



# General Assembly

Distr.: General  
4 December 2012

Original: English

---

**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Fifteenth session**  
Geneva, 21 January–1 February 2013

## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Botswana**

---

\* The present document has been reproduced as received. Its content does not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations.

## **I. Methodology and consultation process**

1. To undertake the development of this Report, the Ministry of Foreign Affairs and International Cooperation collected and collated information from implementing Ministries and Departments, on the agreed recommendations from the 2008 review under the UPR. This process was done under the Ministry's key role as Coordinator of the Inter-Ministerial Committee on Treaties, Conventions and Protocols. The Ministry worked closely with the Ministry of Defence, Justice and Security and the Attorney General's Chambers.
2. A working draft national report was then prepared by the Drafting Committee and was shared with stakeholder Government Ministries and Departments as well as the civil society, civic organizations and Non-Governmental Organizations (NGO's) with a view that they make their initial contribution and provide feedback.
3. The initial multi-stakeholder consultations were held on 11<sup>th</sup> September 2012. The Workshop dedicated to consideration of the draft report was convened on 26<sup>th</sup> September 2012, bringing together all stakeholders including the civil society and civic organizations. Stakeholders made their inputs towards the consolidated text, as well as recommendations to improve the document.
4. Botswana also benefited from the support of the UNDP towards the production of the Report.

## **II. Developments since the previous review: normative and institutional framework**

5. Botswana has a strong institutional framework that has helped safeguard and preserve its position at the global level as a democracy with a good record in its situation of human rights. These include the Independent Electoral Commission, the Office of the Ombudsman, Government Ministries and Departments. There is also an active civil society and civic organizations that continue to make meaningful contribution to the promotion and protection of human rights.
6. Section 58 (2) (a) of the Constitution provides that the National Assembly comprise of 57 directly elected Members, four (4) specially elected Members and a Speaker. In 2009, Botswana successfully held its tenth general elections. For the first time in the country's history, a woman was elected to the position of Speaker of the National Assembly. The constitution provides for directly elected members as well as 4 specially elected members and a speaker. Currently, there are 57 directly elected members as well as 4 specially elected. As at the time of the preparation of the report there is a delimitation exercise which may, in future, vary the number of directly elected members.
7. Since 2008, Government has opened a number of specialised Courts, which have improved access to justice. These include: Small Claims Courts set in 2009 in Gaborone and Francistown cities, seven (7) Specialised Stock Theft Courts, which have helped to alleviate the case backlog. Additionally, there are three (3) designated children's Courts in three (3) different localities.
8. In 2010, the Government of Botswana implemented a Judicial Case Management System (JCMS), with a view to better manage case flow and achieve a speedy resolution of cases. The JCMS encourages parties to a dispute to consider resolving issues outside court, and shortening the amount of time for disposing of a matter. As a result the turnaround time to disposal of cases reduced significantly.

9. In 2010 Botswana ratified the Convention on Intangible Cultural Heritage and became member of the UNESCO Harare Cluster. Although the Convention has not yet been domesticated, the Department of Arts and Culture has taken a positive step towards its implementation by setting up a National Intangible Cultural Heritage Committee. The Committee's mandate is to ensure that cultural aspects are listed for safeguard and culture is recognized as a means of livelihood as well as a source of economic benefit to the community at large. The Department of Arts and Culture has engaged a consultant to review the legal framework and policies that have a cultural aspect to them and recommend ways to domesticate the Convention.

### **III. Promotion and protection of human rights – implementation of human rights treaties and obligations**

10. In order to uphold the highest standards in the promotion and protection of human rights, Botswana has signed, ratified and acceded to the following core regional and international human rights treaties:

- (a) International Convention on the Elimination of all Forms of Racial Discrimination (accession 20 February 1974);
- (b) African Charter on Human and Peoples Rights (ratification 17 July 1986);
- (c) Convention on the Rights of the Child (accession 14 March 1995);
- (d) Convention on the Elimination of all Forms of Discrimination Against Women (accession in 1996);
- (e) Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples' Rights (signed 9 June 1998);
- (f) International Covenant on Civil and Political Rights (ratification 8 September 2000);
- (g) Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (ratification 8 September 2000);
- (h) African Charter on the Rights and Welfare of the Child (ratification 10 July 2001);
- (i) Amendment to the Convention on the Rights of the Child (Article 43, paragraph 2), acceptance 6 March 2002;
- (j) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention against Transnational Organized Crime (ratification 29 August 2002);
- (k) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (accession 24 September 2003); and
- (l) Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (ratification 4 October 2004).

11. Botswana has continued to implement its domestic and international obligations arising from the aforementioned treaties. The Government has also continued to uphold its commitment to implementation of its obligations undertaken under the Universal Periodic Review (UPR).

