**BOTSWANA**

*The purpose of the Housing Rights and Human Rights Brief is to provide a succinct overview of housing rights and human settlements-related human rights within a specific country. It is designed for project designers to familiarize themselves with the human rights situation in the country that they are working in. The Housing Rights and Human Rights Brief is not intended to be a comprehensive analysis of all human rights, yet to provide an overview of housing rights and other human settlements-related human rights within the national and the UN Delivering as One contexts. Further, this Brief is not intended to cover the entire legislative and regulatory framework of the country concerned.*

*The Brief outlines specific articles of the Constitution, national and local legislation, and other human settlements-related policies and acts. It further explains specific international legal commitments, with particular emphasis on the key conventions that the country has signed and/or ratified. UN reviews and recommendations, particularly the Universal Periodic Review process, are also outlined. The final section provides information on previous UN-Habitat projects in the country and links for further information and elaboration.*

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**Revision History**

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| --- | --- | --- |
| Revision | Date | Author |
| *1* | *28.09.2015* | *SN* |
| *2* | *15.01.2016* | *SN* |
| *3* | *26.06.2016* | *SG* |

**Summary**

The Republic of Botswana is governed under its 1966 Constitution which does not expressly provide for the right to adequate housing. However, it enshrines the right to privacy of the home and other property, and protection from deprivation of property..

In Botswana, the relevant institution which is in charge of overseeing the implementation of the right to adequate housing is the Ministry of Lands and Housing. The Ministry is tasked with policy development in the housing sector and overseeing housing projects in Botswana, especially, on low-income housing alternatives for its citizens.

The State has ratified some of the major human rights conventions, but not the Covenant on Economic, Social and Cultural Rights, which includes the right to adequate housing as a component of the right to an adequate standard of living.

 UN Review mechanisms have noted that Botswana has not ratified the International Covenant on Economic, Social and Cultural Rights.

**Legal Framework**

***Constitution[[1]](#footnote-1)***

The Constitution of Botswana came into force in 1966 and was amended in 2002. It does not expressly contain housing rights. However, the Constitution, enshrines protection from deprivation of property under its Article 8. It does also enshrine the right to privacy of the home and other property under its Article 9.

‘Article 8: Protection from deprivation of property

1. No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied. […]’

‘Article 9: Protection for privacy of home and other property

1. Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises. […]’

**Government**

***Political System***

Botswana is a parliamentary representative democracy whereby the head of government is the President. The President of Botswana is also the head of state and the multi-party system. The government in Botswana exercises executive power while legislative power is exercised by both the government and the parliament of Botswana. The judiciary is independent of the executive and the legislature.

**Ministry of Lands and Housing[[2]](#footnote-2)**

The institution which is relevant in the implementation of the right to adequate housing in Botswana is the Ministry of Lands and Housing. It is responsible for policy making and implementation. The Ministry is tasked with providing low-income housing.

**Judiciary**

No legal decisions regarding housing could be sourced.

**International Conventions[[3]](#footnote-3)**

The State has ratified some of the major human rights conventions, but not the International Covenant on Economic, Social and Cultural Rights which includes the right to adequate housing as a component of the right to adequate housing.

|  |  |  |  |
| --- | --- | --- | --- |
| Treaty Description | Treaty Name | Signature Date | Ratification Date, Accession(a), Succession(d) Date |
| Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment | CAT | 8 Sep 2000 | 8 Sep 2000 |
| International Covenant on Civil and Political Rights | CCPR | 8 Sep 2000 | 8 Sep 2000 |
| Convention on the Elimination of All Forms of Discrimination against Women | CEDAW |   | 13 Aug 1996 |
| International Convention on the Elimination of All Forms of Racial Discrimination | CERD |   | 20 Feb 1974 (a) |
| International Covenant on Economic, Social and Cultural Rights | CESCR |   |   |
| International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families | CMW |   |   |
| Convention on the Rights of the Child | CRC |   |  14 March 1995 |
| Convention on the Rights of Persons with Disabilities | CRPD |   |   |
| Convention relating to the Status of Refugees  | Refugee Convention  |  |  6 Jan 1969 (a) |
| Protocol Relating to the Status of Refugees | Protocol Relating to the Status of Refugees  |  |  6 Jan 1969 (a) |

Botswana has not ratified:

* International Covenant on Economic, Social and Cultural Rights
* International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
* Convention on the Rights of Persons with Disabilities

**UN Agencies**

UN Review mechanisms have noted that Botswana has not ratified the International Covenant on Economic, Social and Cultural Rights.

***Universal Periodic Review (2008-2013)***

*The Universal Periodic Review (UPR) is a unique process which involves a periodic review of the human rights records of all 193 UN Member States. The UPR is a significant innovation of the Human Rights Council which is based on equal treatment for all countries. It provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights. The UPR also includes a sharing of best human rights practices around the globe. Currently, no other mechanism of this kind exists.*

First UPR (2008)***[[4]](#footnote-4)***

The Report noted that Botswana had not ratified the International Covenant on Economic, Social and Cultural Rights.

