

**Country session: Botswana**  
**Date of session: 23-24 May 2019**

**Background information:**

[OHCHR press release](#)

Webcast: [First Part](#) and [Second Part](#)

[Audio file](#)

**Reporting**

**Reporting methodology**

Regular reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

**State report:**

Common core document	
Initial submission	-
Updated document	-
Annexes	-

CRC	
No. of report	2 <sup>nd</sup> to 3 <sup>rd</sup>
Due date	15 April 2007
Submission	21 November 2017

**Public reports from children's rights defenders**

<a href="#">Written replies</a>	
Submission	1 May 2019
Due date	15 February 2019

<a href="#">Alternative reports</a>	
<b>NGOs</b>	<ul style="list-style-type: none"> <li>• Cultural Survival</li> <li>• Global Initiative to End All Corporal Punishment of Children</li> <li>• National Secular Society</li> <li>• CSO Complementary Report</li> </ul>
<b>NHRIs</b>	-

Additional comments: -



## State delegation

The delegation was large and composed of a mix of high-level representatives and technical staff. The delegation was headed by Hon. Solomon Van Westhuizen, Minister of Local Government and Rural Development and included representatives of the Ministry of education, the Ministry of Presidential Affairs, Governance and Public Administration, the Office of the President, the Ministry of Basic Education, the Botswana National Children's Council, and members of the Permanent Mission of Botswana to the United Nations Office at Geneva.

## Committee's Task Force members

Name & Last Name	Country
Cephas Lumina	Zambia
Ann Skelton	South Africa

## Dialogue description

### i. Character of the dialogue

The atmosphere of the dialogue was open and interactive with in-depth and technical discussions with the Committee. The delegation was open to receiving recommendations from the Committee on areas of the Convention in which the country had not evolved. The dialogue became tense when the Committee asked questions relating to corruption. The delegation found unfortunate that the Committee had referred to the Botswana Democratic party in this regard and requested an apology. The Committee, in its answer to the delegation, emphasized the fact that they are a technical body specialized in children's rights with no intention to offend the Botswana delegation regarding the political situation and apologized for any comments perceived as doing so.

### ii. General assessment made by the Committee

The Committee welcomed the amendment of different legislations such as the Children's Act and the adoption Act. However, the Committee noted a general lack of awareness of the Convention and the Children's Act among the general public. In its concluding remarks, the Committee acknowledged that Botswana had made progress in many areas and was encouraged by the sincerity of the delegation.

### iii. Main issues discussed:

- **General measures of implementation:** The Committee requested clarifications on the status of the state party's reservation on art.1 of the CRC and whether a timeline was set to lift it and by whom. The delegation responded that the government could lift the reservation after reviewing their legislations to identify which laws offered adequate definitions of the child and which ones could be prejudicial to the child. With regards to the timeline, the delegation was not in a position to confirm a timeline for the process. The Committee asked about steps taken to ensure that child related laws, including the Penal Law, the adoption Act as well as the Child Marriage Act, are in line with the CRC. The delegation responded that the decision to amend the Adoption Act and the Marriage has already been taken and that the review is ongoing. Concerning dissemination of the CRC, the delegation informed the Committee that the government has translated the CRC in Setswana and that a child-friendly version had also been developed. In the same sense, the government had engaged with traditional leaders to sensitize them about children's rights. Moreover, the government also collaborates with CSOs in the dissemination of the CRC through giving grants for such activities depending on their mandate. The Committee asked whether a license is needed for CSOs to be able



to report to the Committee. The delegation informed that they were not aware of the NGO procedure for reporting, but that for NGOs to operate in the country, they had to register and get a license especially the ones with direct contact with children.

- **Definition of the child:** In response to the question of the Committee on challenges the government has faced in harmonizing national legislations with the Convention, the delegation acknowledged that it had been careful not to perform a blanket harmonization. The delegation added that laws defining children have also been reviewed concurrently; the aim was to identify those that could be detrimental to children.
- **Respect for the views of the child:** The Committee asked whether parents and teachers are aware of this principle as well as the one of evolving capacities and which tools are available and if teachers are trained to encourage child participation. The delegation mentioned that teachers are adequately trained and that participation in school decision-making is done through the student representative forum which aims at providing children a forum to discuss about their welfare.
- **Birth registration:** With regards to birth registration, the Committee asked whether there are measures taken to achieve universal birth registration and to deal with the existing challenges of the non-registered children. The delegation emphasized that after launching universal registration in 2015 and “kiosk health”, the rate of registration raised. The Committee was concerned that children are denied services because of their lack of identification. In response, the delegation clarified that children cannot be denied services in Botswana because they do not have identification, services are first provided and then the issue of registration comes later on.
- **Violence against children:** The Committee regretted that corporal punishment is not only allowed but the Botswana legislations provide for the types of corporal punishment that can be inflicted on children; it asked whether there were ongoing debates on the topic, awareness raising programs and promotion of alternative ways of discipline with the aim of repealing such laws in the future. The delegation acknowledged that corporal punishment is still in their criminal code and that the people of Botswana still believe that it is a mean of education and expressed its hope for the government to change their mindsets eventually. Regarding sexual exploitation, the Committee asked which measures have been taken to tackle the issue of girls’ exploitation by sugar daddies. This question remained unanswered.
- **Family environment and alternative care:** In response to a question on whether gender neutrality was respected with regards to child custody cases, the delegation highlighted that the best interest of the child is a guiding tool in determining whom from the parents will have custody. A member of the Committee asked about future plans on children put under the care of their extended families unofficially. To that, the delegation replied that they are still shaping a comprehensive foster care program and that foster care is mostly considered because it is family-based intervention.
- **Children with disabilities:** The Committee asked whether the existing inclusive policy covers exclusively education or whether it also includes healthcare, sports or culture. The delegation precised that it is ensuring that the new inclusive education policy -at the drafting stage and not made public yet- complies with the CRPD and promotes social inclusion of people with disabilities. The delegation added that appropriate infrastructures exist in accordance with the CRPD, teachers are continuously trained on the topic, children are also included in mainstream education. The Committee remained concerned on the fact that the state’s responsibility with regards to children with disabilities seems to be on the shoulders of NGOs and the phenomenon of sending children abroad and therefore separating them with their families. The delegation responded that the government supports children with disabilities by giving a grant to their caregivers and for the children sent abroad, the main focus is to promote their independence, and some require special needs that are not available in Botswana. Although Botswana has not yet ratified the CRPD, the delegation expressed willingness to do so.
- **Juvenile justice:** The Committee regretted that children in conflict with the law are the forgotten ones and requested updates on specialized children courts as well as training of judges. the delegation responded that magistrate courts are actually transformed into children court when it comes to a case involving a child; several changes are made to create a child friendly environment. For example, only the guardian or parent and court staff are allowed in the courtroom, judges do not use wigs neither gowns to avoid that children get intimidated. To a question as to whether a child can testify, the delegation responded that witnesses usually