12. In line with its pledges and commitments made when taking up membership of the Human Rights Council in 2011, Botswana has committed to the principles of equality,

social harmony, tolerance and non-discrimination, including upholding the rights of children, women, minority groups, disabled and disadvantaged groups. The Government has prioritized the welfare of people with disabilities. In this regard, a Coordinating Office has been set up under the Office of the President, with focal points responsible for implementation and follow-up in all line Ministries. While Botswana is not yet state Party to the Convention on the Rights of Persons with Disabilities, the process of compiling and submitting a voluntary report is underway.

13. Botswana continues to cooperate fully with the United Nations human rights special procedures mandate-holders. In 2009, Botswana accepted the request for a country-visit by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Prof. James Anaya. He visited the country in March 2009, and later produced a Report with recommendations some of which the Government accepted, with a view to implement.

## **A. Women**

14. Botswana, through the Women's Affairs Department has adopted public education initiatives such as gender sensitisation in order to educate the public on women's rights. These include community conversations and dialogues which focus on elimination of the negative cultural practices that contribute to the disparities between women and men; awareness on gender based violence and its effects, gender concepts, gender and HIV/AIDS and laws that were amended and/or enacted to address components that were discriminatory against women.

15. Further, Botswana adopted affirmative action for women empowerment. Since 2008, the national gender machinery has seen significant increase in the budget allocation for the implementation of the National Gender Programme, with its current focus being mainly on the provision of financial and technical support for women empowerment projects in the areas of Poverty and Women's Economic Empowerment; Women in Power and Decision Making; Women in Health including Reproductive Rights; The Girl Child; Women in Education and Training; Violence Against Women and Human Rights.

16. The bulk of the assistance is channelled to projects that address the empowerment of women in rural areas particularly poverty alleviation needs and economic empowerment which has seen the inclusion of programs even in the agricultural sector. The Social and Community Development programmes focus on skills development and financial assistance for income generating projects the beneficiaries of which are mainly women.

## **B. Children**

17. In 2009, the Children's Act was repealed and replaced with a new Act, with a view to fully domesticate the Convention on the Rights of the Child. Included in the new Act is the Bill of Child Rights which guarantees the fundamental rights of the child, and further ensures the protection of the child from all forms of violence from persons entrusted with the care of the child.

18. The Children's Act also sets up a National Children's Council which is mandated to:

- (a) Coordinate, support monitor and ensure the implementation of sectoral Ministries' activities relating to children;
- (b) Guide sectoral Ministries' interventions as they relate to or impact on children;

(c) Advocate for a child-centred approach to legislation, policies, strategies and programmes; and

(d) Advocate for a substantive share of national resources to be allocated to children related initiatives and activities.

19. Botswana has benefited from technical assistance provided by the United Nations Children's Fund towards the establishment of the Secretariat for the National Children's Council. The Council has since adopted a long term strategic plan for the period 2010-2014.

### C. Youth

20. Since 2009, Botswana introduced youth development programmes aimed at improving the livelihoods of young people. These programmes include the following:

(a) Youth Development Fund: an economic empowerment programme that provides technical and financial assistance in the form of grants, loans and capacity building. It is aimed at providing vulnerable out-of-school youth with opportunities to run micro business enterprises as a means of poverty alleviation, employment creation and mitigation of inequalities. Since inception, 2,875 applications have been approved, 2,276 funded and 3,604 employment created.

(b) Youth Empowerment Scheme: a life skills development programme aimed at curbing unacceptable social behaviours by youth associated with conditions such as unemployment, poverty, idleness, excessive consumption of alcohol, crime, dysfunctional families, HIV/AIDS and other health related issues. So far 22,000 youths have applied for the scheme and around 1,000 have attended the initial two boot-camps.

(c) Constituency Sport Tournaments: This is a talent identification and sport development programme where various sporting codes competitions such as football, netball and volleyball were introduced at constituency level to curb youth from indulgence in substance abuse and criminal activities. 65,223 youths have so far participated in the tournaments.

(d) President's Day and Constituency Art Competitions: this is an initiative aimed at encouraging the youth and artists to unearth and develop their talent through different activities such as music and dance and visual arts to show case culture and heritage. 144,001 youths have participated in the competition since 2010.

## IV. Follow-up to the last review: implementation of accepted recommendations

21. Botswana accepted twenty-one (21) Recommendations during the first cycle of review under the UPR. The Government of Botswana presents its implementation status as follows:

### **To finalize various outstanding treaty reports, particularly to the CEDAW Committee**

22. There is the Inter-Ministerial Committee on Treaties, Conventions and Protocols charged with the responsibility of coordinating the country's processes relating to ratification, accession, implementation and adherence to treaty obligations, including preparation of treaty reports. In efforts to strengthen the Committee, in 2010 a special capacity building session was conducted for members of the Committee, focusing on state-

party reporting and implementation of treaty obligations. The Committee is in the process of clearing the backlog of outstanding reports.

23. In relation to CEDAW, the Report was finalised and submitted to the CEDAW Committee in 2009.

**Accomplish progressively the human rights goals set up by the Human Rights Council resolution 9/12**

24. Botswana continues to undertake measures geared at promotion and protection of human rights domestically and internationally, including ratification and accession to the remaining core international human rights instruments; domestication of treaties the country is party to; strengthening of the human rights institutional framework; providing capacity building and training for law enforcement personnel, among others. All these measures, and many others, also contribute towards the accomplishment of the human rights goals set up by the Council.

