THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO HEALTH

Letlhogonolo Mokgororoane delivered the closing substantive address. They grounded their remarks in specific cases from their practice. In *AK v Minister of Police* before the Constitutional Court of South Africa, they asked what the state owes a woman whose cry for help was ignored. In *Sigmund v Peterson* before the Appeal Court, they asked whether a survivor's voice is hers to use. In *Mokwena v Head of Correctional Services*, an Equality Court found that denying gender-affirming healthcare to a trans woman in prison, who was misgendered, refused hormones, and forced to self-medicate, constituted unfair discrimination. Their argument was clear: rights do not end at the prison gate. Dignity is not something the state can withdraw when it decides a person has forfeited it.

They defined lived social reality with precision. It is not simply the absence of arrest. It means a young lesbian in Gaborone can walk to class without rehearsing how to shrink herself. A gay man in Francistown can report an assault and be taken seriously. A transgender person can access healthcare without humiliation. Parents see their children's identities as a family truth and not a family shame. These are not exceptional demands. They are the minimum that every citizen receives without fighting for it. Until the experience of LGBTQI+ people in Botswana reaches that minimum, the work is not done. They outlined the practical package of reforms Botswana must now prioritise. A national non-discrimination framework, explicit and enforceable across employment, education, healthcare, housing, and public services, with accessible remedies and named consequences. Strengthened legal responses to hate-motivated violence with KCM's name as a reminder that this is not an abstract legislative question. A simple, accessible, non-medical administrative pathway for legal gender recognition: a standard form, available at every office of the Department of Civil and National Registration, processed on the basis of self-determination alone, requiring no court order, no surgery, no psychiatric diagnosis.

They addressed civil society accountability directly. Shadow reports to the African Commission on Human and Peoples' Rights are a tool that civil society can and must use without waiting for the state. Botswana's parliamentarians must be engaged directly about the inter-parliamentary forum on family values and must not attend or endorse the Draft African Charter on Family, Sovereignty and Values.

They closed with a moment from the room itself. Someone present had been misgendered during the two days of the convening. Not out of malice, but out of habit. They named this not to shame anyone, but to locate the work in the room itself, among people who had come precisely because they believed in dignity. The courts and Parliament are important. But the first test of transformation is in the daily conduct of people who say they are committed to it.



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A court judgment can change the law, but it does not automatically change the streets, the home, the clinic, the corridor. If a victory does not change how people sleep at night, it is incomplete. History will not ask us what we have won. History will ask us what we have built.

Letlhogonolo Mokgororoane, Centre for Applied Legal Studies

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CLOSING SESSION AND COLLECTIVE COMMITMENT

LAONE VAN VUUREN – HEAD OF POLICY AND LEGAL ADVOCACY, LEGABIBO

The closing session invited participants to name what gave them hope about Botswana and to commit to specific actions they would carry from the room. Responses on hope included, civil society commitment, peace, the ongoing constitutional review process, and rape cases being taken more seriously and pursued more aggressively. The constitutional review and civic participation were named as reasons for cautious optimism.

On moving from court victories to lived realities, participants identified the domestication of the Maputo Protocol, parliamentary willpower, civil society pressure, sunset clauses in judicial orders, and accountability mechanisms as the essential building blocks. The responsibility the room carried was to uplift communities, hold leaders accountable, and carry these issues forward beyond the formal event.

Messages written to absent MPs were collected. They called for constitutional reform with socioeconomic rights, budget accountability linked to specific outputs, legislation on abortion and hate crimes, consultation processes with genuine and adequate notice, improved access to parliamentary offices, and a commitment to listening to constituents about social ills rather than only addressing infrastructure and employment.

CLOSING REMARKS

SETHO MONGATANE – BOARD CHAIRPERSON, LEGABIBO

Mongatane closed the convening with gratitude to SALC, Equality Now, and GEC. She acknowledged the partners who had supported LEGABIBO. She thanked the LEGABIBO Secretariat and every participant who had travelled to be present.

She noted again the absence of MPs and how it was a missed opportunity since what the room had built, from the analysis, the testimony and the commitments was the foundation from which engagement with Parliament would now proceed. She closed the event which she opened the day prior with a practical instruction to introduce the gender-neutral Setswana greeting Dumelang Betsho in place of gendered honorifics, as a small, everyday act of inclusion that begins in language.

