

## **Traditional Practices and Youth Rights in Botswana: Striking A Balance**

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### **Abstract**

Individual rights and protection and prohibition of discrimination against specific groups are reinforced by international legal instruments on human rights. Despite all these legal instruments that promote and encourage respect for human rights, some societies still adhere to traditional and cultural practices which violate the declaration made by legal instruments. The international perspective is that traditional practices are beneficial and must be adhered to while minimizing harm to groups concerned. This is an exploratory paper which seeks to investigate how aspects of traditional practices in Botswana that seems to be helpful and beneficial in families and communities can also infringe on human rights. The discussion is guided by the principles of the Convention on the Rights of the Child. The discussion argues for the need to strike a balance between traditional practices and human rights. It argues that there should be harmony between individual rights and collective traditional practices.

### **Introduction**

Individual rights and protection and prohibition of discrimination against specific groups are reinforced by international legal instruments on human rights such as the Convention on Elimination of All Forms of Discrimination Against Women (United Nations 1979), the Convention on the Rights of the Child (United Nations 1989) and the International Covenant on Civil and Political Rights (United Nations 1996). These human rights treaties bind almost all countries and prohibit countries to tolerate harmful traditional practices. Despite all these legal instruments that promote and encourage respect for human rights, some societies still adhere to traditional and cultural practices which violate the declaration made by these legal instruments (United Nations 2008). Society might be adhering to such as was argued by Dembour (1996) that human rights did not exist in pre-colonial Africa. It is further argued that human rights are a modern concept applicable in principle because of the evolution of the entire world towards state societies (Howard 1992:81).

United Nations member states at large are encouraged to abide by these legal instruments and there is also a call for respecting communities' indigenous methods of conducting various social activities. However, it has been noted that in adhering to some indigenous methods and cultural practices for family and community benefit, some groups, especially children and youth may be put at risk. The United Nations High Commissioner for Human Rights (1995) reported that traditional cultural practices reflect values and beliefs held by members of a community for periods often spanning generations. Every social grouping in the world has specific traditional cultural practices and beliefs, some of which are beneficial to all members, while others may be harmful to specific groups. Some of the harmful practices include female genital mutilation, early and forced marriages, son preference, and dowry systems. Many of these practices have serious consequences for the girl child's development. Despite their harmful nature and their violation of international human rights laws, such practices persist because they are not questioned and take on an aura of morality in the eyes of those practicing them (United Nations (UN) Office of the High Commissioner for Human Rights 1995). Harmful traditional practices are those customs that are known to have bad effects on people's health and to obstruct the goals of equality, political and social rights, and the process of economic development (UN Office of the High Commissioner for Human Rights 1995). Some cultural practices found in Botswana that will inform this discussion are bojale (initiation for girls) and bogwera (initiation for boys). The international focus, however, is that traditional practices must

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be used in communities and be beneficial while minimizing harm to groups concerned. This was stated by Member of Parliament in Zambia who noted during parliament deliberations that ‘When tradition and customs are positive and empowering, respectful and inspiring, they must be treasured and passed on through the ages. But when certain traditional practices and customs hurt or disempower, they must be rejected. While people are agents of change for progressive community transformation, society’s positive evolution holds on to what is strong and should reject or change that which is no longer considered good practice’ (Zambian Parliament 24 November 2011).

The international community has become aware that in order to achieve equitable society, there is need to respect all groups in the community by not violating their human rights. This is also emphasized in some of the basic principles of the Charter of the United Nations which states that in order to achieve international cooperation there is need to promote and encourage respect for human rights and freedom for all without discrimination (United Nations Charter 1949). Garegae (2008:49) argues that as children intermingle with parents, and relatives they get socialized into cultural and social norms of the society. Thus, the key institution for transmission of traditional values is the family. However, Giddens (1993:165) argues that at a later stage of the child, there are other socializing institutions, like the community, that children are introduced to. Such communities are influential in individuals’ lives. It is during such interactions that individuals are exposed to cultural and traditional practices that eventually define one’s identity and create a sense of belonging and pride as well as promoting social cohesion (Stormorken 2007:23).