**Agree to the request for visit by the Special Rapporteur on the rights and fundamental freedoms of Indigenous peoples**

25. Botswana pursues a policy of cooperation with the UN human rights system, including its various mechanisms and Special Procedure mandate-holders.

26. The Special Rapporteur on the rights and fundamental freedoms of Indigenous peoples visited Botswana in April 2009, and had interaction with all stakeholders he wished to meet during the country-visit. He produced a Report, with recommendations, to which the Government of Botswana responded and stated its position on the implementation and follow-up.

**Continue efforts to strengthen the national human rights architecture and institutional framework, including by providing necessary funding and personnel**

27. In strengthening its human rights architecture, and its institutional framework, the Government of Botswana has put in place measures including the establishment of the Small Claims Court, and the provision of legal aid through a pilot project which have been availed at various parts of the country.

28. The pilot project being run from the Attorney General's Chamber's which began in 2010. The Interim Legal Aid Board has 6 members while the Legal Aid Coordinator was appointed in January 2011. United Nations Development Programme (UNDP) and the Government of Botswana jointly fund of the Project. Although the Pilot is open to citizens only, in cognisance of Botswana's obligations under the 1951 Convention Relating to the Status of Refugees, Refugees are entitled to receive legal aid under the Pilot. Legal Aid Bill was drafted and is under circulation for consultation in Government.

**To further develop, with international support, a human rights training and capacity building exercise for judiciary and law enforcement personnel**

29. A total of five (5) workshops have so far been conducted for the *Dikgosi* (traditional leaders), who preside over customary courts. Three (3) of these workshops were funded by UNDP and facilitated by local consultants. The other two workshops were organised by Ditshwanelo – the Botswana Centre for Human Rights. Some of the topics covered were on Section 10 of the Constitution which guarantees the right to a fair trial within a reasonable time by an independent and impartial court; and the relation between common law, customary law and human rights.

**Provide sufficient resources to the Office of the Ombudsman for its effective functioning**

30. There has been an increase in provision of financial support to the Office of the Ombudsman to effectively investigate violations of fundamental rights and freedoms as enshrined in the Constitution.

**Take action towards establishing an independent national human rights institution in accordance with Paris Principles and create a national commission of human rights and freedoms**

31. Government had the intention to strengthen the Office of the Ombudsman in order for it to serve as the independent national human rights institution. Following consultations at the national level, Government sought assistance from the Office of the High Commissioner for Human Rights to assist with the analysis of the Ombudsman Act. Upon receiving the advice from the OHCHR, Government has had to revert to the drawing board to consider establishing a wholly new independent institution. Consultations are therefore still ongoing regarding the establishment of a national human rights institution.

**Mainstreaming human rights in the education system**

32. Human rights have been mainstreamed into the curriculum to provide young people with broad based education. At primary and pre-primary the curriculum has been repackaged and broadened to include more practical subjects, and subjects that promote human rights. New learning areas such as cultural studies, creative and performing arts and environmental science have been introduced at lower primary, standard 1–4. Under cultural studies, learners are given an opportunity to discuss human rights issues such as civic rights, abuse, child labour, the rights of people living with HIV and AIDS, cultural identity and diversity. In upper primary, Standards' 5–7 human rights issues are further explored in Social Studies, through topics which deal with the learner's right to health, gender issues, violence, law etc. Learners are also sensitised on the United Nations Universal Declaration of Human Rights.

33. The post primary school curriculum has also been broadened and diversified and now touches on environmental issues, emerging social issues such as HIV and AIDS and other Human Rights issues.

**The development of a national strategy for human rights education in the school system at all levels in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education, including the review and revision of curricula and textbooks, the training of teachers and the practice of human rights in the school community**

34. The Government has embarked on various initiatives in this regard. The Government through its Department of Curriculum Development has set up a text book development committee to ensure that all the recommended text books are interactive and inclusive of human rights.

35. With regard to teacher training, the curriculum has been improved to ensure that teachers' knowledge is enhanced and that both content and pedagogical skills are improved in the various subjects. The teachers are equipped with competences so they can deal with innovative methods of mainstreaming HIV/AIDS and gender into the classroom, environmental education and human rights. They are also equipped with skills to deal with issues such as abuse, conflict resolution and gender based violence.

36. With regard to the practice of human rights in the school community, the Government has developed a pastoral policy to address disciplinary issues, poor

performance and other behavioural issues that impact negatively on the learner with a view of moulding the learners in an all inclusive manner that takes into account their rights. Structures such as the Student Representative Council and the prefect system have been set up as channels through which the voice of the students may be heard. Further, local communities are encouraged to participate in the education system through Parent Teacher Associations, HIV and AIDS Committees and other relevant committees. All these structures ensure that there is open and transparent communication for all the stakeholders and that the rights of the student are respected and protected by all relevant parties, the teachers, the parents and the community at large.

