



BOTSWANA
Mid-term Assessment
Global Fund Breaking Down Barriers Initiative

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DISCLAIMER

Towards the operationalization of Strategic Objective 3(a) of the Global Fund Strategy 2017-2022, this mid-term assessment was commissioned by the Global Fund to Fight AIDS, TB and Malaria (“Global Fund”) and presents the findings of the independent research team that carried out the assessment. The views expressed do not necessarily reflect the views of the Global Fund.

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Breaking Down Barriers Initiative Countries

The following 20 countries are part of the *Breaking Down Barriers* initiative. As the mid-term assessments take a differentiated approach, they are categorized by assessment type: rapid, program or in-depth. Botswana is a program assessment.

Mid-term Assessment Type	Countries
Rapid	<ul style="list-style-type: none">• Benin• Democratic Republic of Congo (rapid +)• Honduras• Kenya• Senegal• Sierra Leone• Tunisia• Uganda (rapid +)
Program	<ul style="list-style-type: none">• Botswana• Cameroon• Cote d’Ivoire• Indonesia• Jamaica• Kyrgyzstan• Mozambique• Nepal• Philippines
In-depth	<ul style="list-style-type: none">• Ghana• South Africa• Ukraine

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Summary

Introduction

The Global Fund's *Breaking Down Barriers* (BDB) initiative provides support to countries to scale-up to comprehensive levels programs to remove human rights-related barriers to HIV, tuberculosis (TB) and malaria services so as to increase the effectiveness of Global Fund grants and ensure that health services reach those most affected. The initiative was launched in 2017 in 20 countries and runs for the length of the current Global Fund Strategy, which ends 2022. This report presents findings from an assessment conducted at mid-term during this period regarding efforts to scale-up these programs in Botswana. It seeks to: (a) assess Botswana's progress towards creating a supportive environment and putting in place comprehensive, quality programming to remove human rights-related barriers to HIV and TB services; (b) describe emerging evidence of impact; and (c) inform future efforts and investment towards this objective.

Breaking Down Barriers' Theory of Change

The theory of change for the *Breaking Down Barriers* initiative is based on evidence from the HIV and TB epidemics that human rights-related barriers to health services¹ increase vulnerability to infection and negatively affect access to, uptake of, and retention in HIV and TB services, particularly for certain key and vulnerable populations. To effectively reduce these barriers, countries should implement — at appropriate scale and with high quality — a set of internationally recognized, evidence-based, human rights and gender-related interventions.² This will in turn accelerate country progress towards national, regional and global HIV and TB targets. Efforts to remove rights-related barriers will also protect and enhance Global Fund investments and will strengthen health and community systems.

Methods

To assess progress towards comprehensiveness and quality of programming, as well as the impact the *Breaking Down Barriers* initiative has had in Botswana to date, the mid-term assessment incorporated a mixed-method analysis approach which included a desk review of program documents and remote interviews with key informants. Countries under review for the mid-term assessment have been divided into three tiers reflecting the level of assessment: rapid, program and in-depth assessments. The mid-term assessment in Botswana was a program assessment. It was conducted primarily between July 2020 and December 2020.

Progress towards Comprehensive Programming

The *Breaking Down Barriers* initiative's efforts to achieve comprehensive and quality programming include: (1) creating a supportive environment to address human rights-related barriers; (2) facilitating programmatic scale-up; and (3) supporting momentum towards quality programming and sustainability.

Progress towards Creating a Supportive Environment to address Human Rights-related Barriers

At mid-term, Botswana has achieved all the milestones necessary to create a national landscape that could deliver on comprehensive programs to remove human rights-related barriers to HIV and TB services (see Table 1). In particular, the processes underpinning the milestones helped facilitate a shared understanding among key stakeholders of those barriers and priority areas of programming, opportunities for potential coordination, and greater ownership of the resulting National Plan. But there remains a need for government leadership to facilitate implementation; without champions from the highest levels of government and across ministries, system-wide change will remain a challenge.

Table 1: Key milestones

Milestone	Results	Date
Matching funds	Applied for and received US\$1 million of matching funding allocated to programs to reduce human rights-related barriers to HIV services, with an additional \$1.18 in the general allocation.	Disbursed Fall 2018
Baseline assessment	Literature review, inception meeting, country visit, key informant interviews and focus groups conducted	May – June 2018
	Report finalized and presented to country	November 2018
Multi-stakeholder meeting	Participants from government, civil society including key and vulnerable populations, technical partners, development partners, donors and academic experts met to validate findings of baseline assessment	November 2018
Working group on human rights, HIV and TB	Technical working group previously formed to support the Legal Environmental Assessment and Baseline Assessment re-established to coordinate implementation of national plan	October 2019
National plan to reduce human rights-related barriers	Removing Legal and Human Rights-Related Barriers to HIV/AIDS and TB Services in Botswana: A National Plan (2019-2024)	Finalized in August 2020; launched in December 2020

Scale-up of Programs: Achievements and Gaps

Botswana showed considerable progress in expanding the scale of human rights programs for HIV from 2.5 at baseline to 3.3 at mid-term (see Table 2). By mid-term, Botswana had implemented and scaled up activities in all key program areas, with improvements in key population and geographic coverage. All HIV program areas also included some cross cutting interventions to address harmful gender norms and gender-based violence, enhancing their gender responsiveness.

Since baseline, stigma and discrimination activities across various mediums increased in terms of district coverage, mix of approaches, and more focused, peer-led activities for transgender people. Legal literacy and legal services programs had also expanded, often in tandem, and were offered by a growing number of key population-led organizations tackling a broader range of legal issues. Many of these programs are integrated into key population and health service delivery programs. The introduction of a formal human rights documentation program, with human rights monitors and paralegals who visit health facilities, police and other settings to document human rights violations against and provide legal referrals to key populations and adolescent girls and young women is another promising development that will enhance access to legal services and help inform advocacy. The recent digitization of this work and the use of a new mobile app for this purpose will not only facilitate analyses of trends but the roll out of the program nationally. Perhaps most striking, major structural barriers have been removed, including criminal laws against same-sex intimacy, a policy denying free HIV treatment to non-citizens, and a policy denying married women the right to own land.

Progress with respect to training for health care providers and sensitization of lawmakers and law enforcement has been more limited. Standardized pre-service training for health care workers and law enforcement on HIV and TB, human rights, gender equality and key populations has yet to be implemented, and in-service sensitization activities continue to operate at smaller scale, and in some

cases on an *ad hoc* basis. Sensitization activities with lawmakers such as parliamentarians and the judiciary are also isolated.

Overall, there is strong engagement on the part of civil society, including key-population-led organizations and their allies, to address human rights-related barriers to services and a willingness to expand this work, much of which is concentrated in the urban and peri-urban areas of the country where there are the highest disease burdens. Sustaining and scaling up human rights programming will require ongoing investment to build capacity and the roll out of rights-related services nationwide.

Table 2: Baseline vs. Mid-Term Scores of Program Comprehensiveness

Program areas	HIV	
	Baseline	Mid-Term
Stigma and discrimination reduction	3.1	3.8
Training for health care providers on human rights and medical ethics	2	2.5
Sensitization law-makers and law enforcement agents	1.5	2.3
Legal literacy (“know your rights”)	3.1	3.8
Legal services	2.3	3.3
Monitoring and reforming laws, regulations and policies relating	3	4.3
Reducing discrimination against women	2.5	3.4
Overall score	2.5	3.3

Key

- 0 – no programs present**
- 1 – one-off activities**
- 2 – small scale**
- 3 – operating at subnational level**
- 4 – operating at national level (>50% of geographic coverage)**
- 5 – at scale at national level (>90% geographic coverage + >90% population coverage)**
- N/A – Not applicable**

For detailed scorecard key, see Annex II

Cross-cutting Issues related to Quality Programming and Sustainability

To the extent possible, the mid-term assessment reviewed cross-cutting overall indicators of quality.³ On the whole, a number of projects have successfully integrated human rights programs with health service delivery programs and combined program areas to reduce human rights-related barriers to HIV and TB services — increasing their reach, impact and sustainability. At the same time, human rights programs remain inadequately funded, international donor funding is expected to decline, and interventions such as standardized pre-service and in-service training for health care workers and law enforcement that would enhance reach and sustainability have yet to be implemented. Moreover, there remains a need to better coordinate human rights programs to address potential duplication of activities in specific districts, and to build the capacity of program implementers to evaluate the quality of human rights programming as well as to track and analyze the monitoring and evaluation data that exists.

Encouragingly, there have been promising developments in recent years, including the recent establishment of a Health and Human Rights Unit at the National AIDS and Health Promotion Agency staffed by a Legal and Human Rights Officer responsible for providing technical support for and coordinating Botswana’s multisectoral HIV responses, and a Monitoring and Evaluation Officer responsible for tracking and evaluating Botswana’s multisectoral HIV responses. In 2019, the Ministry of Health and Wellness also produced Botswana’s *Fund Strategy for Civil Society-led HIV services* in 2019 setting out a strategy for the Government of Botswana to fund non-governmental organizations to implement priority HIV prevention, care and support programs, and committed domestic funds for future human rights programming. Building the political will to meaningfully implement these developments will be essential to facilitate program quality and sustainability.

Emerging Evidence of Impact

At mid-term, the assessment documented emerging evidence regarding the impact of programming to remove human rights-related barriers to HIV services in the form of a case study on advocacy to decriminalize same-sex intimacy.

Laying the groundwork for the Botswana High Court to decriminalize same-sex intimacy

LEGABIBO is Botswana’s longest-running human rights organization seeking to promote the human rights of Botswana’s LGBTI community, including via a series of successful court challenges. These legal victories helped lay the groundwork for a case challenging Botswana’s laws prohibiting same-sex intimacy. With legal support from the Southern Africa Litigation Centre, LEGABIBO played a key role as *amicus curiae* in the case, challenging the constitutionality of sections 164(a), 164(c), 165 and 167 of the Botswana Penal Code criminalizing same-sex intimacy between consenting adults. LEGABIBO filed evidence describing the impact of criminalization on LGBTI mental health, experiences of violence, and access to health care services.

In June 2019, the High Court of Botswana unanimously declared that sections 164 and 165 were unconstitutional as they contravened fundamental rights enshrined in the Constitution, and clarified that sexual acts taking place in private would not amount to gross indecency under section 167. In its decision, the High Court noted that the evidence before it — submitted by LEGABIBO — demonstrated that the aforementioned sections constituted examples of structural stigma, and that the criminalization of consensual adult same-sex intimacy subjected LGBTI persons in Botswana to violence and hampered their access to health care and HIV services. This ruling came 16 years after the Botswana Court of Appeal upheld the criminalization of same-sex intimacy and marked a significant turning point and victory for LGBTI rights in Botswana.

Conclusion

The mid-term assessment identified promising developments that will strengthen Botswana’s ability to maintain and scale up a comprehensive response to human rights-related barriers to HIV and TB services. The longstanding work of sensitizing affected communities about their rights and a strong track record of strategic litigation in upholding the rights of key and vulnerable populations has fostered a culture of human rights in the country. Building on this strong foundation that has been supported by Global Fund funding streams over the years, the *Breaking Down Barriers* initiative has harnessed the expertise of key population-led and other civil society organizations to identify human rights barriers to HIV and TB services and to design and implement priority programs, resulting in both a shared understanding of barriers and priorities and a shared commitment to continued scale up of programs. The *Breaking Down Barriers* initiative has also mainstreamed programs to reduce human rights-related barriers to the HIV and TB responses and contributed to greater acceptance of their importance by government agencies, most explicitly reflected in the country’s *National Strategic Framework 2019-2023*, which commits to a rights-based response to HIV and — for the first time — to improve the policy and legal environment for key populations. However, many human rights programs still operate in limited districts with inadequate funding to expand. It will be critical to scale up and sustain those programs, including by integrating human rights programming into each district health support system, with additional investments in order to achieve comprehensive coverage of programs to reduce human rights-related barriers to HIV and TB services.

Key Recommendations (see Report Annex for a full set of recommendations)

Creating a Supportive Environment
<ul style="list-style-type: none">• Task the Health and Human Rights Unit with coordinating regular meetings of the Technical Working Group on Health and Human Rights to provide oversight over and ensure effective implementation of the National Plan.• Promote wider knowledge of and engagement with the National Plan by all government ministries and agencies, including the Ministry of Health and Wellness, Ministry of Nationality, Immigration and Gender Affairs, Ministry of Basic Education, Ministry of Tertiary Education, Ministry of Defence, Justice and Security, Ministry of Local Government and Rural Development, Botswana Police Service, Botswana Prison Service, Attorney General’s Chambers and National Gender Commission, donors, technical partners and relevant civil society, human rights, gender equality and key population organizations, and seek synergies with other national plans or strategies, including those related to gender equality.• Use the National Plan as a tool to seek funding from a diversity of donors and to coordinate the funding of different activities.
Programmatic Scale-up
<ul style="list-style-type: none">• Develop monitoring and evaluation tools for each program area, tracking gender, age, data on key indicators and qualitative information, and periodically assess and adapt programs based on routine program monitoring and these evaluations.• Continue to support the development of human rights expertise among key population-led and grassroots organizations and diversify funding sources to support national scale up of programs to remove human rights-related barriers to HIV services.
Programmatic Quality and Sustainability

- Identify opportunities to integrate human rights programs into HIV and TB prevention and treatment programming nationwide and provide dedicated funding for this work.
- Prioritize the coordination of programs to remove human rights-related barriers to ensure that they are complementary, using the National Plan as a framework.
- Institutionalize the Health and Human Rights Unit within the Ministry of Health and Wellness and support the functions of that office with other permanent staff, including a Monitoring and Evaluation Officer.
- Implement the *Fund Strategy for Civil Society-led HIV services* to increase domestic funding of programs to remove human rights-related barriers.

Introduction

This report presents the findings of the mid-term assessment conducted in Botswana from July 2020 to December 2020, on behalf of the Global Fund to Fight AIDS, TB and Malaria (Global Fund), to: (a) assess Botswana’s progress towards creating a supportive environment and putting in place comprehensive, quality programming to remove human rights-related barriers to HIV and TB services; (b) describe emerging evidence of impact; and (c) inform future efforts and investment towards this objective. In 2017, the Global Fund launched the *Breaking Down Barriers* (BDB) initiative to help 20 countries, including Botswana, comprehensively address human rights-related barriers to services for HIV, TB and, where applicable, malaria.

Breaking Down Barriers initiative’s Theory of Change

The theory of change for the *Breaking Down Barriers* initiative is based on evidence from the HIV and TB epidemics that human rights-related barriers to health services⁴ increase vulnerability to infection and negatively affect access to, uptake of, and retention in HIV and TB services, particularly for certain key and vulnerable populations. To effectively reduce these barriers, countries should implement — at appropriate scale and with high quality — a set of internationally recognized, evidence-based, human rights and gender-related interventions (see Text Box 1). This will in turn accelerate country progress towards national, regional and global HIV and TB targets. Efforts to remove rights-related barriers will also protect and enhance Global Fund investments and will strengthen health and community systems.

The initiative seeks to operationalize Strategic Objective 3 in the 2017-2022 Strategy of the Global Fund to “introduce and scale up programs that remove human rights barriers to accessing HIV, TB and malaria services,”⁵ and Global Fund Key Performance Indicator 9 that measures the extent to which comprehensive programs are established to remove human rights-related barriers to access in 20 priority countries.

