

Republic of Botswana



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# National Symposium: A National Human Rights Institution for Botswana

**Tuesday 20 November – Wednesday 21 November 2018**

**Gaborone International Convention Centre (GICC)**

**(Tsodilo B&C Rooms)**

**Gaborone, Botswana**





**National Symposium:  
A National Human Rights Institution  
for Botswana**





## **BACKGROUND**

Botswana has committed, at both the national and international levels, to establishing a Paris Principle compliant National Human Rights Institution by transforming the Office of the Ombudsman into a hybrid institution which would perform the functions of a human rights institution in addition to its current mandate to investigate maladministration.

Institutions such as National Human Rights Institutions (NHRIs) are key to ensuring effective national implementation of human rights obligations. NHRIs link the responsibilities of the State to the rights of citizens and connect national laws to regional and international human rights systems.

The globally accepted international standards for the establishment and functioning of NHRIs are the “Paris Principles.” Paris-Principle compliant NHRIs are the cornerstone of national human rights protection systems and support Governments to meet their obligations to ‘respect, protect and fulfil’ international human rights norms.

The six main criteria that a national human rights institution must satisfy to be “Paris Principle compliant” are:

1. A broad mandate based on universal human rights standards;
2. Autonomy from Government;
3. Independence guaranteed by legislation or constitution;
4. Pluralism (diversity) including through membership and/or effective cooperation;
5. Adequate resources; and
6. Adequate powers of investigation.

Paris Principle compliant NHRIs can come in various forms, but are typically a Commission (eg a Human Rights Commission) or an Ombudsman with human rights mandate. Both models can be effective and credible if the Paris Principles are satisfied.

The Office of the President, with the support of the United Nations Development Programme (UNDP) have therefore convened a two-day national symposium “A National Human Rights Institution for Botswana” in Gaborone, Botswana on 20 – 21 November 2018. The symposium is a consultative forum, which will bring together Government, civil society and private sector stakeholders.

International guest speakers will include Commissioners, Ombudsman and representatives from 4 African national human rights institutions which have been accredited as “Paris Principle compliant” (Ghana, Malawi, Namibia and South Africa) as well as a former Commissioner from Uganda. Representatives from the United Nations Office of the High Commissioner for Human Rights (OHCHR) and the international representative body for national human rights institutions will also share international experiences and best practices. The international experiences will be contextualised for Botswana by the Ombudsman and speakers from the University of Botswana, the National Assembly and civil society.

The key objectives of the symposium are to:

1. Build the awareness within government and civil society of the mandate, structure and functions of a Paris-Principle compliant NHRI and the benefits of compliance with the Paris Principles;
2. Share international and regional experiences and best practices to inform the development of the NHRI for Botswana; and
3. Provide clarity on the conditions for an independent, strong, credible, and well-resourced institution.

An Outcome Document will be produced to document the comparative experiences and key recommendations moving forward. These recommendations will be submitted to Government for consideration.



**Hon. Nonofu E. Molefhi**

Minister for Presidential Affairs, Governance and Public Administration

Honourable Nonofu Ezekiel Molefhi is the current Minister for Presidential Affairs, Governance and Public Administration in Botswana. He was appointed to this position in April 2018. Prior to taking up this post, Hon. Molefhi held other Ministerial portfolios in the Ministries of Infrastructure and Housing Development, Infrastructure, Science and Technology (MIST); Transport and Communications (MTC); and Lands and Housing (MLH). Hon. Molefhi has been the Member of Parliament for Selebi Phikwe East since 2004. Before he joined politics in 2003, he held various positions in government service. Hon. Molefhi is also a member and patron of a number of Civil Society organizations in Botswana which include Youth for Christ; Botswana Association of Social Workers; Botswana Work Camp Association; Scripture Union Botswana; Inner Self Confidence Organization; and Botswana Amateur Boxing Association.