According to the Revised National Youth Policy, youth are young men and women aged between 15 and 35 years (Republic of Botswana 2010:12). This policy states that youth have rights which include: right to be provided with appropriate direction and guidance by parents or guardians; right to express their opinion and views freely; right to be protected from abuse, discrimination, stigmatization, exploitation and all forms of oppression and repression; right to be given guidance on the positive customs, traditions, cultures, values and norms of the Botswana society; right to health, life planning, educational and relevant social services, to mention a few. This paper, therefore, explores how some aspects of some traditional practices that are seen to be helpful and beneficial in some families and communities can also infringe on the human rights of the youth. These will be discussed in relation to the four principles in the Convention on the Rights of the Child (United Nations 2008). These principles are non-discrimination; best interest of the child; right to life, survival and development; and child participation (United Nations (UN) 1989:1). The paper argues for the need to ensure that even if communities wish to adhere to their traditional practices, they should respect the human rights of those involved; and also understand that children and youth, just like other people, have rights to personal freedom and growth that need to be respected and protected. For purposes of argument, the paper will draw from the Botswana context. The paper starts off by giving a background of the Convention on the Rights of the Child principles and the traditional practices that will be the basis of the discussion. Benefits of the practices are discussed as well as how harmful they are. The paper then discusses the traditional practices using the Convention on the Rights of the Child principles and advocates for a rights-based cultural approach.

## **Background**

The African Child Policy Forum (2010) argues that though children are valued as precious beings, they are not always treated with sensitivity, consideration or respect in their everyday life. It is also outlined in the African Charter on the Rights and Welfare of the Child that the situation of most African children remains critical due to unique factors of their socio-economic, cultural, developmental circumstances, exploitation and hunger, to mention but a few (Organisation of the African Unity 1990). The African Child Policy Forum (2010) further argues that such treatment happens in the name of traditional practices because children are not viewed as whole human beings with rights that adults have.

This also indicates that some societies do not take into consideration the principles enshrined in the Convention on the Rights of the Child which guide both application of children's rights and programming and implementation of services for children.

The first principle is non-discrimination, Article 2 of the Convention on the Rights of the Child which stipulates that 'States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members' (UN 1989). This principle attests to the fact that all children have the same and equal rights irrespective of their race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Bearing in mind the traditional practices that exist in our community, elders should ensure that as they are involved in traditional practices, no child or youth should be treated with disregard.

Best interest of the child (Article 3) is the second principle. It states that 'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration' (UN 1989). This should be used as a guiding principle in making decisions and choices for children. Decisions should not be made on the best interest of other parties other than the child. Article 6 of the Convention on the Rights of the Child elaborates on the third principle which notes that 'States Parties recognize that every child has the inherent right to life. And that States Parties shall ensure to the maximum extent possible the survival and development of the child' (UN 1989). The responsibility to ensure that the environment is conducive for child survival and development lie with communities and extended families.

Lastly, the principle of child participation, Article 12, stipulates that 'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child'. This emphasises that children have the right to be heard. As such, children should be encouraged to contribute in decisions affecting them.

Some examples of traditional practices that can violate the above discussed principles and also be beneficial to the community are *bojale* and *bogwera*. Benefits of these practices and how they can be harmful will be discussed. Initiation ceremonies in traditional Setswana culture are where gender education began. These ceremonies laid the foundation for education on sexuality, by training children on reproductive roles and social power during rites of passage (Johnston et al 2005:22). In Botswana, these ceremonies are called *bogwera* (initiation school for boys) and *bojale* (initiation school for girls). *Bojale* and *bogwera* had some cultural significance and value. Johnston and others (2005:23) reported that during the transition from childhood to adulthood, teaching focused on providing specific rights, duties and responsibilities. It also provided a platform for teaching on religious and community responsibilities. Young men were trained in military techniques and in defence strategies and the importance of carrying out their duties and respecting elders. Mosothwane (2001:45) therefore argues that in pre-colonial Batswana society, when the initiation ceremonies were practiced, there was order, and initiation ceremonies served a crucial social function. Boys became men and girls were transformed into women.

*Bogwera* rites marked the transition from boyhood into manhood, with all its privileges and responsibilities (Schapera 1938:105). Johnston and his colleagues (2005:23) report that education on sexuality and gender roles was memorably impressed upon teenage children as they went through the transition from childhood into adulthood. This training which was performed in a secluded place was important for the boy child as it taught and trained him to endure hardships and even death for the sake of the tribe; to be united as a regiment and help one another (Schapera 1938:108). Boys were also taught to honour and ungrudgingly obey old people; and to abandon all boyish practices. Discussions dealt with the topic of sex, where the boys were taught the physiology of sex relations, the duty of

procreation and other rules of conduct in married life and the dangers of promiscuous intercourse (Johnston *et al* 2005:24).

