



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Pre-session working group

Forty-fifth session

January-February 2010

List of issues and questions with regard to the consideration of periodic reports

Botswana

The pre-session working group considered the combined initial, second and third periodic reports of Botswana (CEDAW/C/BOT/3).

General

1. Please describe the manner in which the provisions of the Convention are reflected in national development strategies and in instruments such as the poverty reduction strategy papers and the Millennium Development Goals reports.
2. The report contains very limited and outdated statistical data disaggregated by sex on the situation of women in areas covered by the Convention. Please provide information on the status of data collection in the country in general, and to what extent such data collection takes place on a sex-disaggregated basis. Please indicate how the Government intends to improve the collection of data disaggregated by sex pertaining to the areas of the Convention so as to support policymaking and programme development and to measure progress towards implementation of the Convention.

Articles 1 and 2

3. Please clarify the status of the Convention in the national legal system. In instances of conflict between provisions of the Convention and national law, which prevails? Please indicate whether a definition of discrimination against women in line with article 1 of the Convention has been included in the Constitution or in national legislation.
4. The report (paras. 39 and 40) indicates that following the review in 1997 of all laws affecting the status of women, some laws were amended in line with CEDAW.

Please highlight those laws which were recommended for amendment to align them with CEDAW, but have not yet been revised and the reasons why.

5. What steps are being taken to review article 15 of the Constitution which exempts adoption, marriage, divorce, burial and devolution of property on death and other matters of personal law from the constitutional provision of non-discrimination?

6. The report acknowledges the need to accelerate the harmonization of all laws and policies with the Convention. Please indicate if a comprehensive action plan with clear time frames has been set up to accelerate harmonization.

7. Please describe mechanisms and remedies available to women who allege gender-based discrimination, including whether an independent national human rights institution is available to deal with such complaints.

8. In its most recent concluding observations, the Human Rights Committee noted with concern that the precedence of constitutional law over customary law is not always ensured in practice, due especially to the low level of awareness the population has of its rights, including the entitlement to request a case to be transferred to a constitutional law court and the right to appeal customary courts' decisions before constitutional law courts (CCPR/C/BWA/CO/1, para. 12). Please indicate what measures have been taken in response to the Human Rights Committee's concern.

Article 3

9. Please indicate if the draft National Gender Policy which was under discussion has been adopted by the Government (para. 75).

10. Please provide further information about the level of authority of the Women's Affairs Department (WAD) located within the Ministry of Labour and Home Affairs, including in relation to its capacity to support implementation of the Convention, its mandate as well as human and financial resources available to it.

Article 4

11. The report provides little information about temporary special measures in Botswana. Has consideration been given to using temporary special measures, such as the establishment of quotas or incentives, to accelerate the achievement of equality in areas other than education and local government, taking into account the Committee's general recommendation No. 25 on article 4, paragraph 1, of the Convention?

Article 5

12. The report highlights the persistence of stereotypical attitudes in Botswana, and cites certain cultural and traditional practices and customs as the major obstacles to achieving de facto equality for women, such as the payment of bogadi (dowry), polygamy, customs and privileges in favour of men, such as their customary right to treat their wives in the same way as minor children. Please provide information about any comprehensive strategy that may exist to create a sociocultural environment that is conducive to gender equality, including through education and awareness-raising targeted at the general public and in collaboration

with non-governmental organizations. In responding to this question, please give particular attention to initiatives taken or anticipated for rural areas.

Violence against women

13. The report states that wife-chastisement is based on the cultural belief that a man has conjugal rights that a woman is obliged to provide (para. 115) and that this often leads to marital rape, which is rarely reported and not criminalized. The report further acknowledges that the requirement for corroborative evidence in sexual offences places additional burden of proof on women, as rape is seldom committed in the presence of a witness (para. 238). Bearing in mind the Committee's general recommendation No. 19 regarding violence against women, please describe any steps to develop a comprehensive strategy to combat all forms of violence against women, including the prosecution of perpetrators, provision of assistance to victims and introduction of capacity-building and awareness-raising programmes for various groups such as the police, lawyers, health and social workers, the judiciary and the general public.

14. Please provide more details on the Domestic Violence Bill which was under discussion at the time of the submission of the report (paras. 63, 80 and 117). Has the bill been enacted and, if so, does it criminalize marital rape?