**Florence Simbiri-Jaoko**

LLB(UoN). LLM(Bristol) Diploma(KSL), Diploma(Legal Studies)

Florence Simbiri-Jaoko, is a Kenyan lawyer, trained at the University of Nairobi and University of Bristol and was admitted to the Kenyan Bar in 1985. She is a lecturer at the University of Nairobi, School of Law. She previously was the Chairperson of the Kenya National Commission on Human Rights and the Secretary of Global Alliance for National Human Rights Institutions (formerly the ICC of NHRIs). Florence also worked as a judicial officer in Kenya for over 15 years and has extensive experience in the governance sector, more particularly in human rights, as well as legal, judicial and security sector reforms. She has served on various Kenya government taskforces on legal, judicial and security sector reforms. She is a member of the International Commission of Jurists (Kenya) and International Federation of Women Lawyers (FIDA, Kenya).



**Mr Joseph Akanjolenur Whittal**

After a distinguished career in law and the public sector, Mr Whittal was appointed Commissioner of the Commission on Human Rights and Administrative Justice (CHRAJ) in Ghana in 2016 after previously serving as Deputy Commissioner at the same institution. As Commissioner, Mr Whittal is head of the Constitutional Body and Chair of the Governing Council with supervisory oversight over all functions. As Deputy Commissioner, he had oversight over the Legal Department; Human Rights Department; Administrative Justice Department; Investigations Department and the Legal Registry and Complaints Units. Mr Whittal holds a Masters (MA) in Democracy, Governance and Human Rights (DGL) and a B.L, Ghana School of Law.



**Adv. Martha Chizuma**

Martha Chizuma was appointed the Ombudsman of the Republic of Malawi on 1<sup>st</sup> December 2015. Holding the position of Ombudsman constitutionally makes her a Commissioner of the Malawi Human Rights Commission, a Commissioner of the Police Service Commission and a member of Malawi Prison Inspectorate.

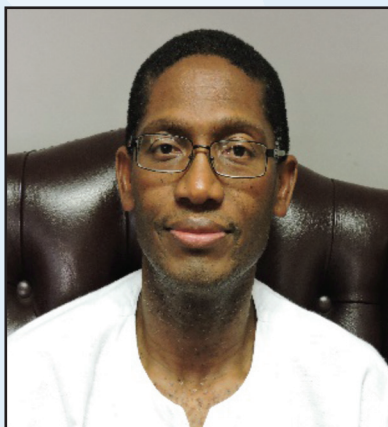
Martha Chizuma holds a Master of Laws Degree in International Law and World Economy from the University of East London 2007; Bachelor of Laws (Hons) Degree from University of Malawi 2002.

Martha Chizuma has had a long career in public and private sector legal practice, including Deputy Chairperson of the Industrial Relations Court and Assistant Registrar of the High Court and the Supreme Court of Appeal in Malawi. Ms Chizuma currently serves on the Board of the International Ombudsman Institute as Director of the African Region and as a board member of several community boards.



**Adv. John Walters**

Mr Walters was appointed as Ombudsman of the Republic of Namibia in July 2004. He joined the International Ombudsman Institute (I.O.I) Board of Directors as African Regional Vice-President in 2009. He was elected 1st Vice-President of the IOI in 2012 and President of the IOI in October 2014. His term of office as President of the I.O.I ended in November 2016.



**Adv. Tseliso Thipanyane**

Chief Executive Officer of the South African Human Rights Commission and former Chief Executive Officer of the Safer South Africa Foundation. Spent over 13 years in the SAHRC as head of research, mainly responsible for the monitoring of economic and social rights and access to information rights, before becoming the Chief Executive Officer. Former researcher on criminal justice at the University of KwaZulu-Natal and a former law lecturer at the University of the Western Cape (criminal procedure), Columbia University Law School, New York (African human rights systems), Ramapo College of New Jersey (African politics and Human Rights). He has numerous publications on human rights issues and has presented conference papers in over twenty countries in Africa, Europe, America and Asia. Admitted as an Advocate of the High Court of Lesotho and South Africa and served on the project committee on child justice of the then SA Law Commission. Member of the Executive Committee of the Council for the Advancement of South Africa's Constitution (CASAC) and former board member of the Open Democracy Advice Centre (ODAC). B.Sc, LL.B and LL.M