**Continue efforts in favour of women in rural areas and on gender issues, including policies aimed at the empowerment of women and their integration in the education system**

37. The Revised National Policy on Education's objectives *inter alia* are to achieve equality in education. To achieve this goal regional offices and schools ensure that learners are admitted in schools without any discrimination.

38. Further to this a text book development committee makes sure that prescribed books for use by schools are not gender nor culturally biased. A Gender Reference Committee has been set up to coordinate all the Ministry's gender related issues, this committee has developed a gender mainstreaming strategy to address challenges associated with mainstreaming, with the hope that this will increase the participation of women and girls at all levels of the education system.

39. Botswana has revised the re-admission policy for students who have dropped out of school to improve retention of girls in the school system. Female learners who fall pregnant at primary and secondary school are allowed to return to school after six months as opposed to the initial twelve months. The Circles of Support Programme has been introduced to track and re-admit learners who dropped out of schools back into the education system. Botswana has an Equal Opportunities Policy in Vocational Education and Training which is being implemented to increase participation of the female students in vocational education training programmes with special reference to those fields that were traditionally for men.

**Promote gender equality and pursue work on legislation on marital rape, as priority and consider additional measures to new legislation, such as public awareness-raising initiatives or campaigns in order to promote the implementation of the rights in the legislation in question.**

40. Botswana's Penal Code contains the offence of rape that does not preclude marital rape, though there is no explicit reference to it. However, in addition to the Penal Code, the Domestic Violence Act was passed in 2008. This Act provides legal protection to victims of domestic violence. The Act also covers married women who have suffered sexual violence at the hands of their husbands by providing them with some legal remedies. Sexual abuse is defined as (and not limited to), any sexual conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the applicant. *This definition is wide enough to include the offence of rape within a marriage; any alternative view would be unreasonable.* In fact the Act appears to have been enacted to specifically cater for abuse within "domestic" situations which may otherwise have been neglected by other legislation. The Amendment of the Forensics Bill, for example, provides for the use of DNA testing to progress cases that require its use.



**Ensure the full participation of women in the review of customary laws and practices, and discourage the persistence of practices detrimental to women's rights.**

41. Customary law is largely uncodified and is in its nature dynamic and fluid and as a result it is perpetually undergoing change. Customary laws are largely "reviewed" at the *Kgotla* (the tribal court/gathering) by the tribe and the *Kgosi* (the Chief or tribal leader). Women are active participants in these meetings and they are free to contribute as they wish. Further to this, the role of *Kgosi* is not limited to men, women in a number of tribes have taken up this role.

42. Further to this when there is an Act of Parliament that is being passed that touches on customary law, the *Ntlo Ya Dikgosi* (House of Chiefs) is consulted before that Act can be passed and women are present in the *Ntlo Ya Dikgosi* therefore women are actively involved in the "review" or evolution of customary law.

43. The Government continues to discourage practices that are detrimental to women's rights. Gender has been mainstreamed into various sectors of the country. In employment, a number of laws that were discriminatory have been repealed; while in education a number of policies and strategies have been put in place to ensure that women and the girl-child are not discriminated against. Illustratively, students who get pregnant are no longer required to drop out of school for a whole year.

**Strengthen the application of the Domestic Violence bill and the Abolition of Marital Power Act**

44. The Department of Women's affairs undertook a sensitisation workshop on the Domestic Violence Act for members of the Botswana Police Service in 2010. This was done because the police are usually the first to heed a call of an act of domestic violence.

45. The Committee on the National Intervention on Population held a National Conference on Marriage Patterns and trends in Botswana in November 2011. One of the objectives of the Conference, which was predominantly attended by District Commissioners and marriage officers (religious, non-religious and traditional) was to consider the effect which the Abolition of Marital Power Act has had on marriages, to reinforce its application and to come up with a strategy on public education. District Commissioners are usually the first stop a married couple will make in the event of a conflict, so the Government of Botswana found it important for them to understand the relevance and application of the Act so that they are able to give it wide application.

**Include a gender perspective into UPR follow-up process in a systematic manner.**

46. The Government of Botswana undertakes to ensure that the implementation and follow-up of the UPR Recommendations is an all-inclusive process that guarantees the participation of all.

**Continue to incorporate the provisions of the Convention on the Rights of the Child and the African Charter on the Rights and Wellbeing of Children into national legislation**

47. The Children's Act was passed in 2009. The law had been reviewed with the intent to make it human rights-based, contribute to the dignified well-being of every child as well as to allow for the incorporation of provisions of the (CRC) Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child (ACRWC).

48. The Ministry is also disseminating the Hague International Child Protection Conventions with a view to mobilize for their ratification.