Even though bogwera involved toughening up lessons on morality, respect and responsibility in the society and inculcating boys with education and knowledge, as well as cultivating a lifelong commitment to each other, there are activities that exposed boys to danger. Johnston *et al* (2005:24) report that boys were subjected to starvation, discomfort and torture, and rigorous and irksome taboos of many kinds, and were made to participate in strenuous hunting expeditions, all with the object of hardening them. Exposing them to such activities can expose them to trauma. Moreover, the education on gender identity encouraged gender inequalities, which led to the subordination of women. Such gender inequalities have been shown to be one of the major driving forces in the HIV and AIDS epidemic (Johnston *et al* 2005:26). They also argue that the training underlined a man's 'duty' to procreate in marriage and cultivated a masculinity of risk taking – a philosophy that continues to hinder condom use and HIV and AIDS prevention.

*Bojale* is the transition from girlhood to womanhood. The girls were instructed on matters concerning womanhood, domestic and agricultural activities, sex, and behaviour towards men (Johnston *et al* 2005:29). Sexual education was emphasized on a community level, where all young girls of the same age were taught what would be expected and accepted of them. Girls were also instructed on their social duties and responsibilities (Johnston *et al* 2005:29). Moreover gender inequality was also evident in girls' training as girls were taught to endure violence and that they did not have individual rights but communal ones.

The African Charter on the Rights and Welfare of the Child states that customs, traditions, cultural and religious practices should not be used as excuses for violating the rights of children (Organisation of African Unity 1990). The Charter also calls for considerations of cultural heritage and values of African civilization when reflecting on the rights and welfare of the African child. Even though that is the case, the Charter discourages any custom, tradition, cultural and religious practices that are inconsistent with the rights and obligations in the Charter. In addition, the Universal Declaration on Human Rights prohibits all forms of discrimination and ensures the right to life, liberty and security of person (UN Office of the High Commissioner for Human Rights 1995).

Initiation ceremonies were important agents of socialization among the Bakgatla. Makgala (21 July 2009) states that these were stopped when Christianity, colonial rule and modernity led to erosion of many other cultural practices. These were revived in the mid-1970s due to social problems amongst the youth. It continued until the early 1990 when the last initiation rites were performed. Makgala (21 July 2009) reports that these have since been revived by Kgosi Kgafela II, due to today's social problems and challenges brought by globalization, the process of which started in late May 2009. These ceremonies continue to play an important role not only to individuals but the society as a whole. Both youth and adults are encouraged to participate.

### **Traditional Practices Versus Human Rights**

In traditional communities, adhering to traditional practices is seen as a way of conforming to societal norms, values and rules. As indicated in the above discussion, some aspects of traditional practices are beneficial and bring communities together. In the practices discussed, elderly family members and the community at large would engage the youth in ceremonies to teach those values and expectations of the community, and also involve children in activities that the elderly see as beneficial. It is also a transitional period for the youth so that they can be equipped with skills to perform new roles as they moved forward in the life cycle. Despite all the benefits that the traditional practices bring about in families and communities, these practices may be harmful to the youth in several ways and also infringe on their human rights. This is illustrated by Ras-Work (2006:7) who argues that the World Health Organisation (WHO) and United Nations Children's Fund (UNICEF) recognize harmful traditional practices as health and human rights issues. Tobin (2009:374) also argues that

gaps in medical knowledge, lack of resources, or inadequacies in the social determinants of health compromises the health of children and the youth. He reports that many traditional cultural practices are maintained despite their prejudicial impact on the health of children and youth. In addition, when it comes to children, they are not afforded the opportunity to develop their full potential because their rights to protection are violated by members of the families, the community, and society they live in (Tobin 2009:374).

Some teachings about cultural heritage during the initiation ceremonies are good, but can pose problems especially if people are trained and bond together on tribal basis as Schapera (1938) says there is likelihood that beyond these levels, misunderstandings can actually be created as is illustrated in *Mmegi* (8 January 2010) that in an attempt to defend culture, some Bakgatla regiments have created uneasy relationship between the tradition and modern cultures where the latter is largely influenced by Western cultures, which are at variance with the Bakgatla (and Batswana in general) (Keoreng 27 January 2010). Therefore, people who have not attended the initiation ceremonies tend to be discriminated against when it comes to certain activities in the community. This is buttressed by Makgala (21 July 2009) who reported that ‘anyone who had not gone through the rigours of bogwera is treated as a minor and subjected to ridicule by everybody else. They could not participate in the public kgotla meetings and are also not allowed to marry’. This indicates that not belonging to a regiment (*mophato*) is social death. It also shows that these people’s right to non-discrimination is violated as is stated in the African Charter on the Rights and Welfare of the Child, Article III. The principle of non-discrimination attest that all children have the same and equal rights irrespective of their gender, opinion, origin or any other characteristics (Department of Social Services (DSS) 2008), like having attended initiation ceremonies and belonging to a regiment.