**Ms. Abigail Noko**

Ms. Abigail Noko is the Head of the Regional Office of the United Nations High Commissioner for Human Rights in Southern Africa. She has worked at the Office for High Commissioner for Human Rights for the past 17 years in various capacities. Prior to her current posting she oversaw OHCHR's work from headquarters in East and Southern Africa and the African Union, and undertook special assignments in Sierra Leone and Nigeria. Previously she was Special Assistant to the Assistant Secretary-General for Human Rights, the adviser on HIV and worked in external relations and donor relations. Before joining OHCHR, she worked with UNHCR and in the private sector.

In her current capacity, she is responsible for overseeing the work of the regional office which covers 14 countries (Angola, Botswana, Comoros, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Zambia and Zimbabwe). This includes providing technical assistance and advisory services in human rights to States, United Nations agencies, sub-regional organizations, national human rights institutions, and civil society organizations.



**Aliro Omara**

Aliro Omara is a founding member and the Chairperson – Board of Directors of the Human Rights Centre Uganda (HRCU). He is also a former Commissioner at the Uganda Human Rights Commission (UHRC) where he served for 12 years. He is currently a member of the Governing Council of the African Peer Review Mechanism (APRM) and chairs the thematic area of Human Rights Democracy and Good Governance. Aliro holds an LLB (Hon) degree from Makerere University and a Diploma in Legal Practice, LDC also from Makerere University. He has been an advocate of the High Court of Uganda since 1976 and has worked as a State Attorney; Magistrate; Senior Lecturer in Law at Moshi Co-operative College-Tanzania; and Member of Parliament and Government Minister of Uganda. He participated in the drawing of a Draft Bill of Rights for the East African Community (EAC). He also helped in setting up human rights commissions in various countries and has undertaken several consultancies in various fields of human rights.



**Mr. Augustine Makgonatsotlhe**

Mr. Augustine Ntshomane Makgonatsotlhe, the Ombudsman of Botswana, is a distinguished legal practitioner and public servant who has extensive experience in the field of human rights. Born in Lobatse, his career dates as far back as 1987 when he joined the Public Service (Attorney General's Chambers) as a State Counsel.

He progressed through the ranks to the position of Principal State Counsel in 1994 and then Chief State Counsel (2003-2005) in the Attorney General's Chambers.

From 2005 he served as the Deputy Permanent Secretary (Administration) in the Office of the President until 2007 when he was appointed the Secretary for Defence, Justice and Security in the Ministry of Defence, Justice and Security. He holds an LLB from the University of Botswana and a Masters Degree (LLM).



**Honourable Pius Mokgware**

Honourable Pius Mokgware is the current Member of Parliament for Gabane-Mankgodi under the Alliance for Progressives political party. He holds a Bachelor of Arts in Accounting and Masters in Strategic Studies. He was a lecturer of Politics and Administration Studies at the University of Botswana and later joined Botswana Defence Force where he became the Commander-Ground Forces. He serves in various committees in Parliament, and is the Chairperson of the Parliamentary Committee of Foreign Affairs, Defence, Justice, and Security.



**Dr B. R. Dinokopila**

Dr B. R. Dinokopila is a Senior Lecturer & Head of the Department of Law, University of Botswana. He teaches and carries out research in the areas of constitutional law, international human rights law, public international law and international institutional law.



**Ms Cindy Kelemi**

Ms Cindy Kelemi, Executive Director of BONELA is a human rights activist, working tirelessly for over 15 years to advocate for policy and law reform including access to justice for vulnerable and marginalized populations. The highlight of her career was when BONELA in partnership with SALC successfully challenged Botswana government policy on access to HIV treatment for foreign prisoners, Tapela Vs Attorney General and others.