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“We might not have Members of Parliament here today, but we have gotten to the bottom of what the true North looks like. If you see a parliamentarian, tell them their absence here was a loss for them, and for the people they represent.”

— **Setho Mongatane, Board Chairperson,
LEGABIBO**

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KEY THEMES AND CROSS-CUTTING FINDINGS

1. The Absence of Parliament

The non-attendance of Members of Parliament was the most visible structural finding of the convening. Multiple speakers named it not as a logistical failure but as a systemic problem with implications for the democratic process itself. Civil society cannot hold Parliament accountable if Parliament will not enter the room where accountability is being discussed. The messages left by participants for their MPs serve as a formal record of the demands the convening would have placed on elected officials had they been present. They now form the basis of LEGABIBO's parliamentary follow-up agenda.

2. The Rights-Reality Gap

The convening's most consistent finding was the structured and persistent gap between constitutional recognition, judicial declaration, and lived reality. Botswana has excelled at the first two stages of the implementation lifecycle. The challenge lies in legislative enactment, administrative implementation, and community access. Seven years elapsed between the Motshidiemang ruling and the Penal Code amendment. The ND gender recognition order remains unimplemented nearly a decade later. The Maputo Protocol has been ratified but not domesticated. At every stage, the same question recurs: who is accountable for the gap, and what happens when that accountability is absent?

3. Intersectionality as Analysis

Multiple speakers insisted on intersectionality as a method of analysis rather than a rhetorical gesture. A lesbian woman navigating Botswana's healthcare system is not only navigating homophobia. She is also navigating gender discrimination, poverty, geographic access barriers, and the specific silences in health policy that leave her invisible. A transgender man is not only confronting transphobia; he is confronting a health system that has no administrative pathway for his legal recognition, no budget line for his care, and no training programme for the service providers he encounters. Policy that does not account for this complexity does not serve the people it claims to address.

4. The Constitutional Court, the Referendum, and the Marriage Equality Case

Three constitutional developments with direct bearing on the convening's agenda were reviewed across both days. The Constitutional Amendment Bill No. 14 of 2025 and its associated referendum raise questions of constitutional literacy and public engagement that have not been adequately addressed. The July 2026 marriage equality case tests the outer limits of Botswana's constitutional equality framework and requires MPs to take a position rather than maintain silence. The inter-parliamentary forum on family values and the Draft African Charter on Family, Sovereignty and Values represent an organised counter-movement that must be actively resisted at the parliamentary level.

5. Budget Accountability as a Rights Tool

Across sessions, participants returned to the budget as the site where commitments become real or remain declaratory. Budget increases at a ministerial level must be narrated: traceable to specific programmes, measurable outcomes, and concrete service delivery targets. Gender-responsive budgeting is not a technical instrument for the Ministry of Finance; it is a constitutional obligation that requires every portfolio committee to ask whether its budget serves the full range of people the ministry is constituted to serve. This includes LGBTQI+ individuals, persons with disabilities, rural communities, women, and youth.

6. Family Law Reform Gaps Beyond Same Sex Marriage Equality

The convening surfaced a body of family law reform concerns that extend well beyond the question of same-sex marriage equality. Deborah Nyokabi's presentation, drawing on the Equality Now report on gender inequality in family laws in Africa, identified structural gaps in Botswana's family law framework that affect women, children, and marginalised groups broadly. The Constitution of Botswana contains no reference to the family, leaving the legal protection of family relationships to legislation that is inconsistent, uncoded, and frequently discriminatory. The application of customary law in rural areas continues to produce discriminatory outcomes for women in marriage, inheritance, and property ownership, and no comprehensive framework currently governs the relationship between customary and statutory law in family matters.

Marital rape is not criminalised in Botswana. The Domestic Violence Act has not been strengthened to reflect the full range of violence experienced within intimate and family relationships. Cohabiting partners, including same-sex couples but also opposite-sex couples who have chosen not to marry, receive minimal legal protection on the dissolution of a relationship, including in relation to property and financial claims. While the Abolition of Marital Power Act of 2004 marked a significant milestone in removing a husband's automatic legal authority over a wife, legislative reform has not been matched by cultural or administrative change in practice. These gaps are not peripheral to the convening's agenda. They are central to it. A family law framework that does not protect women, does not recognise diverse family forms, and does not criminalise violence within the home undermines every other rights-based advance that Botswana's courts and Parliament have made. Parliament must treat family law reform as a comprehensive legislative agenda, not a series of isolated amendments, and must ensure that civil society, including organisations working on gender, disability, SRHR, and LGBTQI+ rights, is meaningfully consulted throughout that process.