**Take further measures to adopt legislation ensuring the implementation of the Convention, in particular in the area violence prevention and sexual exploitation of children and ensure girls are protected from sexual abuse**

49. The Government of Botswana, with the support of UNICEF has commenced work to develop an Implementation Framework of the Children's Act. The Framework will serve, partly as a guide to stakeholders and various Ministries to identify their stake in the implementation of the law and allocate resources for the implementation of areas/activities under their direct mandate.

50. A six year (2010–2016) National Plan of Action for Orphans and Vulnerable Children is in place to facilitate and advocate for targeted programming and interventions for the welfare and protection of vulnerable children. Anti-Human Trafficking Bill has been drafted and users training and stakeholders' workshop was held on the 11<sup>th</sup> October, 2012 and 29<sup>th</sup>–30<sup>th</sup> November, 2012 with the support of cooperating partner's workshop including the United Nations Office on Drugs and Crime (UNODC).

**Continue the implementation of the National Action Plan for Children 2006-2016**

51. The National Plan of Action (NPA) is not being implemented as per the original schedule. However, different stakeholders continue to implement it piecemeal, albeit with limited monitoring. The NPA had to be implemented this way because there were no allocated funds to ensure its full implementation.

52. The Action Plan for the Elimination of Child (APEC) labour is in place in all ministries, which addresses, among others, the following areas:

- Strengthening poverty alleviation;
- Improving access to and retention in education through provision of welfare and social support;
- Raising public awareness about child labour;
- Building capacity of social workers to deal with child labour;
- Incorporating child labour into policy development; and
- Conducting further research on Child labour.

53. All of the above continue to be implemented, with the exception of research. It is anticipated that the area will be prioritized in future.

**Adhere to the National Action Plan for Children and programme for elimination of child labour**

54. Response in 17.

**Implement the program for AIDS orphans**

55. The Botswana programme for mitigation of orphan hood among children is comprehensive and covers all orphaned children. The programme is still being implemented with coverage of at least 98% of eligible children. The enrolment of children into the programme is decentralized even to the village level, which makes it very accessible.

**Design and adopt programmes of action on child labour as requested by the Committee on the Rights of the Child and the ILO**

56. The Action Plan for the Elimination of Child (APEC) labour is in place and is being implemented by various Ministries.

**Consider designating an institution for coordination and implementation of policy on children**

57. The Children's Act of 2009 established the National Children's Council which has, among its key mandate areas to:

- Coordinate, support monitor and ensure the implementation of sectoral Ministries' activities relating to children;
- Guide sectoral Ministries' interventions as they relate to or impact on children;
- Advocate for a child – centred approach to legislation, policies, strategies and programmes; and
- Advocate for a substantive share of national resources to be allocated to children related initiatives and activities.

**Develop non-custodial alternatives in relation to the sole or primary carers of children**

58. The Government has embarked on a study with the assistance of the Commonwealth Secretariat to develop alternatives to imprisonment.

**Take measures to protect the best interests of babies and children affected by parental detention or imprisonment**

59. The Children's Act makes provision for a child whose parent, guardian or other person having the custody of a child has been convicted of an offence, to be placed in alternative care. The application to place such child should be made within 14 days of such conviction.

**Continue to achieve universal basic education and reduce primary school dropout, with the support of the international community**

**Take measures to reverse secondary school drop-out resulting from the introduction of cost saving**

60. The Government has revisited the school fees policy guidelines so that children from poor socio-economic families can progress within the school system without disturbing their schooling.

61. The Circles of Support Programme, which is an intervention designed to get children back into school has been strengthened in all regions to ensure that learners are not in any way excluded from the school system as a result thereof.

**Pursue a policy of mother tongue language education in conjunction with national languages of Setswana and English**

62. The Government appreciates the importance of using mother tongue at early ages of schooling and it is exploring different strategies for accommodating mother tongue education in the education system, including the use of teacher aides at the primary school level.

**Develop non-custodial alternatives such as community service and bail arrangements**

63. The Government has embarked on a study with the assistance of the Commonwealth Secretariat to develop alternatives to imprisonment.

**Redouble efforts to improve conditions of detention in prisons guaranteeing the compatibility of rights with cultural practice**

64. Formal structures are in place to ensure compliance with international standards on the treatment of prisoners. Prisoners are treated humanely and with dignity and the Government ensure that they live in healthy conditions and have adequate access to health care and food. The menu is in the main drawn from cultural culinary practices.

**Continue to incorporate the provisions of the Convention on the Rights of the Child into the domestic legislation, especially Article 19(1)**

65. The Children's Act, through, among others, the Bill of Child Rights and the guiding principles of the best interest of the child, ensure the protection of the child from all forms of violence from persons entrusted with the care of the child. Also, the Domestic Violence Act addresses the protection of the child from a violent environment. Section 147 of the Penal Code also affords protection from sexual abuse. Section 258 of the Penal Code outlaws the kidnapping or abduction of a child.

**Provide medical follow-up for HIV-positive mothers and respective infected children**

66. In Botswana there is high Ante-natal Care (ANC) attendance and pregnant women deliver in health facilities. The HIV infected pregnant women are followed up at these ANC clinics through scheduled visits. During such visits the women are assessed for either ARV prophylaxis or Highly Active Anti-Retroviral Treatment (HAART). Currently 94% of HIV infected pregnant women receive either prophylaxis or HAART.