<b>Day 1: Tuesday 20 November</b>	
08:00 – 8:30	<b>Arrival tea and registration of participants, area outside Tsodilo B</b>
8:30 – 9:30	<p><b>Official Opening Ceremony</b></p> <p><b><u>Directors of Ceremony</u></b> <b><i>Lesego Mohutsiwa and Kefilwe Mokgaotsane</i></b></p>
8:30 – 8:35	<b>Opening prayer, Botswana Council of Churches</b>
8:35 – 8:45	<p><b>Welcome remarks</b> <b><i>Mr. Thuso Ramodimoosi, Permanent Secretary, Ministry for Presidential Affairs, Governance and Public Administration</i></b></p>
8:45 – 8:55	<p><b>Remarks</b> <b><i>Ms. Jacinta Barrins, UNDP Resident Representative</i></b></p>
8:55 – 9:05	<p><b>Official opening</b> <b><i>Hon. Nonofu Molefhi, Minister for Presidential Affairs, Governance and Public Administration</i></b></p>
9:05 – 9:30	<p><b>Keynote address “National Human Rights Institutions – Opportunities and Challenges for Botswana”</b></p> <p><b><i>Ms Florence Simbiri-Jaoko, Special Envoy Global Alliance for National Human Rights Institutions (GANHRI), former Chairperson of the Kenya National Commission on Human Rights and the former Secretary of GANHRI</i></b></p>

09:30 – 10:00	<b>Tea Break</b>
10:00 – 11:30	<p><b>Plenary Session 1: Human rights institutions in Botswana – current status</b></p> <p>The session will provide a situational analysis for the current institutions for the protection and promotion of human rights in Botswana. How do Botswana currently learn about human rights, how are their rights promoted and protected? What institutions in Botswana already exist for the protection and promotion of human rights? What role may there be for a National Human Rights institution in Botswana?</p> <p><b>Moderator:</b> <i>Mr Aliro Omara</i></p> <p><b>Panellists:</b> Panellists will speak for 10 minutes each followed by question time.</p> <ul style="list-style-type: none"> <li>▪ <i>Mr Augustine Makgonatsotlhe, Ombudsman, Botswana</i></li> <li>▪ <i>Hon. Pius Mokgware, Chairperson of Parliamentary Committee on Foreign Affairs, Justice, Defence and Security</i></li> <li>▪ <i>Dr Bonolo Dinokopila, Head Law Faculty, University of Botswana</i></li> <li>▪ <i>Ditshwanelo – Botswana Centre for Human Rights</i></li> <li>▪ <i>Ms Cindy Kelemi, Executive Director, BONELA</i></li> </ul> <p><b>Discussant:</b></p> <p><i>Ms Abigail Noko, Head Regional Office Southern Africa, Office of the High Commissioner for Human Rights (OHCHR)</i></p>



11:30 – 12:30	<p><b>Presentation: Global Best Practice in establishing a Paris Principle compliant NHRI</b></p>
	<p>The Government of Botswana has announced that it will meet its commitment to establishing a Paris-Principle compliant NHRI by transforming the Office of the Ombudsman to fulfil this mandate. This presentation will provide an overview of the Paris Principles and key issues to be considered when establishing a Paris Principle compliant national human rights institution in Botswana. The speaker will provide examples of where the proposed model has been adopted successfully in many countries while still fulfilling the Paris Principles and highlight some of the challenges and opportunities of this approach.</p> <p><i>Ms Abigail Noko, Head Regional Office Southern Africa, Office of the High Commissioner for Human Rights (OHCHR)</i></p> <p><i>Moderator: Mr Aliro Omara, Former Commissioner, Uganda Human Rights Commission (UHRC)</i></p> <p><i>Comments and questions</i></p>
12.30 – 13:30	<p><b>Lunch</b></p>
13:30 – 15:00	<p><b>Plenary Session 2 : Case studies of National Human Rights Institutions</b></p> <p>This session will provide a general overview of 4 African Paris Principle compliant, A-status National Human Rights Institutions – focusing on the legal instrument (Constitution or specific legislation?), governance structures (including ways of guaranteeing independence), appointment processes, human rights mandate, functions and powers and budget allocation and process of each institution. The presentations will provide an overview and comparison of various models in the region, including how hybrid models deliver on multiple mandates (eg maladministration and human rights). The session will provide the context for the more specific discussions on Day 2 around the typical key functions of NHRIs.</p>

