

BOTSWANA

CAT

RESERVATIONS AND DECLARATIONS

(Unless otherwise indicated, the reservations and declarations were made upon ratification, accession or succession)

Reservation made upon signature and confirmed upon ratification:

"The Government of the Republic of Botswana considers itself bound by Article 1 of the Convention to the extent that 'torture' means the torture and inhuman or degrading punishment or other treatment prohibited by Section 7 of the Constitution of the Republic of Botswana."

OBJECTIONS MADE TO STATE PARTY'S RESERVATIONS AND DECLARATIONS

Denmark, 4 October 2001

With regard to the reservation made by Botswana upon ratification:

"The Government of Denmark has examined the contents of the reservation made by the Government of Botswana to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The reservation refers to legislation in force in Botswana as to the definition of torture and thus to the scope of application of the Convention. In the absence of further clarification the Government of Denmark considers that the reservation raises doubts as to the commitment of Botswana to fulfill her obligations under the Convention and is incompatible with the object and purpose of the Convention.

For these reasons, the Government of Denmark objects to this reservation made by the Government of Botswana. This objection does not preclude the entry into force of the Convention in its entirety between Botswana and Denmark without Botswana benefitting from the reservation."

Norway, 4 October 2001

With regard to the reservation made by Botswana upon ratification:

"The Government of Norway has examined the contents of the reservation made by the Government of the Republic of Botswana upon ratification of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

The reservation's reference to the national Constitution without further description of its contents,

exempts the other States Parties to the Convention from the possibility of assessing the effects of the reservation. In addition, as the reservation concerns one of the core provisions of the Convention, it is the position of the Government of Norway that the reservation is contrary to the object and purpose of the Convention. Norway therefore objects to the reservation made by the Government of Botswana.

This objection does not preclude the entry into force in its entirety of the Convention between the Kingdom of Norway and the Republic of Botswana. The Convention thus becomes operative between Norway and Botswana without Botswana benefitting from the said reservation."

Sweden, 2 October 2001

With regard to the reservation made by the Botswana upon ratification:

"The Government of Sweden has examined the reservation made by Botswana upon ratification of the 1984 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, regarding article 1 of the Convention. The Government of Sweden notes that the said article of the Convention is being made subject to a general reservation referring to the contents of existing legislation in Botswana. Article 1.2 of the Convention states that the definition of torture in article 1.1 is "without prejudice to any international instrument or national legislation which does or may contain provisions of wider application".

The Government of Sweden is of the view that this reservation, in the absence of further clarification, raises doubts as to the commitment of Botswana to the object and purpose of the Convention. The government of Sweden would like to recall that, according to customary international law as codified in the Vienna Convention on the Law of Treaties, a reservation incompatible with the object and purpose of a treaty shall not be permitted.

It is in the common interest of States that treaties to which they have chosen to become parties are respected as to their object and purpose, by all parties, and that States are prepared to undertake any legislative changes necessary to comply with their obligations under the treaties.

The Government of Sweden therefore objects to the aforesaid reservation made by the Government of Botswana to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

This objection shall not preclude the entry into force of the Convention between Botswana and Sweden. The Convention enters into force in its entirety between the two States, without Botswana benefitting from its reservation."