“Comprehensive” programs are programs that: (a) comprise a set of activities that are internationally recognized as effective in reducing human rights-related barriers to health (see Text Box 1); (b) are accessible or serve the majority of the estimated numbers of key and vulnerable populations affected by such barriers; and (c) are adequately resourced to move from non-existence or one-off/small-scale activities to a level of implementation likely to significantly reduce human rights-related barriers to services (a sustained, mutually-reinforcing, broadly protective package at scale).⁶

As part of the *Breaking Down Barriers* initiative, the Global Fund also provides support to the 20 countries for key steps (“milestones”) important for creating a supportive environment towards the success of scale-up of programs to remove rights-related barriers. These milestones include: (a) getting sufficient data on the barriers, populations affected and existing programs (through a baseline assessment); (b) getting increased funding to scale-up (through applying for and receiving so-called “matching funds”); (c) getting country engagement and ownership (through a multi-stakeholder meeting to review the baseline assessment and other sources); and (d) getting consensus and buy-in on the way forward (through the establishment of a technical working group on human rights and the development of a national multi-year plan to remove human rights-related barriers to services through comprehensive programs).

Text Box 1: Key Program Areas to Remove Human Rights-related Barriers to HIV and TB Services⁷

For HIV and TB:

- Stigma and discrimination reduction;
- Training for health care providers on human rights and medical ethics;
- Sensitization of lawmakers and law enforcement agents;
- Legal literacy (“know your rights”);
- Legal services;
- Monitoring and reforming laws, regulations and policies relating to the 3 diseases;
- Reducing HIV-related gender discrimination, harmful gender norms and violence against women and girls in all their diversity.⁸

Additional programs for TB:

- Mobilizing and empowering patient and community groups;
- Ensuring privacy and confidentiality;
- Interventions in prisons and other closed settings;
- Reducing gender-related barriers to TB services.

In July 2020, the Global Fund supported a program mid-term assessment examining Botswana’s progress towards putting in place comprehensive, quality programs to remove human rights-related barriers to HIV and TB services, as measured against the baseline assessment and through achievement of the milestones.

Methods

The mid-term assessments take a differentiated approach, categorizing the 20 countries into three tiers: rapid, program and in-depth assessments. All approaches include a desk review of relevant documents. Botswana, as a program assessment, involved an initial electronic questionnaire featuring questions about a broad array of programs that was circulated to stakeholders, followed by remote follow-up video interviews with key informants, or tailored questionnaires based on a key informant’s response to the initial questionnaire. Information from key informant interviews was analyzed using qualitative, quantitative and semi-quantitative methods centered on the question of the comprehensiveness of programs.

The Botswana mid-term program assessment was conducted between July 2020 and December 2020 (Table 1). More information on the assessment’s methods, including a list of key informants and more in-depth explanation of the country scorecard, are provided in Annex II.

Limitations

During the mid-term assessment, the evaluation team sought diverse perspectives from a range of stakeholders. While Botswana features a great number of actors operating in the field of HIV, the mid-term assessment was also conducted during a period of considerable staff turnover, particularly among government stakeholders, posing challenges to comprehensively map programs to remove human rights-related barriers to HIV and TB services. Moreover, the inability to conduct the evaluation in person and in the midst of the COVID-19 pandemic — which radically altered the ways in which stakeholders work and stalled or modified the implementation of programs — means these findings and recommendations should be understood as being the best measurement possible for an evolving and

complex initiative influenced by many political, economic and social forces. Nonetheless, working with a local consultant and carefully selecting and interviewing a diverse set of key stakeholders, the team tried to overcome these limitations as much as possible and provide an accurate snapshot and basis for further development of programs seeking to remove human rights-related barriers to TB and HIV services.

Table 1: Botswana Mid-Term Assessment Timeline

Assessment Component	Researchers	Dates
Desk review of available program reports, epidemiological information, and other background documents	Sandra Ka Hon Chu Julie Mabilat	July 2020
Dissemination of electronic questionnaire to representatives of the Health and Human Rights Technical Working Group	Sandra Ka Hon Chu Julie Mabilat	August – September 2020
Follow-up interviews with 17 relevant key informants	Sandra Ka Hon Chu Julie Mabilat Peter Chibatamoto	August – November 2020
Presentation of key report findings to Global Fund	Sandra Ka Hon Chu Julie Mabilat	December 2020

Part I. Background and Country Context

Epidemiologic Context

Botswana has the third highest HIV prevalence in the world, with 20.7 % of the population aged 15–49 years living with the virus and HIV incidence of 8.23 per 1,000 people.⁹ HIV prevalence varies considerably between districts, and is largely concentrated in the urban and peri-urban areas of the country with the highest disease burdens in Greater Gaborone and Greater Francistown.¹⁰ At 25.1%, HIV prevalence among women is significantly higher than among men (16.5%)¹¹ — a disparity that is also reflected among young people, with reported HIV prevalence among young women at 10.2%, compared to 5.4% among young men.¹²

While the epidemic is firmly established in the general population, key and vulnerable populations are disproportionately affected. As noted in the *Third National Multi-Sectorial HIV & AIDS Response Strategic Framework (NSF III) 2019 – 2023* (NSF III), key populations who are most affected by human rights concerns are female sex workers and men who have sex with men (MSM). Other priority populations include adolescent girls, young women, non-citizens, people with disabilities and remote area dwellers. Potentially “high risk” populations (for whom there is little epidemiological data) are prisoners, transgender persons and people who inject drugs.¹³

Estimated HIV prevalence among sex workers is 42.2%¹⁴ and reportedly higher among migrant sex workers;¹⁵ among men who have sex with men, HIV prevalence is estimated at 14.8%.¹⁶ There is little or no recent epidemiological HIV data about prisoners, transgender persons or people who inject drugs, although there is observed overlap between key populations, and particularly sex workers and men who have sex with men who also use drugs, although not necessarily via injection.

In 2019, an estimated 310,000 people of 380,000 people living with HIV had access to treatment (i.e. 82% coverage). Prior to extending free HIV treatment to non-citizens in 2019, less than one-quarter of an estimated 30,000 foreign residents living with HIV in Botswana had access to HIV treatment.¹⁷ An estimated 87.6% of HIV-positive sex workers and 73.5% of HIV-positive men who have sex with men had access to HIV treatment,¹⁸ a considerable improvement since a 2015 assessment in which only 55% of HIV-positive sex workers received regular HIV treatment and a 2012 IBSS study reporting only 13.1% of men who have sex with men were receiving antiretroviral therapy.¹⁹

In Botswana, the rate of tuberculosis (TB) incidence per 100,000 population in 2019 was 253; the MDR/RR-TB incidence rate per 100,000 population was 12.²⁰ While this number has declined in recent years,²¹ Botswana remains among the countries with the highest burden of TB and HIV co-infection and in 2019, HIV-positive TB incidence was 123 per 100,000 population.²² In response to high rates of HIV and TB co-infection, the Botswana government established a TB/HIV framework to test all TB patients for HIV and vice versa.²³

According to Botswana’s 2017 *Assessment of Legal and Regulatory Framework for HIV, AIDS and Tuberculosis* (Legal Environment Assessment), major contributory factors to TB transmission are poverty and social deprivation, high population mobility, substance use, and congested living and housing conditions. The Legal Environment Assessment defined populations at greater risk of TB as prisoners, children, remote farming communities, mine workers, mining communities, asylum seekers, health workers, remote area dwellers, people living with HIV, and pregnant women. As per a 2008 TB prevalence survey in prisons, the estimated burden of TB in prisons was 1,430 per 100,000.²⁴ While TB

treatment in Botswana is free, including for prisoners and regardless of citizenship, estimated TB treatment coverage in 2019 was only 53%.²⁵

Legal and Policy Context

Botswana's laws, including its Constitution, protect the rights to life, liberty, security of the person and privacy and prohibit inhumane treatment and discrimination, and the Botswana government has also adopted laws and policies to address domestic violence and gender-based violence, and on gender and development, and established a National Gender Commission to ensure the effective implementation of these policies. But stigma, discrimination, gender inequality and a lack of respect for human rights continue to impede access to health services, including HIV prevention, treatment and support services, and drive disproportionately high prevalence among key and vulnerable populations. As the Legal Environment Assessment found, there remain inadequate legal protections for people living with and vulnerable to HIV and TB.²⁶ In some contexts, protective and enabling laws are not fully implemented or enforced; in others, individuals are not aware of their rights or do not have access to legal or other recourse.²⁷ Moreover, a number of criminal laws penalize or discriminate against key populations. These includes laws criminalizing HIV exposure and transmission, various aspects of sex work, drug use and possession, and until 2019, consensual sexual activity between adults of the same gender — fuelling stigma, discrimination and violence against key populations and hampering efforts to improve access and uptake of HIV testing, treatment and other health programs.²⁸

Nonetheless, several recent law and policy reforms are strong indicators of progress in creating a supportive environment. In 2015, the Botswana Court of Appeal upheld a lower court ruling that found the denial of HIV treatment to foreign prisoners violated their constitutional rights and ordered the government to provide free HIV testing and treatment to all prisoners, affirming a supportive legal framework for the provision of HIV and TB services in prisons.²⁹ In 2016, the Botswana Court of Appeal ruled that the government's refusal to register LEGABIBO, an LGBTI organization, was unconstitutional, highlighting in its ruling the potential role of LGBTI organizations in public health and HIV efforts and ordering its registration.³⁰ This decision paved the way for the registration of other key population-led organizations in Botswana. Also in 2016, Botswana introduced a "Treat All" program providing free antiretroviral therapy to any citizen who tested positive for HIV, and extended coverage to non-citizens in 2019.³¹ And in an historic decision in 2019 (described further in case study below), the Botswana High Court overturned provisions of the Botswana Penal Code criminalizing same-sex intimacy between consenting adults, removing one significant barrier to HIV programs for men who have sex with men and LGBTI persons.³²

At the policy-level, Botswana's HIV response is guided by the country's *Third National Multi-Sectorial HIV & AIDS Response Strategic Framework (NSF III) 2019 – 2023* (NSF III), a five-year plan outlining priority interventions to guide the country's response to HIV. Adopted by the government in 2019, the NSF III for the first time includes strategies for key populations that include activities to improve "the policy and legal environment."³³ Notably, the NSF acknowledges the importance of a rights-based response to HIV that includes promoting access to justice, monitoring human rights abuses, and reforming laws that impede access to services. To ensure that 90% of women and girls live free from gender inequality and gender-based violence, the NSF III recommends strengthening the "policy and legal environment to address gendered vulnerabilities," promoting awareness of and sensitizing communities about harmful gender norms and gender-based violence, and strengthening the capacity of the legislature, judiciary, customary courts and law enforcement to uphold the rights of women and girls, among other strategies.³⁴ The NSF III also reflects a shift from a national approach to prioritize

programming and investments in specific geographic locations and populations based on HIV incidence and prevalence data, with districts ranked “high,” “medium” and “low” priority. The multi-year plan *Removing Legal and Human Rights-Related Barriers to HIV/AIDS and TB Services in Botswana (2019-2024)* (National Plan) complements the NSF III by detailing a comprehensive response to human rights- and gender- related barriers to HIV and TB services in Botswana for people living with HIV, people with TB, and for various subpopulations of key and vulnerable populations.³⁵

Other Key Considerations for the HIV and TB Responses

In 2018, the Government of Botswana expanded the mandate of the National AIDS Coordinating Agency to encompass non-communicable diseases. Thenceforth known as the National AIDS and Health Promotion Agency or NAHPA, the agency is responsible for the execution of the *National HIV & AIDS Response Strategic Framework* and the coordination of multisectoral responses to HIV and non-communicable diseases. Following this development, an election in October 2019 that saw the re-election of the Botswana Democratic Party ushered in significant transition of staff within the Ministry of Health and Wellness and at NAHPA. This stalled the implementation of some human rights programs to reduce barriers to HIV and TB services, such as training for parliamentarians — delays that have been further complicated by the COVID-19 pandemic.

Key informants and organizations that provide services for women facing gender-based violence described a surge in documented cases of gender-based violence during the COVID-19 pandemic.³⁶ Prior to a government-mandated lockdown in response to the pandemic, 67% of women in Botswana — or roughly double the global average — reported having experience gender-based violence;³⁷ research prior to the lockdown also indicates that less than a quarter of women who have experienced intimate partner violence report it to the police.³⁸ Key populations also report troublingly high rates of gender-based violence. Key informants described gender-based violence as having worsened during the lockdown, and as a “crisis” in need of dire intervention, but the national response remains fractured and inadequately funded.

Classified as an upper middle-income country (albeit with stark income disparity³⁹), Botswana faces declining international donor funding. There is consequently a pressing need to strengthen the financial sustainability of the HIV response, including by improving domestic readiness to fund HIV-related human rights programs. This will be essential to ensure that the significant gains made towards fostering a supportive environment and developing quality programming to remove human rights-related barriers to HIV and TB services are not eroded.

COVID-19

In April 2020, the Parliament of Botswana adopted an order declaring a State of Public Emergency to curb the spread of COVID-19, mandating a 28-day lockdown and only permitting people to leave their households to acquire essential goods. The initial lockdown order applied to the whole country, after which Botswana was divided into COVID-19 zones with zone-specific restrictions and movement restrictions between zones. These restrictions have hindered people’s access to HIV services and to health facilities. To mitigate their impact, people living with HIV are now provided with a three-month supply of medication, while some organizations have also been able to obtain movement permits to offer house-to-house delivery of antiretroviral treatment.

Restrictions on movement and on gatherings have also affected the community engagement work of many organizations, which suspended some of their outreach, training, sensitization and human rights

monitoring work, particularly those activities that require travel across zones. While most organizations have attempted to pivot to virtual engagement, web services are not accessible to everyone, especially residents of rural communities and many members of key populations. Limitations on outreach activities has meant the number of people reached by various interventions has plummeted. The economic fallout of the COVID-19 pandemic has also resulted in a general decline in household incomes, negatively affecting access to food and shelter and contributing to deteriorating mental health, with a disproportionate impact on LGBTI communities and sex workers. Key informants and organizations that provide services for women facing gender-based violence also described a significant increase in cases of gender-based violence, domestic violence and intimate partner violence among women, young girls and LGBTI people, who have borne the brunt of abuse from family members during the lockdown.

Part II: Progress towards Comprehensive Programming

The *Breaking Down Barriers* initiative's efforts to achieve comprehensive and quality programming includes: (1) creating a supportive environment to address human rights-related barriers; (2) facilitating programmatic scale-up; and (3) supporting momentum towards quality programming and sustainability.

Creating a Supportive Environment to address Human Rights-related Barriers

The *Breaking Down Barriers* initiative sought to create a supportive environment to address human rights-related barriers in Botswana through foundational steps to develop an understanding of existing, effective programming and key barriers, and to facilitate engagement and coordination among stakeholders. These steps included applying for matching funds to increase funding for programs to remove human rights-related barriers to services; the conduct of a baseline assessment to identify barriers, populations affected, existing programs and a comprehensive response; a multi-stakeholder meeting to review the findings of the baseline assessment; the development of a working group on human rights, HIV and TB; and the development of a national plan to remove human rights-related barriers. Together, these steps were intended to help build an effective and sustainable rights-oriented response and facilitate the removal of barriers to access to prevention, treatment and care for key and vulnerable populations.

