

**Universal Periodic Review (29th session, Jan-Feb 2018)**  
**Contribution of UNESCO**  
**Contribution of UNESCO to Compilation of UN information**  
**(to Part I. A. and to Part III - F, J, K, and P)**

**Botswana**

**I. Background and framework**

Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO.

Title	Date of ratification, accession or succession	Declarations /reservations	Recognition of specific competences of treaty bodies	Reference to the rights within UNESCO's fields of competence
Convention against Discrimination in Education 1960	Not ratified	Reservations to this Convention shall not be permitted		Right to education
Convention on Technical and Vocational Education 1989	Not ratified			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	23/11/1998 Acceptance			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage 2003	01/04/2010 Acceptance			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005	Not ratified			Right to take part in cultural life

**Right to education**

**II. Promotion and protection of human rights on the ground**

1. The Constitution of Botswana (1966, last amended in 2006), does not guarantee the right to education. Education is only mentioned in the articles related to protection of right to

- personal liberty, protection of freedom of conscience, and protection of freedom of expression.
2. The main law concerning education is the Education Act of 1966 (last revised in 2002). Other laws on education are the vocational training act, the tertiary education act, the University of Botswana act, the Botswana College of Agriculture Act, the Botswana College of Distance and Open Learning Act and the Botswana International University of Science and Technology Act.
  3. In terms of reporting to UNESCO, within the framework of the latest consultations of Member States on the measures taken to implement the Recommendation against Discrimination in Education, Botswana did not submit national reports for the 9th (2016-2017) and for the 8th (2011-2013) Consultations. Similarly, it did not report on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms within the framework of the 5th (2012-2013) and the 6th (2016-2017) Consultations of Member States.

### **Freedom of opinion and expression**

➤ Constitutional and Legislative Framework:

4. The Constitution of Botswana provides for freedom of expression in which it states: “no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference” (Article 12). The right is guaranteed, “to the extent that the law in question makes provision”<sup>1</sup> and could be limited in the interests of public safety, public order and public morality among others.
5. Defamation is still criminalized under Botswana’s Penal Code<sup>2</sup> (Sections 192-199). Additionally, any person who uses threatening, abusive or insulting words in a public place is subject to up to a six-month imprisonment sentence under Section 90. Deliberately insulting orally or in writing the country’s symbols and using abusive, obscene or insulting language in relation to the President or any other member of the National Assembly or officer in public is subject to a fine up to P500 under Sections 91 and 93.
6. In March 2017, lawmakers voted to reject a freedom of information bill.

➤ Implementation of legislation:

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<sup>1</sup> [https://www.constituteproject.org/constitution/Botswana\\_2005.pdf?lang=en](https://www.constituteproject.org/constitution/Botswana_2005.pdf?lang=en)

<sup>2</sup> [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=238601](http://www.wipo.int/wipolex/en/text.jsp?file_id=238601)

7. The Broadcasting Act<sup>3</sup> (1999) established the National Broadcasting Board, which issues the broadcasting licences. The Board is composed of 11 members appointed by the Minister of Transport. Members of the Board represent of various state institutions.

➤ Safety of journalists:

8. Since 2008, UNESCO<sup>4</sup> recorded no killings of journalists in Botswana.

### III. Recommendations

9. Below are the recommendations made within the framework of the 2nd cycle of the Working Group (23rd session) on the Universal Periodic Review (March 2013)<sup>5</sup>:

**115.36.** *Continue to promote human rights education.*

**115.37.** *Continue to raise awareness on harmful cultural norms and traditional practices as well as human rights education in primary school system.*

**115.38.** *Seek support and assistance from international institutions in dealing with the challenges that constrain the effective realization of certain rights, particularly the right to education and the protection of refugees.*

**115.47.** *Continue strengthening the necessary policies to promote gender equality, with a focus on education, on adopting awareness campaigns for the population against gender violence, and on putting in place specific legislation that criminalizes violence against women.*