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ANNEX

Unified Call to Action / Collective Commitment

High-Level Multi-Stakeholder Convening on 25–26 May 2026, Gaborone, Botswana

The participants of the High-Level Multi-Stakeholder Convening on Family Law, SRHR, Human Rights, and Inclusive Governance in Botswana, convened on 25 and 26 May 2026 in Gaborone, committed to the following legislative priorities and strategic actions. They directed these commitments to the National Assembly of Botswana, to the executive and administrative institutions of government, and to the civil society organisations and regional networks that constitute our movement. They noted, with concern, the absence of Members of Parliament from this convening, and committed to carrying these priorities directly into parliamentary engagement in the weeks and months that follow.

Priority 1: Legal Gender Recognition - Immediate Administrative Action

The High Court's order in *ND v Attorney General of Botswana and Others* [MAHGB-000449-15, 2017] requires the Government of Botswana to create an accessible administrative process for gender marker correction. This order has not been implemented in nearly a decade. There was a call on the Department of Civil and National Registration to establish a simple, non-medical, non-judicial administrative pathway for legal gender recognition, available at all registration offices nationwide, requiring no court order, no surgical proof, and no psychiatric diagnosis.

Priority 2a : Maputo Protocol Domestication - Parliamentary Roadmap

Botswana ratified the Maputo Protocol in December 2023. It has not been domesticated. Parliament must publish a domestication roadmap and complete enabling legislation, with budget allocations, timelines, inter-ministerial responsibilities, and civil society consultation built in.. Specifically, civil society organisations will: (a) convene a dedicated parliamentary briefing on the Maputo Protocol, presenting a proposed domestication roadmap to relevant portfolio committees, including the committees on Women and Youth, Health, and Justice; (b) produce and submit a model domestication bill to the Ministry of Justice and relevant committees as a practical legislative starting point; (c) request formal committee hearings before the next State of the Nation Address to place the domestication timeline on the parliamentary agenda; and (d) coordinate with other CSOs to submit a joint alternative report to the African Commission on Human and Peoples' Rights documenting domestication gaps.

Priority 2b: AUCEVAWG Parliamentary RoadMap

On the AUCEVAWG, the concern is that the responsible ministry coordinated local consultation but chose not to challenge gaps in the document. Botswana must engage critically with regional instruments, not simply participate in processes without analysing the normative content of the instruments. On the AUCEVAWG, civil society will formally communicate to the Executive the specific provisions of the AUCEVAWG that require amendment, and will request a written response from the responsible ministry on whether and how those concerns will be raised with the relevant African Union organs. Civil Society, will further, submit a formal memorandum requesting the Government of Botswana to pause processes to sign or ratify the signal.

Priority 3: Hate Crime Legislation - Bill Tabled Within This Parliamentary Session

The 2025 murder of KCM in Maun, widely regarded as a hate crime, occurred in the absence of any legislative framework that recognises prejudice-based motivation as an aggravating factor. There was a call on the National Assembly to table a Hate Crimes Bill within the current parliamentary session that explicitly covers crimes motivated by prejudice on grounds of sexual orientation, gender identity, disability, religion, and ethnicity. Parliamentary silence on this issue is not a neutral position.

Priority 4: Parliamentary Human Rights Committee - Established Within This Term

Botswana does not have a dedicated parliamentary human rights committee. The participants called on the National Assembly to establish one within this parliamentary term, with a mandate to receive civil society submissions, conduct oversight hearings on the implementation of court judgments and international treaty obligations, and report publicly on progress. The committee must be adequately resourced and empowered to require ministerial attendance and document production.

Priority 5: Constitutional Reform and Referendum Preparation

The Constitutional Amendment Bill No. 14 of 2025 proposes the establishment of a Constitutional Court. The associated referendum cannot be held meaningfully without sustained investment in constitutional literacy by the state. The call is on the government to fund and implement a national constitutional education programme before any referendum is scheduled. We further call on the referendum to include consideration of socioeconomic rights, the right to health, the right to housing, and binding implementation timelines for court judgments.