Table 2 – Key milestones

Milestone	Results	Date
Matching funds	Applied for and received US\$1 million of matching funds allocated to programs to reduce human rights-related barriers to HIV services, with an additional US\$1.18 million in the general allocation.	Disbursed Fall 2018
Baseline assessment	Literature review, inception meeting, country visit, key informant interviews and focus groups conducted	May – June 2018
	Report finalized and presented to country	November 2018
Multi-stakeholder meeting	Participants from government, civil society including key and vulnerable populations, technical partners, development partners, donors and academic experts met to validate findings of baseline assessment	November 2018
Health and Human Rights Technical Working Group	Legal Environment Assessment Technical Working Group re-established as National Health and Human Rights Technical Working Group to develop and coordinate implementation of National Plan	June 2019
National plan to reduce human rights-related barriers	<i>Removing Legal and Human Rights-Related Barriers to HIV/AIDS and TB Services in Botswana: A National Plan (2019-2024)</i>	Finalized in August 2020; launched in December 2020

Baseline Assessment (2018)

Feedback from key informants on the process and substance of the baseline assessment report was generally positive. Participants welcomed extensive consultations with community organizations throughout the report's preparation, and appreciated the assessment's thorough overview of existing programs to address human rights-related barriers to HIV and TB services in Botswana, gaps, barriers and recommendations to reach comprehensiveness of programming, and the costing of these programs. While the baseline assessment was finalized in November 2018, preliminary findings were presented to

the Health and Human Rights Technical Working Group in June 2018, and this helped inform Botswana's matching fund application to the Global Fund in August 2018.

Matching Funds (2018)

In August 2018, Botswana submitted a matching fund application of US\$1 million for programs to remove human rights-related barriers to HIV services, which was approved for the grant period January 1, 2019 to December 31, 2021. There were also programs to remove human rights-related barriers within the general allocation of the Global Fund grant. In total, US\$2.18 million was allocated for programs to reduce human rights-related barriers to HIV services.

The matching fund application sought resources to establish a human rights coordinator to help develop a strategic and operational plan to implement the recommendations of the Legal Environment Assessment and baseline assessment; strengthen legal support services and a mechanism to document and redress HIV-/TB- related human rights complaints; disseminate legal and human rights information via radio programs and other media; and build the capacity of district leadership to sustain human rights programs.

Multi-Stakeholder Meeting (2018)

In November 2018, findings from the baseline assessment were presented and validated at a multi-stakeholder meeting involving a broad range of relevant stakeholders, including government officials, representatives of key populations and other community organizations, HIV and TB program implementers, UN agencies and donors. Key informants commended the inclusivity of the process and the effectiveness of focus group discussions to guide the validation process. Participants indicated that the validation process helped facilitate a shared understanding of human rights-related barriers and priority areas of programming to address those barriers, and also observed that the meeting was especially constructive for stakeholders to better familiarize themselves with Global Fund programs and to identify areas of potential coordination and ways to avoid duplication of efforts.

Health and Human Rights Technical Working Group (2019)

In 2017, a Technical Working Group was formed to support the Legal Environmental Assessment. This working group was re-established in 2019 as the "Health and Human Rights Technical Working Group" (TWG) to provide input and oversight to the processes to develop a comprehensive, multi-year national plan to remove human rights- and gender-related barriers to HIV and TB services. The TWG consists of a broad spectrum of stakeholders, including representatives from the National AIDS and Health Promotion Agency (NAHPA), the Ministry of Health and Wellness, the Ministry of Basic Education, the Botswana Police Service, the Botswana Prisons and Rehabilitation Service, UN agencies including the WHO, UNAIDS, UN Women and UNFPA, USAID, PEPFAR, human rights organizations, service providers, academia, and key population organizations representing people living with HIV, sex workers, the LGBTQI community, and people with disabilities.

Removing Legal and Human Rights and Gender Related Barriers To HIV/ AIDS and TB Services in Botswana: A Five Year National Comprehensive Plan (2019-2024) (2020)

NAHPA, with the support of the TWG and an international consultant, led the development of a multi-year national plan *Removing Legal and Human Rights and Gender Related Barriers To HIV/ AIDS and TB Services in Botswana: A Five Year National Comprehensive Plan (2019-2024)* (National Plan), informed by consultations with country stakeholders, technical partners, the Global Fund and other donors, progress in achieving the NSF III's human rights goals, recommendations of the Legal Environment Assessment

and the baseline assessment, and ongoing work at country level to identify key gaps, challenges and priorities for action for the period 2019-2024.

The National Plan aligns with Botswana's NSF III and aims to address human rights-related barriers faced by key and vulnerable populations, with a specific focus on people living with HIV, people with TB, adolescent girls and young women, sex workers, people who inject drugs, men who have sex with men, transgender persons, lesbian, gay and bisexual populations, prisoners, remote area dwellers, migrants and people with disabilities. The National Plan outlines eight expected outcomes and interventions to reduce human rights-related barriers under each of the HIV program areas, along with implementers, timeline, coverage and indicators. A costing expert was engaged to cost the National Plan, and NAHPA organized virtual stakeholder meetings with members of the TWG and other pertinent stakeholders such as key and vulnerable population organizations, human rights, gender equality and other civil society organizations, government departments and development partners for their feedback on the costed draft National Plan. There was also an agreement to maintain the TWG as an oversight structure for the National Plan's implementation. Notably, the December 2020 launch of the National Plan was coordinated by the Office of the Deputy President and included high profile representation across government sectors.

Recommendations

While government stakeholders generally expressed support for the foundational steps to develop an understanding of effective programming to address human rights-related barriers to HIV and TB services, there remains a need for greater, sustained government leadership to facilitate implementation. Without ongoing commitment from the highest levels of government, system-wide change will remain a challenge. As such, we recommend that:

- The Health and Human Rights Unit is tasked with coordinating regular meetings of the TWG to provide oversight over, coordinate efforts and programs, and ensure effective implementation of the National Plan.
- The National Plan is disseminated to all government ministries and agencies, including the Ministry of Health and Wellness, Ministry of Nationality, Immigration and Gender Affairs, Ministry of Basic Education, Ministry of Tertiary Education, Ministry of Defence, Justice and Security, Ministry of Local Government and Rural Development, Botswana Police Service, Botswana Prison Service, Attorney General's Chambers and National Gender Commission, donors, technical partners and relevant civil society, human rights, gender equality and key population organizations, and synergies sought with other national plans or strategies, including those related to gender equality.
- The National Plan is used as a tool to seek funding from donors other than the Global Fund and to coordinate the funding of different activities within the National Plan.
- A robust monitoring and evaluation plan, with indicators disaggregated for gender, age and key population, is developed, data on key indicators and qualitative information is collected and assessed periodically, and adjustments made based on findings from data analysis.

Scale-Up of Programming: Achievements and Gaps

This section reports the findings of the mid-term assessment with regard to the scale up towards “comprehensiveness” of programs to remove human rights-related barriers to HIV and TB services. It uses a scorecard system providing scores from 0 to 5. The full scorecard can be found in the Summary above (see also Annex II for an explanation of the methodology used for the scorecard calculations).

In addition, it also looks at certain elements of quality of programs, such as whether individual programs are gender-responsive, integrated into prevention or treatment programs where that makes sense, or combined strategically for maximum impact. Other over-arching elements of quality of programming on HIV and TB overall are discussed in the section below on “Ensuring Quality Programming”.

Programs to Remove Human Rights-related Barriers to HIV

Since the 2018 baseline assessment, Botswana has scaled up programs in all seven key program areas to remove human rights-related barriers to HIV services, with marked expansion of programs for transgender people and in the program areas of stigma and discrimination reduction, legal literacy, legal services and law and policy reform — contributing to a more favourable law and policy context and enabling environment than at the time of the baseline assessment. Progress has also been made toward integrating programs with prevention, treatment and key population services and combining multiple human rights programs for enhanced impact, as well as strengthening the gender responsiveness of programs. There also continues to be strong civil society engagement by long-standing human rights organizations such as BONELA and Ditshwanelo and increased engagement by key population-led and grassroots organizations, reflecting their growing capacity.

Gaps remain with respect to some vulnerable populations such as prisoners, people who inject drugs and people with disabilities, for whom there is little data or programming. And despite efforts on the part of stakeholders such as the Gender Affairs Department of the Ministry of Nationality, Immigration and Gender Affairs, UNFPA and the Gender Based Violence Prevention and Support Centre (an organization providing frontline services for women facing violence) to change harmful gender norms and practices, reported cases of gender-based violence have increased, including those perpetrated against sex workers and transgender and lesbian women. And as at baseline, there remains a need to scale up activities nationwide, as many human rights programs continue to be offered in only a limited number of districts, and to develop a more meaningful approach to monitoring and evaluating the impact of human rights programs.

HIV Program Area	Score	
	Baseline	Mid-term
Stigma and Discrimination Reduction	3.1	3.8

In line with the recommendations of the baseline assessment, Botswana has made progress in the roll-out of stigma and discrimination reduction programs in terms of district coverage, the mix of approaches, and more focused, peer-led activities for transgender people. In particular, positive social media stories regarding key populations have dramatically increased over the past two years — a reflection of civil society organizations’ growing proficiency with the medium and capacity to adopt diverse multi-media strategies that include cross-posting content from radio, television, media events and webinars on social media and on podcasts, greatly expanding the audiences reached. Positive depictions of key populations on radio and on television have also increased, which key informants

ascribed to sensitivity training with journalists, sustained media engagement by civil society organizations, and progressive court decisions.

Another potent area of work to address stigma and discrimination that has expanded is “community dialogues” with traditional leaders or *Dikgosi* at *Kgotlas* (local community meetings) and before *Ntlo ya Dikgosi* (the governing body of chiefs). When community dialogue work began, many traditional chiefs were hostile to key populations, with some openly declaring that they did not want key populations in their communities. Yet key population-led and civil society organizations, including those that represent transgender and intersex people, men who have sex with men and sex workers, have facilitated dialogues with traditional leaders to discuss issues related to key populations, human rights, harmful gender norms and gender-based violence, and observed how these intimate conversations have helped break down barriers. One key informant described the immediate impact of such dialogues, led by representatives of affected communities: “By the time they walked out the door, they had completely changed. The power of bringing people directly affected to represent issues caused... a real breakthrough.”

A critical area of work that has been stalled is a new National Stigma Index Survey. The last national survey was conducted in 2013. At the time, 13% of survey participants reported having experienced external stigma in the past year, 8% reported refusal of employment on the basis of HIV status, while the majority (96%) reported never having been denied access to health services due to their HIV status.⁴⁰ While there was no stand-alone plan to implement the survey recommendations, the NSF III outlines strategies to achieve the objective of reducing HIV-related stigma and discrimination to less than 5% in 2023 for people living with HIV and key populations, including sensitizing health care workers, introducing stigma monitoring and complaints mechanisms, and conducting a new stigma index survey to inform HIV programming. In 2019, BONEPWA+ and NAHPA, with support from UNAIDS, commissioned a National Stigma Index 2.0 Survey, with the roll out of the first phases of the survey to begin in 2020. This has been delayed, due in part to the COVID-19 pandemic.⁴¹ Notably, a 2018 study of knowledge and attitudes towards TB showed low levels of stigma against people with TB, although 21% of respondents had misconceptions about how TB is transmitted.⁴²

Workplace discrimination remains another area of concern. Although Botswana’s *Employment Amendment Act of 2010* prohibits dismissal on the basis of health status, disability, gender or sexual orientation, key informants described cases of people living with HIV and key populations being terminated, seemingly without cause, as well as a reported lack of reasonable workplace accommodation or supports for people living with HIV.

Table 3 – Illustrative Examples of Programs to Remove HIV-related Stigma and Discrimination

Description of Activities	Organizations	Location/Reach
Key population-led and other civil society organizations engage in “community dialogues” with traditional leaders to discuss issues related to key populations, human rights, harmful gender norms and gender-based violence	Rainbow Identity Association, LEGABIBO, Men for Health and Gender Justice, Success Capital, Tebelopele Voluntary Counseling and Testing, ACHAP, BONELA	Boteti, Francistown, Palapye, Maun/Ngamiland, Tutume, Gabarone Jwaneng, Kgatleng, Selebi Phikwe, South East, Kweneng and Southern districts
Podcast on human rights, including issues related to key and vulnerable populations	BONELA	National and international, accessible on a range of podcasting platforms
Campaign on COVID-19, human rights and gender-based violence for LGBTI people	Rainbow Identity Association	Gabarone and Kgatleng districts, in addition to broader social media, public radio, television and print media reach

IEC materials addressing TB stigma and myths	Ministry of Health and Wellness	National distribution to all health care facilities
Community-based TB care teams comprised of volunteer community health workers, some of whom are recovered TB patients, provide TB treatment support and address myths and reduce stigma surrounding the disease	ACHAP, Botswana Christian AIDS Intervention Program (BOCAIP), Ministry of Health and Wellness	Lobatse, Jwaneng, Mabutsane, Bobirwa, Kgalagadi South, North East, Kgalagadi North, Kweneng West, Palapye, Tutume, Maun/Ngamilang and Okavango districts

Recommendations

- Finalize, publish and promote the findings of the National Stigma Index Survey 2.0, targeting relevant government ministries and other policymakers, and apply findings to refine as necessary program activities in the National Plan to reduce stigma and discrimination against people living with HIV and key and vulnerable populations.
- Develop workplace policies in consultation with key population and human rights organizations that address stigma and discrimination for people living with HIV and other key and vulnerable populations, including the need for reasonable accommodation and supports, produce legal literacy materials on these policies, and disseminate new policies and materials to all public and private employers with instructions to implement and disseminate to staff.
- Fund key population-led and other civil society organizations to sustain media and communications campaigns in a diversity of mediums and develop tools to evaluate the impact of media and other communications campaigns, including the impact of such media engagement on public perceptions of key and vulnerable populations and on how media reports on related human rights issues.
- Support key population-led and other civil society organizations to continue and scale up community dialogues with traditional leaders across all districts.

HIV Program Area	Score	
	Baseline	Mid-term
Training of Health Care Workers in human rights and medical ethics	2	2.5

At mid-term, training of health care workers on human rights and medical ethics takes place in a greater number of districts and health facilities, but a comprehensive, national approach to training is still lacking. This is concerning in view of a growing body of research on key populations' experiences of stigma and discrimination in health care settings and on the lack of youth-friendly HIV services. In the Botswana 2017 BBSS II study, transgender people reported high level of stigma and discrimination at health facilities: 27% in the year preceding the study.⁴³ In a 2017 needs assessment of sex workers in Botswana, more than half (51%) of sex workers reported being verbally abused or judged by health workers in the past 12 months.⁴⁴ And a 2019 study of LGBT people in Botswana revealed that only 21% had disclosed their sexual orientation or gender identity to their healthcare providers; 46% reported discrimination from healthcare providers when they did disclose.⁴⁵ As key informants universally shared, key populations have communicated to them their trepidation about accessing health services because of past experiences of stigma as well as persistent issues concerning patient confidentiality.

Pre-service training on a patient-centred, rights-based approach to the provision of health services has yet to be implemented. The integration of human rights and key population concerns into the pre-

service curriculum is currently being developed by BONELA in collaboration with key population-led organizations, with plans to eventually roll out training across the country.