**115.55.** *Continue to pay special attention to the needs of rural women ensuring that they participate in decision-making processes and have full access to justice, education, health services and financial facilities.*

**115.84.** *Continue efforts to provide comprehensive primary education.*

**115.85.** *Continue to ensure full access to education for children.*

**115.86.** *Continue its efforts to ensure full access to education.*

**115.87.** *Redouble efforts to increase women's participation in education, including tertiary education.*

**117.22.** *Apply strict measures to stamp out corporal punishment in school and home setting.*

**117.37.** *Take all appropriate measures, including adequate resource allocation, to strengthen indigenous children's equal access to education, including, when possible, education in their own language.*

### Review and specific recommendations

10. Recommendations made during the last UPR cycle concerned equal access to education, specifically for women and indigenous, gender-based discrimination in education and promotion of human rights through education. Despite the existence of a "Vision 2016"

<sup>3</sup> [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=238593](http://www.wipo.int/wipolex/en/text.jsp?file_id=238593)

<sup>4</sup> <http://en.unesco.org/unesco-condemns-killing-of-journalists>

<sup>5</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/125/04/PDF/G1312504.pdf?OpenElement>

programme, which has a pillar dedicated to education, few information regarding governmental policy for its implementation is available. UNESCO organizes periodic Consultations of Member States on measures taken to implement the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms. Regrettably, Botswana did not report within the framework of the latest consultations. This would have been a valuable opportunity for the country to make a self-assessment of the situation and progress made on this matter and to share necessary information with UNESCO.

11. Efforts could also be deployed to ensure the constitutional framework enshrines education as a human right, since it is not yet the case. In the context of SDG-4 on Education, such provisions are useful with a view to harness progress to provide “inclusive and equitable quality education and lifelong learning for all” and to ensure education without discrimination. In that respect, Botswana should be strongly invited to ratify UNESCO’s Convention against Discrimination in Education, which provides an international legal framework for the right to education and non-discrimination.
12. Latest data concerns the school year ending in 2013. The primary adjusted net enrolment ratio was then of 91% with a percentage of 27 out-of-school children. The lower secondary adjusted net enrolment ratio was 89%. However, the adjusted net enrolment ratio one year before the official primary school entry age was only of 28%.<sup>6</sup> Pre-school education has been recognized as a current issue in the report on the implementation of the “Vision 2016” which states that “Pre-primary education in Botswana has been predominantly privately operated or provided by non-governmental organizations. But now, apparently recognizing it as a key component of early childhood development, the government has recently implemented a ‘pilot’ programme of free pre-school education”.<sup>7</sup>
13. Globally, this report emphasizes that Botswana has considerably invested in education and this has resulted in a high enrolment rate at the primary and secondary level, with higher completion rates. It also permitted to enroll more student at the tertiary level. However, despite the good enrolment rate at the secondary level, this one keeps dropping off, mainly in rural areas. The quality of education is also declining and the education system is still monolingual,<sup>8</sup> despite the fact that these issues were part of the education pillar of the “vision 2016”.
14. Botswana can be commended for the setup of a new “Vision 2036” which includes education and skills development in its second pillar on human and social development.<sup>9</sup> If it only gives a broad idea of what has to be achieved in education 2036, a National Transformation Strategy is supposed to be developed and reviewed periodically. Moreover, an Education and Training Sector Strategic Plan (ETSSP 2015-2020) was adopted in April

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<sup>6</sup> UNESCO, Global education monitoring report, 2016, tables 2, 3 and 4.

<sup>7</sup> Vision Council, Botswana Performance report 2015, Long term vision for Botswana, 2015, p.35

<sup>8</sup> *Idem*, p.19.

<sup>9</sup> Government of Botswana, Vision 2036 achieving prosperity for all, July 2016.

2015.<sup>10</sup> It establishes a concrete programme for every level of education. Some of the goals are to increase access, equity and quality in early childhood-care and education, to increase equitable access to quality basic primary education for all, and to improve gender equality, especially in the tertiary education. However, concrete proposals related to human rights education, or teaching in mother tongue could not be identified according to available information.