Priority 6: Non-Attendance at Anti-Rights Forums

The inter-parliamentary forum on family values, which has met annually in Entebbe, Uganda, is drafting a document described as the Draft African Charter on Family, Sovereignty and Values. This charter would define marriage exclusively as between a man and a woman, prohibit abortion in all contexts, and reject internationally recognised definitions of gender equality and SRHR. This call is on all Members of Parliament from Botswana to refuse to attend this forum and to publicly state their reasons for doing so. Civil society will monitor and publicly report on parliamentary attendance at anti-rights forums.

Priority 7: Family Law Reform - Parliamentary Engagement on Gaps Beyond Marriage Equality

The convening identified significant gaps in Botswana's family law framework that extend beyond the pending marriage equality case and require dedicated parliamentary attention. These include: the absence of marital rape criminalisation; the inadequacy of the Domestic Violence Act; the lack of constitutional recognition of the family; the discriminatory application of customary law in rural areas on matters of inheritance, property, and marriage; and the absence of legal protections for cohabiting partners on the dissolution of a relationship. A standalone gender equality law that brings coherence to Botswana's scattered legislative landscape on family, property, and personal status was called for by presenters and is now included in this collective commitment.

Civil society commits to: (a) developing a comprehensive family law reform brief, drawing on the Equality Now report and the evidence presented at this convening, and submitting it to the relevant parliamentary portfolio committees; (b) requesting a joint committee hearing before the end of the current parliamentary term, at which civil society, women's rights organisations, legal practitioners, and community members can present the case for a comprehensive family law reform agenda; (c) advocating for the criminalisation of marital rape through a specific engagement with the Law Reform Unit under the Attorney General; and (d) monitoring and publicly reporting on parliamentary inaction on family law reform as part of LEGABIBO's ongoing parliamentary accountability work.

Priority 8: SADC-PF Engagement - Regional Push for National-Level Reforms

The Southern African Development Community Parliamentary Forum (SADC-PF) is a regional mechanism that can provide critical institutional momentum for national-level legal and policy reforms. Model laws, guidelines, policies, and frameworks developed through SADC-PF have historically been used to accelerate and harmonise legislative reform across member states. LEGABIBO and civil society partners commit to using the SADC-PF as a lever for the national reform agenda identified at this convening, recognising that regional peer pressure and regionally endorsed frameworks can open parliamentary doors that domestic advocacy alone has not yet been able to open.

Specific commitments include: (a) engaging the GEC and SADC-PF to identify model guidelines, model laws, and policy frameworks on gender equality, LGBTQI+ rights, legal gender recognition, and family law reform that are relevant to Botswana's current legislative agenda, and submitting these formally to relevant parliamentary portfolio committees as regional reference points for national reform; (b) working with the GEC to identify Botswana MPs who are already engaged with SADC-PF structures and supporting them to champion the reform agenda within those forums; (c) requesting that SADC-PF place Botswana's implementation gaps, specifically on the Maputo Protocol, legal gender recognition, and family law, on the agenda of its next relevant committee session; and (d) building a civil society monitoring function that tracks SADC-PF commitments made by Botswana's parliamentary representatives and reports publicly on whether those commitments are followed through at the national level.

Strategic Actions for Civil Society

- Submit shadow reports to the African Commission on Human and Peoples' Rights within 90 days, covering the implementation gaps documented at this convening.
- Develop a parliamentary engagement strategy built on constituency access, committee schedule alignment, and relationship-building with parliamentary staff, to be piloted within 60 days.
- Continue and expand the Lorato ke Lorato public survey on marriage equality perceptions in advance of the July 2026 High Court hearing, using the data to build an evidence base for public and parliamentary engagement.
- Develop and submit policy papers to the Ministry of Health and Ministry of Labour on inclusive health policies and workplace protections for LGBTQI+ individuals and other marginalised groups, within 90 days.
- Establish a monitoring mechanism to track parliamentary attendance at the inter-parliamentary forum on family values and to respond publicly when Botswana parliamentarians participate in anti-rights processes.
- Report back to the LEGABIBO Secretariat within 30 days on specific actions taken in response to the collective commitment adopted at this convening.

*Agreed on by the participants of the High-Level Multi-Stakeholder Convening,
Gaborone, Botswana, 26 May 2026.*

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For LEGABIBO, with the support of Equality Now.

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