



**ACERWC**  
African Committee of Experts on  
the Rights and Welfare of the Child

Comité Africain d'Experts sur les  
Droits et le Bien-être de l'Enfant

Comitê Africano dos Direitos e  
Bem-Estar da Crianças

اللجنة الأفريقية المعنية بحقوق الطفل ورفاهه

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## AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD REPORT FROM AN ADVOCACY MISSION TO THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA

**MISSION DATES: 22-26 JUNE 2021**

### LIST OF THE ACERWC DELEGATION

1. The ACERWC designated a delegation which was composed of:
  - 1.1 Hon Anne Musiiwa, head of the Delegation and Member of the ACERWC and Special Rapporteur on Parental and Child responsibilities.
  - 1.2 Catherine Wanjiru Maina, Officer in Charge at the Secretariat of the ACERWC;
  - 1.3 Ayalew Getachew Aseffa, Senior Child Protection Officer at the Secretariat of the ACERWC;
  - 1.4 Philippe Wendyam Sekone, Child Rights Officer at the Secretariat of the ACERWC;
  - 1.5 Dr Musavengana Chibwana, Senior Child Protection Officer at the Secretariat of the ACERWC

### OBJECTIVES OF THE MISSION

2. The mission has the following key objectives:
  - 2.1 To lobby the Government of Botswana to submit its initial report to the ACERWC;
  - 2.2 To identify challenges that the Government is facing in meeting its reporting obligations in order to suggest mechanisms to address the challenges as well as solicit assistance from other stakeholders;
  - 2.3 To lobby the Government of Botswana to revoke its reservation on Article 2 of the ACRWC and see through the process by depositing instruments of revocation with the African Union Office of the Legal Counsel.
  - 2.4 To create an opportunity of stronger partnership with CSOs and stakeholders working with and for children;

### METHODOLOGY AND CONDUCT OF THE MISSION

3. The advocacy mission to The Republic of Botswana was conducted in the form of interactions and meetings with authorities and the different stakeholders involved in child rights monitoring. At each of these meetings, the delegation made a brief presentation on the work of the Committee, its organization, composition, and mandate. The delegation further presented the objectives of the mission and emphasized the sharing of best practices in the areas of interest to the mission.
4. There were discussions on the state of children's rights in Botswana, albeit in inference format as this was not within the scope of the mission. During such



discussions, Botswana authorities shared some of their exemplary practices in the protection and promotion of children's rights. Such a conversation ended with the recommendation that the sooner the Government of Botswana finalized its report, the more expedient for the Committee to learn much about the good work which the country is doing.

5. The engagement with child representatives used both physical and virtual approaches. Thanks to the Government of Botswana, children were mobilized from almost all the districts of the country. Some of the child representatives, especially those from Gaborone were able to attend the meeting physically, of course within the limits of the COVID-19 regulations of the country. The interaction with the child representatives raised some child rights issues as shall be noted.
6. The delegation met with the following stakeholders:
  - 6.1 Deputy Permanent Secretary in the Department of Diplomacy under the Ministry of International Affairs and Cooperation.
  - 6.2 The Permanent Secretary, and officials in the Ministry of Defence, Justice and Security;
  - 6.3 The Directorate for Human Rights and Rule of Law
  - 6.4 The National Child Welfare Council;
  - 6.5 Representatives of the Children's Council;
  - 6.6 The Botswana Child Rights Network representatives with the coordination of The Child Rights Network for Southern Africa;

## **SUBMISSION OF INITIAL REPORT**

7. Throughout the engagements with the abovementioned stakeholders in Botswana, the delegation cited Article 43 (1a) of the African Children's Charter which notes that *'Every State Party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights... within two years of the entry into force of the Charter for the State Party'*.
8. Since Botswana ratified African Children's Charter in 2001, the state party therefore had an obligation to submit its initial report in 2003. The delegation therefore underscored the need for Botswana to honour its obligation and submit its initial report. The delegation further noted the exemplary practices which the country has in protecting its children and posited that reporting was a unique opportunity for the country to showcase its work for possible replication throughout the continent.
9. The delegation further noted that Botswana had recently reported to the United Nations Committee on the Rights of the Child (UNCRC). The same report could be tweaked to include the peculiarities that are found in the African Children's Charter. The state party can also update the information in this report and review it to the format that the Committee prescribes.



10. In response, the representatives of the government of Botswana bemoaned the slumber in the submission of the report. The representatives noted that the process of developing the report had started and therefore committed to submitting **by the end of December 2021**. Further, they noted that this will be a combined report for all the outstanding periodic reviews.

## REVOCATION OF THE RESERVATION

11. The other purpose of the mission was to urge Botswana to revoke its reservation on Article 2 of the Charter. The Article defines a child as 'every *human being below the age of 18 years*'. The delegation noted that it is against the Vienna Convention on the Law of Treaties of 1969 which provides in Article 18 that a reservation entered should not defeat the object and purpose of a treaty... The delegation noted that entering a reservation on the very definition of the 'the child' made the ratification of not much effect for the children of Botswana.
12. The delegation therefore encouraged the Government of Botswana to invoke Article 22 of the Vienna Convention on Law of Treaties which provides for withdrawal of reservations. Article 22 (1) notes that '*Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.*'
13. The Government of Botswana responded by noting that in principle, the country had revoked the reservation because the Children's Act of 2009 defined a child in consonance with Article 2 of the African Children Charter. What remains however, is the submission of the revocation instruments with the office of the Legal Counsel at the African Union Commission. The government noted that this will be done by **November 2021 when the Committee shall be conducting its 38<sup>th</sup> session.**