➤ **Specific recommendations:**

1. Botswana should be strongly encouraged to ratify the UNESCO Convention against Discrimination in Education.
2. Botswana should be strongly encouraged to enshrine the right to education in its Constitution.
3. Botswana should be encouraged to take measures to address human rights education and mother tongue-based education.
4. Botswana should be encouraged to further its efforts to improve access, quality and equity in education.
5. Botswana should be encouraged to monitor and provide data on education and to render accessible up to date information on the measures taken in this regard.
6. Botswana should be strongly encouraged to submit state reports for the periodic consultations on UNESCO's education-related standard-setting instruments.
7. Botswana should be encouraged to share with UNESCO any relevant information to update its country profile on UNESCO's Global Database on the Right to Education.<sup>11</sup>

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### **Freedom of expression**

15. Botswana is further recommended to decriminalize defamation and place it within a civil code that is in accordance with international standards.
16. Botswana is recommended to consider strengthening the independence of broadcast licensing in line with international standards.

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### **Cultural Rights**

17. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)<sup>12</sup> and the Convention for the Safeguarding of the Intangible

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<sup>10</sup> Republic of Botswana, Education & Training Sector Strategic Plan (ETSSP 2015-2020), April 2015.

<sup>11</sup> <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/database/>

<sup>12</sup> Periodic Report available at: <http://whc.unesco.org/document/106683>

Cultural Heritage (2003)<sup>13</sup>, Botswana is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage 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 the 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.

18. Botswana is also encouraged to ratify the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) as a means to promote access to and participation in creative expressions and as such contribute to implementing the right to take part in cultural life.

#### **Freedom of scientific research and the right to benefit from scientific progress and its applications**

19. Botswana has not submitted its National Report on the implementation of the **Recommendation on the Status of Scientific Researchers** (1974) for the **Second Consultation** covering the period from 2013 to 2016 (<http://on.unesco.org/2hL0xGz>). Therefore **Botswana** is encouraged to report to UNESCO on any legislative or other steps undertaken by it with the aim to ensure the application of this international standard-setting instrument in line with the online monitoring questionnaire (<http://unesdoc.unesco.org/images/0024/002468/246830E.pdf>). When replying to the 2013-2016 monitoring questionnaire, **Botswana** is kindly invited to pay a particular attention to the legal provisions and regulatory frameworks which ensure that scientific researchers have the responsibility and the right to work in the spirit of the principles enshrined in the 1974 Recommendation. The issues under consideration are: autonomy and freedom of research and expression, academic freedom to openly communicate on research results, participation of scientific researchers in definition of the aims and objectives of research, compliance of research methods with respect for universal human rights and fundamental freedoms, as well as ecological and social responsibility; freedom of movement of researchers and respect for their economic, social and cultural rights.

#### **Freedom of scientific research and the right to benefit from scientific progress and its applications**

20. Botswana has not submitted its National Report on the implementation of the **Recommendation on the Status of Scientific Researchers** (1974) for the **Second**

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<sup>13</sup> Periodic Report not available.

**Consultation** covering the period from 2013 to 2016 (<http://on.unesco.org/2hL0xGz>). Therefore **Botswana** is encouraged to report to UNESCO on any legislative or other steps undertaken by to ensure the application of this international standard-setting instrument in line with the online monitoring questionnaire (<http://unesdoc.unesco.org/images/0024/002468/246830E.pdf>). When replying to the 2013-2016 monitoring questionnaire, **Botswana** is kindly invited to pay particular attention to the legal provisions and regulatory frameworks which ensure that scientific researchers have the responsibility and the right to work in the spirit of the principles enshrined in the 1974 Recommendation. The issues under consideration are: autonomy and freedom of research and expression; academic freedom to openly communicate on research results; participation of scientific researchers in the definition of the aims and objectives of research; compliance of research methods with respect for universal human rights and fundamental freedoms, as well as ecological and social responsibility; freedom of movement of researchers and respect for their economic, social and cultural rights.