Second UPR (2013)[[5]](#footnote-5)

‘Recommendation 116.42: Improve the reception conditions, health care, access to water and sanitation, adequate housing and food, for refugees; Make sure that refugees are not repatriated in case that their lives are in danger in their country of origin, and promote, through public policies, their total integration into the society out of the refugees camps.’

***Report of the United Nations High Commissioner for Human Rights (2008 and 2013)[[6]](#footnote-6)***

*The Report provides a comprehensive review of the Human Rights situation in a given country and is presented to the Human Rights Council.*

The report made no mention of the right to adequate housing and the housing situation in Botswana.

***Committee on Economic, Social and Cultural Rights[[7]](#footnote-7)***

*The Committee specifically reviews states that have ratified the ICESCR on their compliance with the rights enshrined in it, including the Right to Adequate Housing.*

 Since Botswana has not ratified the International Covenant on Economic, Social and Cultural Rights, it is not reviewed by the Committee on Economic, Social and Cultural Rights.

***United Nations Country Team (UNCT)***

*The UNCT ensures inter-agency coordination and decision-making at the country level. The main purpose of the Country Team is for individual agencies to plan and work together, as part of the Resident Coordinator system, to ensure the delivery of tangible results in support of the development agenda of the Government.*

Botswana’s UNCT develops the UNDAF, which does not mention anything on the right to adequate housing.

***United Nations Development Assistance Framework (UNDAF)[[8]](#footnote-8)***

*The UNDAF is the strategic programme framework that describes the collective response of the UN system to national development priorities. The UNDAF forms the overall framework for the UNCT’s work between 2010 and 2016.*

The UNDAF report for Botswana does not mention anything on the right to adequate housing.

**UN-Habitat[[9]](#footnote-9)**

UN-Habitat projects in Botswana include:

**Preparation of Chobe District Settlement Development Strategy**

This project was follow-up to the national settlement strategy prepared by the Government. Its goal was to prepare district settlement development strategies based on the National Settlement Strategy. UN-Habitat was invited to provide technical assistance to prepare the district strategies and in so doing to build the capacity of the Department of Town and Regional Planning (DTRP) to undertake similar programmes. DTRP provided staff from its regional offices in Maun in the Northwest District Council Francis Town and Kasane to work with the two international and two national consultants. The activity took three months.

Partners for the project included the Ministry of Local Government, Regional and Urban Development (Department of Regional and Town Planning), North West District Council, Chobe District Land Board, United Nations Development Programme (UNDP) and United Nations Human Settlements Programme (UN-Habitat)

**Further Information**

* The Constitution of Botswana: https://www.constituteproject.org/constitution/Botswana\_2002.pdf (not official translation),
* OHCHR Convention Ratification Status: <http://indicators.ohchr.org/>
* Universal Periodic Review: http://www.ohchr.org/EN/HRBodies/UPR/Pages/NGSession17.aspx
* Report of the United Nations High Commissioner for Human Rights (2013): http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/181/26/PDF/G1218126.pdf?OpenElement
* UNCT: http://undg.org/home/country-teams/africa-eastern-southern/botswana/
* UNDAF: <http://www.bw.undp.org/content/dam/botswana/docs/Publications/UN%20Botswana%20UNDAF%202010_2014.pdf>
* OHCHR: <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>
* UN-Habitat: <http://unhabitat.org/>
* Universal Periodic Review: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>
* Special Rapporteur on Adequate Housing: <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>

1. https://www.constituteproject.org/constitution/Botswana\_2002.pdf (not official translation). [↑](#footnote-ref-1)
2. <http://www.gov.bw/en/Ministries--Authorities/Ministries/Ministry-of-Lands-and-Housing/Services/HOUSING-SERVICES/> [↑](#footnote-ref-2)
3. http://www.ohchr.org/EN/countries/AfricaRegion/Pages/NGIndex.aspx [↑](#footnote-ref-3)
4. http://www.ohchr.org/EN/HRBodies/UPR/Pages/BWSession3.aspx [↑](#footnote-ref-4)
5. http://www.ohchr.org/EN/HRBodies/UPR/Pages/BWSession15.aspx [↑](#footnote-ref-5)
6. http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/181/26/PDF/G1218126.pdf?OpenElement [↑](#footnote-ref-6)
7. http://tbinternet.ohchr.org/\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=5 [↑](#footnote-ref-7)
8. http://www.bw.undp.org/content/dam/botswana/docs/Publications/UN%20Botswana%20UNDAF%202010\_2014.pdf [↑](#footnote-ref-8)
9. http://mirror.unhabitat.org/content.asp?cid=2356&catid=180&typeid=13 [↑](#footnote-ref-9)