

UPR Submission: Botswana

June 2017

Botswana should incorporate international human rights conventions in domestic law

The Botswana government has made progress implementing the recommendations it accepted during its last Universal Periodic Review (UPR) in 2013. The government signed the Safe Schools Declaration in June 2017, an international commitment that provides support for the protection and continuation of education during wartime. However, the government should take more steps to ensure the protection and promotion of human rights in the country in line with recommendations it accepted during the 2013 UPR review.

Botswana has yet to incorporate international human rights conventions it ratified into domestic law to make them directly applicable by the courts and administrative authorities in the country. The conventions on human rights that Botswana has ratified but has yet to domesticate include: Convention against Torture; International Covenant on Civil and Political Rights; Convention on the Elimination of All Forms of Discrimination against Women; and African Charter on Human and Peoples' Rights.

Botswana has shown ongoing, much needed political support to the International Criminal Court (ICC), of which it is a member. Botswana should in addition complete the process of aligning its national legislation with the Rome Statute of the ICC, including by incorporating provisions to cooperate promptly and fully with the ICC and to investigate and prosecute genocide, crimes against humanity and war crimes fairly and effectively by its national courts, as Botswana pledged to do so during the previous UPR cycle.

Despite accepting 10 recommendations to do so in 2013, Botswana has yet to establish a national human rights institution in line with the Paris Principles. At present, the Office of the Ombudsman has an inadequate mandate to address human rights issues in the country. The country retains the death penalty in its national law.

Botswana's Penal Code in article 64 criminalizes "carnal knowledge ... against the order of nature," which the authorities interpret as criminalizing same-sex sexual activities. Botswana noted all recommendations it received in 2013 to decriminalize same-sex marriage.

Recommendations

- Incorporate ratified international human rights conventions into domestic law;
- Complete the process of aligning national legislation with the Rome Statute of the ICC;
- Establish and adequately resource a national human rights institution in line with the Paris Principles including consultation with local civil society groups;
- Take steps to end the death penalty including by placing a moratorium on capital punishment; and
- Take steps to decriminalize same-sex sexual activities and ensure non-discrimination in accordance with Botswana's domestic and international human rights obligations.