Moreover, during the initiation ceremonies, the girl child was and is trained to endure violence and lack of respect for their human and individual rights. Unlike boys who have individual rights, girls do not have individual rights but communal rights (Johnston et al 2005:34). Females are taught communal rights and emphasizes is put on how to respect males. In a way, one can infer that such training is biased to males forgetting that females are also human beings entitled to rights. In such cases, the young females do not enjoy the right to express their views freely as they are always thinking of not violating their counterparts’ rights. Besides having gotten this from initiation ceremonies, it is also expected in traditional Botswana society where females are subordinate to males, an emphasis of the patriarchal society. Galtung (1969:168) argues that such situations have negative peace that can have violent and unjust consequences. According to Galtung (1969:168), violence is any condition that prevents a human being from achieving her or his full potential. The girl child therefore can be exposed to deprivation, humiliation, political repression, lack of human rights, and the denial of self-determination. When children are not allowed to express their views, it is against the principle of child participation. This principle ensures that children should express their views freely and be taken seriously.

The traditional practices infringe a number of fundamental human rights protected in international and regional instruments and reaffirmed by international conference documents (United States Agency for International Development nd). These rights include the right to life, right to health, right to education, right to liberty and security of the person and right to freedom from inhuman or degrading treatment which recognizes the inherent dignity of the person. The Human Rights Matrix emphasizes that the Convention on the Rights of the Child, Articles 2, 6, 12, 19, 24, 27 and 28 are violated by adhering to harmful traditional practices. In addition, Articles 2, 6, and 19 are violated through the adherence to the above discussed harmful traditional practices.

There are traditional practices that had been widely exercised throughout the country from time immemorial. It is quite relevant to develop and promote the useful traditional practices in the country for cultural identity. However, it should be noted and acknowledged that, as traditional practices are revamped individuals should be informed about how the practices create physical,

mental, psychological and social problems in the society. This will allow participants to make informed decisions of whether to participate in such or not. As a result, peace will be able to be embodied within the society when the human rights are well upheld. When the human rights are offended, though it seems that there is a peace in the society, such peace is false in nature (Howard 1992:81). For peace to prevail, youths should be given balanced information on traditional practices and be allowed to exercise their right to choose and participate in decisions that affect them. If given the information and being provided with a balanced guidance, they can then choose whether to engage or not to engage in these practices.

### **A Rights Based Cultural Approach**

This section focuses on how to ensure that the youth, just like other people, have rights to personal freedom, growth, survival and development. More emphasis is put on how the democratic rights of children and youth can be enhanced. Children's rights are the human rights of children with particular attention to the rights of special protection and care afforded to the young, including their right to human identity. The international community secured a cross-cultural agreement on the basic principle that practices harmful to health must be eradicated, whether embedded in cultural values or not (Harris-Short 2003:146). This marked a crucial step forward in the protection of children's rights. However, many hurdles need to be overcome to ensure that cultural diversity is embraced without violating children's rights and putting their health at risk. United Nations Educational Scientific and Cultural Organisation (UNESCO) (2009:3) reported that 'Cultural diversity is not simply an asset to be preserved but a resource to be promoted'. It is crucial therefore that society could still hold onto traditional practices and some aspects which are useful and remove some aspects of practices that pose risks to youth to ensure youth development. Some of the issues that need to be addressed include ensuring that there is a balance between cultural diversity and human rights, public education, and acknowledging youths' freedom of expression.

### **Striking a Balance Between Cultural Diversity and Human Rights**

Even though there are instruments focusing on human rights, Harries-Short (2003:136) argues that in dealing with harmful traditional practices, there will be conflict between human rights and the need to respect cultural diversity. The drafters of the Convention on the Rights of the Child (1989) were aware of the irresolvable dilemma that characterizes international human rights law and the need to accommodate and respect cultural differences and at the same time protect the internationally recognized rights of individuals (Tobin 2009:389). The basis for a society that is peaceful, therefore, constitutes the maintenance and respect for human rights in general, children and youth included, and at the same time respecting cultural practices of different communities. For example, when Kgosi Kgafela II revived the initiation rites, the process of which started in late May 2009, his argument was that such traditional rites as bogwera and bojale need to be reinstated in order to bring social stability and prosperity, and address problems related to globalisation and the decline of traditional control mechanisms (Makgala 21 July 2009). The ceremony stresses the collective responsibility of the community, including social, economic and political duties. Kgafela said 'These values are as valid today as they were a hundred years ago' (Makgala 21 July 2009). This is an indication that the communities do take into consideration that some activities can no longer be done the way they used to be, hence ensuring that human rights are not violated. The community should deliberate on the practice and eliminate aspects of the practices that are detrimental to the youth's health and also violate their rights.