67. The few children that are infected (less than 3%) get promptly referred to an ARV site closest to their homes for assessment and treatment based on the current treatment guidelines provisions.

**Educate prison population HIV/AIDS virus and respect sanitary conditions of prisons**

68. Staff at prison health facilities is trained by health education officers in District Health Management Teams (DHMTs) to provide continuous HIV/AIDS education to prison population. They also provide education on other public health interventions including hygiene.

**Enable migrants and refugees to benefit from pilot project to fight HIV/AIDS**

69. Refugees are provided with ARVs with financial assistance of President's Emergency Plan For AIDS Relief (PEPFAR) fund, with support from the United States. The ARV issuance is carried out through Red Cross Society of Botswana. By 2010, there were about 250 refugees enrolled for the treatment. This number has since increased to 271.

70. There is also a sizeable migrant labour force working in all sectors of the economy, which access health care, including ARV's at a cost.

**Take action to address the non-coverage of ARVs among the refugee populations**

71. Response in 32 above.

**With the support of the international community, continue to fight poverty and meet the MDG goals in Vision 2016**

72. In 2009, Government introduced the National Strategy for Poverty Eradication. To complement this, Government has also embarked on a robust economic diversification drive, which is intended to help augment existing efforts to re-energize the economy towards the attainment of the MDGs and Vision 2016 goals.

**Continue the efforts made to achieve the goals of the Vision 2016**

73. Botswana's Vision 2016 is a national effort that captures the nation's aspirations. The government of Botswana, the private sector, civic and civil organisations and the general public are committed to attaining what they set themselves to achieving in the year 2016.

**Seek technical assistance and other support from development partners to strengthen Botswana's implementation and development capacity with respect to human rights instrument and their domestication**

**Seek assistance from the delegations that are materially capable to assist Botswana in its endeavours with regard to treaty body reporting, human rights education and training, components of the national statistical system and the system to monitor development**

**Seek support from the Human Rights Council in the areas highlighted in the national report**

**Seek contributions from the international community in the Government's efforts towards promoting rights**

**Seek OHCHR and the international community's assistance relating to the rights of indigenous peoples, especially the Basarwa, child protection, domestic violence, the administration of justice, legal aid and prison conditions, as well as producing a Common Core Document, human rights education, improving the justice system and strengthening the monitoring of progress in achieving MDGs and the goals in Vision 2016**

74. The Government of Botswana has sought and received assistance in the following areas of promotion and protection of human rights:

- Review of the Ombudsman Act, with a view to strengthening its human rights mandate, to be in line with the Paris Principles. Assistance was provided in 2009 by the Office of the High Commissioner for Human Rights.
- Drafting of the National Action Plan against racism – ongoing. Assistance from Office of the High Commissioner for Human Rights.
- Commonwealth capacity building in the area of UPR follow-up and implementation, in 2011.
- Benchmarking exercise on Legal Aid Pilot Project – benchmarking with South Africa, Mauritius.
- Government received funding from UNDP towards Legal Aid Project in 2011 through 2012.
- Government received funding from USA towards Legal Aid Project in 2012.

## **V. Achievements and best practices, challenges and constraints**

### **A. Achievements and best practices**

75. Since 2009, the Government of Botswana has strengthened its resolve towards the promotion and protection of human rights by establishing new institutions, while strengthening existing ones, adopting administrative measures, as well as reviewing and enacting enabling legislation. Some of these achievements are as follows.

#### **1. Establishment of the Botswana Police Service Internal Affairs Unit**

76. The Unit was established by the Commissioner of Police in 2009 and it started to operate fully in 2010. The formation of the Unit was necessitated by among other things, a growing number of complaints involving the conduct of the police towards their customers. The mandate of the Unit is to maintain the integrity and reputation of the Botswana Police Service through, fair and objective conduct of investigations on the conduct of Police Officers.

77. The Unit investigates allegations of misconduct such as false arrests/detention and torture, unlawful discharge of firearms as well as other serious incidents to determine compliance with the Botswana Police Service's policy and procedure guidelines, all allegations of intra-departmental misconduct such as sexual harassment and general complaints pointing to hostile working environment within the Service. Government is in the process of amending the Police Act to provide the establishment of an independent Police Commission, as a follow up to Parliamentary motion on the matter.

#### **2. Establishment of the Coordinating Office for People with Disabilities**

78. The Coordinating Office for People with Disabilities was established in 2009, with the mandate of developing and coordinating the implementation of policies and programmes aimed at empowering people with disabilities. The Office assists Government to prioritize disability issues in its agenda; and to create a conducive environment for People with Disabilities to be mainstreamed in all societal activities, be they social, political and economic. All these developments are in line with the Country's Vision 2016 goals of A Compassionate Just and Caring Nation. The office recently held the first inaugural "Disability Pitso" – a national meeting point – whereupon several issues were raised that the Office is currently focusing on tackling, and these entail:

- (a) Access to services
- (b) Lack of education
- (c) Gender-based violence
- (d) Sports

79. These priority issues will be addressed within the framework of the long-term strategy adopted in 2011. The Office is also working on the review of the policy framework for people with disabilities, with the assistance of the United Nations Development Programme (UNDP). This process will be followed by a comprehensive monitoring and evaluation process.

