

Universal Periodic Review (43rd session)

Contribution of UNESCO

Botswana

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance, or succession</i>	<i>Declarations /Reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education 1960	Not ratified	Reservation to this Convention shall not be permitted		Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Acceptance on 23 November 1998			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Acceptance on 1 April 2010			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Accession on 7 January 2020			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The Constitution of Botswana of 1966, as amended in 2006¹, does not enshrine the right to education but guarantees the general principle of non-discrimination (Article

¹ <https://www.parliament.gov.bw/images/constitution.pdf>

- 15).
2. The Children’s Act of 2009 does not enshrine the right to education in a comprehensive manner, as it only applies to children and to basic education (Article 18.1). No legal provision guarantees compulsory education. Moreover, even though the Children’s Act stresses the right to free basic education, the Education Act of 1966, as amended in 2003, states that fees can be charged in all schools.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. Art. 3.b. of the 1966 Botswana Constitution provides the right of freedom of expression. This provision is further expanded on in Art. 12.1 which defines freedom of expression as the freedom to “hold opinions without interference”, “receive ideas and information without interference”, “communicate ideas and information without interference”. Several exemptions to freedom of expression are provided in Art 12.2.a: in the interests of defense, public safety, public order, public morality, or public health. Other exemptions are listed in Art. 12.2.b-c.²
4. There is currently no provision for the right to access information in Botswanan Law.
5. In Botswana defamation is considered a crime, punishable by law. The provision for the criminalization of defamation can be found in the Botswanan Penal Act³, specifically Art. 192-199. According to such law (article 33) “[defamation] shall be punishable with imprisonment for a term not exceeding two years or with a fine, or with both”. Under Article 93 of the Act, any person who uses “abusive, obscene or insulting language in relation to the President, any other member of the National Assembly or any public officer is guilty of an offence and liable to a fine not exceeding P400”.
6. During the COVID-19 pandemic the Botswanan government adopted an emergency law titled the Emergency Powers (COVID-19) Regulations Act which states that it is prohibited for any person to publish, with the intention to deceive any person, about COVID-19, the COVID-19 infection status of a person or any measure taken by the government to address COVID-19.⁴

² https://www.constituteproject.org/constitution/Botswana_2016.pdf?lang=en

³ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/61336/92021/F138317428/BWA61336.pdf>

⁴ <http://extwprlegs1.fao.org/docs/pdf/bot195071.pdf>

7. In January 2022 a bill on the Criminal Procedure and Evidence (Controlled Investigation) 2022 under the certificate of urgency was announced. The bill if pursued to a law, refers to interception of communication and forced disclosure of information by state intelligence and law enforcement agencies, including without warrant.⁵
8. The Communications Regulatory Authority Act (2012) regulates the communications sector in Botswana and established the Botswana Communications Regulatory Authority (BOCRA).
9. The Media Practitioners Act of 2008⁶ established the Media Council for Botswana in order to preserve the maintenance of high professional standards within the media and to provide for matters related thereto.

Implementation of the law:

10. The Botswana Communications Regulatory Authority (BOCRA) is the main regulatory body concerning the broadcasting of television and radio in Botswana. The members of the board are appointed by the minister. The main functions of the board are the provision of broadcasting licenses, subscription management services and re-broadcasting activities.⁷
11. Self-regulation is coordinated by the Media Council for Botswana implemented by the Media Practitioners Act of 2008. The members of the Media Council consist of “all publishers of news and information, whether or not in the private or public sector”.

Safety of journalists:

12. As of 8 August 2022, UNESCO has not recorded any killings of journalists in Botswana since 2006, when the organization began systematic monitoring of this issue⁸.

III. Review and specific recommendations

⁵ <https://cpj.org/wp-content/uploads/2022/01/Botswana-Criminal-Procedure-and-Evidence-Bill.pdf>

⁶ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/81615/94917/F1542627699/BWA81615.pdf>

⁷ <https://www.bocra.org.bw/broadcasting>

⁸ <https://en.unesco.org/themes/safety-journalists/observatory/country/223672>

A. Education

Legislative, regulatory and policy framework

13. During the previous UPR session, recommendations N°128.17 and N° 128.25 called for the ratification of the Convention against Discrimination in Education by Botswana. As for today, Botswana has noted these recommendations but has still not ratified the convention. Action should be taken in that regard.
14. During the previous UPR session, several recommendations (N°129.54, N°129.55, N°129.56 and N°129.57) called for Botswana to adopt a constitutional provision explicitly guaranteeing the right to education for all without discrimination. Botswana has noted these recommendations, but no such constitutional provision has been adopted to this date.

