

BOTSWANA 2017/2018

The right to freedom of expression continued to be restricted. Asylum-seekers whose asylum claims were rejected continued to face detention. A landmark ruling in the Lobatse High Court upheld the rights of transgender people. Two men were sentenced to death.

Freedom of expression

Journalists continued to be intimidated and harassed by the authorities. On 8 March, three journalists from the INK Centre for Investigative Journalism were briefly detained and threatened by plain-clothes security agents in the village of Mosu. The journalists had tried to access the area where the new home of President Khama was allegedly being constructed amid allegations of corruption. The security agents told them that the building site was a “restricted area” and that they would be shot on sight if they tried to return.

On 19 April, the Court of Appeal upheld an earlier decision by the High Court and turned down the application of a teacher who had challenged his dismissal from employment on the grounds that it violated his constitutional right to freedom of expression. The teacher was dismissed after he published an opinion piece in a newspaper in May 2011 on the country’s political situation, following a national strike by public sector employees. In February 2012, a disciplinary hearing had found the teacher guilty of contravening section 34(a) of the Public Service Act.

Outsa Mokone, editor of the *Sunday Standard*, continued to face a criminal sedition charge following his arrest in 2014 after publishing articles alleging President Khama’s involvement in a road accident. In December 2016, he was released on bail and asked to appear at the magistrate’s court every two months and to seek permission before leaving the country. His legal case challenging the constitutionality of the sedition law was still pending at the end of the year.

Refugees and asylum-seekers

Botswana’s restrictive encampment policy continued, denying refugees freedom of movement, work and local integration. Asylum-seekers faced lengthy refugee status determination procedures and asylum-seekers – with both pending and denied applications – continued to be detained in the Francistown Centre for Illegal Immigrants. The duration of detention averaged between six months and five years, far beyond the detention period stipulated in the Refugee Act.

On 13 April, the High Court ordered the release of two Somali asylum-seekers from the Francistown Centre for Illegal Immigrants. They had been detained in the Centre since being denied refugee status in October 2015, having arrived separately in Botswana in June 2014. On 15 April, following their release, they were taken into custody at the Tlokweng police station after attempting to enter the Dukwe Refugee Camp, Botswana’s only refugee camp. On 25 April, President Khama declared them to be prohibited immigrants; they were subsequently detained at the first offenders prison in Gaborone, the capital, and have allegedly since been deported.

On 23 November, the Court of Appeal set aside the High Court ruling that the detention of 165 asylum-seekers and their relatives was illegal. As a result, the asylum-seekers sought refuge in Zimbabwe, Namibia and South Africa. Members of the group had arrived in Botswana between January 2014 and October 2016 and, after their asylum applications were denied, they had remained in detention in the Francistown Centre for Illegal Immigrants. The Attorney General made an appeal on 4 August.

Rights of lesbian, gay, bisexual, transgender and intersex people

In a landmark decision on 29 September, the Lobatse High Court ruled that the government's refusal to change the gender marker in the identity document of a transgender man was unreasonable and in violation of his rights, including the right to dignity, freedom of expression and freedom from discrimination, and ordered the government to change the gender marker.

On 12 December, the Gaborone High Court ruled in favour of Tshepo Ricki Kgositau, a transgender woman who successfully challenged the government's refusal to change her gender from male to female in her identity document as unconstitutional. Tshepo Ricki Kgositau had unsuccessfully applied to the Civil and National Registration Office in Gaborone to change her gender identity. The Office advised her to seek a court order after denying her application.

International justice

On 17 July, Parliament passed a bill which incorporated the Rome Statute of the International Criminal Court into domestic law, including the offences of genocide, crimes against humanity and war crimes. This followed Botswana's ratification of the Rome Statute in 2000.

Death penalty

Tshiamo Kgalalelo and Mmika Mpe were sentenced to death on 13 December; they were convicted of murder and other charges, including theft and abduction, in the Lobatse High Court in May.