	<p><b>Moderator:</b> <i>Ms Bokole, Secretary, Defence Justice and Security, Ministry of Defence Justice and Security (MDJS)</i></p> <p><b>Panellists:</b></p> <p><i>Panellists will speak for 20 minutes each, followed by comments and questions after the tea break</i></p> <ul style="list-style-type: none"> <li>▪ <i>Commissioner Joseph Whittal, Commissioner, Ghana Commission on Human Rights and Administrative Justice</i></li> <li>▪ <i>Adv. Martha Chizuma, Commissioner / Ombudsman, Malawi Human Rights Commission</i></li> <li>▪ <i>Adv. John Walters, Ombudsman, Namibia</i></li> <li>▪ <i>Adv. Tseliso Thipanyane, CEO South African Human Rights Commission</i></li> </ul>
15:00 – 15:15	<i>Tea break</i>
15:15 – 16:30	<p><b>Plenary Session 2 continued : Case studies of National Human Rights Institutions – Discussion</b></p> <p><b>Moderator:</b> <i>Ms Bokole, Secretary for Defence, Justice and Security, MDJS</i></p> <p>This session is discussion, comments and questions regarding plenary session 2 (Case studies of National Human Rights Institutions).</p> <p><b>Discussant:</b> <i>Mrs Florence Simbiri-Jaoko, Special Envoy, GANHRI</i></p>

**Day 2: Wednesday 21 November 2018**

08:00 – 09:30

**Plenary Session 3: Human rights education and community engagement**

One of the key functions of NHRIs is to promote human rights and increase public awareness of human rights. This session will explore the various approaches to human rights education and community engagement by NHRIs, including engagement with the traditional leaders, private sector and civil society. What works? What are the challenges and opportunities? How can these insights be applied in Botswana?

**Moderator:** *Mr William Moncho, Deputy Ombudsman*

**Panellists:**

*Panellists will speak for 20 minutes each, followed by comments and questions*

- *Commissioner Joseph Whittal, Commissioner, Ghana Commission on Human Rights and Administrative Justice*
- *Adv. Martha Chizuma, Commissioner/Ombudsman, Malawi Human Rights Commission*
- *Adv. John Walters, Ombudsman, Namibia*

**Discussant:** *Mr Aliro Omara, Former Commissioner, Uganda Human Rights Commission (UHRC)*

09:30 – 11:00	<b>Plenary Session 4: Human rights complaint handling and inquiries</b>
	<p>Typically NHRIs receive and handle complaints from the public about human rights issues. Many can also conduct inquiries into systemic issues (either on referral or own motion). Should an NHRI have a role in investigating and resolving individual human rights complaints? What legal or other support services may be needed to support complainants? How should systemic issues be identified, investigated and resolved? What mechanisms should exist to allow complaints and recommendations to be followed up?</p> <p><b>Moderator:</b> <i>Mr Peter Brits, CEO, Legal Aid Botswana</i></p> <p><b>Panellists:</b></p> <p><i>Panellists will speak for 20 minutes each, followed by comments and questions</i></p> <ul style="list-style-type: none"> <li>▪ <i>Commissioner Joseph Whittal, Commissioner, Ghana Commission on Human Rights and Administrative Justice</i></li> <li>▪ <i>Adv. Martha Chizuma, Commissioner/Ombudsman, Malawi Human Rights Commission</i></li> <li>▪ <i>Adv. John Walters, Ombudsman, Namibia</i></li> </ul> <p><b>Discussant:</b> <i>Ms Joella Marron, Human Rights Specialist, UNDP</i></p> <p><i>Comments and questions</i></p>