Article 16 of the Convention on the Rights of the Child states that 'No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honor and reputation'. In respect to this, the youth should be involved in a dialogue on such issues. Moreover, professionals such as social workers and health care practitioners

should be involved in decision that affect minors to ensure that whatever action agreed upon by parents is in the best interest of the child. The best interest of the child principle of the Convention on the Rights of the Child gives guidance when dealing with issues concerning children and young people. The child's gradual autonomy must be consistent with his/her evolving capacities (Convention on the Rights of the Child Article 5) based on their age and maturity (Article 12). Most importantly, there is need to strike a balance between individual and collective rights. This will indicate that there is tolerance and respect for all people in the society.

### **Public Education**

Stormorken (2007:25) points out that harmful traditional practice are rooted in the consciousness of people. As a result, non-governmental organisations and community leaders should be made aware of the nature, scope and health consequences of some practices. The awareness should be to shift the complex and culturally entrenched beliefs concerning traditional practices that pose some harm (Tobin 2009:391). Public education should provide balanced information of the practices and also cover issues on human rights.

A peaceful society requires that awareness is enhanced on the part of citizens and its representatives by ensuring that citizens understand children's rights. As much as they understand children's rights, there is also need to make them aware of how some aspects of traditional practices impacts negatively on children and youth's health. Stormorken (2007:26) therefore, argues that to resolve this conflict of rights, paramount consideration to the wellbeing and interest of the child should be considered as is stated in the Convention on the Rights of the Child's Article 2. Promoting human rights and ensuring that there is peace therefore means transcending the conditions that limit human potential and assuring opportunities for self-realization.

### **Acknowledge Youths' Freedom of Expression**

Culturally, children's and youths' voices are not heard. All decisions made that affect children are made by elders without taking into consideration the opinions of the youth. As a result, the youth cannot have a say to cultural and traditional practices which contradict their human rights. The Convention on the Rights of the Child states that children have freedom of expression. As a result, Lansdown (1994:33) pointed out that children need to be recognized as participants in society whose rights and responsibilities are recognized at all ages. It is therefore critical that the mindset of elders is changed. They need to acknowledge that young people are capable of making sound decisions for themselves and be prepared to step back and hear their views.

In line with this, there is need for stakeholders to intensify programmes that sensitize children about their rights and also allow the youth to have a say in decisions that affect them. Depriving children the opportunity to express themselves as required by the United Nations Conventions on the Rights of the Child (1989) and the African Charter on the Rights and Welfare of the Child (1990) can have serious consequences for children's wellbeing both in the short and long term. Tobin (2009:393) also argues that it is importance that governments raise awareness and develop an understanding of the practice among young people themselves. He reports that studies indicate that adolescents are more likely to disapprove of the practice than their parents and should be seen as key agents in changing beliefs and attitudes.

The literature also suggests that there is a need to ensure that all stakeholders including children are included in the design, implementation and evaluation of programmes to eliminate aspects of harmful practices. Tobin (2009:394) argues that a policy that is participatory in design and implementation is critical for its effectiveness, sustainability and that it should be collaborative in its exchange if it is to ensure that the behaviour modifications required to abolish harmful aspects of the practice are not imposed but owned and internalized by local populations.

## Conclusion

The paper has demonstrated that although some traditional practices may be beneficial, they also infringe on the human rights of children and youth. The major principles in the Convention on the Rights of the Child were used to indicate how some aspects of traditional practices violate human rights. The paper's premise is that as much as it is important to respect other people's traditions, on the other hand, it is not good to tolerate practices which are detrimental to one's physical and mental wellbeing. In addition, the argument was that practicing culture should not result in negation of rights in international human rights treaties and instruments. Lastly, the paper argued for the need to strike a balance between traditional practices and human rights. That is, traditional practices should be articulated and promoted but not at the expense of human rights of some groups, especially children and youth.

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