In-service training of health care workers on human rights and patient-centred care has been led by civil society organizations, including key population-led organizations, in a limited number of districts. In five districts supported by the Global Fund, BONELA trains health care workers on human rights and ethics, key populations, and recognizing and responding to gender-based violence. These “values clarification workshops” are meant to enable trained workers to sensitize their peers. Sisonke Botswana and BONELA also organize quarterly training of health care workers on sex work and human rights in four districts, supported by Aidsfonds. In partnership with the Ministry of Health and Wellness, UNICEF, Botswana-Baylor Children’s Clinical Centre of Excellence, BONEPWA and Tebelopele have also implemented an intervention package for young people living with HIV that involves training health care workers in six districts on topics including youth-friendly services, HIV clinical care, counseling, psychosocial support, adherence and disclosure support, sexual and reproductive health, and safe transitioning to adulthood for those living with HIV.⁴⁶

Several organizations also provide training of health care workers on harmful gender norms and gender-based violence. Under the Accelerating Progress in Communities Project (APC 2.0), the Botswana Christian AIDS Intervention Program (BOCAIP), Botswana Gender Based Violence Prevention and Support Centre, Humana People to People, Kuru Health and Tebelopele Voluntary Counseling and Testing have sensitized community health workers in six districts on harmful gender norms and practices that expose or pose barriers to use of HIV services.⁴⁷ In 2015, the Gender Affairs Department of the Ministry of Nationality, Immigration and Gender Affairs engaged MEASURE Evaluation to develop and pilot a “Gender-based Violence Referral System Project” (GBVRSP), a mobile-phone based referral information system to enable service providers to make and receive referrals and capture information on and improve services for survivors of gender-based violence. The GBVRSP was introduced in four sites in two districts and incorporated training for health care workers on how to recognize and provide quality services for survivors of gender-based violence; a subsequent evaluation indicated increased understanding of and comfort handling cases of gender-based violence among service providers.⁴⁸

Other in-service training of health care workers occurs on an *ad hoc* basis, often contingent on organizations’ opportunities to engage in complementary work. After the Botswana High Court decriminalized same-sex intimacy in June 2019, for example, LEGABIBO worked with the Ministry of Health and Wellness, health clinics and the LGBT community to provide weekly sensitivity training to health care workers in seven districts, and implemented community-led monitoring of the relationship between the LGBT community and healthcare providers.⁴⁹

Key informants have observed improved attitudes towards — and more appropriate care for — key populations by health care providers in those facilities where civil society and key population-led organizations have established relationships. Notably, in the absence of a government policy on this issue, the concerted advocacy of Rainbow Identity Association with the Princess Marina hospital (a public facility that receives the largest number of patient referrals in Botswana) facilitated unprecedented access to gender-affirming care. While patients who identified as transgender were previously dismissed by hospital staff, Rainbow Identity Association’s engagement with hospital staff led to the recruitment of health care specialists with an understanding of health issues relevant to transgender and intersex people. This facilitated their access to psychotherapy, hormonal therapy, and new identity documents that match their expressed gender.

Other initiatives to promote the rights of people living with and affected by HIV and TB in health care settings have been implemented, with broader reach. In 2018, BONELA and ACHAP developed a charter on patients’ rights and obligations in the context of HIV and TB in health care settings, distributed this to all health care facilities with an accompanying map of a complaints process for HIV- or TB- related human rights abuses, and conducted workshops on the patient charter to service providers in five districts. The Ministry of Health and Wellness also developed a patients’ charter for TB care that affirms an approach based on patient-centred care and describes TB patients’ rights to care and dignity without stigma, prejudice or discrimination, to information, to confidentiality (including related to their medical condition and personal information) and to justice (which includes being able to make a complaint). While training on the TB patient charter was to begin in April 2020, the COVID-19 pandemic delayed this to September 2020, when the Ministry began training health care providers in two districts on the implementation of this patient charter.

Recommendations

- In collaboration with key population-led and human rights organizations, finalize curriculum for, and implement, nationwide pre-service and in-service training of health care workers on a patient-centred, rights-based, youth-friendly approach to the provision of health services.
- Review and update the patients’ rights charters in consultation with key population and human rights organizations and continue roll-out of training to all health facilities to clarify and affirm the services health care workers are obligated to provide.
- Support key population-led and other civil society organizations to expand to all districts training of health care workers on human rights, key populations, gender equality and gender-based violence and the need for privacy, confidentiality, and youth-friendly services, including by facilitating partnerships between DHMTs and those organizations.
- Develop tools to systematically evaluate the impact of health care worker training on their attitudes towards people living with HIV, people with TB, and key and vulnerable populations and on patient experiences in health care settings.

HIV Program Area	Score	
	Baseline	Mid-term
Sensitization of lawmakers and law enforcement officials	1.5	2.3

Since the baseline assessment, there continue to *ad hoc* activities to sensitize police, religious and traditional leaders on issues regarding human rights, gender equality and key populations, and few activities to sensitize parliamentarians or judicial officers on the same.

Pre-service training of recruits attending police training college on HIV, TB and human rights, gender equality and key population issues is isolated.⁵⁰ While there are efforts underway by several organizations to integrate this content in training materials for police and other law enforcement agencies, these efforts are stalled and still in development.⁵¹

In-service sensitization activities with police have been undertaken by several key population-led organizations, including those that support LGBTI communities and sex workers, and reflect their firsthand experiences of gender-based violence and other human rights abuses. As noted above, the pilot GBVRSR also included training of service providers including police on gender-based violence in two districts; a subsequent evaluation indicated service providers had an increased understanding of and

comfort handling cases of gender-based violence.⁵² Key informants stressed the importance of engaging frontline patrol officers, who are responsible for responding to reports of violence, and in some cases, perpetuating such violence themselves. In a 2017 needs assessment of sex workers in Botswana, law enforcement were major perpetrators of violence against sex workers, with 40% of respondents having experienced physical violence and 25% having experienced sexual violence at the hands of the police in the preceding 12 months, while 40% were ridiculed or refused assistance when they sought police help.⁵³ Sex workers, primarily those who are migrant, trans or work in public spaces, are often charged with “loitering” or “common nuisance”⁵⁴ and bear the largest brunt of police enforcement. LGBTI persons in Botswana are also unable to turn to the police for assistance because they fear apathy, breaches of confidentiality, arrest and further victimization.⁵⁵

Despite the importance of police sensitization work, for some organizations these activities are often an ‘add on’ to other outreach activities, and consequently delivered on an *ad hoc* basis because of a lack of dedicated funding. Key informants emphasized that as long as punitive laws criminalizing key populations remain and the police continue to charge them for criminal law transgressions, an antagonistic relationship between police and key populations will persist. At the same time, insufficient commitment from the Executive of the Botswana Police Service has impeded an institution-wide change in the police’s approach to key populations. The “top down” structure of the Botswana Police Service means rights-based training for frontline officers is only helpful to a degree. Without the support of the Commissioners and senior management, officers are hamstrung by punitive laws and unable to fully put their training into practice.

Nevertheless, key informants have observed a positive attitudinal change among police in recent years. Following sensitization activities and a 2019 Botswana Court of Appeal ruling invalidating the laws criminalizing same-sex intimacy, police are now more willing to engage with key population-led organizations — facilitating ongoing training. In particular, there is greater sensitivity among police when sex workers or men who have sex with men approach them in contexts of violence, including intimate partner violence, a greater understanding of the contexts in which such violence occurs, and a greater willingness to assist. Key population-led organizations consequently refer clients to police stations where sensitization training has occurred, designating those stations “key population friendly.”

Supported by the Global Fund, BONELA engages more systematically with traditional leaders to discuss experiences of stigma and discrimination faced by key populations, often in partnership with organizations representing LGBTI communities and sex workers. As key informants stressed, engaging with traditional leaders is essential because they are involved in mediation, including in situations involving key populations. Dialogues focus on human rights, sexuality, sexual orientation and gender in an effort to address the stigma and discrimination that key populations face, as well as relevant legal developments. Key informants reported that these dialogues have led to a perceptible positive change in how traditional leaders interact with key populations.

Training of judges and magistrates on HIV, TB and human rights, gender equality, stigma and discrimination, and key populations occurs on an isolated basis. Under the Global Fund’s Removing Legal Barriers program, BONELA and ACHAP periodically engage with different district magistrates and judicial officers on human rights law, including its application and interpretation in the context of HIV and key populations. Similarly, there is no formal program to sensitize parliamentarians, although organizations engage in legal and policy advocacy when opportunities arise. According to key informants, sensitization of parliamentarians is useful, but they often “come and go,” requiring more sustained efforts than resources or capacity usually allow.

Table 4 – Illustrative examples of Activities to Sensitize Law Enforcement and Lawmakers on Human Rights, Gender Equality and Key Populations

Description of Activities	Organizations	Location/Reach
Sensitization workshops with police on issues ranging from human rights and gender-based violence to sexuality, sexual orientation and gender identity. Training also focuses on appropriate responses to reports of gender-based violence, particularly in incidents involving key populations.	BONELA Rainbow Identity Association LEGABIBO	Boteti, Francistown, Palapye, Maun/ Ngamiland, Tutume, Gaborone, Jwaneng, Kgatleng, Selebi Phikwe and South East Districts
Peer sex workers and paralegals support sex workers to access legal services, psychosocial support and health services, document human rights violations against sex workers, and train local police. During training, sex workers share their personal experiences to foster dialogue with law enforcement about stigma and discrimination, and to discourage police from harassing sex workers.	Sisonke Botswana BONELA	Gaborone, Francistown, Palapye and Selebi-Phikwe districts
Policy briefs to press for law and policy reform based on the 2017 Legal Environment Assessment and international human rights; focused on human rights issues concerning key and vulnerable populations, such as gender-based violence, the need for legal gender recognition, ⁵⁶ people with disabilities, people with TB and COVID-19 and human rights.	BONELA Sisonke Botswana LEGABIBO & Southern Africa Litigation Centre	Nationwide dissemination to parliamentarians
In 2018, a consortium of civil society organizations met with the Parliamentary Health Committee and Gaborone City Full Council to advocate for a human rights approach to the delivery of health services for all, including sex workers and men who have sex with men. ⁵⁷	Botswana Family Welfare Association (BOFWA), BONELA, Nkaikela Youth Group and Men for Health & Gender Justice	Parliamentary Health Committee and Gaborone City Full Council

Recommendations

- Finalize the development (in consultation with key population and human rights organizations) of the pre-service and in-service curriculum for police trainees and frontline officers on HIV, TB and human rights, gender equality, gender-based violence and key populations, incorporating relevant legal developments, and institutionalize and roll this training out nationwide.
- Develop standard operating procedures for police to investigate cases of gender-based violence against sex workers, LGBTI people, adolescent girls and young women, and women living with HIV in consultation with women’s rights, youth and key population organizations and train police in all districts on new procedures.
- Prioritize engagement with the Executive of the Botswana Police Service to address ways to coordinate and implement key population-led sensitization activities across all districts.
- Develop plan to increase sensitization work with parliamentarians, individually and through relevant parliamentary committees, and with judges and magistrates, to enhance their knowledge about HIV, TB and human rights, key population concerns, gender equality and gender-based violence, and to strengthen their commitment towards law and policy change.
- Support the scale up of community dialogue activities carried out by key population-led and civil society organizations with traditional leaders at the *Ntlo ya Dikgosi* and *kgotlas* to ensure this work is happening in all districts on a sustained basis.
- Explore opportunities to provide training to the Botswana Prison Service to promote rights-based management of HIV and TB in correctional facilities.

- Develop tools to systematically evaluate the impact of law enforcement and lawmaker training on their knowledge of and attitudes towards people living with HIV, people with TB and key and vulnerable populations as well as the impact of training on those communities’ experiences with trained law enforcement and lawmakers.

HIV Program Area	Score	
	Baseline	Mid-term
Legal Literacy (“know your rights”)	3.1	3.8

At mid-term, legal literacy work is primarily coordinated by civil society and key population-led organizations and often integrated with the provision of other supports including HIV and sexual and reproductive health services and referrals to legal services.

Table 5 – Examples of Legal Literacy Programs

Description of Activities	Organizations	Location/Reach
<p>“Know Your Rights” sessions on HIV and TB patient charter and corresponding complaint system</p> <p>Legal literacy workshops for men who have sex with men, LGBTI communities, sex workers and people with disabilities to discuss human and legal rights and how to seek assistance from the police or the legal system at <i>kgotlas</i>, schools and other community settings.</p> <p>“Know Your Rights” resources and media campaigns to increase knowledge of human rights issues for people living with HIV and key and vulnerable populations, along with avenues for legal redress.</p>	BONELA	<p>HIV and TB patient charter and complaint system sessions in Boteti, Francistown, Palapye, Maun/Ngamiland and Tutume districts</p> <p>Legal literacy workshops in Boteti, Francistown, Palapye, Maun/Ngamiland and Tutume districts</p> <p>“Know Your Rights” media campaigns have nationwide reach</p>
Peer paralegals support sex workers to access legal services, psychosocial support and health services, document human rights violations against sex workers, organize training of local police, and participate in quarterly legal literacy trainings, focusing on the links between health, human rights and the law.	Sisonke Botswana and BONELA	Gaborone, Francistown, Palapye and Selebi-Phikwe districts. Each quarterly training reaches approximately 20 sex workers.
Legal literacy workshops for LGBTI communities in collaboration with 17 district COLAs	LEGABIBO	Rotating 12 districts annually
Support groups that host legal information sessions for transgender and intersex people outlining their human rights	Rainbow Identity Association	Gaborone, South East, Kweneng and Lobatse districts

Combining legal literacy programming with other programs, including legal services and other advocacy, has facilitated greater sustainability and impact. Another strategy that organizations have employed to foster sustainability is investing in community-based activities. With growing demand for legal literacy workshops (often beyond what resources allow), many organizations host workshops during *kgotlas*, which does not involve the usual costs of workshop hosting, and this has helped to sustain the work. For LEGABIBO, legal literacy workshops for LGBTI communities in collaboration with 17 district COLAs (“Community Organizers, Leaders, Activators” who are trained to monitor human rights violations, provide support and accompaniment for LGBTI members to police to report abuses, and facilitate support group meetings) means that district COLAs remain as a resource for the local LGBTI community even after LEGABIBO staff leave — an investment that facilitates the sustainability of this work.

While legal literacy programs show signs of progress, particularly in terms of the breadth of issues addressed, the overall scale and reach remain limited. Strategies for greater, nationwide reach could include additional investments in written “know your rights” resources that could be disseminated via various mediums, and in broader media campaigns helmed by key population-led and human rights organizations focused on new legal and policy developments.

Recommendations

- Support key population-led and human rights organizations to scale up to all districts legal literacy activities targeting people living with HIV, people with TB and key and vulnerable populations, including on the patient charters and the services that health care facilities are obligated to provide, and the complaints process for HIV- or TB- related human rights violations.
- Fund key population-led and human rights organizations to produce written, accessible legal literacy materials and broader media campaigns, including those that address recent legal and policy developments related to key and vulnerable populations.
- Develop formal mechanism to gather feedback from legal literacy participants so that increases in legal knowledge and capacity are evaluated after sessions are completed.