11:00 – 11:30	<i>Tea break</i>
11:30 – 13:00	<p><b><u>Plenary Session 5: Human rights monitoring and reporting</u></b></p> <p>NHRIs typically have functions relating to the ongoing monitoring and reporting of human rights issues. This session will examine experiences and best practices of NHRIs in human rights monitoring and reporting. What mandate and powers should be enshrined in the law to ensure the Ombudsman effectively fulfils these functions?</p> <p><b>Moderator:</b> <i>Ms Tebogo T Mapodise, Chief Legal Investigator, Office of the Ombudsman</i></p> <p><b>Panellists</b></p> <p><i>Panellists will speak for 20 minutes each, followed by comments and questions:</i></p> <ul style="list-style-type: none"> <li>▪ <i>Commissioner Joseph Whittal, Ghana Commission on Human Rights and Administrative Justice</i></li> <li>▪ <i>Adv. Martha Chizuma, Commissioner/Ombudsman, Malawi Human Rights Commission</i></li> <li>▪ <i>Adv. John Walters, Ombudsman, Namibia</i></li> </ul> <p><b>Discussant:</b> <i>Mr Aliro Omara, Former Commissioner, Uganda Human Rights Commission (UHRC)</i></p> <p><b>Comments and questions</b></p>

13:00 – 14:00	<b>Lunch</b>
14:00 – 15:00	<p><b><u>Plenary Session 6: Resourcing, budget and resource mobilisation strategies</u></b></p> <p>One of the challenges facing NHRIs globally is attracting sufficient resources to effectively fulfil the mandate. The Paris Principles provide that: <i>“the national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.”</i> This session will explore strategies and options, drawing on comparative regional and international experiences.</p> <p><b>Panellists:</b></p> <ul style="list-style-type: none"> <li>▪ <i>Ms Florence Simbiri-Jaoko, Special Envoy, GANHRI</i></li> <li>▪ <i>Mr Aliro Omara, Former Commissioner, Uganda Human Rights Commission (UHRC)</i></li> </ul> <p><b>Moderator: Mr Boweditswe Masilo, Government Implementation and Coordination Office (GICO)</b></p> <p><i>Comments and questions</i></p>

15:00 – 15:15	<b>Tea Break</b>	
15:15 – 16:30	<b><u>Closing Session</u></b>	
15:15 -16:15	<p><b>Key recommendations from the symposium and the way forward</b></p> <p>This session will draw the key recommendations from the previous sessions for transforming the Office of the Ombudsman in Botswana by conferring a human rights mandate consistent with the Paris Principles. These recommendations can be considered during development of the law and subsequent implementation.</p> <p><i>Mr Dittah Molodi, General Counsel, Office of the President</i></p> <p><b>Moderator: Ms Jacinta Barrins, UNDP Resident Representative</b></p>	
16:15 – 16:25	<p><b>Closing Remarks: Hon. Ronald Machana Shamukuni, Assistant Minister, Ministry for Presidential Affairs, Governance and Public Administration</b></p>	
16:25 – 16:30	<p><b>Closing Prayer: Botswana Council of Churches</b></p>	
	<p><b>Organising Committee</b></p> <ol style="list-style-type: none"> <li>1. Mr. L. D. Molodi</li> <li>2. Ms. B. D. Botlhole</li> <li>3. Mr. B. Matshaba</li> <li>4. Mr. O. Gaselabone</li> <li>5. Ms. J. Marron</li> <li>6. Ms. T. Sepedung</li> <li>7. Mr. M. Matsoga</li> <li>8. Mr. B. Mabeo</li> <li>9. Ms. M. Maika</li> <li>10. Ms. N. Semausu</li> <li>11. Ms. S. Nsoso</li> </ol>	<p><b>Rapporteurs</b></p> <ol style="list-style-type: none"> <li>1. Kerly Kelly</li> <li>2. Dimpho M. Makopo</li> </ol> <p><b>Ushers:</b></p> <ol style="list-style-type: none"> <li>1. Kebitsaone Pojane</li> <li>2. Onkutlwile Tirelo</li> <li>3. Ouma Pogiso</li> <li>4. Goabaone MacDonald</li> <li>5. Segametsi Wetshoemang</li> <li>6. Kobamelo Leboro</li> <li>7. Keatlaretse Mompoti</li> <li>8. Onkeditse Monare</li> <li>9. Kay Jacob Sekgoni</li> <li>10. Charity Tamaki</li> </ol>

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