Free and compulsory education

15. The Education 2030 Framework for Action requires all states to guarantee at least twelve years of free primary and secondary education, of which at least nine are compulsory. In Botswana, no legal provision ensures compulsory education for any duration and, according to the Education Act⁹, schools may charge fees. The Framework for Action also requires states to introduce at least one year of free and compulsory pre-primary education. No provision guaranteeing free and compulsory pre-primary education has been identified in the legislation.¹⁰

Inclusion

16. UNICEF and the Ministry of Basic Education signed an agreement on a Joint Annual Work Plan for 2022/2023, through which UNICEF committed to assist the Ministry on a number of projects and activities for the year 2022/2023 among which the development of screening, assessment and placement guidelines to support

⁹ <https://www.gov.bw/sites/default/files/2020-03/Education%20Act.pdf>

¹⁰ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 04/03/2022)

inclusive education, the development of user friendly education data for improved decision making at school and community level in two education regions and the conduct of study to determine the magnitude of out of school children (OOSC) and factors leading to school dropout.¹¹

Girls and Women

17. The campaign “Keep the Girl Child in School” was launched by Kweneng and its Sub-Regions from Lentsweletau, Mogoditshane and Molepolole together with private actors. As part of this campaign, sanitary material was distributed in Malwelwe Primary school (in particular sanitary towels and sanitary pads).¹² This measure is in line with the previous UPR recommendation N° 127.73, which called Botswana to implement gender equality policies that foster access to health and education, as well as with the recommendation N° 127.65 which recommended to put emphasis on gender equality and to ensure a better access to education for women and girls.

Students with disabilities

18. UNICEF and the Ministry of Basic Education signed an agreement on a Joint Annual Work Plan for 2022/2023, through which UNICEF committed to assist the Ministry on a number of projects and activities for the year 2022/2023 among which the development of Service Level Standards for the provision of care and education for Special Education Needs (SEN) learners in schools and residential education setting.

¹³

19. The Ministry of Basic Education plans the construction of a “Centre for Severe and Multiple Disability”, which would provide appropriate universal design facilities to cater for learners with profounds, severe and multiple disabilities.¹⁴

Minorities

¹¹ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 15/03/2022)

¹² <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 01/08/2022)

¹³ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 15/03/2022)

¹⁴ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 14/03/2022)

20. UNICEF and the Ministry of Basic Education signed an agreement on a Joint Annual Work Plan for 2022/2023, through which UNICEF committed to assist the Ministry on a number of projects and activities for the year 2022/2023 among which the development of learning materials for the 13 identified local languages.¹⁵

Distance learning and digitalization

21. UNESCO's Initiative on the [Evolving Right to Education](#) emphasizes the needs for ensuring digital inclusion. During the COVID-19 school closures, the Government of Botswana identified school digitalization as one of its top five priorities which form part of the Economic Recovery and Transition Plan. Several measures were taken to ensure e-education become the new norm, such as the project "SmartBots village connectivity" which consists in a two-years plan to connect all villages country-wide to high-speed internet. Moreover, the Botswana General Education Curriculum and Assessment Framework were modified to incorporate ICT both as a tool for learning and as a subject in the curriculum (through different subjects such as Robotics, Programme Development, Application Development...)¹⁶

22. The Ministry of Education and Skills Development launched "The Schools Digitalisation Initiative"¹⁷, a three phased plan to transform the delivery of education through the integration of ICT in teaching and learning. Phase I of the project is currently ongoing, it targets the building of infrastructure, platforms and capacity building structures as well as the development and acquisition of eContent to facilitate implementation of eLearning in schools. Among the measures taken as part of this project, schools are being connected to high-speed internet to improve the access to online education for learners and teachers. Laptop devices are also being provided to every teacher and learner in senior secondary school and the Ministry of Education and Skills Development aims to make sure to provide to teachers and learners the necessary skills to use digital devices in a relevant and productive way.

¹⁵ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 15/03/2022)

¹⁶ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 26/05/2021)

¹⁷ <https://www.facebook.com/photo/?fbid=185146773905473&set=a.156262250127259>

Moreover, an Education Management Information System is under construction to improve communication and content sharing between teachers, learners, parents and management at all levels of the Ministry. Thereafter, Phase II of the project will target the provision of individual devices to Junior Secondary School teachers and learners. The third and final phase will then see the delivery of devices to primary schools on an individual basis for all teachers and learners in upper primary and as mobile ICT labs for use by pre-school and lower primary learners.