HIV Program Area	Score	
	Baseline	Mid-term
Legal Services	2.3	3.3

At mid-term, a growing number of key population-led organizations are providing legal support via referrals to legal service providers such as Botswana Legal Aid and peer workers trained as paralegals. These legal services are often bundled with other programming and particularly legal literacy programs. Such integration has developed the capacity of fellow program staff to proactively identify people who require legal support, and resulted in greater reach, impact and sustainability. For example, Sisonke Botswana and BONELA’s ‘improving pathways to justice for sex workers’ program — which combines referrals to sexual and reproductive health services, HIV and STBBI screening and HIV treatment with legal literacy workshops and peer paralegal outreach — has resulted in sex workers who are not only more “rights literate,” but better equipped *and* supported to insist on police investigations and the prosecution of cases, leading to convictions and jail sentences for violent perpetrators.⁵⁸

In addition to the legal services described in Table 6 below, several key population-led organizations provide legal referrals as one facet of their overall programming, but often without dedicated funding for this work. For example, Rainbow Identity Association provides legal referrals to members who need legal advice or representation relating to the protection of their gender identity, despite being forced to terminate its paralegal project due to a lack of funding. The organization refers individual cases to lawyers at the University of Botswana’s legal clinic or to BONELA, and has covered the disbursement costs of individual cases. Similarly, LEGABIBO does not have a formal legal assistance program but refers cases to trusted lawyers, including cases documented by the organization’s 17 COLAs. There is a clear need to fund and expand access to legal services. As noted by the Committee on the Elimination of Discrimination against Women (CEDAW Committee), marginalized women — particularly those living in poverty, in rural areas and with disabilities— continue to lack access to legal aid.⁵⁹

BONELA also coordinates a formal human rights documentation program, with human rights monitors or “reactors” and paralegals who visit health care facilities, police, social workers and schools to

document human rights violations against and provide legal referrals to key populations and adolescent girls and young women. From 2018 to 2020, almost 1000 cases were documented, on issues such as the denial of access to health services, gender-based violence, stigma and discrimination, abuses against sex workers, child rights violations and police brutality. Cases are referred to BONELA legal staff or Botswana Legal Aid and the data collected has been used to inform advocacy. For example, after recording numerous cases of clients being unable to access health services because they lacked identity cards, BONELA met with the Director of Immigration and Nationality to raise this concern, after which staff was assigned to deal with such referrals from BONELA. This expedited the issuance of new identity cards. The recent digitization of this work in 2020 and the use of a new mobile app for this purpose will not only facilitate analyses of trends and enable BONELA and partners to engage with the relevant institutions to address issues of concern, but the roll out of the program nationally.

Table 6 - Illustrative Example of Legal Services

Description of Activities	Organizations	Location/Reach
Prevention program for female sex workers and prevention program for men who have sex with men and transgender persons involving periodic outreach and referrals to psychosocial and legal support services in addition to HIV and STBBI testing and prevention and linkages to treatment, care and support.	ACHAP and Tebelopele Voluntary Counseling and Testing (female sex workers) ACHAP and BONELA (MSM and transgender)	Tutume, Maun/Ngamiland, Francistown, Boteti and Palapye districts
Provision of legal information, mediation services (particularly for employment-related issues), referrals to Legal Aid, and in some cases, representation via lawyers on retainer to people living with HIV, people with TB and other key and vulnerable populations who have experienced human rights violations.	BONELA and ACHAP	Tutume, Maun/Ngamiland, Francistown, Boteti, Palapye and Selebi Phikwe districts
TB community care coordinators educate communities on the role of Legal AID Botswana, help determine if there are legal issues to be addressed and make referrals to BONELA for legal information, support and onward referrals to legal aid, if necessary.	ACHAP, BOCAIP, Ministry of Health and Wellness	Lobatse, Jwaneng, Mabutsane, Bobirwa, Kgalagadi South, North East, Kgalagadi North, Kweneng West, Palapye, Tutume, Maun/Ngamiland and Okavango Districts
Seven paralegal (sex workers/former sex workers who are trusted by their peers and have firsthand experiences of the legal problems sex workers face) conduct outreach to support sex workers in accessing legal services, in addition to providing referrals to sexual and reproductive health services, HIV and STBBI screening and HIV treatment. Paralegals provide their contact information so that sex workers can contact them to report human rights abuses. Paralegals provide psychosocial and other support and safety tips, help mediate between sex workers and police, document, review and refer cases to BONELA staff, who provide legal information and support, and depending on circumstances, onward referrals to Botswana Legal Aid or lawyers identified as having a focus on human rights and willing to work <i>pro bono</i> for vulnerable clients. For sex workers residing outside of the four districts where paralegals are located, paralegal WhatsApp groups are accessible to sex workers to report incidents and receive support.	Sisonke Botswana BONELA	Palapye, Francistown, Gaborone, Selebi Phikwe districts WhatsApp group accessible nationwide In 2018, Sisonke paralegals supported 1854 sex workers. ⁶⁰

Human rights documentation program run by “reactors” and paralegals who visit health facilities, police, social workers and schools to document human rights violations against and provide legal referrals to key populations and adolescent girls and young women on issues such as the denial of access to health services, gender-based violence, stigma and discrimination, abuses against sex workers, child rights violations and police brutality.	BONELA Sisonke Botswana	Tutume, Maun/ Ngamiland, Francistown, Boteti, Palapye, Gaborone and Selebi-Phikwe districts 2018-2020: almost 1000 case documented
A “one-stop shop” of key population-friendly HIV prevention, care and treatment services for female sex workers and men who have sex with men at drop-in centers run by the civil society organizations that offered peer-led outreach, education and support, counseling, distribution of condoms and lubricant, TB, HIV and STBBI testing and treatment, cervical cancer screening, violence screening, PrEP and PEP services, and referrals to medical, psychosocial and legal services.	NAHPA, BONELA, Botswana Family Welfare Association (BOFWA), Matshelo Community Development Association, Men for Health and Gender Justice, LEGABIBO, Silence Kills Support Group, Sisonke Botswana, Tebelopele Voluntary Counseling and Testing, Nkaikela Youth Group	Greater Gaborone, Selebi-Phikwe, Palapye, Maun/ Ngamiland and Chobe districts

Recommendations

- Fund the expansion of key population-led paralegal services and paralegal services addressing gender-based violence that are youth-friendly, including the human rights documentation program, across all districts, and integrate these services into outreach, health services and legal literacy programs.
- Support the expansion of the TB community care coordinators across all districts and formalize training of coordinators on human rights issues relevant to people with TB, including routes for referrals to legal information and support.
- Explore options to expand the capacity of the University of Botswana Legal Clinic to provide *pro bono* legal assistance to key and vulnerable populations and continue to strengthen the capacity of Legal Aid Botswana to forge links with key and vulnerable populations, including in rural communities, to increase their use of legal services.
- Train private legal practitioners to strengthen their capacity to respond to the rights of people living with HIV, TB and key and vulnerable populations and establish a database of lawyers who are able and willing to work with those key and vulnerable populations.
- Sustain communications and media campaigns that provide information about the availability of legal aid and legal services for key and vulnerable populations and promote via diverse mediums, including social media.

HIV Program Area	Score	
	Baseline	Mid-term
Monitoring and reforming policies, regulations and laws	3	4.3

Several ground-breaking legal and policy developments have taken place in Botswana in recent years, building on already promising indicators of a supportive environment — one in which civil society advocacy, including in the form of strategic litigation, plays a pivotal role. Encouragingly, key population-led organizations have had an increasingly visible part in these efforts.

In a decision that not only paved the way for the registration of key population-led organizations, but facilitated their engagement with stakeholders including health care workers and law enforcement, the Botswana Court of Appeal ruled in 2016 that the refusal by the government to register LEGABIBO, an LGBTI organization, was unconstitutional, highlighting in its ruling the role of LGBTI organizations in public health and HIV efforts.⁶¹ The following year, the Botswana High Court ruled that two transgender persons be allowed to change their gender on their identity documents — a legal barrier that severely restricted the access of trans and intersex people to health services.⁶² And in 2019, the Botswana High Court overturned provisions of the Penal Code criminalizing same-sex intimacy between consenting adults, removing one significant barrier to HIV programs for men who have sex with men and LGBTI persons. The decision has lessened the reluctance of government entities to work with key populations, elevated public and media discourse about LGBT people, and enabled LGBT people to express themselves more freely and assert their rights, although the government’s expressed intention to appeal has stalled the development of some activities, including revisions to the national curriculum of the Botswana Police Service describing this historic decision and its impact on law enforcement activities.

Key informants universally noted the key role of strategic litigation in upholding the rights of people living with HIV and key populations, and more broadly, amplifying their struggles. As one key informant observed, these cases are not only the outcome of a relatively strong track record of strategic litigation for people living with HIV and other key and vulnerable populations, but also stems from the longer-term work that has been supported by the Global Fund of sensitizing key population communities about their rights, noting how “empowerment programs can really facilitate access to justice.”

Complementing litigation is advocacy with parliamentarians and before UN bodies, undertaken by key population-led and human rights organizations. For example, Rainbow Identity Association engages parliamentarians to advocate for the legal recognition of a third gender, while Success Capital, a grassroots youth LGBTQI+ organizations, documents the experiences of men who have sex with men at health care facilities in two districts to determine systemic issues that can be raise in dialogues with the Ministry of Health and Wellness. BONELA recently prepared a series of COVID-19 policy briefs, touching on issues ranging from COVID-19 related stigma, to COVID-19 and human rights, to COVID-19 and gender-based violence — the latter in collaboration with Sisonke Botswana. Notably, in 2019, the Botswana government amended its “Treat All” policy to extend free antiretroviral therapy to all people living with HIV, including non-citizens.⁶³ This was a tremendous policy change for the estimated 30,000 foreign residents living with HIV in Botswana, and due in part to the longstanding advocacy of BONELA and Sisonke Botswana, who submitted a joint Shadow Report in 2019 to the CEDAW Committee urging the Botswana government to provide free health services to migrant sex workers.⁶⁴

Given limited capacity, key informants shared their strategy of focusing on parliamentary committees, such as those tasked with health or HIV. To date, this work often happens on an *ad hoc* basis because of the frequent shuffling of Cabinet members and other policymakers, a lack of dedicated funding, and a perception that government stakeholders are reluctant to support law reform projects. But several key informants described a newfound opening to discuss HIV, human rights, gender equality and key populations with parliamentarians as a result of recent legal and policy developments, greater visibility of key populations, and young parliamentarians who they believe will be more receptive to these issues. As noted above, UN advocacy is another strategy adopted by organizations including Ditshwanelo, Sisonke Botswana, BONELA, Rainbow Identity Association, Success Capital and LEGABIBO. While previously grassroots perspectives were rarely represented at global platforms, the strengthening of key population-led organizations has equipped them to engage in such advocacy, facilitated conversations

with Botswana policymakers at these venues, and helped shift the discourse on HIV and TB so human rights are considered central to the achievement of the sustainable development goals.

As at baseline, there is little known about the impact of punitive laws identified in the Legal Environment Assessment as having a detrimental impact on access to health services, such as laws that criminalize HIV transmission and drug use. Research on their enforcement should be prioritized.

Recommendations

- Continue to build capacity of key population-led organizations, grassroots networks and leaders to engage in law and policy reform work, and facilitate and fund opportunities for this engagement (e.g. as participants in strategic litigation or in submissions to parliamentary or UN bodies on relevant topics).
- Disseminate the recommendations of the Legal Environment Assessment along with summaries of recent legal and policy developments to all relevant policymakers and support direct engagement with parliamentarians on priority areas of reform.
- Support the nationwide roll-out of the mobile app to document human rights violations in a database and analyze and publish results to inform priority areas of advocacy relevant to people living with HIV, people with TB and key and vulnerable populations.
- Support research to monitor the enforcement of laws criminalizing HIV transmission and drug use and possession and publish findings to inform future advocacy priorities.
- Document and disseminate in Botswana and beyond the impact of Global Fund-supported law and policy reform activities to illustrate the value of sustained funding for human rights programming in this area.

HIV Program Area	Score	
	Baseline	Mid-term
Reducing HIV-related gender discrimination, harmful gender norms and violence against women and girls in all their diversity	2.5	3.4

At mid-term, all HIV program areas described above include some cross cutting interventions to address harmful gender norms and gender-based violence. The integration of gender-specific concerns in these program areas has enhanced the gender responsiveness of programs, while underscoring the intersectional nature of human rights-related barriers to HIV services. In particular, programs to reduce human rights-related barriers for sex workers and transgender people and campaigns to raise awareness of gender-based violence have increased in recent years. In response to the dearth of dedicated programming for transgender people, for example, LEGABIBO recruited a COLA to focus on support for the transgender community and hosted a national trans dialogue in 2019 (in partnership with the Southern Africa Litigation Centre) that resulted in a national civil society policy framework to promote legal gender recognition, while Rainbow Identity Association implements several programs to reduce human rights-related barriers for transgender and intersex people.

As discussed above, in 2015 the GBVRSP was piloted in two districts to improve access to comprehensive, quality services for survivors of gender-based violence, enhance case reporting, and strengthen stakeholder collaboration. A subsequent evaluation indicated increased understanding of and comfort handling cases of gender-based violence among service providers from the health

care, police, justice, education and civil society sectors and increased trust and collaboration between service providers, but varied uptake of the actual referral system. Among the recommendations of the evaluation were the expansion of training on the referral system tailored to specific service providers, ongoing training and support to service providers to improve their understanding and identification of gender-based violence, and continuation of the pilot as the project transitioned to independent implementation by the Ministry of Nationality, Immigration and Gender Affairs.⁶⁵ In November 2020, the Botswana government also announced the establishment of 25 specialized “gender violence courts” that would treat cases of gender-based violence on an urgent and expedited basis, in response to a rise in cases of gender-based violence during the COVID-19 pandemic.⁶⁶

Two organizations offer HIV-related programming specifically for women in the context of gender-based violence. Both Women Against Rape in Maun and the Botswana Gender Based Violence Prevention and Support Centre operating in Southern Botswana provide counseling, referrals to HIV and STBBI testing and PEP, emergency shelter to women who have experienced violence and referrals to legal aid, and also run outreach programs targeting youth and students to raise awareness of gender-based violence and HIV. As part of the Botswana Gender Based Violence Prevention and Support Centre’s community outreach work in Gaborone and Kweneng South districts, staff also participate in dialogues about harmful gender norms and gender-based violence with community and traditional leaders and police. In addition, the UN Development Programme, in collaboration with the Botswana government and tribal administration, developed a training program to equip traditional leaders in Botswana with knowledge and skills to tackle gender-based violence, running workshops at *kgotla* and other community events.⁶⁷

Encouragingly, in September 2020, Botswana amended the 2015 Land Policy to give married women in Botswana the right to own land, conferring upon women greater economic independence within marriage.⁶⁸ Previously, married women were only eligible to own land if their spouses did not, excluding not only married women but widows and single mothers. With the roll-out in 2016 of a “Treat All” program providing free, universal access to HIV treatment,⁶⁹ key informants have also reported fewer cases of property grabbing.

Despite these strides, key informants described pervasive harmful gender norms and gender-based violence as issues in dire need of additional intervention. Marital rape, for example, is not a criminal offence in Botswana, and there are low numbers of investigations, prosecutions and convictions of perpetrators in cases of gender-based violence against women and girls.⁷⁰ There has also been an unprecedented increase in reports of gender-based violence since the country’s April 2020 COVID-19 lockdown.⁷¹ While the Botswana government has developed protocols and service standards for gender-based violence in the health sector and integrated content on gender-based violence in pre-service and in-service training for the Botswana Police Service,⁷² service providers are still not adequately trained to assist women who report cases of gender-based violence, particularly women who are sex workers or lesbian.⁷³ The CEDAW Committee also noted in its 2019 Concluding Observations of Botswana that health care providers have limited awareness of gender-sensitive procedures for victims of gender-based violence.⁷⁴ More broadly, despite a national strategy on gender-based violence, programs — and particularly those run by civil society organizations — remain under-funded, and many activities have yet to be implemented.

Recommendations

- Review and revise content of training, protocols and service standards on harmful gender norms and gender-based violence for health care workers in collaboration with women’s rights and key

population organizations and ensure all health care workers are trained on revised materials and on providing youth-friendly care.