Article 6

15. Please clarify whether the law prohibits trafficking in persons. Please also provide data and discuss trends relating to cases brought under sections 144 and 145 of the Penal Code incriminating the abduction of females for immoral purposes and abduction of girls under 16 respectively.

Articles 7 and 8

16. Given the significant underrepresentation of women in decision-making positions in public and political life and in the international field, please describe concrete measures envisaged to achieve women's full and equal participation and representation at all levels, taking into account the Committee's general recommendation No. 25, on article 4, paragraph 1, of the Convention, and general recommendation No. 23, on women in public life? What awareness-raising and capacity-building programmes or policies are in place or are envisaged to encourage and facilitate Botswana women's involvement in public and political life?

Article 9

17. Please clarify whether Botswana women have the right to pass their nationality to their foreign husbands on the same basis as Botswanese men have the right to pass their nationality to their foreign wives.

Article 10

18. Please provide data on the literacy rate among women and girls as well as updated information on any programmes to combat illiteracy.

19. Please provide data on the rate of teenage pregnancies in Botswana and the impact of teenage pregnancy on the education of girls. Please also indicate if the Diphilana Continuing Education Project, which was initiated as a pilot to assess the

effectiveness and relevance of the readmission policy has been renewed, as well as describing any other measures taken to strengthen the activities providing pregnant girls with ongoing access to education (before and after giving birth) as recommended by the Committee on the Rights of the Child (CRC/C/15/Add.242, para. 55 (b)).

Article 11

20. The report points out that women still predominate in professions such as teaching, nursing and secretaries (para. 180) but does not provide any further details. Please provide information on steps taken, including temporary special measures, to enhance compliance with article 11.

21. Please provide recent statistical information, disaggregated by sex and showing trends over time, detailing women's overall labour force participation in the public and private sectors. Please also include information on the wage-gap between women and men for work of equal value.

22. Please provide information on women's participation in the informal sector, including the number of women in the informal economy in comparison with men and compared to women employed in the formal economy, as well as the sectors of the informal economy that have the largest share of women.

Article 12

23. The report indicates that women are more vulnerable than men to HIV/AIDS infection and that in 2003, 37.4 per cent of women attending antenatal clinics were infected by the virus (para. 187). Please provide information on whether programmes to combat HIV/AIDS integrate a gender perspective, including the availability of antiretroviral medication to prevent mother-to-child transmission of HIV.

24. The report does not provide information on maternal mortality and morbidity and their causes, such as unsafe abortions. Please provide information on maternal mortality as well as on the laws in place in regard to abortion, on the extent to which women may be resorting to clandestine abortions and how many such women die as a result, and on contraceptive prevalence rate and its availability. Please provide this information, as well as information on the availability and accessibility of comprehensive sex education and family planning services in Botswana.

Article 13

25. The report notes that female-headed households suffer poverty and economic marginalization more acutely than male-headed households (para. 204). Please describe what measures exist to support and alleviate the plight of women in poverty, including rural women, as well as what is being done to facilitate their access to land and credit.

Article 14

26. Please indicate whether the Rural Development Policy (para. 213) contains a particular focus on rural women so as to enhance their access to education, health, economic opportunities, land ownership and participation in decision-making processes related to development planning, including at the local level.

27. Please provide information on minority ethnic women, elderly women and women with disabilities on all areas covered by the Convention.

Articles 15 and 16

28. The report mentions several laws, such as the Abolition of Marital Power Act (para. 70), the Matrimonial Causes Act Cap 29:6 regulating matters pertaining to divorce, judicial separation and other incidental matters (para. 234) and the Marriage Act Cap 29:01 regulating the registration and setting 18 years old as minimum age for both boys and girls to marry (para. 224), which do not apply to customary and religious marriages. Please inform the Committee about what is being done to address entrenched customary laws which impair gender equality and lead to gender discrimination in the family and publicize State legislation that protects the rights of women. Does the State party intend to extend the provisions of the above-mentioned laws to customary and religious marriages?

Optional Protocol and amendment to article 20, paragraph 1

29. Please describe measures in place to publicize the Optional Protocol and encourage its use.

30. Please also indicate what progress has been made towards acceptance of the amendment to article 20, paragraph 1, of the Convention pertaining to the Committee's meeting time.