#### **3. Provision of health care**

80. Botswana continues to devote significant resources to the health sector, which has allowed bringing medical care centres to within five (5) kilometres of 84% of the population. To make medical services more effective and efficient, primary health care has

now been relocated to the Ministry of Health, in the context of a new National Health Service Plan. Medical Centres of Excellence are also being established to improve healthcare, while achieving long-term cost savings, through the provision of specialist services. Achievements include the establishment of cardio-thoracic surgery centre at Princess Marina Hospital in partnership with the Government of Mauritius.

#### **4. Provision of health care facilities for refugees**

81. In 2009, Botswana introduced the provision of ARV to refugees. This was possible with the support of the United States and UNHCR. In addition, Botswana has developed and implemented robust awareness campaigns for the refugee community, with a view to help advance HIV prevention and promotes abstinence. In 2010, a resident doctor was posted to the Dukwi Refugee Camp, to deal first hand with the health needs of the refugee community.

#### **5. Review of the National Health Policy**

82. The National Health Policy was adopted in 2011 by Parliament.

### **B. Challenges and constraints**

#### **1. Refugees**

83. The high number of refugees remains a challenge to the Government of Botswana, given the resource constraints. The Government provides free education and healthcare to the refugees at the Camp. During the period under review, the Government continues to find durable solutions by way of repatriation, reintegration and resettlement of refugees.

#### **2. Education**

84. Botswana is providing inclusive education based on the Salamanca Statement and Framework for Action of 1994, to all the children of school going age regardless of their differences. However, education sector still experiences challenges as follows:

(a) Shortage of specialists to adequately address the needs of all the children with special education needs;

(b) Shortage of resources such as teaching materials for specific types of disabilities and inadequate transport to cater for all children, including those with special needs;

(c) High student-teacher ratio in special schools, this making it difficult for teachers to give full attention to children with special needs; and

(d) Access to Education in Early Childhood Care is limited to few children and it has been observed that majority of children still begin their primary education without any experience of early stimulation.

## **VI. Key national priorities, initiatives and commitments to overcome challenges**

### **A. National human rights institution**

85. In 2008, Botswana accepted the recommendation to consider establishing an independent national human rights institution, in line with the Paris Principles. Following

consultations at the national level, Government sought assistance from the Office of the High Commissioner for Human Rights to assist with the analysis of the Ombudsman Act.

86. Government had the intention to strengthen the Office of the Ombudsman in order for it to serve as the independent national human rights institution. Upon receiving the advice from the OHCHR, Government has had to revert to the drawing board to consider establishing a wholly new independent institution, to which consultations have commenced and are ongoing.

## **B. Independent Police Complaints Commission**

87. In March 2011 the Parliament of Botswana adopted a Parliamentary motion on the establishment of an Independent Police Complaints Commission (IPCC) for Botswana. A Task Team was constituted Ministry of Defence, Justice and Security to conduct a study and make proposals to Government on the processes and systems relevant for IPCC. As a follow-up the Botswana Police Service Act is to be amended make provision for the establishment of the IPCC expected to be passed by Parliament in November 2013.

88. The intended objective of the IPCC is to safeguard the interests and protect all from police misconduct, in the form of torture, malpractices, corruption, non-performance or simply put protection of citizens against all forms of human rights abuse by the police. The Commissioners will be made up of stakeholders and experts from varied sectors will be appointed so as to achieve the desired objectivity.

## **C. Small Claims Court**

89. In 2009, the Government of Botswana introduced the Small Claims Court, through an Act of Parliament. It operates in the magistrate's court with limited powers prescribed by the Act. The court was established to avoid delays in delivery of Justice in matters that can be easily dispensed with and to allow access to justice by those who are incapable of engaging lawyers and whose claims are within the powers of the court.

## **D. Provision of legal aid**

90. In 2011, the Legal Aid Botswana pilot project was introduced as an initiative aimed at designing a legal aid programme to promote greater access to justice and utilization of legal services by citizens. It began as a project under the National Governance Programme, which is a partnership between the Government of Botswana and United Nations Development Programme (UNDP).

91. The provision of legal aid by the following service delivery models:

- Salaried legal practitioners
- Cooperation agreements with NGOs
- *Pro bono* and Judicare services by private practitioners

92. Regarding cooperation with NGOs for the delivery of Legal Aid by NGOs, cooperation agreements were signed with four NGOs, namely Ditshwanelo, Emang Basadi, Women Against Rape, and Botswana Network on Ethics, Law and HIV/AIDS (BONELA).