- Develop standard operating procedures for police to investigate cases of gender-based violence against sex workers, LGBTI people, women living with HIV, and adolescent girls and young women in consultation with women's rights, youth and key population organizations and train police in all districts on new procedures.
- Support women's rights and key population-led organizations to scale up community dialogues about discriminatory gender norms and gender-based violence with traditional leaders in all districts to facilitate the gender responsive operation of the customary justice system, in line with the 2015 *National Action Plan on Mainstreaming Gender into the Customary Justice System*.⁷⁵
- Explore opportunities for collaboration between key population-led and gender equality organizations to ensure that programs to remove human rights-related barriers are responsive to both gender and key population concerns.
- Adequately fund activities necessary to support the effective implementation of the national policy on gender and development and the national strategy to end gender-based violence.
- Incorporate recommendations of the 2018 evaluation of the pilot GBVRSP and scale up the referral system nationwide.
- As per the recommendations of the CEDAW Committee and the Legal Environment Assessment, amend the Penal Code to explicitly criminalize marital rape, and consider reviewing age of consent laws to health care services, including HIV and TB testing, prevention and treatment, to allow access to services for persons younger than 16 without parental consent.

PART III. Cross-Cutting Issues

This section looks at cross-cutting considerations that span HIV and TB program areas and are critical to ensuring the quality and sustainability of programming to remove human rights-related barriers.

Quality of Human Rights Programs

The Global Fund's definition of comprehensive programs stresses the importance of quality, stating that activities should be internationally recognized as effective in removing human rights-related barriers to HIV and TB services. A number of key elements of quality have been identified, including alignment with national strategies; integration into or linkage with prevention, treatment and key population services; combining multiple human rights programs for enhanced impact; avoidance of duplication and gaps; strengthening rights human capacity towards sustainability; addressing the contexts of beneficiaries; and robust monitoring and evaluation.

The systematic collection of data on quality indicators on individual programs to remove human rights related barriers went beyond the scope of this assessment. However, based on key informant interviews with implementers, community organizations, UN agencies and donors, as well as reviews of program data for certain programs and activities, some key components of quality are discussed below.

Integration of Human Rights and Service Delivery Programs

The mid-term assessment found several examples of successful integration of human rights programs with health service delivery programs. These include HIV prevention programs for female sex workers (ACHAP and Tebelopele) and for men who have sex with men and transgender persons (ACHAP and BONELA) which integrate referrals to psychosocial and legal services with the distribution of condoms and lubricant, HIV, STBBI and TB testing, and linkages to treatment, care and support; programs for survivors of gender-based violence which offer emergency shelter, counseling, referrals to HIV and STBBI testing and PEP as well as legal aid and community outreach with police and political and traditional leaders (Women Against Rape and the Botswana Gender Based Violence Prevention and Support Centre); a peer paralegal program that supports sex workers to access legal services, psychosocial support and health services and also monitors human rights violations and trains local police (Sisonke Botswana and BONELA); and community-based TB care teams that provide TB treatment support while responding to myths and stigma surrounding the disease (BOCAIP and ACHAP).

Key informants underlined the challenges of integrating human rights into service delivery work, when service delivery is often the only activity funded; human rights activities are thus supplementary to service delivery programs and in those circumstances, rarely fulsome.

Combining Programs to Reduce Human Rights-Related Barriers

At mid-term, several program areas are combined to reduce human rights-related barriers to HIV and TB services: legal literacy programs are often delivered with legal services and human rights documentation activities, which are also linked to broader advocacy efforts and the monitoring and reform of laws and policies. To expand the reach of sensitization activities, program implementers that are headquartered in one district often deliver training to health care workers and to law enforcement and engage in community dialogues with traditional leaders during the same period of outreach to specific districts. While there are stand-alone activities and campaigns on stigma and discrimination, issues concerning stigma and discrimination are integrated into most training, sensitization and community dialogue activities. And as discussed above, gender concerns, particularly those related to gender-based violence,

sexual orientation and gender identity, are integrated into all program areas and most program activities, ensuring their gender responsiveness.

Avoidance of duplication and gaps

Some key informants described inadequate coordination with regards to human rights programming, with perceived duplication in programming. To address this, they suggested greater dialogue between the Global Fund, PEPFAR, the Botswana government and program implementers to better coordinate activities in specific districts and avoid overlap. Upon closer examination, however, some programs only appear duplicative because they target the same key populations, and reflect different approaches. Nevertheless, there are benefits to increased coordination to address duplication and gaps in coverage.

Acknowledging this, the NSF III recommends establishing mechanisms for “coordinating planning to reduce duplication and ensure resource allocation is in line with geographical, population and programmatic prioritisation.”⁷⁶ With the recent appointment of a Legal and Human Rights Officer at NAHPA responsible for coordinating Botswana’s multisectoral HIV responses and the proposed role of the TWG as a coordination and implementation oversight mechanism, there are now focal points to help tackle this challenge.

Strengthening rights human capacity towards sustainability

As an upper middle-income country projected to transition from Global Fund country allocation by 2028, Botswana is part of the cohort of countries reporting on domestic HIV expenditure allocated to social enablers, including programs to reduce human rights-related barriers and prevention programs targeting key populations (KPI 9c). The purpose is to measure the extent to which the government recognizes that such programs are essential, and increasingly assumes responsibility for and funding of these services. Due to this income status, international donors have already reduced or withdrawn funding.⁷⁷ In anticipation of further declining donor funding, the Government of Botswana must mobilize domestic resources and implement a sustainability plan for human rights programs to lay the foundations of a successful transition before funding for disease components is projected to end. Acknowledging this, the NSF III emphasizes the need to “improve readiness for transition of HIV funding of HIV programmes,” “operationalize social contracting to sustain financing of the community response” and “strengthen private sector funding of the HIV response.”⁷⁸ To facilitate this process, civil society organizations advocated for the government to develop a system of ‘social contracts’ to implement human rights programs. Following this, the Ministry of Health and Wellness produced Botswana’s *Fund Strategy for Civil Society-led HIV services* in 2019 setting out a strategy for the Government of Botswana to fund non-governmental organizations to implement priority HIV prevention, care, and support programs⁷⁹ and also committed domestic funds to programs to remove human rights-related barriers to HIV and TB services.

Monitoring and Evaluation

While key informants underscored the importance of monitoring and evaluation in assessing the quality of implementation of human rights programming, they also described a lack of monitoring and evaluation experience among program implementers and weak capacity in this area. At mid-term, program implementers record quantitative program data but do not track human rights-related indicators such as changing attitudes or the impact of programs on the uptake of health services, and there is little evidence of a coordinated effort to track the data that exists.

Encouragingly, there have been promising developments in recent years. The launch of an electronic app by BONELA and key population partners in 2020 to track cases of human rights violations will

facilitate the systematic monitoring and evaluation of cases, and enable organizations to more swiftly respond to emerging issues and assess the impact of their advocacy. NAPHA has a new monitoring and evaluation officer whose role is to coordinate data collection from various programs and to document and report this information, linking it to the national health monitoring framework. And the new multi-year plan *Removing Legal and Human Rights-Related Barriers to HIV/AIDS and TB Services in Botswana: A National Plan (2019-2024)* includes a monitoring and evaluation framework with program indicators linked to specific outcomes.

Nevertheless, key informants expressed a need for technical assistance to gain expertise in developing a monitoring and evaluation system for human rights programs, linked to national health and other relevant strategies and to domestic and international human rights obligations.

Political Will

Although Botswana government stakeholders appear to be supportive of programs to remove human rights-related barriers to HIV and TB, key informants described a lack of institutional drive across all relevant government sectors and a corresponding lack of political will or engagement for implementation from the most senior government ministries. This is consistent with the findings of the 2018 baseline assessment, which described a lack of strong leadership on the part of government stakeholders to address and remove barriers, even within the Ministry of Health and Wellness, which was reluctant to support key population concerns stating the limitations imposed by current laws.⁸⁰

There has been progress on this front, most explicitly with the inclusion of key populations in the NSF III, and recent court victories for LGBTI people have contributed to a more receptive environment for engagement with government actors. A Steering Committee within the TWG, chaired by a representative from the Ministry of Health and Wellness and comprised of government stakeholders who meet periodically to review the implementation of human rights programs, also holds promise in fostering political commitment to and coordination of human rights programming from the highest levels of government. Moreover, the establishment of a Health and Human Rights Unit at NAHPA in 2019 and the appointment of a Legal and Human Rights Officer tasked with executing the National Strategic Framework and coordinating Botswana's multisectoral HIV responses has helped drive the work of the TWG and encouraged greater government ownership of the National Plan, which was also launched in coordination with the Office of the Deputy President and included high profile representation across government sectors. Housing the Human Rights Unit at the Ministry of Health and Wellness rather than at NAHPA, and supporting that Unit with other permanent staff, would further institutionalize and bolster this work.

Community Engagement and Response

An array of community organizations representing key populations and civil society have participated in the *Breaking Down Barriers* initiative, having contributed to and validated the baseline assessment during the multi-stakeholder meeting, implemented programs to reduce human rights-related barriers, and helped develop the National Plan. While organizations that specifically engage in programming to address discrimination against women and gender-based violence or that represent people with disabilities have been less actively involved in the initiative, on the whole key informants described how key population-led organizations had become better equipped to engage in human rights programming and to contribute to processes to determine the national HIV and TB response, based on a shared understanding of human rights-related barriers and priority responses.

At the same time, there is a perception among some key informants that more established organizations that are recipients of Global Fund funding are encouraged to expand, while emerging organizations are not. Some key informants consequently expressed the need to nurture the growth and sustainability of grassroots, key population-led organizations, and their capacity to engage in human rights programming — thus facilitating the mainstreaming of human rights into a greater diversity of program implementers.

Donor Landscape

As at the time of the baseline assessment, international donors are the main source of funding of programs to reduce human rights-related barriers to HIV and TB services in Botswana, and key informants consistently described the Global Fund as the main funder for such human rights programs. PEPFAR is a major funder of HIV programs in Botswana and projects such as LINKAGES, which provides HIV prevention, care and treatment services for female sex workers and men who have sex with men also integrates human rights concerns into programming,⁸¹ while PEPFAR's Local Capacity Initiative (which concluded in March 2018) supported activities to strengthen the advocacy capacity of local civil society organizations. As discussed above, Aidsfonds supports the "Hands Off" program in Botswana that seeks to increase access to justice for sex workers. Additional but limited funds for HIV-related human rights activities come from ARASA, FHI 360, Frontline AIDS, Open Society Initiative for Southern Africa (OSISA), Red Umbrella Fund, COC Netherlands, UNDP and UNFPA.

As key informants shared, the funding landscape for human rights programming is extremely competitive. There are scant domestic funds for programs to reduce human rights-related barriers to HIV and TB services, with the majority of domestic health funding allocated to HIV service delivery and clinical interventions.

Response to COVID-19

On April 2, 2020, the Parliament of Botswana adopted an order declaring a State of Public Emergency to curb the spread of COVID-19, mandating a 28-day lockdown and only permitting people to leave their households to acquire essential goods such as food and medicine (with exceptions for persons operating in essential sectors). The initial lockdown order applied to the whole country, after which Botswana was divided into six COVID-19 zones with specific restrictions and movement restrictions between zones.

In the early days of the pandemic, key informants observed blaming of LGBT communities and sex workers for spikes in new cases. In addition to heightened stigma against some key populations, access to HIV prevention, treatment, care and support services was negatively affected. Pandemic-related movement restrictions hampered people's access to health facilities, HIV prevention commodities, and care teams that supported people living with HIV to attend medical appointments and adhere to treatment. To partially mitigate the impact of these restrictions, people living with HIV are now provided with a three-month supply of medication, while some organizations such as LEGABIBO have also been able to obtain movement permits to offer house-to-house delivery of antiretroviral treatment.

Restrictions on movement and on gatherings have also affected the community engagement work of many organizations, which suspended some of their outreach, training, sensitization and human rights monitoring work, particularly those activities that require travel across zones. Organizations have attempted to pivot to virtual engagement, but there have been challenges to implementing interventions in this manner. Web services are not accessible to everyone, and even people who are conversant with virtual tools or possess the technology cannot always afford the data bundles required to participate in virtual activities. This is especially true for residents of rural communities as well as

marginalized members of key populations, many of whom do not own a smart phone. At the same time, organizations have been unable to reach key populations (for whom they have no other means of communicating) at regular “hotspots.” The limitations on outreach activities have meant the numbers of people reached by various interventions have plummeted.

The economic fallout of the COVID-19 pandemic has meant a general decline in household incomes, negatively affecting access to food and shelter as well contributing to deteriorating mental health, with a rise in cases of suicide among the LGBT community. Key informants described the financial impact of the pandemic as having a disproportionate impact on sex workers who have been unable to see clients with the same frequency, and particularly migrant sex workers who have been unable to access government aid, as well as transgender people, who can no longer afford hormone therapy. While government, civil society and key population-led organizations spearheaded awareness-raising initiatives on human rights and gender-based violence during the early days of the pandemic, there has been a significant rise in cases of gender-based violence, domestic violence and intimate partner violence among women, young girls and LGBT people who have borne the brunt of abuse from family members during the lockdown. Limited shelter spaces has meant psychosocial support has been provided remotely, over the phone.

Funding for civil society organizations that deliver HIV programming has also been affected. Donors like the Global Fund and PEPFAR have funded organizations to mitigate the impact of COVID-19 on HIV programming, but substantial government funding has been diverted to the COVID-19 response, and there is a concern about the impact of depleted funding on human rights programming.

Recommendations

- Continue to identify opportunities to integrate human rights programs into HIV and TB prevention and treatment programming and provide dedicated funding for this work.
- Prioritize the coordination of programs to remove human rights-related barriers to ensure that they complement each other, address duplication, and identify gaps in coverage, using the National Plan as a framework.
- Continue to support the development of human rights expertise among key population-led and grassroots organizations and diversify funding sources for those organizations to support national scale up of programs to remove human rights-related barriers to HIV services.
- Institutionalize the Health and Human Rights Unit within the Ministry of Health and Wellness and support the functions of that office with other permanent staff, including a Monitoring and Evaluation Officer tasked with reporting M&E data and analysis to the national health monitoring framework and system.
- Provide technical assistance to the Monitoring and Evaluation Officer and to program implementers to monitor and evaluate programs to remove human rights-related barriers, including by supporting the Monitoring and Evaluation Officer to develop tools to systematically assess the link between human rights programs and uptake of/retention in HIV and TB services.
- Implement the *Fund Strategy for Civil Society-led HIV services* to increase domestic funding of programs to remove human rights-related barriers and use the National Plan to proactively seek funding from the donor community to scale up and strengthen such programs.

IV. Emerging Evidence of Impact

By reducing and removing rights-related challenges to access HIV and TB services, the *Breaking Down Barriers* initiative aims to improve uptake of, and retention in, services for affected communities. At mid-term of the initiative, there is emerging evidence of impact of programming to reduce human rights-related barriers, building on a foundation of complementary Global Fund-supported projects over the years, with mutually-reinforcing human rights programs having increased and elevated media and public discourse about LGBTI communities, sex work and gender-based violence; contributed to a more supportive environment for key populations at health care settings and in their interactions with law enforcement; resulted in greater access to justice; and led to the mainstreaming of human rights and key population concerns in the national HIV response.