23. UNICEF and the Ministry of Basic Education signed an agreement on a Joint Annual Work Plan for 2022/2023, through which UNICEF committed to assist the Ministry on several projects and activities for the year 2022/2023; among which the development of ICT integration in teaching and learning and the development of interactive E-content for 10 subjects at senior secondary schools.¹⁸
24. In 2022, the Ministry of Tertiary Education, Research, Sciences and Technology opened the BrainSTREAM Innovation Center, to prioritize STEM education with the final aims of favorizing the transition towards a knowledge-based society and fighting against the high youth unemployment rate.¹⁹
25. The Botswana Sectors of Educators Trade Union and Huawei signed a Memorandum of Understanding in 2021, to work together towards the digitalization of education in Botswana. As part of this agreement, laptops and smart boards were donated to the Ministry of Education to be distributed to schools around the country and some teachers training about IT knowledge will be organized.²⁰
26. YOCA+, a service of online youth-tele counselling was launched by the Ministry of Education and Skills Development in June 2021, for adolescents and youth from 9 to 35 years old.²¹

Specific recommendations:

27. Botswana should be encouraged to:
 - Ratify the Convention against Discrimination in Education.

¹⁸ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 15/03/2022)

¹⁹ <https://www.facebook.com/tertiaryEducationBotswana/> (post from the 31/03/2022)

²⁰ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 21/09/2021)

²¹ <https://www.facebook.com/EducationandSkillsDevelopmentBotswana> (post from the 18/06/2021)

- Explicitly enshrine the right to education for all without discrimination in the Constitution of Botswana.
- Enshrine the right to education in a comprehensive manner, for all ages and all levels of education, in the national legislative framework.
- Guarantee at least 9 years of compulsory education and 12 years of free education and at least one year of free and compulsory pre-primary education.
- Continue enhancing digital inclusion of learners and teachers while ensuring their protection and privacy online.
- Continue to submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Recommendation against Discrimination in Education.
- Share with UNESCO any relevant information to update its country profile on UNESCO's Observatory on the Right to Education²² and Her Atlas: Monitoring the right to education for girls and women²³.

B. Freedom of opinion and expression

28. Botswana is recommended to decriminalize defamation and place it within a civil code that is in accordance with international standards.²⁴
29. Botswana is encouraged to introduce an access to information law that is in accordance with international standards and establish an independent oversight institution with the capacity to implement the access to information law.
30. Botswana is encouraged to review the Criminal Procedure and Evidence (Controlled Investigations) Bill, 2022 and align it to international standards before proceeding to table it in parliament.
31. Botswana is recommended to strengthen the independence of broadcast licensing in line with international standards.

C. Cultural Rights

²² <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

²³ <https://en.unesco.org/education/girls-women-rights>

²⁴ See for example: General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR).

32. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), Botswana is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Botswana is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

33. Botswana did not submit its National Report on the implementation of the *Recommendation on Science and Scientific Researchers* (2017) for the consultation period from 2017 to 2020. Therefore, Botswana is encouraged to report to UNESCO on its implementation actions, especially noting legislative, regulatory or other measures adopted by it and funding allocated, with the aim to ensure application of these norms and standards in national law, policy and practice.

34. Particular attention should be paid to measures towards the realization of the human rights of scientific researchers (freedom of association, freedom of research, expression and publication, working conditions, etc.) and also of human rights related to the practice of science. The latter include access to and uses of scientific knowledge and data, the sharing of benefits of scientific progress and its applications, the principle of equality and non-discrimination, with emphasis on removal of gender barriers in access to science education and scientific careers, the protection of human subjects of research, as well as the dialogue between scientific community and society.

35. Furthermore, Botswana is encouraged to share data on national policy and practice

and expand input on issues covered by the 2017 Recommendation in its national report to the UPR, particularly in relation to the right to share in scientific advancement and its benefits (article 27, Universal Declaration of Human Rights). This will allow further discussions thereon at the Human Rights Council and the formulation of specific recommendations. Within this framework, Botswana is urged to consider addressing issues of equality and non-discrimination in access to education, as well as to scientific benefits and their applications, and to include reference to the relevant dimensions of the right to share in scientific advancement and its benefits in its reporting on the impact of the COVID-19 pandemic and the assessment of responses thereto. Finally, Botswana is invited to expand the scope of application of freedom of expression to include scientists and scientific researchers.