93. Existing supply of legal aid by NGOs and others is estimated at 7164 cases per annum. The legal practitioners have indicated a willingness to contribute by offering *pro bono* services. Unfortunately the initial commitment to 40 hours per annum may be reduced



to 24 hours per annum. The government undertakes the burden of providing legal aid for the indigents.

94. In 2012, Government took the decision to extend the pilot phase to 2013. A Bill to promulgate The Legal Aid is being drafted.

## **E. HIV/AIDS**

95. Botswana has developed and implemented targeted policies and programmes to address the pandemic. In 2009, the National Multiple Concurrent Partnerships (MCP) Campaign was introduced to address the problem of multiple concurrent partnerships in all its forms, with a special focus on young women.

96. There are notable overall declines in HIV prevalence among young people aged 15-24 years. HIV prevalence dropped from a high of 13.2% in 2009 to 10.0% in 2011 among the 15-19 year olds and from 24.1% in 2009 to 19.0% in 2011 among the 20-24 year olds. These declines have been maintained since 2005 and are likely to continue into the future.

97. Government also produced the National Monitoring & Evaluation Plan for the National Operational Plan for HIV and AIDS 2012-2016. It is a document that guides the response to HIV and AIDS with essential information on core indicators that measure the effectiveness of the national response to HIV and AIDS. It is designed to guide the overall monitoring and evaluation to ensure successful implementation of programmes. The Plan is based on the logic framework which links the impact, outcomes, outputs, and inputs for each priority area of the National Operational Plan with a budget estimate for activities during the plan period.

98. Furthermore, the Ministry of Education & Skills Development (MoESD) adopted the Strategic Framework for HIV and AIDS 2011-2016. The strategy will enable the Ministry of Education and Skills Development in Botswana to set out its approach and plans to mitigate the impacts of HIV and AIDS in the education sector specifically, and for the country more broadly. The strategy is targeted at teachers, pupils in primary, secondary and senior secondary schools, students in teacher training and vocational training institutions, employees of the MoESD. It addresses issues such as the integration and infusion of HIV and AIDS into the curriculum, schools and school governance in relation to HIV and AIDS, student issues and affairs, organizational and institutional issues related to HIV and AIDS, teacher and staff issues etc. This strategy excludes the Higher education sector (universities), except for areas related to teacher training and development. The HIV and AIDS strategy will ensure that there is a seamless link with national HIV and AIDS strategies, and in particular that there is a clear alignment with the outcomes delineated in the second National Strategic Framework for HIV and AIDS 2011-2016.

## **F. National Strategy for Poverty Eradication**

99. In 2009, Government introduced the National Strategy for Poverty Eradication, viewed as one of the leverages in achieving the high income status. Statistics show that over the years poverty has reduced significantly as the following statistics indicate: 1985/86 (59%), 1993/94 (47%) and 2002/03 (30%). The rate declined further to 20.7% in 2010.

100. Cabinet through adopted affirmative action strategies for the benefit of the marginalised groups i.e. Basarwa and remote area dwellers affording them preference in schools, vocational institutions and employment.

## **G. Vision 2016**

101. Botswana's Vision 2016 is a national effort that captures the nation's aspirations. These are goals which ought to be achieved by the year 2016. In 2010, the Vision 2016 Council embarked on and produced a report on a study to monitor the performance under the seven pillars of the Vision. This study was to measure citizen perspectives on Botswana's progress towards meeting the ideals of Vision 2016. Most perspectives on progress towards Vision 2016 are from politicians, opinion leaders, government leaders and technocrats, both in Botswana and abroad.

## **H. Access to basic shelter**

102. Botswana is implementing low income housing programmes that are aimed at facilitating access to basic shelter. These programmes provide affordable housing finance to eligible applicants in both urban and rural areas in the country for construction of new and improvement of existing houses. Botswana continues to review the programmes for improved administration and better coverage.

103. Non Governmental Organisations and the private sector also provide some assistance to the low income households to enable them access to shelter through the Presidential Housing Initiative.

## **VII. Expectation in terms of technical assistance**

104. In its effort to continue implementation of the agreed recommendations and other domestic and international obligations, the Government of Botswana considers the following as key areas that would require assistance and support:

- (a) Support towards the development of a comprehensive national action plan for human rights;
- (b) Capacity-building towards treaty body reporting, follow-up to concluding observations and recommendations of special procedures and mechanisms of the United Nations, including national monitoring of the implementation of international human rights instruments;
- (c) Human rights training for the disciplined forces on an on-going basis;
- (d) Strengthening of the administration of justice, particularly regarding the Judicial Case Management System and tracking procedure throughout the criminal justice process;
- (e) Capacity-building across a range of components of the National Statistical System – (poverty, trade and investment, health, and education) to support evidence based pro-poor policy making; and
- (f) Support towards people-centred and results-based development planning (NDP10).

### *Notes*

Botswana has an inter-ministerial committee on Treaties, Conventions and Protocols', which was responsible for coordinating the preparation of this report.

---