CASE STUDY: Laying the groundwork for the Botswana High Court to decriminalize same-sex intimacy

LEGABIBO (Lesbians, Gays & Bisexuals of Botswana) is Botswana's longest-running human rights organization seeking to promote the human rights of the LGBTI community. Following a successful court challenge in 2014, LEGABIBO was the first LGBTI organization to be registered in the country.⁸² On the heels of this court victory, LEGABIBO also supported a transgender woman who successfully challenged the government's refusal to change her gender on identity documents in Botswana High Court.⁸³ These legal victories helped lay the groundwork for another case defending the human rights of LGBTI people.

With legal support from the Southern Africa Litigation Centre, LEGABIBO played a key role as *amicus curiae* in the case, which challenged the constitutionality of sections 164(a), 164(c), 165 and 167 of the Botswana Penal Code criminalizing same-sex intimacy between consenting adults.⁸⁴ LEGABIBO filed evidence describing the impact of criminalization on LGBTI mental health, experiences of violence, and access to health care services. In June 2019, the High Court of Botswana unanimously declared that sections 164 and 165 were unconstitutional as they contravened fundamental rights enshrined in the Constitution, and clarified that sexual acts taking place in private would not amount to gross indecency under section 167.⁸⁵ This ruling came 16 years after the Court of Appeal upheld the criminalization of same-sex intimacy and marked a significant turning point for LGBT rights in Botswana.⁸⁶

In its decision, the High Court noted that the evidence before it — submitted by LEGABIBO — demonstrated that the aforementioned sections constituted examples of structural stigma, and the criminalization of consensual adult same-sex intimacy subjected LGBTI persons in Botswana to violence and hampered their access to health care, “thus making it hard for them to access vital messages about safe sexual conduct, essential in the age of HIV/AIDS.”⁸⁷ As the Court stated, this evidence was pivotal, and justified a departure from the previous Court of Appeal decision.⁸⁸

Victor Madrigal-Borloz, the UN Independent Expert on violence and discrimination based on sexual orientation and gender identity, applauded the decision, noting that the mere existence of such criminal laws create “an environment conducive to violence, discrimination, stigma and exclusion,” and specifically acknowledged the efforts of LEGABIBO and other civil society organisations to “promote and protect the equality and inclusion of gay, lesbian, trans and bisexual people in Botswana.”⁸⁹ Already, the impact of the decision is being felt. Key informants have described more positive public discourse and media reporting of LGBTI communities and less overt stigma and discrimination against LGBTI persons, including from health care workers and law enforcement. The decision has also mitigated the risk LGBTI people feel to assert their rights. Police, traditional leaders, health care facilities and government

establishments are also more willing to engage with LGBTI organizations in the country, facilitating critical sensitivity training and community dialogues with those institutions.

Annex I. Summary of Recommendations

To strengthen and sustain the enabling environment, reach comprehensiveness and achieve impact, the mid-term assessment makes recommendations in the following areas. For more details, see the table with the comprehensive set of recommendations.

Key Recommendations

Creating a Supportive Environment
<ul style="list-style-type: none">• Task the Health and Human Rights Unit with coordinating regular meetings of the Technical Working Group on Health and Human Rights to provide oversight over and ensure effective implementation of the National Plan.• Promote wider knowledge of and engagement with the National Plan by all government ministries and agencies, including the Ministry of Health and Wellness, Ministry of Nationality, Immigration and Gender Affairs, Ministry of Basic Education, Ministry of Tertiary Education, Ministry of Defence, Justice and Security, Ministry of Local Government and Rural Development, Botswana Police Service, Botswana Prison Service, Attorney General’s Chambers and National Gender Commission, donors, technical partners and relevant civil society, human rights, gender equality and key population organizations, and seek synergies with other national plans or strategies, including those related to gender equality.• Use the National Plan as a tool to seek funding from a diversity of donors and to coordinate the funding of different activities.
Programmatic Scale-up
<ul style="list-style-type: none">• Develop monitoring and evaluation tools for each program area, tracking gender, age, data on key indicators and qualitative information, and periodically assess and adapt programs based on routine program monitoring and these evaluations.• Continue to support the development of human rights expertise among key population-led and grassroots organizations and diversify funding sources to support national scale up of programs to remove human rights-related barriers to HIV services.
Programmatic Quality and Sustainability
<ul style="list-style-type: none">• Identify opportunities to integrate human rights programs into HIV and TB prevention and treatment programming nationwide and provide dedicated funding for this work.• Prioritize the coordination of programs to remove human rights-related barriers to ensure that they are complementary, using the National Plan as a framework.• Institutionalize the Health and Human Rights Unit within the Ministry of Health and Wellness and support the functions of that office with other permanent staff, including a Monitoring and Evaluation Officer.• Implement the <i>Fund Strategy for Civil Society-led HIV services</i> to increase domestic funding of programs to remove human rights-related barriers.

Comprehensive Recommendations

Cross-cutting	
Creating a supportive environment	<ul style="list-style-type: none"> • Task the Health and Human Rights Unit with coordinating regular meetings of the TWG to provide oversight over and ensure effective implementation of the National Plan. • The National Plan is disseminated to all government ministries and agencies, including the Ministry of Health and Wellness, Ministry of Nationality, Immigration and Gender Affairs, Ministry of Basic Education, Ministry of Tertiary Education, Ministry of Defence, Justice and Security, Ministry of Local Government and Rural Development, Botswana Police Service, Botswana Prison Service, Attorney General’s Chambers and National Gender Commission, donors, technical partners and relevant civil society, human rights, gender equality and key population organizations, and synergies sought with other national plans or strategies, including those related to gender equality. • The National Plan is used as a tool to seek funding from donors other than the Global Fund and to coordinate the funding of different activities within the National Plan. • A robust monitoring and evaluation plan, with indicators for gender, age and key population, is developed, data on key indicators and qualitative information is collected and assessed periodically, and adjustments made based on findings from data analysis.
Programmatic quality and sustainability	<ul style="list-style-type: none"> • Continue to identify opportunities to integrate human rights programs into HIV and TB prevention and treatment programming and provide dedicated funding for this work. • Prioritize the coordination of programs to remove human rights-related barriers to ensure that they complement each other, address duplication, and identify gaps in coverage. • Continue to support the development of human rights expertise among key population-led and grassroots organizations and diversify funding sources for those organizations to support national scale up of programs to remove human rights-related barriers to HIV services. • Institutionalize the Health and Human Rights Unit within the Ministry of Health and Wellness and support the functions of that office with other permanent staff, including a Monitoring and Evaluation Officer tasked with reporting M&E data and analysis to the national health monitoring framework and system. • Provide technical assistance to the Monitoring and Evaluation Officer and to program implementers to monitor and evaluate programs to remove human rights-related barriers, including by supporting the Monitoring and Evaluation Officer to develop tools to systematically assess the link between human rights programs and uptake of/retention in HIV and TB services. • Implement the <i>Fund Strategy for Civil Society-led HIV services</i> to increase domestic funding of programs to remove human rights-related barriers and use the National Plan to proactively seek funding from the donor community to scale up and strengthen such programs.

HIV-related recommendations by program area	
Stigma and discrimination reduction	<ul style="list-style-type: none"> • Finalize, publish and promote the findings of the National Stigma Index Survey 2.0, targeting relevant government ministries and other policymakers, and apply findings to refine as necessary program activities in the National Plan to reduce stigma and discrimination against people living with HIV and key and vulnerable populations. • Develop workplace policies in consultation with key population and human rights organizations that address stigma and discrimination for people living with HIV and other key and vulnerable populations, including the need for reasonable accommodation and supports, produce legal literacy materials on these policies, and disseminate new policies and materials to all public and private employers with instructions to implement and disseminate to staff. • Fund key population-led and other civil society organizations to sustain media and communications campaigns in a diversity of mediums and develop tools to evaluate the impact of media and other communications campaigns, including the impact of such media engagement on public perceptions of key and vulnerable populations and on how media reports on related human rights issues.

	<ul style="list-style-type: none"> Support key population-led and other civil society organizations to continue and scale up community dialogues with traditional leaders across all districts.
Training of health care workers on human rights and ethics	<ul style="list-style-type: none"> In collaboration with key population-led and human rights organizations, finalize curriculum for and implement nationwide pre-service and in-service training of health care workers on a patient-centred, rights-based, youth-friendly approach to the provision of health services. Review and update the patients' rights charters in consultation with key population and human rights organizations and continue roll-out of training to all health facilities to clarify and affirm the services health care workers are obligated to provide. Support key population-led and other civil society organizations to expand to all districts training of health care workers on human rights, key populations, gender equality and gender-based violence and the need for privacy, confidentiality, and youth-friendly services, including by facilitating partnerships between DHMTs and those organizations. Develop tools to systematically evaluate the impact of health care worker training on their attitudes towards people living with HIV, people with TB, and key and vulnerable populations and on patient experiences in health care settings.
Sensitization of lawmakers and law enforcement agents	<ul style="list-style-type: none"> Finalize the development (in consultation with key population-led and human rights organizations) of the pre-service and in-service curriculum for all police trainees and frontline officers on HIV, TB and human rights, gender equality, gender-based violence and key populations, incorporating relevant legal developments, and institutionalize and roll this training out nationwide. Develop standard operating procedures for police to investigate cases of gender-based violence against sex workers, LGBTI people, adolescent girls and young women, and women living with HIV in consultation with women's rights, youth and key population organizations and train police in all districts on new procedures Prioritize engagement with the senior Executive of the Botswana Police Service, including ways to coordinate and implement key population-led sensitization activities for police across all districts. Develop plan to increase sensitization work with parliamentarians, individually and through relevant parliamentary committees, and with judges and magistrates, to enhance their knowledge about HIV, TB and human rights, key population concerns, gender equality and gender-based violence, and to strengthen their commitment towards law and policy change. Support the scale up of community dialogue activities carried out by key population-led and civil society organizations with traditional leaders at the <i>Ntlo ya Dikgosi</i> and <i>kgotlas</i> to ensure this work is happening in all districts on a sustained basis. Explore opportunities to provide training to the Botswana Prison Service to promote rights-based management of HIV and TB in correctional facilities. Develop tools to systematically evaluate the impact of law enforcement and lawmaker training on their knowledge of and attitudes towards people living with HIV, people with TB and key and vulnerable populations as well as the impact of training on those communities' engagement with trained law enforcement and lawmakers.
Legal literacy	<ul style="list-style-type: none"> Support key population-led and human rights organizations to scale up to all districts legal literacy activities targeting people living with HIV, people with TB and key and vulnerable populations, including on the patient charters and the health care services that facilities are obligated to provide, as well as the complaints process for HIV- or TB- related human rights violations. Fund key population-led and human rights organizations to develop written, accessible legal literacy materials and broader media campaigns, including those that address recent legal and policy developments related to key and vulnerable populations. Develop formal mechanism to gather feedback from legal literacy participants so that increases in legal knowledge and capacity are evaluated after sessions are completed.
Legal services	<ul style="list-style-type: none"> Fund the expansion of key population-led paralegal services and paralegal services addressing gender-based violence that are youth-friendly, including the human rights documentation program, across all districts, and integrate these services into outreach, health services and legal literacy programs.

	<ul style="list-style-type: none"> ● Support the expansion of the TB community care coordinators across all districts and formalize training of coordinators on human rights issues relevant to people with TB, including routes for referrals to legal information and support. ● Explore options to expand the capacity of the University of Botswana Legal Clinic to provide <i>pro bono</i> legal assistance to key and vulnerable populations and continue to strengthen the capacity of Legal Aid Botswana to forge links with key and vulnerable populations, including in rural communities, to increase their use of legal services. ● Train private legal practitioners to strengthen their capacity to respond to the rights of people living with HIV, TB and key and vulnerable populations and establish a database of lawyers who are able and willing to work with those key and vulnerable populations. ● Sustain communications and media campaigns that provide information about the availability of legal aid and legal services for key and vulnerable populations and promote via diverse mediums, including social media.
<p>Monitoring and reforming laws, regulations and policies related to HIV</p>	<ul style="list-style-type: none"> ● Continue to build capacity of key population-led organizations, grassroots networks and leaders to engage in law and policy reform work, and facilitate and fund opportunities for this engagement (e.g. as participants in strategic litigation or in submissions to parliamentary or UN bodies on relevant topics). ● Disseminate the recommendations of the Legal Environment Assessment along with summaries of recent legal and policy developments to all relevant policymakers and support direct engagement with parliamentarians on priority areas of reform. ● Support the nationwide roll-out of the mobile app to document human rights violations in a database and analyze and publish results to inform priority areas of advocacy relevant to people living with HIV, people with TB and key and vulnerable populations. ● Support research to monitor the enforcement of laws criminalizing HIV transmission and drug use and possession and publish findings to inform future advocacy priorities. ● Document and disseminate in Botswana and beyond the impact of Global Fund-supported law and policy reform activities to illustrate the value of sustained funding for human rights programming in this area.
<p>Reducing HIV-related gender discrimination, harmful gender norms and violence against women and girls in all their diversity</p>	<ul style="list-style-type: none"> ● Review and revise content of training, protocols and service standards on harmful gender norms and gender-based violence for health care workers in collaboration with women’s rights and key population organizations and ensure all health care workers are trained on revised materials and on providing youth-friendly care. ● Develop standard operating procedures for police to investigate cases of gender-based violence against sex workers, LGBTI people, women living with HIV, and adolescent girls and young women in consultation with women’s rights, youth and key population organizations and train police in all districts on new procedures. ● Support women’s rights and key population-led organizations to scale up community dialogues about discriminatory gender norms and gender-based violence with traditional leaders in all districts to facilitate the gender responsive operation of the customary justice system, in line with the 2015 <i>National Action Plan on Mainstreaming Gender into the Customary Justice System</i>. ● Explore opportunities for collaboration between key population-led and gender equality organizations to ensure that programs to remove human rights-related barriers are responsive to both gender and key population concerns. ● Adequately fund activities necessary to support the effective implementation of the national policy on gender and development and the national strategy to end gender-based violence. ● Incorporate recommendations of the 2018 evaluation of the pilot GBVRSP and scale up the referral system nationwide. ● As per the recommendations of the CEDAW Committee and the Legal Environment Assessment, amend the Penal Code to explicitly criminalize marital rape, and consider reviewing age of consent laws to health care services, including HIV and TB testing, prevention and treatment, to allow access to services for persons younger than 16 without parental consent.

Annex II. Methodology

Methods

The *Breaking Down Barriers* mid-term assessment was originally designed:

- 1) To assess progress towards a comprehensive response to human rights-related barriers to HIV and TB services (directionality for reporting under KPI 9a target), and to allow for course-corrections, if needed;
- 2) To inform future investments aimed to reduce human rights-related barriers to access (including, but not limited to, GF investments in 2020-2022 allocation cycle);
- 3) To help inform the new Global Fund strategy.

The assessment was expected “to produce updates of progress since baseline both on milestones and proxy indicators, and indicative, qualitative, early signs of evidence of impact in select countries and program focus; as well as case studies of successful programs.”⁹⁰

During the course of the assessments, in response to requests from the Global Fund Human Rights team, the objectives of the mid-term assessments evolved to include more focus on indicators of quality programs and programming, reviewing components such as integration of programs to remove human rights-related barriers into testing, prevention and treatment services; human rights implementation capacity; gender responsiveness; and the use of monitoring and evaluation systems.

For the assessment, countries were categorized into three tiers with varying levels of review. These were labelled as: in-depth, program and rapid assessments (see chart below). Botswana is a program assessment.