testify under oath or by affirmation, that does not apply to children witnesses. The delegation added that detention is the last resort if a child refuses to testify but that prior to issuing the order of detaining a child/adult, there are other steps. Whether to provide for alternatives to imprisonment, it is still under consideration.

## Recommendations of the Committee

- **Reservations:** The Committee recalls its previous recommendations and urges the state party to consider the withdrawal of its reservation to art.1 of the Convention.
- **Right to life, survival and development:** The Committee urges the state party to allocate sufficient resources to the Integrated Reproductive, Maternal, Neonatal, Child, Adolescent and Nutrition Strategy; to strengthen measures to eliminate preventable infant and under-5 mortality by, inter alia, improving prenatal care, providing training to health service personnel on the prevention and clinical management of the leading causes of new born and child deaths and applying the OHCHR technical guidance.
- **Birth registration and nationality:** The Committee urges the state party is to strengthen its efforts to achieve universal registration by for example raising awareness on the importance of birth registration for particularly refugees and children living in alternative care institutions, nomadic communities and remote areas. The state party is also encouraged to consider withdrawing its reservation to the convention on the status of refugees and ratifying the Convention on the Reduction of Statelessness of 1961.
- **Violence against children:** The Committee urges the stat party to explicitly and unconditionally prohibit the use of corporal punishment in all settings and raise awareness among parents, teachers, professionals and promote alternative forms pf child rearing and discipline. As to sexual exploitation and abuse -while referring to its G.C 13- the Committee urges the state party to put in place measures for mandatory reporting of cases of sexual exploitation and abuse in all settings; take all measures to investigate reported cases of sexual violence and prosecute the perpetrators accordingly; as well as publish the findings of the 2017 Violence against Children survey.
- **Children deprived of a family environment:** The Committee urges Botswana to ensure sufficient alternative family and community-based care options to children deprives of their family environment. Reduce reliance on residential care as well as to provide continuous capacity-building and training to all the persons that are in contact with those children
- **Children with disabilities:** in reference to its G.C 9, the Committee urges the state party to conduct a study on the situation of children with disabilities so as to use it for the implementation of the CRC and national legislations; ensure that all children with all types of disabilities have access to inclusive education in mainstream education schools with appropriate training of the teaching personnel. The Committee also urges the state party to prevent the separation of children with disabilities as well as to continue strengthening its awareness-raising campaigns to combat against their stigmatization.
- **Migrant, asylum-seeking and refugee children:** The Committee, with reference to its G.C 3 & 4, urges the state party to prohibit the detention of refugee and asylum-seeking children and adopt alternatives to detention in order to allow children to remain with family members and/or guardians , consistent with their best interests and their rights to liberty and a family environment; and to strengthen measures to ensure full access of all asylum-seeking and refugee children to health services and education.

## Sustainable Development Goals

Throughout its Concluding Observations the Committee referred to the following targets:

- 1.2, on eradicating extreme poverty and reducing by half the proportion of people living in poverty;
- 3.2, on ending preventable deaths of new-borns under 5 years of age;
- 3.3, on ending the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases;
- 4.1 and 4.2 on ensuring that all girls and boys complete free, equitable and quality primary and secondary education and have access to quality early childhood development, care and pre-primary education;
- 4.4, on increasing the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship;



- 4.5, on eliminating gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situation;
- 4.7, on ensuring that all learners acquire the knowledge and skills needed to promote sustainable development;
- 5.2, on eliminating violence against all women and girls, including sexual and other types of exploitation;
- 8.7, on taking immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour;
- 16.2, on ending all forms of violence against children;
- 16.9, on providing legal identity for all, including birth registration.

### Next State report

CRC	
No. of report	4 <sup>th</sup> to 6 <sup>th</sup>
Due date	12 April 2024

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