

## BOTSWANA

### Follow-up - State Reporting Action by Treaty Bodies

**CERD A/59/18 (2004)**

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Chapter IV. follow-up to the consideration of reports submitted by states parties under article 9 of the Convention

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425. The Committee, at its 1671st meeting, on 20 August 2004, decided to send the following letter to the Permanent Representative of Botswana to the United Nations Office at Geneva:

“20 August 2004

“Excellency,

“I write to inform you that the Committee on the Elimination of Racial Discrimination decided, at its sixty-fifth session, on 20 August 2004, to request the State party to submit detailed information relating to the implementation of paragraph 301 of the Committee’s previous concluding observations on Botswana, adopted in August 2002 (A/57/18, paras. 292-314).

“In this paragraph, the Committee expressed concern about the discriminatory character of certain domestic laws, such as the Chieftainship Act and the Tribal Territories Act, which recognize only the Tswana-speaking tribes. It noted that other tribes, especially the Basarwa/San peoples, were reported to suffer from cultural, social, economic and political exclusion, did not enjoy group rights to land, and did not participate in the House of Chiefs. It further noted that the amendment of sections 77 to 79 of the Constitution was in process, and recommended that recognition and representation of all tribes in Botswana on an equal basis be ensured in the Constitution, and that the Chieftainship Act and the Tribal Territories Act be amended accordingly.

“According to reports made available to the Committee, a Constitution Amendment Bill, 2003 (Bill No. 31 of 2003), currently tabled in Parliament, is not in conformity with the Committee’s recommendation, in that it will discriminate against non-Tswana-speaking tribes. The Committee therefore invites the State party to comment on this allegation, and recommends that such comments be submitted to it before 20 September 2004.

“The Committee furthermore draws the attention of the State party to the willingness of Committee members to provide assistance for the purpose of complying with the provisions of the Convention.

“Yours sincerely,

“(Signed): Mario Yutzis  
Chairman  
Committee on the Elimination  
of Racial Discrimination”

**CERD, A/60/18 (2005)**

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**Chapter IV. Follow-up to the consideration of reports submitted by states parties under article 9 of the Convention**

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416. The Committee, at its 1699th meeting, on 10 March 2005, decided to send the following letter to the Permanent Representative of Botswana to the United Nations Office at Geneva:

**Letter to Botswana**

“10 March 2005

“Excellency,

“The Committee wishes to inform you that it considered, at its sixty-sixth session in March 2005 the preliminary responses provided by the Republic of Botswana in its letter dated 10 February 2005, regarding the implementation of paragraph 301 of the Committee’s previous concluding observations on Botswana, adopted in August 2002 (see A/57/18).

“The Committee welcomes with appreciation the extensive and substantial information provided by the Republic of Botswana, as requested by the Committee in its letters dated 20 August and 23 September 2004. It appreciates the willingness of the State party to pursue a dialogue with the Committee in a constructive manner.

“The Committee notes with a particular interest the useful information provided by the State party on the history of Botswana, and its implications regarding territories, tribes, and representation in the House of Chiefs. While understanding that traditions and customs constitute an important heritage of Botswana, the Committee wishes to stress, however, that the State party should also take into consideration the obligations it has undertaken under the International Convention on the Elimination of All Forms of Racial Discrimination.

“The Committee reiterates its views that the Tribal Territories Act, the Chieftainship Act and sections 77 to 79 of the Constitution, as currently drafted, have a discriminatory effect, in particular against those ethnic groups which are subordinate to a dominant tribe on a Tribal Territory, and are not represented on an equal basis in the House of Chiefs. It notes that the High Court of Botswana, in a decision adopted on 23 November 2001, declared that the Chieftainship Act was discriminatory and ordered that its section 2 be amended in order to give equal protection and treatment to all tribes under that Act.

“The Committee welcomes efforts made by the State party to ensure better representation in the House of Chiefs, and notes its willingness to enhance territorial representation rather than ethnic representation in this House.

“The Committee wishes to stress, however, that whatever system is chosen, it should not discriminate between groups, and should not lead to a situation where some groups are recognized while others are not, or where the interests of some groups are taken into consideration while interests of other groups are not. In this regard, the Committee wishes to stress that the Convention prohibits direct as well as indirect discrimination, and draws the attention of the State party to its general recommendation XXIV, according to which criteria for recognition of groups should be consistently applied. It further notes that, according to some information, non-Tswana-speaking regions all rejected the proposed bill.

“The State party indicates that it is currently redrafting those aspects of section 2 of the Chieftainship Act which had been declared discriminatory by the High Court, and that the draft Bill on the House of Chiefs will be amended accordingly. The Committee wishes to be kept closely informed about the ongoing reform process, and requests that copies of the new draft bills be transmitted to it as soon as they are available. It would also like to receive more detailed information clarifying what the terms ‘dominant tribe’ and ‘historical agreement of all concerned’, by which a paramount chief rules over all tribal groupings living in Tribal Territories, actually mean.

“Please allow us, Excellency, to reiterate the wish of the Committee to pursue the constructive dialogue renewed with your Government in 2002, and to underline that the Committee’s observations and request for further information is made with a view to ensuring the implementation of the Convention in cooperation with your Government.

Yours sincerely,

“(Signed):

Mario Yutzis

Chairman

Committee on the Elimination

of Racial Discrimination

Morten Kjaerum

Coordinator of the Committee on the  
Elimination of Racial Discrimination on  
follow-up”

**CERD, A/62/18 (2007)**

**CHAPTER IV. FOLLOW-UP TO THE CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION**

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497. On 12 April 2007, reminders were sent by the coordinator on follow-up to the following States parties which had not yet sent information following adoption of the concluding observations of the Committee at its sixty-seventh and sixty-eighth sessions, held respectively from 1 to 19 August 2005 and from 20 February to 10 March 2006: Barbados, Bosnia and Herzegovina, Botswana, El Salvador, Guatemala, Guyana, Lithuania, Mexico, Nigeria, Tanzania, Turkmenistan, Uzbekistan, Venezuela and Zambia.

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**Annex IV**

**OVERVIEW OF INFORMATION PROVIDED BY STATES PARTIES ON THE IMPLEMENTATION OF THE CONCLUDING OBSERVATIONS**

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**Sixty-eighth session (20 February-10 March 2006) -  
Follow-up reports due by 10 March 2007**

<u>State party</u>	<u>Date of receipt of follow-up report</u>	<u>Session at which follow-up report was discussed</u>
...		
Botswana	Report not received <sup>a</sup>	
...		

a/ A reminder was sent by the Co-ordinator on Follow-up to this State party on 12 April 2007.