



**REPUBLIC OF BOTSWANA**

**STATEMENT BY**

**MR. AUGUSTINE MAKGONATSOTLHE  
SECRETARY FOR DEFENCE, JUSTICE AND SECURITY  
IN THE OFFICE OF THE PRESIDENT**

**DURING THE**

**ADOPTION OF BOTSWANA UPR REPORT  
BY THE HUMAN RIGHTS COUNCIL**

**GENEVA - 18 MARCH 2009**

**(PLEASE CHECK AGAINST DELIVERY)**

**Mr. President,**

1. It gives me great pleasure to address the Plenary of the Human Rights Council on this occasion of the adoption of the Universal Periodic Review outcome of Botswana.
2. My Delegation participated in the Working Group meeting for the review of the human rights situation of our country in December 2008, headed by the Hon. Dikgakgamatso Ndelu Seretse, Minister for Defence, Justice and Security.
3. We approached the review process with an open and transparent spirit, and as we mentioned on 3<sup>rd</sup> December 2008, we undertook to consider all the recommendations put to us at a later stage with a view to carefully and constructively reflect on all the recommendations. To this end, we have been able to engage all relevant stakeholders.
4. Our detailed responses have been availed for circulation during this meeting.

**Mr. President,**

5. I wish to state that most of the recommendations proffered by delegations are currently being implemented by the Government of Botswana, and it is on this basis that we indicated our acceptance of some of the recommendations.

**Mr. President,**

6. Regarding recommendations relating to the national human rights architecture, I am happy to inform that consultations towards the establishment of an independent national human rights institution in accordance with the Paris Principles have been concluded. The recommendations will soon be submitted to Cabinet for consideration.
7. Furthermore, and as mentioned during our review session in December 2008; as well as during the Human Rights Committee consideration of Botswana Report in New York in March 2008, it should be noted that Botswana currently has several institutions that directly address Human Rights issues.

These include the Department of Social Services for Children's Welfare; The Department of Women Affairs for Gender issues and the Independent Electoral Commission for Universal Suffrage. These institutions derive their authority from the Bill of Rights in the Constitution and the existence of policy implemented through various offices.

**Mr. President,**

8. On the rights of children, I wish to confirm that the Children's Act is still under review and in its final stages before Parliament. The Bill has incorporated the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of Children.
9. Regarding our position on corporal punishment in relation to children's rights, in Botswana corporal punishment is still lawful. The Education Act and Regulations prescribe a strict framework within which corporal punishment is to be administered in schools.

**Mr. President,**

10. I wish to reaffirm that in Botswana, corporal punishment is viewed as a legitimate and acceptable form of punishment. It was not the intention of the lawmakers that corporal punishment should be degrading.

To this end, the Customary Courts Act, the Penal Code and the Education Act regulations govern the administration of corporal punishment and contain restrictions on its application.

**Mr. President,**

11. There were recommendations relating to the so-called minority groups or indigenous peoples, which seem to suggest the existence of discrimination against certain groups of people. The language used in some of the recommendations implies that little or nothing is being done for the promotion and protection of human rights of the so-called minority groups. This, Mr. President, is not true. All indigenous groups in Botswana are accorded opportunities guaranteed to every Motswana.

**Mr. President,**

12. This brings me to the recommendations advanced that Botswana should adopt measures to address all forms of discrimination including discrimination based on sexual orientation, ethnicity, gender, colour, and political opinion.

13. The Government of Botswana maintains that Section 15 (3) of the Constitution of Botswana prohibits discrimination against any person on the grounds of race, tribe, place of origin, political opinions, colour, creed or sex, and as such any person who is of the view that their rights have been violated can at anytime petition the High Court of Botswana to seek redress.

**Mr. President,**

14. It is acknowledged that Botswana criminalises same sex sexual activity and practices, this is a reflection of the moral and religious norms of the society.

It should be noted however that, there is no known case of any person who was discriminated against on the basis of their sexual orientation.

**Mr. President,**

15. In as much as we have accepted some of the recommendations relating to women's rights and gender issues, the Government of Botswana wishes to emphasize that since ratification of CEDAW we have undertaken various initiatives and activities with a view to promoting and protecting the rights of women. We have also continued to undertake progressive legislative reforms to enhance the promotion and protection of women's rights which include the enactment of the Domestic Violence Act; and the Abolition of Marital Powers Act, amongst others. The Government continues to educate Batswana through workshops, Seminars, meetings with stakeholders including Kgotla (traditional consultative fora) meetings, publications and the use of the media.

**Mr. President,**

16. It is also important to draw the Council's attention to the fact that the Marriage Act which is based under the common law principles forbids marriage of persons under the age of 18 years. Those at the age of 18 can marry only with the consent of their parents or guardians.
  
17. We do not accept the recommendations implying the existence of harmful practices to women, especially alleging the persistence of early contract marriages and the existence of polygamy. There are no practices which are harmful to women and the law in Botswana forbids polygamy.
  
18. In conclusion, **Mr. President**, we look forward to further interaction during this Session, and express the hope that we shall not be engaged in another review at this stage.

**Thank you.**