Mid-term Assessment Type	Countries
Rapid	<ul style="list-style-type: none"> • Benin • Democratic Republic of Congo (rapid +) • Honduras • Kenya • Senegal • Sierra Leone • Tunisia • Uganda (rapid +)
Program	<ul style="list-style-type: none"> • Botswana • Cameroon • Cote d’Ivoire • Indonesia • Jamaica • Kyrgyzstan • Mozambique • Nepal • Philippines
In-depth	<ul style="list-style-type: none"> • Ghana • South Africa • Ukraine

All approaches include a desk review of relevant program documents and reports as well as other documents that describe developments within the country and program contexts. Botswana, as a program assessment, involved an initial electronic questionnaire featuring questions about a broad array of programs that was circulated to stakeholders, followed by remote follow-up video interviews with key informants, or tailored questionnaires based on a key informant’s response to the initial questionnaire.

Key informants were sought from principal and sub-recipients of Global Fund grants as well as other government, donor and civil society representatives. Semi-structured interview guides were used to guide the interviews covering the following domains of inquiry:

Assessing specific BDB programs	
Dimension	Questions
Scope	What key and vulnerable populations does it reach or cover?
	Does the program address the most significant human rights-related barriers within the country context?
	What health workers, law enforcement agents, etc. does it reach?
	Does it cover HIV and TB?
Scale	What is its geographic coverage?
	Does it cover both urban and rural areas?
	How many people does it reach and in what locations?
	How much has the program been scaled up since 2016?
	What is the plan for further scale up as per the multi-year plan?
Sustainability	Does the program have domestic funding? How secure is that funding?
	Does the program have other, non-Global Fund funding? How secure is that funding?
	Does the program seek institutionalization of efforts to reduce human rights-related barriers (for example, integration of stigma and discrimination training into pre-service training)?
	Does it avoid duplication with other programs?
	Is the program anchored in communities (if relevant)?
	What has been done to ensure sustainability?
Integration	Are programs to reduce human rights-related barriers integrated into the National Strategic Plans for HIV and TB?
	Is the program integrated with existing HIV/TB services? (also speaks to sustainability)
	Is the program integrated with other human rights programs and programs for specific populations?
	How closely does the implementer coordinate with implementers of other programs that include or rely on linkages to HR programs? (if relevant)
	Does the program address HR-related barriers to HIV and TB together? (if relevant)
Quality	Is the program’s design consistent with best available evidence on implementation?
	Is its implementation consistent with best available evidence?
	Are the people in charge of its implementation knowledgeable about human rights?

	Are relevant programs linked with one another to try and holistically address structural issues?
	Is there a monitoring and evaluation system?
	Is it gender-responsive and age appropriate?

Information from key informant interviews was analyzed using qualitative, quantitative and semi-quantitative methods centered on the question of the comprehensiveness of programs. Based upon the interviews, additional documents and data (both quantitative and qualitative) were requested from key informants, which fed into the analyses of the program areas for HIV. A list of documents reviewed and key informants who were interviewed is provided in the following Annexes.

The assessment was begun in July 2020 and completed in December 2020. Following the review of documents and key informant interviews, a draft of this report was shared with the Global Fund Human Rights Team and Botswana Country Team for their feedback. The finalized assessment report integrates these comments where relevant.

Assessment Component	Researchers	Dates
Desk review of available program reports, epidemiological information, and other background documents	Sandra Ka Hon Chu Julie Mabilat	July 2020
Dissemination of electronic questionnaire to representatives of the Health and Human Rights Technical Working Group	Sandra Ka Hon Chu Julie Mabilat	August – September 2020
Follow-up interviews with 17 relevant key informants	Sandra Ka Hon Chu Julie Mabilat Peter Chibatamoto	August – November 2020
Presentation of key report findings to Global Fund	Sandra Ka Hon Chu Julie Mabilat	December 2020

Detailed Scorecard Calculations and Key

The MTA country researchers independently scored each of the seven programs to reduce HIV-related human rights barriers, based on the geographic scale of each program area for each relevant key population, weighted equally (see table below) at mid-term. Scores were compared and discussed to reach consensus. Where disagreements remained, scores were averaged.

Rating	Value	Definition
0	No programs present	No formal programs or activities identified.
1	One-off activities	Time-limited, pilot initiative.
2	Small scale	On-going initiative with limited geographic scale (e.g., a single or small number of locations – less than 20% of national scale) and capacity for reaching the targeted population. 2.0 Reaching <35% 2.3 Reaching between 35 - 65% of target populations 2.6 Reaching >65% of target populations
3	Operating at subnational level	Operating at subnational level (btw 20% to 50% national scale) 3.0 Reaching <35% 3.3 Reaching between 35 - 65% of target populations

		3.6 Reaching >65% of target populations
4	Operating at national level	Operating at national level (>50% of national scale) 4.0 Reaching <35% 4.3 Reaching between 35 - 65% of target populations 4.6 Reaching >65% of target populations
5	At scale at national level (>90%)	At scale is defined as more than 90% of national scale, where relevant, and more than 90% of the population
Goal	Impact on services continuum	Impact on services continuum is defined as: a) Human rights programs at scale for all populations; and b) Plausible causal links between programs, reduced barriers to services and increased access to HIV/TB services.
N/A	Not applicable	Used when the indicator cannot be logically assessed (e.g., reducing discrimination against women programs for MSM).
Unk	Unable to assess	Used when it is impossible to determine a score based upon significant missing data (e.g., unavailable info from another donor).

Annex III. List of Key Informants

1. Dr. Bonaparte Nkomo, Public Health Specialist and Head of HIV Programmes, Ministry of Health and Wellness
2. Paphidzo Gilbert, Program Officer, Ministry of Health and Wellness
3. Bulayani Bengani, Superintendent and Director of HIV programming, Botswana Police Service
4. Diana Meswele, Legal and Human Rights Officer, National AIDS and Health Promotion Agency (NAHPA)
5. Kealeboga Lekgatlhanye, Monitoring and Evaluation Officer, NAHPA
6. Batsile P. Peloewetse, CPPO, NAHPA
7. Lefetogile Bogosing, Global Fund Grant Coordinator, NAHPA
8. Joseph Kefas, then Acting National Coordinator, NAHPA
9. Elizabeth Koko, NAHPA
10. Cindy Kelemi, Executive Director, BONELA
11. Blessed Monyatsi, Program Manager, ACHAP
12. Mandla Pule, Program Manager, Sisonke Botswana
13. Caine Youngman, Policy and Legal Advocacy Manager, LEGABIBO
14. Marlene Nkete, Executive Director, Tebelopele Voluntary Counseling and Testing
15. Dumiso Gatsha, Director, Success Capital
16. Skipper Mogapi, Director, Rainbow Identity Association
17. Kitty Grant, consultant
18. Kgoreletso Molosiwa, Executive Director, Botswana Network of People Living with HIV/AIDS (BONEPWA+)
19. Gasekgale Moalosi, Program Manager, BONEPWA+
20. Shirley Keoagile, Executive Director, Botswana Association of the Deaf (BOAD)
21. Boingotlo Gupta, Director, Kebotlhokwa Care Center
22. Joella Marron, Human Rights Advisor, UNDP
23. Dr. Boitumelo Mokgatla, Community Support Advisor, UNAIDS
24. Mpho Mmesesi, Strategic Information Adviser, UNAIDS
25. Sylvain Browa, Acting Country Coordinator, PEPFAR

Annex IV: List of Sources and Documents Reviewed

Documents related to Breaking Down Barriers Initiative

1. Global Fund to Fight AIDS, Tuberculosis and Malaria, Baseline Assessment: Botswana (2018).
2. Global Fund to Fight AIDS, Tuberculosis and Malaria, Overview of multi-stakeholder meeting and plan for a comprehensive response to human rights-related barriers, participants agenda and welcome remarks (5 November 2018)
3. Global Fund to Fight AIDS, Tuberculosis and Malaria, Global Fund Technical Support Towards Finalisation of the Comprehensive Plan to Address Human Rights Barriers to HIV Services in Botswana LEA Technical Working Group Meeting (15-16 May 2019).

Global Fund Internal Documents (all documents on file with the Global Fund and the MTA research team)

4. *Grant Management Data – Botswana.*
5. *Budget of Ministry of Health of the Republic of Botswana – Grant cycle 01 January 2019 – 31 December 2021 (16 August 2017).*
6. *Budget of African Comprehensive HIV/AIDS Partnerships – Grant cycle 01 January 2019 – 31 December 2021 (16 August 2017).*
7. *Performance Framework for Ministry of Health of the Republic of Botswana (undated).*
8. *Matching Funds Request HIV: Programs to remove human rights-related barriers to health services (6 August 2018).*
9. *Matching Funds Request HIV: Adolescent girls and young women (6 August 2018).*
10. *Secretariat Briefing Note Program Continuation Matching Funds Request (undated).*
11. *Removing human rights-related barriers: Operationalizing the human rights aspects of Global Fund Strategic Objective 3 (November 2019).*

Country Documents

12. Republic of Botswana, *Botswana's Constitution of 1966 (rev. 2002).*
13. Ministry of Health and Wellness and UNDP, *Assessment of Legal and Regulatory Framework for HIV, AIDS and Tuberculosis Final Report (November 2017).*
14. National AIDS and Health Promotion Agency (NAHPA), Ministry of Presidential Affairs, Governance and Public Administration, Government of Botswana, *Third Botswana National Strategic Framework for HIV and AIDS 2019-2023 (2019).*
15. Ministry of Health, *Botswana's Fund Strategy for Civil Society-Led HIV Services (December 2019).*
16. NAHPA, *Removing Legal and Human Rights and Gender related barriers to HIV/AIDS and TB Services in Botswana: A Five Year National Comprehensive Plan (2019-2024) – DRAFT 10 (September 2020).*
17. *Removing Legal and Human Rights Related Barriers to HIV/ AIDS and TB Services in Botswana Estimated Costs of Implementing the National Plan 2020 -2024 (25 June 2020) [PowerPoint, 15 slides]*
18. Ministry of Health and Wellness, *The Patients' Charter for Tuberculosis Care (undated).*

Relevant Third-Party Resources

19. BONEPWA+, *Stigma Index Survey Report Botswana* (August 2014).
20. BONELA, *Removing Legal Barriers Bi-Annual Progress Report July – December 2016* (15 January 2017).
21. Southern Africa Litigation Centre, *Accountability and redress for discrimination in healthcare in Botswana, Malawi and Zambia* (2016).
22. USAID, PEPFAR and MEASURE Evaluation, *Botswana PEPFAR Gender Analysis* (2016).
23. ARASA, *Small Grants Case Studies: Catalysing HIV, TB and Human Rights Advocacy in Southern and East Africa 2017* (undated).
24. Human Rights Council Working Group, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 Botswana* (2017).
25. Office of the United Nations High Commissioner for Human Rights, *Summary of Stakeholders' submissions on Botswana* (31 October 2017).
26. The Other Foundation, *Canaries in the coal mines: An analysis of spaces for LGBTI activism in Botswana Country Report* (2017).
27. Aidsfonds, *Sex work & violence in Botswana. Needs Assessment report* (June 2017).
28. MEASURE Evaluation, *Saving Lives, Transforming the Economy: Making "Treat All" Real and Saving 23,000 More Botswana from HIV by 2030* (2018).
29. Committee on the Elimination of Discrimination against Women, *Concluding observations on the fourth periodic report of Botswana* (14 March 2019).
30. BONELA, *Removing Legal Barriers Annual Progress Report January – December 2017* (6 February 2018).
31. Stop TB Partnership and UNDP, *Legal Environment Assessment for Tuberculosis in Ukraine* (2018).
32. CDC Division of Global HIV & TB, *Country Profile: Botswana* (2018).
33. Global AIDS Monitoring: Botswana (2018).
34. O. Mosweu, *Open conversations on reducing stigma and discrimination in Botswana by using cultural values to foster support to end stigma and discrimination*, AIDS 2018 abstract (2018).
35. Rule of Law Factsheet: Botswana (2019).
36. UNAIDS, *Country factsheets: Botswana* (2019).
37. Advancing Partners & Communities, *Local Capacity Initiative Final Report* (2019).
38. LINKAGES, *LINKAGES Botswana: Summary of Achievements, October 2015–September 2019* (2019).
39. Arcus Foundation, *Data Collection and Reporting on Violence Perpetrated Against LGBTQI Persons in Botswana, Kenya, Malawi, South Africa and Uganda* (October 2019).
40. Sisonke Botswana and BONELA, *CEDAW SHADOW REPORT 2019* (2019).
41. ACHAP and BONELA, *Access to TB/HIV Services* (undated).
42. ACHAP and BONELA, *TB HIV Project: Client Health Rights and Responsibilities Charter* (undated).
43. ACHAP and BONELA, *HIV/TB Project Referral Process and Referral Guide* (undated).
44. BONELA, *Anecdotes on Expressing Experiences: Perspectives on Gender Based Violence, HIV/AIDS, Teenage Pregnancy and Parent & Child Communication* (undated).

45. BONELA, Removing Human Rights and Gender Related Barriers (undated) [PowerPoint, 10 slides]
46. BONELA, *Removing Legal Barriers Quarterly Progress Report January – December 2018* (15 January 2019).
47. BONELA, *Removing Legal Barriers Quarterly Progress Report Q4 2019* (undated).
48. World Health Organization, *Tuberculosis country profile: Botswana* (2019).
49. PEPFAR, *Botswana Country Operational Plan COP20 Strategic Direction Summary* (7 April 2020).
50. Success Capital, *Submission to the Working Group on discrimination against women and girls on women’s and girls’ sexual and reproductive health and rights in situations of crisis* (2020).
51. LEGABIBO and Southern Africa Litigation Centre, *Legal Gender Recognition in Botswana: An analysis of law and policy in the context of international best practice* (October 2020).
52. APMG Health, *Focused Country Evaluations Botswana HIV Evaluation DRAFT Remote Field-based Evaluation* (November 2020).
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¹ The main categories of human rights and gender-related barriers to HIV and TB services include: Stigma and discrimination, including within the provision of health services; Punitive laws, policies, and practices; Gender inequality and gender-based violence; Poverty and socio-economic inequality; and Harmful working conditions and exploitation (mainly for TB).

² For HIV and TB: Stigma and discrimination reduction; Training for health care providers on human rights and medical ethics; Sensitization of lawmakers and law enforcement agents; Legal literacy (“know your rights”); Legal services; Monitoring and reforming laws, regulations and policies relating to the 3 diseases; Reducing HIV-related gender discrimination, harmful gender norms and violence against women and girls in all their diversity. Additional programs for TB: Mobilizing and empowering patient and community groups; Ensuring privacy and confidentiality; Interventions in prisons and other closed settings; Reducing gender-related barriers to TB services.

³ Linking programs to barriers; Making programs follow and support national plan and strategy; Integrating programs in prevention, treatment, key population programs; Combining programs; Avoiding duplication and gaps; Avoiding one-off activities; Building capacity and sustainability; Using local capacity and build on good existing programs; Making programs gender-responsive; Addressing safety and security; and robust M&E systems.

⁴ The main categories of human rights and gender-related barriers to HIV and TB services include: Stigma and discrimination, including within the provision of health services; Punitive laws, policies, and practices; Gender inequality and gender-based violence; Poverty and socio-economic inequality; and Harmful working conditions and exploitation (mainly for TB).

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- Section 165: "Any person who attempts to commit any of the offences specified in section 164 is guilty of an offence and is liable to imprisonment term not exceeding five years."
- Section 167: "Any person who, whether in public or private, commits any act of gross indecency with another person, or procures another person to commit any act of gross indecency with him or her, or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or private, is guilty of an offence."
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